

St. Joseph's Orphanage Task Force Investigation

Vermont Attorney General's Office
Office of Mayor Miro Weinberger
Chittenden County State's Attorney's Office
Vermont State Police
Burlington Police Department

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Acronyms and Abbreviations

AGO	Attorney General’s Office
BPD	Burlington Police Department
CUSI	Chittenden Unit for Special Investigations
DCF	Department for Children and Families
the Diocese	Roman Catholic Diocese of Burlington
DSW	Department for Social Work (A prior name of the Department for Children and Families)
MLAT	Mutual Legal Assistance Treaty
OIA	Office of International Affairs
the Orphanage	St. Joseph’s Orphanage
Review Committee	Independent citizen panel convened by Bishop Christopher J. Coyne
SJRI	St. Joseph’s Orphanage Restorative Inquiry
SRS	Social and Rehabilitation Services (A prior name of the Department for Children and Families)
Task Force	St. Joseph’s Orphanage Task Force consisting of the Attorney General’s Office, the Burlington Police Department, the Mayor of Burlington, and the Chittenden County State’s Attorney’s Office

Appendices

Appendix 1: Affidavit of Rev. Jay C. Haskin, Nov. 16, 1998.

Appendix 2: Sam Hemingway, Echoes of abuse grip orphans, Burlington Free Press, Oct. 27, 1996, at 1A.

Appendix 3: Betsy Beattie, *Community Building in Uncertain Times: The French Canadians of Burlington and Colchester, 1850-1860*, The Proceedings of the Vermont Historical Society, Spring 1989, at 90.

Appendix 4: Contractual Agreement Between the Roman Catholic Diocese of Burlington (VT.) and La Communauté des Soeurs de Charite de la Providence

Appendix 5: Episcopal Directive of Edward F. Ryan, Bishop of Burlington, July 1945.

Appendix 6: Department of Children and Families: Report to State of Vermont Office of the Attorney General regards to an information request on behalf of the St. Joseph's Orphanage Task Force.

Appendix 7: The Chronicles of Saint Joseph's Orphanage, translated from the original French by William Goss, Diocesan Archives 1977.

Appendix 8: The Public Laws of Vermont 1933

Appendix 9: The Vermont Statutes, Revision of 1947.

Appendix 10: Vermont Statutes Annotated (1959)

Appendix 11: V.S.A Pocket Parts 1974 to 1977

Appendix 12: St. Joseph's Restorative Inquiry September Newsletter (2020)

1. Executive Summary

In late August 2018, BuzzFeed News published an article entitled “We Saw Nuns Kill Children: The Ghosts of St. Joseph’s Catholic Orphanage.” This article contained several allegations of child abuse, sexual abuse, and murder against the nuns and priests who operated the St. Joseph’s Orphanage in Burlington, Vermont.

Allegations of murder, a crime for which there is no statute of limitations, served as a catalyst for the Vermont Attorney General’s Office to convene the St. Joseph’s Orphanage Task Force. The goals of the Task Force were to: first, investigate allegations of homicide; second, to prosecute criminal activity where possible; and third, to facilitate opportunities for accountability and healing through a restorative process.

The Task Force, which was convened in September of 2018, included the Attorney General’s Office, the Burlington Police Department, the Vermont State Police, Mayor Miro Weinberger of the City of Burlington, and the Chittenden County State’s Attorney’s Office.

1.1 Investigative Steps

During its two-year investigation, the Task Force received 66 intakes through the Burlington Police Department. The Attorney General’s Office was also directly contacted by a number of individuals who raised concerns about the Orphanage. Some individuals who contacted the Task Force to talk about their experience with the Orphanage did not want to be interviewed by law enforcement, and the Task Force respected those wishes. In total, law enforcement and victim advocates conducted 48 interviews with individuals who stayed at the Orphanage from the 1940s through the time of its closure in 1974, or a close family member. These individuals’ experiences are included in this report. They formed the basis of the Task

Force's criminal investigation, which reviewed allegations of physical abuse, sexual abuse, neglect, and murder.

To find corroborating information or evidence, the Task Force requested documents from Vermont Catholic Charities, the Roman Catholic Diocese of Burlington, the Department for Children and Families, and the Sisters of Providence. Vermont Catholic Charities and the Diocese granted members of the Task Force permission to review resident files, resident tracking index cards, and two resident ledgers that purported to document every child who had resided at the Orphanage from 1854 to the time of its closure in 1974. Some excerpts from these materials appear in *Section 5. Victim Interview Summaries and Investigative Findings*, which documents allegations of abuse recounted by the victims who contacted the Task Force and illustrates the experiences of many of the children who lived at the Orphanage throughout several decades. The Task Force also requested documents from the Sisters of Providence, and while discussions were had, as of this report's publication, no documents have been produced by the Sisters of Providence.

1.2 Findings of Investigation

The residents included in this report lived at the Orphanage between 1940 and 1974. As described in *Section 4.3 State of the Law*, the Task Force reviewed and analyzed the criminal statutes, particularly focusing on the statutes of limitation in effect at the time of the alleged abuses. A statute of limitation establishes a time period following a crime during which the State may bring criminal charges. After that time period is over, the State may not bring charges. Even if all elements of a crime can be established, the State would be barred from bringing a criminal charge if the statute of limitations has expired. Through its analysis of applicable Vermont law, the Task Force found that, while many of the allegations constitute crimes under the applicable

laws, the statutes of limitation that apply to these alleged crimes had run for each potential crime in this investigation—except for murder.

The Task Force, led by the Burlington Police Department, deployed multiple detectives and applied significant amounts of investigative work toward uncovering corroborating facts to support allegations of homicide. Members of the Task Force viewed numerous depositions in both video and transcribed format and reviewed case files and paperwork from lawsuits filed by survivors in the 1990s. They reviewed archival documents at the Fletcher Free Library, including news articles published before the 1990s, during the 1990s (particularly articles by Sam Hemingway of the *Burlington Free Press*), as well as the BuzzFeed article by Christine Kenneally. The Task Force reviewed hundreds of death certificates from the City of Burlington, looking for deaths related to the Orphanage, and sifted through hundreds of police documents, looking for any corroborating police records involving the Orphanage. They also reviewed medical records. With help from survivors, detectives plotted locations on the Orphanage property possibly associated with homicide allegations, and detectives met with the current developer of the former Orphanage property multiple times to establish timelines of current work as well as prior excavations done on the property. Detectives met with the excavation foreman who confirmed that nothing suspicious has been located, including human remains.

The Burlington Police Department did not find corroboration to support allegations of murder, nor any additional evidence that could support affidavits of probable cause. As a result, these criminal cases will be closed. The Burlington Police Department, however, reserves the right to re-open this investigation if new information is brought to their attention.

The Task Force unequivocally supports the former residents of the Orphanage. It is clear that trauma occurred.

It was the insidious type that bore no physical scar or bruise, the type that indelibly shapes the survivors' lives to this day. It was this constant emotional abuse and diminishment that forced survivors to live in constant fear and caused lifelong trauma—trauma that we seek to acknowledge and address through a restorative process, and hopefully facilitate healing.

1.3 Summaries of Allegations of Abuse

This section highlights that many survivors experienced similar forms of abuse. This overview cannot substitute for reading the accounts of the survivors in Section 5. To be clear, the presumption of innocence applies to all those accused by the victims. Under 13 V.S.A. § 6502: “[t]he presumption of innocence in criminal causes shall attend the accused until the jury renders a verdict of guilty.” An accused has a Fifth Amendment right under the United States Constitution to remain silent. Accordingly, there is no requirement to cooperate with a criminal investigation. In this investigation, accusations focused on individuals. In what the Task Force reviewed, there was no evidence to support corporate criminal liability and, additionally, if there was, any charges would be barred by the statute of limitations.

Neglect

Allegations of neglect permeate nearly all the memories reported by survivors. One of the most common is that the children were hungry or that the food was rotten and inedible.

Several people also reported children drowning or nearly drowning during swimming outings at nearby Lake Champlain. Some of these accounts involved nuns refusing to go into the water to help children, even if they could see or were told that a child needed assistance.

Other accounts alleged that children would get hurt when left outside without supervision for an extended period, or that children would be extremely cold or hot when forced to stay outside in inclement weather.

Some survivors alleged that the nuns would not take children to the doctor—or if they did it was delayed.

Physical Abuse

One of the most common allegations, reported by a large majority of the survivors interviewed, was physical abuse in the form of beatings. Survivors described a variety of situations in which the nuns would beat the children, including but not limited to children wetting the bed, not making the bed correctly, speaking out of turn or rudely, trying to console another child, trying to recoil from being hit, speaking to or seeking out siblings residing in a different part of the Orphanage, refusing to eat, getting out of bed during the night, looking out the window, moving during a lineup for prospective parents, soiling their pants, or trying to write left-handed. Survivors also reported that the nuns beat them with a variety of items. The most commonly reported items were wooden paddles, rosaries the nuns wore around their waists, and rulers.

The reported beatings also ranged significantly in severity, from repeated slaps across the face to permanent and long-term disabling injuries including broken bones and teeth. Some survivors report that nuns were aware of which children went home on the weekends, and they were less likely to abuse these children in ways that would leave physical evidence.

Emotional Abuse, Mental Abuse, and Cruelty

Emotional and psychological abuse were reported by a large percentage of the individuals who spoke to the Task Force. Upon arrival, children were often physically separated from their siblings, severing their connection. Personal belongings would be confiscated and not returned.

Several children reported that nuns referred to them as “devil child” for trying to write with their left hand, or for being born to unmarried parents.

One common, reoccurring allegation is that children at the Orphanage were forced to eat their own vomit if they vomited at mealtimes.

Many reported verbal abuse, including: threats; derogatory comments about their parents; being told their parents did not love them; and being told that if they tried to report abuse no one would believe them and their parents would go to hell.

Other allegations involve taunting, public shaming, and punishment for wetting their beds.

Many individuals recalled instances of being locked in closets, in the attic, in a footlocker, or in old trunks. Some reported being locked in closets for disobeying the nuns and for bedwetting. Several people alleged that children were locked in the attic. Some described the attic as filled with a variety of clothing and objects and toys. Some alleged that there was a chair in the attic the nuns sometimes tied children to.

Some survivors reported running away from the Orphanage, only to be found and returned by law enforcement. One survivor was part of a group of children who ran away that was located by law enforcement and returned to the Orphanage. The survivor was asked by Orphanage staff why they had run. The survivor’s resident file shows that the survivor told the staff that mental abuse was the reason for running away.

Survivors reported that there was no peace to be had at the Orphanage. Children were not nurtured or treated with kindness and love. Many reported that they did not experience any form of healthy, safe, nurturing touch, such as a hug. One cried at the memory of strangers’ hugs

during a parade through Burlington celebrating the end of World War II. After years at the Orphanage, it was the first time the survivor could remember having been held with affection.

Sexual Abuse

Survivors' allegations of sexual abuse at the Orphanage vary in location, type, and abuser.

Several children report being sexually abused by priests inside the Orphanage, in the chapel area, or on trips away from the Orphanage. Several children report that these instances of priest abuse were frequent and report that there was sometimes more than one adult present. Some allegations include younger "brothers"—members of religious orders—who were present at the Orphanage.

Some children report extensive and prolonged sexual abuse by the nuns at the Orphanage. The allegations include, but are not limited to, being touched, being penetrated by the nuns, being forced to perform sexual acts on the nuns or having the nuns perform sexual acts on children, and having the genital area cut or injured. This type of abuse took place in a variety of places, including private rooms, nuns' quarters, or closets. The allegations of sexual abuse by the nuns ranged from babies to older children and included allegations of singular nuns abusing children, or nuns assisting priests in their abuse.

Homicide

Several survivors who came forward have alleged that children were murdered at the Orphanage.

One instance involved a nun pushing a young girl down a staircase. In this circumstance, the nuns allegedly ushered the children out of the room and the girl was never seen again. Another similar instance involved a young girl who had fallen down an elevator shaft. Though no one made any clear allegation that the girl was pushed, the nuns allegedly ushered the children away and the girl was not seen again. Another instance involved a child allegedly being pushed out of a high window and falling to the ground outside.

Other instances involved residents seeing nuns and priests transporting large parcels that looked like the wrapped-up body of a child. Sometimes, these allegations were accompanied with second-hand witness testimonies from children who did not see or hear anything happen, but heard other children screaming or crying about what they had seen. There is insufficient evidence to support a murder charge.

1.4 Reflections

The State of Vermont, its laws, and its institutions did not protect all of the children of St. Joseph's Orphanage. That failure to protect was a failure of the laws, a failure of law enforcement, and a failure of the society that made those laws and oversaw their enforcement. We today are willing to acknowledge that we failed to protect these children. Our hope is, through the restorative process, some form of justice and closure can be achieved for the survivors.

Members of the Task Force reflect in this report about this societal failure to help those who most needed it, and the institutional failures and lack of understanding that led to the alleged abuses going unchecked for decades. They reflect on the roles and actions of their own institutions and the broader contexts in which they operated.

The Task Force does not describe the historical limitations in the law, in law enforcement, and society to excuse the failure to protect the children of the Orphanage, but to instead give an honest account of Vermont’s history, and to draw lessons that should teach us all to better protect the children of Vermont.

Ultimately, no historical context excuses the failure to protect these children. Even if many people were trusting and failed to appreciate dangers to the most vulnerable members of society, it was still the institutions—including member-agencies of the Task Force: the Attorney General’s Office, the Burlington Police Department, the Vermont State Police, the City of Burlington, and the Chittenden County State’s Attorney’s Office—that did not know what they needed to know and did not act when they needed to act to protect the children of the Orphanage.

The limits of the law mean that justice for the survivors will not be found in a criminal courtroom. The Task Force recognizes, however, that the limits of criminal jurisdiction do not mark the limit of the State’s obligation to those people whose lives were harmed by their time at the Orphanage.

1.5 Restorative Inquiry

The St. Joseph’s Restorative Inquiry (“SJRI”) was launched in April of 2019 to understand and document the events of the Orphanage through the voices, experiences, and stories of those most impacted: the former residents of the Orphanage. The SJRI has been facilitating inclusive processes of accountability, amends-making, and learning. The SJRI is funded by a grant from the Vermont Center for Crime Victim Services, with matching and in-kind support from the Burlington Community Justice Center. Much more information about the SJRI can be found at its website: <https://www.stjosephsrjinquiry.com/>.

The SJRI is led by an independent facilitator, Marc Wennberg, and is guided by an advisory team comprised of agency stakeholders, victim advocates, former residents of the Orphanage, and restorative justice practitioners.

At the onset of the Task Force, it was clear that an innovative approach would be needed to address the harm communicated by those who reported their experiences at the Orphanage. A group of victims services professionals and restorative justice practitioners gathered to brainstorm ideas about how to implement such a process. The process created by Mr. Wennberg and this advisory committee has taken the form of a restorative inquiry.

As described in *Section 6. Restorative Inquiry*, a restorative inquiry is focused on uncovering facts and understanding what happened both as to the parties directly responsible and as to the systems and institutions involved. While restorative inquiries investigate the past, they usually propose changes to prevent similar harm in the future. The principles employed in a restorative inquiry remain the same as those for any other restorative process: the process is driven by the victims and survivors of the harm and should seek to do no further harm.

The SJRI has facilitated inclusive processes of accountability, amends-making, and learning and has contacted more than 30 former residents of the Orphanage. In November of 2019, the SJRI began hosting regular gatherings for the participants. As a result of the COVID-19 pandemic, meetings are now online and occur weekly. Members of the Task Force, including Attorney General T.J. Donovan, Mayor Miro Weinberger, Acting Burlington Chief of Police Jon Murad, Jim Forbes of the Department for Children and Families, Adam Silverman of the Vermont State Police, and members of the UVM Child Welfare Training Partnership, among others, have met with SJRI participants and engaged in SJRI proceedings and activities.

A core group of participants meets regularly, and they have been engaging in a number of restorative initiatives. Some of these include: the creation of a writer's group, participation at a Burlington Parallel Justice Commission, the formation of a memorial committee, participation in a historical research project, and a number of informational sessions to include education about Adverse Childhood Effects (ACEs).

SJRI participants have worked collaboratively to identify their goals and values, and they have articulated these in a statement addressed to Vermont leaders and institutions. These requests, identified in *Section 6.5 The Requests of Those Who Were Harmed*, include face-to-face meetings with leaders from institutions named in this report, the release of records, and working with the Vermont Legislature to better protect vulnerable people who face abuse, among other requests. The Task Force stands with the former residents of the Orphanage and remains committed to ensuring that their voices are heard.

1.6 Conclusion

Though the Task Force's investigation did not find sufficient evidence that could support affidavits of probable cause for a charge of homicide, the Task Force remains committed to learning from our past so that history does not repeat itself, and so we can help protect the children of our state, today and in the future.

To the people who experienced harm at St. Joseph's Orphanage: We hear you. We see you. We support you.

2. Historical Background of the St. Joseph's Orphanage

The St. Joseph's Orphanage ("the Orphanage") operated in Burlington, Vermont, from 1854 to 1974.¹ During its 120 years in operation, the Orphanage housed more than 13,000 people and was run, primarily, by a Canadian order of nuns called the Sisters of Providence.² After 1939, Vermont Catholic Charities became involved in managing and licensing the Orphanage, as well as placing Vermont children at the Orphanage.³ The Vermont Department for Social Welfare ("DSW"), now the Vermont Department for Children and Families ("DCF"), also placed children at the Orphanage and was involved in the licensing of the Orphanage as a child caring agency.⁴ The State of Vermont, sometimes through courts and sometimes through DSW, placed children in the care of Vermont Catholic Charities at the Orphanage.⁵ Others were placed privately by families, at times with assistance from parish priests.⁶

2.1 Roman Catholic Diocese of Burlington

Though the nuns who ran the Orphanage came from the Sisters of Providence, the chaplains who managed the chapel and supervised the Catholic activities at the Orphanage came from the Diocese.⁷ The Diocese also sponsored other local activities, such as summer camps, that children from the Orphanage attended regularly.⁸

¹ Haskins Affidavit, page 2, Nov. 16, 1998; Sam Hemingway, *Echoes of abuse grip orphans*, Burlington Free Press, Oct. 27, 1996, at 1A.

² Hemingway, *supra* note 1, at 4A; See Betsy Beattie, *Community Building in Uncertain Times: The French Canadians of Burlington and Colchester*, 1850-1860, Spring 1989, at 90; See Contractual Agreement Between The Roman Catholic Diocese of Burlington (VT) and La Communauté Des Soeurs de Charite de la Providence Concerning the Operation and Management of St. Joseph's Child Center, 351 North Ave., Burlington, VT, 1963 (See appendices).

³ See Episcopal Directive of Edward F. Ryan, Bishop of Burlington, July 1945 (See appendices).

⁴ DCF Report to State of Vermont Office of the Attorney General regards to an information request on behalf of the St. Joseph's Orphanage Task Force, Sept. 24, 2019, Amended and Reissued Oct. 20, 2020. (See appendices).

⁵ See DCF Report to Vermont Attorney General, page 3, *supra* note 4.

⁶ *Id.*, and see Section 5: Investigative Findings.

⁷ See Contractual Agreement, *supra* note 3.

⁸ Section 5: Investigative Findings.

Five priests at the Diocese who were assigned to positions related to the Orphanage have been found by the Independent Report on Priest Sex Abuse Cases to have been credibly accused of sexual abuse.⁹ It is not known from that report whether these accusations occurred during their time working with the Orphanage.

2.2 Sisters of Providence

The Sisters of Providence is a religious order of nuns created and headquartered in Montreal, Quebec. The Order was founded in 1843 by Emilie Tavernier Gamelin and Bishop Ignace Bourget with the mission of “help[ing] the less fortunate and ‘respond[ing] to the urgent and multiple needs of the poor.’”¹⁰

According to participant-informed historical research conducted through an initiative of the SJRI, Louis de Goesbriand, the Bishop of Burlington, “had a relationship with the Sisters of Providence.” In 1854 Bishop de Goesbriand traveled to Montreal to propose opening an orphanage in Burlington, Vermont and requested the assistance of the Sisters of Providence to run it.¹¹ The Sisters of Providence sent seven members to Burlington to start the Orphanage.¹²

At its start, the Orphanage was located on land owned by Bishop de Goesbriand at what is today the corner of Pearl and Prospect Streets.¹³ It was not until several decades later that the building widely recognized as the location of the Orphanage, on North Avenue, was built. This

⁹ See generally, “Independent Report on Priest Sex Abuse Cases for the Diocese of Burlington, VT. (1950 to 2019),” Roman Catholic Diocese of Burlington, <https://www.vermontcatholic.org/wp-content/uploads/2019/08/ReportPriestSexAbuseCasesRCDB.pdf> (Lasted visited October 15, 2020).

¹⁰ Sisters of Providence Museum, retrieved at: <https://providenceintl.org/en/emilie-gamelin-centre-museum/museum-of-the-sisters-of-providence/>.

¹¹ *Id.*; The Chronicles of St. Joseph’s Orphanage, page 133; Haskins Affidavit, page 2, Nov. 16, 1998, supra note 1.

¹² Betsy Beattie, *Community Building in Uncertain Times: The French Canadians of Burlington and Colchester, 1850-1860*, Spring 1989, at 90.

¹³ See, the Chronicles of St. Joseph’s Orphanage, page 133.

building on North Avenue remained the primary location of the Orphanage until its closure in 1974.¹⁴

The Sisters of Providence operated the Orphanage for 120 years, ending with the closure of the Orphanage.

2.3 Vermont Catholic Charities

Vermont Catholic Charities formed as a nonprofit in 1929.¹⁵ As of at least 1969, the Orphanage's license as a child caring center, granted by DSW, was obtained through Vermont Catholic Charities, who retained the license in its name.¹⁶ Therefore, the Orphanage, as of at least 1969, operated under the license of Vermont Catholic Charities. Vermont Catholic Charities' social workers were involved in placing children and monitoring their wellbeing while at the Orphanage.¹⁷

According to a report produced by DCF for the Task Force's investigation, when the Orphanage closed in 1974, Vermont Catholic Charities continued to be licensed as a child caring agency (later called a child placing agency) through September 2008.¹⁸

Vermont Catholic Charities is currently in possession of any prior-resident files, as well as two large resident books that contain records of entries and exits from the Orphanage. Vermont Catholic Charities allowed the Attorney General's Office to copy the resident files of the prior residents who have come forward as a part of this investigation.

¹⁴ Hemingway, supra note 1.

¹⁵ Burlington Diocese, retrieved at: <https://vermontcatholic.org/ministries-programs/catholic-charities/>.

¹⁶ DCF Report to Vermont Attorney General, page 6, supra note 4.

¹⁷ Contractual Agreement, page 2, supra note 2; DCF Report to Vermont Attorney General; and see Section 5, Investigative Findings.

¹⁸ DCF Report to Vermont Attorney General, page 2, supra note 4.

3. Assembling the St. Joseph's Orphanage Task Force

On August 14, 2018, the Pennsylvania Attorney General's Office released the findings of a statewide investigative grand jury that spent two years uncovering abuse committed by Catholic clergy in Pennsylvania.¹⁹ The 800-page report documented the abuse of more than 1,000 children by 300 named priests and ignited related and parallel investigations across the United States. Less than two weeks after the Pennsylvania grand jury's report was released, BuzzFeed News published an article, on August 27, 2018, entitled "We Saw Nuns Kill Children: The Ghosts of St. Joseph's Catholic Orphanage,"²⁰ by journalist Christine Kenneally. The BuzzFeed article contained allegations of child abuse, sexual abuse, and murder against the nuns and priests who operated the Orphanage.

Following the release of the Pennsylvania grand jury's report and the BuzzFeed article, on September 10, 2018, Attorney General T.J. Donovan, Burlington Mayor Miro Weinberger, then-Chief of the Burlington Police Department Brandon del Pozo, Chittenden County State's Attorney Sarah George, and Vermont State Police Colonel Matt Birmingham held a press conference at the Burlington Police Department to announce the formation of the St. Joseph's Orphanage Task Force ("Task Force").²¹ The directive of the Task Force was to investigate reports of murder and any other allegations of abuse that occurred at the Orphanage. The Task Force also recognized from the onset that justice is not always found in a courtroom and that we, as a community, must listen to and learn from the former children whose lives were negatively

¹⁹ "Pennsylvania Diocese Victims Report", Office of the Attorney General, Commonwealth of Pennsylvania, <https://www.attorneygeneral.gov/report/> (last visited September 27, 2020).

²⁰ Christine Kenneally, "We Saw Nuns Kill Children: The Ghosts of St. Joseph's Catholic Orphanage" Buzzfeed (August 27, 2018), <https://www.buzzfeednews.com/article/christinekenneally/orphanage-death-catholic-abuse-nuns-st-josephs> (last visited November 2, 2020).

²¹ "Task Force to Investigate Allegations of Murder and Abuse at St. Joseph's Orphanage," (September 11, 2018), : <https://ago.vermont.gov/blog/2018/09/11/task-force-to-investigate-allegations-of-murder-and-abuse-at-st-josephs-orphanage/> (last visited December 9, 2020).

impacted by their experience at the Orphanage. To that end, the Task Force set out to do the following:

- Investigate allegations of murder that occurred at the Orphanage.
- Investigate any other allegations of harm that occurred at the Orphanage and prosecute any provable crimes within the statute of limitations.
- Assist in cultivating a restorative process for victims, family members, affected individuals, and communities.

The Burlington Police Department (“BPD”) and the Attorney General’s Office (“AGO”) served as co-chairs of the Task Force.

At the early stages of this investigation, the Task Force investigated whether it should or could convene a grand jury similar to Pennsylvania. The Pennsylvania AGO in their investigation into the Catholic Church used the Pennsylvania Investigating Grand Jury Act to issue a final report.²² The governing statutes in Pennsylvania on investigative grand juries allow for the creation and submission to the supervising judge an “Investigating Grand Jury Report” when there are “conditions relating to organized crime or public corruption or both; or proposing recommendations for legislative, executive, or administrative action in the public interest based upon stated findings.”²³

Vermont’s statute regarding grand jury is much more limited, and unlike Pennsylvania, does not allow for the creation of investigative grand juries or, more importantly, the issuance of

²² See generally, Pennsylvania’s Investigating Grand Jury Act, 42 Pa.C.S. §§4541-4553; Report and Recommendations Investigating Grand Jury Task Force,, November 2019, available at <http://www.pacourts.us/assets/files/page-255/file-8214.pdf> (last visited December 3, 2020).

²³ *Id.* at § 4542.

public investigative grand jury reports.²⁴ As such, the Task Force did not believe using the grand jury procedures in Vermont would advance the goal of giving a public account of what occurred at the Orphanage.

While not a defined objective of the Task Force, it should be noted, throughout this investigation, the AGO received allegations of priest sexual abuse in Vermont in addition to those at the Orphanage. The AGO referred these claims and individuals to local law enforcement agencies and to victim service providers.

3.1 Launching the Criminal Investigation

Following the formation of the Task Force, members set out to conduct interviews, request and review records relevant to the investigation, and meet with agencies, organizations, and persons with knowledge of abuse that occurred at the Orphanage. As part of its investigation, Task Force members reviewed many historical documents, including numerous articles published by the *Burlington Free Press* about the Orphanage, and materials provided by former residents of the Orphanage. The Task Force also collected and reviewed depositions from the litigation brought in the 1990s, including those of V51²⁵ and the available materials from a related civil case filed in the District Court of Vermont.

Additionally, members of the Task Force met with members of the press, including former *Burlington Free Press* reporter Sam Hemingway to discuss his investigative reporting on the Orphanage in the 1990s, and journalist Christine Kenneally. Task Force members also met with attorneys Philip White and Robert Widman, who represented many of the victims of the

²⁴ See generally, Vt. R. Crim. P. 6.

²⁵ See the introduction to Section 5 of this report for an explanation of victim pseudonyms. Section 5: Victim Interview Summaries and Investigative Findings.

Orphanage during the litigation that occurred in the 1990s, and attorney Jerry O’Neill, who has been involved in litigation against the Diocese. The Task Force also received materials from some of these parties, which were reviewed by the Task Force.

3.1.1 The Diocese and Vermont Catholic Charities

On September 28, 2018, Attorney General Donovan and members of the Task Force met with Bishop Christopher Coyne and members of the Diocese to discuss the investigation and to request documents for review. In the months that followed, members of the Task Force reviewed the files and records of former children who resided at the Orphanage. These documents included, for example, a ledger maintained by the Sisters of Providence that purported to record children placed at the Orphanage, Vermont Catholic Charities’ files and records of children who resided at the Orphanage and reported abuse, and the employee file of a Vermont Catholic Charities social worker.

Additionally, the Task Force, again with cooperation from the Diocese, was allowed to view the files of diocesan priests who had contact with the Orphanage. These files included, for example, chaplains assigned to the Orphanage, visiting priests, and priests who worked with the Orphanage through their role at Vermont Catholic Charities. The Task Force also spoke with representatives from the Society of Saint Edmund, and their attorney, after learning that the Edmundites had released a report titled, “List of Edmundites Against Whom We Have Received Allegations of Sexual Abuse of a Minor,” which was published on their website in August 2019.²⁶ Through these conversations, the Task Force was informed that none of the materials in the files of the ten named priests had any connection to the Orphanage.

²⁶ See generally, “List of Edmundites Against Whom We Have Received Allegations of Sexual Abuse of a Minor”, <http://www.sse.org/safe-environments.html> (last visited November 30, 2020).

A review of all materials from the Diocese and Vermont Catholic Charities occurred at the Diocese in South Burlington. Of the documents reviewed by the Task Force, some excerpts are included in *Section 5. Victim Interview Summaries and Investigative Findings* as possibly relevant to the allegations of abuse that were brought to the Task Force.

3.1.2 Sisters of Providence

On October 22, 2018, members of the AGO met with Tristram Coffin, the attorney representing the Sisters of Providence, to discuss the production of documents in connection with the Task Force's investigation. In a letter sent on November 19, 2018, the Task Force requested documents related to the Orphanage. On February 11, 2019, the Task Force received a response from the Sisters of Providence through Attorney Coffin regarding the request. Members of the Task Force, including Attorney General Donovan, met with Attorney Coffin on March 26, 2019 to again discuss the document request. A second request letter was sent on April 25, 2019 to Attorney Coffin further clarifying and narrowing the Task Force's request to the Sisters of Providence for documents. On May 6, 2019, the Task Force received a letter from Attorney Coffin acknowledging receipt of the April 25, 2019 letter and requesting time to respond to the Task Force's request. On May 24, 2019, the Task Force received a response to the April 25, 2019 letter, which requested further clarification and information. On June 4, 2019, the Task Force sent a letter to Attorney Coffin regarding the restorative inquiry being facilitated by Marc Wennberg. A third document request letter went out to the Sisters of Providence through Attorney Coffin on June 10, 2019 in response to his May 24, 2019 letter. That letter requested that the Sisters of Providence fashion an agreement that they would be comfortable with to allow for the production of documents to the Task Force. On July 18, 2019, the Task Force sent a follow-up email to Attorney Coffin, as there had been no response to the June 10, 2019 letter. No

response was received. The Task Force, on August 22, 2019, provided Attorney Coffin an update regarding the Task Force's investigation that was published on the AGO's website.

Despite continued meetings and discussions around the review of documents belonging to the Sisters of Providence, the Task Force was neither given access to nor an opportunity to review any documents in the possession of the Sisters of Providence. As of this report's publication, the Sisters of Providence, as is their right, have not produced any of the requested documents by the Task Force.

When it became clear that it would be difficult to receive records directly from the Sisters of Providence, the Task Force considered whether there was another viable way to secure documents from the Sisters of Providence. One potential option discussed with the Department of Justice was a request to the Canadian Government under the Mutual Legal Assistance Treaty ("MLAT"). A draft of the MLAT request was created by the AGO and sent to the Department of Justice's Office of International Affairs ("OIA") for review to determine whether the request would meet the required standard of proof and any other conditions.

In general, to obtain court-ordered assistance from the Canadian Government under Canada's Mutual Legal Assistance in Criminal Matters Act, "the request must establish reasonable grounds to believe that, (1) an offence has been committed; and (2) evidence of the commission of the offense, or information that may reveal the whereabouts of a suspect, will be found in Canada. This requires a clear connection between the foreign investigation and the

Canadian evidence sought.”²⁷ In addition, the offense must still be prosecutable, meaning it must be within the applicable statute of limitations.

To successfully execute an MLAT request, the application is first submitted to Justice Canada’s International Affairs Group, which is the Department of Justice’s counterpart in Canada and is Canada’s designated central authority for MLAT requests. The International Affairs Group reviews the request and may have questions before finding it sufficient to refer out to a prosecutor in the field for execution. The next step is for the prosecutor in the field to go before a judge to obtain an Evidence Gathering Order, which would then be served on the Sisters of Providence, like a subpoena. The process also provides several opportunities for extensions of time to respond.

Given the process and standards that needed to be met for court-ordered assistance, the Task Force faced significant obstacles to successfully gaining information through an MLAT request. For example, individuals must be described in the MLAT with sufficient specificity to be identified. However, many victims could not remember names of their abusers (though some could), nor did the Task Force possess sufficient additional information to satisfy the MLAT identification standards in most cases.

Additionally, as discussed in greater detail in *Section 4.3 State of the Law*, all of the potential crimes alleged by the victims of the Orphanage are barred by the statute of limitations, except for murder. In order to move forward with an MLAT, the Task Force must be able to lay out particularized information before a Canadian judge to support criminal allegations of

²⁷ See Department of Justice Canada, Mutual Legal Assistance Requests to Canada at <https://www.justice.gc.ca/eng/cj-jp/emla-eej/mlatocan-ejaucan.html> (last visited September 25, 2020).

murder, the only crime which would still be within the statute of limitations. The Task Force is unable to do this at this time.²⁸

Due to the age of the allegations and the statutes of limitations on many of the crimes alleged, as well as the level of proof required, the MLAT request did not appear to be a viable method in producing the documents the Task Force sought. Ultimately, and after further discussions with OIA, the decision was made not to pursue the MLAT request at this time. However, OIA remains available to aid the Task Force with an MLAT request should more particularized details become available regarding any actionable criminal charges.

3.2 Independent Reviews of Priest Sex Abuse

Shortly after the formation of the Task Force, in October 2018 an independent effort to review priest sex abuse allegations was commenced by the Diocese. Bishop Coyne formed an independent citizen panel (“Review Committee”) to: “comb through the diocesan personnel files to compile a list of priests with credible allegations against them.”²⁹ The Review Committee examined allegations from 1950 to 2019 and published their findings on August 22, 2019.

According to the Review Committee’s report, approximately 419 priests were assigned to the Diocese between 1950 and the time the Review Committee was formed. The report named 40 priests that the Review Committee determined to be “credibly” accused of sexually abusing children based on the Review Committee’s definition of “credible,” which they “defined as: An allegation, based on facts of the case, that meets one or more of the following thresholds: a. Natural, plausible and probable; b. Corroborated with other evidence or another source, or c.

²⁸ *See id.*

²⁹ “Independent Report on Priest Sex Abuse Cases for the Diocese of Burlington, VT. (1950 to 2019),” Roman Catholic Diocese of Burlington, <https://www.vermontcatholic.org/wp-content/uploads/2019/08/ReportPriestSexAbuseCasesRCDB.pdf> (Lasted visited October 15, 2020)

Acknowledged/admitted to by the accused.”³⁰ It should be noted that the definition of “credible” adopted by the Review Committee is different from the probable cause standard applicable to criminal cases.

In September 2019, the Society of Saint Edmund, a Catholic order at Saint Michael’s College, separately released its own list of priests after examining 75 years of records. The report named 10 priests who worked in Vermont and had been accused of sexually abusing children.³¹ Father David Cray managed the review, which “decided to publish all allegations that have been received, whether or not they have been substantiated.”³²

The inquiries and subsequent reports published by the Review Committee and the Society of Saint Edmund were and remain separate and apart from the mission of the Task Force. Members of the Task Force did, however, conduct an independent review of the more than 52 priest files reviewed by the Review Committee.

3.3 Attorney General’s Investigation of the Diocese in 2002

As part of its investigation, members of the Task Force reviewed the findings of the 2002 investigation of the Diocese conducted by the Attorney General’s Office under the authority of then-Attorney General William Sorrell. For the purpose of the Task Force’s investigation, Assistant Attorney General Cindy Maguire, who was involved in the 2002 investigation, produced a synopsis of the investigation:

“In the spring of 2002, amid allegations of sexual abuse, the AGO began a criminal investigation of the Burlington Catholic Diocese. The AGO dedicated an AAG and an investigator full time to the investigation. Several other attorneys within the

³⁰ *Id.*

³¹ “List of Edmundites Against Whom We Have Received Allegations of Sexual Abuse of a Minor,” Society of Saint Edmund, <https://www.sse.org/safe-environments.html> (Lasted visited October 15, 2020)

³² *Id.*

AGO also worked on aspects of the investigation. DCF, at the time SRS, also participated and several law enforcement agencies assisted.

In May 2002, the Diocese disclosed a list of twenty priests against whom allegations of sexual misconduct had been made. Six priests were still in active ministry and, given the concern for child safety, the investigation of these individuals was prioritized. The investigation identified an additional active priest bringing the total to seven. Upon completion of each one of these investigations the AGO provided a letter to the Diocese. Each letter detailed the allegations, identified the sources of information and specified violations of Vermont law. The purpose of this communication was to provide the Diocese, as the employer of these priests, with information to take the necessary steps to ensure the safety of children. Absent the filing of a criminal charge, the AGO had no authority or mechanism to impact the ability of these priests to have contact with children. Early on in the investigation the Diocese suspended the six priests they had identified as being active.

From the outset of the investigation and continuing until completion, the AGO requested a wide range of documents and information from the Diocese. The age of the allegations and the legal bar of the statute of limitations excluded the use of compulsory process against the Diocese. The AGO was dissatisfied with the Diocese's level of cooperation and attempts to narrow the scope of inquiry. By way of example, despite repeated requests, beginning in the spring of 2002, for information regarding the St. Joseph's Orphanage, the Diocese refused to provide any information connected to this facility. It was not until February 2003 that the Diocese agreed to "provide the State with all complaints of sexual misconduct against priests who are currently living . . ." As a result the information received from the Diocese regarding the Orphanage was limited.

. . . The criminal allegations included aggravated sexual assault, sexual assault on a minor, sexual assault, lewd and lascivious conduct with a child, and possession of child pornography. The statute of limitations prevented prosecution for most of the alleged acts and insufficient evidence, to meet the State's burden of proof beyond a reasonable doubt, barred the remainder.

The AGO also initiated and participated in the legislative process to amend the mandated reporting statute to include clergy."

The Attorney General's Office did not release a public report of its findings at the conclusion of its investigation.

4. Process and Players of Task Force Investigation

From the beginning, Task Force members knew there would be numerous investigatory and legal hurdles: the statute of limitations; the years that have passed; the ability or lack thereof to identify and locate witnesses and suspects; and the cooperation or lack thereof from the organizations responsible for running the Orphanage. Nevertheless, all the Task Force members were entities dedicated to keeping people safe, particularly the most vulnerable among us, and undertook the responsibility for this investigation with the utmost gravity and with an abiding hope that it could achieve some sense of closure for all the survivors.

In the days following the announcement of the Task Force’s formation, the City of Burlington established an Orphanage reporting link on the City’s website.

St Joseph's Orphanage Investigation Intake Form

Contact Information

Do you wish to remain anonymous? * Yes No
In order to conduct a thorough investigation we need to be able to discuss and confirm accounts of the incidents at the orphanage.

Would you be willing to speak to a detective about this incident? * Yes No

Name *

Address

Preferred Contact Number

Email address

Incident Details

Approximate Date of Incident
Please note the year or range of years when the incident occurred.

Did this incident occur at St Joseph's Orphanage in Burlington, Vermont?

BPD also created an intake process for survivors to report telephonically. Every survivor or representative thereof who wished to speak with a member of law enforcement and reported online or via phone was contacted by a BPD or Chittenden Unit for Special Investigations (“CUSI”) detective. BPD’s priority was to give everyone who contacted the Department the dignity of belief. Detectives took sworn statements and every complaint was meticulously documented and shared with other partners on the Task Force. In total, BPD received and conducted 45 interviews. VSP completed one interview and two interviews were handled by

victim service providers. Finally, one victim's allegations come from the lengthy report they made on the BDP portal. All of these came from individuals associated with the Orphanage from the 1940s through the time of its closure in 1974. Their statements formed the basis of the criminal investigation.

Additionally, any individual who reached out to the Task Force, whether they chose to report their experience to law enforcement or not, were connected to victim service providers from the AGO, BPD, the Chittenden County State's Attorney's Office, and the Vermont State Police. This team of victim service providers were available to provide support to victims as needed and to refer people to the SJRI. This group has worked extensively with victims since the formation of the Task Force.

To review the allegations brought forth by victims and others reporting abuse at the Orphanage, the Task Force requested and reviewed documents provided by the Diocese, Vermont Catholic Charities and DCF. Additionally, documents were received from other sources, including materials from prior litigation around the Orphanage. Interview summaries and a review of the allegations brought by the victims are included in this report and contained in *Section 5 Victim Interview Summaries and Investigative Findings*.

4.1 Vermont Catholic Charities

The Task Force requested the resident files for residents who the Task Force was aware had alleged abuse when they were at the Orphanage.³³ Vermont Catholic Charities was able to provide a corresponding file for a significant number of victims. All files provided were reviewed by members of the Task Force. Files were usually titled in one of two ways: (1) by the resident's full name at the time of their placement at the Orphanage, or (2) by the family's last name, which contained records for all of the siblings in the family placed at the Orphanage. While the contents of the files were not standardized, most files contained a variation of the following documents: an intake record called, "Face Sheet;" a contract between the Orphanage and the guardian; medical history forms; immunization records; baptismal, communion, and confirmation records; school report cards; school work completed by the resident; and record pages which were occasionally updated with progress notes made by a Vermont Catholic Charities social worker. Many of the progress notes discussed how a child was adapting to the Orphanage and any ongoing behavioral problems. Progress notes did not appear to be updated on a consistent or regular schedule. Some residents would have multiple record pages, while others would have none. All of the resident files reviewed aided the Task Force in understanding the daily operation of the Orphanage and the relationship between Vermont Catholic Charities social workers and the Sisters of Providence who worked directly with the residents of the Orphanage.

There were some victims for whom a file could not be located.³⁴ When those situations arose, Vermont Catholic Charities attempted to locate an index card, which contained basic

³³ The Task Force also requested and attempted to review files of residents who had reported abuse or neglect prior to this investigation.

³⁴ Victims were asked to provide their given name from when were at the Orphanage as many resident's last names or even first names changed when they left the Orphanage, often due to being adopted.

information about a resident, including their name, date of birth, and entry and exit dates from the Orphanage. When neither a file nor index card could be located, Vermont Catholic Charities and the Task Force inspected the ledger kept by the Sisters of Providence. Two resident ledgers purport to account for every child that was placed at the Orphanage. Each completed line of the resident ledgers contained a child's designated number, name, date of birth, entry date, exit date, parent' names, information about their placement and, if applicable, details about their death at the Orphanage. In some cases, not all of the information was filled in.

The specific victim information recovered from either the file, index card, or resident ledgers allowed the Task Force to track when a victim entered and exited the Orphanage, and, in certain situations, provided relevant information related to their allegations. This information can be found in *Section 5. Interview Summaries and Investigative Findings* under "Dates at St. Joseph's Orphanage; VCC Resident File Reviewed; and Corroboration." Where appropriate, relevant documentation from the resident file has been included.

The Task Force also reviewed the two ledgers purporting to document the entry and exit of children from the Orphanage over the 120 years it operated. Again, the ledger notes an entry for each child, which includes a resident number, child's name, date of birth, parent's name, the town from which they came, as well as their departure date. If children died while at the Orphanage that information was usually noted in the resident book. In some cases, not all of the information was filled in.

A review of the two ledgers by the Task Force suggests that, over the 120 years the Orphanage operated, roughly 435 children died from various causes (predominately illnesses), with nearly all dying prior to 1933. After 1933, Vermont Catholic Charities' records show that two deaths occurred at the Orphanage. One of the children who died was Marvin Willette who

died while swimming; his death was reported in the in Burlington Free Press on July 21, 1961. The Burlington Police Department was involved in that investigation.³⁵ The other death occurred in 1942. On that child's death certificate a doctor ruled that the child died of cancer. As to where children who died at the Orphanage were buried, no information was available from Vermont Catholic Charities.

4.2 Department for Children and Families

Task Force members began meeting with DCF in November of 2018 to access and review any DCF files for victims who reported abuse experienced at the Orphanage while in DSW custody at the time of the alleged abuse. These files contained basic biographical information and a history of all the foster home or residential home placements for the child. The materials received from DCF files corroborated some of the victims' recollections regarding their placements at DCF, as well as placement dates at the Orphanage provided by Vermont Catholic Charities. Relevant information from DCF has been included in the victim interview summaries in *Section 5. Interview Summaries and Investigative Findings*. Information will only appear in this section if applicable. It is important to note that not all residents of the Orphanage were placed by DCF. Many guardians worked directly with Vermont Catholic Charities when placing children at the Orphanage.

Finally, in collaboration with the Task Force's investigation, DCF reviewed licensing materials related to the Orphanage.³⁶

³⁵ "Boy Drowns While Swimming Near St. Joseph's Orphanage" July 21, 1961, Burlington Free Press, available at https://www.newspapers.com/image/?clipping_id=27037645&fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVILXZpZXctaWQiOiJwMDIzMTYzMSwiaWF0IjoxNjA3NTQyNjU2LjE2MDc2MjkwNTZ9.rVRGPCpAPvBeBaK7fOYkf8RjfBVQTIzfZd05EzosTng (last visited December 9, 2020).

³⁶ DCF *Report to Vermont Attorney General*, supra note 4.

4.3 State of the Law

As part of its investigation, the Task Force reviewed and analyzed the criminal statutes in effect at the time of the alleged abuses. During and after the years when these alleged abuses took place there have been significant changes to both the legal definitions of crimes and the statutes of limitations that apply to those crimes.

The allegations reviewed in this report involved residents living at the Orphanage from 1940 to 1974. The following bodies of Vermont law apply to these allegations: the 1933 Public Laws of Vermont; Vermont Statutes, Revision of 1947; and the Vermont Statutes Annotated enacted first in 1959.

A statute of limitations establishes a time period following a crime during which the State can bring criminal charges. The State must act within this time period in order to bring a charge. If the time period has passed the State may not bring a charge. While many allegations reviewed by the Task Force constitute crimes under the applicable laws, the statutes of limitations that applied to the alleged abuses—with the exception of murder, which has no statute of limitations—effectively ended the State’s ability to bring criminal charges in those matters.

4.3.1 1933 Public Laws of Vermont

The 1933 Public Laws of Vermont were in effect between 1933 and 1947 and applied to any allegation dating from those years. The following criminal statutes from the 1933 Public Laws could have applied to allegations from this era: Sections 8374-8383: Murder, Manslaughter, Homicide and Attempts to Kill; Section 8388: Rape; Section 8396: Cruelty to children under ten by one over sixteen; Section 8397: [Cruelty to a child b]y person having custody; Section 8611: Lewdness.

Some crimes that today would have applied to alleged abuses at the Orphanage had more limited definitions in the 1933 Public Laws. For example, all assault crimes during that period required other criminal conduct to accompany the assault such as an assault during a robbery or an assault during an intended robbery. P.L. Sec. 8400-05. An assault without additional criminal conduct was not a crime. In addition, the rape statute required the victim to be female. P.L. Sec. 8388. As a result, a rape allegation by a male resident of the Orphanage, at that time, could not be considered as a potential crime in this criminal report.

Statutes of limitation for criminal offenses in the 1933 Public Laws were located under Title 9 “Courts and Judicial Procedure” and in Chapter 103 “Limitation of Criminal Prosecutions and Action on Penal Statutes.” They set forth a period of three years for misdemeanors and felonies, except for larceny, robbery, burglary, forgery, arson, and murder. P.L. Sec. 2450. Larceny, robbery, burglary, and forgery had a six-year statute of limitations. P.L. Sec. 2451. There was no statute of limitations for arson and homicide. P.L. Sec. 2452. Any prosecution brought after the assigned statutory period was considered void. P.L. Sec. 2452.

Based on the allegations brought forth by the victims during this investigation, all potential crimes that occurred prior to 1947 carried a three-year statute of limitations, other than murder.³⁷

4.3.2 Vermont Statutes, Revision of 1947

The Vermont Statutes, Revision of 1947 applied to any abuse alleged to have occurred between 1947 and 1959. The following criminal statutes from the Revision of 1947 could have applied to allegations from this era: V.S. 1947 § 8240: Murder, degrees defined; V.S. 1947 §

³⁷ To review the statutes from the 1933 Public Laws referenced in this section *see* Appendix 8.

8253: Rape by a person over sixteen; V.S. 1947 § 8256: Assault with intent to kill or maim; V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

Similar to its predecessor, the crime of rape in the Revision of 1947 required the victim be female, so rape allegations from the 1947-59 era remained limited to female victims. V.S. 1947 § 8253. However, the statutes were updated at that time to recognize as crimes some assaults that were not accompanied by additional criminal conduct, as was previously required. V.S. 1947 §§ 8255-56. These assault crimes were potentially applicable to allegations in this era.

The statutes of limitation for criminal offenses in the Revision of 1947 stayed the same as the 1933 Public Laws. All crimes other than larceny, robbery, burglary, forgery, arson, and murder had a three-year statute of limitations. V.S. 1947 § 2493. Larceny, robbery, burglary, and forgery had a six-year statute of limitations, while arson and murder had no limitation. V.S. 1947 §§ 2494-95.

Based on the allegations brought forth by the victims during this investigation, all potential crimes that occurred between 1947 and 1959 carried a three-year statute of limitations, other than murder.³⁸

4.3.3 Vermont Statutes Annotated (1959)

In 1959 the Vermont legislature enacted the Vermont Statutes Annotated, a broad revision of Vermont's statutory law that remain applicable law today. For allegations of abuse that occurred after 1959, the Vermont Statutes Annotated (1959) and any subsequent updates

³⁸ To review the statutes referenced from Vermont Statutes, Revision of 1947 in this section *see* Appendix 9.

provided the framework for potential crimes. The following criminal statutes could have applied to allegations from this era: 13 V.S.A. § 2301: Murder-degrees defined; 13 V.S.A. § 602: Assault with intent to kill or maim (1959); 13 V.S.A. § 1021: Breach of the peace generally; 13 V.S.A. § 1304: Cruelty to children under ten by one over sixteen; 13 V.S.A. § 1305: Cruelty by a person having custody of another; 13 V.S.A. § 2602: Lewd and lascivious conduct with a child (1959).³⁹

The Vermont Statutes Annotated did not initially change the statutes of limitations from their 1933 and 1947 versions and they remained the same to the last allegation alleged in this investigation, in 1974. All crimes other than larceny, robbery, burglary, forgery, arson, and murder had a three-year statute of limitations, while larceny, robbery, burglary, and forgery had a six-year statute of limitations. 13 V.S.A §§ 4501-02 (1959). There was no statute of limitations for arson and murder. 13 V.S.A § 4503.

Based on the allegations brought forth by the victims during the investigation, all potential crimes from 1959 to 1974 carried a three-year statute of limitations, other than murder.

4.3.4 Extensions of Statutes of Limitation Enacted After 1974

Beginning in 1981, the legislature has significantly extended the statute of limitations for many crimes. 13 V.S.A § 4503. However, none of the relevant extensions apply to the allegations in this investigation. When determining whether an alleged crime was still within the statute of limitations, the Task Force examined whether the period had been amended by the legislature and what the legal effect of any such amendment would have been. When the legislature changes a statute of limitations, the Vermont Supreme Court has ruled that the new period applies to all offenses that were still within the prior statute of limitations period at the

³⁹ To review the statutes referenced from Vermont Statutes Annotated (1959) in this section *see* Appendix 10.

time the change took effect. But if the prior statute of limitations period had expired at the time the new limitation period takes effect, meaning a prosecution would have been barred by the old statute of limitations, prosecutions cannot be commenced under the new statute of limitations. *State v. Petrucelli*, 156 Vt. 382, 384 (1991). In *Petrucelli*, the defendant committed a crime that originally carried a three-year statute of limitations. *Id.* at 382. Two years after the commission of the crime the Legislature extended its statute of limitations to six years. *Id.* The State commenced prosecution against the defendant four years after the crime's commission. *Id.* The Court held *Petrucelli* was still prosecutable because the new statute of limitations period took effect before the original limitations period had run out on Petrucelli's offense. The Court reasoned that while liability for an offense attaches at commission, the right to be free from prosecution does not attach until the statute of limitations in effect at the time of the offense expires. *Id.* at 384-385 ("it is one thing to revive a prosecution already dead, and another to give it a longer lease of life") (quoting Judge Learned Hand in *Falter v. United States*, 23 F.2d 420, 425-26 (2d Cir. 1928)).

In other words, if the statute of limitations has not yet run out on an alleged crime, the right to be free from a prosecution never attaches. Consequently, in those cases, extensions to the statutes of limitation will apply. The Court affirmed *Petrucelli* the next year as applied to Lewd and Lascivious conduct with a child. *State v. Johnson*, 158 Vt. 344, 346 (1992) (where Lewd and Lascivious offense occurred in 1983 and was then governed by three-year statute of limitation, the statute of limitations extension to six years in 1985 applied retroactively to Johnson because his statute of limitations had not yet run at time of extension).

Because the statute of limitations had run for each potential crime in this investigation—except for murder—before the limitation period was extended, the statutes of limitation that applied at the time the alleged crimes were committed remain the applicable limitation period.

4.3.5 Accessory Liability

Finally, the Task Force considered the liability of not only the individual actors but also the organizations involved with the day to day operations Orphanage as a whole, such as the Dioceses, Sisters of Providence, Vermont Catholic Charities, and their employees. In what the Task Force reviewed, there was no evidence to support such a charge. Additionally, an accessory to a felony charge follows the same statutory time frame governing the underlying felony, not the “other felonies” category in 13 V.S.A. § 4501(e). *See In re Hyde*, 200 Vt. 103, 108 (2015) (where “an accessory is in all respects to be treated...in exactly the same manner as one charged with the principle crime”); *State v. Jamarillo*, 140 Vt. 206, 208 (1981) (where aiding in commission of felony will support conviction as principal). As such, we are similarly barred by any criminal charge under this theory of liability - except for murder.

5. Victim Interview Summaries and Investigative Findings

The following section of the report documents the allegations of abuse recounted by the victims who contacted the Task Force. All identifying information has been removed to respect the privacy of those who came forward. Throughout the investigation, where investigators identified seemingly relevant source materials these documents have been redacted and are included in the applicable summaries.

In this report, the identities of the victims who decided to share their experiences have been protected. This included protecting identifiable information as well as eliminating gendered pronouns. Each victim was assigned a numerical pseudonym. This was also done for any person who may have been named in connection with the victim's experiences at the Orphanage, including family members, friends, or other former residents. This was done in deference to the deeply personal and sensitive nature of each victim's experience as well as in accordance with the Vermont Rules of Professional Conduct and the protections of the Vermont Public Record Act.⁴⁰

In addition, the names of anyone else the victim discussed, including people who the victims said harmed them, were assigned a numerical pseudonym. This included members of the clergy and anyone connected through employment or service at the Orphanage or other agencies. (These pseudonyms are generally comprised of a descriptive word and then a number; for example: Sister1). This too was done in accordance with the Vermont Rules of Professional Conduct as well as the protection under the Vermont Public Record Act.⁴¹

Further, in the Relevant Documents sections, the names of any individuals who the Task Force found in documented material that could have been connected to, or were potentially described in, the survivor's narrative were denoted with a pseudonym. However, unlike the pseudonyms contained in the Allegation sections, these pseudonyms were assigned to a specific

⁴⁰ See V.T. Rules of Prof. Conduct, Preamble and Scope Preamble: A Lawyer's Responsibilities, I [1], [5], [9]. R.1.6 cmt. 3, R. 3.1; R. 3.8.; *see also* 1 V.S.A. § 317(c)(1)-(3), (5)(2), (5)(a)(iii).

⁴¹ *Id.*

person and remained constant through the entire report. (These pseudonyms are generally comprised of a descriptive word, a number, and then a lowercase letter; for example: Sister1a). This was also done in accordance with the Vermont Rules of Professional Conduct as well as the protection under the Vermont Public Record Act.⁴² The Task Force attempted to include exculpatory material in this section as well, however, it is possible other exculpatory material exists.

During the investigation, the Task Force learned that a Vermont clergy member, Father Michael K. Madden was prosecuted by the Orleans County State's Attorney in 1988 for Sexual Assault with a person under 16 years old; 13 V.S.A. § 3252(3); and Lewd and Lascivious Conduct; 13 V.S.A. § 2602. The Task Force also learned that Father Madden moved into the visiting priest residence at the Orphanage through an announcement in the St. Joseph's Children's Center Chronicles published in April 1972.⁴³ Father Madden pled no contest to the charges brought by the Orleans County State's Attorney on June 21, 1989.⁴⁴ He was sentenced on October 19, 1992 to 3 to 5 years, but the sentence was split so that he was required to serve 24 months and then was released on probation.⁴⁵ Father Madden served as a priest in Vermont for approximately 18 years.⁴⁶ His public priestly faculties were revoked on April 18, 1988 by

⁴² *Id.*

⁴³ See file in Criminal Report Source Material titled "St Joseph's Orphanage Chronicles 7-70 to 7-71 2nd full copy" at p. 6.

⁴⁴ See "Current Case Docket Information", Court Record 1871 for [redacted] (copy of DDR in [redacted] file); see also interview with Attorney Phillip White in Criminal Report Source Material titled "Attorney Phil White Interview -SJO Investigation."

⁴⁵ See *id.*

⁴⁶ See "Independent Report on Priest Sex Abuse Cases for the Diocese of Burlington, VT. (1950 to 2019)" at p. 10, <https://www.vermontcatholic.org/wp-content/uploads/2019/08/ReportPriestSexAbuseCasesRCDB.pdf> (last visited November 2, 2020).

Bishop John A. Marshall; he resigned as a priest on July 12, 1988.⁴⁷ Father Madden died on September 10, 2000, at age 58.⁴⁸

The following section of the report documents the allegations of abuse recounted by 51 victims. The structure for each included allegation is as follows:

Victim: (names have been redacted to protection the victim's identity, a numerical pseudonym was sequentially assigned, V1-V51)

Contacted Law Enforcement: (explanation around how survivor came to the Task Force).

Dates at St. Joseph's Orphanage: (as it was found in the materials provided by Vermont Catholic Charities and the Diocese).

VCC Resident File Reviewed: (if located by Vermont Catholic Charities and the Diocese. Please note, that resident files for children who were noted to have been adopted from the Orphanage were not provided to the Task Force by Vermont Catholic Charities due to statutory restrictions regarding that information. *See* Title 15A V.S.A. § 6-102(a)).

Allegations: (a condensed summary of the interview of the victim conducted by law enforcement).

Named Assailants: (as stated by the victim in their allegations. Similar to the victims, the named assailants have been redacted to protect the assailants' identities; a numerical pseudonym was sequentially assigned).

⁴⁷ *See id.*

⁴⁸ *See id.*

Potential Crimes: (determined by the dates that the victim resided at the Orphanage).

Relevant Documents: (information was only added to this section when a document associated with the summaries was located in the materials received and reviewed by the Task Force. *Please note, due to the limitations of the materials received by the Task Force, it was sometimes difficult to confirm whether an assailant named by a resident worked or had access to the Orphanage. This occurred for a variety of reasons, such as the victim could only recall a partial name or because possible assailants shared the same name. Even when a name seemed to be confirmed, it was then difficult to verify based on the limitations of the documents the Task Force received. The Task Force attempted to include exculpatory material in this section, however, it is possible other exculpatory material exists.)

Case Analysis & Outcome: (explanation as to whether a criminal charge could be brought).

5.1 Allegations of Abuse at the Orphanage

Victim: V1

Contacted Law Enforcement: Initial contact with the BPD Portal on September 11, 2019 and spoke with BPD on September 13, 2018. V1 also emailed Governor Phil Scott on September 15, 2018.

Dates at St. Joseph's Orphanage: Admitted May 14, 1965, and left the Orphanage on June 29, 1973.

VCC Resident File Reviewed: Yes

DCF Placement: Yes, the second time. Placed at the Orphanage in 1965 by Vermont Catholic Charities on condition that parents surrender children to the custody of DSW.

Officially surrendered to DSW on July 14, 1965.

Allegations: On September 13, 2018, V1 spoke with BPD Officer Renee Young regarding V1's time at the Orphanage. V1 swore at the beginning of the interview everything V1 was about to say was the truth. V1 said that V1 could remember every day V1 was at the Orphanage clearly. V1 said V1 was brought to the Orphanage by V1's parents when V1 was around four years old. V1's parents were abusive alcoholics. V1 said V1 went from a bad situation to a worse one. V1 said V1 cried a lot when V1 first got dropped off and a nun approached V1 and said, "I'll give you something to cry about," before throwing V1 on the ground of a playground that was on a rooftop of the Orphanage. V1 remembers there being a little play pool on this rooftop as well. V1 said that V1 was there for about 10 years (1963 to 1973) and the entire time V1 was at the Orphanage V1 was a chronic bedwetter. V1 said that V1 would get V1's face pressed in V1's wet linen and then thrown in cold showers. The nuns would then parade V1 around with V1's wet linen to humiliate V1. The nuns would have the children chant, "red head wet the bed" and "shame shame you wet the bed, red head" at V1. V1 said V1 would also get locked in the attic frequently.

V1 said V1 knew the Task Force was investigating murders and V1 thinks V1 was the subject of an attempted homicide as V1 was thrown out of a boat when V1 was only five or six and had to doggy paddle out of the lake, while choking and gasping. V1 said that it was a nun and a male counselor that threw V1 in the lake. V1 said that the worst nun V1 remembered was Sister1, and V1 described her as short, having glasses and was “scary” looking. V1 also mentioned Sister2, who would “wrap knuckles” with a ruler for punishment until they bled and if you got blood on your homework, the punishment would be worse.

In 1995, V1 provided a statement as part of a settlement obtained from the Diocese for abuse suffered at the Orphanage which is summarized here:

V1 and three siblings were placed at the Orphanage by their parents in 1963. V1 was four years old. V1’s parents placed the children in the Orphanage at the request of the State. V1 was placed in the nursery at the Orphanage. V1 remained at the Orphanage from 1963-1973.

V1’s early memories of the Orphanage are of the strict code of conduct enforced by the nuns. All of the children were expected to act in a very regimented fashion, and any transgressions were punished by open-handed slaps by the nuns. In addition, the nuns would hit the children with wooden paddles on their bottoms as punishment. V1 was often punished in this way.

At the age of seven or eight, V1 was taken from the nursery and placed into another part of the Orphanage that housed the young children. At this point the abuse intensified. Sister3 was in charge of this dormitory, and she frequently administered corporal punishment to the children. If a child said a bad word or wasn’t following instructions, Sister3 was quick to slap the child, pull the child’s hair, hit the child in the head with a book, or strike the child in the body. This was typical of the abuse that most of the nuns perpetrated upon the children. Nuns would drag children down the hall by their hair. They would also lock children up in an attic for hours at a time. V1 was often

locked up in the attic for disobeying the nuns. The nuns would also sometimes bend the children's legs back over their heads in a position that made it difficult for the children to breathe. V1 also remembers that V1 was once brought out in a boat on Lake Champlain. V1 was thrown overboard because the nuns thought that V1 would learn how to swim. They then proceeded to dunk V1's head under the water. V1 was terrified that they were drowning V1. These were the many ways in which V1 was physically abused while at the Orphanage.

When the children were "bad," the nuns would keep track of this on a list by marking a check by that child's name. If the checks added up to a certain amount, then a child's privileges were taken away. For example, V1's parents were sometimes told that V1 couldn't go home with them for a weekend because V1 had been "bad" that week.

V1 developed a bedwetting problem at the Orphanage. Rather than attempt to address the problem, Sister3, as well as other nuns, would slap V1 and stick V1's face into the urine-soaked sheets. When V1 was still wetting V1's bed at the ages of eleven, twelve and thirteen, the nuns used humiliation as their punishment. V1 and other bedwetters would have to put on diapers and rubber pants. They were then paraded on to the auditorium stage at the Orphanage with all the nuns, employees of the Orphanage and the children watching them and making fun of them. V1 was deeply affected by the shame and humiliation of those experiences. V1 recalls that the "audience" mocked V1 and laughed at V1 while V1 was on stage. The nuns would also require V1 to carry V1's wet bed linen in front of the children in the morning, so that the children could laugh at V1. The nuns did not allow V1 or other children to go to the bathroom during the night. Nonetheless, they were punished severely if they couldn't hold off until the morning. The nuns would taunt V1 with the rhyme "Red head, pee the bed, wipe it up with gingerbread." The nuns' use of shame and humiliation deeply impacted V1's developing self-esteem.

The Sisters of Providence employed male counsellors to conduct gym classes with the children. V1 remembers Counselor1, Counselor2, and Counselor3 as individuals who worked in this capacity with the children. The counselors used to bad-mouth the children and slam them up against the concrete walls if they didn't mind them. V1 remembers that on one occasion, V1 was slammed so hard against the wall that V1 saw white stars and fell to the floor. To the best of V1's knowledge, the nuns never did anything to monitor or eliminate this abuse by the counsellors.

At the school at St. Joseph's, V1 witnessed a great deal of abuse to other children. V1's teachers from Grade 1 through 8 included Sister1, Sister4 or, Sister2 and Sister5. Nuns would discipline children at school by rapping on their fingers with a metal-edged ruler. It was usual for the blows to draw blood from the child's hand. V1 remembers children returning to their desks with their hands dripping blood from these blows.

The nuns administered additional punishment at mealtimes. In the dining room, the nuns would require a child to go to the front of the cafeteria and pull down their pants and underwear, showing their bare bottom to the other children in the cafeteria. The nuns would then beat the child with a long steel spoon on the bottom. V1 remembers being very sore after this type of beating. On one occasion, when V1 was playing around with another child while waiting in line to get V1's food, a nun came over and threw a bowl of hot soup on V1's face. V1 remembers the pain, V1's face burning, and another nun then putting butter on V1's face. It took a long time for V1's face to heal after this incident. V1 received medical attention for V1's burns.

While V1 was at the Orphanage V1 was sexually abused by the Catholic Priest, Father1. Father1 had his own Parish on Pearl Street but the nuns at the Orphanage permitted Father1 to take children from the Orphanage to a camp that he owned. The nuns required V1 to accompany

Father1 to his camp on four to five different occasions when V1 was eleven and twelve years old. On the first visit, V1 and V1's sibling, V1-Sibling1, went to the camp.

At night, Father1 began drinking beer, and gave beer to the children. He then told them to come up to his loft bed with him. Once in the bed, he undressed, and required the children to undress. He then began sexually abusing both children while physically restraining them from leaving the loft. V1-Sibling1 managed to escape from the loft, but V1 did not. Father1 sexually abused V1 that evening in many ways, including the following: by placing his penis in V1's mouth; by forcing V1 to place V1's mouth on Father1's penis; by attempting to penetrate V1's anus with his penis; by fondling V1's genitals with his hands; by fondling V1's whole person with his hands; by placing his mouth upon V1's mouth; by ejaculating on V1's body, and by ejaculating on V1's back and rear end.

V1 was forced to engage in sexual relations with Father1, an individual who exercised complete authority over V1 at all times. This happened on numerous occasions. Moreover, V1 stated that the nuns handed V1 over to Father1 for these weekends. Not only did they offer V1 no protection when V1 was in the Orphanage, in V1's opinion they handed V1 over to a pedophile for further abuse.

Named Assailants:

1. Father1
1. Sister3
2. Sister1
3. Sister2
4. Sister4
5. Sister5

6. Orphanage Workers: Counselor1, Counselor2, and Counselor3

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959); 13 V.S.A. § 3201 Rape by person over sixteen (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a minor (1971).
* 13 V.S.A. 1959 and 13 V.S.A 1971 are being included to reflect the changes in the law when V1 was a resident at the Orphanage.

Relevant Documents:

Allegations Against Father1: As an adult, V1 met with Bishop John Marshall and other members of the Diocese regarding the sexual abuse perpetrated by a Father1a.¹ The following notes were taken from that meeting:

Reasons for Believing [REDACTED]

Although [REDACTED] has a terrible background [REDACTED], [REDACTED] story seems to be credible for the following reasons:

1. [REDACTED] began to tell [REDACTED] story to [REDACTED] and especially to [REDACTED] several years ago, long before, and independent of, the present publicity concerning [REDACTED].
2. [REDACTED] was nervous about visiting with the Bishop; [REDACTED] had to be encouraged to do so; but [REDACTED] finally did so despite the fact that [REDACTED] own background would become known.
3. [REDACTED] was not condemnatory of [REDACTED]; [REDACTED] did not belabor details; [REDACTED] gave no indication of wanting anything for [REDACTED].

Additionally, there is a note dated March 31, 1993 in V1's Orphanage Resident file obtained from Vermont Catholic Charities, that notes the following:²

¹ See generally, file in Criminal Report Source Material titled [REDACTED] and [REDACTED] [REDACTED] which are documents from Father1's file with the Diocese.

² See file in Criminal Report Source Material titled [REDACTED]

Some time was spent today talking about some of the physical abuse that happened to [REDACTED] while [REDACTED] lived here at St. Joseph's. [REDACTED] talked about having to wear diapers and rubber pants on the stage because [REDACTED] was a bedwetter. [REDACTED] said that [REDACTED] older brother, [REDACTED] who was not a regular bedwetter, also remembers that happening to [REDACTED] as well. [REDACTED] also said that [REDACTED] received spankings and sometimes slaps across the face that would leave marks. [REDACTED] remembers [REDACTED] and [REDACTED] as being the ones that were most physically abusive to [REDACTED].

Additionally, the St. Joseph's Children's Center Chronicles also confirm Father 1a's arrival at the Orphanage in 1972.³

cal newspaper.

APRIL

After the fire at the Immaculate Conception Cathedral, the residing priests at the Cathedral Rectory which was also damaged by water and falling bricks, found living quarters elsewhere. Some were invited by local pastors, other went to convents for the time being, and we welcomed a young priest, Father [REDACTED], who will occupy the room usually used for visiting priests on the [REDACTED]. As Father [REDACTED] duties as priest of the [REDACTED], he is seldom here except to sleep. We are happy to have this occasion to offer hospitality to this priest during these sad days.

J.- We were happy to welcome Sister [REDACTED] whom we all know and love, and to [REDACTED] days. Sister spoke [REDACTED] the [REDACTED]

VISIT

A Father 1a's file was provided by the Diocese and reviewed in connection with this investigation. That file contained notes from a May 26, 1988 interview with V1 regarding weekends at Father 1a's camp and background notes of the same date pertaining to V1, some of which are included above.⁴

³ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]

⁴ See generally, file in Criminal Report Source Material titled [REDACTED]

After volunteering this information about [redacted] own life, [redacted] said that [redacted] wanted to provide me with some information concerning [redacted], who has recently been charged with lewd and lascivious conduct in [redacted]. Because of family difficulties, [redacted] lived at St. Joseph Child Center on two occasions, when [redacted] was about 4 and again, when [redacted] was about 9. The second time (as best can be determined, it was the spring of 1968) [redacted] was invited, along with [redacted] brother, to spend a weekend at the camp of [redacted] on three successive months. On these occasions, [redacted] touched [redacted] impurely after bouts of drinking. These episodes did not continue beyond three times because those in charge of St. Joseph Child Center started hearing "strange talk" among the children. They were not aware of what may have caused the "strange talk", far less did they know anything about [redacted] activity, but as a precaution they tightened discipline, including a prohibition of accepting invitations from outsiders to have the children spend time away from the Home. [redacted] was not one of those who had engaged in the "strange talk".

Allegations Against Sister1: there was a Sister1a at the Orphanage from September 1967 to June 1972 and then again from September 1973 to June 1974.⁵ In Sister1a's deposition, a Sister1a stayed at the Orphanage from September 1967 to June 1971 and again September 1973 to June 1974.⁶

18 | Q. What years were you at St. Joseph's? |
19 | A. I was at St. Joseph's September '67 to June |
20 | '72, and then back in September '73 to June '74; I |
21 | left one year to, for a year of study in Montreal. |

a

Some of this time period overlaps with when V1 was a resident.

⁵ See Deposition of [redacted] in [redacted], file in Criminal Report Source Material titled [redacted]

⁶ See Deposition of [redacted] in [redacted], file in Criminal Report Source Material titled [redacted]

Allegations against Sister2: a Sister2a's presence at the Orphanage seems to be confirmed by records:⁷

[REDACTED] 1956-1958 - 1961-1965 - 1969-1974
([REDACTED]) ([REDACTED]) [REDACTED]

Sister2a was deposed in a case and confirmed her time at the Orphanage.⁸ She denied that any of the residents were physically abused.⁹ She denied seeing or hearing about any sexual abuse of children at the Orphanage.¹⁰ Sister1a was also deposed in a case.¹¹

However, a second sister named Sister2b was also potentially present at the Orphanage while V1 was a resident between 1935-1969:¹²

[REDACTED] (D) [REDACTED]
([REDACTED]) ([REDACTED]) Teacher grades 3-4 - Community room

Allegations Against Sisters 2, 3, 4 and 5: in her deposition, Sister1a also identified a Sister3a, a Sister 2c, a Sister 4a, a Sister 5a as present during her tenure at the Orphanage.¹³

⁷ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]

⁸ Deposition of [REDACTED], file in Criminal Report Source Material titled [REDACTED]

⁹ *Id.* at p. 43.

¹⁰ *Id.* at p. 76.

¹¹ [REDACTED] Deposition of [REDACTED] titled [REDACTED]

¹² *Id.*

¹³ *Id.* at 24, 26, 73.

3 A. Sister [REDACTED] was there. Sister
4 [REDACTED] Sister [REDACTED]
5 Q. Sister [REDACTED] Anybody else come to mind?
6 A. Sister [REDACTED], [REDACTED] And some
7 are dead; Sister [REDACTED] is dead, Sister [REDACTED] is
8 dead, [REDACTED], [REDACTED] is dead. Sister
9 [REDACTED] is at [REDACTED]. [REDACTED]

11 Q. Do you remember Sister [REDACTED]?
12 A. Yes.
13 Q. What was her, what was her station at the
14 Orphanage? What did she do?
15 A. I think she has the [REDACTED] department.

21 A. Fourth grade teacher could have been [REDACTED]
22 [REDACTED], or Sister [REDACTED]
23 Q. Sister [REDACTED], because I think there might
24 be more than one, what was her full name?
25 A. [REDACTED]; she's dead, few years ago.

In her deposition, Sister1a denied any physical abuse beyond admitting to slapping the two residents in the face and stated it was not appropriate.¹⁴ Sister1a denied any physical abuse with objects and the taunting/mocking of residents as punishment.¹⁵

Allegations Against Sister3: a Sister3a was at the Orphanage during the time frame 1961-1974. The screenshot below is an excerpt from Sister3a's deposition in a case where she confirms her dates at the Orphanage.¹⁶

¹⁴ See *id.* at 45-46.

¹⁵ See *id.* at 44-46, 53-54, 74-75.

¹⁶ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

4

1 A. Good afternoon.
2 Q. Please state your name?
3 A. Sister [REDACTED].
4 Q. Your age, Sister?
5 A. [REDACTED].
6 Q. Your date of birth?
7 A. [REDACTED].
8 Q. What year did you enter the Sisters of
9 Providence?
10 A. 1940.
11 Q. When did you first come to St. Joseph's
12 Orphanage in Burlington, Vermont?
13 A. 1961.
14 Q. How many years were you there, Sister?
15 A. 13 years. I left in '74.
16 Q. What were your duties at St. Joseph's when
17 you left in 1971?
18 A. The boys, boys' dormitory.
19 Q. Did you maintain that position through
20 1974?
21 A. Except for one year, I have one year of
22 rest in 1970.
23 Q. What is rest?
24 A. Rest. What is rest?
25 Q. One year of what, ma'am?

In that same deposition she admits to using the paddle herself a few times on children, and names other nuns as well.¹⁷

17 A. Yes.
18 Q. What was she using to hit him, Sister?
19 A. A paddle. Call it a paddle. I don't know
20 what you call it. They have the --
21 Q. The kind with the ball that bounces on the
22 end?
23 A. Yes.
24 Q. Were nuns permitted to hit people with
25 paddles?

¹⁷ *Id.* at 14-15, 37-38.

1 A. No. It was against the regulations.
 2 Q. Why would she have had that paddle if it
 3 was against --
 4 A. It was around.
 5 Q. Around where?
 6 A. The boys had used that to play with it. I
 7 guess that is why.
 8 Q. [REDACTED] testified that Sister [REDACTED]
 9 used a paddle and a belt. Did you see a belt?
 10 A. No.
 11 Q. Do you remember whether there was a belt
 12 there or not, one way or the other?
 13 A. No.
 14 Q. Are you saying, no, you don't remember?
 15 A. There was no belt that I know of. Never
 16 saw a belt.

IP
 1 A. I would say only a couple of years until --
 2 you see, I think [REDACTED] came in as a social
 3 worker about two years after I got at the child
 4 center. And then they came out with the
 5 regulation, no spanking, no nothing, no hitting
 6 the children. And I think that was pretty well
 7 observed after that except for --
 8 Q. But you are testifying today you never did
 9 that, is that correct?
 10 A. No.
 11 [REDACTED]: No, you are --
 12 A. No, I am not testifying that I never did.
 13 Q. I don't want to confuse you. Am I correct
 14 in stating that you never engaged in that type of
 15 activity?
 16 A. No. I did.
 17 Q. You did?
 18 A. I did.
 19 Q. You did spank with the paddle?
 20 A. I did use the paddle a couple of times the
 21 first two years, like I was telling you there.
 22 Until we were asked.
 23 Q. Where did you use the paddle?
 24 A. In the hand.
 25 Q. That would be the paddle we are talking

1 about that you bounce the ball with?
2 A. Yes.
3 Q. How would you have them hold their hands,
4 Sister?
5 A. Like (indicating).
6 Q. Flat, with the palm up?
7 A. Yes.
8 Q. Did you ever hit them on the knuckles?
9 A. No, never.
10 Q. You are sure?
11 A. I am positive.
12 Q. And then you stopped that activity in 19 --
13 well, couple of years after you got there because
14 of the new regulation?
15 A. Right.
16 Q. Do you know if any of the other nuns did it
17 up until 1963 or -4, whenever ██████ ██████ got
18 there, whatever that date might be?
19 A. No. I didn't see anybody hit, using the
20 paddle on the children after that.
21 Q. Prior to that?
22 A. Like myself.
23 Q. Yes?
24 A. Yes, I did myself.
25 Q. And any other nuns like, let me go through

Sister3a does not claim to have participated in forcing children to eat, but she claims to have heard about it happening.¹⁸ She denied knowing whether a particular nun forced a resident to eat their oatmeal after they vomited it up.¹⁹

¹⁸ *Id.* at 10.

¹⁹ *Id.* at 28.

20

1 A. I was told one morning, I didn't see it,
2 one morning she had to force a boy to eat his
3 oatmeal and to slap him if he didn't eat it. But
4 someone reported that to me. I didn't see her do
5 it.

6 Q. Who reported that to you?

7 A. One of the counselors, a seminarian.

8 Q. Did you ever hear of Sister [REDACTED]
9 forcing somebody to eat their oatmeal after they
10 had vomited it up?

11 A. No.

12 Q. Do you know that if that happened at all
13 or are you saying --

14 A. I don't know if it did happen.

15 Q. Did you feel at times Sister [REDACTED] was too
16 strict?

17 A. Yes.

18 Q. Why?

19 A. It was requiring a lot of the boy. There
20 were young ones in there and you had to -- to me
21 she was too strict. For example, the beds had to
22 be so-so. And I wasn't that strict. You know,
23 they made their bed, that was okay. To me, the
24 bed were made, and that is the way I thought she
25 was stricter.

When asked about how she handled residents who wet the bed, Sister3a acknowledged making them strip the bed, make the bed with a clean sheet, and then bring it to the laundry.²⁰ She said this practice ended after she was advised to stop because it humiliated the children.²¹ She denied ever making a child stand with the wet bed sheet over their head if they had wet the bed.²²

²⁰ *Id.* at 26-27.

²¹ *Id.* at 27.

²² *Id.* at 26.

1 A. No.
 2 Q. Do you know what a clapper is?
 3 A. Yes. Years ago they would clapper there to
 4 tell the boy to get in line?
 5 Q. Right.
 6 A. No. In Burlington we didn't have that.
 7 Q. You didn't have clappers at all?
 8 A. No.
 9 Q. Do you know if the nuns on the girls side
 10 had clappers or used clappers?
 11 A. I never saw any, no. Never heard of it.
 12 Q. Did you ever hear, start over. Did you
 13 ever see a child being forced to stand with a
 14 sheet over their head while it dried if they had
 15 wet their bed?
 16 A. No.
 17 Q. Did you ever hear of that happening?
 18 A. No.
 19 Q. Would you consider that to be a form of
 20 abuse?
 21 A. Oh, yes. Definitely.
 22 Q. How did you handle bedwetters?
 23 A. What I did in my dormitory, the first
 24 couple of years until we had orders from the
 25 social workers, the boys would strip their bed

1 and made them over with clean sheet and take the
 2 wet sheet himself to the laundry. And after a
 3 couple of years we were asked by the social
 4 worker, I guess advised by the psychiatrist, to
 5 stop doing that, because it was humiliating the
 6 children. So they asked that we put a basket by
 7 the door of the dormitory and have the boys put
 8 their sheet in there. One boy was assigned to
 9 take the basket down on his way.
 10 Q. During the period of time that you were
 11 there from 1961 to 1974 was there ever any
 12 encouragement by any of the nuns to publicly
 13 humiliate the boy who wet the bed?
 14 A. No.
 15 Q. Are you saying that didn't happen?
 16 A. It could have happened. I didn't see.
 17 Q. By public humiliation I am talking about
 18 public humiliation with the nuns instigating it?
 19 A. No.
 20 Q. Are you saying that didn't happen?

Sister3a denied knowing of sexual abuse occurring at the Orphanage beyond one incident that occurred with a lay employee.²³

²³ *Id.* at 8-13; 24.

Allegations Against Sister5: a Sister5a appears to have been present at the Orphanage from 1967 to 1974:²⁴.

(D) [REDACTED]
([REDACTED]) ([REDACTED]) High School [REDACTED]

No [REDACTED] see 27 mars 1910

Offices des sœurs [REDACTED]
Prof. temp. [REDACTED] Prof. per. [REDACTED]

[REDACTED]

[REDACTED]

BURLINGTON : Music - school library - supervises cleaning Gym & hallway
" : School library- Gymnasium- Class corridor
" " " " Assistante locale

[REDACTED]

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V2

Contacted Law Enforcement: Contacted the BPD Portal on September 15, 2018 and was interviewed by BPD on September 17, 2018.

²⁴ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]; see also file in Criminal Report Source Material titled [REDACTED] at [REDACTED]

Dates at St. Joseph's Orphanage: Unknown.

VCC Resident File Reviewed: No.

Allegations: On September 17, 2018, Detective Elizabeth Fellicciardi interviewed V2 regarding the Orphanage. The conversation was brief as V2 did not recall any specific incidents of abuse, nor did V2 know when V2 was at the Orphanage. V2 said all V2 could recall was that V2 wore braces, was afraid of water, and had fears of being smothered. V2 said V2 was very young when V2 was at the Orphanage, and did not know how long V2 was there. V2 said V2's sibling, V2-Sibling1, had also been at the Orphanage. V2 said V2-Sibling1 would bang V2-Sibling1's head on walls when V2-Sibling1 was a child and was also afraid of water. V2 said V2 would speak to V2-Sibling1 about anything V2-Sibling1 may remember. V2 declined needing any services, as V2 said V2 seemed to have suppressed any memories V2 had of V2's time at the Orphanage. **Named Assailants:** None

Potential Crimes: None – V2 did not recall any specific incidents of abuse.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as V2 does not allege any criminal conduct.

Victim: V3

Contacted Law Enforcement: Initial contact with BPD on September 26, 2018, and then interviewed by Detective Michael Beliveau on September 28, 2018.

Dates at St. Joseph's Orphanage: January 13, 1949 to March 23, 1949 and then from May 4, 1951 to May 24, 1953.

VCC Resident File Reviewed: No resident file was provided by Vermont Catholic Charities because V3 was adopted. The Task Force did obtain litigation materials from V3, which were reviewed.

Allegations: On September 28, 2018, Detective Beliveau interviewed V3 regarding V3's allegations of abuse at the Orphanage in Burlington. V3 swore at the beginning of the interview everything V3 was about to say was the truth.

V3 did not report any abuse at the Orphanage until V3's partner saw the scars on V3's body and encouraged V3 to seek counseling. During the process, V3 confronted Father2 during the 1990's. V3 asked Father2 if he knew about the deaths that occurred at the Orphanage and he replied something to the effect of, "Yeah, like I know where all the dead bodies are buried." V3 perceived Father2 to be making a joke out of the confrontation and believed Father2 knew more than he was letting on. V3 wanted the church to pay for V3's counseling but was not satisfied with how the church and Father2 responded to his confrontation and pursued a larger civil lawsuit. V3 reached a settlement of six-figures but would not specify the amount due to the non-disclosure agreement. V3 went on to start a non-profit organization to help the survivors of orphanages.²⁵

V3 recalled being in the Orphanage from approximately 1951 to May of 1953. V3 recalled that whenever prospective parents came to the Orphanage, the nuns would line up all of the children in order from short to tall. If any of the children moved during this lineup, once the prospective parents left, the child who moved would get beaten. V3 remembered the day V3's

²⁵ The Task Force obtained a copy of [REDACTED] described the abuse [REDACTED] endured at the Orphanage. See file in Criminal Report Source Material titled [REDACTED].

parents adopted V3 and how it was a beautiful sunny day. Despite the threat of being beaten for moving, as soon as V3's father approached the line, V3 stepped out of the lineup and grabbed ahold of V3's father's right leg while looking up at V3's father. V3's father then pointed down to V3 and chose V3 for adoption. After V3's parents left, V3 recalled getting a light slap in the face but nothing more. V3 believed this was because the nuns did not want to leave bruises on V3. V3's parents came back later that day and they picked V3 up in a convertible with the top down. During the drive, they stopped at a hot dog stand. They ordered hot dogs, and root beer and V3 recalled loving the taste of everything and how unique the spice of mustard was which V3 was not accustomed to in the Orphanage. V3 did not know how to use a straw and V3's mother had to explain to V3 how to do so. V3 arrived home for the first time and encountered the family dog who barked at V3 initially but after being told "no" by V3's father, the dog walked up and licked V3.

V3 then went on to describe V3's time at the Orphanage. V3 recalled being forced to eat V3's own vomit and being grabbed by V3's neck. V3 tried to run away through the gymnasium exit but was caught by the "big evil nun" who grabbed V3 by V3's neck and slid V3 up the wall. The nun struck V3 so hard that V3 believed V3 went unconscious. The following morning, V3 stepped into the bathroom and onto the steps stool where V3 saw dried blood on V3's face from being struck. V3 then described an incident where the same nun brought V3 under the stairwell in the gymnasium and the nun started to molest V3 with her hand. V3 then suddenly felt an unimaginable pain on V3's genitals from what V3 perceived the nun to be "ripping my genitalia to pieces." V3 described having "Rambo scars" on V3's genitals. V3 screamed from the pain but the nun put a pillow over V3's head and V3 then couldn't remember what happened after that. V3 did not see what was used to cut V3 and did not know how V3 got back to V3's bed that night. V3

remembered the following days sitting in chairs with V3's legs tucked in because of the amount of pain V3 was in.

V3 noted that V3 reached out to BPD mainly to discuss the allegations surrounding the chicken coop. V3 believed there were bodies buried near where the chicken coop used to be. V3 described the chicken coop as being "down the hill" behind the Orphanage "to the right" indicating a general location to the northwest of the Orphanage. V3 recalled the children forcefully not being allowed near the chicken coop/shed.

V3 remembered an incident where a girl was screaming at the top of a marble staircase. V3 remembered sitting on the floor below the stairs and looked up when V3 heard screams when a nun suddenly pushed the girl down the stairs. The girl tumbled down the stairs and V3 remembered vividly seeing blood coming out of the girl's left ear. BV3 described the girl as having lighter hair in a light-colored dress. A group of nuns then quickly ushered the children away from the area and V3 never saw the girl who fell again. V3 believed this happened sometime in 1952.

V3 remembered a large canvass cloth that would be on the ground and the nuns and priests would have the children step into the middle. The nuns and priests would then lift up the corners, essentially wrapping the children up and they would strike the kids from outside. V3 advised V3 was sexually assaulted/sodomized but is unable to remember any details. V3 advised V3 has a scar on the inside of V3's anal wall that led down towards V3's genitals which indicated tearing from forced penetration.

Named Assailants: None.

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: V.S. 1947 § 8458 Disturbances – Of the public peace; Cruelty to a Person – By person having custody; V.S. 1947 § 8479 Lewdness.

Relevant Documents: a Father^{2a} was ordained as a Roman Catholic Priest in 1967 and served as Vicar for Administration for the Diocese from 1983 to June 1, 1998 and served as Chancellor for the Diocese from 1991 through June 1998.²⁶

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V4

Contacted Law Enforcement: Contact with the BPD Portal on September 14, 2018.

Dates at St. Joseph's Orphanage: May 11, 1954 to November 26, 1954.

VCC Resident File Reviewed: No resident file was provided by Vermont Catholic Charities because V4 was adopted.

Allegations: In filling out the questions on the BPD portal for the Orphanage, V4 wrote that V4 has a large scar on the back of V4's neck, and that the injury was sustained prior to being adopted at age six months. A formal interview was not conducted, but Detective Michael Beliveau spoke with V4 over the phone briefly. V4 was adopted out of the Orphanage at the age of six months old. V4 indicated V4 had a scar on the back of V4's head but was not sure how V4 got it. V4 believed it was from a table corner or edge. That was the extent of the information gathered from V4 in regard to the Orphanage.

Named Assailants: None.

Potential Crimes: None.

Relevant Documents:

²⁶ See file in Criminal Report Source Material titled [REDACTED]
[REDACTED]

Case Analysis & Outcome: No criminal charges to be filed as no allegations of criminal conduct.

Victim: V5

Contacted Law Enforcement: Initial contact with the BPD Portal on September 22, 2018, and met with BPD Detectives Dalla Mura and Michael Beliveau on October 12, 2018, for an interview.

Dates at St. Joseph's Orphanage: August 30, 1954 to June 14, 1957.

VCC Resident File Reviewed: Yes

Allegations: On 10/12/18 Detective Dalla Mura and Detective Michael Beliveau met with V5 at V5's residence. Also present were V5's two daughters, V5-Daughter1 and V5-Daughter2. V5 swore at the beginning of the interview everything V5 was about to say was the truth.

V5 was placed in the Orphanage at the age of 11 in 1953. V5 was there for approximately three years until V5 ran away at the age of 14. V5's siblings, V5-Sibling1, V5-Sibling2, V5-Sibling3, and V5-Sibling4, were also in the Orphanage except for one of V5's siblings, V5-Sibling5, who was in another school. V5 and V5's sibling, V5-Sibling1 (now deceased), provided depositions in the 1990s to Lawyer1.

V5 recalled wetting V5's bed at night, so the nuns embarrassed V5 by making V5 sleep in the baby room with all the young children for the duration of V5's stay. V5's parents paid to have the kids stay at the Orphanage, but V5 said other children were known as "wards of the State" and were typically treated/abused much worse.

V5 recalled V5 being punished by the nuns who made V5 babysit all of the toddlers in the nursery (approximately 30 kids). V5 said one time, while V5 was in charge of supervising the kids, one baby fell out of his crib and broke his arm. V5 did not know the child's name.

V5 recalled not being allowed to talk to the opposite sex at the Orphanage and one time V5 tried to speak with V5-Sibling3, but the nuns caught them and slapped V5-Sibling3. V5 did not remember seeing anyone getting seriously hurt or killed at the Orphanage. V5 did recall an incident where a girl was swimming and started to struggle. V5 saved the girl from drowning but remembered the girl pulling V5 under. V5 did not know how the girl ended up in the water.

V5 recalled the food being terrible at the Orphanage such as the "blood sausage." V5 remembered only getting peanut butter on Sundays and felt it was a treat. V5's parents would drop clothes and toys off for V5 and V5's siblings, but the nuns would not allow V5 to have them.

V5 recalled being locked in a closet for 3-4 days. V5 believed V5 slept on the floor and did not recall where V5 went to the bathroom. V5 could not recall specific details about this, but knew it only happened one time. V5 also remembered a dentist that used to work on the children without using pain medication. V5 never went back to a dentist after those experiences. V5 did not recall any of the nuns names but remembered other residents, Resident1 and Resident2.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8262: Cruelty to a Person – By person having custody.

Relevant Documents: The screenshot below is from the St. Joseph's Children's Center Chronicles from July 1970, a document prepared and signed by the nuns from the Orphanage.²⁷

There have been many allegations that children drowned, or children were left alone whilst

²⁷ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]

swimming in the lake. Though this does not corroborate any neglect or abuse, it does provide corroboration for the fact that the nuns took the children swimming in Lake Champlain.

SUMMER OUTINGS	As in the preceding years, the children have been favored with many outings sponsored by kind benefactors and generous societies of this area. Among these tours was a visit to New York State by the Lake Champlain ferry where children's parks of entertainments were enjoyed; a circus, the King Brothers, a three ring circus, on the fairgrounds in Essex Junction, Vermont; picnics taken by bus where food and cold drinks were plentiful; public movies at a local theater, free of charge; and when the weather permitted daily "Cook-outs" on the grounds with an evening dip in the near-by lake. We feel that these children who were not permitted to go home for the vacation, either because the parents work or for lack of space, etc., had a very happy vacation with seldom a dull moment. Divine Providence and good St. Joseph saw to this!
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Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V6

Contacted Law Enforcement: Initial contact with the BPD portal on September 11, 2018, and met with VSP in September 2018.

Dates at St. Joseph's Orphanage: July 6, 1963 to October 19, 1963. V6 reports being there from approximately 1960-1963.

VCC Resident File Reviewed: No file located by Vermont Catholic Charities.

Allegations: On September 17, 2018, Detective Lauren Ronan interviewed V6. V6 reported the following. V6 was diagnosed with mental health disorder by a therapist. V6 stated V6 could not recall the therapist's name now, but said that it was related to V3's case. V6 claimed V6 does not know all of the details of the disorder. V6 said V6 reached out to talk about the events that happened to V6 at the Orphanage and the things V6 saw happen there.

V6 recalls that V6 was placed in the Orphanage with two of V6's siblings, V6-Sibling1, five years old, and V6-Sibling2, three years old, after V6's mother had a nervous breakdown. One of V6's siblings, V6-Siblings3, a baby, was sent to live with their grandmother. Their father paid to board them at the Orphanage while their mother was hospitalized. V6 recalls this being when V6 had just started the first grade and estimates it was around 1960 or 1961.

V6 recalls being at the Orphanage for three years. V6 said V6 was nine years old when V6 left. V6 stated V6 left the Orphanage missing a part of V6's tailbone, due to one of the beatings. V6's first memory at the Orphanage was arriving there, having all of V6's possessions taken away, being separated from V6's youngest sibling, V6-Sibling2 (who was sent to the nursery), and being dragged upstairs to the dormitory. V6 stated that, upon arrival, they were stripped down to their t-shirts and underpants and that their clothes were taken away from them.

Next, V6 recalled being beaten for not making the bed right. V6 compared the standards to military bed-making standards and described rosaries around the nuns' waists that they used to whip the children. V6 stated they all had wooden rosaries looped around their waists. V6 recalled that they would resort to beating V6 with the rosary before it escalated to punching or kicking. V6 recalled the nuns yelling at V6 in French but not understanding what they were saying. V6 said they would tear everything off the bed and make V6 start over until V6 got it right. V6 said the same type of thing would happen when V6 did not properly roll V6's socks. V6 recalled one specific nun they called "the Bulldog" because of her dog-like appearance, but could not recall her real name. V6 also recalled another, more slender nun being present for these events but could not recall her name.

V6 stated that the only time they saw the nuns without their habits was when they were raping the children, or helping the priests rape the children.

V6 recounted that all the children had to take turns cleaning the bathrooms. V6 stated that the children were forced to use their own toothbrush to scrub the bathrooms.

V6 recalls having V6's hands and feet tied behind V6's back and being thrown on a bed to watch while V6's sibling, V6-Sibling1, was raped. V6 recalled seeing V6's sibling, V6-Sibling1 on the bed. V6 stated that two nuns held V6-Sibling1 down while the priests forced themselves on V6-Sibling1. V6 stated that one priest had his penis in V6-Sibling1's mouth while the other was having "sex" with V6-Sibling1. V6 recalls V6-Sibling1 moving around trying to get the penis out of V6-Sibling1's mouth. V6 claims this happened in one of the "teenager" bedrooms. These rooms contained two twin beds and were reserved for children who stayed at the Orphanage until they were teens. V6 recalled them both being dragged out of bed in the middle of the night.

V6 also recalled V6's father telling V6 to look after V6's siblings. V6 recalled going down to the nursery to check on V6-Sibling2 and finding a nurse performing oral sex on V6-Sibling2. V6 said V6 came down and saw the back of a nun. V6 recalled V6-Sibling2 crying and screaming. V6 stated V6-Sibling2 would have been three or four years old at the time. V6 then recounted seeing the nun open V6-Sibling2's legs and put her mouth on V6-Sibling2's genital area. V6 felt sick and ran away.

V6 recalled telling V6's parents about these events but stated that neither of them ever believed V6.

V6 recalled one event where V6 saw someone kick a little girl from one end of the dormitory to the other. V6 estimated the dormitory was about 60 feet by 20 feet. V6 stated the girl had blood coming out of her nose, her mouth, and her ears. V6 claimed this young girl was extremely intelligent before this incident. V6 claims V6 encountered this young girl as an adult

and found her to be severely mentally disabled. V6 said V6 blames this on the people at the Orphanage.

V6 recalled being locked in a footlocker smaller than a coffee table and being locked in a regular standing locker. V6 also recalled being kicked multiple times.

V6 also recalls children disappearing in the night. V6 recalled five or six different occasions where V6 saw priests and nuns carrying shovels and what looked like things wrapped in small rugs. V6 recalled that V6 would sometimes get up in the night and sit on the window ledge to “talk to the moon.” V6 described that on several occasions, V6 saw priests and nuns carrying something small and wrapped up with shovels. V6 stated that what they were carrying often did not come back. V6 stated that the next day, a child would often be gone and the children were told the child was “gone to a better place” or “gone to a forever home.”

V6 also recounted that, although their father was paying for them to be there, the nuns would try to adopt them out. V6 stated that on weekends their parents did not visit, the nuns would make them visit families who were considering adopting them.

V6 also recounts coming out of a room and seeing a teenager hanging from the railing at the top of a flight of stairs. V6 recalls there was no one around and the girl was just hanging there. She was dressed in night clothes. She had dark hair. V6 recalls a nun telling them to “not look up” as they all filed towards breakfast.

V6 recalls being sexually assaulted. It happened down near where the kitchen was, close to the pantry. A “brother” or a “priest in training” grabbed V6, pulled V6’s shorts down, and penetrated V6. V6 said V6 bled and it hurt V6. He held V6 more or less in midair, against a cabinet. He had thinning dark hair, and wore glasses. V6 states this was the first of many encounters with the same man. V6 stated he forced V6 to have oral sex with V6 a few times. V6 said that after the first few times, V6 started to block them out.

V6 said this occurred mostly when V6 had to stay behind after meals to help clean up the tables. V6 estimates a conservative guess would be that this occurred 10 to 15 times.

V6 recalls getting locked up every time V6 tried to stick up for V6's siblings. V6 stated that V6's relationship with V6-Sibling1 is complicated now because V6-Sibling1 is a Christian and V6 is a Wiccan Priest.

V6 claims V6 tried to come forward during the investigation in the 1990s, but was not considered a reliable witness because of V6's mental health condition.

V6 stated that justice would be to rid the face of the earth of the Catholic religion, and to do what Brazil did and "burn all their churches to the ground." V6 stated V6 does not entirely understand how justice will be obtained for the victims/survivors if all the perpetrators are dead. **Named Assailants:** None.

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V7

Contacted Law Enforcement: Initially contacted BPD. BPD conducted interview on December 10, 2018.

Dates at St. Joseph's Orphanage: December 14, 1946 to September 7, 1949

VCC Resident File Reviewed: Yes

Allegations: Detective Beliveau and Officer Kratochvil interviewed V7 on December 10, 2018.

V7 was hospitalized for drinking water out of the toilet and developing canker sores all over V7's body while living at the Orphanage. V7 remembers being in the second nursery. V7 went in with four of V7's siblings. V7 reported being at the Orphanage for about one year. V7's siblings were V7-Sibling1, V7-Sibling2 and V7-Sibling3. V7 stated V7 was at the Orphanage when V7 was four or five years old. V7 recalled being dragged out of bed in the middle of the night, brought in the bathroom, with V7's hands behind V7. Someone put V7 over the big tub with the water faucet turned on directly onto V7's face until it hurt V7. V7 recalled this happened two or three times. V7 said V7 could not recall who did this. V7 did not know if it was a nun. V7 recalled getting sick at the dinner table and being forced to eat V7's own vomit. V7 stated that V7 did not know any nuns by name. V7 recalled being moved from the second nursery to the older dorm while V7 was there. V7 recalls having a pillow fight in the dorm and the children getting disciplined. V7 could not recall exactly how they disciplined V7. V7 recalled going for boat rides with the brothers.

Named Assailants: None.

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); and/or V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace.

*The 1933 Public Laws and 1947 criminal statutes are being included to reflect the changes in the law when V7 was a resident at the Orphanage.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V8

Contacted Law Enforcement: Reached out to BPD on September 25, 2018, and was interviewed by Detective Beliveau over the phone that same date.

Dates at St. Joseph's Orphanage: August 14, 1956 to December 24, 1956

VCC Resident File Reviewed: Yes

DCF Placement: Yes, committed to DSW custody on August 9, 1956.

Allegations: On September 25, 2018, Detective Michael Beliveau interviewed V8 and V8 reported the following. V8 swore at the beginning of the interview everything V8 was about to say was the truth.

V8 remembered being at the Orphanage for about a year from 1955-1956. V8 recalled being four years old and also present were three siblings. V8 said V8's siblings did not want to talk about the Orphanage. V8 did not see V8's two older siblings, V8-Sibling1 and V8-Sibling2, while at the Orphanage but often saw V8's younger sibling, V8-Sibling3. V8 was also at the Orphanage with V8's cousin, V1.

V8 remembered the nuns would not put a diaper on V8's 2-year-old sibling, V8-Sibling3, and V8-Sibling3 would frequently wet the bed. V8 would wake up in the middle of the night and take V8-Sibling3 to the bathroom so that V8-Sibling3 would not wet the bed and get in trouble.

When the nuns caught V8 doing that, they locked both V8 and V8-Sibling3 in a closet described as having a lot of shoes on shelves. V8 recalled another incident where V8-Sibling3 had to go to the hospital for something involving the mouth and gums. V8 remembered that after V8-Sibling3 returned to the Orphanage, V8-Sibling3 was bandaged. A nun then attempted to force a spoon into V8-Sibling3's mouth and caused V8-Sibling3 to bleed. After the nun got blood on her hands, the nun dropped V8-Sibling3 on the floor.

V8 remembered always being scared and was called "devil's child" because V8 was born without a father. V8 recalled sitting in a classroom and having a seizure. The nun slapped V8 on the hand with a ruler but V8's seizure continued. The next thing V8 remembered, V8 was being dragged away by two nuns who brought V8 to a chapel and made V8 kneel in front of a crucifix to beg god for forgiveness.

V8 recalled the name Sister6. V8 received \$5,000 from a settlement with the church but V8 has not reported anything before now. V8 reported being in therapy all of V8's life and believed it was because of V8's time at the Orphanage.

Named Assailants: Sister6

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace.

Relevant Documents:

Presence of Sister6: a Sister6a appears to have been present at the Orphanage from 1954 to 1955. Though the Vermont Catholic Charities' file indicates V8 was only at the Orphanage in 1956, V8 claims to have been there for closer to a year, starting in 1955. It is possible that V8's time and this Sister6a's time at the Orphanage overlapped:

Offices des secours
No. [REDACTED] 27a
Prof. temp. [REDACTED] Prof. per. [REDACTED]
[REDACTED]
[REDACTED]
BURLINGTON: Compagne chez [REDACTED]

[REDACTED] (D) [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED] Room ^{27a}

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V9

Contacted Law Enforcement: Initial contact with BPD on September 18, 2018 and met with BPD on September 24, 2018 for an interview.

Dates at St. Joseph's Orphanage: September 16, 1964 to July 6, 1965.

^{27a} See file in Criminal Report Source Material, [REDACTED]
t [REDACTED]

VCC Resident File Reviewed: Yes. On July 12, 1967, V9-parent met with Vermont Catholic Charities and questioned the care their children received at the Orphanage and that the children reported people were mean to them at the Orphanage.²⁸

Allegations: On September 24, 2018, Officer David Bowers and Detective Michael Beliveau interviewed V9 regarding V9's experience at the Orphanage. V9 swore everything V9 was reporting was the truth to the best of V9's recollection.

V9 advised V9 was in the Orphanage near the end of November in 1963 or 1964, when V9 was approximately 11 years old, and advised they stayed for approximately 10 months. V9 advised V9's stepfather broke V9's arm and V9's mother could not afford to keep all of the children. V9 stated V9's siblings, V9-Sibling1, V9-Sibling2 and V9-Sibling3 were all at the Orphanage.

V9 recalled the Orphanage was a very scary place to live. V9 advised on two occasions, V9 went to the hospital for cracked ribs and a severely strained neck. V9 advised on one occasion, V9 was protecting V9-Sibling1 who was being picked on by a boy at the Orphanage named Resident3. V9 advised that V9 stepped in to try and protect V9-Sibling1 and advised Resident3 almost broke V9's neck in the process. On another occasion, V9 believed a boy named Resident4 beat V9 up and injured V9's ribs. V9 advised V9 recalled seeing Resident4 beating up Resident3 the very first time V9 walked into the Orphanage, which made V9 immediately think V9 was in a dangerous place.

During V9's time at the Orphanage, V9 particularly remembered having blood sausage once a week for one of their meals. V9 advised V9 hated blood sausage and advised V9 would vomit every time V9 ate it. V9 advised after V9 would throw up, one of the nuns would make V9 eat V9's vomit. V9 advised V9 was often hit with a wooden paddle by the nuns and was forced to

²⁸ See file in Criminal Report Source Material titled [REDACTED]

eat it. V9 advised V9 had to stay at the table until V9 ate V9's meal, or until it was bedtime, approximately four hours later. V9 stated this happened once a week.

V9 reported V9 was molested by a nun V9 knew as Sister7 while at the Orphanage. V9 advised V9 was in the gown room changing one time when Sister7 entered the room. V9 advised Sister7 got down on her knees and performed oral sex on V9. V9 recalled a boy at the Orphanage, Resident3, opened the door while Sister7 was performing oral sex. Sister7 yelled at Resident3 and stated something to the effect of, "Don't you ever, ever, walk in this room without knocking first!" V9 stated V9 remembered covering V9's eyes while V9 cried, and advised V9 thought, "There is no god, because he would never allow someone to do this in his name."

V9 recalled other incidents with Sister7. When V9 would shower, approximately three to four times per week, Sister7 would come into the shower area and tell V9 that V9 did not wash well enough. V9 recalled Sister7 would wash between V9's legs and buttocks, and that this occurred almost every time V9 showered. V9 advised Sister7 would always say the area V9 didn't wash well enough was between V9's buttocks and between V9's legs. V9 spoke about Sister7's bedroom and recalled the exact layout of the bedroom, to include the location of the bed and the toilet but advised V9 did not recall why V9 was ever in the bedroom or for what reason.

V9 remembered that V9's younger sibling, V9-Sibling2, would frequently wet the bed and the nuns would hang V9-Sibling2's soiled bed sheet above V9-Sibling2's bed to shame V9-Sibling2.

V9 additionally recalled stories and events V9 had heard around the Orphanage. V9 advised V9 believed Resident3 or Resident4 had talked about incidents where babies had been thrown into the lake in the past. V9 recalled that V9's sibling, V9-Sibling1, had witnessed a boy

with a cast on his arm being thrown down a flight of stairs. V9 advised while V9 did not witness that, V9 witnessed the same boy receive a beating from the nuns for soiling his pants.

V9 advised at one point during V9's time at the Orphanage, V9 tried to sneak over to the other dormitories to see V9's sibling, V9-Sibling3, whom V9 missed. V9 advised V9 went over with a boy named Resident5 but advised Resident5 was caught by the nuns. V9 advised they gave V9 20 "checks." V9 clarified that the nuns would hand out "checks," and if a child at the Orphanage received more than 5 checks, they would not be allowed to go home to visit family, which was a privilege that was granted every other weekend. V9 recalled also being hit with a wooden paddle by Sister7. V9 recalled working off the checks by doing chores.

V9 advised V9 never spoke about what happened to V9 at the Orphanage or what V9 saw to anyone at home. V9 advised Sister7 would threaten V9, and say things to the effect of, "[y]ou could stay here forever," and "[w]e're nuns, they won't believe anything you say." V9 advised the events at the Orphanage left lasting effects on V9's life and advised V9 often had feelings of not wanting to do certain things. V9 recalled eating V9's own vomit feeling like torture, and V9 stated the Orphanage was a horrifying place to be as an 11-year-old child.

V9 reported that V9 had buried all of the events and memories of the Orphanage inside. V9 stated V9 was watching television one night, approximately 27 years ago, when V9 observed people on the television talking about a priest who had molested someone. V9 recalled feeling a wet spot on V9's leg and realized V9 was crying. V9 advised at that moment, V9 recollected all of the memories and emotions from V9's time at the Orphanage.

Named Assailants: Sister7

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one

over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Allegations Against Sister7: a Sister3a was at the Orphanage from 1961-1974, the screenshot below is an excerpt from Sister3a's deposition in a case where she confirms her dates at the Orphanage.²⁹

4

1 A. Good afternoon.
2 Q. Please state your name?
3 A. Sister [REDACTED].
4 Q. Your age, Sister?
5 A. [REDACTED].
6 Q. Your date of birth?
7 A. [REDACTED].
8 Q. What year did you enter the Sisters of
9 Providence?
10 A. 1940.
11 Q. When did you first come to St. Joseph's
12 Orphanage in Burlington, Vermont?
13 A. 1961.
14 Q. How many years were you there, Sister?
15 A. 13 years. I left in '74.
16 Q. What were your duties at St. Joseph's when
17 you left in 1971?
18 A. The boys, boys' dormitory.
19 Q. Did you maintain that position through
20 1974?
21 A. Except for one year, I have one year of
22 rest in 1970.
23 Q. What is rest?
24 A. Rest. What is rest?
25 Q. One year of what, ma'am?

In that same deposition she admits to using the paddle herself a few times on children, and names other nuns as well.³⁰

²⁹ e Deposition of [REDACTED], file in Crimina [REDACTED]

³⁰ *Id.* at 14-15, 37-38.

17 A. Yes.
18 Q. What was she using to hit him, Sister?
19 A. A paddle. Call it a paddle. I don't know
20 what you call it. They have the --
21 Q. The kind with the ball that bounces on the
22 end?
23 A. Yes.
24 Q. Were nuns permitted to hit people with
25 paddles?

15

1 A. No. It was against the regulations.
2 Q. Why would she have had that paddle if it
3 was against --
4 A. It was around.
5 Q. Around where?
6 A. The boys had used that to play with it. I
7 guess that is why.
8 Q. ██████████ testified that Sister ██████████
9 used a paddle and a belt. Did you see a belt?
10 A. No.
11 Q. Do you remember whether there was a belt
12 there or not, one way or the other?
13 A. No.
14 Q. Are you saying, no, you don't remember?
15 A. There was no belt that I know of. Never
16 saw a belt.

IP

37

1 A. I would say only a couple of years until --
 2 you see, I think [redacted] came in as a social
 3 worker about two years after I got at the child
 4 center. And then they came out with the
 5 regulation, no spanking, no nothing, no hitting
 6 the children. And I think that was pretty well
 7 observed after that except for --

8 Q. But you are testifying today you never did
 9 that, is that correct?

10 A. No.

11 [redacted]: No, you are --

12 A. No, I am not testifying that I never did.

13 Q. I don't want to confuse you. Am I correct
 14 in stating that you never engaged in that type of
 15 activity?

16 A. No. I did.

17 Q. You did?

18 A. I did.

19 Q. You did spank with the paddle?

20 A. I did use the paddle a couple of times the
 21 first two years, like I was telling you there.
 22 Until we were asked.

23 Q. Where did you use the paddle?

24 A. In the hand.

25 Q. That would be the paddle we are talking

1 about that you bounce the ball with?

2 A. Yes.

3 Q. How would you have them hold their hands,
 4 Sister?

5 A. Like (indicating).

6 Q. Flat, with the palm up?

7 A. Yes.

8 Q. Did you ever hit them on the knuckles?

9 A. No, never.

10 Q. You are sure?

11 A. I am positive.

12 Q. And then you stopped that activity in 19 --
 13 well, couple of years after you got there because
 14 of the new regulation?

15 A. Right.

16 Q. Do you know if any of the other nuns did it
 17 up until 1963 or -4, whenever [redacted] got
 18 there, whatever that date might be?

19 A. No. I didn't see anybody hit, using the
 20 paddle on the children after that.

21 Q. Prior to that?

22 A. Like myself.

23 Q. Yes?

24 A. Yes, I did myself.

25 Q. And any other nuns like, let me go through


Sister3a does not claim to have participated in forcing children to eat, but she claims to have heard about it happening.³¹ She denied knowing whether a particular nun forced a resident to eat their oatmeal after they vomited it up.³²

28

1 A. I was told one morning, I didn't see it,
2 one morning she had to force a boy to eat his
3 oatmeal and to slap him if he didn't eat it. But
4 someone reported that to me. I didn't see her do
5 it.

6 Q. Who reported that to you?

7 A. One of the counselors, a seminarian.

8 Q. Did you ever hear of Sister [REDACTED] 
9 forcing somebody to eat their oatmeal after they
10 had vomited it up?

11 A. No.

12 Q. Do you know that if that happened at all
13 or are you saying --

14 A. I don't know if it did happen.

15 Q. Did you feel at times Sister [REDACTED] was too
16 strict?

17 A. Yes.

18 Q. Why?

19 A. It was requiring a lot of the boy. There
20 were young ones in there and you had to -- to me
21 she was too strict. For example, the beds had to
22 be so-so. And I wasn't that strict. You know,
23 they made their bed, that was okay. To me, the
24 bed were made, and that is the way I thought she
25 was stricter.

When asked about how she handled residents that wet the bed, Sister3a acknowledged making them strip the bed, make the bed with a clean sheet, and then bring it the laundry.³³ She said this practice ending after she was advised to stop because it was humiliated the children.³⁴ She denied ever making a child stand with the wet bed sheet over their head if they had wet the bed.³⁵

³¹ *Id.* at 10.

³² *Id.* at 28.

³³ *Id.* at 26-27.

³⁴ *Id.* at 27.

³⁵ *Id.* at 26.

1 A. No.
 2 Q. Do you know what a clapper is?
 3 A. Yes. Years ago they would clapper there to
 4 tell the boy to get in line?
 5 Q. Right.
 6 A. No. In Burlington we didn't have that.
 7 Q. You didn't have clappers at all?
 8 A. No.
 9 Q. Do you know if the nuns on the girls side
 10 had clappers or used clappers?
 11 A. I never saw any, no. Never heard of it.
 12 Q. Did you ever hear, start over. Did you
 13 ever see a child being forced to stand with a
 14 sheet over their head while it dried if they had
 15 wet their bed?
 16 A. No.
 17 Q. Did you ever hear of that happening?
 18 A. No.
 19 Q. Would you consider that to be a form of
 20 abuse?
 21 A. Oh, yes. Definitely.
 22 Q. How did you handle bedwetters?
 23 A. What I did in my dormitory, the first
 24 couple of years until we had orders from the
 25 social workers, the boys would strip their bed

1 and made them over with clean sheet and take the
 2 wet sheet himself to the laundry. And after a
 3 couple of years we were asked by the social
 4 worker, I guess advised by the psychiatrist, to
 5 stop doing that, because it was humiliating the
 6 children. So they asked that we put a basket by
 7 the door of the dormitory and have the boys put
 8 their sheet in there. One boy was assigned to
 9 take the basket down on his way.
 10 Q. During the period of time that you were
 11 there from 1961 to 1974 was there ever any
 12 encouragement by any of the nuns to publicly
 13 humiliate the boy who wet the bed?
 14 A. No.
 15 Q. Are you saying that didn't happen?
 16 A. It could have happened. I didn't see.
 17 Q. By public humiliation I am talking about
 18 public humiliation with the nuns instigating it?
 19 A. No.
 20 Q. Are you saying that didn't happen?

Sister 3a denied knowing of sexual abuse occurring at the Orphanage beyond one incident that occurred with a lay employee.³⁶

³⁶ *Id.* at 8-13; 24.

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V10

Contacted Law Enforcement: Initial contact with BPD September 12, 2018, and met with BPD on September 17, 2018 for an interview.

Dates at St. Joseph's Orphanage: March 10, 1950 to July 1, 1951

VCC Resident File Reviewed: Yes

Allegations: On September 17, 2018, Burlington Police Detective Elizabeth Felicciardi spoke with V10 about V10's time at the Orphanage. V10 swore at the beginning of the interview everything V10 was about to say was the truth.

V10 reported V10's mother fell ill when V10 was young and sent to the sanitarium. As a result, V10 and two siblings, V10-Sibling1 and V10-Sibling2, were sent to the Orphanage as their father could not care for them. V10 was at the Orphanage from age 5 until 7. In addition to V10's two siblings who were also in the Orphanage, V10 had three older siblings.

V10 recalled a priest taking V10 and V10-Sibling1 and V10-Sibling2 to the Orphanage and described the moment as "terrifying." V10 said upon arriving at the Orphanage, V10 could remember some things immediately, such as the "cruelty at the hands of the nuns." V10 said the nuns were not affectionate; "they spanked and slapped us often to make us do what they wanted us to do." V10 stated, "They did things that were indelibly impressed in my mind." V10 recalled the

nuns bringing the children out onto a roof around 1PM every day after lunch for two to three hours. V10 said the area had playground equipment and was surrounded by a chain linked fence. V10 said the children were brought outside in all weather in every season. V10 said the nuns would put the children in their bathing suits in the rain “for fun” which induced severe hypothermia; V10 recalled crying and banging on the door of the building, trying to get back in.

V10 said when V10 was 6 years old, the nuns made V10 learn to write with V10’s right hand because V10 was lefthanded. They told V10 being lefthanded made V10 an “accomplice to the devil” and that V10 would go to hell. V10 said V10 was beaten on V10’s hand with a ruler anytime V10 picked up a pen with V10’s left hand.

V10 said V10 never came forward in the 1990’s when there was litigation and media attention, because V10 was a teacher. V10 felt it would have impacted V10’s students if they had to see V10 as a victim. V10 also did not want the parents and administration in V10’s district to see V10 that way either. V10 said V10 also denied anything happened to V10 the entire time. V10 said V10 always thought they “didn’t get” V10 ; V10 was certain they “got” one of V10’s siblings. V10 described how the life of one of V10’s siblings had been affected. V10 said neither of V10’s siblings would discuss their time at the Orphanage.

V10 said the nuns were from the Sisters of Providence and dressed in all black during the day. V10 recalled they all looked alike. V10 said the children slept in giant dormitories and estimated there were 30 or 40 people in V10’s. V10 said at night, the only visible lights were two exit signs on either end of the room. The nuns told them they needed to sleep as soon as they got to bed because if they didn’t, ghosts would come get them and take them straight to hell. V10 said, “Thinking back on it, that was their M.O.; they wanted no witnesses.” V10 said at night, the nuns wore white nightgowns, but still had their hair and faces covered. V10 said they would “come

wafting through the dormitory at night” and it was “terrifying as a young child to think they were ghosts coming to take you to hell.” V10 said V10 would take V10’s blanket and put it over V10’s head to cover V10’s face, but V10 “peeked” to see where they were and “who they were getting.” V10 said V10 often saw them bending over V10’s friends and didn’t know they were nuns; V10 really thought they were ghosts.

V10 reports sometime at night V10 would wake up “soaking wet.” V10 said the children wore a tshirt and underwear to bed, and V10 could remember waking up, looking for V10’s underwear, and finding it “bunched up” at the end of V10’s bed. V10 said when V10 got them to put them back on, they were dry, so V10 knew V10 did not urinate in V10’s bed. V10 said V10 was proud of that because many other children urinated in their beds and were severely punished for that. V10 said V10 was terrified of doing it. V10 said V10 came to realize that the times V10 woke up soaking wet, it was not urine, it was saliva. V10’s bed and underwear were never wet, and V10’s underwear had been removed. V10 said V10 did not know how many times this happened, but it happened “frequently.” V10 said V10 would wake up and find V10’s genitals, stomach, and chest soaking wet, covered in saliva. V10 said Detective Felicciardi was the first person V10 had ever told this to; V10 said V10 had never told V10’s partners, family, or friends any of this. V10 believed V10 may have been drugged because V10 was unable to remember the “actual act.”

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V11

Contacted Law Enforcement: Members of BPD attempted to reach out to V11 on June 17th, 2019, and again on June 20, 2019. On June 20, 2019, Detective Krystal Wrinn met and interviewed V11.

Dates at St. Joseph's Orphanage: No materials could be produced by Vermont Catholic Charities confirming resident's dates at the Orphanage. Per a news article where V11 was interviewed, V11 reports being at the Orphanage in the mid-1940s.

VCC Resident File Reviewed: No, it could not be located.

Allegations: On June 20, 2019, Detective Wrinn spoke with V11 about V11's time at the Orphanage. V11 asked in various ways about what good would come about in V11 or others providing details about their time at the Orphanage. V11 offered suggestions around the building being dedicated to the children of the Orphanage. V11 said V11 had been aware of the investigation and was reluctant to provide a statement. V11 explained how V11 was aware that the police department was conducting these interviews and that V11's lawyer told V11 about an application about the reporting (Detective Wrinn believed V11 was referencing the online reporting) which at no time did either V11 or V11's lawyer put in via the online reporting.

V11 explained that it would be difficult for others to understand what they had gone through unless they went through it themselves.

The following information was gathered from a news article in which V11 was interviewed. V11 stated that V11 and the other children were forced to eat rotten food. V11 spoke about how V11's older sibling, V11-Sibling1, was forced by a caretaker to beat other children. V11 remembered that this caretaker, Caretaker1, was an individual with disabilities who oversaw care of children. Caretaker1 would threaten harsher punishment of the children if V11-Sibling1 did not whip those children forcefully enough. V11-Sibling1 eventually stood up to Caretaker1 and refused to participate.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8458 Disturbances – Of the public peace

Relevant Documents:

Presence of Caretaker1: in a deposition in a civil case, a Father4a was asked a question regarding a Caretaker1a, who was bound to wheelchair, sexually abusing a child:³⁷

³⁷ Deposition of [REDACTED] in [REDACTED], at [REDACTED], file in Criminal Report Source Material titled [REDACTED].

I DON'T KNOW THAT FOR SURE.
Q. There was another incident that's been reported by one of the Sisters that she said she walked in on a [REDACTED], a man [REDACTED] who was doing some type of sexual act on a child. Did you know [REDACTED], a man who was a layman who was [REDACTED] at St. Joseph's?

32

A. No.

Q. Do you have any knowledge of that employee in any way sexually abusing a child at St. Joseph's?

A. No. No, I don't remember that at all, no.

Q. You don't recall that being brought to your attention?

A. No, no.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V12

Contacted Law Enforcement: On August 8, 2019, Officer Michael Beliveau met with and interviewed V12.

Dates at St. Joseph's Orphanage: February 13, 1963 to April 3, 1963, readmitted March 16, 1964 to unknown date.

VCC Resident File Reviewed: Yes

Allegations: On August 8, 2019, Officer Beliveau spoke with V12 and at the end of the interview swore everything V12 said was the truth. V12 reported the following. V12 believed V12 was in the Orphanage three separate times but does not remember exactly when. V12 stated that V12's parents were not entirely clear on why V12 was placed at the Orphanage.

V12 was at the Orphanage with V12's siblings: V12-Sibling1, V12-Sibling2, V12-Sibling3, V12-Sibling4, and V12-Sibling5. It was unclear to V12 whether V12's siblings, V12-Sibling6 or V12-Sibling7 were at the Orphanage.

The worst experience V12 recalls is a time where V12 and V12's sibling were looking for their other siblings. They didn't know the building and were lost. They could hear two nuns yelling and screaming. They could not understand them. V12 believes they could have been speaking French. The nuns were looking down into a hole. V12 believed at the time that it was an elevator shaft. V12 and V12's sibling came up on either side of the nuns. At the bottom of the hole, they saw a little girl in a pool of blood with her legs bent. V12 described her wearing a red polka dot dress. In retrospect, V12 says they could also have been small hearts. The nuns noticed them and started slapping them and throwing them around. V12 does not remember leaving that room but remembered waking up strapped to a bed in the infirmary. V12 remembered this incident happening on the second floor, towards the middle. V12 remembers that little girl's hair being in braids. V12 guesses that little girl was between 8 or 10 years old.

V12 said that they used needles as punishment. V12 described several nuns holding V12 down to give V12 a shot.

V12 described two nuns dragging a boy down the stairs. Each nun was holding a leg, and his head was bumping as they dragged him down the stairs. V12 remembered the boy screaming and yelling. V12 claims V12 never saw the boy again. V12 could not recall the boy's name.

V12 said that they all constantly lived in fear of the next beating. V12 described another instance where a nun attempted to beat V12 for leaving V12's shoes in a place where the nun had tripped over them. When the nun realized V12 was still wearing V12's shoes, she told V12 that that attempted beating was "for something" V12 "hadn't been caught for."

V12 said they could not sleep at night and had to stay awake. V12 said they could not leave their beds and that bedwetting was severely punished. V12 said that, one time, V12 snuck out of bed because V12 really had to go to the bathroom. V12 suddenly heard a nun slapping the wall. V12 was so frightened, V12 passed out and woke up in the infirmary again.

V12 remembered a lot of physical abuse, but V12 has blocked out a lot of memories. V12 recalled taking a fieldtrip. V12 remembers there being caves and paths. They were not supposed to go into the caves. Four of them went in. V12 and one of V12's siblings left to go play volleyball and left the other two children in the cave. V12 says V12 never saw those two boys again. V12 claims V12 remembers the police and firetrucks being there. V12 states that "they" subsequently said this never happened [presumably V12 is referring to people from the Orphanage].

V12 recalled there being a short yellow bus. V12 said that whenever you went on that bus, you knew something bad was going to happen. V12 said V12 once took one of V12's sibling's spot on this bus but could not elaborate more on what happened afterwards. V12 also recalled that V12's siblings were once told to get onto this bus with several other children. V12 said they were told they would be going to see a movie. V12's sibling protested loudly and would not let V12's other sibling get on the bus. Neither of V12's siblings went. V12 says that the girls on the bus never came back to the Orphanage.

V12 also recalled being "dragged out." V12 says V12 remembers being dragged out past a set of glass doors, and then does not remember what happens. V12 stated that there was a priest present when this happened.

V12's relative was Sister8 who was a teacher at the Orphanage. At one gathering, Sister8 said she left the Orphanage because of the way the nuns treated the children. V12 then asked her how she could have left without saying anything to anyone. V12's relative, Sister8, got very upset.

V12 also reported that an uncle of V12's told V12's relative that "the secrets in this family will put us in hell." V12 also said Bishop1 was involved with the Orphanage. Monsignor1 was also related to V12. V12's grandparent, V12-Grandparent1, was also an employee at the Orphanage.

V12 stated that V12's sibling, V12-Sibling1, tried to leave the Orphanage and tell V12's parents about their treatment, but they did not believe V12-Sibling2 and sent V12-Sibling1 back there. V12 says V12-Sibling1 was the one who remembered the most about their time at the Orphanage, but that V12-Sibling1 has a substance abuse problem and refuses to discuss their time at the Orphanage.

V12 remembered being put up in the attic as a punishment. V12 recalls there being something up there that looked like an electric chair. V12 also remembers being locked in the closets. V12 remembers being in the closets long enough to need to sleep, and to become dehydrated. V12 remembers seeing someone, an adult, strapped to the chair. V12 was then dragged down the stairs before V12 could see what happened. V12 also remembers being strapped to the chair too.

V12 remembered being left-handed and dyslexic. V12 stated V12 would get hit with rulers and books. V12 says V12 remembers being hit on V12's hands and on the back of V12's head. V12 also remembers being kicked. V12 also recalled nuns tossing children out of boats into the water to teach them how to swim. V12 says V12 saw this happen, but it did not happen to V12.

V12 recalled being beaten several times a week. V12 stated V12 often saw the nuns inject the children. None of the children knew what was in the needles. V12 says V12 can't know for sure but assumed this is what happened when V12 would black out and wake up in the infirmary.

V12 remembered the food being very bad. V12 stated V12 threw up several times.

AFFECTATIONS ET OBEDIENCES

CLASSEMENT: DATE (DEB)

Numéro: [REDACTED]

Nom: [REDACTED]

DATE (DEB) PREFIXE

NATURE

REM RESIDENCE
ENDROIT

DATE (FIN)

DATE (DEB) PREFIXE	NATURE	REM RESIDENCE ENDROIT	DATE (FIN)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	Enseignement: Primaire	Non Burlington, VT, St. Joseph Orphanage Burlington, VT, St. Joseph Orphanage	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Bishop1: a Bishop1a was ordained a priest on June 5, 1954. He later was named assistant chancellor of the Diocese and secretary and master of ceremonies to Bishop2a.³⁹ He became chancellor of the Diocese in 1961 and was raised to the rank of Papal Chamberlain by Pope John XXIII. In 1968, he became vicar general of the Burlington Diocese and a Prelate of His Holiness.⁴⁰

The St. Joseph's Child Center Chronicles details a visit to the Orphanage at Christmas in December 1970 where Bishop2a visited and was accompanied by Bishop1a.⁴¹

³⁹ [REDACTED] The Roman Catholic Diocese of Providence, (last visited December 1, 2020),

⁴⁰ *Id.*

⁴¹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

BISHOP'S VISIT

21.- Today our [redacted], paid us the honor of a short visit. Mass was celebrated by our distinguished visitor at four-thirty at which the children, Sisters and some of the employees assisted. In his habitual kind and fatherly manner, he addressed the children and left them the thought "I must not go to heaven alone".... After Mass he met with the children in the children's parlor. As usual, the smaller ones clamored for his attention, and it was a very good picture of the Good Shepherd with His little flock. Then followed the evening meal in the Sisters' dining room, with a special menu for the occasion. The Bishop was accompanied by [redacted], Vicar General. May this visit of our beloved Bishop bring peace, joy and happiness to our home and into our lives.

CHRISTMAS JOYS

Christmas commences early at St. Joseph Child Center.

Monsignor1: a Monsignor1a was a priest within the Diocese and served at Christ the King of Burlington in 1970 and worked as the director of Vermont Catholic Charities from 1957 to 1966.⁴²

BIOGRAPHY

NAME [redacted] BORN [redacted] AT Burlington, Vt.

FATHER [redacted] MOTHER [redacted]

GRADE & HIGH SCHOOL [redacted]

SEMINARY [redacted]
(place and years)

ORDAINED [redacted] Burlington BY [redacted]
(place and date) (Bishop)

POSTGRADUATE STUDY [redacted]
(place, years, subject, degree)

ASSIGNMENTS [redacted]

⁴² See file in Criminal Report Source Material titled [redacted]; see also [redacted] at [redacted], [redacted] (last visited November 2, 2020).

A subsequent news article reported that V1 stated that Bishop1a and Monsignor1a were aware of the abuse at the Orphanage. In the article, Bishop1a could not be reached for a response, but Monsignor1a denied knowing of any abuse at the Orphanage.⁴³ The article also noted that V12 had mental problems.⁴⁴

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V13

Contacted Law Enforcement: Initial contact with the BPD Portal on September 14, 2018, and met with BPD on September 26, 2018, for an interview with V13 and V13's sibling, V14.

Dates at St. Joseph's Orphanage: August 20, 1965 to March 11, 1972.

VCC Resident File Reviewed: Yes

DCF Placement: Case referred to DSW by Vermont Catholic Charities in 1964, but unclear if DSW placed the children at the Orphanage, as Vermont Catholic Charities received another request for assistance in 1965.

Allegations: On September 26, 2018, Detective Felicciardi interviewed V13 and V14. Both swore at the beginning of the interview everything they were about to say was the truth.

V13 and V14 reported they had been at the Orphanage from 1965 to 1974. V13 began talking about some of the abuse they endured, saying the nuns tried to break them and make them

⁴³ See [REDACTED], [REDACTED], [REDACTED], [REDACTED], copy of article in Criminal Report Source Material titled [REDACTED]

⁴⁴ *Id.*

into “little robots.” V13 described having to sit in a room alone for hours, being forced to sit at a table and eat food they hated, and being beaten with a ping pong paddle.

V13 said when V13 was 11 or 12 years old, V13 organized a “break out” with a group of other children. This group ran away from the Orphanage with no plan, no money, and no clothing because they just wanted to get out. V13 recalled hiding in a cement pipe at a playground at an apartment complex when the police found them. Afterward, V13 said V13 had to speak with a counselor named Social Worker1. V13 said V13 did not talk to Social Worker1, because V13 knew Social Worker1 was on the nuns’ side and V13 didn’t want to get beaten.

V14 said the nuns called the children by their numbers and did a lot of things to “kill your spirit.” V14 said in the winter the children would have to line up and take a teaspoon of cod liver oil. V14 said on one occasion, V14 didn’t want it, and ran upstairs and spit it out in a bathroom. V14 said a nun grabbed V14 by V14’s hair and dragged V14 down the stairs. V14 said another nun got a tablespoon of cod liver oil and “crammed” it into V14’s mouth so hard it cut the side of V14’s mouth. V14 said another time, V14 was in line for food and the nuns had made tuna casserole, and V14 made a comment that it smelled like cat food. V14 said a nun dragged V14 into the kitchen and threw “nasty food” at V14 and made V14 stand there alone “staring at a chicken bone.” V14 said at Christmas, people would bring toys for the orphans and the nuns would take them away. When V14 asked a nun where the toys were, she pulled V14 by the hair and put V14 in the attic, and left V14 there for hours in the dark.

V14 said when V14 was in fourth grade a nun called on V14 to do V14’s times tables and asked V14 a question which V14 couldn’t remember the answer to. V14 said the nun continuously beat V14’s knuckles until they were bleeding and dripping blood on the floor. V14 said the nun

“kept saying what’s four times four and I couldn’t say it.” V14 said V14 still cries about how V14 was treated.

V14 recalled on one occasion, a nun brought V14 to the nun’s room and told V14 they were going to have a sleepover. V14 said the nun brought V14 into her bed and “started doing stuff I knew wasn’t right, so I curled into a ball.” V14 said V14 guessed the nun “figured she wasn’t gonna get anywhere with me, so she made me go back.” V14 said it was “very unnerving.” V14 said the nun didn’t do anything but “kinda go under my shirt but didn’t go farther than that.” V14 said there was another time when V14 was in line waiting to get into a bathtub when V14 told a nun that V14 had to go to the bathroom and that V14 “had to go poop.” V14 said V14 was seven years old and the nun made V14 stay in the line. V14 said as soon as V14 got into the bathtub of water, V14 went to the bathroom and the nuns made V14 sit in it for hours until V14 was blue. V14 said the nuns humiliated children in front of other children and used humiliation as power to show children what could happen to them if they were disobedient. V14 said the nuns would always call V14 a “mean, evil child.” V14 guessed it was because V14’s parents were divorced.

V13 said it was common for children to go into the nun’s bedroom. V13 described the “little” children’s “dorm” and at the end was a large room they would play in with a nun’s bedroom off to the left. V13 said they would take children in there regularly, but they never took V13. V13 said it occurred at night when children were sleeping, and nuns would come in and take them down a hallway. V14 said V14 could still smell the nun’s breath and could “feel it like it happened yesterday. I remember the little shirt I had on. I just curled up because I felt it wasn’t right.”

V13 described being six years old in a “dark hallway, waiting to be processed. I didn’t know where the hell I was, and then these nuns have to be so mean and abusive. So, I went from

the fryer pan to the fire.” V13 said V13 had done a lot of hard work so V13 was just trying to keep it together and move on, but that people should know “what happened in that place.”

V14 said V14 felt as though V14 had lived two lives; V14 said V14 was an orphan in one life and now V14 had their current life and that sometimes the “orphan life” didn’t even feel real. V14 said V14 tried to forget that first life but now that it was coming up again, V14 couldn’t forget it. V14 said to V14, it felt “good to be able to tell people what actually really happened.” V14 said hearing other people who had gone through it made V14 feel as though it wasn’t all in V14’s head and V14 didn’t dream it. V14 said, “You’re not a liar, you’re not making this up, because every time we would say something, people would say, ‘Oh you’re exaggerating,’ or ‘It’s not that bad. Oh, you’re lying.’” V13 said they lived with their Catholic aunt for a period of time and they were “belittled at her house for trying to tell the truth.”

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959)

Relevant Documents:

SocialWorker1: a SocialWorker1a worked at Vermont Catholic Charities as a social worker at the Orphanage1963-67 and then again from 1969-1997. SocialWorker1a then became Executive Director of Vermont Catholic Charities in 1997.⁴⁵ The social worker who signed the admission to the Orphanage for V13 and their siblings was SocialWorker1.⁴⁶

⁴⁵ See generally, Affidavit of [REDACTED], [REDACTED] file in Criminal Report Source Material titled [REDACTED].

⁴⁶ See file in Criminal Report Source Material titled [REDACTED].

ADMISSION SLIP _____ 19 _____

TO Sister _____

Admission of _____

is planned for Sunday

at approximately 2:30 - 3:00 a.m.

Social Worker _____

Director or Supervisor _____

Vermont Catholic Charities, Inc.

The following papers have been submitted to Vermont Catholic Charities, Inc.:

- FACE SHEET
- SUMMARY OR BRIEF HISTORY
- BAPTISMAL RECORDS *getting*
- MEDICAL HISTORY (Yellow Form)
- PLACEMENT AGREEMENT (Financial)
- FOR SJO, STATEMENT FROM PHYSICIAN *MR. H. to being*
- CUSTODY DECREE (if pertinent) *coming*
- TRANSCRIPT OF MARKS *not needed*
- IMMUNIZATION PERMISSION CARDS

Corroboration for break-out attempt: It is documented in the St. Joseph's Child Center Chronicles from 1970 to 1971 that a group of children attempted to run away in 1971.⁴⁷

SEPTEMBER

CAUSE OF WORRY

6.- After a time of tranquility as there had been no attempts to run away among the children, we were suddenly confronted with the same problem. Several _____ ran away and only after a search and many anxious moments were they located by the police and returned here. The culprits were defiant, rude, and insolent until they realized who was BOSS and to whom they were talking. At the present typing of these chronicles, five months later no reoccurrence of this demeanor has taken place, for which we are thankful.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

⁴⁷ See file in Criminal Report Source Material titled _____ at _____.

Victim: V14

Contacted Law Enforcement: Met with BPD on September 26, 2018, for an interview with V14 and V14's sibling, V13.

Dates at St. Joseph's Orphanage: August 20, 1965 to August 1973

VCC Resident File Reviewed: Yes

DCF Placement: See placement information for V13.

Allegations: See "Allegations" under V13.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959) and/or 13 V.S.A. § 2602 Lewd and lascivious conduct with a minor (1971).

Relevant Documents: See "Relevant Documents" for V13.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V15

Contacted Law Enforcement: Initial contact with the BPD Portal on September 17, 2018, by Representative1 for V15 and V15 met with BPD Sgt. Nguyen and Detective Michael Beliveau on September 19, 2018, for an interview.

Dates at St. Joseph's Orphanage: September 19, 1941 to June 10, 1951

VCC Resident File Reviewed: Yes

Allegations: On September 19, 2018, Sgt. Nguyen and Detective Beliveau met with V15 who was incarcerated at the time of interview. Also present was Representative1.

V15 described the Orphanage as a hellhole and immediately recalled multiple instances of sexual abuse. V15 knew the names of the abusers as OrphanageWorker1, OrphanageWorker2, and OrphanageWorker3. V15 was in the Orphanage from the age of 1.5 to 13 years, which would have been around the time of 1940-1953. V15 was at the Orphanage with V15's three siblings, V15-Sibling1 and V15-Sibling2 (now deceased) and V15-Sibling3.

V15 said Social Worker2 "took care of" the children and "watched after us." V15 also said OrphanageWorker2 "beat the shit out of us." V15 described OrphanageWorker2 as a "sex fiend." V15 recalled other children at the Orphanage telling V15 that OrphanageWorker2 made them pull "hair off" V15's genitals. OrphanageWorker2 used to tie V15 up naked by V15's arms in the "cubby hole" which was described as a closet near the gymnasium. Once tied up, OrphanageWorker2 used to whip V15 with a stick while telling V15 that V15's father told OrphanageWorker2 to do it. OrphanageWorker2 then would perform sexual acts on V15. V15 said that this would happen all the time. V15 believed OrphanageWorker2 whipped them with a long piano key with a leather strap on it. V15 described being left hanging naked "all night." When asked if OrphanageWorker2 made V15 perform sexual acts like touching V15's genitals, V15 said something to the effect of, "Oh yeah, we had to suck 'em even. We had to do all sorts of things; he would suck you." V15 said OrphanageWorker2 was the worst out of everyone. V15 recalled that young girls would go to OrphanageWorker2's room downstairs but did not know what they did. V15 remembered that OrphanageWorker2 came to V15's house once after V15 left the Orphanage and V15's mother came out with a gun threatening OrphanageWorker2 after hearing what OrphanageWorker2 did to the kids in the Orphanage.

V15 recalled that when V15 was eight or nine, V15 was walking up to a room near the attic and saw a dead blonde girl wrapped in clear plastic, laying on a table. V15 estimated her to be six or seven years old. V15 kept mentioning digging up the floor as you go up the stairs to the attic in a side room just before the attic. V15 remembered a nun being present and two other men that V15 did not recognize. They carried the body to the cemetery attached to the Orphanage and brought her to a vault at night. V15 did not know why V15 was brought along but remembered being afraid and the nun telling V15 not to say anything or else she would tell everyone that V15 killed her. V15 remembered going through a broken portion of the fence to gain access to the cemetery. V15 wondered if V15 dreamed the incident but said V15 could “see her face clear as shit.” V15 often had nightmares about the girl coming back to get V15. V15 couldn’t remember what vault the girl was placed into and did not think V15 would recognize it if brought to the area.

V15 advised V15 used to sneak around the Orphanage a lot but remembered the girls that had their period were brought up to the attic. V15 also witnessed Resident7 having sex with Sister9. V15 described Resident7 as one of the older boys. Sister9 caught V15 peeking through her keyhole one day and brought V15 into her room and made V15 “feel her up.”

When V15 was about 7 years old, OrphanageWorker1 used to take V15 into a large bathtub and make V15 perform sexual acts on her. As a reward, she would give V15 a peanut butter sandwich. V15 did not believe that OrphanageWorker1 was a nun but recalled there being high school-aged girls that would help take care of the kids. V15 used to be happy to get the peanut butter sandwich and did not know what V15 did with OrphanageWorker1 was wrong. V15 described one incident where V15 was tied up in the attic at night when Sister10 came up behind V15, bit V15 on the neck, and said, “I’m the devil!” V15 also mentioned that V15 lit the attic on fire one time to rebel but could not remember the

punishment. V15 also recalled climbing out of the window down sheets to watch movies through the windows. V15 heard from Resident8 and Resident9 that they used to go to OrphanageWorker3's and V15 believed they had sex with him or his son. V15 mentioned that it would be difficult to prove any of the allegations because it was just one person's word versus the others. V15 saw kids get beaten and knocked down until they were bloody.

Named Assailants:

1. OrphanageWorker1
2. OrphanageWorker2
3. OrphanageWorker3
4. Sister9
5. Sister10

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); Sec. 8611 Lewdness (1933); V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

*The 1933 Public Law and 1947 criminal statutes are being included to reflect the changes in the law when V15 was a resident at the Orphanage.

Relevant Documents:

Presence of OrphanageWorker2: Father4a was deposed in a case and was asked the following about a OrphanageWorker2a:⁴⁸

⁴⁸ See Deposition of [REDACTED] in [REDACTED], at [REDACTED], file in Criminal Report Source Material titled [REDACTED]

1 A. No.
2 Q. Do you have any knowledge of that employee in
3 any way sexually abusing a child at St. Joseph's?
4 A. No. No, I don't remember that at all, no.
5 Q. You don't recall that being brought to your
6 attention?
7 A. No, no.
8 Q. Do you have any knowledge of a lay employee by
9 the name of [REDACTED] who was molesting some [REDACTED]
10 this might have been much before your time, in the
11 mid '40s, was actually caught in the act by a
12 [REDACTED]?
13 A. I never heard of that.
14 Q. Do you know [REDACTED]?
15 A. I know [REDACTED] very well.
16 Q. Has [REDACTED] ever told you about setting
17 up this [REDACTED] so he would be caught in the act
18 of sexually abusing a [REDACTED]?
19 A. I never heard of that at all, no.
20 Q. Have you ever seen any records of that
21 incident?
22 A. No.
23 Q. There was another incident that's been
24 reported of a -- by Sister [REDACTED], I think she
25 said about 1966 or '68 where a young boy by the name

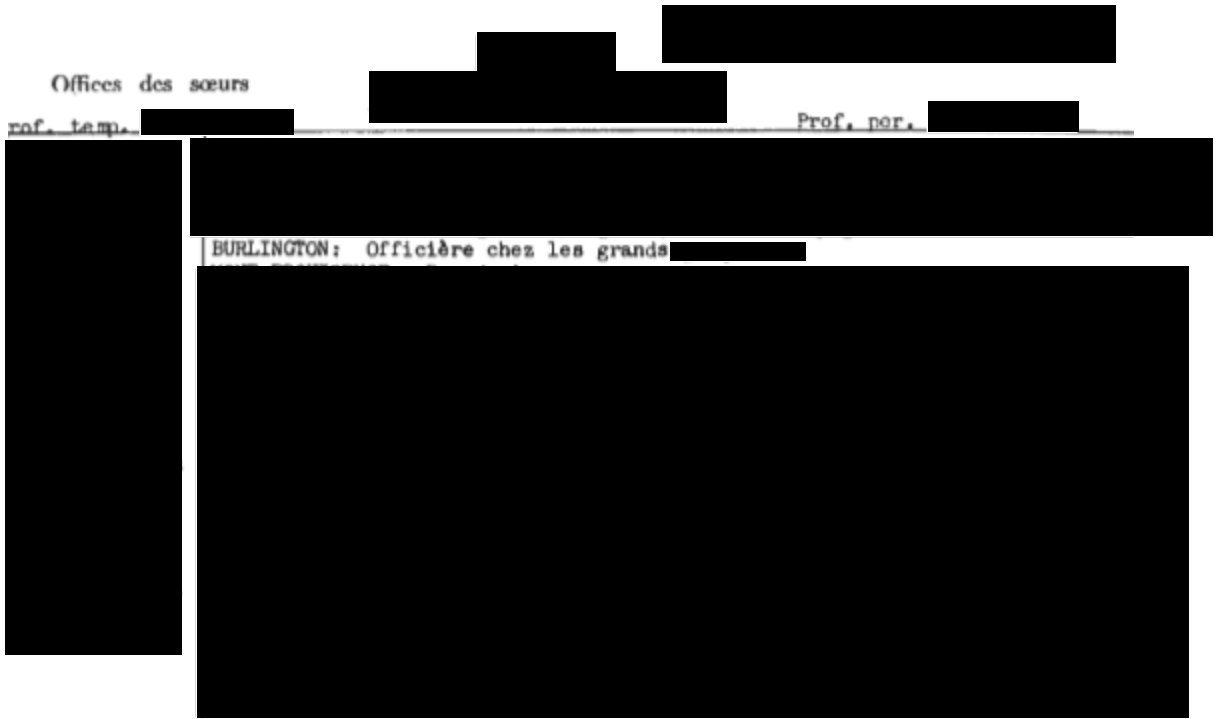
Additionally, OrphanageWorker-SisterA1 was deposed in a case and was asked the following about a OrphanageWorker2b, which seems to confirm OrphanageWorker2a as an employee at the Orphanage in the late 1940s:⁴⁹

⁴⁹ See Deposition of [REDACTED] in [REDACTED] at [REDACTED], file in Criminal Report Source Material titled [REDACTED]

1 Q. Well, it said '47 to '48 and it's the second
2 page. It says Classes resumed on the left-hand
3 side.
4 A. Yes, that's correct.
5 Q. Do you see on the bottom, you can follow along
6 with me, that entry where it says Sister Superior
7 quite handicapped in the circumstance. Requested
8 the services of [REDACTED] and [REDACTED].
9 ~~Both were willing to substitute until Sisters could~~
10 ~~be sent to assume the task.~~
11 A. Yes.
12 Q. Do you know who [REDACTED] was?
13 A. No.
14 Q. Have you ever seen any records regarding [REDACTED]
15 [REDACTED] and claims of abuse involving [REDACTED]?
16 A. No.
17 Q. Is the Bishop required, or excuse me, if you
18 know, how often the Bishop would come to a facility
19 such as St. Joseph's?
20 A. I don't know.
21 Q. The records that we've been provided also
22 contain some appear to be financial records; have
23 you seen these?
24 A. Yee.
25 Q. I think we've got the deposition scheduled of

Presence of Sister10: a Sister10a was present at the Orphanage from 1942 to 1951 and appears to have worked with the residents.⁵⁰

⁵⁰ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].



There also appears to have been a Sister10b present at the Orphanage from 1948 to 1950 who also worked with residents.⁵¹

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Companion department

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V16

Contacted Law Enforcement: Initial contact with the BPD Portal on September 11, 2018 and met with BPD on September 11, 2018.

Dates at St. Joseph's Orphanage: September 2, 1962, to April 19, 1966.

⁵¹ See file in Criminal Report Source Material titled [redacted] at [redacted].

VCC Resident File Reviewed: Yes

Allegations: On September 11, 2018, Detective Krystal Wrinn spoke with V16 regarding V16's experience at the Orphanage. V16 swore at the beginning of the interview everything V16 was about to say was the truth.

V16 resided at the Orphanage from 1960-1968 or 1969. Also, at the Orphanage were V16's siblings: V16-Sibling1, V16-Sibling2, V16-Sibling3, V16-Sibling4, and V16-Sibling5. V16 advised that V16 was approximately 5 years old when V16 came to the Orphanage. V16 and V16's siblings were sent to the Orphanage because they were poor and neglected.

V16 also stated that while V16 did not witness a murder, V16's sibling, V16-Sibling1, may have witnessed a baby being smothered in the nursery, by a nun who had delivered the baby a day prior. V16 advised that V16 notified V16-Sibling1 of the intake V16 made to BPD. V16 provided V16-Sibling1's telephone number, however, V16 advised V16-Sibling1 expressed how V16-Sibling1 had already previously spoken about this in V16-Sibling1's deposition, which V16 advised had been approximately six hours long.

In V16's initial report, V16 reported that for nine years V16 was addressed as a number, and lived under the care of verbally, physically, emotionally, and sexually abusive nuns who were full of anger, hatred, and violence. V16 witnessed and lived a life of violence toward V16 and other innocent vulnerable children including V16's sibling. V16 reports that it hurt V16 more to watch V16's siblings and others be subjected to such beatings and to be forced by nuns to shame others, sing songs to children who wet their bed while they paraded around on stage in their wet underwear and wet sheet.

V16 recalled that the abusive behavior on the nuns' part included kneeling for hours on a wooden floor with V16's hands up in the air at night after everyone had gone to sleep. Even today, V16's knees never burn or tan because they are scarred.

V16 can still see V16-Sibling1's head swing back and forth from the nun slapping V16-Sibling1 hard from the right cheek to the left, over and over again until V16-Sibling1 had a catatonic look with V16-Sibling1's mouth left open and a glazed look in V16-Sibling1's eyes. Watching V16-Sibling1 be beaten, slapped many times over and over again was a form of torture to V16.

V16 remembered being paddled over the toilet with a paddle that had a long string and ball on it with a picture of bozo the clown on it. V16 thinks it was a donated toy for children to play with. The nuns would remove the ball and string, and one time a nun laid V16 across the toilet bare bottom and paddled V16 so hard V16 could not walk after. V16 got up from the toilet and fell to the floor. The nun left angry because V16 would not cry.

V16 also composed a written statement regarding V16's time at the Orphanage describing V16's experiences.⁵² In that statement, V16 alleges that after running away, V16 was beaten by Sister11 with a wooden paddle.⁵³ V16 wrote:

[Sister11] placed me over a toilet with my bare bottom up, took Bozo and slammed my bottom so hard over and over again. She told me she would continue until I cried. I never cried. She paddled and paddled and I refused to cry. She finally gave up. She was so mad I thought she was going to start on my face. I stood up and I could hardly move. I couldn't wait until she left me alone. She stood there shaking and waving her long skinny black arms and her rosary beads around her waist were

⁵² See file in Criminal Report Source Material titled [REDACTED]

⁵³ *Id.* at 7.

making lots of noise. The whole time she was screaming in French in a crazy sort of way. I wanted to look at my bottom because I couldn't feel it. My legs were shaking. She finally left the room and I fell to the floor and cried.⁵⁴

In an earlier section, V16 describes “Bozo:”

If we talked during silence, we faced “Bozo the Clown.” It was a hard wooden paddle which had an elastic with a small ball attached to it. It was originally donated to the orphanage as a toy for the children. The elastic and ball were removed and it worked very well as a reminder for anything.⁵⁵

We would put our hands out and the nun would paddle our hands so many times--it seemed to never end. I can still feel the burning and see the brilliant red color on my palms.

V16 also recalled in V16's statement seeing Sister11 repeatedly slap V16-Sibling1.⁵⁶ V16-Sibling1 was also often humiliated by Sister12 in school. V16 additionally alleged: “[q]uite often Sister12 after she would call me to her desk and she would hug me close to her and while facing the class she would look over my papers and the whole time she would have her hands under my dress, squeezing my bottom and telling me how good and smart I was.”⁵⁷

⁵⁴ *Id.*

⁵⁵ *Id.* at 6.

⁵⁶ *See generally, id.*

⁵⁷ *Id.* at 8.

On December 9, 1997, V16 was deposed in a case for approximately three hours.⁵⁸ During that deposition, V16 discussed being paddled, being beat with a paddle usually on V16's hands but sometimes on V16's bare backside. The nuns would use the paddle on her until V16 cried. V16 recalled Sister11, who V16 described as tall and skinny, using the paddle on V16. V16 also recalled being slapped on the face and being pulled by the ear as a form of discipline. V16 also discussed the actions of Sister12 discussed above. V16 also described V16-Sibling1 being tied to a chair and forced to eat V16-Sibling1's own vomit in front of the other children.

Named Assailants:

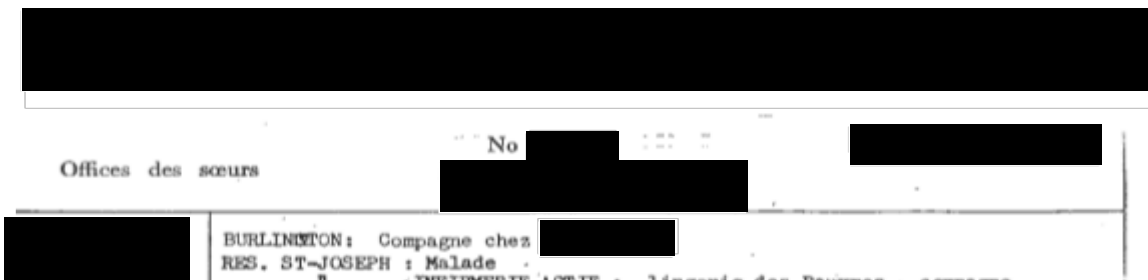
Sister11

Sister12

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 /Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Sister11's Presence at the Orphanage: there appears to have been a Sister11a at the Orphanage from 1958 to 1967:⁵⁹



⁵⁸ See generally, video deposition of [REDACTED], in folder in Criminal Report Source Material titled [REDACTED]

⁵⁹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

A Sister11b also appears to have been at the Orphanage sometime between 1961 and 1974 as described by Sister3a in her deposition in a case:⁶⁰

7

1 Q. At the convent?
2 A. At the convent, yes.
3 Q. Do you know the name of the convent?
4 A. [REDACTED]
5 Q. Anybody else?
6 A. I had Sister [REDACTED].
7 Q. For how long, Sister?
8 A. About two years.
9 Q. Is Sister [REDACTED] still alive?
10 A. Yes. But she is no longer a Sister. She
11 left the community many years ago.
12 Q. Do you know what happened to her?
13 A. I know she got married. That is about it.
14 Q. Do you know where she lives?
15 A. No.
16 Q. Have you assisted any lay employees?

Further, records seem to confirm a Sister11b at the Orphanage; however, length of time at the Orphanage is unclear:⁶¹

[REDACTED] (S) [REDACTED]
([REDACTED]) ([REDACTED]) Companion, [REDACTED] department

Sister12 Presence at the Orphanage: a Sister12a appears to have been at the Orphanage from 1958 to 1966:⁶²

⁶⁰ See Deposition of [REDACTED] at [REDACTED] in [REDACTED] [REDACTED], file in Criminal Report Source Material titled [REDACTED].

⁶¹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]. There was also a [REDACTED] present at the Orphanage from [REDACTED] who also worked with the [REDACTED] residents.⁶¹

⁶² See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Offices des sœurs
NO [REDACTED]
Prof. temp. [REDACTED] Prof. per. [REDACTED]

[REDACTED]

BURLINGTON : Classe 3e 4e années, organiste, gymnasium
[REDACTED]
BURLINGTON: 1st & 2nd Grades, annalist, music, library
" " : 3 & 4 grade, annalist, music

[REDACTED]

This period of time overlaps with the time V16 was present.

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V17

Contacted Law Enforcement: Initial contact with the BPD Portal on September 14, 2018, and V17 met with BPD on September 21, 2018 for an interview.

Dates at St. Joseph's Orphanage: February 21, 1960, to October 10, 1961

VCC Resident File Reviewed: Yes

DCF Placement: Yes. Committed to DSW custody on March 27, 1959.

Allegations: On September 21, 2018, Detective Beliveau interviewed V17 at the Chittenden Unit for Special Investigations. V17 swore at the beginning of the interview that everything V17 was about to say was the truth.

V17 advised that V17 and V17's five siblings went into the Orphanage in approximately 1960. Prior to going to the Orphanage, V17 advised V17 lived on South Champlain Street in Burlington with V17's mother, who was a prostitute, and V17's father, who was an alcoholic. V17 said V17's parents were "splitting" and V17's mother had been working for days. V17 said there was a small fishing shanty beside their house that had a stove in it. V17 said V17's sibling and friend were playing in the shanty and started a fire. V17 said when the fire department came, they checked their apartment and then brought the children to the police station. That night, V17 and V17's siblings were sent to the Orphanage.

At the Orphanage, V17 and V17's siblings were put into the same room by themselves, and every night "they'd take someone." V17's siblings, V17-Sibling1 and V17-Sibling2, were taken first, and V17's sibling, V17-Sibling3, was taken the following night. V17's sibling, V17-Sibling4, was angry and threatened to jump out of a window. V17 recalled V17-Sibling4 crying.

When recalling what type of abuse happened at the Orphanage, V17 remembered being "scrubbed so hard" that V17's body was red and raw in places. V17 recalled siblings, V17-Sibling5 and V17-Sibling4, were in a different dorm than V17 was, and V17 only saw them occasionally. V17-Sibling1 had a medical condition and was not always able to eat. V17 said V17-Sibling1 vomited what they made V17-Sibling1 eat, and a nun made V17-Sibling1 eat V17-Sibling1's vomit. V17 said on one occasion, the nuns brought them down to the beach and would tie the children to a "great big rope so we were all in a line." V17 said that V17-Sibling3 saw the nuns go into a laundry room and locked them inside. V17 said V17-Sibling3 took the children to the beach; V17 said V17 knew they would get in trouble but went anyway.

V17 said this was when V17 stood on the train tracks with the intent of committing suicide because V17 was molested by the priest, Father3, and thought V17 was betraying God.

V17 said V17's siblings saw V17 on the train tracks and got V17 away from them. V17 said V17 was around eight or nine years old when this happened. V17 said this was when V17 "totally stopped speaking." V17 said V17 felt guilty because Father3 was giving V17 Tootsie Rolls. V17 said all of the abuse occurred in Father3's office. V17 didn't think V17 was the only child being molested by him.

V17 spoke about an incident where children were brought to a place across the street around Christmas time. V17 said certain children would be chosen to go and one time V17 was not chosen. So, V17 told another child that V17 hated Sister13, and that child told the nuns, when they were beating that child. As a result, V17 had to stay in the dorm and Sister13 came up with a "great big paddle." V17 said Sister13 tried to hit V17 in the head but V17 grabbed V17's arms and was struck in the elbows. V17 said V17 tried to run away but Sister13 picked up a bed near a heater and slammed the bed on V17 until V17 passed out. V17 said if someone were to take a scan of V17's head, V17 had indentations on V17's skull from the heater and a dent from the bed. V17 said V17's nose was also broken from this assault. V17 said Sister13 then picked up V17 and placed V17 in a bed where a doctor looked after V17 (but never actually treated V17) until the next day when the nun brought V17 to a bathroom to show V17's face. V17 advised V17's face was "black and blue from head to toe."

V17 said one time, Sister13 told V17 to stay away from Father3 because Sister13 knew what V17 "was doing with him." V17 said V17 could not recall if it was once a week or night, but all the children were made to stand in a row and pull down their underwear so it could be checked. V17 said if there were any marks in their underwear, they were slapped across the face and would have to go wash their underwear. V17 said to this day, V17 did not have any underwear that had a mark on it.

V17 recalled being at the Orphanage from 1960 to 1962. After V17 was assaulted by the nun, V17 was placed in a foster home. V17 felt this was because the nuns did not want V17 to die there. V17 reported that V17 did not receive medical care at the Orphanage.

V17 then spoke further about being molested by Father3. V17 had to go to his office every day at a certain time. V17 said that V17 remembered one time V17 did not show up when V17 was supposed to, and Father3 found V17 outside. V17 said that V17 was covered in bruises from the assault and Father3 was “horrified” by what V17 looked like and V17 didn’t think V17 ever saw him again after that. V17 said all of the abuse occurred in Father3’s office.

V17 said on one Sunday, V17 and V17’s siblings were supposed to go out on a visit with their father. V17 said V17-Sibling3 stacked mattresses close to a window, and when their father came, V17-Sibling3 set them on fire. V17 said as they left, V17’s father asked V17-Sibling3 if V17-Sibling3 had anything to do with that and brought them back to the Orphanage. V17 said “they” brought V17-Sibling3 to V17-Sibling3’s “side” and tied V17-Sibling3 to a bed and started punching and beating V17-Sibling3 up. V17 said, V17 and V17’s siblings were forced to watch.

V17 said that V17 and V17’s siblings had never talked about anything that happened once they left the Orphanage. V17 said V17 met other people who had been in the Orphanage and someone brought V17 a picture of V17-Sibling3 and Father3. V17 said Lawyer2 took the photo and never gave it back to V17. V17 explained that the nuns and priests were able to change and chose their names, so it was difficult to identify them.

V17 said V17 worked in the garden while V17 was at the Orphanage. This garden was behind the Orphanage on the left-hand side. V17 said, V17 was in a building picking the ends off of string beans and V17 saw a “flash in front of me that there’s bodies.” V17 feared the garden because V17 could sense something. In later years, when V17 was protesting at the Orphanage,

V17 would ask why no one was bringing cadaver dogs there. V17 never saw any disturbed ground, V17 could “just sense it.”

V17 spoke of another incident in the Orphanage, where there was commotion and screaming in a stairwell, and V17 remembered seeing a puddle of blood in the stairwell. V17 saw a nun “push a kid over.” V17 said V17 wouldn't see the face of the girl, just the blood. V17 also did not remember the name of the nun yelling at them. V17 was also made to stay in the attic of the Orphanage all day with some other children. V17 felt V17 was put in the attic to hide V17 in case someone was visiting because V17 was so black and blue. V17 remembered having to go up to the attic on Sundays to get V17's white clothes. V17 could only remember the names of two nuns, Sister13 and Sister14, and that they had French accents.

V17 said the food was disgusting, and the nuns didn't eat the same food they did. V17 said, “cod liver oil, I remember being fed cod liver oil.” V17 said there was also “disgusting blood sausage.” V17 said that was why everyone talked about vomiting because they were made to eat that kind of food. V17 said they tried not to vomit “because that was worse.” V17 felt that V17-Sibling3 was being drugged in the Orphanage because they “couldn't control” V17-Sibling3 and V17 believed this was when V17-Sibling3's drug use started. V17-Sibling3 eventually committed suicide.

Named Assailants:

1. Sister13
2. Sister 14
3. Father3

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one

over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Father3's Presence at the Orphanage: in a review of a Father3a's file with the Diocese, there was a letter from the Asst. Chancellor informing Father3a that he was being appointed to the Orphanage and a position within Vermont Catholic Charities during portions of the relevant time frame, after which he was given his next assignment.⁶³

February 14
19 61

The Reverend [REDACTED]
[REDACTED]

Dear Father:

This is to notify you that the Most Reverend Bishop is relieving you of duty at [REDACTED] and appointing you [REDACTED] at St. Joseph Orphanage and [REDACTED] Vermont Catholic Charities.

This appointment becomes effective February 22, and you are asked to keep it in the strictest confidence until it appears in this week's edition of The Vermont Catholic Tribune.

With prayerful best wishes, I remain,

Sincerely yours in Christ,

Asst. Chancellor.

It appears that a Father3a was at the Orphanage in 1961, when V17 was a resident.

⁶³ See file in Criminal Report Source Material titled [REDACTED]; see also [REDACTED] at [REDACTED], [REDACTED] (last visited November 3, 2020).

Sister13's Presence at the Orphanage: a Sister10b appears to have been present at the Orphanage from 1959 to 1960 who also worked with the residents.⁶⁴

[REDACTED]
[REDACTED] ([REDACTED])

[REDACTED] - [REDACTED]
Companion [REDACTED] department

There was also a Sister11a who appears to have been at the Orphanage from 1958 to 1967:⁶⁵

[REDACTED]

Offices des sœurs No [REDACTED] [REDACTED]

[REDACTED] | BURLINGTON: Compagne chez [REDACTED]
RES. ST-JOSEPH : Malade

A Sister11b also appears to have been at the Orphanage sometime between 1961 and 1974 as described by Sister 3a in her deposition in a case:⁶⁶

7

1 Q. At the convent?
2 A. At the convent, yes.
3 Q. Do you know the name of the convent?
4 A. [REDACTED]
5 Q. Anybody else?
6 A. I had Sister [REDACTED].
7 Q. For how long, Sister?
8 A. About two years.
9 Q. Is Sister [REDACTED] still alive?
10 A. Yes. But she is no longer a Sister. She
11 left the community many years ago.
12 Q. Do you know what happened to her?
13 A. I know she got married. That is about it.
14 Q. Do you know where she lives?
15 A. No.
16 Q. Have you assisted any lay employees?

Further, records seem to confirm a Sister11b at the Orphanage.⁶⁷

⁶⁴ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

⁶⁵ See id.

⁶⁶ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

⁶⁷ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

[REDACTED] (S) [REDACTED]
([REDACTED]) ([REDACTED]) Companion, [REDACTED] department

All of these sisters appear to overlap with when V17 was at the Orphanage for some period of time.

Presence of Sister14: at the time when V17 was a resident, there was a Sister14a who worked at the Orphanage from 1959 to 1966.⁶⁸ She was an officer of one of the departments.⁶⁹ In Sister14a's deposition, Sister14a admitted to using a paddle on the children infrequently and spoke about discipline at the Orphanage.⁷⁰ She denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.⁷¹

[REDACTED] - [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED] dept. - Officer

A Sister14b also appears to have worked at the Orphanage, but the time period is unclear:

[REDACTED] (D) [REDACTED]
([REDACTED]) ([REDACTED]) Officer [REDACTED] department

Case Analysis & Outcome: No criminal charges to be filed, as potential crimes are barred by the statute of limitations.

⁶⁸ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]; Deposition of [REDACTED] at [REDACTED] in [REDACTED]; see also file in Criminal Report Source Material titled [REDACTED], [REDACTED]

⁶⁹ *Id.*

⁷⁰ *Id.* at 35-41.

⁷¹ *Id.* at 41-42.

Victim: V18

Contacted Law Enforcement: Initial contact with BPD September 13, 2018, and V18 met with BPD Detective Michael Beliveau and Officer Eric Kratochvil on November 26, 2018 for an interview.

Dates at St. Joseph's Orphanage: May 24, 1960, to September 5, 1967

VCC Resident File Reviewed: Yes

DCF Placement: Yes, committed to DSW custody on May 23, 1960.

Allegations: On November 26, 2018, Detective Beliveau and Officer Kratochvil interviewed V18 regarding V18's experience at the Orphanage. V18 was born in 1953 and lived at the Orphanage from 1959, age 6, until the summer of 1969, age 16. V18 recalls being brought to Vermont from out of state because V18's mother passed away. V18's father was in the United States Air Force, serving in an undescribed capacity. V18 recalls a woman delivering V18 to Vermont because of some loose family connections that V18's father had in the state. V18 does not recall whether the woman worked for the government or the Church.

When investigators asked V18 about who perpetrated the abuse, V18 had a difficult time recalling names and could only distinguish them by their physical attributes. When thinking of the nuns, all V18 can see facial-wise is the habit, black eyes, black open mouth, and no face. V18 only remembered two names: Sister15 and Sister16. V18 remembers Sister15 as tall and slim and Sister16 as short and heavier set. When recalling the nuns during the interview, V18 became upset and stated that "you became invisible to survive" and "you don't want to be noticed."

V18 had a sibling with V18 at the Orphanage, V18-Sibling1. V18-Sibling1 was a younger sibling that arrived at the Orphanage after V18 by rail. V18-Sibling1 was so traumatized by V18-Sibling1's experiences at the Orphanage that V18-Sibling1 did not adjust to free and civilian society, becoming a repeat offender.

V18 and V18's siblings found their way to the Orphanage because of the way things were done in the 1950's, according to V18. The elder children could remain with their father out of state, and those who were adults at the time. V18 recalls V18's father as an alcoholic who regularly had problems with law enforcement. V18 believes that the reason the State (both Vermont and the state in which their father lived) seized them (the children) springs from the father's alcoholism. And so, all the children wound up in Vermont. Once at the Orphanage, V18-Sibling1 and V18 went to different sides of the Orphanage. According to V18, the State of Vermont refused to release V18 or V18's siblings to other family members who lived in Vermont.

V18 spoke about the 1990s investigation. V18's relative, V19, suggested that V18 be a part of the Orphanage case at that time, but V18 chose not to. However, V18 recalls the litigation around the Orphanage and criticized how the Diocese handled the litigation. V18 read the BuzzFeed article and subsequent articles, but V18 wanted to remain out of the news and did not reach out. V18 spoke about V20 and another woman giving an interview to the news and how V18 became upset when the reporter referred to V20 as an "alleged victim." And so, V18 never reached out before to talk about V18's experiences.

V18 recalled many years of forced labor for the nuns at the Orphanage. V18 recalled nice and mean nuns. Throughout describing the various acts of abuse the Sister of Providence

executed against their charges, V18 continued to reiterate the importance of being invisible to the nuns.

Around 1963 when V18 was about 10, V18 was caught running through the dormitory hallways. Sister15 gave chase and put V18's hand through the door window on a spring-hinged swinging door. Sister15 beat V18 for the shattered glass. Sister15 delivered physical blows with a wooden implement. V18 remembers receiving medical attention.

V18 also remembers being served something called, "peanut butter pudding." V18 refused to eat the paste because it did not resemble food. The nuns strapped V18 to a chair during a forced feeding. V18 refused to eat it because it tasted like "dirty dishwater." V18 spit the food onto Sister15 and the nun responded with a physical battery so violent that V18's ears began to bleed. Sister15 delivered numerous blows to the head. The assisting nun closed V18's nostrils to induce consumption. The nuns then threatened to shatter V18's teeth. When V18 spit out food onto Sister15, Sister15 responded with a strike that vaulted V18. V18 struck V18's head on the hardwood floor of the mess hall. V18 recovered consciousness in an area hospital. V18 mused during the interview that there must be hospital records that reflect the accident and treatment that V18 received.

During a cleaning assignment on the third-floor sleeping room, V18 hopped from bed to bed playing. V18 was playing as Peter Pan after having watched Julie Andrews in the *Peter Pan* film. A nun caught V18 pretending that V18 could fly and as punishment, V18 had to clean the girls' lavatory with only a toothbrush. V18 also reported that when the nun caught V18 playing as Peter Pan, the nun forced V18 against a wall and the nun growled, "So, you think you can fly?" Then the nun tossed V18 into a closed window and V18 ricocheted off the windowpane. The nun then kicked V18 in the abdomen, striking V18 about the ribs and stomach. The nun

continued kicking V18 while V18 was prone and V18 drifted off during V18's abuse. After the abuse, V18 recalled crawling back to the pail and brush to continue cleaning the girls' lavatory. V18 reported that the windowsill was rather high, set off the floor and the lavatory was on either the third or fourth floor.

V18 also recalled that the Sisters would dress the children in fluffy white socks and walk them throughout the Orphanage to polish the broad hardwood floors in the hallways.

The nuns threatened V18 with trunk imprisonment. V18 saw other children sent to the attic as punishment. Many children were confined in a trunk. V18 learned later in life from V19, that V19 was confined in the trunk, to make V19-Sibling1 cry. V18 said that the nuns were always trying to make V19-Sibling1 cry. V18 reported that while V18 was never tied to the attic chair, V18 does remember the effects of isolation punishment at the Orphanage.

In describing the Orphanage property, V18 remembered the ground-floor basement. The basement would open out to a play area, and then the boys' mess hall. On the back side of the Orphanage, there was a laundry, then the kitchen, and then another stairwell. There were classrooms, four to six, where the children would study. The gymnasium was on the first floor that meets the street. V18 detailed the times that stage productions would happen in the gym. V18 fondly remembers acting and dressing up. The plays were the times that the boys and the girls could mingle.

V18 recalled the children putting on the production of *Annie Oakley*. V18-Sibling1 was also in the play, V18 recalled V18-Sibling1 playing on a hobbyhorse while wearing a tiny cowboy hat. During the play, V18-Sibling1 positioned himself on the wrong part of the stage and could be seen by the audience. After the play, V18-Sibling1 was beaten by one of the nuns for letting V18-Sibling1 be seen.

When recalling whether any other children were seriously injured, V18 remembered hearing about a child being punished and then never seeing the child again. V18 noted, however, that children were always coming and going for whatever reason, so it was hard to know what was going on. V18 did see children being punished severely. V18 recalled one girl being beat “pretty well” and never seeing that girl again. V18 does not know what happened to her.

V18 recalled that the Orphanage had its own beach access which was divided into a boy’s side and a girl’s side. V18 does not remember nuns being involved with any drowning incidents or throwing kids off a rowboat. However, V18 remembered an event where Resident10 was standing on the bulkhead on the deep end with V18. V18 returned to shore and was later told by the other children that Resident10 drowned on the swim back.

In another swimming incident, V18 recalled the Orphanage children hiking out to Lone Rock Point and another boy drowned because of “kids’ play.” Both of these drownings happened when V18 was around 12 to 14. V18 knows that they were at least 12 because V18 was working in the nursery and had permission to go to and from the beaches unsupervised.

When V18 recalled working in the nursery, V18 spoke about an infant named Resident11, who was available for adoption and on the cusp of aging out. V18 had infant duty attending to infants’ needs and first feeding, bathing, and changings. V18 was concerned that Resident11 was going to age into another dormitory. And so, V18 prayed for Resident11’s adoption by a nice family. V18 tended to Resident11 because Resident11 was bigger than the other infants, as Resident11 was approaching toddler age. One day, Resident11 tossed the linens, like in a Norman Rockwell scene, and a young couple took Resident11 home with them. V18 told this story to explain how easy it was that infants came and went from the Orphanage. V18 remembered a particular day while on nursery duty that V18 stopped V18’s routine because of a

sound. V18 checked one of the cribs and saw a whimpering infant. The noise registered as weakness, not quite a cry. The infant's color was purple, possibly deprived of oxygen. A nun stationed in the nursery approached the whimpering newborn and V18 and admonished V18 for tending to the dying newborn. The nun said, "I'll take care of that thing." V18 recalled that two nuns regularly attended to the nursery. V18 speculated that a novitiate birthed the newborn, and the nuns permitted the baby to die of exposure. V18 alleges that the baby was buried in a grotto beside the Orphanage.

Named Assailants:

1. Sister16
2. Sister15

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Presence of Sister 15: At the time when V18 was a resident, there appears to have been a sister named Sister 14a who worked at the Orphanage from 1959 to 1966.⁷² She was the house mother in the girls department.⁷³ In her deposition on March 26, 1997, she admitted to using a paddle on the children infrequently and spoke about discipline at the Orphanage.⁷⁴ She denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.⁷⁵

⁷² See file in Criminal Report Source Material titled [REDACTED] at [REDACTED] see also Deposition of [REDACTED] at [REDACTED] in [REDACTED]

⁷³ *Id.*

⁷⁴ *Id.* at 35-41.

⁷⁵ *Id.* at 41-42.

[REDACTED] - [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED] dept. - Officer

A Sister14b also appears to have worked at the Orphanage but the time period is unclear.

(D) [REDACTED]
([REDACTED]) ([REDACTED]) Officer [REDACTED] department

Finally, there was a Sister15a and a Sister15b who, according to Sister1a in her deposition, were present at the Orphanage sometime between 1967 and 1974.⁷⁶

* [REDACTED]
5 Q. Sister [REDACTED]. Anybody else come to mind?
6 A. Sister [REDACTED], [REDACTED]. And some
7 are dead; Sister [REDACTED] is dead, Sister [REDACTED] is
8 dead, [REDACTED], [REDACTED] is dead. Sister
9 [REDACTED] is at [REDACTED]. [REDACTED].
10 Q. Where is she?
11 A. [REDACTED].
12 Q. Think of your teachers, the people you taught
13 with.
14 A. Yeah. And then some people who have left the
15 community.
16 Q. And who would those be?
17 A. Oh, [REDACTED].
18 Q. Where is she, do you know?
19 A. I think she's in [REDACTED].
20 Q. [REDACTED], [REDACTED] you're saying?
21 A. [REDACTED].

Sister16's Presence at the Orphanage: a Sister10b appears to have been present at the Orphanage from 1959 to 1960 who worked with the residents.⁷⁷

⁷⁶ See Deposition of [REDACTED] at [REDACTED] in [REDACTED]
[REDACTED], file in Criminal Report Source Material titled [REDACTED]
at [REDACTED].
⁷⁷ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

[REDACTED]
([REDACTED]) ([REDACTED])

[REDACTED] Companion [REDACTED] department

There also appears to have been a Sister11a at the Orphanage from 1958 to 1967:⁷⁸



Sister 11b appears to have been at the Orphanage sometime between 1961 and 1974, as described by Sister3a in her deposition in a case:⁷⁹

7

1 Q. At the convent?
2 A. At the convent, yes.
3 Q. Do you know the name of the convent?
4 A. Villa du Rosaire.
5 Q. Anybody else?
6 A. I had Sister [REDACTED].
7 Q. For how long, Sister?
8 A. About two years.
9 Q. Is Sister [REDACTED] still alive?
10 A. Yes. But she is no longer a Sister. She
11 left the community many years ago.
12 Q. Do you know what happened to her?
13 A. I know she got married. That is about it.
14 Q. Do you know where she lives?
15 A. No.
16 Q. Have you assisted any lay employees?

Further, records appear to confirm a Sister11b at the Orphanage:⁸⁰

[REDACTED] (S) [REDACTED]
([REDACTED]) ([REDACTED])

Companion, [REDACTED] department

⁷⁸ See id.

⁷⁹ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

⁸⁰ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

All of these Sisters appear to overlap when V18 was at the Orphanage for some period of time. The screenshot below is from the St. Joseph's Children's Center Chronicles from 1970, a document prepared and signed by the nuns from the Orphanage.⁸¹ There have been many allegations that children drowned, or children were left alone whilst swimming in the lake. Though this does not corroborate any neglect or abuse, it does provide corroboration for the fact that the nuns took the children swimming in Lake Champlain.

```
SUMMER      :
OUTINGS     :      As in the preceding years, the children have been
              : favored with many outings sponsored by kind benefactors and
              : generous societies of this area. Among these tours was a
              : visit to New York State by the Lake Champlain ferry where
              : children's parks of entertainments were enjoyed; a circus,
              : the King Brothers, a three ring circus, on the fairgrounds in
              : Essex Junction, Vermont; picnics taken by bus where food and
              : cold drinks were plentiful; public movies at a local theater,
              : free of charge; and when the weather permitted daily "Cook-
              : outs" on the grounds with an evening dip in the near-by lake.
              : We feel that these children who were not permitted to go home
              : for the vacation, either because the parents work or for lack
              : of space, etc., had a very happy vacation with seldom a dull
              : moment. Divine Providence and good St. Joseph saw to this!
```

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V19

Contacted Law Enforcement: Initial contact with the BPD Portal on September 19, 2018 and provided the following information. V19 did not give an interview to BPD but provided the following account by way of the portal.

⁸¹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Dates at St. Joseph's Orphanage: September 23, 1958 to May 9, 1964

VCC Resident File Reviewed: Yes

Allegations: V19 reported that V19 was a resident at the Orphanage from approximately September of 1958 to May 1964.⁸² The following is a summary of the information V19 provided through the portal about V19's time at the Orphanage:

For the whole time V19 was in the Orphanage, V19-Sibling1 wouldn't cry in front of the nuns. V19 said that was the only control V19-Sibling1 had. The Sisters were always trying to get V19-Sibling1 to cry, so one day, Sister17 and Sister18 brought V19 and V19-Sibling1 to the attic. The Sisters locked V19 in an old trunk. The Sisters said there were snakes, and bats and spiders in the attic. V19 was very young and believed them. V19 cried and screamed hysterically. V19-Sibling1 kept trying to get away from the nun to let V19 out. Sister17 grabbed V19-Sibling1 by V19-Sibling1's hair and pulled V19-Sibling1's head back to see if V19-Sibling1 was crying. V19 said, all of a sudden, V19 went dead silent. V19-Sibling1 said years later, that's the one-time V19-Sibling1 almost cried. V19-Sibling1 thought V19 had run out of air and thought V19 may have suffocated. V19 said the nuns may have thought the same thing, because they opened the trunk and let V19 out.

V19 said when V19 was three years old, one nun was giving V19 a bath. V19 got soap in V19's eyes so V19 cried. The Sister held V19 underwater until V19-Sibling1 came into the room, then V19-Sibling1 let V19 up. V19 was choking and coughing and gasping for air. V19 feels V19-Sibling1 saved V19's life then. Another time, V19 said Sister19 brought V19 to the nun's floor bathroom. V19 had never been in there before. Sister Superior1 was there. Sister19 said to V19, "Look what [V19] did!" All of the toilets were full of backed up sewage. Sister Superior1 said to

⁸² See file in Criminal Report Source Material titled [REDACTED]

V19, "Clean that up!" V19 said they gave V19 a rag and a bucket. They made V19 put V19's hands in the toilets to try to scoop out all the stuff in there. V19 was crying. V19 said a plumber came in, and Sister Superior1 said to V19, "Go wash up, you stupid [child]."

V19 reports that many other things happened, too many to name. V19-Sibling1 got it much worse than V19. V19-Sibling2 was beaten, almost beyond recognition. V19-Sibling2 also claims V19-Sibling2 was molested there. Sister18 took V19-Sibling1 into her bedroom. She told V19-Sibling2 that V19-Sibling1 had an ugly body, and people would do bad things to V19-Sibling1. Sister18 tried to bind V19-Sibling1's genitals with hairpins and barrettes. The nuns would make all the kids in the room say things to try to make V19-Sibling1 cry. They said if they could make V19-Sibling1 cry, then the Devil would leave V19-Sibling1. They threw things at V19-Sibling1 and ridiculed V19-Sibling1. One nun ran a butter knife under extremely hot water until it was hot, then put it on V19-Sibling1's arm to burn V19-Sibling1.

Another nun would "accidentally" touch V19's scalp with a curling iron and say, "Oops!" V19 said the Sister would do this to V19-Sibling1 too. V19 said V19's dad bought V19 and V19-Sibling1 each a gift for Christmas one year. V19 said V19 and V19-Sibling1 were not allowed to touch them. The Sisters put the gifts on display in the dorm. After three days, Sister17 called V19 inside. Sister17 yelled at V19 asking why V19 touched it. V19 said that V19 didn't touch it. Sister17 took out her paddle, pulled down V19's pants and beat V19 with it quite a few times. V19 said it was V19's own gift and V19 couldn't touch it. V19 said V19 didn't know who touched it but that V19 "got hell for it!"

V19 remembered one night when everyone was getting ready for bed in the dorm. One of the older residents was hysterically running up the hallway screaming and crying, "They killed him, they killed him!" Sister17 grabbed the resident and pulled them back out of the room. V19

said Sister17 said to everyone, “Don't pay attention to them, [they're] crazy!” V19 had heard later that they dropped a little boy down the staircase and he died.

The nuns told everyone from day one, “God sees and hears everything! Anything you say or do, God knows!” V19 said they told everyone that if your parents got divorced, you would go to Hell. V19 said they said no matter what anyone did in life, it didn't matter, because those children of divorced parents would go to Hell. V19 said, that every time V19 got a beating, V19 was told not to tell V19's parents. If V19 did, God would know, and he would punish V19's parents or kill them. V19 never told, because V19 thought V19's family was in grave danger if V19 did.⁸³

V19 also reported that V19 spoke to lawyers in the 1990's regarding V19's experiences at the Orphanage. V19 and V19-Sibling1 were deposed by the Church lawyers as well.⁸⁴

Named Assailants:

1. Sister19
2. Sister17
3. Sister18

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents: In the “Record Sheets” for the V19 family from Vermont Catholic Charities, there is entry from February 26, 1962 regarding a complaint from FamilyFriend1 who sometimes cared for the children of the V19 family. FamilyFriend1 reported that V19-Sibling2's

⁸³ *Id.*

⁸⁴ *Id.*

face and head were all marked up when FamilyFriend1 visited V19-Sibling2 at the Orphanage. V19 remarked that it looked like someone had hit V19-Sibling2's head against the wall. The writer of the entry commented that FamilyFriend1 was very upset. The writer investigated and learned from Sister Superior1 that V19-Sibling2 had purposely broken a lamp and that a nun slapped V19-Sibling2. FamilyFriend1 also spoke to Sister Superior1 and the writer noted that FamilyFriend1 was not satisfied by her explanation of V19-Sibling2's injuries. The writer discounted this, writing that FamilyFriend1, "May have guilty feelings of [themselves] as a [parent] and taking it out on the Sisters." The children were placed in FamilyFriend1's care when they left the Orphanage in May 1964 (see excerpt below dated 2/26/62).

Additionally, in the "Record Sheets" for V19's family from Vermont Catholic Charities, there is a closing entry dated May 11, 1964 that gives a summary of each child's time at the Orphanage.⁸⁵ In the section on V19-Sibling1, the writer, Social Worker1a, notes that it took V19-Sibling1 a long time to talk to the "workers" and that V19-Sibling1 would "never venture to talk, the only way would be a shrug of the shoulders or a 'yes' or 'no.'"⁸⁶

DATE	<p>██████████ was a small ██████████ in stature. ██████████ reacted in a somewhat different manner to the long stay at SJCC. It took a long time for the workers to get ██████████ ██████████ would never ██████████, the only way would be a shrug of the shoulders or a "yes" and "no". ██████████ was never annoying and irritating. ██████████ was very helpful and always willing to do ██████████ chores. ██████████ conformed to rules and regulations, however, was a difficult child to help because of ██████████ introvert tendencies.</p>
2/26/62	<p>Call from ██████████ She was quite upset last visiting Sunday to find ██████████ with ██████████ face and head all marked up. ██████████ told W that it looked as though someone has ██████████ head against the wall. She wanted to know what ██████████ did to deserve this punishment.</p> <p>To calm ██████████ down, W said she would call ██████████ and find out what happened. Call to ██████████ informed W that she had talked with ██████████ Sunday and had straightened everything out. ██████████ seemed to be very understanding and reasonable about the whole matter.</p> <p>Sister explained to W that ██████████ had deliberately broken a lamp and one of the Sisters had slapped ██████████ for it. ██████████ had talked to both the sister and ██████████ and also had ██████████ give ██████████ side of the story. Apparently ██████████ had also destroyed some other property for no good reason.</p> <p>Sister hadn't talked to the ██████████ but was most willing to have ██████████ come in to see her.</p> <p>Call to ██████████ to tell her that ██████████ that ██████████ would appreciate it if ██████████ would come in to see ██████████ and they could get the matter settled. W told ██████████ that ██████████ would derive more satisfaction from talking to ██████████</p>
2/2/62	<p>Call from ██████████. ██████████ talked to ██████████ the night before and apparently wasn't satisfied with ██████████ story. It is W's impression that ██████████ may have guilt feelings of ██████████ as a ██████████ and is taking it out on the Sisters.</p>

⁸⁵ See generally, ██████████, in file in Criminal Report Source Material titled ██████████

⁸⁶ *Id.* at p. ██████████

Sister17 at the Orphanage: At the time when V19 was a resident, there was a sister named Sister15a who worked at the Orphanage from 1959 to 1966.⁸⁷ She was the house mother in the girls department.⁸⁸ In her deposition on March 26, 1997, she admitted to using a paddle on the children infrequently and spoke about discipline at the Orphanage.⁸⁹ Sister15a denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.⁹⁰

Presence of Sister18: a Sister10b appears to have been present at the Orphanage from 1959 to 1960 who worked with the residents.⁹¹

[REDACTED]
([REDACTED]) ([REDACTED])

[REDACTED] -- [REDACTED]
Companion [REDACTED] department

There also appears to have been a Sister11a was at the Orphanage from 1958 to 1967a⁹²



A Sister11b also appears to have been at the Orphanage sometime between 1961 and 1974, as described by Sister3a in her deposition:⁹³

⁸⁷ See Deposition of Sister [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

⁸⁸ *Id.*

⁸⁹ *Id.* at 35-41.

⁹⁰ *Id.* at 41-42.

⁹¹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

⁹² See *id.*

⁹³ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

7

1 Q. At the convent?
 2 A. At the convent, yes.
 3 Q. Do you know the name of the convent?
 4 A. Villa du Rosaire.
 5 Q. Anybody else?
 6 A. I had Sister [REDACTED]
 7 Q. For how long, Sister?
 8 A. About two years.
 9 Q. Is Sister [REDACTED] still alive?
 10 A. Yes. But she is no longer a Sister. She
 11 left the community many years ago.
 12 Q. Do you know what happened to her?
 13 A. I know she got married. That is about it.
 14 Q. Do you know where she lives?
 15 A. No.
 16 Q. Have you assisted any lay employees?

Further, records seem to confirm a Sister11b at the Orphanage:⁹⁴

[REDACTED] (S) [REDACTED]
 ([REDACTED]) ([REDACTED]) Companion, [REDACTED] department

All of these Sisters appear to overlap with when V19 was at the Orphanage for some period of time.

Presence of Sister17: At the time when V19 was a resident, there appears to have been a sister named Sister15a who worked at the Orphanage from 1959 to 1966.⁹⁵ She was an officer in one of the departments.⁹⁶ In her deposition, she admitted to using a paddle on the children infrequently and spoke about discipline at the Orphanage.⁹⁷ She denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.⁹⁸

[REDACTED] - [REDACTED]
 ([REDACTED]) ([REDACTED]) [REDACTED] dept. - Officer

A Sister14b appears to have worked at the Orphanage but the time period is unclear:

⁹⁴ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].
⁹⁵ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED] see also Deposition of Sister [REDACTED] at [REDACTED] in [REDACTED].
⁹⁶ *Id.*
⁹⁷ *Id.* at 35-41.
⁹⁸ *Id.* at 41-42.

Case Analysis & Outcome: No criminal charges to be filed, as potential crimes are barred by the statute of limitations.

Victim: V20

Contacted Law Enforcement: Initial contact with the BPD Portal on December 7, 2018, and wrote a statement contained below in “Allegations.” On July 5, 2019, V20 was interviewed by Detective Michael Beliveau.

Dates at St. Joseph’s Orphanage: December 8, 1970 to February 14, 1972.

VCC Resident File Reviewed: Yes

DCF Placement: Yes, committed to DSW custody in 1970.

Allegations: On July 5, 2019, Detective Beliveau interviewed V20 about V20’s experiences at the Orphanage. V20 swore the information V20 provided was the truth.

V20 was a resident at the Orphanage from December 7, 1970 to around February 14, 1972. On V20’s first day at the Orphanage, V20 met with Social Worker². V20 had to give all of V20’s belongings to the nuns, V20 specifically recalls Sister²⁰ and Sister²¹. The rules of the Orphanage were explained to V20 and V20 was assigned a number, which V20 would be known by. The number would also be put on V20’s clothing. V20 recalled two dorms: first dorm for fifth and sixth graders and second dorm for seventh and eighth graders. V20 was going to be assigned to second dorm. V20 was also asked a question that V20 did not understand by Sister²⁰, and V20 was slapped across the face. During mealtimes there were monitors to make sure everyone was eating their food and if they did not it was reported to the nuns. V20 observed some children having to eat their own vomit, but that never happened to V20.

V20 recalled one occasion where, a resident, Resident12, was cleaning the bathroom and Sister20a told Resident12 to do the floors again. Resident12 said no and Sister20 began beating Resident12 with her fists. V20 reports Resident12 “was bouncing off the walls.” V20 does not remember what happened to Resident12 after the beating, except that somehow, Resident12’s mother found out and V20 believes the police were called.

V20 noted that all outgoing mail was screened by the nuns, so that no one could say anything bad about the Orphanage. When V20 was brought to the hospital in February 1972, V20 was told not to say anything bad about the Orphanage. If anyone told the social workers about the bad things at the Orphanage, the social workers would tell SocialWorker2, the case worker, and SocialWorker2 would tell the nuns and the nuns would beat the child. V20 said in V20’s dorm after the kids would go to sleep, the nuns would come in, wake up the kids, and beat them and “god knows what they did.” V20 specifically recalls Sister21 and Sister20 doing this. Sister20 was meaner of the two and the head nun for V20’s dorm.

V20 recalled Sister22 and Sister23, one of V20’s teachers, being kinder to the children. V20 also noted that Sister24, another teacher, was stern but “okay” and smacked kids in class but did not beat them. Sister25 on the other side was the meanest but V20 cannot recall any specific incidents of abuse. V20 also recalled Sister26 working on the other side.

On one occasion, V20 was working in the nursery and was forced to lock a three-year-old boy in the closet by a nun. The boy had come from the hospital to the Orphanage after being beaten by his mother. The nuns would tell the children there were snakes and bugs in the closet to scare them.

V20 was never seriously injured at the Orphanage, because V20 did everything asked of V20 by the nuns. V20 was slapped across the face a few times and beaten once. V20 was beaten

once around age 14, because V20 lost control of a cleaning device. V20 reports V20 was never locked in the attic.

V20 ran away twice while at the Orphanage. The first time was with a group and they were brought back by SocialWorker2 and some nuns. The second time that V20 ran away, V20 and Resident13 were brought back by the police. The police threatened to bring V20 to the Week's School, which V20 had heard was better than the Orphanage and wanted to go to, which concerned the police officer.

While working in second nursery, V20 saw young children beaten and locked in the closet. The children in second nursery were ages 2 to 6. V20 did not want to work there because of the abuse against the children. V20 was eventually reassigned to work in the kitchen.

V20 never saw any children die at the Orphanage. V20 heard of one girl dying in a fire, but it was after V20 left the Orphanage.

V20 recalled Father4 doing mass on Sunday at the Orphanage. He would also do baptisms and other services.

V20 was sexually assaulted twice while at the Orphanage. The first time was by a visiting priest and SocialWorker2 soon after V20 first arrived at the Orphanage when V20 was 13 years old. On the day of the incident, V20 was told to go down to the visiting priest quarters. V20 believed that V20 was going down there to clean. While down there, V20 saw polaroid pictures of boys partially nude and found papers about a visiting priest who came with Bishop2. V20 thinks the visiting priest was Father5. V20 did not recall the first name of the priest. V20 referred to the visiting quarters as the "red room." When V20 was first sent down to the room, V20 was initially alone and that is when V20 found the pictures and papers. Later, the visiting priest and SocialWorker2 came. V20 recalled being given an injection and put in a closet. There was a girl

in the closet with long dark hair and she was out of it. V20 thinks the young girl was drugged too. V20 believes SocialWorker2 gave V20 the injection and put V20 in the closet. After being drugged, V20's memory of the incident is hazy. However, V20 remembers SocialWorker2 opening the closet door and walking. V20 then observed the visiting priest in a chair wearing an ornate hat and robe, but he was naked underneath. V20 sat on one of the priest's knees and the dark-haired girl sat on the other. Both children had their clothing off. V20 doesn't recall exactly what happened but does remember at one point the priest stuck his penis in V20's mouth. V20 can still recall the taste. The next thing V20 remembers is laying on the floor and SocialWorker2 trying to sit on V20's head. The next thing V20 remembers is finding a piece of paper on the stairs, which V20 picked up in hopes that it would help V20 remember the incident.

After this incident, V20 had to start seeing SocialWorker2 once a week. V20 explained that at some point during these meetings SocialWorker2 began to try to convince V20 that V20 was homosexual. V20 did not believe V20 was homosexual but grew concerned that the other children would get in trouble for being with V20. Consequently, V20 began staying away from the other children and that's what led V20 to trying to die by suicide. V20 had obtained razor blades earlier and V20 had begun cutting. On the day V20 tried to die by suicide, V20 was worried about two other children getting in trouble for being with V20. V20 stated that V20 only went back to the Orphanage once after V20's attempted suicide but was soon moved to another home.

The second time V20 was sexually abused occurred when V20 was 14 years old and was a year after the first incident with SocialWorker2 and the visiting priest. V20 stated that when SocialWorker2 was trying to convince V20 that V20 was a homosexual, SocialWorker2 placed SocialWorker2's hand down V20's pants. V20 was able to get away.

When V20 initially reached out to BPD on December 7, 2018 V20 wrote a lengthy statement regarding V20's experiences at the Orphanage. The written statement tracks the statement V20 made to Detective Beliveau on July 5, 2019. However, the written statement provides clarification regarding the sexual abuse that V20 alleged happened with the visiting priest and SocialWorker2 so it is being included here:

Soon after I arrived, a visiting priest was there. One of the nuns sent me down to the priest's quarters. I thought it was to help the girl who works there clean. It was a red room. Lots of red velvet. No one was there so I looked around just inside the entrance area while I waited and noticed a weird looking thing of drawers. It was tall, wooden and had small drawers in it. One of the drawers was not properly closed so I thought it was a place to start and went to push it close. It was not fully on its track so I had to pull it open to push it back in straight. When I did, I saw that there were polaroid photos in the drawer of at least partially naked boys. I quickly closed the drawer and at that time saw [SocialWorker2] and the visiting priest. It was a big guy, quite fat. I started to say I was sent there to help clean but [SocialWorker2] had grabbed my arm and pushed up my sleeve and gave me a shot of something with from a needle. Then I was guided into what seemed like a big closet. There was not a lot of light in the small room or closet. I did notice I was not alone. There was a girl in there. She was younger than me and I don't remember her name. She was quiet but moved when I came in. Sometime later, I realize I am in a larger lighted room with the girl, [SocialWorker2] and the priest. There was a bed and the priest was sitting in a big red velvet chair that looked like a king may sit in. He was wearing a very ornamented in red and gold white robe and a huge kind of pointed

hat. Neither the other girl or I had clothes on and we were sat on his lap. I was on his left knee and she was on his right. His robe was open and showed his penis. I don't remember anything except something in my mouth and a metallic taste. Then I am on the floor near the bed and [SocialWorker2] has her pants off and is sitting on my face...¹⁰²

V20 also wrote V20 had a copy somewhere of the Orphanage's December Chronicle where it noted one of Father5, either Father5a or Father5b was visiting.¹⁰³

V20 filed suit against the Diocese, Vermont Catholic Charities, the Orphanage, and the Sisters of Providence several years ago. As part of this investigation, the Task Force obtained a copy of and have reviewed materials from the litigation file related to this case.

Named Assailants:

- 1) Sister20
- 2) Sister21
- 3) SocialWorker2
- 4) Father5

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959) and/or 13 V.S.A. § 2602 Lewd and lascivious conduct with a minor (1971); 13 V.S.A. § 2603 Fellation (1959); 13 V.S.A. § 3201 Rape by person over sixteen (1959).

Relevant Documents:

¹⁰² See file in Criminal Report Source Material titled [REDACTED]

¹⁰³ See file in Criminal Report Source Material titled [REDACTED]

Father5 at the Orphanage: a Father4a held a role involving the Orphanage at the time V27 was at the Orphanage.¹⁰⁴ The resident file provided by Vermont Catholic Charities revealed Father4a worked directly with the residents as a social worker during his employment with them.¹⁰⁵ Additionally, residents at the Orphanage report being tasked with bringing meals to priests in private rooms.¹⁰⁶ Father4a in a deposition on June 4, 1997 denied knowing about widespread abuse at the Orphanage, including sexual abuse.¹⁰⁷

Sister20 at the Orphanage: a Sister20a was at the Orphanage from May 15, 1970 to August 7, 1974, during which time she was the officer in a children's department.¹⁰⁸ Sister20a was deposed in a case.¹⁰⁹ In her deposition, Sister20a admits to working at the Orphanage but denies knowledge or involvement in any abuse reported and denies physically harming a Resident12a.¹¹⁰ She also denies being involved with any sexual abuse by a SocialWorker1a and denied knowing of any sexual abuse at the Orphanage.¹¹¹ Sister20 makes similar denials in an affidavit dated June 21, 1999.¹¹²

¹⁰⁴ See *id.*

¹⁰⁵ See [REDACTED] at [REDACTED], [REDACTED] (last visited November 2, 2020).

¹⁰⁶ See allegations of V27.

¹⁰⁷ See generally, Deposition of [REDACTED] in [REDACTED], [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹⁰⁸ See Affidavit of [REDACTED], [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹⁰⁹ See generally, Deposition of [REDACTED] at [REDACTED], [REDACTED], [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹¹⁰ See *id.* at 178-81.

¹¹¹ *Id.* at 180.

¹¹² See Affidavit of [REDACTED], [REDACTED], [REDACTED], file in Criminal Report Source Material titled [REDACTED]

SocialWorker2 Involvement with the Orphanage: a SocialWorker1a worked at Vermont Catholic Charities as a social worker at the Orphanage 1963-1967, 1969-1997 and then became Executive Director of Vermont Catholic Charities in 1997.¹¹³ A review of V20's Resident File provided by Vermont Catholic Charities showed that SocialWorker1a was V20's social worker as early as May 28, 1971.¹¹⁴ Additionally, paperwork from V20's Vermont Catholic Charities file confirmed and discussed V20's suicide attempt in February 1972.¹¹⁵

Additionally, SocialWorker1a in an affidavit dated August 28, 1999 states that she operated as V20's Vermont Catholic Charities Social Worker.¹¹⁶ SocialWorker1a confirms that V20 attempted suicide on February 14, 1972 and did not subsequently return to the Orphanage.¹¹⁷

As part of the investigation, the Task Force also reviewed SocialWorker1a's personnel file.

Presence of Bishop2 and Father5 at the Orphanage in December 1970: The St. Joseph's Child Center Chronicles details a visit to the Orphanage at Christmas where a Bishop2a visited and was accompanied by a Father5a.¹¹⁸ This visit occurred when V20 was a resident and it does appear in the Chronicle as V20 described. However, it does not corroborate the sexual assault

¹¹³ See generally, Affidavit of [REDACTED], [REDACTED] file in Criminal Report Source Material titled [REDACTED].

¹¹⁴ See file in Criminal Report Source Material titled [REDACTED].
¹¹⁵ See file in Criminal Report Source Material titled [REDACTED].

[REDACTED] file in Criminal Report Source Material titled [REDACTED].

¹¹⁶ See Affidavit of [REDACTED] at [REDACTED] file in Criminal Report Source Material titled [REDACTED].

¹¹⁷ *Id.* at 525-26

¹¹⁸ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

nor the timeline. Additionally, a Father5b was also was the pastor at Christ the King of Burlington in 1970 and worked as the director of Vermont Catholic Charities from 1957 to 1966.¹¹⁹

BISHOP'S VISIT

21.- Today our Rt. Rev. [REDACTED], paid us the honor of a short visit. Mass was celebrated by our distinguished visitor at four-thirty at which the children, Sisters and some of the employees assisted. In his habitual kind and fatherly manner, he addressed the children and left them the thought "I must not go to heaven alone"..... After Mass he met with the children in the children's parlor. As usual, the smaller ones clamored for his attention, and it was a very good picture of the Good Shepherd with His little flock. Then followed the evening meal in the Sisters' dining room, with a special menu for the occasion. The Bishop was accompanied by Monsignor [REDACTED], Vicar General. May this visit of our beloved Bishop bring peace, joy and happiness to our home and into our lives.

CHRISTMAS JOYS

Christmas commences early at St. Joseph Child Center.

Presence of Sister22 at the Orphanage: though V20 did not allege any abuse by Sister 22, a Sister22a appears to have been at the Orphanage from 1971 to 1972:¹²⁰

	No [REDACTED]	[REDACTED]
Offices des sœurs	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	BURLINGTON: réceptionniste " " -C_hildren's parlor	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	Décédée le [REDACTED]	[REDACTED]

¹¹⁹ See [REDACTED] at [REDACTED], (last visited November 2, 2020).

¹²⁰ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Presence of Sister24 at the Orphanage: There was a Sister1a at the Orphanage from September 1967 to June 1972 and then again from September 1973 to June 1974.¹²¹

In her deposition in a case, Sister1a testified that she stayed at the Orphanage from September 1967 to June 1972 and again September 1973 to June 1974.¹²²

18	Q. What years were you at St. Joseph's?
19	A. I was at St. Joseph's September '67 to June
20	'72, and then back in September '73 to June '74; I
21	left one year to, for a year of study in Montreal.

Some of this time period overlaps with when V20 was a resident.

Allegations Against Sister21: Although V20 did not allege any abuse by Sister21, a Sister2a's presence at the Orphanage seems to be confirmed by records:¹²³

[REDACTED] - [REDACTED] - [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED]

Sister2a was deposed and confirmed her time at the Orphanage.¹²⁴ She denied that any of the residents were physically abused.¹²⁵ She denied seeing or hearing about any sexual abuse of children at the Orphanage.¹²⁶ Sister2a was also deposed in a case.¹²⁷

¹²¹ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

¹²² See Deposition of Sister [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

¹²³ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

¹²⁴ See generally, Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

¹²⁵ *Id.* at p. 43.

¹²⁶ *Id.* at p. 76.

¹²⁷ See generally, Deposition of [REDACTED] at [REDACTED], file in Criminal Report Source Material titled [REDACTED].

Further, in her deposition dated March 24, 1997, Sister2a recalled that a Resident 12a was a child at the Orphanage who wore what she referred to as a back brace.¹²⁸ The except below is from her deposition:

1 Q. How do you remember [REDACTED]
2 A. [REDACTED] helped me in the kitchen.
3 Q. [REDACTED]
4 A. Yes.
5 Q. How do you remember [REDACTED]
6 A. Because [REDACTED] Because [REDACTED] worked
7 with me all the time and [REDACTED]
8 Q. Did [REDACTED] have any physical problems?
9 A. Yes.
10 Q. What was [REDACTED] physical problem?
11 A. I think [REDACTED] wearing a brace.
12 Q. For [REDACTED] back?
13 A. Yes.
14 Q. Do you know why [REDACTED] wore a back brace?
15 A. No.
16

Additionally, in her deposition from August 19, 1998, she similarly recalls a Resident12a¹²⁹:

¹²⁸ See Deposition of [REDACTED] at [REDACTED] in [REDACTED] file in Criminal Report Source Material titled [REDACTED]

¹²⁹ See, Deposition of [REDACTED] at [REDACTED] in [REDACTED] file in Criminal Report Source Material titled [REDACTED]

12 Q. Do you remember any other names? Do you
13 remember a [REDACTED] who wore a back brace?
14 A. Yes, [REDACTED]. Yes, I remember [REDACTED].
15 Q. And [REDACTED] was on the third floor.
16 A. Yes.
17 Q. Why did [REDACTED] have to wear that brace?
18 A. [REDACTED] back, [REDACTED] have a --
19 Q. Something was wrong with [REDACTED] back?
20 A. Yes.
21 Q. Did you have to take special care of [REDACTED]?
22 A. No, no. Just to make [REDACTED] wear [REDACTED] brace.
23 Q. Did [REDACTED] --
24 A. Sometimes [REDACTED] didn't want to.
25 Q. I see. Did it hurt [REDACTED] to wear it, do you

There was also a Sister3a at the Orphanage from 1961-1974, the screenshot below is an excerpt from Sister3a's deposition, where she confirms her dates at the Orphanage.¹³⁰

¹³⁰ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

4

1 A. Good afternoon.
2 Q. Please state your name?
3 A. Sister [REDACTED]
4 Q. Your age, Sister?
5 A. [REDACTED]
6 Q. Your date of birth?
7 A. [REDACTED].
8 Q. What year did you enter the Sisters of
9 Providence?
10 A. 1940.
11 Q. When did you first come to St. Joseph's
12 Orphanage in Burlington, Vermont?
13 A. 1961.
14 Q. How many years were you there, Sister?
15 A. 13 years. I left in '74.
16 Q. What were your duties at St. Joseph's when
17 you left in 1971?
18 A. The [REDACTED] dormitory.
19 Q. Did you maintain that position through
20 1974?
21 A. Except for one year, I have one year of
22 rest in 1970.
23 Q. What is rest?
24 A. Rest. What is rest?
25 Q. One year of what, ma'am?

In that same deposition she admits to using the paddle herself a few times on children, and names other nuns as well.¹³¹

17 A. Yes.
18 Q. What was she using to hit him, Sister?
19 A. A paddle. Call it a paddle. I don't know
20 what you call it. They have the --
21 Q. The kind with the ball that bounces on the
22 end?
23 A. Yes.
24 Q. Were nuns permitted to hit people with
25 paddles?

¹³¹ *Id.* at 14-15, 37-38.

1 A. No. It was against the regulations.
 2 Q. Why would she have had that paddle if it
 3 was against --
 4 A. It was around.
 5 Q. Around where?
 6 A. The boys had used that to play with it. I
 7 guess that is why.
 8 Q. [REDACTED] testified that Sister [REDACTED]
 9 used a paddle and a belt. Did you see a belt?
 10 A. No.
 11 Q. Do you remember whether there was a belt
 12 there or not, one way or the other?
 13 A. No.
 14 Q. Are you saying, no, you don't remember?
 15 A. There was no belt that I know of. Never
 16 saw a belt.

IP
 1 A. I would say only a couple of years until --
 2 you see, I think [REDACTED] came in as a social
 3 worker about two years after I got at the child
 4 center. And then they came out with the
 5 regulation, no spanking, no nothing, no hitting
 6 the children. And I think that was pretty well
 7 observed after that except for --
 8 Q. But you are testifying today you never did
 9 that, is that correct?
 10 A. No.
 11 [REDACTED]: No, you are --
 12 A. No, I am not testifying that I never did.
 13 Q. I don't want to confuse you. Am I correct
 14 in stating that you never engaged in that type of
 15 activity?
 16 A. No. I did.
 17 Q. You did?
 18 A. I did.
 19 Q. You did spank with the paddle?
 20 A. I did use the paddle a couple of times the
 21 first two years, like I was telling you there.
 22 Until we were asked.
 23 Q. Where did you use the paddle?
 24 A. In the hand.
 25 Q. That would be the paddle we are talking

1 about that you bounce the ball with?
2 A. Yes.
3 Q. How would you have them hold their hands,
4 Sister?
5 A. Like (indicating).
6 Q. Flat, with the palm up?
7 A. Yes.
8 Q. Did you ever hit them on the knuckles?
9 A. No, never.
10 Q. You are sure?
11 A. I am positive.
12 Q. And then you stopped that activity in 19 --
13 well, couple of years after you got there because
14 of the new regulation?
15 A. Right.
16 Q. Do you know if any of the other nuns did it
17 up until 1963 or -4, whenever [REDACTED] got
18 there, whatever that date might be?
19 A. No. I didn't see anybody hit, using the
20 paddle on the children after that.
21 Q. Prior to that?
22 A. Like myself.
23 Q. Yes?
24 A. Yes, I did myself.
25 Q. And any other nuns like, let me go through

Sister3a does not claim to have participated in forcing children to eat, but she claims to have heard about it happening.¹³² She denied knowing whether a particular nun formed a resident to eat their oatmeal after they vomited it up.¹³³

¹³² *Id.* at 10.

¹³³ *Id.* at 28.

20

1 A. I was told one morning, I didn't see it,
 2 one morning she had to force a [REDACTED] to eat his
 3 oatmeal and to slap him if he didn't eat it. But
 4 someone reported that to me. I didn't see her do
 5 it.

6 Q. Who reported that to you?

7 A. One of the counselors, a seminarian.

8 Q. Did you ever hear of Sister [REDACTED]
 9 forcing somebody to eat their oatmeal after they
 10 had vomited it up?

11 A. No.

12 Q. Do you know that if that happened at all
 13 or are you saying --

14 A. I don't know if it did happen.

15 Q. Did you feel at times Sister [REDACTED] was too
 16 strict?

17 A. Yes.

18 Q. Why?

19 A. It was requiring a lot of the [REDACTED] There
 20 were young ones in there and you had to -- to me
 21 she was too strict. For example, the beds had to
 22 be so-so. And I wasn't that strict. You know,
 23 they made their bed, that was okay. To me, the
 24 bed were made, and that is the way I thought she
 25 was stricter.

Sister3a denied knowing of sexual abuse occurring at the Orphanage beyond one incident that occurred with a lay employee.¹³⁴

Allegations Against Sister21and Sister25: In her deposition, a Sister1a also identified a Sister3a and a Sister2a as present during her tenure at the Orphanage.¹³⁵

3 A. Sister [REDACTED] was there. Sister
 4 [REDACTED] Sister [REDACTED].

5 Q. Sister [REDACTED]. Anybody else come to mind?

6 A. Sister [REDACTED] [REDACTED]. And some
 7 are dead; Sister [REDACTED] is dead, Sister [REDACTED] is
 8 dead, [REDACTED], [REDACTED] is dead. Sister
 9 [REDACTED] is at [REDACTED]. [REDACTED]

¹³⁴ *Id.* at 8-13; 24.

¹³⁵ *Id.* at 24, 26, 73.

11 | Q. Do you remember Sister [REDACTED] ?
12 | A. Yes.
13 | Q. What was her, what was her station at the
14 | Orphanage? What did she do?
15 | A. I think she has the [REDACTED] department.

In her deposition, Sister1a denied any physical abuse beyond admitting to slapping the two residents in the face and stated it was not appropriate.¹³⁶ She denied any physical abuse with objects and the taunting/mockng of residents as punishment.¹³⁷

Presence of Sister26 at the Orphanage: Though V20 did not allege any abuse from Sister26, the St. Joseph's Child Center Chronicles prepared by the Sisters does corroborate a Sister26a's presence at the Orphanage.¹³⁸

ARRIVAL | 19.- Today we welcomed Sister [REDACTED] who will
: assist Sister [REDACTED] in the boys' department.
: Several of us know of this Sister's zeal and untiring efforts
: with the children, therefore, it is with pleasure that we
: greet her. Welcome, dear Sister, to our home.

Case Analysis & Outcome: No criminal charges to be filed, as potential crimes are barred by the statute of limitations.

¹³⁶ See *id.* at 45-46.

¹³⁷ See *id.* at 44-46, 53-54, 74-75.

¹³⁸ *Id.* at 1.

Victim: V21

Contacted Law Enforcement: Contacted the AGO in February 2019. Met with BPD on March 14, 2019.

Dates at St. Joseph's Orphanage: Vermont Catholic Charities could not locate a file or index card for this resident. V21 reports being at the Orphanage from 1953 to 1954.

VCC Resident File Reviewed: No file or card

DCF Placement: Yes. Committed to DSW custody on August 29, 1951.

Allegations: On March 14, 2019, Detective Michael Beliveau spoke with V21 and V21 reported the following. V21 said that V21 was at the Orphanage with V21's sibling, V21-Sibling1. V21 provided a letter that V21-Sibling1 had written about the Orphanage.¹³⁹ V21 explained that V21 went to Montpelier after V21 found V21's birth parents to obtain information from their records. V21 said V21 did not remember V21-Sibling1 until much later in life. V21 recalled that V21 was at the Orphanage from the beginning of 1953 to the middle of 1954. V21 remembered that V21 left to be adopted in the summer of 1954 and was unsure whether V21-Sibling1 left the same summer or the following summer.

V21 said was V21 very young and had blocked out a lot of memories of V21's time at the Orphanage. V21 asserted that V21 only remembered two things clearly, one of which has become a recurring nightmare for V21. V21 explained that V21 was sick with the measles (or something similar) and had to be separated from everyone else. V21 recalled that a common practice in the Orphanage was to isolate children in dark rooms without lights or windows. V21 specified that this was used for both illness and punishment. V21 recalled that V21-Sibling1 tried

¹³⁹ See generally, file in Criminal Report Source Material titled [REDACTED]

to get into the room to see V21 on multiple occasions, but V21-Sibling1 was not allowed. Eventually, V21 said, V21-Sibling1 managed to convince the nuns to let V21-Sibling1 in.

The second incident V21 recalled was when V21 and V21-Sibling1 tried to run away from the Orphanage. V21 said this was on Christmas Eve of 1953. V21 explained that they had heard their mother was now living out of state. V21 said V21-Sibling1 made V21 put food in V21's pockets, which was against the rules, and then woke V21 up late at night. V21 remembered that they put on all their clothes and went out into a snowstorm. V21 said that eventually it dawned on V21-Sibling1 that this might not be the best idea and that they knocked at the door of a house nearby. V21 recalled that the man made them hot cocoa and put them by the fire before calling the Sherriff to come get them. V21 said that the Sherriff took them back to the Orphanage and that once they got back, the nuns split the siblings up for good.

V21 claimed that V21's main complaint against the Orphanage was neglect and being split up from V21-Sibling1. V21 said the nuns separated them within the Orphanage from the very beginning. V21 does not think V21 was physically abused. V21 says there are some questionable things related to V21-Sibling1's experiences. V21 said that V21 and V21-Sibling1 both knew what punishment meant: being locked up in a dark room. V21 said V21 does not remember whether this happened to V21 often. V21 said V21 only remembers being confined once, when V21 was sick, but that V21-Sibling1 references it a few times. V21 indicated, however, that V21 must have been separated from others a lot, because when V21 was adopted, V21's biggest fear was being left alone in a room V21 couldn't get out of. V21 said that V21 blocked a lot of it out.

V21 also said that the children were not watched or supervised. V21 said things would happen and there was no one monitoring.

When prompted, V21 explained that the biggest problem with the Orphanage was a lack of “TLC.” V21 explained that the general feeling was: “You’re on your own.” V21 indicated they often went hungry. V21 said it was strange because V21-Sibling1 talked often about the kitchen and that the Orphanage had a huge kitchen. V21 indicated the nuns only housed them, they did not care for them. V21 said that V21 did not remember any of the nuns or other children specifically.

V21 indicated that even when V21 was subsequently sent to Catholic school, they never had nice priests. V21 recalled a story where a nun picked up a 7th grade boy and threw him into the blackboard, cracking his skull open. V21 indicated that the nun was subsequently retired. V21 could not recall the nun’s name. V21 indicated this occurred at St. Mary’s School in Saint Albans.

V21 indicated V21-Sibling1 learned how to work around the system, to avoid being isolated in dark rooms. V21 learned how to be useful to the nuns in order to avoid punishment. V21 talked about their time before going to the Orphanage. V21 mentioned that their mother paid a woman to look after them who subsequently abused V21-Sibling1. V21 explained that the State subsequently pulled them out of that situation and that is how they ended up going to the Orphanage.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed, as potential crimes are barred by the statute of limitations.

Victim: V22

Contacted Law Enforcement: On September 21, 2018, V22 met with BPD Detective Michael Beliveau and Detective Dalla Mura for an interview.

Dates at St. Joseph's Orphanage: July 6, 1963, to October 12, 1963

VCC Resident File Reviewed: Yes

Allegations: On September 11, 2018, Detective Dalla Mura and Detective Beliveau met with V22 at V22's residence. V22 swore at the beginning of the interview that everything V22 was about to say was the truth.

V22 couldn't remember exactly when V22 was in the Orphanage but believed it was when V22 was about seven years old and was at the Orphanage in during the 1960's. V22's mother needed medical care following a head injury and that was why V22 and V22's two siblings, V22-Sibling1 and V22-Sibling2, were placed at the Orphanage. V22 was unsure of the exact length of time V22 was in the Orphanage, but believed it was more than a couple of years.

V22 recalled two nuns that V22 perceived to be in charge at the time; one as "big and fat" and the other as "tall and skinny." V22 described a third female that would sit with the girls during the night. V22 said that female was only there during the summer months.

V22 remembered hearing girls screaming in the night and remembered being thrown onto V22's bed but could not provide further details. V22 recalled being kicked once by the "fat nun" because V22 brought crackers upstairs out of the normal routine. After V22 was kicked, V22 remembered having a significant bruise on V22's left hip. The third female that was present

during the summer months took V22 to the doctor at the Orphanage because of the bruising. V22 believed this person was trying to help V22.

V22 would frequently sneak over to V22's little sibling, V22-Sibling2, but would get into "a lot of trouble" when V22 was caught. V22 said V22 would get "smacked" by whatever the nuns had in their hands, to include a leather strap and a broom. V22 felt like V22 was always in trouble.

Once a week, V22 had to dust a large room as well as a hallway and then V22 would have to mop the floors. Some of the other chores V22 was tasked with were to serve milk to girls and scrub and clean large kitchen pots. V22 started to wet V22's bed while at the Orphanage and the nuns made V22 hand scrub V22's linens on a washboard.

V22 recalled the nuns telling V22 stories about another nun that had lied and when the nun took a drink of water she burnt to death. The nuns would also say their parents were never coming back for them. V22 did not recall being sexually abused but explained that the smell of women was revolting to V22.

V22 heard from other residents about a box that they would lock kids in if they misbehaved. V22 described being at the dining room table and the nuns would grab a misbehaving child and shake them while yelling at them. V22 would keep V22's head down in an attempt to avoid attention.

V22 mentioned there being a rowboat at the shore in front of the Orphanage. V22 heard that a kid was taken out in the boat, thrown into the water and never returned. V22 was told by the nuns that they could make you disappear but was primarily told by other children about the boy being taken out in the boat and never returning.

The nuns made children lay in bed at night facing to the left and if they did not or if they moved, the nuns would hit them. V22 said the nuns would sit there all night and watch them. V22 advised V22 “stopped hearing” at some point while V22 was at the Orphanage and believed it was because of the trauma.

V22 attempted to report the abuse to the Bellows Falls Police Department in 1999.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V23

Contacted Law Enforcement: Initial contact with BPD Portal on September 12, 2018, by V23-Niece1 who was interviewed by Detective Felicciardi that same day.

Dates at St. Joseph’s Orphanage: February 19, 1943 to August 2, 1948. V23 reports being there until approximately 1953.

VCC Resident File Reviewed: Yes

Allegations: On September 12, 2018, Detective Felicciardi met with V23-Niece1 about the abuse that occurred at the Orphanage. V23-Niece1 submitted a report on behalf of V23, with V23’s permission. V23-Niece1 advised V23 had early onset Alzheimer’s and the family had

concerns about V23 being triggered if interviewed about what happened. Detective Felicciardi explained to V23-Niece1 that V23 would only have to speak with Detective Felicciardi if V23 wanted to. During the interview, V23-Niece1 advised V23 told V23-Niece1 a few years prior, after learning what V23-Niece1 did for work, that V23 had been sexually abused at the Orphanage. V23-Niece1 said V23 was born in 1934 and was in the Orphanage from approximately 1943 through 1947, when V23's older sibling, V23-Sibling1, took V23 to live with V23-Sibling1.

V23-Niece1 said throughout V23's life, V23 did not speak of the abuse, but repeatedly told family members how V23-Sibling1 saved V23's life. V23-Niece1 advised that when the news story came out, V23 offered to share what happened to V23. V23-Niece1 said V23 told V23-Niece1 that all the children (V23 was around eight years old) slept in one large room in the Orphanage separated by gender. There was a caretaker who had a room attached to the large room. V23-Niece1 said V23 told V23-Niece1 that every night, the caretaker would bring a different boy into the caretaker's room, where they were subsequently sexually abused. V23-Niece1 said V23 told V23-Niece1 that V23 was sexually abused more than once, if not often. V23 also told V23-Niece1 that V23 had been whipped with a whip, as well as had "other things" done to V23. V23-Niece1 did not ask any further detail about any of this abuse, nor did V23 go into any.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V24

Contacted Law Enforcement: Initial contact with the BPD Portal on September 17, 2018 by Friend1, who is a friend of V24, a former resident of the Orphanage. V24, along with V24-Friend1, met with BPD Detective Michael Beliveau and Officer David Bowers on September 18, 2018, for an interview.

VCC Resident File Reviewed: No materials could be produced by Vermont Catholic Charities confirming resident's dates at the Orphanage. V24 reports being there from approximately 1952 to 1956.

Allegations: On September 18, 2018, Officer Bowers and Detective Beliveau interviewed V24 at the Essex Police Department. V24 swore at the beginning of the interview everything V24 was about to say was the truth. Also present was V24-Friend1.

V24 resided at the Orphanage between the age of 5 and 10 years old, approximately between 1952-1957. V24 is unsure of exact dates. While at the Orphanage, V24 reported being hit by the nuns with rulers on V24's knuckles. V24 said the nuns would slap and push the kids around and make kids sit in the corners of a room for hours. V24 said V24 was not sexually abused at the Orphanage but V24 was while at a foster home after V24 left the Orphanage. V24 did not recall hearing stories of kids dying at the Orphanage.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8262: Cruelty to a Person – By person having custody.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V25

Contacted Law Enforcement: Initial contact with BPD on September 12, 2019 and on September 14, 2019 V25 was interviewed by Detective Elizabeth Felicciardi.

Dates at St. Joseph’s Orphanage: September 27, 1962 to March 22, 1963

VCC Resident File Reviewed: Yes

Allegations: On September 14, 2018, Detective Felicciardi met with V25 and interviewed V25 regarding V25’s experiences at the Orphanage.

V25 advised that V25 was at the Orphanage from June through December of 1961, when V25 was 3.5 years old. V25 said V25 and V25’s siblings were taken from their mother when V25’s father suffered a “mental breakdown.” V25 advised that V25 and V25’s siblings were at the Orphanage during the week and returned home to their mother on weekends, until V25’s mother was financially stable enough to care for the children.

V25 said that during V25’s first day at the Orphanage, V25 was “ripped” by V25’s hair from off of a bouncing rocking horse. V25 said V25 witnessed V25-Sibling1 being thrown, kicked, and beaten; V25 said V25 also witnessed the nuns dunking V25-Sibling1’s head in a

bathhtub of hot water. V25 described a play area surrounded by a chain-link fence where V25 witnessed a boy, who V25 repeatedly referred to as Resident14, throw his shoe on the roof and was subsequently beaten by a nun. V25 said on another occasion, Resident14 was playing on a statue in the chapel. V25 said the statue was very high up and Resident14 fell, and one of the nuns blamed it on V25. V25 advised V25 never saw Resident14 again. V25 said on one occasion, two nuns took V25 out in a rowboat at night and had a bag with them. V25 said the nuns threw the bag into the lake and told V25 that's what would happen to V25. V25 said V25 never saw Resident14 again and began crying and said V25 still wondered what happened to Resident14.

V25 said at one point, V25 and V25's mother went back to the Orphanage to ask about V25's records and initially they were unable to produce V25's records but had the records of V25's three siblings. Eventually, V25 obtained V25's records.

Named Assailants: None

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V26

Contacted Law Enforcement: On September 11, 2018 V26 met with Detective Krystal Wrinn for an interview on September 12, 2018.

Dates at St. Joseph's Orphanage: November 1945 to January 19, 1951, again August 1952 to December 11, 1952

VCC Resident File Reviewed: No

Allegations: On September 14, 2018, Detective Krystal Wrinn interviewed V26 about V26's experience at the Orphanage. V26 swore everything V26 was reporting was the truth.

V26 advised V26 was approximately two years old when V26 first came to the Orphanage. V26 was placed there in approximately 1945 because V26 mother was unable to take care of V26. V26 advised V26 left the Orphanage when V26 was approximately 8½ years old, when V26 went to a foster family. V26 did not have any other siblings at the Orphanage; however, V26 had best friends, Resident15, Resident16, and Resident17. V26 also knew twin boys there but could not recall their names.

When V26 was told to do something at the Orphanage, V26 obeyed. V26 also explained you could not have anything, as other children would take your items or other children would tell on you if you did something you should not have been doing. V26 provided an example: one day V26 was using the slide while playing and a pin V26 was wearing kept falling off. V26 stated V26 thought V26 put the pin in V26's mouth and when V26 got to the end of the slide V26 could no longer find the pin. One of the children told on V26 and a nun took V26 to the lay lady at the Orphanage, where V26 was placed in a room alone. In the room, V26 could see the other children were swimming that day. While in the room, three older children came in and tried to put V26 in a food elevator, which V26 resisted, so they put V26 in a closet with a mouse trap.

The older children told V26 that V26's friend, Resident16, had been put in a gunny sack and had drowned. V26 stated V26 did not know how long V26 had been in the closet but V26 had been released for dinner. V26 eventually saw Resident16, who advised Resident16 had been in the infirmary.

One time, the lay lady took V26 to the bathroom, where she told V26 she was going to flush her down the toilet and V26 responded by asking how V26's head was going to fit in the toilet. V26 advised the lay lady did not put V26 in the toilet. V26 also described a time where V26 was in class, where they were lining up to leave and V26 saw something shiny on the nun's desk and took it, as V26 was curious as to what it was. V26 took it back to V26's bedroom and someone reported it to a nun. V26 was then taken by a nun to the basement where they washed the sheets and the nun told V26 that V26 was going to hell and was going to be ripped apart. V26 advised the shiny object that V26 took was staples.

V26 advised sometime, when V26 was approximately five or six years old, after Thanksgiving, V26 became sick and V26 remembered a week later V26 woke up in a bed, with a nun in the doorway. V26 advised V26 had a cross on V26's chest and the nun told V26 she did not think V26 was going to make it. However, V26 questions what had happened to V26 during that week and why V26 had not been sent to the hospital. V26 advised V26 had bad memories of someone who eventually became a nun known as Sister27. One time, as an adult, V26 saw Sister27 in Iowa and it brought up a lot of bad memories.

V26 advised V26 never witnessed a murder. However, if V26 had never seen Resident16 after what V26 had been told, V26 would have assumed Resident16 had been killed.

On September 15, 2018, V26 left a voicemail for Detective Wrinn with Sister27's name and spelling. V26 also sent an email clarifying information on the names V26 had provided. In V26's email V26 advised the following:

I did find the correct spelling for [Sister27]. She became a carmelite nun & took the name [Sister27]. [Resident16] is the friend who I was told was put in a gunny sack & was thrown into the lake & drowned. I believe [Resident16] may have been put into the gunny sack. I'm not certain for sure. I vaguely remember [Resident16] telling me after I asked [Resident16]. [Resident16] did say [Resident16] was in the infirmary the day I had my ordeal with the older women & teenagers. [Resident16] came to dinner the very next evening. The teenagers first tried to put me in a dumbwaiter but couldn't get me into it so they put me in the closet which was located in the same room. I believe these teenagers were told to do this by the older women because it was soon after she left that these kids came into the room where I was staying. (I wanted to clear up the name of what the girls tried to put me in which was a dumbwaiter) I believe [Resident18]. I worked with a [person] by the same name & I always had trouble trying to keep from calling [that person] Resident18. I could still have the names mixed up. I do have a picture of everyone I told you about. This picture was taken before the boys were separated from the girls. I hadn't looked at this picture in years. We were all so cute. It would be so sad if any of these kids suffered abuse of any kind.¹⁴⁰

Named Assailants: None.

¹⁴⁰ See file in Criminal Report Source Material titled [REDACTED]

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody.

Relevant Documents:

The screenshot below is from the St. Joseph’s Children’s Center Chronicles, a document prepared and signed by the nuns from the Orphanage.¹⁴¹ There have been many allegations that children drowned, or children were left alone whilst swimming in the lake. Though this does not corroborate any neglect or abuse, it does provide corroboration for the fact that the nuns took the children swimming in Lake Champlain.

```
SUMMER      :
OUTINGS     :
            :
            :   As in the preceding years, the children have been
            :   favored with many outings sponsored by kind benefactors and
            :   generous societies of this area. Among these tours was a
            :   visit to New York State by the Lake Champlain ferry where
            :   children's parks of entertainments were enjoyed; a circus,
            :   the King Brothers, a three ring circus, on the fairgrounds in
            :   Essex Junction, Vermont; picnics taken by bus where food and
            :   cold drinks were plentiful; public movies at a local theater,
            :   free of charge; and when the weather permitted daily "Cook-
            :   outs" on the grounds with an evening dip in the near-by lake.
            :   We feel that these children who were not permitted to go home
            :   for the vacation, either because the parents work or for lack
            :   of space, etc., had a very happy vacation with seldom a dull
            :   moment. Divine Providence and good St. Joseph saw to this!
            :
```

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V27

Contacted Law Enforcement: Contacted by BPD Detective Michael Beliveau on June 5, 2019.

Dates at St. Joseph’s Orphanage: June 20, 1961 to September 10, 1962

¹⁴¹ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

VCC Resident File Reviewed: Yes

Allegations: On June 5, 2019, V27 spoke with Detective Beliveau about V27's experiences at the Orphanage and reported the following. V27 and V27's sibling, V27-Sibling1, were at the Orphanage for approximately two years. V27 indicated V27 left the Orphanage in the summer after V27 completed the fifth grade. V27 did not recall being there when V27 was in the first grade, and thought it was most likely during the third, fourth, and fifth grade.

V27 recalls two siblings, Resident19 and Resident20, and Resident 19 was in a full body cast. V27 recalls an instance where Resident19 was involved in an altercation with a nun that resulted in the Resident being thrown down a staircase. V27 remembers them fighting on the landing between the first and second floor. V27 thought their mother was present and wanted to take them out of the Orphanage but was not certain. The nun and the Resident19 were slapping each other and pulling each other's hair. The unidentified nun then threw Resident19 down the staircase. V27 said the nun's name could have been Sister28, though V27 was not certain. V27 described Sister28 as tall and skinny. V27 stated Sister28 once slapped V27 in the face. V27 stated Sister28 had told everyone to be quiet, but V27 had not heard. When V27 did not quiet down, Sister28 struck V27 in the face.

V27 also described systemic and repeated abuse from the teacher. Any time the children were not paying attention, the nun would grab them by the arm and pull them out of the chair. She would also hit them with a wooden ruler. V27, who suffers from attention deficit disorder, said this happened to V27 frequently.

V27 stated that V27 was one of the people who helped in the chapel. V27 described a nun V27 thought might have been named Sister29 who had strawberry blonde hair, or maybe a little darker. Sister29 brought V27 down to Father6's quarters to serve his dinner. V27 would get the

dinner cart, set the table, put the food down, clear off the table afterwards and clean any crumbs that fell on the floor. Father6 did not pay any attention to V27 while he ate. V27 indicated V27 only did this three times because V27 refused after the third time.

That evening, V27 stated V27 was in Father6's quarters later than usual for some reason. When V27 was returning the cart from Father6's, V27 was approached by a nun V27 had never seen before. V27 stated V27 did not know who the woman was. The nun took V27 into a storage room on the first floor, past the dining room on the right-hand side. The nun had a key to the storage closet in question. V27 stated that the woman sexually assaulted V27. V27 said that the woman reached under V27's shirt and pulled down V27's pants. The woman made it seem like V27 needed to check V27 for something. V27 stated the nun did not force V27 to touch her. The nun pinched V27's genitals repeatedly, or so V27 thought. V27 expressed that V27 did not look down to see what the nun was doing because V27 was embarrassed, but that it felt like the nun was pinching V27. V27 also said the nun sexually assaulted V27 with her fingers. V27 said that the nun told V27 not to tell anyone and that it would only be worse next time if V27 did. V27 remembers a burning sensation when V27 urinated following the assault.

V27 stated that V27 did not know who this nun was and did not think V27 had seen her before. V27 said V27 thought this nun might have worked with the younger children, and V27 might have crossed paths with V27 when they interacted with the younger children but was not certain. V27 said V27 might remember seeing her with a young girl with blonde hair who was partially bald, but that they did everything with their own age group and V27 did not see the younger kids much.

V27 said V27 heard that something was happening to other children. V27 said V27's older sibling, V27-Sibling1, told V27 this. V27 stated that V27 had several half-siblings. V27-

Sibling1 had the same last name as V27. V27-Sibling1's birthday was in January 1957, but V27 could not recall the exact date. V27 said that, much later in life, V27-Sibling1 told V27 stories about being sexually abused. V27-Sibling1 said a nun would regularly take V27-Sibling1 to a closet where they stored linens. V27 reported that V27-Sibling1 said the nun assaulted V27-Sibling1 and that she would treat V27-Sibling1 "like" V27-Sibling1 was "grown." V27 said V27 did not want to know more. V27 also stated that V27-Sibling1 still lives in Vermont and that V27-Sibling1 suffers from mental illness. V27 said V27-Sibling1 had already spoken to multiple people about V27-Sibling1's experience at the Orphanage.

V27 stated that the mother of one of V27's half-brothers lived at the Orphanage many years prior to V27 and told V27 that she liked it and that nothing bad happened to V27 there.

V27 reported another incident where V27 was made to change V27's clothing in front of several people. V27 said the nuns made V27 go out in front of everybody in undergarments. V27 said the first time V27 changed into the undergarments, V27 was allowed to use the bathroom. However, when the clothing did not fit V27 properly, the nuns made V27 change in the room in front of everyone. V27 stated there were at least two or three sisters in the room when this occurred.

V27 reported that V27's sibling, V27-Sibling2, said nothing ever happened to V27-Sibling2. V27 also said V27's eldest half-brother did not go to the Orphanage because he stayed with their grandmother. V27 said another one of V27's half-brothers stayed with his mother's family. V27 also reported having a sibling, V27-Sibling3. V27 said V27-Sibling3 does not speak to any of them and that V27 does not know if V27-Sibling27 went to the Orphanage, but that V27 could ask V27-Sibling1 and report back to Detective Beliveau. V27 reported that they were not allowed to see their siblings at the Orphanage. V27 also said that boys were confined to one

side of the Orphanage and girls to the other. V27 only left the Orphanage when V27's mother remarried.

V27 reported another incident when they went to the lake to go swimming. V27 did not hear the sisters call them back to shore and V27 was out in the lake alone. V27 could not swim and there was no one around to yell to for help. V27 stated V27 does not know how V27 got out so far into the lake, but that V27 was out there alone for a long time. V27 stated that V27 nearly drowned but eventually made it back to shore. When V27 made V27's way back to the picnic area and found V27's group, V27 was punished for being late. V27 was denied lunch. V27 also said the nun pulled V27 by the ear and made V27 sit under a picnic table alone. V27 said V27's ear was bleeding because the nun had pulled on it so hard. V27 remembers that no one was allowed to speak to V27, and that V27 cried loudly but no one acknowledged V27.

V27 also remembered asking when V27 could go home to V27's family and being told that V27 could go home if V27's mother wanted V27 home or wanted to see V27, and that V27's mother did not have the money to bring V27 home. V27 also recalled that there were no organized activities or supervision, and the children were left outside to play. A dirt road separated the boys and girls play areas and they were not allowed to cross the road.

V27 recalled that all the food was something like a casserole. There was no "separate" food. V27 said they would occasionally get oranges, apples or bananas. They were not allowed to take food out of the dining room, get second helpings, speak during meals, or leave anything on their plates. V27 recalled some of the food being raw or uncooked, and said they were expected to eat it all regardless. V27 spoke of one instance where a nun force-fed V27 by shoving a forkful of food into V27's mouth, leaving V27's lip bruised.

V27 described an event where someone beat V27 for sleeping on top of V27's sheets. V27 said they would do rounds during the night and found V27 sleeping on top of the sheets. The person dragged V27 out of bed and threw V27 to the ground. V27 said the person then kicked V27 under the bed, accusing V27 of trying to avoid making V27's bed in the morning. V27 never knew who did this because it was dark and V27 could not see them.

V27 recalled not being allowed to talk amongst themselves or with anyone else about things that occurred inside the Orphanage. V27 said the nuns would tell them that things could get worse.

V27 talked about Resident21 specifically who was "picked on" by the sisters nearly every night when they did their bed checks because Resident21 would pull the covers over Resident21's head. V27 said the beds were lined up around the room and there was a dresser between each bed. Each child had either the top two drawers or the bottom two drawers. V27 said Resident21 was across from V27 and down to the right. One particular night, the child who slept beside V27 tried to help Resident21. The nuns dragged the child out of bed as well. V27 said V27 was not certain what they did to Resident21, but that they twisted Resident21's arm. V27 remembers Resident21 crying all night. The next day, no one was supposed to speak to Resident21.

V27 recalled a final event that occurred at Battery Park. V27 said they all had ice cream and one girl dropped her ice cream down her shirt and on the ground. V27 described that someone punished the girl, but stood very close to the girl so no one could see what was happening. V27 said it looked like someone was jabbing the girl in the chest.

V27 stated that V27 had never spoken to law enforcement or received a settlement for anything that happened at the Orphanage. V27 said that no one has ever contacted V27, and that

V27 has been out of Vermont since the age of fifteen. V27 said V27 found out about the investigation on the news and subsequently called to say they had lived at the Orphanage.

Named Assailants:

- 1) Sister28
- 2) Sister29

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Presence of Father6 at the Orphanage: a Father4a was the Assistant Director at Vermont Catholic Charities from 1959 to 1966 and therefore would have been involved at the Orphanage at the time V27 was at the Orphanage.¹⁴² The resident file provided by Vermont Catholic Charities revealed he worked directly with the residents as a social worker during his employment with them.¹⁴³ Additionally, residents at the Orphanage report being tasked with bringing priests meals in their private rooms.¹⁴⁴ Father4a in a deposition denied knowing about widespread abuse at the Orphanage, including sexual abuse.¹⁴⁵

The screenshot below is from the St. Joseph’s Children’s Center Chronicles, a document prepared and signed by the nuns from the Orphanage.¹⁴⁶ There have been many allegations that

¹⁴² See *id.*

¹⁴³ See [REDACTED] at [REDACTED], [REDACTED] (last visited November 2, 2020).

¹⁴⁴ See allegations in V20.

¹⁴⁵ See generally, Deposition of [REDACTED] in [REDACTED], [REDACTED], file in Criminal Report Source Material titled [REDACTED].

¹⁴⁶ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

children drowned, or children were left alone whilst swimming in the lake. Though this does not corroborate any neglect or abuse, it does provide corroboration for the fact that the nuns took the children swimming in Lake Champlain.

SUMMER
OUTINGS

As in the preceding years, the children have been favored with many outings sponsored by kind benefactors and generous societies of this area. Among these tours was a visit to New York State by the Lake Champlain ferry where children's parks of entertainments were enjoyed; a circus, the King Brothers, a three ring circus, on the fairgrounds in Essex Junction, Vermont; picnics taken by bus where food and cold drinks were plentiful; public movies at a local theater, free of charge; and when the weather permitted daily "Cook-outs" on the grounds with an evening dip in the near-by lake. We feel that these children who were not permitted to go home for the vacation, either because the parents work or for lack of space, etc., had a very happy vacation with seldom a dull moment. Divine Providence and good St. Joseph saw to this!

Presence of Resident19 at the Orphanage: in her deposition dated March 24, 1997, Sister2a recalled that a Resident12a was a child at the orphanage who wore what she referred to as a back brace.¹⁴⁷ The except below is from her deposition:

1 Q. How do you remember [REDACTED]
2 A. [REDACTED] helped me in the kitchen.
3 Q. [REDACTED]
4 A. Yes.
5 Q. How do you remember [REDACTED]
6 A. Because [REDACTED] Because [REDACTED] worked
7 with me all the time and [REDACTED]
8 Q. Did [REDACTED] have any physical problems?
9 A. Yes.
10 Q. What was [REDACTED] physical problem?
11 A. I think [REDACTED] wearing a brace.
12 Q. For [REDACTED] back?
13 A. Yes.
14 Q. Do you know why [REDACTED] wore a back brace?
15 A. No.

¹⁴⁷ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

Additionally, in her deposition, she similarly recalls a Resident12a¹⁴⁸:

12 Q. Do you remember any other names? Do you
13 remember a [REDACTED] who wore a back brace?
14 A. Yes, [REDACTED]. Yes, I remember [REDACTED]
15 Q. And [REDACTED] was on the third floor.
16 A. Yes.
17 Q. Why did [REDACTED] have to wear that brace?
18 A. [REDACTED] back, [REDACTED] have a --
19 Q. Something was wrong with [REDACTED] back?
20 A. Yes.
21 Q. Did you have to take special care of [REDACTED]?
22 A. No, no. Just to make [REDACTED] wear [REDACTED] brace.
23 Q. Did [REDACTED] --
24 A. Sometimes [REDACTED] didn't want to.
25 Q. I see. Did it hurt [REDACTED] to wear it, do you

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V28

Contacted Law Enforcement: Originally reported allegations to the AGO during the investigation conducted in the 2000's and spoke with former AGO Criminal Investigator Peter Bottino.

Dates at St. Joseph's Orphanage: September 2, 1969 to November 27, 1972

VCC Resident File Reviewed: Yes, resident # not listed in Vermont Catholic Charities' file.

DCF Placement: DSW referred V28 to the Orphanage in 1969.

¹⁴⁸ See, Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

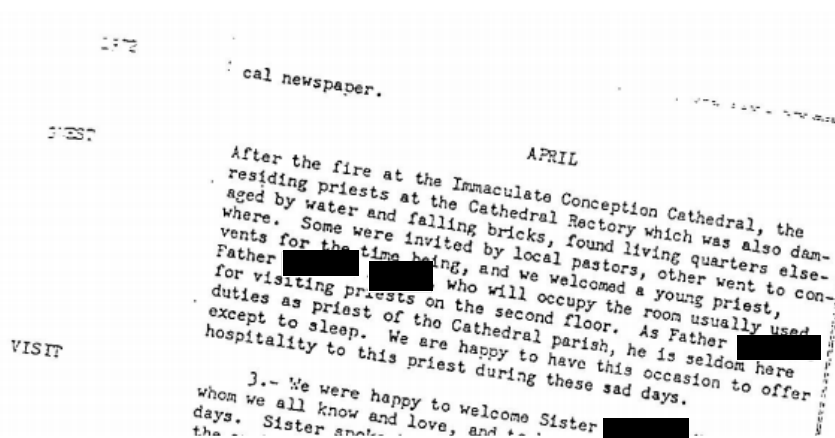
Allegations: V28 told Investigator Bottino V28 was at the Orphanage in 1968. V28 explained there was a priest at the Orphanage named Father7. Father7 would take kids from the Orphanage to a camp in Waitsfield, VT. V28 had gone to this camp in Waitsfield with Father7 when V28 was about 11 years old. V28 said V28 was molested by Father7 numerous times (touching of genitals) for the period of one year. V28 added Father7 had brought other children to the camp as well. V28 said there was another camp in Mallets Bay, Camp Terra, where other children were brought to by Father7.

Named Assailants: Father7

Potential Crimes: 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Allegations Against Father7: St. Joseph's Children's Center Chronicles confirms a Father1a's arrival at the Orphanage in 1972.¹⁴⁹



Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

¹⁴⁹ See file in Criminal Report Source Material titled [redacted] at [redacted].

Victim: V29 by V29-Daughter1

Contacted Law Enforcement: Initial contact with the BPD Portal on September 10, 2019 by V29-Daughter1, daughter of V29. V29-Daughter1 spoke with Detective Rene Young on September 12, 2018 about V29's experiences at the Orphanage. V29 died in 2012 but spoke about V29 time at the Orphanage with V29's family.

Dates at St. Joseph's Orphanage: January 12, 1942 to August 5, 1944

VCC Resident File Reviewed: Yes

Allegations: On September 12, 2018, Detective Young spoke with V29-Daughter1, who was reporting on behalf of V29-Daughter's late parent, V29. V29-Daughter1 promised, at the beginning of the interview, to tell the truth and the whole truth through the pains and penalties of perjury.

V29-Daughter1 said that V29's mother died in the late 30's and V29 was left to live with V29's alcoholic father and V29's four siblings. V29's father was unable to handle the children between his job at VT Railway and his drinking, so they were brought to St Joseph's. V29-Daughter1 said V29 never spoke of V29's time at the Orphanage until way later in V29's life. V29-Daughter1 said that in 1977 V29-Daughter1 attended UVM for college and V29 would come visit her. V29-Daughter1 said that V29 would want to drive by the Orphanage and stare at it, one time going to the door and being refused when V29 asked to come in. V29-Daughter1 said that this was when V29 began to talk about the abusive nuns and how they had thrown V29 in the lake as a little child, making V29 swim or V29 would have drowned.

V29-Daughter1 said that one of the times V29-Daughter1 drove by with V29, V29 pointed up to where they would sleep and told her that if they got out of bed during the night, they were beaten. Another time, V29 recalled looking out the window at night and saw someone parked in the street when a man got out of the car, took something out of the trunk and buried it. V29-Daughter1 said that V29 told V29-Daughter1 that V29 reported this, and it helped solve a case, and V29 was so proud of this. V29-Daughter1 said she had no clue if this had any merit or any other details on this story.

V29-Daughter1 said in 2009-2010, V29 made a comment about killing V29 if V29 were ever to get a terminal illness. This caused them to refer V29 to a psychiatrist, where V29 began to speak more about what had happened while V29 was at the Orphanage. V29-Daughter1 said that V29 would speak to V29-Daughter1, her husband and V29's partner about how mean the nuns were, how abusive they were and talk about having marks left behind on V29. V29-Daughter1 said V29 would also say the nuns would beat them with rosaries.

V29-Daughter1 said V29 would tell a story about a young boy who spilled something at dinner time and he was made to scrub the floors on his hands and knees. The boy apparently had raw infected knees from this, as he had to scrub all night. V29 said the boy died.

One of the stories V29 told made V29 cry. It was about OrphanageWorker4. V29 and others were made to help OrphanageWorker4 with his hygiene and would have to help wash him in the tub. OrphanageWorker4 sexually assaulted them according to V29, but V29 never gave further details.

V29-Daughter1 said V29 talked about a Father8 who was good to V29 and helped V29. V29-Daughter1 said when V29 was 17 years old and while V29 was on a scholarship at a Catholic high school, V29 ran away from the Orphanage. V29 found a local family to live with,

but another priest (name unknown) reported to the school that V29 had run away. As a result, they pulled V29's scholarship.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

Relevant Documents:

Presence of Father8: the Task Force learned that a Father8a a was priest with the Diocese from around 1950 until his death 2011.¹⁵⁰ As part of the investigation, the Task Force requested and reviewed Father8a's file from the Diocese.¹⁵¹

¹⁵⁰ See file in Criminal Report Source Material titled [REDACTED]; see also file in Criminal Report Source Material titled [REDACTED]

¹⁵¹ See generally, file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

OBITUARY
Reverend [REDACTED]

Reverend [REDACTED] died Wednesday, [REDACTED], in [REDACTED], Vermont. He was born on [REDACTED] in [REDACTED], Vermont, son of [REDACTED] and [REDACTED]. Father [REDACTED] attended St. Michael's College, Colchester, [REDACTED].

[REDACTED] He was ordained for the priesthood on [REDACTED] at the Cathedral of the Immaculate Conception in Burlington by Bishop [REDACTED].

His priestly ministry began as [REDACTED]. He then served as [REDACTED] Vermont Catholic Charities while serving [REDACTED] the Don Bosco Home in Burlington [REDACTED]. He also served as [REDACTED].

His first pastorate was at [REDACTED]. He also served as Pastor at [REDACTED] and [REDACTED]. [REDACTED] was granted Senior Priest status in [REDACTED].

BIOGRAPHY

NAME [REDACTED] BORN [REDACTED] AT [REDACTED] Vt.

FATHER [REDACTED] MOTHER [REDACTED]

GRADE & HIGH SCHOOL [REDACTED]

SEMINARY [REDACTED]
(place and years)

ORDAINED [REDACTED] Cathedral, Burlington, [REDACTED] BY [REDACTED] Bishop
(place and date)

POSTGRADUATE STUDY None
(place, years, subject, degree)

ASSIGNMENTS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

A Father8a also appears to have been to be at the Orphanage as a Brother as stated by Resident43 in Resident43's deposition in a civil case.¹⁵² Resident 43 explained that brothers studying for the priesthood would take care of the boys at the Orphanage during the summer.¹⁵³

Presence of Orphanage Worker4: in a deposition in a civil case, a Father4a was asked a question regarding a Caretaker1a, who used to a wheelchair, sexually abusing a child.¹⁵⁴

Q. There was another incident that's been reported by one of the Sisters that she said she walked in on a [REDACTED], a [REDACTED] in a wheelchair, who was doing some type of sexual act on a child. Did you know [REDACTED], a [REDACTED] who was a layman who was in a wheelchair at St. Joseph's?

32

A. No.

Q. Do you have any knowledge of that employee in any way sexually abusing a child at St. Joseph's?

A. No. No, I don't remember that at all, no.

Q. You don't recall that being brought to your attention?

A. No, no.

Resident File: contained within V29's resident file is a signed note from his father reading: "Against the wishes of Vermont Catholic Charities I have insisted of [sic] taking my children out of Saint-Joseph's Orphanage"¹⁸⁰

¹⁵² *Id.* at 13-14.

¹⁵³ *Id.* at 13.

¹⁵⁴ Deposition of [REDACTED] in [REDACTED], at [REDACTED], file in Criminal Report Source Material titled [REDACTED].

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations. Further, as V29 is deceased, V29 did not make a firsthand statement regarding criminal conduct at the Orphanage.

Victim: V30

Contacted Law Enforcement: Initially, BPD was contacted by V30's spouse on September 11, 2018. V30 preferred to speak with the Victim Service Providers rather than law enforcement. V30 spoke with AGO Victim Advocate Amy Farr and VSP Victim Services Director Kate Brayton on February 19, 2019.

Dates at St. Joseph's Orphanage: February 18, 1954 to February 26, 1954.

VCC Resident File Reviewed: Yes.

Allegations: On February 19, 2019, AGO Victim Advocate Farr and VSP Victim Services Director Brayton spoke with V30. V30 was sent to the Orphanage with their siblings, V30-Sibling1 and V30-Sibling2, in 1954. V30 was six years old and had been living with V30's parents on Pine Street in Burlington. Although V30 did not remember exactly how long V30 was at the Orphanage, V30 estimated that V30 lived there for a "couple months."

V30 remembered being very afraid and that V30 never saw a smile during V30's time at the orphanage. V30 remembered peeing the bed the first night, and that when one of the nuns found out V30 moved V30's bed away from the other children. The nun ridiculed V30 in front of the other children and eventually V30 was forced to sleep in a closet. V30 recalled that the closet was freezing, that V30 slept on a pile of boots and shoes, and that the nuns would not allow V30 to use the bathroom. V30 soiled V30 as a result.

V30 remembered that the nuns used to pull ears and hair. V30-Sibling1 even escaped out a second story window during the wintertime. V30 also recalled that V30-Sibling2 became more sexually active after leaving the orphanage and V30 suspected that it was because V30-Sibling2 might have been raped at the orphanage. During the Christmas holiday, V30's parents told V30 that they had delivered a fruit and candy basket for V30 and V30's siblings but that they never received the basket.

Named Assailants: None

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody;

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V31

Contacted Law Enforcement: Initial contact with the BPD Portal on November 20, 2018 and on January 23, 2019, Detective Michael Beliveau interviewed V30.

Dates at St. Joseph's Orphanage: November 5, 1943 to May 9, 1950.

VCC Resident File Reviewed: No resident file was provided by Vermont Catholic Charities because V31 was adopted.

Allegations: On January 23, 2019, Detective Beliveau spoke with V31 about V31's time at the Orphanage and swore to tell the truth. The following is a summary of that interview. V31 was in the Orphanage from November 1943 - May 1950. V31 was in the Orphanage because V31's father was deployed in the military and V31's mother gave birth to V31 and left V31 at the hospital.

V31 did not remember much about day-to-day life. V31 didn't remember school, holidays, or birthdays.

V31 remembered being fed what V31 believed was "castor oil." V31 then said V31 remembered walking down to the lake with other children and nun.

V31 visited the Orphanage in 1997 and observed what appeared to be a small cemetery behind the building. V31 believed it was 1/3rd of the way to the lake from the Orphanage, surrounded by a wrought iron fence, approximately 15' x 15'.

V31 remembered being sent to a dark area with a few other kids but was unsure of where it was or why V31 was sent there. V31 said it was likely some kind of punishment.

V31 recalled that on a few occasions a priest took V31 to a private area, put V31 under his robe and put his penis in V31's mouth.

V31 advised on another occasion V31 was held down on the floor by a boy who was encouraged by a priest. V31 advised V31 remembered hitting V31's head on the floor as V31 believed the boy attempted to rape V31. V31 was unsure if the boy raped V31.

V31 felt that V31 did not receive a proper education from the Orphanage and specified being hit with a ruler. V31 was unable to go into further detail on the incidents V31 mentioned but advised V31 would reach out if V31 was able to remember more. V31 was unaware about the settlement offered by the Diocese in 1990s.

Named Assailants: None.

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); Sec. 8611 Lewdness (1933); and/or V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262:

Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V32

Contacted Law Enforcement: Initial contact with the BPD Portal on September 11, 2018 and spoke with BPD Detective Rene Young on September 12, 2018.

Dates at St. Joseph's Orphanage: February 6, 1957 to November 9, 1957

VCC Resident File Reviewed: Yes

Allegations: On September 12, 2018, Detective Young spoke with V32 over the phone. V32 swore the information V32 provided was the truth and the whole truth through the pains and penalties of perjury.

V32 was around five years old when V32 was brought to the Orphanage and noted V32's memories weren't perfectly clear. V32 said V32's sibling, V32-Sibling1 was also sent to the Orphanage with V32, but V32-Sibling1 was only three years old when they were sent and V32-Sibling1 doesn't have any recollection of what happened there.

V32 said that V32's father was still somewhat in the picture while V32 and V32-Sibling1 were at the Orphanage, so V32 thinks they "didn't get it as bad," and they never had marks made on them since their father could stop in at any time. V32 said V32 remembered telling V32's father about the cruelty, but V32 did not believe V32. V32 said V32's father did not believe that nuns could be like that. V32 also mentioned the nuns threatening V32 before V32's father would

come to see V32, stating something to the effect of “don’t tell or you’ll end up in the closet.” V32 said the “closet” really scared V32, as it was dark, isolated, and smelly. V32 said V32 remembered having to go upstairs and being locked in there on several occasions. V32 said V32 suffers claustrophobia to this day, probably because of being locked in the closet.

V32 also talked about participating in the yearly MS Walk in Burlington, and how V32 gets an awful feeling when they pass the Orphanage. V32 said V32 remembered staying in a room with a lot of rows of bed, and that V32 and V32-Sibling1 were made to sleep at opposite ends. V32 said V32-Sibling1 would cry at night and V32 would crawl out of V32’s bed, under the other beds and then go and comfort V32-Sibling1. The nuns would often catch V32, grab V32 by the hair and drag V32 across the floor and often put V32 in the closet. V32 said V32 remembers one time being very upset because V32’s father was unable to make a visit and V32 was hysterically crying. V32 said V32 cried so hard that V32 vomited and then a nun made V32 lick it up.

V32 recalled the nuns being particularly mean to a little girl who was around V32’s age, named Resident22. V32 said the nuns called Resident22 by a derogatory name and were terrible to Resident22. V32 said the last thing V32 would like to add was that V32 had two cousins, V32-Cousin1 and V32-Cousin2 who were also at the Orphanage. V32 said that when both were in their early 20s, they died by suicide. They took their lives roughly two years apart and they both lived in Vermont. V32 said V32 couldn’t help but think they were incredibly disturbed from the abuse they probably endured.

Named Assailants: None.

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V33

Contacted Law Enforcement: Initial contact with the AGO on June 5, 2019.

Dates at St. Joseph's Orphanage: February 2, 1963 to June 23, 1963.

VCC Resident File Reviewed: Yes

Allegations: On September 25, 2019, Detective Beliveau spoke with V33 about V33's time at the Orphanage. The following is a summary of that interview. V33 remembers seeing V33's sibling down the hall screaming. V33 recalls being close to V33's siblings. V33's mother had eleven children. V33 listed the following siblings in the interview: V33-Sibling1, V33-Sibling2, V33-Sibling3, V33-Sibling4, V33-Sibling5, V33-Sibling6. When V33 father passed away, V33's mother could not handle it and their grandfather went to get them from out of state. V33 remembers V33's mother paying for them to go to the Orphanage and supplying them with clothes. V33 recalled being in the nursery part of the Orphanage. V33 recalled one of the nuns telling V33 if V33 ate quickly, V33 could go see V33's siblings. V33 would eat quickly, and then get sick, and the nuns would send V33 to bed instead of letting V33 see V33's siblings. V33 recalled this happening regularly.

V33 recalled the nuns forcing V33 to rip V33's tongue off a frozen pole when the bell rang. V33 recalled being taken up to the attic. V33 did not recall anything bad happening in the

attic, but V33 remembers being taken to the attic and that the attic was big. V33 remembers other things happening in the attic, but V33 doesn't remember clearly.

V33 remembers being required to take naps, and hearing the older children playing. V33 recalled there being two large rooms where they all played, one for girls and one for boys. Down the corridor from there is where the old kids played. V33 got out of bed to look out the window to see the kids playing. V33 recalls the nun coming in and telling V33 to get back in bed, and telling V33 that V33 was "in trouble tonight." V33 recalled that later that day, when V33 was coming out of the high tub V33 was hit very hard. V33 could not recall which nun it was or what V33 was hit with, but recalls being beaten severely with V33's wet clothes on. V33 also recalls being told V33 "would never look out the window again." V33 recalls being very well-behaved after the beating because V33 was afraid, bitter, and angry. V33 recalls being afraid of authority for a long time after V33's time at the Orphanage.

V33 recalls hearing that V33's mother eventually came and took them out of the Orphanage because V33's older sibling had issues at the Orphanage.

V33 remembers the roof, on the Don Bosco Trail side. V33 remembers this being their play-area, and that it was blocked off by a chain-linked fence. V33 remembers a large gym inside the building, and bleachers. V33 recalls this being on the nursery side of the building. The nursery was one big, huge bedroom with beds. Off to one side, there was a bathroom with two large bathtubs.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V34

Contacted Law Enforcement: Initial contact with the BPD Portal November 14, 2018. Met with BPD on December 6, 2018.

Dates at St. Joseph's Orphanage: July 19, 1964 to June 7, 1968.

VCC Resident File Reviewed: Yes

Allegations: Officer Beliveau and Officer Kratochvil spoke with V34. V34 was four when V34's father took V34 and V34's three siblings to the Orphanage. They went in. V34 had long hair. They took V34 out on the roof and a nun shaved V34's head. V34's siblings include V34-Sibling1, V34-Sibling2 and V34-Sibling3. All V34's siblings also had the last name.

V34 stated they always had to line up by their number. V34 was given a number. V34 stated that they could not ever talk, or they were in trouble. V34 said that if they ever stepped out of line, they were in trouble. They had to go into the dormitory, and the nuns would hit them with wooden paddles. This was a form of discipline for talking.

V34 stated the nuns always locked them in the attic. V34 was also locked in the attic for hours. V34 said children were often locked up in the attic together. V34 stated that sometimes the children would be locked up in the attic for the entire day.

V34 stated V34 was often hit with paddles for trying to go see V34's two younger siblings, V34-Sibling4 and V34-Sibling2. V34 stated they were separated but V34 could sometimes see them outside.

V34 stated that they sometimes went swimming. V34 said they took them swimming but most of them could not swim. V34 asserted this was very scary.

V34 asserted that V34 once got in trouble for looking into the nursery because she heard so many babies crying. V34 asserted V34 was punished by not being allowed to eat V34's meal.

V34 also asserted that the nuns would use a projector to force them to look at pictures of the devil. V34 recalls that the nuns would hit them with sticks if they tried to close their eyes.

V34 claims the nuns would take children out of the room at night. V34 stated that often it was the same girl. V34 stated that most of the time, a heavysset nun would come take Resident33 and Resident34. V34 recalled that they never came back before V34 fell asleep. They sometimes reappeared at breakfast. V34 said they had to eat the same food over and over again. V34 said the food was bad.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V35

Contacted Law Enforcement: Initial contact with law enforcement on November 6, 2018.

Dates at St. Joseph's Orphanage: August 13, 1947 to November 15, 1947

VCC Resident File Reviewed: No resident file was provided by Vermont Catholic Charities because V35 was adopted.

Allegations: On November 5, 2018 at approximately 1:49 PM, V35 called BPD to report V35's time at the Orphanage. V35 advised V35 was born in 1947 and was in the Orphanage for approximately three years as an infant. V35 believes V35 spent some time in the hospital for a number of head colds but could not actually remember due to V35's young age at the time. V35 advised V35's mother was named V35-Mother1. V35 mentioned being sexually abused later in life but did not wish to discuss it.

Named Assailants: None

Potential Crimes: None

Relevant Documents:

Case Analysis & Outcome: No potential crimes reported.

Victim: V36

Contacted Law Enforcement: Initial contact with law enforcement on June 3, 2019 and was interviewed on June 24, 2019.

Dates at St. Joseph's Orphanage: January 10, 1972 to February 4, 1972 (exit date only located in a medical record in a Vermont Catholic Charities Resident file).

VCC Resident File Reviewed: Yes.

Allegations: On June 24, 2019, Detective Krystal Wrinn interviewed V36 about V36's time at the Orphanage. V36 swore, under the pains and penalties of perjury, that the information V36 provided was the truth.

V36 reported that V36's mother dropped V36 and two of V36's siblings off at the Orphanage, V36-Sibling1 and V36-Sibling2. V36's mother told the nun that her children were not to be adopted, and that they should be released at 18. V36 reported V36's mother coming to visit them once.

V36 recalled that they were all on individual floors and were not allowed to have any contact with each other. V36 stated this was also one of V36's mother's requests.

V36 stated that after V36's mother's visit, V36 was late going into the dining room for dinner. V36 did not like onions, garlic, mushrooms or tomatoes, and was still crying due to V36's mother's departure. V36 refused to touch the goulash prepared for dinner. V36 recalled that the cook came out of the kitchen several times to warn V36 that V36 needed to eat or V36 would get spanked. V36 stated they got spanked each night regardless. Eventually, the cook came out again and took some of the goulash out of V36's bowl with a napkin and told V36 to tell the nun V36 had eaten it. V36 recalled the nun coming back in and grabbing V36 by the arm. The nun dragged V36 down the hallway to a closet where the nun proceeded to beat V36 with a paddle. V36 recalled that, as V36 was being dragged down the hallway, V36 saw a girl tied to a chair and gagged. V36 stated the girl's eyes seemed to be calling for help. V36 stated V36 also saw men working on putting up a wall. When the nun was finished "paddling" V36, V36 was dragged by again and the girl was gone, and the wall the workers had been building was put up. V36 stated that this took place on the third floor, and that V36 has been convinced for most of her life that that girl was trapped inside that wall. V36 described the girl as very thin with brown

eyes. V36 stated she was between 14 and 17. She had brown hair, just past shoulder length. The gag was red. Her arms were tied to the chair. She had blue slacks on. She had black and white tennis shoes, with a circle on the ankle. V36 described there being two men taking down a wall. The men had white clothes and hats on. One had his back to the door, and was a bigger guy. He was bent over by a bucket. The other was facing the door, but bent down, taking the wall down. V36 said there were no nuns with the girl, just the two construction workers. V36 described that they were in a classroom-sized room. V36 alleged that when V36 walked by again later, the girl was gone and the men were painting a wall. V36 believes the girl was trapped inside the wall. V36 described the look in the girl's eyes as hollow, like she had stopped fighting.

V36 remembers being left outside to play for the entire day and would not be allowed to come back in even if V36 knocked on the windows. V36 would cry, and the nuns would get angry. Sometimes, there were other kids out there. The girls and boys were always separated.

V36 recalled that on adoption days, they would be taken into a large room and told to pick nice clothes from racks filled with nice dresses. V36 stated that, because V36 and V36's siblings could not be adopted, the nuns would not let V36 dress nicely and would make V36 wear ugly and mismatched clothing.

V36 also alleged that V36 would often go to sleep at night with all the beds in V36's dorm full and wake up alone. V36 alleged that children disappeared overnight often. V36 also alleged that all you ever heard at night in the Orphanage was children screaming and crying. V36 said the screaming seemed to be coming from the floor above.

V36 said bath time was degrading. V36 said V36 never peed the bed before V36 went to the Orphanage.

V36 alleged that, once a week, V36 and two other children were told they were going to a skating rink but first would be taken to some kind of factory. V36 alleged that they would go inside and several men who worked there would violate them. V36 recalls men passing V36 around and remembered falling asleep. V36 recalled that the nun would get angry and take V36 back to the van. When V36 woke up, they would be at the skating rink. V36 described the experience as humiliating and degrading. V36 recalled being five years old when this would occur. V36 stated V36 thought it was in Winooski but was not certain. V36 stated that the men were old and dirty. V36 stated they would take them on their laps and stick their hands up their clothes or down their pants and insert their fingers into them. V36 stated that the nuns would leave the room while this occurred. V36 alleged that the man who always picked V36 up first was a man with greyish hair, parted on the side and a belly. V36 alleged he would pick V36 up like he just wanted to be friends and sit V36 on his lap. Then he would slide his hand down V36's underwear and put a finger into V36. A while later, he would set V36 back down, and a different man would pick V36 up. The next person to pick V36 up would do the same thing.

V36 recalled that every night, even if they didn't do anything, a nun would take them into a closet and paddle them for a long time for no reason until they were allowed to go to bed.

V36 also alleged that during V36's time at the orphanage, V36-Sibling2 snuck in to see V36 to give V36 a pink brush set and tell V36 they were going to get out of there. On V36-Sibling2's way back to V36-Sibling2's own floor, V36 stated V36-Sibling2 was beaten severely. V36 alleged they broke V36-Sibling2's shin bone during the beating and subsequently made V36-Sibling2 attend school for a week before even letting V36-Sibling2 go to the infirmary. V36 alleged they also beat V36-Sibling1 in V36-Sibling1's "privates" for saying hello to V36-

Sibling2. V36 alleged that V36-Sibling1 said V36-Sibling1 peed blood subsequently and V36-Sibling1 was also not allowed to go to the infirmary.

V36 recalled that not a single nun was nice. V36 also stated V36 rarely saw priests unless it was at church on Sundays. V36 was told by V36's grandmother and V36's uncle that the nuns were not really nuns, but prostitutes from Canada. V36 stated V36 doesn't know, but that the nuns acted like savages.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a minor (1971).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as there are no named suspects and potential crimes are barred by the statute of limitations.

Victim: V37

Contacted Law Enforcement: Initial contact with the BPD Portal on July 10, 2019.

Dates at St. Joseph's Orphanage: October 4, 1967 to January 18, 1968

VCC Resident File Reviewed: Yes.

DCF Placement: V37 was voluntarily turned over to the custody of DSW on October 3, 1967 by V37's mother. SocialWorker3 placed V37 and V37's siblings at St. Joseph's Child Center on October 4, 1967.

Allegations: Detective Michael Beliveau interviewed V37 over the phone. V37 stated that the worst part of living at the Orphanage was the isolation, because all the children were depressed and miserable due to the segregation policies employed by the nuns. V37 reported that there was an older fellow who would patrol the hallways to determine whether the children were well-behaved. V37 believed these men were lay workers at the Orphanage. Additionally, V37 reported that nuns and these men would take one or many children to beat them for various offenses. V37 reported that a nun beat V37 with a stick during an evening caretaking sweep of the children. V37 recalled beatings on V37's hands. V37 stated that if V37 recoiled V37's hands, the nuns would hit V37's head and V37's back. V37 recalls the woman who beat V37 being a white, heavy-set woman with glasses.

V37 also recalled an incident where V37 was walking into the dormitory area and someone from the Orphanage threw V37 into the threshold. V37 recalled bleeding profusely and stated V37 still has enduring scars that persist to this day.

V37 stated that V37 heard of a child dying by drowning but does not have personal knowledge of the details. V37 recalled there was an oddly placed fence that did not do enough to protect children from the threat of falling.

V37 reported another incident where V37 was selected for an adult party by the clergymen. V37 stated the priests gave V37 alcoholic beverages. V37 recalled feeling welcome and high off the generosity of the adults. V37 does not recall there being other children at the party. V37 reported subsequently feeling ill, and that an adult man did things to V37 that "men should not be doing." V37 alleged V37 was sexually assaulted but does not recall the details of who the perpetrator was or what exactly occurred. V37 recalled this occurring in an upstairs bedroom and stated V37 does not recall fighting the perpetrator off. V37 stated there was not

molestation with hands or mouth and stated that the perpetrator raped V37. V37 could not recall the perpetrator's name, but believed the perpetrator was a priest. V37 stated the priest was white and had red hair and glasses.

V37 stated V37 does not recall any issues with the food. V37 stated V37 felt rage and hatred for the clergy and was very glad to return to V37's mother's custody.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as there are no named suspects and potential crimes are barred by the statute of limitations.

Victim: V38

Contacted Law Enforcement: Initial contact with the BPD Portal on September 27, 2018 and spoke with BPD Officer David Bowers and Detective Michael Beliveau on October 14, 2018.

Dates at St. Joseph's Orphanage: May 3, 1957 to June 19, 1962

VCC Resident File Reviewed: No file, information received from the Orphanage resident book.

DCF Placement: Yes. Committed to DSW on December 18, 1961.

Allegations: On October 14, 2018, Officer Bowers and Detective Beliveau met with V38, who wanted to report abuse that occurred during V38's time at the Orphanage. V38 swore the information V38 provided was the truth.

V38 was at the Orphanage from 1955 until 1965, ages three to 13. V38 was at the Orphanage with V38's siblings, V38-Sibling1(deceased), V38-Sibling2 (deceased),V38-Sibling3,V38-Sibling4 and V38-Sibling5. V38 remembered being separated from her siblings very early on and would almost never see V38's siblings as they were in different sections of the building. There were three different types of dorms for the children which were separated by age and gender; 1-6 years old; 6+; and "older children."

V38 recalled an incident where V38 was playing on the stairs possibly trying to slide down the railing when V38 fell over the railing and down the hole between the stairs. V38 was about five years old and was sent to the hospital with a concussion and needed stitches in V38's head. When V38 was six years old, V38 remembered being forced to knit which V38 did not want to do. As a result, one of the nuns, Sister30, beat V38 with a paddle and V38's hands, one of V38's hands had a ring. V38 believed this beating caused V38 to bleed from V38's nose and gave V38's black eyes.

Shortly after this incident, V38 recalled another incident where V38 came in from outside and hung V38's coat on the rack, but it fell to the floor. V38 did not notice and walked away, but was called back by Sister31. Sister31 attempted to hit V38 but V38 ducked out of the way and subsequently struck V38's head on a latch that was attached to the wall. This resulted in V38 being sent to the hospital, where V38 received stitches.

V38 reported that when V38 was seven or eight years old, V38 was a part of some kind of brain testing or experimentation, and remembered many wires being attached to V38's head.

V38 said V38 was then asked to determine what colors V38 saw as lights flashed. During this same time, V38 remembered sledding into a metal pole behind the Orphanage and striking V38's head resulting in another hospital visit.

V38 also recalled that at bedtime, V38 would lineup and show a nun V38's underwear, who would determine if it was clean or dirty. If it was dirty, V38 would have to scrub them clean. V38 recalled occasionally being woken up early by the nuns. They made them lay face down on their beds and V38 remembered "something going in" to V38's anus. When asked if it was medically related, V38 was unsure.

V38 remembered trying to console a new child that was crying but was beaten by one of the nuns for doing so. V38 also saw a 10- or 11-year-old girl who was pushed and held against a radiator by a man that caused burns. V38 recalled two younger women who worked at the Orphanage who were not nuns, OrphanageWorker5 and OrphanageWorker6. V38 remembered that they were good to the kids.

Named Assailants:

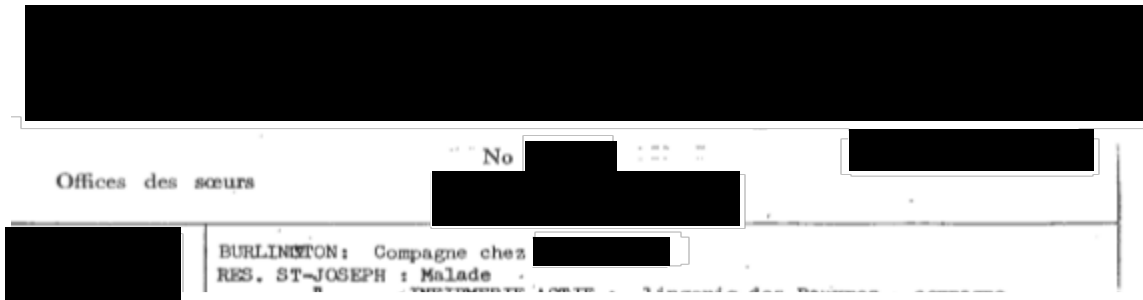
- 1) Sister30
- 2) Sister31

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; and/or 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

*The 1947 criminal statutes and V.S.A. criminal statutes are being included to reflect the changes in the law when V38 was a resident at the Orphanage.

Relevant Documents:

Presence of Sister30: there appears to have been a Sister11a at the Orphanage from 1958 to 1967:¹⁵⁵



Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V39

Contacted Law Enforcement: V39-Partner, partner of V39, spoke with BPD on September 11, 2018 about V39's-Partner's experiences at the Orphanage. V39 died in 2012 but spoke about V39's time at the Orphanage with V39's family.

Dates at St. Joseph's Orphanage: V39-Partner reports V39 was there in the 1930s.

VCC Resident File Reviewed: No resident file found, no card found, and no entry in the Orphanage ledger.

Allegations: On September 11, 2018, Detective Eric Dalla Mura and Detective Beliveau met with V39-Partner, who contacted BPD to provide information about the Orphanage. V39-Partner

¹⁵⁵ See file in Criminal Report Source Material titled [redacted] at [redacted].

advised that V39-Partner's late partner, V39 was placed at the Orphanage when V39 was a young child, after V39's mother passed away. V39-Partner was unsure of the time frame. V39's father worked on a farm and could not take care of all of the children. V39-Partner recalled V39 telling V39-Partner that the nuns used to slap V39 when V39 wouldn't eat V39's food. V39 was placed in the Orphanage with V39's sibling, V39-Sibling1. V39-Partner recalled V39-Sibling1 told V39-Partner that a priest molested V39-Sibling1 via masturbation but did not want to discuss the issue in further detail. V39-Sibling1 previously served in the military but is now deceased along with V39-Sibling1's partner, V39-Sibling1-Partner1. V39-Partner provided the names of V39-Sibling1's children, V39-Sibling1-Child1, V39-Sibling1-Child2 and V39-Sibling-Child3.

Named Assailants: None.

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); Sec. 8611 Lewdness (1933).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations. Further, as V39 is deceased, V39 did not make a firsthand statement regarding criminal conduct at the Orphanage.

Victim: V40

Contacted Law Enforcement: Initial contact with the BPD Portal on September 13, 2018 and wrote that statement contained below in "Allegations." Members of BPD have attempted to contact V40 on multiple occasions to schedule an interview. As of this report's publication, there has been no response.

Dates at St. Joseph's Orphanage: Unknown.

VCC Resident File Reviewed: No file or index card located by Vermont Catholic Charities.

Allegations: V40 reported the following information through the BPD Portal on September 13, 2018:

Approximate Date of Incident: "1954 thru 1956."

Did this incident occur at St Joseph's Orphanage in Burlington, Vermont? "Yes."

What is your connection to the incidents at St Joseph's Orphanage? "Victim."

Suspect or Offender: "Nuns and staff at the orphanage."

Description of Incident or Other Information:

"While in their care I was the subject of severe neglect and abuse. I was abused in such a way that the right side of my face and head are not able to grow due to the manner of abuse. I have a scar on the right side of my head that has not been explained, and my adoptive parents got no explanation. When I was to be adopted I was placed in the care of my parents to be and my extreme size difference from an average child that age was not explained. I could fit in a newborn clothing, I was not moved or given any appropriate care, causing severe environmental deprivation. I have spoken to a Neurologist and an orthopedist and they both say the facial deformity I have was caused most probable by being hit, not a birth injury. I believe that I deserve an explanation of what happened to me is needed, and accountability given. I did have lawyers look at my records when I was in my 20's and at that time they could not find an[y] medical information, except that they said my mother was healthy at the time of my birth. I was unaware of the fact that others had been abused and neglected like I was until recently. I am trying to find others through the Facebook system that may have seen me there at that time. This is

difficult due to the time that has elapsed and the age they would have been at that time. I have suffered from education and social delays due to my injuries and still struggle. I have been told that my hip muscles were damaged as an infant making walking difficult and as I grew older as a child impossible. I use electric wheelchair and have almost no vision in the left eye and none in the right, I cannot open my eye on the right and a little on the left. My eyes do not move in any direction. I know there is an ongoing effort to find out what happened to those of us placed in the care of the Orphanage and hope that light can be shed on what happened there. My adoptive parents were devout Catholics and probabl[y] saved my life. I have tried over the years to get answers but I keep getting conflicting information, and nothing that would help me to understand what happened to me and the missing medical info when I was in the orphanage. I have asked but been refused.”

Named Assailants: None.

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace.

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V41

Contacted Law Enforcement: Initial contact with the BPD Portal on September 13, 2019 and spoke with BPD Detective Elizabeth Fellicciardi on September 14, 2018.

Dates at St. Joseph's Orphanage: June 25, 1973 to June 25, 1979

VCC Resident File Reviewed: Yes

Allegations: On September 14, 2018, Detective Fellicciardi spoke with V41 regarding V41's experience at the Orphanage. V41 now lives out of state but was a resident at the Orphanage with V41's two siblings from approximately 1972 to 1978 or 1979. In 1974, V41 stated V41 was sexually assaulted by two older altar boys when V41 was in the area of the chapel where altar servers would get changed. One of the older altar servers held V41 down, while the other raped V41. V41 said after that, the altar server who raped V41 held V41 down while the other altar server then raped V41. V41 said the two altar servers beat V41 after that and threatened to kill V41 and V41's siblings if V41 ever told anyone.

During one of the sexual assaults, Monsignor2 walked into the room. V41 said V41 thought Monsignor2 was going to save V41, but instead told the two altar servers to hurry up. V41 did not know the names of the two altar servers who assaulted V41.

V41 described one incident, after the nuns had left the Orphanage, where V41 saw a counselor walking a boy from the lake "with a corn cob up his butt."

V41 said V41 had been in therapy for years and was on medication for anxiety and PTSD. V41 advised V41 had connections to services in the state in which they live and was happy with them, therefore V41 did not need any assistance from the Task Force. V41 said the reason V41 called was to give any information that could potentially prevent another child from being abused.

Named Assailants: Monsignor2

Potential Crimes: 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a minor (1971).

Relevant Documents:

The following entry was also located in V41's resident file under a section titled "Summary of contact with V41 from Sept. 1976 to Jan. 1977."¹⁵⁶:

On [REDACTED], [REDACTED] ran away from school with three other young people. One was caught and returned to SJCC that same day. However, [REDACTED] was one of those that spent the night away from SJCC and most of [REDACTED] in Vergennes. The police were suspicious of their behavior in the bus station, apprehended them, and held them until an SJCC counselor could come and pick them up. [REDACTED] had stolen a down vest from Sears, and was an accomplice to stealing from a home. In talking with [REDACTED] on [REDACTED], [REDACTED] gave [REDACTED] reason for running away as getting away from "mental abuse" at SJCC. [REDACTED] seemed quite upset and nervous, while W/ was speaking with [REDACTED], and [REDACTED] kept his face averted. [REDACTED] kind of said that [REDACTED] was more the follower than leader of this run away. A repercussion of this was that [REDACTED] was allowed to go home only from 12/24 to 12/25, as [REDACTED] Christmas visit. ([REDACTED] and [REDACTED] went for 12/23 to 12/26.)

Presence of Monsignor2: a Father4a was the Assistant Director at Vermont Catholic Charities from 1959 to 1966 and therefore would have involved at the Orphanage at the time V41 was at the Orphanage.¹⁵⁷ The resident file provided by Vermont Catholic Charities revealed he worked directly with the residents as a social worker during his employment with them.¹⁵⁸ Father4a, in an earlier deposition, denied knowing about widespread abuse at the Orphanage, including sexual abuse.¹⁵⁹

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

¹⁵⁶ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

¹⁵⁷ See *id.*

¹⁵⁸ See [REDACTED] at [REDACTED] (last visited November 2, 2020).

¹⁵⁹ See generally, Deposition of [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

Victim: V42

Contacted Law Enforcement: wrote a letter to the AGO on August 28, 2002 and spoke with BPD Detective Michael Believeau on July 19, 2019.

Dates at St. Joseph's Orphanage: November 23, 1953 to June 16, 1956

VCC Resident File Reviewed: Yes

DCF Placement: Yes. Committed to DSW custody on November 19, 1953.

Allegations: Detective Believeau interviewed V42 regarding V42's allegation of abuse at the Orphanage. V42 also provided a written statement detailing the abuse that occurred at the Orphanage. At the end of the interview V42 swore that everything V42 said was the truth.

V42 told Detective Believeau that V42 was approximately eight years old when V42 first arrived at the Orphanage and left when V42 was 21 years old. V42 recalled being sexually assaulted by a Sister in the dormitory. V42 also witnessed a young "girl or boy" thrown out of a second story window by the Sisters. The child landed in the grass. However, V42 did not recall the child's name. Although V42 never saw anyone seriously hurt, V42 heard of children being sexually assaulted and that the Sisters "paddled" V42's hands.

V42 stated in V42's written report that the Sisters of Providence would line them up in the shower and take "three or four of them" to the back of the "sewing room" and sexually assault them "every night." V42 also stated that one of the sisters took V42 to her bedroom and "undressed" V42, made V42 lay in bed with her and would "kiss" V42 on the "cheek of my ass,"

“spread my legs, and play with my rectum and kiss it with her tongue,” and that she “got down” and “sucked” V42’s genitals.¹⁶⁰

It should be noted much of the recorded interview was unintelligible and it was difficult to understand V42.

Named Assailants: None

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V43

Contacted Law Enforcement: Initial contact with the BPD Portal on September 17, 2018 and spoke with BPD Officer David Bowers on September 18, 2018.

Dates at St. Joseph’s Orphanage: July 30, 1964 to December 14, 1964.

VCC Resident File Reviewed: Yes

Allegations: On September 18, 2018, Officer Bowers spoke with V43 regarding V43’s experience at the Orphanage. V43 reported V43 went to the Orphanage in 1964 when V43 was 10 years old for approximately 10 months. V43’s younger siblings, V43-Sibling1, three years old and V43-Sibling2, six years old also, were at the Orphanage at that time. V43 and V43’s

¹⁶⁰ See generally, file in Criminal Report Source Material titled [REDACTED]

siblings were placed in the Orphanage after being removed from their home by representatives of the State of Vermont following a complaint about the care their mother was providing.

V43 recalled being separated from V43's siblings at the Orphanage due to their various ages. V43 advised V43 did not remember a great deal of V43's time at the Orphanage, but V43 recalled the abuse by the nuns. Nevertheless, V43 did remember one event in particular: V43 was in a clothing room, and advised a single nun took all V43's clothes off of V43 and made V43 sit in the middle of the room with a blanket wrapped around V43. V43 advised V43 sat in the room for approximately one to one and a half hours. After the clothes were all folded by the nun who was in the room with V43, V43 was beat by some of the older boys at the Orphanage. V43 advised the older children hit V43 with a wooden paddle. V43 advised V43 did not remember what V43 did wrong to receive the punishment.

V43 described other things V43 observed at the Orphanage. V43 recalled seeing an altar server coming out of the church crying at one point and believed it may have been because something sexual had happened to the altar server. V43 recalled hearing that people had been sexually abused by the priests but did not remember when V43 heard it or from whom. V43 saw other people that had been hit with paddles while V43 was there, and V43 had been hit by the older boys and the nuns with paddles. V43 reported V43 was never sexually abused during V43's time at the Orphanage and advised V43 had never witnessed any sexual abuse.

V43 recalled the head nun was referred to as SisterSuperior2. SisterSuperior2 hit V43 with a wooden paddle before but advised V43 she was not the nun who directed the older children to hit V43. Any time someone in the Orphanage did something wrong, SisterSuperior2 would bring all of the children into one room and would hit them with a paddle on the hands once each.

V43 recalled hearing that someone may have died while V43 was at the Orphanage but advised V43 did not remember whom V43 heard it from. It stuck out in V43's mind that someone had died. V43 ran away from the Orphanage because V43 was scared and wanted to find V43's mother, who had already been reunited with V43's younger siblings prior to V43's departure from the Orphanage. V43 went to a foster home after V43's stay at the Orphanage. V43 said V43 tries to avoid driving past the building now. If V43 ever is in Burlington, V43 takes Rt. 127 to go around the Orphanage so as to not see the building.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V44

Contacted Law Enforcement: Initial contact with the BPD Portal on September 11, 2018 and spoke with Detective Krystal Wrinn on September 12 and September 13, 2018.

Dates at St. Joseph's Orphanage: September 30, 1959 to June 9, 1962 and returned August 24, 1962 to June 29, 1963. V44 was readmitted September 6, 1968 to unknown date.

VCC Resident File Reviewed: Yes

Allegations: On September 13, 2018, Detective Wrinn interviewed V44 regarding V44's allegations of abuse at the Orphanage. V44 swore at the beginning of the interview that everything that V44 was about to say was the truth. V44 said that V44 came forward after

reading the BuzzFeed article because V44 blocked out of V44's mind everything that happened to V44 at the Orphanage prior to the eighth grade. V44 was a private case, and V44 lived at the Orphanage on separate occasions between 1958-59 and 1968-69. V44 was approximately three years old when V44 started at the Orphanage. V44's siblings, V44-Sibling1 and V44-Sibling2, also attended the Orphanage, while V44's oldest sibling, V44-Sibling3, attended a home for high school aged children next door.

V44 recalled three strict nuns: Sister31, Sister32, and Sister33. V44 recounted an incident of abuse involving Sister31 that happened when V44 was approximately six years old. V44 had learned that V44-Sibling1 had been hurt and V44 began to cry. Sister31 told V44 to mind V44's own business. When V44 refused to stop crying Sister31 slapped V44 across the face and her ring caught V44's lip and "ripped it open." There was "blood everywhere" and V44 was taken to a Catholic hospital in Burlington "near Pearl Street."

On the way to the hospital, a nun identified as MotherSuperior1 told V44 not to tell hospital staff what happened. At the hospital male doctor asked V44 what happened, V44 refused to tell him because V44 "was scared." V44 described V44's lip as being fat "for many years" and that V44-Sibling1 would call her a derogatory name because V44's lip was "so fat." V44 informed Detective Beliveau of other incidents of abuse involving Sister31. V44 remembered that V44 and a girl were routinely asked to meet Sister31 in what V44 remembered as a "building near the cemetery." V44 described Sister31 as a "short fat woman" and that she used to sit with her legs up and that V44 was forced to rub Sister31's legs and feet. Although it did not occur to V44 at the time, V44 later believed Sister31 was "getting off."

Sister31 would take the children's hands and "guide them up her dress." Although V44 did not remember touching Sister31's privates, V44 said V44 would be beaten if V44 was non-

compliant. Sister31 would pull V44's pants down, lay V44 over Sister31's body and paddle V44 with a wooden paddle until V44 cried. V44 described the paddle as the type with a ball attached to a string. Except the string was missing and the staple holding the string to the paddle was still attached and "that would hurt."

V44 described being pinched and poked by Sister31 on her upper arms and legs. V44 also described an incident where Sister32 caught the children jumping on the bed and that they were taken to the "sewing room" where they were paddled repeatedly "until they cried."

V44 also described sleeping with V44's hands between V44's knees and that the nuns called V44 "dirty" because they thought V44 was touching V44's body. As a consequence, V44 would be paddled, forced to pray, and called names. V44 remembers being forced to drink castor oil and to eat V44's own vomit.

V44 described being in the same class as her V44-Sibling2 because V44-Sibling2 had a learning disability. V44 witnessed one of the nuns slap V44-Sibling2 and call V44-Sibling2 "stupid" and "retarded." V44 told the nun to "shut up" and was hit with a ruler.

Finally, V44 recalled an incident involving Resident35 who was severely beaten by Sister34. V44 described Resident35 as having scars on Resident35's back. Sister34 was fired as a result of this incident.

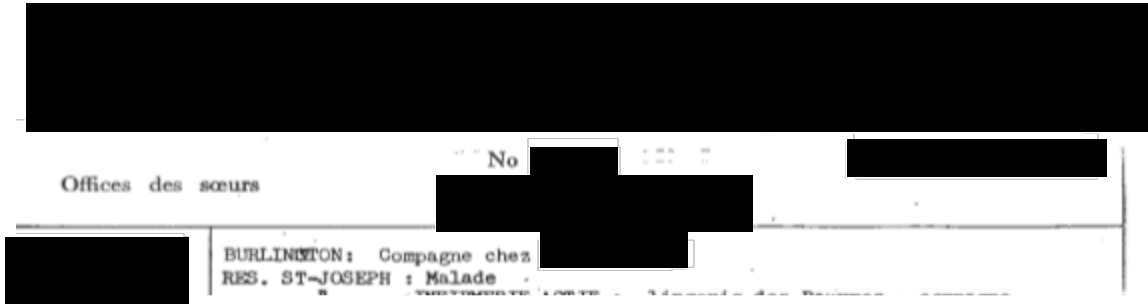
Named Assailants:

- 1) Sister31
- 2) Sister32
- 3) Sister34

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Presence of Sister31: a Sister11a appears to have been at the Orphanage from 1958 to 1967:¹⁶¹



Presence of Sister32: at the time when V44 was a resident, there appears to have been a Sister14a who worked at the Orphanage from 1959 to 1966.¹⁶² She was an officer in a department.¹⁶³ In her deposition on March 26, 1997 she admitted to using a paddle on the children infrequently and spoke about discipline at the Orphanage.¹⁶⁴ She denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.¹⁶⁵

[REDACTED] - [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED] dept. - Officer

¹⁶¹ See id.

¹⁶² See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]; see also Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹⁶³ Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹⁶⁴ Id. at 35-41.

¹⁶⁵ Id. at 41-42.

Sister33 at the Orphanage: a Sister20a was at the Orphanage from May 15, 1970 to August 7, 1974.¹⁶⁶ A Sister20a was deposed in a civil case.¹⁶⁷ In her deposition, Sister20a admitted to working at the Orphanage, but denied knowledge or involvement in any abuse.¹⁶⁸¹⁶⁹ Sister20a also denied being involved with any sexual abuse.¹⁷⁰ Sister20a made similar denials in an affidavit.¹⁷¹

Injury to V44-Sibling2: in the Record Sheets from Vermont Catholic Charities for V44's Family, the following entry by SocialWorker4, was made regarding an accident involving V44-Sibling2, which seemingly comports with V44's recollection surrounding an injury sustained by V44-Sibling2.¹⁷²

Call from Sister Superior at SJCC to inform W/ that [REDACTED] had to go to the hospital this afternoon due to an accident [REDACTED] had the Sat. before. Apparently [REDACTED] had fallen from a tree on the Child Center and landed on a sharp piece of wood which became lodged in [REDACTED] leg. [REDACTED] was taken to the emergency clinic that same day and had some stitches taken in [REDACTED] leg. The Sisters thought [REDACTED] was all right up until Friday when the cut began to bother [REDACTED] considerably. [REDACTED] had a look at [REDACTED] leg and decided to have [REDACTED] admitted to DMH.

As Mrs. [REDACTED] was in Florida at the time W/ contacted her sister Mrs. [REDACTED] to inform her that [REDACTED] was being taken to the hospital.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

¹⁶⁶ See Affidavit of [REDACTED], [REDACTED] file in Criminal Report Source Material titled [REDACTED]

¹⁶⁷ See generally, Deposition of [REDACTED] at [REDACTED], [REDACTED] file in Criminal Report Source Material titled [REDACTED]

¹⁶⁸ See id. at p. 178-181.

¹⁶⁹ Id. at 180

¹⁷⁰ Id. at 180

¹⁷¹ See Affidavit of Sister [REDACTED] file in Criminal Report Source Material titled [REDACTED]

¹⁷² See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Victim: V45

Contacted Law Enforcement: Initial contact with BPD on September 27, 2018 and spoke with BPD Detective Michael Beliveau on September 28, 2018.

Dates at St. Joseph's Orphanage: November 27, 1943 to August 4, 1948

VCC Resident File Reviewed: Yes

DCF Placement: Yes, committed to custody of the Public Welfare Department in 1943.

Allegations: On September 28, 2018, Detective Beliveau met with V45, who was accompanied by V45's grandson, V45-Grandson1. V45 wanted to report what V45 experienced during V45's time at the Orphanage. At the beginning of the interview, V45 swore the information V45 was providing was the truth.

V45 was at the Orphanage during World War II from approximately 1941-1948 from about the age of 5 to 13. From there V45 went to a dairy farm in Vermont.

In describing V45's time at the Orphanage, V45 first spoke about the food that they had to eat. The nuns would carry a big bran sack into the dining hall where they would scoop it with a tin cup into a bowl. Another nun would come around and distribute warm water into the bowls. The kids would stir up the mixture and watch grubs float to the top. They would pick the grubs out but would get told by the nuns not to make a mess so they would put them back into the bowls after they ate. Occasionally a kid would take a bite into a grub and would throw up. The nuns would come in and call the kids "pigs."

V45 recalled that the kids were often so hungry they would eat the lemon grass growing outside of the Orphanage, but it would make the kids sick. V45 was forced to be outside so much

that V45 would get boils from the severe sunburn. V45 now struggles with skin cancer. V45 later described there being no trees behind the Orphanage and it was just a big field.

V45 recalled an incident where V45 and a group of kids were standing outside of a bathroom for their weekly shower. A nun asked them why they were not waiting inside the washroom when V45 replied, "Because the big boys are fucking the little boys." The nun that V45 described as "the giant ... about 6' tall, 300 pounder," struck V45 so hard V45 said V45 "went flying." V45 believed V45 blacked out for a moment from the strike. Three or four days later V45's two front top teeth turned grey and then a month later they turned black. V45's teeth were black until V45 joined the service where V45 paid 4 dollars to have the two teeth pulled.

V45 describe another incident where some of the kids were brought to Camp Holy Cross in Colchester. V45 never went to the camp but heard stories from some of the kids, specifically from V45's sibling, V45-Sibling1. V45-Sibling1 told V45 about how a big priest would lay down on the beach and make kids urinate on him. V45 recalled being sexually assaulted twice by a brother but did not know his name. V45 was eight or nine years old and was given a crucifix to wear but later learned from a child that the cross was meant to indicate that V45 was available to be sexually assaulted. When asked how V45 was sexually assaulted V45 said, "He screwed me in the ass." The assault took place in the gymnasium closet where they kept the basketballs. V45 said that another man that worked at the Orphanage, OrphanageWorker7, would bring V45 and others into the same closet where V45 would lick their "balls and dicks." V45 said OrphanageWorker7 would bring three or four children in at a time to commit the sexual assaults. V45 described this male as a bodybuilder due to his big arms and legs. V45 said OrphanageWorker7 would look after the children while they were in the gym. OrphanageWorker7 sexually assaulted V45 one time that V45 could remember and it lasted from

10-15 minutes. V45 recalled other kids being there and OrphanageWorker7 would sexually assault them by licking their genitals. V45 remembered OrphanageWorker7 saying, “Yummy,” afterwards. V45 was about six or seven years old and heard OrphanageWorker7 was eventually fired.

On the Victory Over Japan day, V45 remembered a parade through Burlington. V45 got to march to Main Street with a group of children. Once they were on Main Street everything stopped because everyone was watching the children. V45 remembered women from the sides of the road who ran up to the children and hugged them. As V45 told this story V45 began to cry because V45 did not experience that kind of affection until that moment. The one friendly nun that V45 liked was a tall and thin nurse/doctor that V45 felt V45 could talk to.

V45 never went to a doctor outside of the Orphanage. V45 never saw a child die at the Orphanage. V45 said V45 thought V45 saw what appeared to be two graves near the chicken coop by the fence. V45 saw a hole was dug with the approximately dimensions of 5’ by 18” and then next day the hole was filled.

V45 ran away to Montpelier but was found by police and eventually brought back to the Orphanage. V45 remembered being whipped with a leather strap in the vegetable garden in front of the Orphanage by a nun. V45 did not see anyone get seriously hurt while V45 was at the Orphanage.

Named Assailants: OrphanageWorker7

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); Sec. 8611 Lewdness (1933); and/or V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262:

Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness.

*The 1933 Public Laws and 1947 criminal statutes are being included to reflect the changes in the law when V45 was a resident at the Orphanage.

Relevant Documents:

Presence of Orphanage Worker 7 at the Orphanage: a Father 4a was deposed in a civil case and was asked the following about a Orphanage Worker 2a:¹⁷³

32

1 A. No.

2 Q. Do you have any knowledge of that employee in

3 any way sexually abusing a child at St. Joseph's?

4 A. No. No, I don't remember that at all, no.

5 Q. You don't recall that being brought to your

6 attention?

7 A. No, no.

8 Q. Do you have any knowledge of a lay employee by

9 the name of [REDACTED] who was molesting some [REDACTED]

10 this might have been much before your time, in the

11 mid '40s, was actually caught in the act by a

12 Brother [REDACTED]?

13 A. I never heard of that.

14 Q. Do you know Father [REDACTED]?

15 A. I know Father [REDACTED] very well.

16 Q. Has Father [REDACTED] ever told you about setting

17 up this [REDACTED] so he would be caught in the act

18 of sexually abusing a [REDACTED]?

19 A. I never heard of that at all, no.

20 Q. Have you ever seen any records of that

21 incident?

22 A. No.

23 Q. There was another incident that's been

24 reported of a -- by Sister [REDACTED], I think she

25 said about 1966 or '68 where a young [REDACTED] by the name

¹⁷³ See Deposition of [REDACTED] [REDACTED] in [REDACTED]
[REDACTED], at [REDACTED], file in Criminal Report Source Material titled [REDACTED]

OrphanageWorker2a-SisterA1 was deposed in a civil case and was asked the following about a OrphanageWorker2a, which seems to confirm OrphanageWorker2a as an employee at the Orphanage in the late 1940s:¹⁷⁴

144

1 Q. Well, it said '47 to '48 and it's the second
2 page. It says Classes resumed on the left-hand
3 side.
4 A. Yes, that's correct.
5 Q. Do you see on the bottom, you can follow along
6 with me, that entry where it says Sister [REDACTED]
7 quite handicapped in the circumstance. Requested
8 the services of [REDACTED] and [REDACTED].
9 ~~Both were willing to substitute until Sisters could~~
10 ~~be sent to assume the task.~~
11 A. Yes.
12 Q. Do you know who [REDACTED] was?
13 A. No.
14 Q. Have you ever seen any records regarding Mr.
15 [REDACTED] and claims of abuse involving him?
16 A. No.
17 Q. Is the Bishop required, or excuse me, if you
18 know, how often the Bishop would come to a facility
19 such as St. Joseph's?
20 A. I don't know.
21 Q. The records that we've been provided also
22 contain some appear to be financial records; have
23 you seen these?
24 A. Yee.
25 Q. I think we've got the deposition scheduled of

Case Analysis & Outcome: No criminal charges to be filed as identifiable suspects and potential crimes are barred by the statute of limitations.

Victim: V46

¹⁷⁴ See Deposition of [REDACTED] in [REDACTED], at [REDACTED], file in Criminal Report Source Material titled [REDACTED]

Contacted Law Enforcement: Initial contact with BPD September 22, 2018 and spoke with Detective Beliveau on September 22, 2018.

Dates at St. Joseph's Orphanage: August 3, 1961 to August 17, 1963.

VCC Resident File Reviewed: Yes

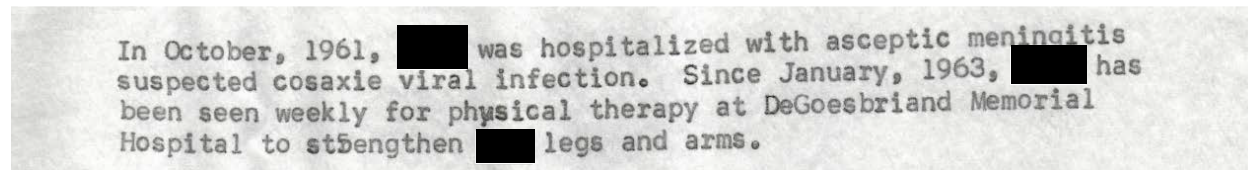
Allegations: On September 25, 2018, V46 was interviewed by Detective Beliveau regarding V46's experience at the Orphanage. V46 was at the Orphanage from 1960-1962. During V46's time there, V46 became ill with spinal meningitis. V46 advised that the nuns did not call a doctor for V46 and V46's fever rose to 106 degrees. At that same time, a girl at the Orphanage became sick prompting doctors to come to the Orphanage. They looked at V46 and immediately drove V46 to the hospital. V46 was hospitalized for 3-4 weeks from this illness. The nuns did not believe V46 was sick and only called the doctors because another child became ill. V46 was 13 years old when V46 was first placed in the Orphanage and recalled not being allowed to talk to others. V46 did not recall other abuse during V46's time there. V46 only remembered the nuns being very strict.

Named Assailants: None.

Potential Crimes: 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

The Social Summary Record from Vermont Catholic Charities for V46, see below corroborates with V46's recollection regarding V46's illness:¹⁷⁵



In October, 1961, [REDACTED] was hospitalized with aseptic meningitis suspected cosaxie viral infection. Since January, 1963, [REDACTED] has been seen weekly for physical therapy at DeGoesbriand Memorial Hospital to st5ngthen [REDACTED] legs and arms.

¹⁷⁵ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Similarly, the DeGoesbriand Memorial Hospital Discharge Summary obtained from Vermont Catholic Charities for V46 substantiates with V46's recollection regarding V46's illness:¹⁷⁶

PRESENT ILLNESS: The patient had a sore throat and fever six days prior to admission. [REDACTED] was seen the following day. [REDACTED] fever was absent, [REDACTED] throat felt better. There was no therapy. The patient was well until the day prior to admission when [REDACTED] had onset of headache and sore throat with temp. up to 104. [REDACTED] was treated with Aspirin and on the day of admission [REDACTED] became lethargic. Seen by [REDACTED] at St. Joseph's orphanage. [REDACTED] had neckal rigidity, ataxia, weakness, mental confusion, and had vomited during the examination. [REDACTED] had also had urinary frequency, without dysuria, and had very little in the way of p.o. intack. In the description of the sore throat six days prior to admission [REDACTED] had small punched out ulcers on [REDACTED] anterior pillars that had the appearance of herpangina.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V47

Contacted Law Enforcement: Initial contact with the BPD portal on April 8, 2019 by V47's sibling, V49 and then interviewed by Detective Eric Kratochvil and Detective Michael Beliveau on May 24, 2019.

Dates at St. Joseph's Orphanage: June 13, 1960 to May 20, 1963.

VCC Resident File Reviewed: Yes

DCF Placement: Yes. Committed to DSW on June 13, 1960 and immediately placed at the Orphanage.

Allegations: On May 24, 2019, Detective Eric Kratochvil and Detective Beliveau interviewed V49 and V47 about their experiences at the Orphanage. V49 recalls being seven or eight years

¹⁷⁶ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

old when V49 went to the Orphanage and was there for years but is unsure of the time period. V47 recalls being 10 years when V47 went to the Orphanage but is similarly not sure how long V47 stayed at the Orphanage. Their sibling, V48, was also with them at the Orphanage. They were all placed at the Orphanage because their parents could not take care of them.

Multiple times during her interview V47 discussed an incident where a boy was thrown out of the window. V47 recalls a nun throwing the boy out the window but does not remember that nun's name. V47 recalled the boy having blond hair and being around age 11. V47 did not know his name. At one point, V47 stated V47 was in the dining room when the nun pushed the boy out the window. V47 then stated that V47 had been talking to the boy and the nuns must have found out and pushed him out the window. Later in the interview, V47 recalled that the nun was Sister35.

V47 recalls Sister36 molesting V47 in the bathtub when V47 was about 11 years old. Sister36 was very tall and in charge of V47 and other children. Sister36 also put V47 in the closet. Sister37 was also mean, pushed V47 in the bushes, and put V47 in the closet. Sister37 was short and fat.

V47 was assigned to watch the young kids while at the Orphanage for a short period of time, but the assignment upset V47 because of how the nuns treated the children. V47 remembers being friends with a girl named Resident36 who had a disability and one time they were put closet.

V49 described being taken to the altar with V48 by a nun, Sister35, and a priest. V49 does not remember the name of the priest. V49 recalls being excited to be taken to the altar. V49 was then taken into a room off to the side of the altar where V49 was molested. This happened about five to six times with Sister35 and the same priest. V49 alleged that Sister35 tried to

digitally penetrate V49 with Sister35's fingers and the priest tried to put his penis in V49's mouth. V49 does not recall whether V49 complied. V49 was around seven years old when this happened. V49 also recalls Sister35 beating V49 for wetting the bed and the priest shaming V49 for wetting the bed.

Both V49 and V47 recalled strict rules at the Orphanage. The children were not allowed to speak after 10pm and if they did, they would get whipped. V9 recalls being whipped on another occasion by a priest that left marks on V49's back. V49 reports consistently having black and blue marks and being physically abused by the nuns and priests. If they did not eat their food, the nuns would force them to eat by pushing their faces in their food. If they threw up, they would be forced to eat their vomit.

V49 recalled a girl with a physical disability being thrown somewhere by a nun. The described the girl as having braces on her legs and being about five years old. V49 believes the girl was seriously injured because an ambulance came. V49 never saw the girl again and believes she died. V47 also recalled this young girl. V49 does not recall her name, but V47 believes her name was Resident37.

V49 and V47 throughout the interview stated the nuns and priests were mean and rude to all the children. Their time at the Orphanage has had a lasting impact on their lives. Both V49 and V47 were placed in foster homes when they left the Orphanage. V49 received a settlement from the diocese in the 1990s.

Named Assailants: Sister35

Potential Crimes: 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959).

Relevant Documents:

Presence of Sister35 at the Orphanage: in 1973, there appears to have been a Sister35a who worked at the Orphanage. However, the exact dates Sister35a was at the Orphanage are unknown:¹⁷⁷

[REDACTED] (S) [REDACTED] Teacher grades 2-3 - [REDACTED]

It is unclear if this the same person that V47 references.

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V48

Contacted Law Enforcement: Initial contact by BPD on June 6, 2019 and then interviewed by Detective Eric Kratochvil and Detective Michael Beliveau on August 9, 2019.

Dates at St. Joseph’s Orphanage: June 13, 1960 to September 4, 1962

Resident File Reviewed: Yes.

Placement: Yes. Committed to DSW on June 13, 1960 and immediately placed at the Orphanage.

Allegations:

On August 9, 2019 Detective Beliveau and Officer Kratochvil spoke with V48 about V48’s time at the Orphanage. V48 began describing an incident at the altar at the chapel. V48 stated that the children were told to take their clothes off, and that the priest and the nuns present

¹⁷⁷ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

“made them do things to them that we should have never done.” V48 named Sister38 as one of the perpetrators and described her as the meanest person V48 had ever met. V48 said there were blankets on the floor. V48 said it was V48, V48’s sibling, V49, Resident38, and Resident39. V48 alleged that the priests put their “things” in their mouths. V48 also alleged they used to stick “things up them.” V48 stated there were several different priests involved, and that this occurred on several different occasions. V48 alleged one of the priests was named Father9. V48 stated there was another priest, an older one. V48 stated he was the one who always wanted them to go down there. V48 also stated this happened every time they had to clean the altar. V48 stated they had to “clean the altar” several times a week, but there was nothing to clean, and these things occurred instead. V48 also stated V48 swung back at a priest who was hurting V48’s sibling. V48 alleged that they held V48 down and spanked V48 for it. V48 alleged that both priests ejaculated during these encounters. V48 stated V48 did not know what it was at the time, and thought they were pouring “snot” all over them. V48 said the priests ejaculated in their mouths, and if they tried to spit it out, they would grab their mouth and hold it. V48 stated that the priests threatened them with horrible beatings if they told. V48 also stated that, when other parents would come to visit their children, they sometimes tried to tell them what was going on, but the priest was always watching them. V48 also said that the priests kissed them during their first communion.

V48 had a problem with bloody noses and recalled being spanked by the nuns because of them. V48 recalled another incident where a little girl vomited her food and the nun told the girl she had to eat it. V48 threw a plate at the nun and stopped the girl from eating her vomit.

V48 also recalled a little boy drowning. V48 alleged V48 tried to help him but V48 couldn’t without drowning. When V48 tried to tell the nuns, V48 was told to mind V48’s own

business. The child's name was Resident40. The boy had jumped off the dock and he hit his head. V48 alleged two nuns and priest retrieved the boy's body. V48 alleged V48 left as the nuns and the priest were about to bury him behind a statue of Mary. V48 alleged the child was in a pine box.

As punishment, they would have to pull weeds in the garden. V48 recalled throwing up from the heat and being beaten for it. V48 alleged V48's sibling, V49, often got punished for bedwetting. They would put V49 up in the attic "with the rats." V48 stated V48 would often switch beds with V49 so V48 could take the punishment on V49's behalf. V48 recalled being locked in the attic for two days with nothing to eat.

V48 claimed the nuns did "pants inspections" where they were told to pull their pants down for inspection. Occasionally, the priest looked in their pants as well. V48 alleged one of the priests who looked into their pants was Father9. V48 alleged that if their pants had any marks, they would be forced to take them off, wash them, and put them back on wet.

V48 recalled another incident where V48 was beaten for telling a nun: "You were fat when you left here and now you're skinny." V48 alleged that later on, something similar happened with another nun, and the nun explained that it was because she'd had a baby. V48 stated the nun told V48 the other nun must have been in the same position.

V48 spoke again about Sister38 being the meanest person V48 ever met. V48 recalled another incident where they shaved all their heads. V48 stated all the children were crying, but that the nuns put their hair in bags and took it away.

V48 stated that all their foster homes were bad. V48 stated they only ever had one foster home that was good.

V48 recalled one instance, after V48 was reprimanded for having a bloody nose, V48 got angry and intentionally plugged all the toilets. V48 alleged that they caught V48 doing it and pushed V48 into the sink. V48 stated V48 had a bump on V48's head for a while. V48 also stated they referred to V48 as "an evil child" because V48 was left-handed. They told V48 that V48 was going to hell. They also tried to make V48 switch hands, but V48 was not able to do so.

V48 also recalled Resident41 who had a special plate and special silverware because their parents paid for them to have anything they wanted.

V48 recalled V48's sibling, V49, being on a toboggan and a nun getting upset and pushing V49 down. V49's teeth all got knocked out. V48 alleged V48 saw a lot of abuse. V48 remembered Resident42. V48 alleged that Resident42 was beaten very badly.

V48 recalled being paddled. One day, V48 was told to put V48's hand out and said "hell no." When the nun hit V48, V48 grabbed the paddle and hit the nun across the knuckles with it, and asked V48: "how does it feel?" Then, V48 stated V48 got it even worse because the nun had someone hold V48's hands down. V48 identified these nuns as Sister39 and Sister38.

V48 recalled another instance where V48 and two girls went up to the attic to play with the dolls. V48 stated they were all punished for it. They had them scrub the floor until their fingers were bleeding. V48 explained that one part of the attic was where their clothes and other items were kept, but another part of the attic was blocked off. On that side, there were rats running around, and V48 sometimes heard kids knocking from the other side.

V48 also alleged another boy died from being pushed out the window. V48 said many children said they saw it. V48 said Resident42 and V47 both saw it. V48 did not see it but several people claimed to have seen it and that they were talking about it at the Orphanage.

Named Assailants:

- 1) Sister38
- 2) Sister39
- 3) Father9

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents

Presence of Sister38 at the Orphanage: In 1973, there appears to have been a Sister35a who worked at the Orphanage. The exact dates Sister35a was at the Orphanage are unknown:¹⁷⁸

[redacted] (S) [redacted] Teacher grades 2-3 - [redacted]

It is unclear if this the same person that V48 references.

Presence of Sister39: a Sister2a's presence at the Orphanage seems to be confirmed by records:¹⁷⁹

[redacted] [redacted] - [redacted] - [redacted]
([redacted]) ([redacted]) [redacted]

¹⁷⁸ *Id.*
¹⁷⁹ See file in Criminal Report Source Material titled [redacted] at [redacted].

Sister2a was deposed in a civil case and confirmed her time at the Orphanage.¹⁸⁰ She denied that any of the residents were physically abused.¹⁸¹ She denied seeing or hearing about any sexual abuse of children at the Orphanage.¹⁸² Sister 2a was also deposed in a second civil case.¹⁸³

However, a second sister named Sister2b was potentially present at the orphanage while V48 was at the Orphanage between 1935-1969:¹⁸⁴

(D) ()
() () Teacher grades 3-4 - Community room

Case Analysis & Outcome: No criminal charges to be filed as no named suspects and potential crimes are barred by the statute of limitations.

Victim: V49

Contacted Law Enforcement:

Dates at St. Joseph's Orphanage: June 13, 1960 to September 4, 1962

VCC Resident File Reviewed: Yes

DCF Placement: Yes. Committed to DSW on June 13, 1960 and immediately placed at the Orphanage.

Allegations: For summary of allegations see V47.

¹⁸⁰ See generally, Deposition of [REDACTED] at [REDACTED] in [REDACTED] [REDACTED], file in Criminal Report Source Material titled [REDACTED]

¹⁸¹ *Id.* at p. 43.

¹⁸² *Id.* at p. 76.

¹⁸³ See generally, Deposition of Deposition of [REDACTED] [REDACTED] file in Criminal Report Source Material titled [REDACTED]

¹⁸⁴ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Named Assailants: Sister35

Potential Crimes: 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

Relevant Documents:

Presence of Sister35 at the Orphanage: in 1973, there appears to have been a Sister35a who worked at the Orphanage. The exact dates Sister35a was at the Orphanage are unknown:¹⁸⁵

[REDACTED] (S) [REDACTED] Teacher grades 2-3 - [REDACTED]
([REDACTED]) ([REDACTED])

It is unclear if this the same person that V49 references.

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

Victim: V50

Contacted Law Enforcement: V50 initially contacted the Attorney General's Office in September, 2018. V50 preferred to speak with the Victim Service Providers rather than law enforcement, so V50 spoke with Attorney General's Office Victim Advocate Amy Farr and Vermont State Police Victim Services Director Kate Brayton on October 5, 2018.

Dates at St. Joseph's Orphanage: May 8, 1953 to June 10, 1959. At the age of 12, V50 transitioned to a residential school. On March 15, 1960 V50 returned home to V50's mother and

¹⁸⁵ *Id.*

step-father.

VCC Resident File Reviewed: Yes.

Allegations: V50 lived with mother, stepfather, and three siblings. V50 experienced both physical and sexual abuse at V50's home. Father10 spoke to V50's mother and told her that he could help her take care of her children. One of V50's siblings went to the Orphanage with V50, one went to a group home, and another sibling stayed at home. V50 has letters exchanged between Father10 and V50's mother. "Father10 promised my mother that we were okay, but we were not. No one ever came to check on us or ask us if we were okay. No one."

According to V50: When we went to the Orphanage, things only got worse. Father10 told us, "Things are going to be better for you, you will get an education, people are going to take care of you." That didn't happen. There was no peace there. Sister40 would make you line up with your underwear in your hand then she would say, "You had the brown in your pants—you pig!" and then she would slap you right across the face. One of the other residents said something to Sister41 that she didn't like. She grabbed the child by the nape of the neck and dragged the child down the hallway. V50 remembers seeing the toes of the child's shoes dragging on the floor. Sister41 threw the child down a flight of granite steps and the child's head "busted open." Sister41 said, "You'll never talk to me again like that will you?" And after the child hit that wall, they never did talk to her again like that. There was no peace there. You had to sleep on your side in a certain position and if you were not sleeping in the right position, the nun, who had thimbles on her hand, would whack you. I had my arm twisted, I saw children getting their teeth smashed in. One time I found some matches and we were down by the dump, just past the fire pit. That firepit never went out, it stayed burning all the time. Sister42 took one of the matches and lit it and then blew it out and then stuck it in on my genitals. I have scars on my

back from the switches. They made sure to hurt us in places where it wouldn't show. Unless you raise my shirt, you can't see the scars. If you did something wrong, and they found out about it, they would say, "Go out to the grotto and get a switch. So that is what you did, 'cause if they had to come looking for you, you were going to get it twice as bad. They also like to hit us with the rosary beads. They would take them and double them up and whip you on the back with them. That was worse than the switch. There was a lot of violence in the Orphanage."

V50 remembers two residents who were "mentally challenged" and they would often fight with each other and the nuns would not step in. V50 stated that these two boys needed a psychiatrist or extra help. There were kids who were suffering and no one helped them. V50 recalled there was too much violence in there. V50 stated, "As a 10-year-old, I learned about sex in that place" and said the nuns were no different from the priests. V50 was sexually assaulted and V50 also believes that V50's sibling was also sexually abused. V50 stated that when children left the Orphanage, "They did not know how to behave, they went wild." V50 said that a lot of kids went to jail or ended up dead. "We had nothing and we had to steal to survive." V50 stated that these memories are the "tip of the iceberg."

Named Assailants:

- 1.) Sister40
- 2.) Sister41
- 3.) Sister42

Potential Crimes: V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness; 13 V.S.A. § 602 Assault

with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959); 13 V.S.A. § 3201 Rape by person over sixteen (1959).

*The 1947 criminal statutes and Vermont Statutes Annotated (1959) are being included to reflect the changes in the law when V50 was a resident at SJO.

Relevant Documents:

Presence of Sister41: at the time when V50 was a resident, there appears to have been a sister named Sister14a who worked at SJO from 1959 to 1966.¹⁸⁶ She was the house mother in the girls department.¹⁸⁷ In her deposition on March 26, 1997 she admitted to using a paddle on the children infrequently and spoke about discipline at SJO.¹⁸⁸ She denied hitting any children for wetting the bed and that she never saw a child forced to eat his/her own vomit.¹⁸⁹

[REDACTED] - [REDACTED]
([REDACTED]) ([REDACTED]) [REDACTED] dept. - Officer

A Sister14b appears to have worked at SJO but the time period is unclear.¹⁹⁰

[REDACTED] (D) [REDACTED]
([REDACTED]) ([REDACTED]) Officer [REDACTED] department

¹⁸⁶ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED]; see also Deposition of Sister [REDACTED] at [REDACTED] in [REDACTED].

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 35-41.

¹⁸⁹ *Id.* at 41-42.

¹⁹⁰ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Finally, there appears to have a Sister17a at SJO in 1958:¹⁹¹

(D) [redacted]
[redacted] ([redacted])
Teacher, 7th & 8th Grades - [redacted]

No [redacted]

Offices des sœurs

Prof. temp. [redacted] Prof. per. [redacted]

[redacted]	[redacted]
BURLINGTON: Classe 7e et 8e armées	En 1947 + [redacted] dépt.
" " " " " "	chapelle
" " " " " "	parloir des sœurs
" " " " " "	chapelle
" " " " " "	salle de réception
" " " " " "	chapelle
[redacted]	[redacted]
BURLINGTON: Classe 7 et 8, enfants de chœur	[redacted]
[redacted]	[redacted]

Presence of Sister42: at the time when V50 was a resident, there appears to have been a sister named Sister42a who worked at SJO from 1955 to 1959 and again 1962 to 1963 and was in charge of some residents.¹⁹²

[redacted] ([redacted])
[redacted] Officer [redacted] department

¹⁹¹ See file in Criminal Report Source Material titled [redacted] at [redacted]; see also file in Criminal Report Source Material titled [redacted] at [redacted].

¹⁹² See file in Criminal Report Source Material titled [redacted] at [redacted]; see also Deposition of Deposition of Sister [redacted] and [redacted], at [redacted], in file in Criminal Report Source Material titled [redacted].

1 Q. So did you go from [REDACTED] straight to St. ^o
2 Joseph's?
3 A. Yes.
4 Q. And when you were at St. Joseph's from 1955 to
5 1959, what was your position?
6 A. I was in charge of the [REDACTED]
7 Q. Then you left St. Joseph's in 1959 and you
8 went where?
9 A. I went to Montreal, yes.
10 Q. And you returned to St. Joseph's for 1962 to
11 1963; is that right?
12 A. Yes.
13 Q. And what was your position from 1962 to 1963?
14 A. I was still with the [REDACTED]
15 Q. Were you in charge?
16 A. Yes.
17 Q. Then after you left St. Joseph's in 1963, did
18 you ever return to St. Joseph's?
19 A. No.
20 Q. Do you have any relatives that are in
21 religious life?
22 A. No.
23 Q. And what have you done in order to prepare for
24 this deposition here today?
25 A. What I have done?

In her deposition in a civil case, Sister42a denied using any corporal punishment or other types of punishment, as described below, or seeing others use such punishment.¹⁹³

¹⁹³ Deposition of Deposition of [REDACTED] and [REDACTED], [REDACTED]
[REDACTED], at [REDACTED]. in file in Criminal Report Source Material titled [REDACTED]

4 Q. When you were there in 19 -- in either time
5 you were there, was there any policy by which you
6 were governed as to whether or not corporal
7 punishment was permitted?
8 A. No, no corporal punishment was permitted.
9 Q. And where was that policy stated?
10 A. I don't know. I knew I, as far as I'm
11 concerned, there was none.
12 Q. There was none permitted?
13 A. No.
14 Q. Is that correct?
15 A. Yes.
16 Q. And during the time that you were there did
17 you ever see or hear of any Sister utilizing
18 corporal punishment as a form of discipline for the
19 children?
20 A. No.
21 Q. And specifically did you ever see any of the
22 other or hear of any of the Sisters utilizing rulers
23 as a form of corporal punishment on children?
24 A. No.
25 Q. Did you ever see or hear of any Sister
1 utilizing what's been described as paddles as a form¹⁷
2 of corporal punishment to hit children?
3 A. No.
4 Q. Did you ever see any of the Sisters with the
5 paddle that's been described as like a pingpong
6 paddle or a paddle with a ball attached?
7 A. Well the children had some to play with. They
8 played outside, they played inside with that in the
9 gym.
10 Q. And did you ever see -- you never saw any
11 Sister utilize a paddle?
12 A. No.
13 Q. Do you recall having something that's been
14 described as a clapper? Are you familiar with the
15 term a clapper?
16 A. No.
17 Q. Something that makes noise, a wooden?
18 A. No, I never had that.
19 Q. Did you ever see that with any of the Sisters?
20 A. No.
21 Q. Did you ever see or hear of any Sister
22 striking any child with their hand?
23 A. No.
24 Q. Did you ever see or hear of any child or hear
25 of any Sister striking any child with a belt?

- 1 A. No.
- 2 Q. Did you ever see or hear of any Sister placing
3 any child in any type of closet or confined space as
4 a form of discipline?
- 5 A. No.
- 6 Q. Did you ever see or hear of any child placing
7 any child in the attic as a form of discipline?
- 8 A. No.
- 9 Q. Did you ever see or hear of any Sister
10 requiring any child to eat any vomit that they had
11 thrown up?
- 12 A. Oh, no.
- 13 Q. Did you ever see or hear of any child
14 physically struck by anyone other than a Sister?
15 That would be a priest, a seminarian or a lay
16 employee at St. Joseph's?
- 17 A. No.
- 18 Q. Did you ever see or hear of any Sister raising
19 their voice towards a child?
- 20 A. No.
- 21 Q. Did any of the [REDACTED] of which you were in
22 charge have any trouble with bed wetting?
- 23 A. I had a few.
- 24 Q. And what did you do to discipline bed wetters?
- 25 A. What did I do? I told them to get up during

1 the night and change their bed, I showed them the
2 linen, where it was, and wash themselves if they
3 wanted to.

4 Q. Did you ever utilize anything to embarrass or
5 humiliate the child, such as having them called
6 names, songs about them, having them paraded in
7 front of other children with diapers on, anything
8 like that?

9 A. No.

10 Q. Did you ever see or hear of any of that
11 happening?

12 A. No. For the simple -- may I ask -- may I tell
13 you something?

14 Q. Yes.

15 A. For the simple reason that we were not allowed
16 to go in other departments; we stayed with our, in
17 my own department, I stayed there.

18 Q. And why is that?

19 A. Because we weren't allowed; we had to take
20 care of our kids. I had eighty [REDACTED] That's how I
21 didn't, like I didn't go on the [REDACTED] side. I
22 never went. I don't know anything about [REDACTED]
23 there.

24 Q. You never had any contact with the discipline
25 of the [REDACTED]?

20

1 A. Never, never.

2 Q. Never observed the [REDACTED] being disciplined in

3 any way?

4 A. No.

5 Q. Never discussed with any of the other Sisters

6 how they were disciplining the [REDACTED]

7 A. No.

8 Q. I'm not quite sure why you felt that necessary

9 to mention that in connection with disciplining of

10 bed wetters. What did -- I'm asking you

11 specifically regarding the male children who were

12 bed wetters. Did you ever see them in any way

13 embarrassed or humiliated --

14 A. No.

15 Q. -- as a form of discipline?

16 A. No.

17 Q. Did you ever see or hear of any child being

18 required to wear a dunce hat in the classroom?

19 A. No.

20 Q. Did you ever teach in any of the classrooms?

21 A. No.

22 Q. Did you ever visit the classrooms?

23 A. Very seldom.

She denied seeing or hearing about any sexual abuse at the Orphanage.¹⁹⁴

29

1 BY [REDACTED]:

2 Q. Did you ever see or hear of any child at St.

3 Joseph's in any way being sexually abused?

4 A. No.

Presence of Sister40: there appears to have been a sister named Sister40a who worked at SJO in the [REDACTED] department. The time period however, is unclear:¹⁹⁵

[REDACTED] (S) [REDACTED]
[REDACTED] [REDACTED] Companion in [REDACTED] department

¹⁹⁴ *Id.* at 29.

¹⁹⁵ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

Presence of Father10: a Father10a was a member of the Diocese and worked at Vermont Catholic Charities starting in late 1950.¹⁹⁶



He remained in that position until June 21, 1957.¹⁹⁷ In that role he would have worked with the Orphanage.¹⁹⁸

¹⁹⁶ See file in Criminal Report Source Material titled [REDACTED]

¹⁹⁷ See file in Criminal Report Source Material titled [REDACTED]

¹⁹⁸ See generally, file in Criminal Report Source Material titled [REDACTED]

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

5.2 Previously Alleged Harm

Since its creation in September 2018, the Task Force has heard from many individuals reporting abuse at the Orphanage. These accountings were made not only by victims, but on behalf of victims by members of their family. Throughout the investigation over 66 interviews were conducted, and numerous more meetings occurred between victims and Victim Advocates from AGO, BPD, the Chittenden County State's Attorney, and VSP. Nevertheless, the Task Force is aware that this population does not represent all the allegations of abuse asserted against the Orphanage. Specifically, it does not include victims who reported abuse before the Task Force was created, and who have now chosen not to report again or who have since died.

Through its investigation, the Task Force became aware other individuals who alleged abuse at the Orphanage. These individuals were identified through new articles, litigation documents, and other source material reviewed by the Task Force. The allegations of abuse described in these mediums parallel the allegations described the by victims interviewed by the Task Force. Many report harsh beatings at the hand of the nuns and lay employees caring for them, verbal abuse, being placed in closets or other small rooms as a form of punishment, being forced to eat their own vomit, and sexual abuse perpetrated by nuns, priests, and other personnel hired to work at the Orphanage.

V51 is one of many victims who was unable to come forward and report the abuse V51 suffered at the Orphanage to the Task Force because V51 passed away in 2000. However, the

Task Force has decided to include V51's allegations of abuse in this report due to the extensive amount of time V51 was deposed under oath during V51's civil case and the amount of time V51 spent as a residence of the Orphanage, which was approximately twenty years. V51's allegations as found by the Task Force are laid out below:

Victim: V51

Dates at St. Joseph's Orphanage: June 17, 1940 to 1961 (ages 1 to 23)

VCC Resident File Reviewed: Yes, however, the file appeared to have been taken apart at a previous date as many of the pages seemed to be out of order.

Knowledge of Claims: In 1996, V51 filed suit against the Diocese, Vermont Catholic Charities, the Orphanage, and the Sisters of Providence alleging physical, sexual, and emotional abuse.

V51 died in 2000 and therefore could not be interviewed for this investigation. However, during V51's civil case, V51 was deposed for over nineteen hours. In the course of V51's deposition, V51 reported and described the allegations below during V51's time at the Orphanage.

Allegations: During V51's civil case, V51 alleged the following sexual abuse as a young child.

V51 described being sexually abused by two different nuns on several occasions in their bedroom. V51 was forced to fondle the nuns and then fondled V51. V51 reported being sexually abused by Brother1 and Brother2 who were students in the seminary, while swimming in the lake. They set up a game where they would swim between the children's legs. During this game, V51 was fondled by one of the men and the other attempted to force V51 to perform oral sex on him while underwater. When V51 refused, V51 was not allowed to swim for the rest of the day

as a punishment. V51 recalled being pinched on V51's buttock by Father11 on two occasions. He also would go behind V51 and pull V51's underwear down.

V51 also recalled physical abuse, including being beaten until V51 was black and blue. V51 would be hit about V51's head and heels. V51 was also struck with scissors (not with the open blade) and the metal edge of a ruler, repeatedly causing injury to V51's knuckles including bruises and broken skin. V51 specifically remembers Sister43, Sister44, Sister45 and Sister46 striking V51 with scissors. V51 also described being locked in a cubby and/or tank for an extended period of time without food or water. V51 recalled Sister43, Sister46, and Sister47 locking V51 in the attic or cubby. As a punishment, V51 was held backwards in the tub under running cold water, forcing water down V51's throat and nose, and then locked in a closet. Similarly, to the other former residents, V51 reported being forced to eat V51's own vomit if V51 threw up during meals and recalls one time when a nun rubbed V51's face in V51's vomit.

V51 describes extensive emotional abuse on a daily basis as well. The nuns often told V51 that V51 was the "devil child," "you're just like your" parent, and "You're no good. You're bad to the core." V51 recalls being told, "You're going to grow up and get married and put your kids in an orphanage and then have more kids and put them in the orphanage."

During V51's deposition, V51 described seeing a young boy being pushed out of the window.¹⁹⁹ V51 believed it was around 1944 when V51 moving to another dormitory, which occurred when V51 was around six years old. While outside, V51 heard a crash and then saw a boy falling to the ground and a nun at the window that the boy had just come out of, and then the boy hit the ground, bounced and then laid still. When V51 asked the nun about what had

¹⁹⁹ See generally, video depositions of [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED]

just happened, the nun told V51 that it had not happened, and threatened V51. V51 was then led away. V51 also alleged seeing a young girl pushed down the stairs by a nun while descending from the attic who had to be brought to the hospital for treatment and never returned to the Orphanage.

Named Assailants:

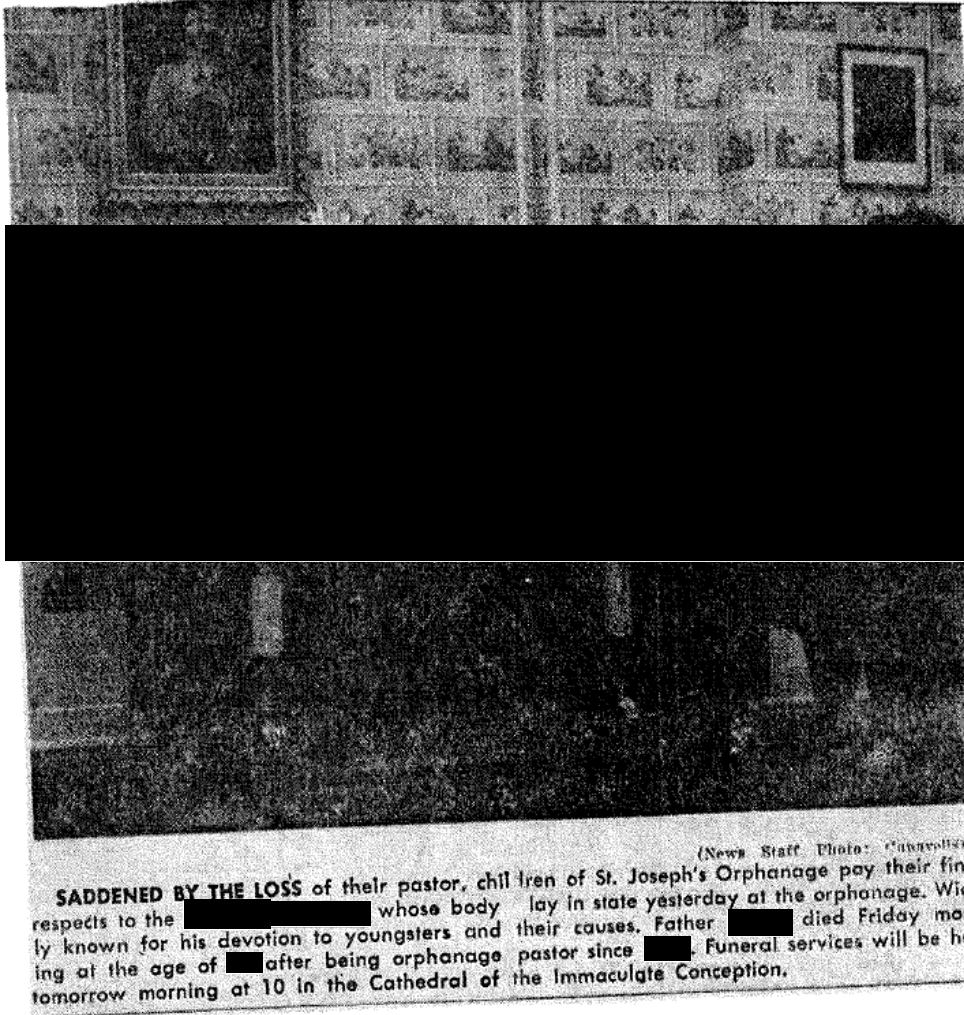
1. Brother1
2. Brother2
3. Father11
4. Sister43
5. Sister44
6. Sister45
7. Sister46
8. Sister47

Potential Crimes: P.L. Sec. 8395 Cruelty to children under ten by one over sixteen (1933); Sec 8397 By person having custody (1933); Sec. 8611 Lewdness (1933); V.S. 1947 § 8261: Cruelty to Persons – Cruelty to children under ten by one over sixteen; V.S. 1947 § 8262: Cruelty to a Person – By person having custody; V.S. 1947 § 8458 Disturbances – Of the public peace; V.S. 1947 § 8479 Lewdness; 13 V.S.A. § 602 Assault with intent to kill or maim (1959); 13 V.S.A. § 1021 Breach of the peace generally (1959); 13 V.S.A. § 1304 Cruelty to children under ten by one over sixteen (1959); 13 V.S.A. § 1305 Cruelty by a person having custody of another (1959); 13 V.S.A. § 2602 Lewd and lascivious conduct with a child (1959).

*The 1933 Public Law; 1947 criminal statutes; and 13 V.S.A. 1959 and being included to reflect the changes in the law when V51 was a resident at the Orphanage.

Relevant Documents:

Presence of Father 11: a Father 11a was at the Orphanage from 1935 -1955.²⁰⁰ He died in 1955 while still at the Orphanage.²⁰¹



²⁰⁰ See file in Criminal Report Source Material titled [redacted] at [redacted].

²⁰¹ See [redacted] at [redacted], (last visited November 2, 2020); see also file in Criminal Report Source Material titled [redacted] at [redacted].

As part of the investigation, the Task Force requested and reviewed Father11a's file from the Diocese.²⁰²

In a deposition for a civil case, Resident43 reported bringing meals to Father11a and others.²⁰³ In that same deposition, Resident43 denied ever being sexually abused at the Orphanage, seeing any child being sexually abused, or seeing any child being physically abused.²⁰⁴

Presence of Brother2: the Task Force learned that a Father8a was priest with the Diocese from around 1950 until his death 2011.²⁰⁵ As part of the investigation, the Task Force requested and reviewed Father8a's file from the Diocese.²⁰⁶

²⁰² See generally, file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

²⁰³ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

²⁰⁴ *Id.* at 12-14.

²⁰⁵ See file in Criminal Report Source Material titled [REDACTED]; see also file in Criminal Report Source Material titled [REDACTED].

²⁰⁶ See generally, file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

BIOGRAPHY

NAME [REDACTED] BORN [REDACTED] AT [REDACTED] *Vt.*
FATHER [REDACTED] MOTHER [REDACTED]
GRADE & HIGH SCHOOL [REDACTED]
SEMINARY [REDACTED] (place and years)
ORDAINED *Archdiocese of Burlington* [REDACTED] BY [REDACTED] Bishop
(place and date)
POSTGRADUATE STUDY *None* (place, years, subject, degree)
ASSIGNMENTS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

OBITUARY

Reverend [REDACTED]

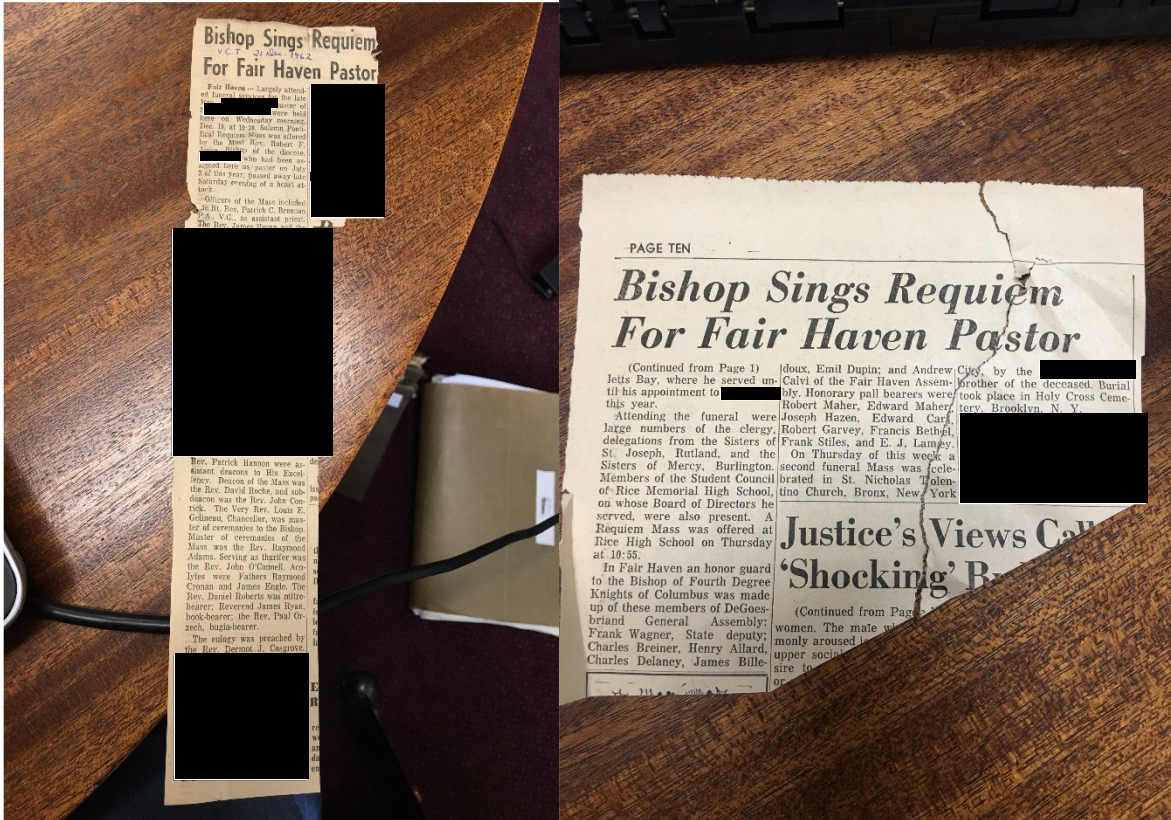
Reverend [REDACTED] died Wednesday, [REDACTED], in [REDACTED], Vermont. He was born on [REDACTED] in [REDACTED], Vermont, son of [REDACTED] and [REDACTED]. Father [REDACTED] attended St. Michael's College, Colchester, [REDACTED].

[REDACTED] He was ordained for the priesthood on [REDACTED] at the Cathedral of the Immaculate Conception in Burlington by Bishop [REDACTED].

His priestly ministry began as [REDACTED]. He then served as [REDACTED] Vermont Catholic Charities while serving [REDACTED] the Don Bosco Home in Burlington [REDACTED]. He also served as [REDACTED].

His first pastorate was at [REDACTED]. He also served as Pastor at [REDACTED] and [REDACTED]. [REDACTED] was granted Senior Priest status in [REDACTED].

[REDACTED]



Presence of Seminarians at the Orphanage: in a deposition in a civil case, Sister42a was deposed and was asked a series of questions around residents and seminarians, the seminarians who were apparently at the Orphanage in the summer, swimming in the lake.²¹⁰

²¹⁰ Deposition of Deposition of [redacted] and [redacted], [redacted], at [redacted], in file in Criminal Report Source Material titled [redacted]

23 Q. Did you go with the [REDACTED] when they went down
24 swimming at the lake?
25 A. Yes. But the seminarians were there during

1 the summer.

34

2 Q. Okay.

3 A. So when they were there, I didn't have to go.

4 Q. Okay. So --

5 A. There was always one Sister with them all the
6 time.

7 Q. How often would the [REDACTED] go swimming in the
8 summertime?

9 A. Oh, every afternoon.

10 Q. And this would be right below the Orphanage at
11 the lake?

12 A. Yes.

13 Q. Did they ever go to another beach other than
14 right below the Orphanage to go swimming?

15 A. Not that I know of.

16 Q. And who would take the boys swimming when they
17 went swimming? Would it be a seminarian?

18 A. Seminarians.

19 Q. How many seminarians would take the [REDACTED]
20 swimming?

21 A. Two, I think.

22 Q. And you don't remember any of their names?

23 A. No, I don't.

24 Q. So would there also be a Sister or just the
25 seminarians?.

- 1 A. Just the seminarians.
- 2 Q. Did you ever go down to the lake when the [REDACTED]
- 3 went swimming?
- 4 A. Oh, I went with them, yes.
- 5 Q. With the seminarians?
- 6 A. I mean I went, for a ride, I mean a walk down
- 7 to look at them swimming.
- 8 Q. Now was -- do you recall ever seeing the girls
- 9 swimming at the lake?
- 10 A. Well they were so far away, no. I got tell
- 11 you, I didn't have anything to do with the girls.
- 12 Q. Did the girls swim at the lake in a different
- 13 place than the boys swam?
- 14 A. I don't have any idea.
- 15 Q. Do you ever recall seeing the girls swimming
- 16 at the lake at the same time that the boys were
- 17 swimming at the lake, even if they were separated?
- 18 A. No.
- 19 Q. Do you ever recall seeing the girls swimming?
- 20 A. No.
- 21 Q. Do you recall a platform with a diving board?
- 22 A. Yes.
- 23 Q. Is that where the boys swam, where the
- 24 platform was?
- 25 A. Um hum; yes.

- 1 Q. Did you ever see or hear of a child drowning
- 2 at St. Joseph's?
- 3 A. No.
- 4 Q. Did you ever see or hear of any child dying at
- 5 St. Joseph's?
- 6 A. No.
- 7 Q. Did you ever see or hear of any child freezing
- 8 to death outside?
- 9 A. No.
- 10 Q. Where the boys went swimming, do you recall
- 11 seeing any boats on the shore?
- 12 A. I've seen -- on the shore?
- 13 Q. Yes.
- 14 A. No.
- 15 Q. Did you see boats in the area where the [REDACTED]
- 16 went swimming?
- 17 A. Yes, a few passing.
- 18 Q. Where were the boats that you saw?
- 19 A. They were going through on the lake.
- 20 Q. So you're talking about boats that are out on
- 21 the lake with --
- 22 A. Yes.
- 23 Q. Okay. As far as an empty boat, though, on the
- 24 shore, a rowboat or that type of thing.
- 25 A. Oh, no. I never stayed too long to see all

Presence of Sister47: a Sister47a was at the Orphanage from 1942 to 1955 and recalls V51 as a resident at the Orphanage.²¹²

16 Q. And you started in Burlington as a companion?
17 A. Yes.
18 Q. And is that the boys or the girls' side?
19 A. The [REDACTED]
20 Q. [REDACTED] side. And that was from 19 -- for two
21 years, 1942 to 1944?
22 A. Yes.
23 Q. Did you work as a cook, did you work in the
24 kitchen?
25 A. Yes.

10

1 Q. From 1944 to 1952?
2 A. Yes.
3 Q. And then what happened, what's the difference
4 between -- well, strike that. In 1952 it says
5 Responsible cuisine; what does that mean?
6 A. The first one.
7 Q. You were in charge of the kitchen?
8 A. Yes.
9 Q. Before that you were just, you were working
10 there with someone else?
11 A. Companion.
12 Q. So you were there until 1955.
13 A. Yes.
14 Q. And that was the only time you were at
15 Burlington was from 1942 to 1955.
16 A. Yes.

²¹² See Deposition of Deposition of [REDACTED] and [REDACTED], [REDACTED] at [REDACTED], in file in Criminal Report Source Material titled [REDACTED]

17 A. NO.
18 Q. Now you mentioned [REDACTED] in [REDACTED]
19 [REDACTED]. Do you remember [REDACTED]?
20 A. I didn't have [REDACTED] very long with me, because I
21 was only two years with the [REDACTED], and after I was
22 in the kitchen, that's all.
23 Q. So you remember [REDACTED] from when you
24 were with the [REDACTED] between 1942 and 1944?
25 A. Yes.

37

1 Q. And how old was [REDACTED] during that
2 time?
3 A. Well [REDACTED] was fifteen, sixteen. [REDACTED] was
4 younger when [REDACTED] begin with the [REDACTED], because [REDACTED]
5 went with the Second Nursery before.
6 Q. Well when you --
7 A. [REDACTED] was six years old when [REDACTED] came with the
8 [REDACTED]
9 Q. When you knew [REDACTED] between 1942 and
10 1944, that's the only time you knew [REDACTED] because you
11 didn't know [REDACTED] in the kitchen, did you?
12 A. When [REDACTED] came to help us.
13 Q. When [REDACTED] came to help you. How old was [REDACTED]
14 [REDACTED] when you knew [REDACTED] between 1942 and 1944?
15 A. [REDACTED] must have been [REDACTED], [REDACTED] or [REDACTED] years
16 old.

In that same deposition, Sister47a denied any knowledge of any abuse of V51 or any resident:²¹³

²¹³ Id. at 27-29.

27

1 Q. Didn't -- while you were at St. Joseph's, did
2 you ever see or hear about any of the children being
3 disciplined by being put in closets?
4 A. No.
5 Q. Did you ever see or hear of any of the
6 children being disciplined by being put in the
7 attic?
8 A. No.
9 Q. Did you ever go to the attic?
10 A. Yes, I went many times.
11 Q. Did you ever see or hear of any of the
12 children being put in the attic as a form of
13 discipline?
14 A. No.
15 Q. Were there any boxes in the attic, large boxes
16 where children could be put into?
17 A. No.
18 Q. There were none?
19 A. No.
20 Q. Was there any type of a tank --
21 A. No.
22 Q. -- in the attic?
23 A. No.
24 Q. At any time while you were at St. Joseph's,
25 did you ever observe or hear of any child being

28

1 disciplined with corporal punishment?
2 A. No.
3 Q. You never heard of a child being touched by a
4 Sister?
5 A. No.
6 Q. Did you ever hear of a child being disciplined
7 by a Sister with rulers or scissors?
8 A. No.
9 Q. Or clappers?
10 A. No.
11 Q. Or razor straps?
12 A. No.
13 Q. Did the children have numbers?
14 A. No.
15 Q. Do you know how the young children who were
16 wetting their beds were disciplined?
17 A. No.
18 Q. Did you go with the children when they took
19 their meals?
20 A. Yes.
21 Q. Did you eat with the children?
22 A. Yes.
23 Q. Did you ever see any of the children vomit?
24 A. No.
25 Q. Did you ever see any of the children being

29

1 required to eat their vomit?
2 A. No.
3 Q. Did you ever hear of that happening?
4 A. No.
5 Q. Did you ever see or hear of any children, any
6 child being injured while you were at St. Joseph's?
7 A. Being what?
8 Q. Injured, suffering an injury.
9 A. No.
10 Q. Never heard of a single child having any
11 injury during the whole thirteen years that you were
12 at St. Joseph's.
13 A. No.
14 Q. Did you hear of any children dying while you
15 were at St. Joseph's?
16 A. No.
17 Q. Did you ever hear or observe any child being
18 subjected to any type of sexual abuse, either by
19 nuns, by priests, by seminarians or by the lay
20 workers?
21 A. No.
22 Q. Did you ever hear of or see of a nun punishing a

Further, she denied abuse in a statement as part of the V51 litigation:²¹⁴

NAME: Sister [redacted] ADDRESS: _____
Circle One: Client (Witness) _____
(Maiden Name) _____
PHONE: (home) [redacted] _____
FAX: _____ E-MAIL: _____

Statement on abuse¹

Years at Orphanage: 1948-1956 Recovered Memory: Yes / No
Siblings/Years: _____ Deposited: Yes / No
Agree to Testify: Yes / No

Claims:
never saw any type of abuse

Abusers:

Witnesses to Your Abuse:

Witness to Abuse of Others:

Additional Comments:
worked with [redacted], Sister [redacted]
remembers [redacted]

Presence of Sister44: a Sister4a is listed as working at the Orphanage in records although the exact time period in not clear:²¹⁵

[redacted] (D) [redacted]
[redacted] [redacted]

Similarly, a Sister44b appears to have worked at the Orphanage²¹⁶

²¹⁴ See file in Criminal Report Source Material titled [redacted]

²¹⁵ See file in Criminal Report Source Material titled [redacted]

²¹⁶ See file in Criminal Report Source Material titled [redacted]

[REDACTED] (D) [REDACTED]
[REDACTED] [REDACTED]

[REDACTED]

Presence of Sister46: a Sister46a appears to have worked at the Orphanage, although the exact time period is not clear:

[REDACTED] (S) [REDACTED]
[REDACTED] [REDACTED]

Companion [REDACTED] department

Presence of Sister45: it does appear that a sister named Sister6a was present at the Orphanage while V51 was a resident²¹⁷²¹⁸

Offices des sœurs	No	Prof. per.
prof. temp.	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
BURLINGTON:	Compagne chez [REDACTED]	

In her deposition in a civil case, a Sister6a confirmed V51's presence at the Orphanage and identified V51 in several photographs.²¹⁹

²¹⁸ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

²¹⁹ See Deposition of [REDACTED] at [REDACTED] in [REDACTED], file in Criminal Report Source Material titled [REDACTED].

5 Q. [REDACTED], the [REDACTED] to the left would be
6 [REDACTED]
7 A. [REDACTED] right. Yes.

The screenshot below is from the St. Joseph's Children's Center Chronicles, a document prepared and signed by the nuns from the Orphanage. There have been many allegations that children drowned, or children were left alone whilst swimming in the lake.²²⁰ Though this does not corroborate any neglect or abuse, it does provide corroboration for the fact that the nuns took the children swimming in Lake Champlain.

SUMMER
OUTINGS

As in the preceding years, the children have been favored with many outings sponsored by kind benefactors and generous societies of this area. Among these tours was a visit to New York State by the Lake Champlain ferry where children's parks of entertainments were enjoyed; a circus, the King Brothers, a three ring circus, on the fairgrounds in Essex Junction, Vermont; picnics taken by bus where food and cold drinks were plentiful; public movies at a local theater, free of charge; and when the weather permitted daily "Cook-outs" on the grounds with an evening dip in the near-by lake. We feel that these children who were not permitted to go home for the vacation, either because the parents work or for lack of space, etc., had a very happy vacation with seldom a dull moment. Divine Providence and good St. Joseph saw to this!

Case Analysis & Outcome: No criminal charges to be filed as potential crimes are barred by the statute of limitations.

²²⁰ See file in Criminal Report Source Material titled [REDACTED] at [REDACTED].

5.3 Allegations of Homicide at the Orphanage

Excerpts from *Section 5.1 Allegations of Abuse at the Orphanage* and *Section 5.2 Previously Alleged Harm*, in which allegations of homicide were made, are identified below. A detailed overview of law enforcement's investigation of these allegations can be found in *Section 5.4.1 Burlington Police Department's Investigative Summary*.

The Task Force is aware that this population may not represent all the allegations of homicide asserted against the Orphanage. Additionally, while not included here, many victims reported that they nearly drowned in the lake after being thrown in by a caretaker or reported that other children drowned in the lake. Finally, some of allegations of homicide were second-hand witness testimonies from children who did not see or hear anything happen, but heard other children screaming or crying about what they had seen.

V12: During V12's interview with BPD, V12 recalled a time when V12 and V12's sibling were looking for their other siblings at the Orphanage. They didn't know the building and were lost. They could hear two nuns yelling and screaming. They could not understand them. V12 believes they could have been speaking French. The nuns were looking down into a hole. V12 believed at the time that it was an elevator shaft. V12 and V12's sibling came up on either side of the nuns. At the bottom of the hole, they saw a little girl in a pool of blood with her legs bent. V12 described her wearing a red polka dot dress. In retrospect, V12 says the dots could also have been small hearts. The nuns noticed V12 and V12's sibling and started slapping them and throwing them around. V12 does not remember leaving that room, but remembered waking up strapped to a bed in the infirmary. V12 remembered this incident happening on the second floor,

towards the middle. V12 remembers the girl's hair being in braids. V12 guesses she was between 8 or 10 years old.

V51: During V51's deposition, V51 described seeing a young boy being pushed out of the window. V51 believed it was around 1944 when V51 moved to another dormitory, which occurred when V51 around six years old. While outside, V51 heard a crash and then saw a boy falling to the ground and a nun at the window that the boy had just come out of, and then the boy hit the ground, bounced, and then laid still. When V51 asked the nun about what had just happened, the nun told V51 that it had not happened, and threatened V51. V51 was then led away.

V51 also alleged seeing a young girl pushed down the stairs by a nun while descending from the attic. V51 recalled the young girl had to be brought to the hospital for treatment and never returned to the Orphanage.

V15: During V15's interview with BPD, V15 recalled that when V15 was eight or nine years old, V15 was walking up to a room near the attic and saw a dead blonde girl wrapped in clear plastic, laying on a table. V15 estimated her to be six or seven years old. V15 kept mentioning digging up the floor as you go up the stairs to the attic in a side room just before the attic. V15 remembered a nun being present and two other men that V15 did not recognize. They carried the body to the cemetery attached to the Orphanage and brought her to a vault at night. V15 did not know why V15 was brought along but remembered being afraid and the nun telling V15 not to say anything or else she would tell everyone that V15 killed her. V15 remembered going through a broken portion of the fence to gain access to the cemetery. V15 wondered if V15 dreamed the incident but said V15 could "see her face clear as shit." V15 often had nightmares about the girl

coming back to get V15. V15 could not remember what vault the girl was placed into and did not think V15 would recognize it if brought to the area.

V25: V25 described a play area surrounded by a chain-link fence where V25 witnessed a boy, who V25 repeatedly referred to as Resident14, throw his shoe on the roof and was subsequently beaten by a nun. V25 said on another occasion, Resident14 was playing on a statue in the chapel. V25 said the statue was very high up and Resident14 fell, and one of the nuns blamed it on V25. V25 advised that V25 never saw Resident14 again.

V25 said on one occasion, two nuns took V25 out in a rowboat at night and had a bag with them. V25 said the nuns threw the bag into the lake and told V25 that's what would happen to V25. V25 said V25 never saw Resident14 again and began crying and said V25 still wondered what happened to Resident14.

V45: V45 never saw a child die at the Orphanage. V45 said V45 thought V45 saw what appeared to be two graves near the chicken coop by the fence. V45 saw a hole was dug with the approximate dimensions of 5' by 18" and then next day the hole was filled.

V19: V19 remembered one night when everyone was getting ready for bed in the dorm. One of the older residents was hysterically running up the hallway screaming and crying, "They killed him, they killed him!" Sister17 grabbed the resident and pulled them back out of the room. V19 said Sister17 said to everyone, "Don't pay attention to them, [they're] crazy!" V19 had heard later that they dropped a little boy down the staircase and he died.

V29, made through V29-Daughter1: In V29-Daughter1's statement to BPD, V29-Daughter1 explained that V29 recalled looking out the window at night and saw someone parked in the street when a man got out of the car, took something out of the trunk, and buried it. V29-

Daughter1 said that V29 told V29-Daughter1 that V29 reported this, and it helped solve a case, and V29 was so proud of this. V29-Daughter1 said V29-Daughter1 had no clue if this had any merit or any other details on this story.

V18: V18 remembered a particular day while on nursery duty that V18 stopped V18's routine because of a sound. V18 checked one of the cribs and saw a whimpering infant. The noise registered as weakness, not quite a cry. The infant's color was purple, possibly deprived of oxygen. A nun stationed in the nursery approached the whimpering newborn and V18 and admonished V18 for tending to the dying newborn. The nun said, "I'll take care of that thing." V18 recalled that two nuns regularly attended to the nursery. V18 speculated that a novitiate birthed the newborn, and the nuns permitted the baby to die of exposure. V18 alleges that the baby was buried in a grotto beside the Orphanage.

V3: V3 reached out to BPD mainly to discuss the allegations surrounding the chicken coop. V3 believed there were bodies buried near where the chicken coop used to be. V3 described the chicken coop as being "down the hill" behind the Orphanage "to the right" indicating a general location to the northwest of the Orphanage. V3 recalled the children forcefully not being allowed near the chicken coop/shed.

V3 remembered an incident where a girl was screaming at the top of a marble staircase. V3 remembered sitting on the floor below the stairs and looked up when V3 heard screams when a nun suddenly pushed the girl down the stairs. The girl tumbled down the stairs and V3 remembered vividly seeing blood coming out of the girl's left ear. V3 described the girl as having lighter hair and in a light-colored dress. A group of nuns then quickly ushered the children away from the area and V3 never saw the girl that fell again. V3 believed this happened sometime in 1952.

5.4 Investigation by Law Enforcement Partners

When Task Force members BPD and VSP began their investigative work it was determined that BPD, with assistance from the Chittenden Unit for Special Investigations (“CUSI”), would handle all allegations that were made by former residents of the Orphanage who resided in Chittenden County or out of state and VSP would handle interviews of former residents of the Orphanage who lived in other parts of Vermont. Below are their summaries of the investigative work the conducted.

5.4.1 Burlington Police Department’s Investigative Summary

As noted in *Section 4.3 State of the Law*, the statute of limitations on a majority of the alleged crimes committed at the Orphanage, to include sexual assault, had expired. Only allegations of murder transcended the statutes of limitations that applied to acts committed during the Orphanage’s years of operation. (It is important to note that the State of Vermont has changed these laws, and that current state law allows prosecutions for aggravated sexual assault, aggravated sexual assault of a child, sexual assault, sexual exploitation of a minor, human trafficking, aggravated human trafficking, murder, manslaughter, arson causing death, and kidnapping to be commenced at any time after the commission of the offense.) Because murder was the only crime outside the applicable statutes of limitations, BPD focused most on these allegations.

During BPD’s investigation, a number of survivors’ statements provided information of suspicious circumstances potentially indicative of homicide or allegations of persons having witnessed murder. The suspicious circumstances ranged from accounts of holes large enough to accommodate a body that were seen dug in the ground inside and around the “chicken coop,” to a statement that described witnessing a boy being pushed out a window to his death. (This latter

statement was that of V51, who had passed away before the Task Force was convened, but who had previously taken part in a sworn, videotaped deposition during which V51 provided compelling accounts of having been an eye witness to two alleged murders.)

From an investigatory standpoint, the task of investigating alleged murders that occurred more than a half a century ago presented a number of challenges. There was no body, no crime scene, no known victim, no suspect name or names, no physical evidence. Several witness had died, as had other individuals who might have provided corroboration. Many of the survivors who gave statements were very young at the time of the incidents (ranging from 3 to 13 years old). The murders described by V51 occurred circa 1944, meaning 76 years had passed.

Acknowledging that a successful investigation—particularly one that could conceivably result in prosecution—was a nearly impossible task, BPD examined its obligation to a form of justice other than criminal justice. *What did BPD, and other Task Force members, owe these survivors?* To the best of BPD's ability, they owed survivors belief, restoration, and closure. BPD brought resources to bear accordingly.

Seven BPD detectives, two of whom were assigned to CUSI, assisted throughout this two-year-long investigation. During the investigation, BPD detectives conducted 45 interviews with survivors. In an effort to find corroborating information or evidence of alleged murders, the AGO and BPD contacted Vermont Catholic Charities, the Diocese, and the Sisters of Providence.

Vermont Catholic Charities and the Diocese granted investigators permission to view all files related to every survivor who had come forward. Detectives were able to view residence

files, residence tracking index cards, and the two resident books that documented every child who ever resided at the Orphanage from 1854 to the time that it closed in 1974. These tomes contained the name of every complainant who came forward. Detectives took the following investigative steps to find supporting evidence:

- Detectives interviewed 45 survivors/witnesses.
- With the assistance of the AGO and permission from Vermont Catholic Charities and the Diocese, detectives reviewed the two resident books on several occasions. Special attention was focused on all the survivors who had come forward and on the residents who died while at the Orphanage.
- Detectives reviewed archival documents at the Fletcher Free Library to include news articles prior to the 1990s, during the 1990s (particularly articles by Sam Hemingway), as well as the BuzzFeed article by Christine Kenneally.
- Detectives spent a number of days reviewing the resident files and priest files at Vermont Catholic Charities with the assistance from the AGO and permission from Vermont Catholic Charities and the Diocese
- Detectives drafted the investigative narrative for the MLAT petition to assist the AGO in efforts to compel cooperation and document production from the Sisters of Providence.
- Two detectives spent two days reviewing hundreds of death certificates from the City of Burlington, looking for associated deaths related to the Orphanage.
- Three detectives and a records clerk spent approximately three days (combined hours) sifting through hundreds of police documents looking for any corroborating police records involving the Orphanage. Nothing of substance was found.

- Detectives reviewed medical records.
- With help from survivors, detectives plotted locations on the Orphanage property possibly associated with homicide allegations (e.g., the chicken coop and potential grotto).
- Detectives met with the current developer of the former Orphanage property multiple times to establish timelines of current work as well as prior excavations done on the property. Through those meetings, detectives were able to conclude that the area where the “chicken coop” had been located was excavated in 2013 and was converted into a drainage pond. To date a majority of the property grounds around where the old Orphanage building stands has also been excavated, to include where the “grotto” once stood. Detectives met with the excavation foreman who confirmed that nothing suspicious has been located, including human remains.
- Detectives viewed V51’s deposition in its entirety.
- Detectives reviewed case files and paperwork from lawsuits filed by survivors in the 1990s.

The above bullet-pointed investigative action is not all-encompassing but outlines general steps taken during the investigation.

5.4.2 Vermont State Police’s Investigative Summary

VSP was specifically tasked with conducting interviews regarding allegations against the Orphanage and also potentially assisting with any type of homicide investigations related to incidents that may have occurred at the Orphanage. Specifically, VSP investigated allegations made by victims who resided outside of Chittenden County. Two interviews were conducted by

VSP detectives, one was directly related to the Orphanage, and a second investigation was around allegations that were not related to the Orphanage.

After these interviews were conducted and more information was gathered by the Task Force, a decision was made to move from an investigative to a restorative process with prospective victims. As such, the Victim Services Director, in cooperation with the Victim's Advocate from the AGO, started speaking with individuals who came forward with allegations of abuse.

Detectives with VSP remained engaged in the Task Force process but took no further investigative actions.

5.5 Outcome of Investigation

Over the past two years, the Task Force investigated allegations of physical abuse, sexual abuse, and neglect made by former residents of the Orphanage, and reviewed a number of residents' statements that provided information potentially indicative of homicide or allegations of persons having witnessed murder.

As part of that investigation, the Task Force requested documents from the institutions that ran and oversaw the Orphanage, conducted interviews, went on location visits, and reviewed video depositions and other materials. At the completion of the investigation, the Task Force concluded that the statute of limitations barred prosecution for all potential crimes considered by the Task Force, other than murder. Murder does not have a statute of limitations, but, as stated above, the investigation did not reveal sufficient evidence to substantiate such a charge.

As a result, the Task Force has closed this criminal investigation. Notwithstanding this recommendation, BPD reserves the right to re-open a murder investigation if new information is brought to their attention.

6. Restorative Inquiry

The St. Joseph's Restorative Inquiry (SJRI) was launched in April of 2019 to understand and document the events of the Orphanage through the voices, experiences, and stories of those most impacted: the former residents of the Orphanage. The SJRI has been facilitating inclusive processes of accountability, amends-making, and learning. The SJRI is funded by a grant from the Vermont Center for Crime Victim Services, with matching and in-kind support from the Burlington Community Justice Center. Much more information about the SJRI can be found at its website: <https://www.stjosephsrj inquiry.com/>.

The SJRI is led by an independent facilitator, Marc Wennberg, and is guided by an advisory team comprised of agency stakeholders, victim service providers, former residents of the Orphanage, and restorative justice practitioners.

6.1 Why A Restorative Inquiry?

From the outset of this investigation, Task Force members looked to the principles of restorative justice to provide a path for accountability and healing that the traditional criminal justice system may not. The Task Force recognized that its work could not be limited to an inquiry into criminal liability. Justice cannot always be delivered in a court of law. But members of the Task Force understood that the limits of criminal jurisdiction do not mark the limit of the State's obligation to those people whose lives were harmed by their time at the Orphanage.

“Restorative justice is an approach to achieving justice that involves, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs, and obligations in order to heal and put things as right as possible”⁵⁰ Task Force members understood the importance of listening to, and learning from, the people whose lives were harmed. The Task Force has worked to find ways to acknowledge their experiences and perspectives while encouraging Vermont institutions—including police, prosecutors, family services, and others—to reflect on their past and present responsibility to protect children.

To this end, the Task Force engaged the services of the Burlington Community Justice Center and an independent facilitator, Marc Wennberg, to assist in creating a process and response that would acknowledge and address the harm communicated by the survivors who came forward to report abuse that happened at the Orphanage.

This process created by Mr. Wennberg, the Advisory Team, and the Community Justice Center took the form of a restorative inquiry. A restorative inquiry can be used when harms occurred in the past and over a lengthy period of time. Similar to a truth and reconciliation commission, a restorative inquiry is focused on uncovering facts and understanding what happened both in terms of the parties directly responsible, and in terms of the systems or institutions involved. While restorative inquiries investigate the past, they usually propose changes to prevent similar harm in the future. The principles employed in a restorative inquiry remain the same as those for any other restorative process: the process is driven by the victims and survivors of the harm and should seek to do no further harm. The Restorative Inquiry into St.

⁵⁰ Howard Zehr, *The Little Book of Restorative Justice*, page 48, (Good Books, 2015)

Joseph's Orphanage has drawn inspiration and learning from the Restorative Inquiry into the Nova Scotia Home for Colored Children.⁵¹

6.2 SJRI Statement of Principles and Commitment

The SJRI is guided by the following statement of principles to the former children of the Orphanage:

- As a community, we failed you when you most needed our support and care. You did not deserve what took place at the Orphanage; your lives were wrongly harmed and we need to make amends for this harm. We also have a responsibility to learn from your experiences so that children in Vermont do not suffer similar harm.
- Our core obligation is to listen to your stories and experiences. You know what took place at the Orphanage and the many ways that these experiences impacted your life. We believe you.
- There are no justifications for what took place at the Orphanage. There are also no excuses for the many ways that the community and those involved in operating the Orphanage ignored your neglect and abuse. Every child deserves protection, care, and love.
- Everyone involved must accept responsibility for the harm that you experienced. This responsibility requires that we listen to you, honor your requests, and—to the best of our collective ability—make amends.

⁵¹ More information can be retrieved at: <https://restorativeinquiry.ca/>. An article about the Nova Scotia inquiry can be retrieved at: <https://policyoptions.irpp.org/magazines/february-2020/restorative-inquiry-offers-new-vision-of-justice-for-african-nova-scotians/>.

- We owe it to all children, present and future, to not repeat the mistakes that were made with you and your families. We must learn from your experiences and wisdom to ensure that every child is protected, cared for, and nurtured.

We Commit Ourselves to:

- Respect: We will engage all participants with respect and dignity.
- Safety: We will support all participants' fundamental right to feel safe.
- Inclusiveness: We will ensure that all participants have multiple opportunities to be heard and acknowledged.
- Equality: We will facilitate processes that ensure equal voice and experience.⁵²

6.3 SJRI Framework and Process

The SJRI operates within a restorative justice framework and takes direction from the former residents of the Orphanage. The SJRI is an organic and iterative process that first seeks to establish connection and relationships, and then explores key issues and identifies plans of action. These steps include:

- Connecting with former residents of the Orphanage: The SJRI will engage every former child of the Orphanage who wants to participate and have their voice heard. The SJRI is committed to offering multiple pathways for former residents to engage in the process and share their stories.
- Organize group gatherings: The SJRI organizes and facilitates weekly group gatherings of former residents from the Orphanage. The gatherings provide former residents with an

⁵² The text of this section is also found at: <https://www.stjosephsrj inquiry.com/principles>

opportunity to build connection, offer mutual support and understanding, share stories and experiences, and make decisions on the direction of the restorative inquiry.

- Meeting with the primary responsible institutions: The Orphanage was managed and supervised by the Diocese, Vermont Catholic Charities, and the Sisters of Providence. The Orphanage was also part of a statewide system of child welfare and safety that included state agencies, police, and health care providers. The SJRI will engage willing representatives from the different agencies and institutions and invite their participation and reflection.
- Restorative dialogues: The SJRI is committed to facilitating a series of restorative dialogues where responsible institutions have an opportunity to listen to and learn from former residents of the Orphanage.”⁵³

6.4 Activities of the SJRI

The SJRI began its work in May of 2019 by conducting outreach to former residents from the Orphanage who expressed an interest in learning more about the restorative inquiry. As of this report’s publication, the SJRI has contacted more than 30 former residents. Through these contacts, about 18 people have become actively involved in the SJRI. Of these former residents, about a dozen live outside of Vermont. In November of 2019, the SJRI began hosting regular in-person gatherings for its participants. As a result of the COVID-19 pandemic, meetings have moved online and take place on a weekly basis. Members of the Task Force have met with SJRI participants and participated in SJRI proceedings and activities.

⁵³ The text of this section is also found at: <https://www.stjosephsrj inquiry.com/about>

In addition to meeting frequently, there have been several activities sparked by SJRI participant requests. Some of these include: the creation of a writer's group, participation at a Burlington Parallel Justice Commission,⁵⁴ the formation of a memorial committee, participation in a historical research project, and a number of informational sessions to include education about Adverse Childhood Effects (ACEs).⁵⁵

6.5 The Requests of Those Who Were Harmed

In accordance with the restorative justice process, the former residents of the Orphanage make the following requests of Vermont leaders and institutions.

Request 1: Face-to-face meetings with leaders from the following institutions, an acknowledgement from them that what we say happened did indeed happen, and a sincere apology:

- the Sisters of Providence,
- the Catholic Diocese of Burlington,
- Vermont Catholic Charities,
- and the State of Vermont child protection services.

Request 2: The Catholic entities named in Request 1 shall demonstrate the depth of their apology by:

- creating a fund to pay for the healing therapies of any former orphanage resident who requests it,

⁵⁴ See: <https://www.burlingtoncjc.org/parallel-justice>.

⁵⁵ See: St. Joseph's Restorative Inquiry September 2020 newsletter. Included in Appendices.

- releasing all records related to the operation and supervision of St. Joseph's Orphanage and,
- providing all and complete family records, no redactions, to any former resident who requests it. We have been seeking these records for a long time and they have not been forthcoming.

Request 3: The Vermont State Legislature, upon reading the report, shall:

- acknowledge the harm we experienced, and
- work with us to enact laws that remove the statute of limitations for physical and mental abuse to better protect vulnerable people of all ages who face abuse of any kind.

Request 4: Make public the St. Joseph's Orphanage Task Force Criminal Investigation Report, so the public is informed:

- about the horrors that went on at St. Joseph's,
- that it was covered up by The Catholic Diocese for decades,
- that what may still be hidden remains unknown, and
- for the purpose of encouraging any individual who worked for or lived at the orphanage that has testimony to add, to please come forward.

7. Reflections from the Task Force

The State of Vermont, its laws, and its institutions did not protect the children of the Orphanage. That failure to protect was a failure of the laws, a failure of law enforcement, and a failure of the society that made those laws and oversaw their enforcement.

In this section, members of the Task Force reflect about this societal failure to help those who most needed it, and the institutional failures and lack of understanding that led to the alleged abuses going unchecked for decades. They reflect on the roles and actions of their own institutions, and the broader contexts in which they operated.

7.1 Attorney General's Office

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON
CHIEF ASST. ATTORNEY GENERAL



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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
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My Office conducted this investigation to achieve three goals: First, to investigate an allegation of homicide; second, to investigate and prosecute criminal activity where possible; and third, to provide a path for accountability and healing where the traditional criminal justice system may not.

A crucial part of the third goal has been to reflect on the role and responsibilities of my Office in relation to the allegations at the Orphanage.

To the people who experienced harm at the Orphanage: I see you, I hear you, and I support you. The Office of the Attorney General did not protect you during your years at the Orphanage. I acknowledge the Office's role in a failed system and the impact that has had on your lives.

That failure to protect was a failure of the laws, a failure of law enforcement, and a failure of the society that made those laws and oversaw their enforcement. I discuss these issues further below.

The Impact

Through my participation in the restorative inquiry, I and others from my Office have had the opportunity to hear directly from many of the people who were harmed while they were at the Orphanage. We admire the bravery and courage of those who have come forward to share their painful experiences. Similarly, it is important to acknowledge those people who experienced harm but were not able to come forward because they decided that reporting the abuse was not in their best interest or were not able to do so because they are no longer with us.

There has been a lifelong impact on many of the children who suffered abuse at the Orphanage and they have carried this trauma into adulthood, affecting their families and loved ones deeply. We must be vigilant about acknowledging the trauma experienced by children and other vulnerable populations and we, as a community, need to be committed to addressing issues of trauma.

The Attorney General's Office

The Attorney General's Office has changed significantly since the era of the allegations in this report, with a greatly expanded capacity to address crimes of the sort alleged. I do not describe these changes to excuse the failure to protect the children of the Orphanage. I describe them to give an honest account of our history, and to draw lessons that should teach us all to better protect the children of Vermont.

During much of the time period encompassing this report's allegations, the Vermont Attorney General's Office was small, with limited capacity for investigation and litigation. In 1947, the Attorney General's Office consisted of two lawyers: the attorney general and his deputy. They were assisted by one investigator.⁵⁶ Eighteen years later, the Office had expanded

⁵⁶ 1947 Public Laws of Vermont, page 429.

by a total of one lawyer.⁵⁷ It was not until the construction of the interstate highways necessitated a rush of real estate work in the late 1960's that the office began to grow more quickly.⁵⁸ By 1969 there were 18 lawyers.⁵⁹ But there was still no dedicated division in the office working on criminal cases, nor were there lawyers working on child protection issues.⁶⁰ One of the lawyers in the litigation division did handle criminal cases and assist county State's Attorneys with complex trials. But those cases were generally homicides and were not cases related to child protection.⁶¹

Research reveals no indication that my Office received a report about, or was otherwise aware of, allegations about the Orphanage during the period of years covered by the allegations in this report.

It was not until around the time the Orphanage closed in the mid-1970's that the capacity for handling criminal cases in the AGO expanded more significantly with the creation of a dedicated criminal division.⁶² And it was not until the mid-1980's that a unit was created dedicated to prosecuting child protection cases—the Child Protection Unit, which took on challenging child abuse cases.⁶³

Beginning in 2002, my Office conducted a criminal investigation into the Burlington Catholic Diocese as a result of abuse allegations against priests. The investigation remained primarily focused on priests of the Diocese in part because officials at that time were concerned

⁵⁷ 1963 Public Laws of Vermont, page 532.

⁵⁸ Discussion with former Chief Assistant Attorney General Bill Griffin, Nov. 17, 2020.

⁵⁹ 1969 Public Laws of Vermont, pages 624-25.

⁶⁰ *Id.*, and discussion with Chief Assistant AG Griffin.

⁶¹ Discussion with Chief Assistant AG Griffin; discussion with Former Attorney General Jerome Diamond, Nov. 21, 2020.

⁶² Discussion with Former Attorney General Jerome Diamond.

⁶³ Discussion with Assistant Attorney General Linda Purdy, Nov. 18, 2020.

with the immediate threat that still-active priests could pose.⁶⁴ While the investigation was not focused on the Orphanage, the AGO repeatedly requested documents related to it—which the Diocese refused to provide.⁶⁵ For reasons similar to those confronting the present investigation, primarily statutes of limitation, my Office was not able to bring criminal charges at that time.

The story of the AGO in relation to the allegations in this report is a story of ignorance due to low historical levels of staffing and lack of focus on child protection issues. We were part of a statewide system that shared similar limitations. But ignorance is no excuse. The lack of attention and capacity was a failure, and one we must strive never to repeat.

The Law

Vermont law has changed significantly since the era of the allegations in this report, with a greatly expanded capacity to address crimes of the sort alleged. And as with the AGO, I do not describe these changes to excuse the State's failure to protect the children of the Orphanage. I describe them to give an honest account of our history.

Vermont law did not adequately protect children during the years the Orphanage was in operation. As explained below, the criminal code was limited in how it defined child sexual and physical abuse. As a result, law enforcement and prosecutors had limited legal authority to hold perpetrators accountable.

For example, assault crimes for some of this period required other criminal conduct to accompany the assault, such as an assault during a robbery or an assault during an intended robbery. 1933 P.L. Sec. 8400-05. An assault without additional criminal conduct was not a

⁶⁴ Discussion with Assistant Attorney General Cindy Maguire, Nov. 18, 2020.

⁶⁵ *Id.*

crime. *Id.* Even when this changed, the ability to charge assault remained more limited than today. V.S. 1947 §§ 8255-56. Child neglect charges were more limited in their scope and applicability. 1933 P.L. Sec. 8395-97. In addition, for many years the rape statute required the victim to be female. 1933 P.L. Sec. 8388; V.S. 1947 § 8253. As a result, a rape allegation by a male resident of the Orphanage would not have been a crime.

The statutes of limitations throughout this period were short, other than for arson and murder. All crimes other than larceny, robbery, burglary, forgery, arson, and murder had a three-year statute of limitations. P.L. Sec. 2450; V.S. 1947 § 2493; 13 V.S.A §§ 4501. Larceny, robbery, burglary, and forgery had a six-year statute of limitations. P.L. Sec. 2451; V.S. 1947 § 2494; 13 V.S.A § 4502. Only arson and murder had no limitation. P.L. Sec. 2452; V.S. 1947 § 2495; 13 V.S.A § 4503.

Vermont law has evolved to better protect children. Today the law permits the State to prosecute sex offenders regardless of the gender of the victim. 13 V.S.A. §§ 3251-59. We have expanded the timeframes of statutes of limitations. 13 V.S.A. 13 V.S.A § 4501.

Vermont's protective systems have evolved as well. Beginning in 1992, specialized, multi-disciplinary teams formed to better serve children who are victims of serious abuse. Today, these multi-disciplinary teams are known as Child Advocacy Centers (CACs), and they are tasked with providing a comprehensive response to children who report sexual and severe physical abuse.⁶⁶ By the early 2000s, Vermont had a nationally accredited CAC in every county, ensuring that children who report abuse receive access to specially trained investigators, child protection workers, advocates, therapists, and sexual assault nurse examiners.⁶⁷

⁶⁶ See <https://www.vtchildrensalliance.org/about-cacs/>.

⁶⁷ *Id.*

With respect to victim assistance more broadly, we now have support services for people who have been victimized. In 1986, the Vermont Legislature recognized that people who have been harmed need help navigating the criminal justice system. 13 V.S.A. § 5303. As a result, it created the Victim Assistance Program. 13 V.S.A. § 5304. Comprised in part of victim advocates housed within the State’s Attorneys’ offices and the Attorney General’s Office, the program offers support and resources as victims navigate the criminal justice process. 13 V.S.A. § 5306.

The Larger History

Vermont’s laws, law enforcement systems, and child protective services during the era of the allegations contained in this report likely reflected profound differences in society’s trust in, and deference to, authority figures and those occupying a parental role. Child abuse in homes or institutions was not recognized as a significant problem and was rarely prosecuted. For example, it was not until 1974—around the time the Orphanage closed—that Congress passed the Child Abuse Prevention and Treatment Act, which supported prevention, assessment, investigation, prosecution, and treatment for child abuse issues nationwide. P.L. 93-247. In the case of the Orphanage, there was the added belief that institutions of worship and service, such as the Roman Catholic Diocese, were presumed places of safety and support for communities—especially children.

This deference to those providing care, and to services provided by the Diocese, likely impacted the ways that communities, law enforcement, and prosecutors viewed and responded to reports of child abuse. It likely impacted the frequency with which people made reports to authorities, and with which young people were believed. It underlies the reality that Vermont laws and law enforcement were less encompassing than the systems in place today.

Ultimately, this history is no excuse. If the people of Vermont were trusting and failed to appreciate dangers to the most vulnerable members of society, to those it had the greatest obligation to protect, it was still the institutions—including law enforcement, including the my Office—that did not know what they needed to know, and did not act when they needed to act.

Conclusion

We cannot avoid the truth that the State of Vermont, its laws, and its law enforcement institutions did not protect all of the children of St. Joseph’s Orphanage. Vermont failed the young people who most needed protection. My Office was one of the institutions that was not there for the children who needed help.

Ultimately it is the courage of those children, now grown to adulthood bearing a burden they should never have borne, that has forced this necessary reckoning with our past. The limits of the law mean justice for the survivors may not be found in a criminal courtroom. But with humility and respect, I present this reflection in service of accountability and healing, with the hope that this aspect of the state’s restorative inquiry may provide some measure of justice.

We are committed to learning from our past so history does not repeat itself, and so we can help protect the children of our state, wherever they may live, today and in the future.

7.2 Burlington Police Department



**POLICE DEPARTMENT
CITY OF BURLINGTON**

Burlington Police Department Reflective Statement

Regarding the investigation into decades of alleged criminal acts at the St Joseph’s Orphanage (SJO), the Burlington Police Department gathered statements from survivors or their representatives, reviewed hundreds of records, and spent hundreds of hours on interviews, site visits, document research, and other investigations. The results of these efforts on behalf of survivors from a criminal-justice perspective are described in the St Joseph’s Orphanage Criminal Report. Regarding the experience of this investigation, and the impact it had on investigators, we offer the following:

We affirm that abuse occurred at the SJO, and that children suffered there.

We affirm that our community failed to protect those children.

We affirm a responsibility to prevent these kinds of harms from being repeated.

We affirm that we believe the survivors.

Acting Chief of Police Jon Murad:

Police exist to keep people safe, and we can never turn away from calls for help, nor from our neighbors telling us about their pain. Part of our role is assuming some of that burden to ease that of the people we’re sworn to protect. In this story, we took too long to do that. For me, one of the most salient moments in these interviews and statements came when a survivor stated “it felt good to be able to tell people what really happened.” I am awed by the survivors, and the strength they have shown in coming forward, in grappling with old pain that often haunts them still. We owe them our belief, even when we cannot give them resolution through the law or the courts. We owe them the dignity of their truth, even when that truth can’t result in the outcomes we normally seek. Perhaps most importantly, we owe them a promise that we will do all we can to prevent anyone being harmed in this way again. As a society, we have done a number of things in the intervening decades to make that a reality—from better record keeping to empowered family courts and children’s advocates, from new policing emphasis on crimes against children and domestic violence to widened categories of crime immune to the statute of limitations. There’s more we can do. We can do a better job of explaining to people with whom we interact—kids, especially, but everyone—the whys and hows of what we do. (Many of the survivors’ statements were filled with traumatic bewilderment.) We can pledge to ensure that we treat everyone with the dignity all people deserve. (Too many of these children were deprived of agency or had their self-worth purposefully eroded.) And we can remember our obligations to keep the most vulnerable among us safe.



**POLICE DEPARTMENT
CITY OF BURLINGTON**

Lieutenant Jim Trieb

When this investigation began, I was not prepared for the horrible and heartbreaking stories that would be told. I currently have young children the same ages as many of the survivors at the time of their awful abuse, and that connected me emotionally to them. I experienced a number of strong feelings, from anger to sadness to disgust. Anger that someone who was entrusted to care for our most vulnerable instead violated and abused them. Sadness in thinking about these atrocities happening to my own children and how frightened those children at the orphanage must have been. Disgust that it was allowed to happen in the first place and that the survivors have not been truly validated in their quest to be believed. These former children of the SJO refer to themselves as “survivors.” They are so much more than that and I am inspired by the strength and courage they have shown. I hear them and believe them.

Sergeant Michael Beliveau

I spoke with dozens of survivors from the St. Joseph’s orphanage. I listened to their stories and watched as many of them broke down into tears. I could hear the suffering in their voices as they recounted the horrific events they witnessed and endured. I believed them. These were just kids and so many of them were robbed of their childhood. For many, the physical and psychological abuse still haunts them today. I wish that I could have traveled back in time to protect them. This has opened my eyes to constantly re-evaluating the way things are done so that we never fail our most vulnerable populations again. I feel that by continuing to protect and serve our community we are trying to right the wrongs done by so many. I hope that in doing so, men, women, and children such as those affected by the orphanage will feel safer and will hopefully find peace one day. I hope that the survivors felt some sense of closure in not only their need to be heard but believed. This investigation has been challenging but overwhelmingly rewarding, due in large part to the brave people who came forward with their stories and never gave up hope.



Jon Murad
Acting Chief of Police, December 10 2020

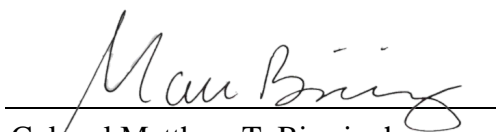


**DEPARTMENT OF PUBLIC SAFETY
VERMONT STATE POLICE
45 State Drive
Waterbury, VT 05671**

Over the past two years, as part of the St. Joseph’s Task Force, the Vermont State Police has been honored to help this investigation move forward. There have been countless times during our work that felt transformative for those who were able to hear the stories of survivors. As an agency whose work focuses on public safety, we want to acknowledge the voices of survivors who bravely shared their stories.

We know there are many people who were harmed who, for various reasons, decided against coming forward, and we respect this decision. We also recognize there are children who spent time at the orphanage who grew to carry burdens they could not bear, and were lost to substance use, suicide, or other tragic circumstances directly related to the abuse they suffered. Harm perpetrated on children during their development has lasting impact throughout their lives, and in this way, the harm suffered at the orphanage is still felt today by the survivors and by their loved ones. We say to those who have bravely shared their stories: We are sorry this happened to you. You did not deserve to be harmed, nor did you deserve to be silenced.

The amount of harm, lack of safety and lack of attention and resolution for those who survived, and those who did not, weigh heavy on us as we look to the future and ask ourselves how our agency can work to ensure this never happens again in Vermont. We will continue to support the Restorative Inquiry and remain open to conversations to ensure a positive outcome for those who seek it.


Colonel Matthew T. Birmingham
Director


Kate Brayton, LICSW
Victim Services Director

7.4 Mayor Miro Weinberger, City of Burlington



Office of Mayor Miro Weinberger

December 2, 2020

In 2018, when I first read about the harm inflicted on residents of the St. Joseph's Orphanage, I was surprised, saddened and angered. It was quickly clear to me that we needed some kind of official accounting of what transpired at the orphanage to bring proper closure to this troubled period of Burlington's history. To that end, I worked with Attorney General TJ Donovan to create the St. Joseph's Orphanage Task Force and give it the charges of supporting the criminal investigation, reviewing the role of the institutions most responsible and holding them to account, and launching a restorative inquiry. I also directed the Burlington Police Department to partner in the criminal investigation and am grateful to the Officers who took on that work.

With this investigatory work done, and after hearing discussions and writings of the former residents, I find the accounts credible and the work of the Burlington Police Department compelling. I acknowledge that the institutions and individuals operating the Orphanage failed those children. I recognize that the community as a whole bears some responsibility for that failure, too. Our community must carry a part of the burden of restoration for those who have come forward to tell their stories, and the many more who either did not have the chance to speak up or who did and weren't believed. I'm committed to grappling with the findings of the upcoming report, and to doing everything I can to ensure that a failure of this kind never happens in Burlington again.

The Restorative Inquiry goes beyond the criminal investigation. It seeks to understand and document the events at the Orphanage through the voices and experiences of those most affected--the former residents--and facilitates an inclusive process of accountability, amends-making, learning, and change. I am grateful to Burlington's Community Justice Center team and Marc Wennberg, who facilitated weekly meetings of the former residents to advance this process. I participated in one of these meetings, and will never forget the descriptions of abuse, pain and loss that I heard.

The City has not only participated in the criminal investigation, we have also participated in this Inquiry as an invested community partner, and attempted to identify and grapple with the City's own role in the harms done. The Burlington Police Department went further than the criminal investigation and conducted a review of its runaway files. The City also reviewed our historical financial records to understand our historical financial relationship with the Orphanage and learned that the City made annual charitable contributions (on average about \$1,000 a year) toward Orphanage operations until 1948. Reflecting on the fact that the City's multi-decade financial relationship with the Orphanage did not appear to improve conditions for vulnerable children there raises questions still relevant today about the City's responsibility and capacity for holding partner organizations accountable.

The former residents of St. Joseph's have shown immense bravery as they have shared their stories and continued to engage in the painful work of accountability—work that allows our community to memorialize, honor, and learn. I am grateful to them, and to the dozens of

public servants who worked long and hard to complete a measure of overdue justice and resolution.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Weinberger', written in a cursive style.

Miro Weinberger
Mayor

Appendix 1

5. The Roman Catholic Diocese of Burlington, Vermont, Inc. was established by Pope Pius IX in 1853. Louis J. DeGoesbriand was consecrated as first Bishop of Burlington, Vermont on October 30, 1853.

6. In 1854 Bishop DeGoesbriand invited the Sisters of Providence from Montreal to Burlington to establish an orphanage to care for children, the aged, and the poor. They established St. Joseph's Orphanage which became the first Catholic school in Vermont. The Sisters of Providence later established another Catholic school and convent in Winooski in 1869, the St. Johnsbury Hospital in 1894, and took over the operation of St. Gabriel's School for Boys in St. Johnsbury in 1928.

7. The Ladies of the Immaculate Heart of Mary opened a Catholic school for children in Burlington in 1862.

8. The Sisters of Mercy, a religious order from Manchester, New Hampshire, arrived in Burlington to operate the Cathedral, a Catholic school, in 1874. They later established a convent in Burlington in 1876 with an accompanying school academy, Trinity College, a Catholic institution for women in Burlington, in 1925, and operated several other schools in Montpelier, Barre and Middlebury.

9. The Sisters of St. Joseph, a religious order from New York, established St. Peter's, a Catholic school in Rutland in 1873.

10. The Sisters of the Presentation of Mary, a religious order from Quebec, established St. Mary's Academy in Island Pond in 1886.

11. The Sisters of the Holy Cross, a religious order from Quebec, established Holy Angels School in St. Albans in 1889.

12. The Religious Hospitalers of St. Joseph established the Fanny Allen Hospital, the first Catholic hospital in Vermont in 1894, operated the Bishop DeGoesbriand Hospital from 1924 on, and St. Joseph's Home for the Aged since 1943.
13. The Daughters of the Holy Ghost, a religious order from Connecticut, established houses in Swanton and Graniteville in 1903, and assumed charge of the Nazareth School in Burlington in 1943.
14. The Daughters of Charity of the Sacred Heart of Jesus, a religious order from France, opened a mission house in Newport and Sacred Heart School in 1905.
15. The Sisters of the Assumption, a religious order from Quebec, operated St. Paul's Catholic School in Barton in 1907.
16. The Congregation of the Sisters of St. Felix established St. Stanislaus School in West Rutland in 1924.
17. The Daughters of Charity of the Most Precious Blood, a religious order from Italy, established a foundation in Randolph, Vermont in 1947.
18. The Congregation of Sisters of Notre Dame operated St. Mary's School in Rutland in 1948.
19. The Discalced Carmelites were established in Williston in 1950 as a strictly cloistered, contemplative order.
20. The Society of St. Edmund established St. Michael's College Vermont's first Catholic college in Winooski in 1904. The Society also operated St. Joseph's Novitiate in Putney, St. Mary's Seminary in Randolph, and St. Ann's Shrine in Isle LaMotte.
21. The Carthusian order, a contemplative order, established a foundation in Whitingham in 1950.

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Winooski, Vermont
05404

22. The Congregation of Holy Cross established a Novitiate House in Bennington in 1952.
23. The Congregation of the Most Holy Redeemer established a monastery and parish in Bradford in 1945.
24. The Order of St. Benedict established a monastery in Weston in 1954.
25. In 1953 at the 100th Anniversary of the Roman Catholic Diocese of Burlington, it was noted that in 1853, there were only five Catholic priests in Vermont administering to twenty thousand Catholics. Bishop DeGoesbriand was serving as a priest in Cleveland, Ohio before being consecrated as Bishop of Burlington in 1853.
26. In 1866, the Providence Orphan Asylum and Hospital of Burlington was incorporated by act of the general assembly of the State of Vermont. The corporation was given the sole and exclusive care, guardianship and direction of the children with all the legal power of guardian over such child.
27. The minutes of the first meeting of the Providence Orphan Asylum, dated December 3, 1866, indicated that the original incorporators included the then-Bishop of Burlington. He occupied the position of "ex officio" membership on the board and presided at all meetings when present. However, it is clear that he presided at those meetings as a member of the body corporate of the orphanage corporation, not in any way in his capacity as the moral and spiritual head of Roman Catholics within the Diocese of Burlington.
28. On or about July 1, 1879 the Sisters of Providence Asylum of Montreal quit-claimed their interest in the real estate occupied by the orphanage to the corporation known as the Providence Orphan Asylum and Hospital of Burlington of record at Volume 10, Pages 528 and 529 of the land records of the City of Burlington, Vermont.

29. In 1996, the Roman Catholic Diocese was incorporated by the legislature. The corporation was created "for the purpose of receiving, holding and managing any real or personal property conveyed to this Corporation by deed, bequest or otherwise and for holding and conducting the same and the income thereof for the support of the gospel and the maintenance of public worship, or to procure, hold and keep in repair houses of public worship according to law and for charitable, educational and cemetery purposes according to the regulations and canons of the Roman Catholic Church". At all times throughout its existence this Diocesan Corporation was a separate non-profit Religious Corporation from the St. Joseph's Orphanage Corporation.

30. On or about June 18, 1962, the Articles of Association of the Providence Orphan Asylum and Hospital of Burlington were amended to reflect a change of the corporate name to St. Joseph's Child Center, Inc. The corporation was empowered to receive any child for foster care and to provide for these children daily care and maintenance, education, health and welfare services, spiritual and moral training according to acceptable modern principles of child care so long as these children shall remain under its care.

31. On or about August 5, 1963, then Bishop Robert F. Joyce entered into a contractual agreement with the Sisters of Providence in his capacity as Bishop of Burlington and president of the St. Joseph's Child Center corporation and Vermont Catholic Charities Corporation. This agreement establishes that "[t]he supreme authority in financial and management affairs rests with the Board of Directors of the Corporation owning and operating the Institution, of which the Bishop of the Diocese is ex-officio President, and the Sister Superior ex-officio a member; the official name of which is ST. JOSEPH'S CHILD CENTER, INC. (Charter Amended December 19, 1962)."

32. On April 10, 1975, a merger occurred between the St. Joseph's Child Center Corporation and Vermont Catholic Charities Corporation resulting in the dissolution of the St.

Joseph's Child Center Corporation. Prior to this merger, the St. Joseph's Child Center and The Roman Catholic Diocese of Burlington, Vermont were separate and distinct non-profit corporations with separately elected Boards of Directors and separate staffs.

33. On April 18, 1975, the Roman Catholic Diocese acquired title to the St. Joseph's Orphanage property by Warranty deed of Vermont Catholic Charities, Inc., as successor corporation by way of the merger with St. Joseph's Child Center, Inc., formerly known as The Providence Orphan Asylum and Hospital of Burlington. The Diocese did not own, operate, or control the St. Joseph's Orphanage prior to 1975. Today the building at 351 North Avenue is known as the Bishop Brady Center and houses the administrative offices of the Diocese.

34. The following is a list of deceased priests who served at St. Joseph's Orphanage or otherwise had an association therewith since 1936:

Bishops

- a. Most Rev. Matthew F. Brady, Bishop from 1938-1944, died 9/20/59;
- b. Most Rev. Edward F. Ryan, Bishop from 1944-1956, died 11/3/56;
- c. Most Rev. Robert F. Joyce, Bishop from 1954-1972, died 9/2/90; and
- d. Most Rev. John A. Marshall, Bishop from 1972-1992, died 7/3/94.

Chaplains

- a. Rev. Robert Devoy, Chaplain of St. Joseph's Orphanage from 1935-1955, died 3/4/55;
- b. Rev. Walter F. Miller, Chaplain of St. Joseph's Orphanage from 1958-1959 and 1960, died 7/10/89;
- c. Rev. Roger Colletet, Chaplain of St. Joseph's Orphanage from 1959-1960, presumed dead;
- d. Rev. Joseph Carrigan, Chaplain of St. Joseph's Orphanage from 1960-1961, died 11/21/90; and
- e. Rev. Emile Savary, Chaplain of St. Joseph's Orphanage from 1961-1962, died 6/8/66.

Directors of Vermont Catholic Charities

- a. Msgr. William F. Cain, Director of Vermont Catholic Charities from 1939-1950, died 12/27/65;
- b. Msgr. John Glancy, Director of Vermont Catholic Charities from 1950-1957, died 5/13/76;


Don Bosco Directors

- a. Rev. James Hall, Director of Don Bosco from 1945-1948, and resided at St. Joseph's Orphanage from 1943-1945, died 2/15/51;
- b. Rev. Joseph Carrigan, Director of Don Bosco from 1948-1950, died 11/21/90; and
- c. Rev. Francis Hickey, Director of Don Bosco from 1950-1951, died 5/31/74.

35. At all times material to Plaintiff's complaint, the St. Joseph's Orphanage - Child Center was operated by the Orphanage Corporation and was staffed by the Sisters of Providence.

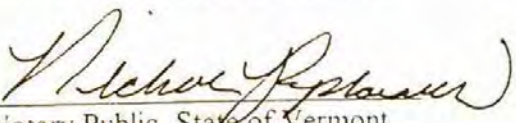
36. This Plaintiff makes no claim of abuse against any employees of the Roman Catholic Diocese nor is there any evidence of notice of any such abuse by others provided to the Roman Catholic Diocese.

Dated at Winooski, Vermont this 16th day of November, 1998.



 REV. JAY C. HASKIN

Sworn and subscribed to before me this 16th day of November, 1998.


 Notary Public, State of Vermont
 My Commission Expires: 2/10/99

O'Brien Law Offices
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 Winooski, Vermont
 05404

Appendix 2

Temperature: 60
 Humidity: 60
 Wind: 10
 Sun: 10
 PAGE 2A



Fall Back

Did you remember to set your clocks back one hour at 2 a.m. today?

IC SPORTS

UVM HOCKEY
 No. 2 Cats claw
 No. 3 Terriers, 4-2



WORLD SERIES
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The Burlington Free Press

Sunday, October 27, 1996

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Vermont GOP adopts anti-abortion platform

By Betty Levy
 Free Press Staff Writer

The Vermont Republican Party has adopted for the first time a platform that opposes abortion.

Conservative within the state GOP said the statement in the party's platform is both one extension of a growing conservative movement in Vermont, it demonstrates how the conservative vote, so important in the national race, is sweeping into Vermont politics.

"The platform is a good because of where the base of the party is," said the

Rep. Craig Benson of Castleton. "The conservative church vote is becoming more local, more grassroots."

However, Vermont Republican leaders and the party's candidates — see the platform — disagree the bulk of the state GOP's top Republican candidates — for Congress, governor and lieutenant governor — support abortion rights.

"Your party is nominated by four candidates," said both Benson, executive director of the Vermont Republican Party. "There is a broad spectrum of opinion as to whether I don't think it's changed one iota in this platform vote."

Evidence of conservatism

Conservative political movements taking their mark on the national scene include groups like the Christian Coalition. These groups advocate what they call family values politics, among them banning abortion and prohibiting same-sex marriage.

Vermont politics have been indirectly influenced by these conservative movements. Vermont has no restrictions on abortion, offers in poor economic conditions and other restrictions have repeatedly failed in the Legislature. The

Legislature passed a gay rights bill and last year approved adoption by same sex partners.

But Vermont conservatives — especially those affiliated with evangelical and pro-life churches — may evidence their numbers are growing. Benson and leaders of the Vermont Right to Life Coalition cited these social markers.

■ The GOP platform change, including the anti-abortion plank, which recalls updated Article I and Article 9 of the Vermont Constitution protecting all life.

See GOP, Page 2A

"There is a broad spectrum of opinion on ... (abortion). I don't think it's changed one iota by this platform vote."

Ruth Stokes,
 executive director,
 Vermont Republican Party

Echoes of abuse grip orphans

St. Joseph's Orphanage was supposed to be a haven for children. But for some, it was place of fear and misery.



Stories by Sam Hemingway
 with photos by Peter Walker

The CHILDREN of St. Joseph's

St. Joseph's Orphanage in Burlington was founded in 1864 to care for orphans. Some parents were dead or unable to care for their children. Others were in jail, some in the state hospital. Some were abandoned. They were placed in the state who were expected to care for them.

The Roman Catholic Diocese of Burlington has spent more than \$250,000 to settle the claims of over 100 orphans.

Some are now living with family. But many are still in the state hospital or in a nursing home.

INQUIRY: Is this image of St. Joseph's Orphanage in Burlington real? Many of the children were in the state hospital or in a nursing home.

INQUIRY: Is this image of St. Joseph's Orphanage in Burlington real? Many of the children were in the state hospital or in a nursing home.

Some kept her eyes on the sidewalk, looking at the former orphanage. But now Sister Dale's right leg is twisted, wrinkled face and hooded squinty of the back building.

Sister Dale, 72, is the only one left of the original 40 nuns who lived at the orphanage. She was born in 1924 and joined the Sisters of St. Joseph in 1941. She worked at the orphanage for 33 years.

Dale is one of almost 100 orphans who have claimed they were abused at the orphanage. Dale said she was molested by a nun and a Catholic seminarian, severely beaten by nuns and other ended up in the building's attic.

The lawsuit against the Roman Catholic Diocese of Burlington and the Sisters of Providence is one of 17 orphanage alleging child abuse.

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Campaign skips Generation X

By Ted Anthony

1996 ELECTION

The race for the presidency

■ Core strategy in Calif. 2A

STATE COLLEGE, Pa. — When recent graduate returned back to Penn State University's homecoming this month to watch football, more friendships and share budding aspirations of the adult world, the 18th year class touched on politics.

For the most part they don't register Clinton-Dale. Instead, the young alumni "make of the state political process and what it's doing — it needs to them."

This is, generational, perhaps the most unusual election of the century. Two groups — the World War II generation, personified by Bill Clinton, and the Baby Boomers, exemplified by President Clinton — are squaring off and invoking values associated

campaign, commonly or not, around the values that Boomers have on the "90s," says author J. Walker Smith. "Dale is the GI generation — the ones who made it through the depression and made sacrifices. — And then there is Generation X — a truly unique class."

Consider these traits of the 18-30 demographic. Many never knew a childhood without divorce; some knew an adult without AIDS. For some, Richard Nixon's resignation is their entire political memory.

"There are people who are entering for some honesty in politics," says Tabitha Stone, the 26-year-old MTV reporter who made her name covering the 1992 presidential race from her parents' con's perspective.

INSIDE: Tone set in O.J. trial

When former football starlet in the O.J. Simpson case, dominating news stage into a courtroom of chaos. This time when evidence took the stand, the street battles were as wild as in the past. **Stars 2A**

Volume 100, No. 321

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Suspect Jewell cleared in Olympic bombing

The assumed flier

ATLANTA — Federal prosecutors cleared Richard Jewell as a suspect in the Olympic park bombing Saturday, ending a three-month ordeal that saw the security guard go from hero to suspected terrorist.

"This is to advise you that based on evidence developed to date, your client Richard Jewell is not considered a target of the federal criminal investigation into the bombing," U.S. Attorney Karl Alexander said in a letter to Jewell's lawyer.

"Being any newly discovered evidence, this means will be changed," the letter said.

"We are overjoyed," said attorney Jack Martin. "It says what we have known all along — that he is no longer a suspect in the bombing."

Jewell, who maintained his innocence and was never charged, said he would speak at a news conference Monday.

No one else has been publicly identified as a suspect.

■ FBI takes heat, 2A



Jewell

The CHILDREN of St. Joseph's

"I can't say there wasn't some heavy punishment here and there. But things were done. People forget that." — Rev. Paul Brossnan, former chaplain of St. Joseph's Orphanage

God's house was home to horror, c



Left, a faded plaque still identifies the former St. Joseph's Orphanage on North Boston, now headquarters of the state Roman Catholic diocese. Right, the entrance of the orphanage. The triangular entrance was added in the 1950s.



Continued from 1A

without permission or writing their beds. ■ Twenty-two people said they were sexually abused during their stay, although half of them blame the abuse on private contractors or staff workers. The sexual abuse allegations ranged from fondling to one man's attempt to seal a girl's genital area with his finger.

■ Nine former orphans told how they were forced to see their own waste after urinating or what they cleaned with multiple times indigestible food.

■ Eight youths remembered when, while taking bath or meals, their heads were taken out in buckets to water over their heads on Lake Champlain, their clothes overboard and told to swim to shore.

■ Three orphans told of young girls, boys and others were made to go and watch as a man lit a match to scorch the fingertips of a fellow inmate in front of them for treating a piece of candy.

■ Several spoke of going to mass, games or family members to complain about their treatment. In some cases, they said, nothing was done and they were punished for complaining. In one case a parent's complaint appeared to have led to a violent episode of a man in Montreal, the home base of the Sisters of Providence.

Church declines to comment

But as devastating as the claims are, the Holy See investigation also found that no one can prove the abuse claims are true or false.

The inquiry, however, decides first look under the abuse personally took place, physical evidence of the abuse is lacking, many of the supposed perpetrators are dead. Investigators also might indicate whether the church knew about the abuse and if not, whether it should have known, as in the case of church lawyer William O'Brien.

On the advice of its lawyers, the Roman Catholic Diocese of Burlington declined to discuss the orphanage cases, citing the sensitivity of the pending lawsuit. Sister Ann Marshall, spokeswoman for the Sisters of Providence order in Burlington, likewise had no comment.

"There was a conspiracy to silence not to comment," Marshall said. "It's a very painful time for us and I'm sure a very painful time for the people making the accusations."

But some church officials questioned the reliability of some of the claims, including in particular a story Diale told about seeing a boy pushed into a mouthful of urine by an nurse aide.

"That's just simply unbelievable," said the Rev. Paul Brossnan of Pinckney, who wrote a memoir's thesis on the history of St. Joseph's and was its chaplain, years after Diale had departed.

Brossnan also depicted claims that children were locked in the attic or forced to sleep on slabs.

He said the orphanage had no frost during its time there in the 1950s and 1970s, and that men did not wear coats in the attic. "They were afraid," he said, "or someone would get hurt," he said.

Discipline tactics change

The orphanage, founded in 1854, was home to an estimated 13,000 children over the years. The change in discipline tactics of changing years on the apprehensions of corporal punishment of children.

Discipline was often the only option for children whose parents died and for children from troubled families. Some of the children who lived at St. Joseph's had parents who were poor, the orphanage because of poverty, illness, alcoholism or abuse of them.

"I can't say there wasn't some heavy punishment here and there," said Brossnan, who also served as executive director of Vermont Catholic Charities from 1966 to 1977. "That things were done differently in those days. People forget that."

Richard McKenzie, a University of California-Davis professor argued the author of a book on orphanages, he has surveyed more than 1,000 graduates of orphanages in the South and Midwest.

"Corporal punishment was common in the 1950s and before. Nobody thought anything about it," he said. "The real issue is whether the discipline was any worse inside those homes than outside, in the general community."

McKenzie said his survey has found some former residents of orphanages grew up successfully on their own. Psychology and sexual abuse did occur but were not rampant. He also said Catholic orphanages had a reputation for more religious discipline.

"Many of the Catholic orphan reformers



Orphan Matthew Brady pays a visit to St. Joseph's Orphanage in the early 1940s. A young Sally Franklin, now Sally Brady, sits on the far right. The expression is serious, she says, because she was concentrating on keeping her hands on her knees so she wouldn't get in trouble with the nuns who ran the orphanage. (Photo courtesy of Sally Brady)

THE SISTERS OF PROVIDENCE

Nuns accused of abuse in Montreal

The former St. Joseph's Orphanage is not the only place where the Sisters of Providence have been accused of sexually and physically abusing orphans in their care.

Sixty-eight women in life in Montreal, two sites run by the 157-year-old order have been identified as places where children were allegedly abused by nuns or staff members under their direction. The case involving Mount-Providence hospital and the Saint-Joseph-de-Deser provincial hospital are part of a set of lawsuits seeking \$1.2 billion in damages on behalf of 1,000 children. The young lives of orphanages run by the Catholic church in six Quebec cities during the 1940s and 1970s.

The suits allege children at all the institutions were often beaten, put in stress jackets, given shock treatments, sexually abused, told to beat or submerge in icy baths. The cases are awaiting action in Quebec courts.

Officials of the Sisters of Providence have declined to discuss the Quebec cases or the relationship between the Montreal headquarters of the order and its Burlington operation.

But, according to a Canadian lawyer critical of the order, the order is "a very serious and

Pauline Gall, thousands of orphaned children were declared mentally incompetent in 1975 by the Quebec government to solve a legal problem and secure funding for the money-starved orphanages. Before the change, the government was paying \$3 a day for each orphan's care, when a child was declared insane, the fee rose to \$2.75 a day. "The nuns, the governments did this," said Pierre Magloire, a Montreal attorney representing some of the ex-orphanes in Quebec. "The Sisters agreed to this because of their financial position and so they said to the doctors: 'Here, give every report that this child is crazy.'"

The Sisters of Providence began work at the Burlington orphanage in 1854. Until the 1940s, the order had about 200 and 300 children, according to a history of Catholic social services written by the Rev. Paul Brossnan in 1979.

Nuns who worked at the orphanage received their religious training at the Montreal headquarters, and Brossnan said most nuns who worked at St. Joseph's were Quebecers by birth. The order has operations in eight countries, including U.S., Haiti and El Salvador.



A young Dalia Hagan, now Dalia Hagan, with a nun at St. Joseph's. Hagan would later say that she and her sister and brother were physically abused when they lived at the orphanage. (Photo courtesy of Dalia Hagan)

official who was familiar with the orphanage's operation in its final years, said it was never although she conceded she was never able to collect proof of abuse.

"I always thought the children seemed unhappy, frightened," said Kenneth, supervisor of housing for the state Social and Rehabilitation Services Department in the early 1970s. "I got uncomfortable about the place and I remember saying I never wanted to place anyone there. Officers in my office felt the same way."

Attorney Robert Whitman, who is involved in 27 of the 14 orphanage lawsuits, said despite the lack of physical evidence he's convinced the claims are true. "When you look into the eyes of these

people you know they're crying, you know it's real," he said. "These people are suffering greatly. Why would they be making it up and putting themselves through all this pain?"

Routine was strict
Few however, can speak with more authority than Diale about what life was like for an orphan at St. Joseph's. He spent 23 years there after being removed from a grade elementary private situation in Providence in 1926.

According to Diale, the daily routine inside St. Joseph's remained essentially the same over the years. Boys and girls — except infants and toddlers —

lived in two quarters on the building's fourth floor — lived in separate dormitories and ate each other only during school, at special events.

Each day, children awakened at sunrise, built by their beds for early morning prayer, they dressed and reported to breakfast, followed by chapel and school. Every child had a number assigned to put on his or her belongings, the nuns sometimes used the numbers instead of names to address children.

Each child had three uniforms, one for work, one for school and one for Sunday chapel. Girls were required to sleep with their hands in a praying position above their heads to avoid the temptation of

differently in those days.

Orphans say

YOUR COMMENTS WELCOME

The Burlington Free Press welcomes comments about The Children of St. Joseph's. Call the Free Press Opinion Line at 600-1886 or send letters to the editor in Editor's Page Editor Stephen Korman, The Burlington Free Press, 90 Sun St., Burlington, VT 05401. Send e-mail comments to theburlingtonfree@comcast.net

treating themselves under their bedcovers. Dale said.

In addition to schoolwork and keeping their sleeping quarters neat, orphans had daily chores, from working on the kitchen to cleaning their rooms to doing laundry to greasing and waxing the floors.

"It was like a whole city on one floor," said Francis Antoniazzi of Newark, Ohio, who lived at St. Joseph's from 1936 to 1937. "You didn't go anywhere on a dirt-caked street like this," he said.

Comments by the orphans were limited. Church discussions and interviews with orphans confirm something and nothing more was allowed by the nuns. Visits from relatives were allowed just a week or two followed by a child's mother.

Summer vacations included very strict rules and tips to Catholicism for new converts. Breakfast often got the day off to a bad start, orphans said. "It was terrible, cold, smelly, every day," Dale said. "I had to stand up nearly every meal because I was always full of milk. They'd make me sit at a table off the floor."

Other orphans said the same story. "I grew up on water consisting for oatmeal and milk, but they said Cardinal Sheehan of Burlington, who lived at the orphanage in 1916 and 1917. "I still think of that milk or oatmeal I ate every day."

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Left to sink or swim

Sally Deane said she found out what happened to someone who did not follow the nun order's specifically. "The nun said I was very obedient," she said. "When I had a temper tantrum, they would kick me in the back and out."

The stories of abuse from one or other orphan are not without incidents from other orphans.

"There was a kid, Pres-a-bled-Baylor who said he who would get his head," said William Dyer of Burlington, Va., an orphanage resident from 1922 to 1926.

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called someone to break down his older sister, Deanna, who had usually followed to cry over coming to the orphanage.

"They brought me back up there and said they were going to lock me inside a trash can above the kitchen and bath," Brown said. "It was screaming forever."

Her sister, now Donna Fowler of Port Republic, Md., remembered the night's routine. She said at a girl she had held her emotions inside in a way of being strong.

"My only sense of self then was that cry," she said, weeping at times while she spoke. "The date here is just positive of Debra as they did this. I didn't cry, even when they held me there while Debra was screaming."

Harold Davis, Dale and most of the other orphans said there were some incidents when they were struck with ongoing problems, such as weeping or rages. Dale said the orphans were told to keep their faces as stiff as stone. "I was told to keep my face as stiff as stone," he said.

Dale's fond memories of Brady were not without the pain of the other orphans' sad tears and prayers who were kind to them. Antoniazzi recalled from simple words that he had said to one of the orphans, "I don't believe there's anything wrong with you."

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Preschool children pose in the St. Joseph's orphanage nursery program in a 1940s-era photograph. Boys and girls had together in the room, but were separated once they reached school age. (Photo courtesy of Daily News)

'I never saw a nun lift a hand to a child'

Patricia Dyer of Burlington said she recalled by the dozens of people who say they were abused at the former St. Joseph's orphanage.

"I don't know anything about any abuse that happened there," said Dyer, who lived at St. Joseph's from 1947 to 1953. "I never saw anything like that when I was in the girl dorm and I've never talked to anybody that has."

Instead, Dyer said the memories stem from being hit with her hand on the side of the head, but she said she never told anyone about it. "I never told anyone about it," she said. "I think it's just something to do, that's it."

Dyer said she did remember "some times was a little rougher than others," but she said she never told anyone about it. "I never told anyone about it," she said. "I think it's just something to do, that's it."

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CHRONOLOGY

1854 St. Joseph's orphanage opens May 15 in a former house on the corner of Front and Flanagan streets with Sisters of Providence as its operators. 50 children housed in first year.

1863 orphanage president Marie Dugan dies May 120.

1883 Deaconess for services closes Bishop Louis Desjardins' first orphanage in 1883 and 1901, and the old one opens here there but no longer by anyone. "I hated it there. It was the worst part of my life," she said. "I never would have left or quit. You can't know just what that was, it."

1893 Marie Mikan of Colchester, who lived at the orphanage in 1893 and 1901, and she did not open her own there but no longer by anyone. "I hated it there. It was the worst part of my life," she said. "I never would have left or quit. You can't know just what that was, it."

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The Cole children - Debra, Debbie and Debra - with their grandmother Susan Haber outside the orphanage in the late 1940s. Haber says she later saw photos of Debra Cole, who said she had been beaten by a nun. Like many orphanage residents, the Cole children were not orphans, but were sent to the institution because their family was unable to care for them. (Photo courtesy of Daily News)

HOW TO GET HELP

The Children of St. Joseph's Orphanage, a group of former residents alleging abuse occurred at the institution, can be reached through Louise Pinta at 608-238-1, or by email at pinta@comcast.net, or by mail at 351 North Avenue, Burlington, VT 05401.

The State Pension Office in Vermont has provided payments of up to \$5,000 to eligible former residents. The money is awarded to those who were in the institution at the time of the abuse. The amount can be reached at 608-238-110 or by mail at 351 North Avenue, Burlington, VT 05401.

Appendix 3

VERMONT

*The
Proceedings of the
Vermont Historical Society*

HISTORY



SPRING 1989

VOL. 57, No. 2



Community-Building in Uncertain Times: The French Canadians of Burlington and Colchester, 1850-1860

. . . the decade of the 1850s was a momentous one for the area's French Canadians, a period during which they evolved from an ill-defined cluster of settlers to a self-conscious ethnic community.

By BETSY BEATTIE

The 1850s in Burlington and Colchester were years of economic change and insecurity. New industries rose tentatively out of the dislocations brought about by the arrival of the railroad, the changing lumber industry, and the failure of the Burlington Mill Company, which in 1850 had been the largest employer in the area. These new enterprises held out the promise of rekindled, redirected industrial development for the region, but by 1860 most of them were struggling just to survive. The financial panic of 1857 and the reduction of tariffs on textiles further retarded growth.

For French Canadians in the Burlington area, the future seemed even less secure. They had been entering Burlington and Colchester in sizable numbers since the 1820s and 1830s, and by 1850 totaled more than one thousand, the largest concentration of French Canadians in the state. While their numbers increased seventy-one percent across the decade of the 1850s, their overall economic status apparently declined, and the changing composition of the population caused by the constant influx and outflow of residents added to the general sense of instability. In spite of these serious problems, the decade of the 1850s was a momentous one for the area's French Canadians, a period during which they evolved from an ill-defined cluster of settlers to a self-conscious ethnic community. In the course of

these years, they founded institutions of cultural preservation — a French Catholic church, French language schools, fraternal, and mutual aid societies — with assistance from some church leaders but mostly by their own motivation and efforts.

FAITH REAFFIRMED: EARLY FRENCH CANADIAN RELIGIOUS LIFE AND
THE FOUNDING OF ST. JOSEPH'S PARISH IN BURLINGTON.

In the minds of the Catholic clergy in Quebec, it was axiomatic that those who abandoned their ancestral lands for brighter economic horizons in America would lose their faith as well. It simply could not survive transplantation to English-speaking, republican, and fiercely Protestant New England. Yet whenever a Canadian missionary or bishop visited the French Canadian settlements along Lake Champlain, he met French-speaking Catholics who welcomed his arrival and attended his services. As early as 1815, Bishop Plessis of Quebec and Father François A. Matignon came to the Burlington area and found about a hundred immigrant settlers who not only greeted them with enthusiasm but even asked the bishop to send a Canadian priest on a permanent basis.¹ At that time all of New England fell under one diocese, headquartered in Boston, and the bishop there could not spare a priest for such a remote and sparsely populated part of his district. Instead, he arranged with the church hierarchy in Quebec for a missionary priest to come from Canada from time to time to minister to the religious needs of the Canadians living in the Champlain valley. Abbé Pierre-Marie Mignault served the French Canadian settlers of Vermont in that capacity for the next forty years and found "the people of that district very eager" for his visits.² Even when infrequently served by a priest of their own nationality, these early immigrants held onto their faith with tenacity.

Bishop Benedict Joseph Fenwick, the second bishop of the Boston diocese, sympathized with the Vermont French Canadians' desire for French-speaking clergy. In 1828 he asked the bishops of both Montreal and Quebec if they would send priests to minister to their compatriots now living in New England.³ But members of the Quebec clergy, fearful of the weakening of the French church in Canada, had little motivation to encourage more emigration by supporting such churches in America. For the first half of the nineteenth century they resisted sending Canadian priests to serve these Quebec émigrés on a permanent basis. Some Canadian-born priests came as missionaries anyway, among them Father Zephyrin Levesque, who served French Canadians in central Massachusetts in the 1840s.⁴ In general, however, the French Canadian Catholics in New England, under the jurisdiction of the American church, had to attend churches served by English-speaking clergy.

The French Canadians living in the Burlington area were no exception. In the early 1830s the first Catholic parish of the region was established with the building of St. Mary's Church. The priest appointed to serve the parish was Father Jeremiah O'Callaghan, a native of Ireland.⁵ Father O'Callaghan did not ignore the needs of his French parishioners; he operated a parochial school for both French and Irish children and married and baptized the faithful of both nationalities.⁶ On the other



*Bishop Benedict Joseph
Fenwick, 1782-1846*

hand, he apparently looked with some scorn on the average French Canadian parishioner, especially those without money to donate to church collections. On one occasion, having received a Christmas contribution from Francis LeClair, one of the wealthiest French Canadians of the area, the priest commented to the assembled congregation, "Frank is a Frenchman, but not like the rest; he is a gentleman."⁷ Such remarks could not have won him much support among the Quebec émigrés who comprehended the meaning of his words.

The greatest problem for the French Canadians, however, was that most did not understand Father O'Callaghan's English, and he, in turn, understood none of their French. He could neither hear their confessions nor counsel them in their daily lives as the priests of the Quebec parishes had done.⁸ Even the liturgical practices of the American Catholic Church were unfamiliar and unappealing. In an effort to remove some of the more "popish" pageantry and thereby reduce anti-Catholic prejudice

among New England Protestants, the American clergy had dropped certain of the more solemn rites of the Mass such as the use of Gregorian chant.⁹ It soon became clear to the French Canadian community that the establishment of St. Mary's parish did not satisfy their spiritual needs. Even the periodic visits of Father Mignault were not enough to curb their desire for their own priest and their own services.

In the late 1830s the events of the failed rebellions in Canada brought two men to the Burlington area who offered to help these French Canadians obtain their first permanent French-speaking priest. Ludger Duvernay, the journalist, and R. S. M. Bouchette, a young lawyer, were both personifications of the belief that political liberalism and an abiding faith in Catholicism could coexist. They were anxious to help their Burlington coreligionists and, following their years as *Patriote* activists, were veterans in the skill of petitioning higher authorities. After St. Mary's Church had burned in 1838 and a new church had been dedicated in the fall of 1841, a group of French-speaking parishioners gathered on October 12, 1841, for a special meeting chaired by Duvernay. At that meeting, they "resolved to erect a church of their own and to obtain a priest acquainted with their language."¹⁰

Without the support of Father O'Callaghan and in the face of opposition from Irish parishioners, the group agreed to send a petition, carefully worded by lawyer Bouchette, to Bishop Fenwick in Boston requesting a French-speaking priest. Sympathetic to their cause, Fenwick wrote Bishop Ignace Bourget of Montreal asking him to send a Canadian priest to serve the French Canadians of Burlington and the surrounding towns. For a time Bourget balked at the idea, even suggesting that Fenwick request a priest from France rather than Canada. In February of 1842, however, he agreed and authorized Abbé François Ancé to come to Vermont.¹¹ Elated, the French-speaking community built a small church for its own use on North Gough (now Prospect) Street in Burlington, near the bridge to Winooski Falls. It was the first French Canadian church in New England.¹²

Neither the new church nor its priest lasted long. In 1848 Bishop Fenwick removed Father Ancé from his duties after the young priest had harbored three fugitives from Canadian justice, and Ancé was ordered to return to Montreal.¹³ Again the French Canadians petitioned the bishop of Boston, this time pleading that Ancé be reinstated. Fenwick refused. Without a priest the church building was useless, so it was sold to a local businessman for use as a store. Reluctantly, the French-speaking Catholics postponed their plans for a separate parish and returned to Father O'Callaghan's church.¹⁴

In the spring of 1850 they tried again. That year Abbé Mignault, who

still occasionally visited Vermont, brought with him another Canadian priest, Father Joseph Quevillon of Montreal. The arrival of a new priest from Quebec rekindled hope for a new parish. On April 28, a group of three hundred French Canadians held a meeting chaired by Abbé Mignault and drafted yet another petition to the Boston diocese requesting a permanent French-speaking priest and a separate parish. At the same time they formed a committee to select a possible site for a church and chose an unused portion of the land deeded to St. Mary's parish. As in past years, the Irish protested. They did not want to lose parishioners, and they justly claimed that land deeded to St. Mary's Church was for all Catholics, not just those who spoke French. But by now the Canadians were determined to have their own church. They abandoned claims to the St. Mary's land and purchased another plot at the end of Gough Street where the church could easily serve the Québécois of both Burlington and Colchester.¹⁵

Bishop John Bernard Fitzpatrick, the new Boston prelate, granted the request of the petitioners to build a new church, with Father Quevillon as its pastor,¹⁶ and the French Canadian community devoted the summer and fall of 1850 to raising revenues. French Canadian women in Burlington and Colchester were probably responsible for organizing church suppers, bazaars, picnics, card parties, and concerts to earn money for the church construction.¹⁷ Meanwhile, the men demonstrated their skills as joiners, masons, and carpenters in building this symbol of ethnic pride. At the same time the project also gave fellow French Canadian craftsmen and store owners an economic boost.¹⁸ The fruit of their labors was a brick and stone structure seventy-five feet long, forty feet wide and thirty feet high.¹⁹ On June 1, 1851, the completed building was consecrated as St. Joseph's Church and dedicated to that first patron saint of Canada.

The tradesmen, laborers, their wives and families, whose persistence and hard work built St. Joseph's church, did not realize it at the time, but their local achievement had far-reaching implications both for the American Catholic church and later immigrants. In founding a separate French church, these French Canadians had established the precedent of the ethnic-based or "national" parish.²⁰ Traditionally, parishes had been geographically defined districts, each of which was served by a separate church. Whenever the number of parishioners required it, the parish was divided into two or more units and churches provided for these new districts. St. Joseph's parish, however, served French Canadian communicants from all around the Burlington area and competed directly with St. Mary's Church for parishioners. The lines of separation were cultural and linguistic rather than geographical.

In 1853 Burlington became the seat of a new diocese for the state of Vermont and Louis de Goësbriand, its bishop. Under de Goësbriand, the establishment of national parishes spread throughout Vermont and New England. A Frenchman himself, de Goësbriand was firmly committed to the concept of language-based parishes, believing that those who were taught religion in their native language would be less likely to abandon



Parishioners constructed St. Joseph's church in 1850-51 on Gough Street in Burlington. Around 1907 the structure was dismantled and rebuilt on Flynn Avenue where today it serves as the church for St. Anthony's parish. Courtesy of St. Joseph's Church, Burlington, Vermont.

the faith of their fathers or to be converted to Protestantism.²¹ Through his encouragement and the efforts of French Canadian communities throughout the Northeast, the founding of a national parish became a common occurrence; by 1890 there were seventy-four French-language parishes in New England alone.²² The American Catholic hierarchy was not altogether enthusiastic about dividing the church into such ethnic enclaves, which seemed to place nationality above the Catholic ideal of

universality. However, by the late nineteenth century linguistic and cultural differences among American Roman Catholics were so great that at the Catholic Conference of Baltimore in 1889, church leaders could only insist that such national enclaves were "temporary expedients."²³ Meanwhile, new Catholic immigrant groups from southern and eastern Europe continued the same pattern of parish formation that the small group of determined French Canadians in Burlington and Colchester had established nearly forty years earlier.²⁴

THE ESTABLISHMENT OF OTHER FRENCH CANADIAN RELIGIOUS AND CULTURAL INSTITUTIONS.

National parishes quickly became more than places to worship in a familiar tongue. A parish characterized by ethnic homogeneity soon became the center for celebrations where the community could gather to share the traditions that had been part of their lives in the old country. In addition, the founding of a parish church led to the development of other institutions dedicated to both cultural preservation and social welfare. Between 1850 and the early 1860s, St. Joseph's parish in Burlington blossomed from a single church to a whole network of interconnected social and cultural organizations. In the spring of 1854, less than three years after the church was consecrated, seven members of the Sisters of Providence, a religious order based in Montreal, came to Burlington and established an orphan asylum, which by 1866 housed 115 children. In addition, they ran a tuition-free school for Catholic girls in the area.²⁵ In 1857 Father H. Cardinal came to St. Joseph's parish and supervised the construction of a brick schoolhouse to serve the needs of French-speaking boys and girls.²⁶ Until 1863 the priest relied for teachers on young women in the parish.²⁷ Then, through his efforts, sisters from the Daughters of the Heart of Mary came to teach in the parochial schools of the parish.²⁸ From that time, French-language Catholic education — a cornerstone of *survivance* or cultural survival — was firmly established.

Another social institution that the French Canadians established for themselves during the 1850s was a mutual aid society. Mutual aid societies, common to every immigrant group in the nineteenth century, were what Maxine Seller in her study of American immigration has labeled "American solutions to American problems."²⁹ The financial and psychological support systems of old-world villages and parishes no longer operated in the unfamiliar and impersonal setting of urban America. Families were often far from the friends and relatives whose comfort and resources had once sustained them through lean or tragic times. To compensate for the loss of traditional community support, immigrants formed organizations that provided unemployment insurance for families out of work, sickness insurance for the ill or disabled, and coverage of funeral expenses for

members who died. Monies collected from initiation fees, monthly dues, and fund-raising events supplied the revenues for the society.³⁰ In August of 1859, Burlington-area French Canadians established their first mutual aid society, *La Société Mutuelle de St. Joseph*.³¹

The typical immigrant mutual aid society was more than just a source of social welfare, however. It also became an ethnic-based fraternal organization and a place committed to upholding cultural traditions. In 1859, the Burlington-area French Canadians established another such association, a regional branch of the *Société Saint-Jean-Baptiste*. According to Robert Rumilly, in his history of French Canadians in the United States, the Burlington organization had a distinct nationalist as well as economic purpose and actively encouraged both use of the French language and preservation of Canadian traditions.³² Its motto was "Outside, English for business, but, at home, nothing but French."³³

The Saint Jean-Baptiste societies in the United States patterned themselves after the original *Société Saint-Jean-Baptiste* established in Montreal in 1834.³⁴ Members of the Burlington organization probably felt a special kinship with the parent organization, for its founder was Ludger Duvernay, the journalist who had come to Vermont and helped them establish their first French church. The original association, like Duvernay himself, was closely linked to the activities of the *Patriote* movement, but the Canadian society survived the disruption of the rebellions and afterwards became what its American counterparts also would become: an organization committed to preserving French culture in an English-speaking environment.³⁵

In America, and in the Burlington area, membership in organizations like the *Société Saint-Jean-Baptiste* and the *Société Mutuelle de St. Joseph* also provided some valuable personal experiences for its male members. It offered opportunities for leadership and achievement for individuals whose experiences in America were often in positions of subservience to Yankee employers, landowners, and businessmen. In these societies, a factory operative could become an officer and exercise his executive talents. (For example, George Consigny, a laborer in the Burlington Cotton Mill, was elected president of the *Société Mutuelle de St. Joseph* in 1869.³⁶) They also offered a place where immigrants from every stratum of the community could come together and share opinions on issues that concerned them all. From such discussions ethnic bonds were formed and a sense of political as well as cultural identity emerged. As this nascent political consciousness grew, it became what one writer has called "a constituency in search of a spokesman."³⁷ The leadership opportunities that Burlington's Saint Jean-Baptiste Society provided would eventually produce spokesmen whose experiences in this smaller, more familiar setting

would give them the self-confidence to enter the Yankee-dominated world of Vermont politics.

All the institutions that Burlington-area French Canadians established during the 1850s—a parish church, French Catholic schools and social services, mutual aid societies—worked in concert to build ethnic solidarity and to restore some of the cultural traditions of Quebec that earlier settlers had been unable to preserve for lack of numbers or institutional support. Festivals in honor of saints or religious holidays became community-wide efforts with church sponsorship and financial and organizational help from fraternal societies.³⁸ On June 24, 1869, the *Burlington Free Press* described one such celebration, a procession honoring St. Jean-Baptiste, which included a parade of religious societies and marching bands, High Mass at St. Joseph's Church, and French language speeches in front of City Hall.³⁹ Moreover, ideals promoted by one institution were reinforced by others, thus recreating to some degree the integrity of community that had been the hallmark of the rural Quebec parish.⁴⁰ Life in urban, English-speaking America was a radical change from anything the French Canadian from a small rural parish in Quebec had experienced before, bringing with it unique problems and rewards. The religious and cultural institutions that the French Canadians established helped to ease the transition to this new life for future Quebec immigrants.

OLD INDUSTRIES, NEW STARTS: THE BURLINGTON-AREA ECONOMY,
1850 TO 1860.

The founding of Franco-American institutions and the reestablishment of ethnic traditions in Burlington and Colchester took place at a critical time in the lives of French Canadians, for these cultural forms brought a sense of stability in a decade marked by change. The Burlington area moved gradually and unevenly toward industrialization during the 1850s, causing an increasing demand for employment in some sectors of the economy and a declining demand in others. However, the gradual rate of growth, even in the healthier industries, was barely able to absorb the influx of new émigrés from Quebec.

As T. D. Seymour Bassett has noted, "Vermont industry was moving ahead on the eve of the Civil War, but much of it was moving one step ahead of its creditors. Insecurity was the keynote from the processors to the machinists."⁴¹ The tenuousness of these industrial ventures derived in large part from their newness and from the uncertain economic climate of the decade. The region had weathered the arrival of the railroads, the decline of the native lumber trade, and the failure of the Burlington Mill Company; entrepreneurs had rebuilt existing businesses and developed new industries to fit the changing economy. By 1860, however, few enterprises, new or rebuilt, were yet on a secure financial footing.

The most dramatic and most promising developments involved the area's lumber business. Not long after Vermont's timber resources had been depleted, two events occurred that transformed the nature of the lumber trade in the state. First, in 1851, the canal system that connected the Richelieu River with Montreal and the vast timber reserves along the Ottawa River was finally completed.⁴² Second, in 1854 Canada and the United States signed a reciprocity treaty that established free exchange of natural products including "timber and lumber of all kinds."⁴³ In such a favorable trade environment Canadian lumber businessmen turned to the populous and industrializing United States as their primary buyer. Burlington, with its excellent harbor and direct rail links from Lake Champlain to larger northeastern cities, was in an ideal position to be a major distribution center for their timber. By the end of the decade lumber shipping and processing had become the town's most important industry.⁴⁴



Burlington's waterfront lumber industry provided jobs for many French Canadian residents in the 1850s. The city continued as one of the major lumber shipping and processing centers of North America until the late nineteenth century. Photograph c. 1875. Courtesy of Special Collections, University of Vermont Library.

Lawrence Barnes had begun the trade when he shipped the first cargo of Canadian lumber to Burlington in 1850.⁴⁵ By 1860 woodworking and lumber-related industries employed 535 individuals.⁴⁶ In the intervening years, the community witnessed the construction of lumber sheds, planing mills and new wharves, all specifically designed for unloading, sorting, and dressing lumber.⁴⁷ This boom in processing and distributing lumber also led to the development of other wood-product industries,

such as chairmaking and the manufacturing of doors and wooden furniture.⁴⁸ Altogether, in 1860 there were twelve area companies that owed their existence to Burlington's revitalized lumber trade.⁴⁹

Another boost to the region's manufacturing, particularly to its craft industries, was the construction in 1852 of the Pioneer Shops. The Pioneer Shops originally consisted of a single four-story factory, built on the waterfront near the lumber yards, and a small separate structure that housed two 750-horsepower steam engines. Designed to support a number of small industries, according to Bassett, "at fullest occupancy it rented for \$3,400 to machinists, blacksmiths and manufacturers of wrought iron axles, matches, washboards, sashes and blinds, shoetrees and lasts, and chairs."⁵⁰ In April 1858 a fire destroyed the original structure, but three two-story factories rose in its place, and in 1869 the shops were again operating successfully.⁵¹

Even the textile industries of Burlington and Colchester were holding their own by the end of the 1850s, although the decade had been rocky for both the cotton and woolen mills. The Winooski Mill Company, which had employed only seventeen operatives in 1850 and suffered a devastating fire in 1852, rebounded gradually and in 1860 had a work force of sixty-two employees and an annual production of cotton goods worth \$57,200.⁵² The larger Burlington Mill Company, which had ceased operation in November 1850, was bought by three brothers from Oxford, Massachusetts, who were experienced in the production of woolen fabric. They moved to the area and operated successfully until the textile tariff reductions of 1857 and resulting low prices forced them to turn from native Vermont wool to the purchase of Argentine wool. The imported fleeces were less expensive but often arrived matted with burrs, an obstacle they overcame by inventing a special "burr crusher." In 1860 the mill was back in full operation, employing 340 operatives and producing two thousand yards of fine woolen cloth each day.⁵³

All around the region at this time were signs of apparent prosperity and development. Yet beneath the surface of activity was a shaky foundation. In terms of real economic growth, these budding industries were merely replacements for the businesses lost in previous years. The Burlington Mill Company, for example, although growing, still had a smaller work force in 1860 than the four hundred operatives it had employed in 1850. The cotton mill had expanded its operations during the decade but was still small by textile mill standards and no competition for the larger cotton mills in southern New England. Even the small manufactures in the Pioneer Shops, although powered by steam engines, were still largely craft rather than industrial operations. Such small-scale enterprises would not be able to last for long in the face of bigger, more

mechanized producers who could manufacture similar products in greater volume and at lower costs. On the eve of the Civil War, only Burlington's thriving lumber industry seemed beyond the threat of serious competition from larger companies. Perhaps the most telling indicator of the underlying tenuousness of the region's economy was the population which, from 1850 to 1860, grew from 10,160 to only 10,754.

OLD OPPORTUNITIES, NEW ARRIVALS: THE FRENCH CANADIAN WORK FORCE, 1850 TO 1860.

U.S. census figures for 1860 in Burlington and Colchester reveal another important aspect about the area's population: its changing composition (see Table 1). When compared to 1850 census statistics, the 1860 figures reveal that while neither the total population of the region nor the Irish population grew, the number of French Canadians increased across the decade. The Irish population actually decreased slightly from 1850 to 1860 as emigration from Ireland declined and many in Burlington and Colchester at mid-century moved on to places with more job opportunities.⁵⁴ Meanwhile, native-born Vermonters continued to move away from the short growing season and uncertain economic situation of their home state to more promising farms further west or to growing cities. According to Joseph Amrhein "by 1860, 42% of all persons born in Vermont were living outside the state."⁵⁵ Only the French Canadian community grew, its population increasing 71.2 percent from 1850 to 1860, as more children were born to young French Canadian parents and émigrés continued to arrive from Quebec.

TABLE 1
French Canadian and Irish Populations of Burlington and Colchester
(combined), 1850 and 1860.

<i>Year</i>	<i>Total Population</i>	<i>French Canadians</i>		<i>Irish</i>	
		<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
1850	10,160	1397	(13.8)	2453	(24.1)
1860	10,754	2392	(22.2)	2327	(21.6)

A review of the industries that were operating in the Burlington area in 1860 would suggest that many of the same types of employment available in 1850 still existed ten years later. Skilled labor, especially in construction and woodworking, was still in demand in the lumber yards, in factory construction, and in the Pioneer Shops. Factory operatives in the textile mills still accounted for about four hundred jobs in the area, although those positions had not attracted many French Canadians in 1850. Certainly the wharves and railroad yards provided as many or more semi-skilled and unskilled jobs as were available a decade earlier. Given a similar employment pattern it seems logical to expect that French Cana-

dians in 1860 would have made occupational choices similar to those in 1850.

Table 2 reveals a small but significant change in the employment patterns of the 1860 immigrants. While there was an increase in the number of French Canadians in both white collar and skilled labor positions across the decade, there was a decline in the percentage of French Canadian males who were employed in those positions. In fact, only two types of occupations showed an increase in the percentage of Québécois workers from 1850 to 1860: semi-skilled and unskilled laborers and factory workers. The rise was not precipitous but does represent an overall decline in occupation status for Burlington-area French Canadians. The increasing number of men working in factories is particularly telling because factory wages, already lower than wages for unskilled labor in 1850, only rose 14.7 percent while wages for day labor rose a full 66.6 percent in the same ten-year period.⁵⁶

TABLE 2
Occupational Status of French Canadian Males in Burlington and Colchester
(combined), 1850 and 1860.

<i>Type of Job</i>	<i>Number of French Canadians Employed-1850</i>		<i>Number of French Canadians Employed-1860</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
Merchant	4	(1.3)	2	(0.3)
Professional	2	(0.6)	0	(0.0)
Small Business	8	(2.5)	19	(3.1)
Other White Collar	3	(0.9)	4	(0.6)
Skilled Labor	120	(38.0)	175	(28.5)
Semi/Unskilled Labor	135	(42.7)	293	(47.7)
Farm Labor	40	(12.7)	55	(9.0)
Factory Labor	4	(1.3)	60	(9.8)
Personal/Domestic Service	0	(0.0)	6	(1.0)
Total	316		614	

Another indication that the French Canadian community, while growing in size, was losing economic status is the apparent rise in the number of family members besides the father who worked outside the home. Although the 1850 census did not include occupations of daughters, the overall trend revealed in Table 3 is clear: over the decade of the 1850s there was a sharp increase in the percentage of youthful dependents who held outside employment.⁵⁷ Sons in 1860 worked primarily as factory workers and day laborers; only five of seventy were employed in white collar or skilled labor positions. Daughters were twice as likely to be employed as mill operatives as in any other jobs, although four were tailoresses and one was a teacher. As a group, then, these young people

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held the lowest-paying jobs where they learned no special skills, thus sacrificing their own future economic status to provide for the present material needs of their families. By 1860 only wives and mothers consistently remained at home, and dependence on child labor was on the rise.

TABLE 3

Sons and Daughters in French Canadian Families, Age 15 Through 19, Employed Outside the Home, Burlington and Colchester (combined), 1850 and 1860.

<i>Year</i>	<i>Total Number Age 15 through 19</i>	<i>Number Employed</i>	<i>% of Total</i>
<i>1850</i>			
Sons (only information available)	56	10	17.9
<i>1860</i>			
Daughters	83	21	24.1
Sons	92	70	76.1

Given the increasing number of French Canadian families who needed the wages of several family members to subsist, it is not surprising that average family size grew during the 1850s. The average number of children in a French Canadian family in 1860 had risen from 2.8 to 3.4 children. For wives in their thirties and forties, years when the greatest number of children were likely to have lived at home, the increase is even larger: from 3.7 to 4.4 children for wives age thirty to thirty-nine and 3.9 to 5.1 children for women age forty to forty-nine. Moreover, this increase in family size ran counter to the national trend for fertility rates for white women in the United States, which declined in the same decade.⁵⁸

These statistical trends suggest that the decade of the 1850s was one of increasing financial hardship for the French Canadian community in Burlington and Colchester in spite of the employment opportunities available throughout the period. The reasons for the changing economic situation lay beyond the borders of Vermont in Canada. Throughout the 1850s more immigrants had arrived in the Burlington area, and fewer of them came with special skills to offer. Economic and agricultural conditions in Quebec had continued to deteriorate throughout the decade as the shipbuilding industry collapsed, the wheat and potato crops failed, and the economic downturn of 1857 produced high urban unemployment.⁵⁹ In such troubled times increasing numbers of émigrés had left their homes not for the promise of better economic opportunity in a growing United States economy but purely as a matter of survival. Any job, no matter how poorly paid, was better than hunger and unemployment in French Canada.

Table 4 illustrates vividly the seriousness of the impact of new immigration on the French Canadian community in Burlington and Colchester.

TABLE 4

French Canadian Families Who Came to Burlington or Colchester Between 1850 and 1860.

Town	Total Number of Families in 1860	Number of 1860 Families Who Were Listed in 1850 Census		Number of Families Who Arrived After 1850	
		N	%	N	%
Burlington	275	38	(13.8)	237	(86.2)
Colchester	141	36	(25.5)	105	(74.5)
Total	416	74	(17.8)	342	(82.2)

According to the census, less than twenty percent of the families living in the region in 1860 had lived there ten years earlier. These statistics must be viewed as suggestive rather than absolute because census takers in the Burlington area did not know French and wrote down French names the way they thought the names sounded. As a result, spellings of names varied greatly from census to census, and figures for families who remained throughout the decade may not include some families whose names were too dissimilar in the two censuses to be detected as the same.⁶⁰ Even if the number of ten-year residents is conservative, however, the disparity between the numbers of old and new families is still great. The newly arrived French Canadians outnumbered those more well-established in the area, and fewer of these new immigrants came with training in a specific craft. Instead, they began to swell the ranks of the unskilled and factory labor forces.

Another factor influencing the composition of the Burlington-area French Canadian population was the out-migration of immigrants who had been residents in 1850. Table 5 completes the picture of the changing nature of the region's French Canadian community, because it presents the number of families who had lived in Burlington or Colchester in 1850 but who left the area sometime during the succeeding decade. Again, while the changes in spelling of names probably have led to an underestimation, the trends are striking. Nearly three of every four families in the Burlington area at mid-century were no longer there in 1860. The causes of this exodus are not clear, but there are several factors that may have contributed to it. The completion of the railroad lines from Burlington to Boston and New York in late 1849 created an easy access to larger urban areas with more job opportunities. Also, the instability of the Burlington-area economy meant an uncertain employment picture. Many immigrants may have left to find more steady work. By 1860 small enclaves of French Canadians had begun to settle in the industrial towns of central and southern New England, so the French Canadians of Burlington and Colchester had new choices for settlement where traditions and language were familiar and jobs more plentiful.⁶¹

TABLE 5
 French Canadian Families Who Left Burlington and Colchester Between 1850
 and 1860.

Town	Total Number of Families in 1850	Number of Families Listed in Both 1850 and 1860 Censuses		Number of 1850 Families Who Left Before 1860	
		N	%	N	%
		Burlington	186	38	(20.4)
Colchester	96	36	(37.5)	60	(62.5)
Total	282	74	(26.2)	208	(73.8)

Geographical mobility, made easier by the railroad and necessary by the economic instability of the early years of industrialization, characterized French Canadian settlement patterns throughout New England in this period. Peter Haebler, in his study of French Canadians in Holyoke, Massachusetts, commented on the "migratory character of the French Canadian movement" and added that many expressed a "desire to return eventually to Quebec," a feeling that would have impeded the establishment of roots in any New England community.⁶² However, to isolate the French Canadians as particularly "migratory" is to ignore the mobility that characterized the entire American population in the middle years of the nineteenth century. Land in the West attracted New England Yankees; railroad construction kept many Irish and other immigrants on the move. As employment demands fluctuated, so did the number of laborers in any one place. In his research on the town of Newburyport, Massachusetts, for example, Stephan Thernstrom found that the Panic of 1857 caused the town's population to drop by more than one thousand persons, most of whom were manual laborers.⁶³ In fact, Thernstrom discovered that "of the 2025 families recorded in 1849, only 360 [or 17.8 percent] were to be found in Newburyport in 1879."⁶⁴ Geographical mobility was the rule, not the exception, in mid-nineteenth century America; the 308 French Canadian families in Burlington and Colchester in 1850 who had gone by 1860 were just part of a whole population on the move.

With new families arriving and others leaving throughout the 1850s, the composition of the Burlington-area French Canadian community was constantly changing. While the deepening crisis in rural Quebec forced greater numbers of émigrés from Canada into the United States, the Burlington region, experiencing a decade of economic uncertainty, could not hold these émigrés for long. As the composition of the French Canadian community changed, the nature of the community also was

transformed. The new Québécois immigrants brought larger families and fewer job skills than the French Canadians had who were living in the region in 1850. Lower occupational status and more children meant a growing dependence of local French Canadians on the wages of several family members, a situation that forced more of them to leave the Burlington area and move to larger New England cities to find adequate employment.

In the light of the instability of the region's French Canadian population, the immigrants' success in building their own church and parish institutions is even more remarkable. The cultural cohesion provided by familiar religious practices, French-language schools, ethnic-based fraternal societies, and revived traditions encouraged a sense of unity among French Canadian residents at a time when the economic conditions in Quebec, New England, and even the Burlington area fostered geographical mobility and disrupted the continuity of community growth. By the eve of the American Civil War, these institutions of *survivance* were well established in the Burlington area. By the end of that conflict, similar French Canadian institutions, patterned after those in Burlington, would appear throughout the Northeast, just in time to bring the comforts of cultural familiarity to a whole new group of immigrants arriving from Quebec.

NOTES

¹ Mason Wade, "The French Parish and *Survivance* in Nineteenth Century New England," in *A Franco-American Overview*, ed. Madeleine Giguère, 4 vols. (Cambridge, Mass.: National Assessment and Dissemination Center for Bilingual / Bicultural Education, 1981) 3:236.

² Pierre-Marie Mignault, quoted in Wade, "The French Parish," p. 236.

³ *Ibid.*, p. 236.

⁴ *Ibid.*, pp. 238-239.

⁵ W. S. Rann, *History of Chittenden County, Vermont* (Syracuse, N.Y.: D. Mason and Co., 1886), p. 525.

⁶ Joseph N. Couture, "New England's First National Parish; or, The History of St. Joseph's of Burlington, Vermont" (M. A. thesis, St. Michael's College, Winooski, Vermont, n.d.), *passim*.

⁷ Jeremiah O'Callaghan, quoted in Jean-Frédéric Audet, *Histoire de la Congrégation Canadienne de Winooski au Vermont* (Montréal: Imprimerie de l'Institution des Sourds-Muet, 1906), p. 40.

⁸ Couture, "New England's First National Parish," p. 19.

⁹ Wade, "The French Parish," p. 237.

¹⁰ Couture, "New England's First National Parish," p. 25.

¹¹ Wade, "The French Parish," p. 236.

¹² Couture, "New England's First National Parish," p. 26.

¹³ According to Joseph Couture, in his history of St. Joseph's parish, Father Ancé harbored Louis Bourdon, Jean-Baptiste Denis, Jean-Baptiste Mailet, and Anthony Lincourt "who had fled from Canadian justice" for unspecified crimes. These men robbed and injured Ancé, then reported him to Vicar General Pierre Marie Mignault who, in turn, told the incident to Bishop Fenwick. Apparently, the affair caused dissension within the French Canadian Catholic community, so the bishop decided to remove the priest. It is not clear why the priest's protection of these fugitives created division among the French Canadians. See Couture, "New England's First National Parish," p. 27.

¹⁴ *Ibid.*, p. 27.

¹⁵ E. Hamon, *Les Canadiens-français de la Nouvelle Angleterre* (Québec: N. S. Hardy, 1891), pp. 184-187.

- ¹⁶ Couture, "New England's First National Parish," p. 31.
- ¹⁷ While there is no documentation that specifies that Burlington's French Canadian women sponsored money-raising events like bazaars, picnics, and concerts, Father E. Hamon, who visited French Canadians living in New England in the 1880s, wrote that it was common for Quebec immigrant women to contribute to the building of parish churches by organizing such charitable activities. See Hamon, *Les Canadiens Français*, pp. 90-92.
- ¹⁸ Couture, "New England's First National Parish," p. 33.
- ¹⁹ *Ibid.*, p. 32.
- ²⁰ Robert Rumilly, *Histoire des Franco-Américains* (Montréal: L'Union Saint-Jean-Baptiste d'Amérique, 1958), p. 31.
- ²¹ William MacDonald, "The French Canadians in New England," in *A Franco-American Overview*, ed. Madeleine Giguère. 4 vols. (Cambridge, Mass.: National Assessment and Dissemination Center for Bilingual / Bicultural Education, 1981) 3:16.
- ²² *Ibid.*, p. 3.
- ²³ George F. Thériault, "The Franco-Americans of New England," in *A Franco-American Overview*, ed. Madeleine Giguère. 4 vols. (Cambridge, Mass.: National Assessment and Dissemination Center for Bilingual / Bicultural Education, 1981) 3:150.
- ²⁴ There are numerous examples of other immigrant groups who followed French Canadian precedent and formed national parishes. Leonard Dinnerstein and David Reimers, in their book *Ethnic Americans*, wrote that "in the late nineteenth century a burning issue in American Catholicism was the nationality parish supported ardently by, among others, German, French-Canadian and Polish Catholics." Humbert Nelli, in his study of Italian immigrants in Chicago, listed parishes that the Italians formed in that city in the late nineteenth and early twentieth centuries. These parishes had names such as Santa Maria Addolorata and St. Anthony of Padua and presumably were also ethnic-based. See Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: a History of Immigration and Assimilation*, 2nd ed. (New York: Harper and Row, 1982), pp. 133-134; Humbert S. Nelli, *The Italians in Chicago, 1880-1930: a Study in Ethnic Mobility* (New York: Oxford University Press, 1970), p. 31.
- ²⁵ *Burlington City Directory and Business Advertiser* (Burlington, Vt.: Published by Hiram S. Hart, 1865).
- ²⁶ Abby Maria Hemenway, *Vermont Historical Gazetteer* (Burlington, Vt.: A. M. Hemenway, 1868-1891), 1:551.
- ²⁷ T. D. Seymour Bassett, "Urban Penetration of Rural Vermont, 1840-80" (Ph.D. dissertation, Harvard University, 1952), p. 593.
- ²⁸ Couture, "New England's First National Parish," pp. 51-52.
- ²⁹ Maxine Seller, *To Seek America: a History of Ethnic Life in the United States* (Englewood, N. J.: Jerome S. Ozer, 1977), p. 152.
- ³⁰ *Ibid.*, p. 153.
- ³¹ Couture, "New England's First National Parish," p. 52.
- ³² Rumilly, *Histoire des Franco-Américains*, p. 44.
- ³³ Translation of the motto of the *Société Saint-Jean-Baptiste*, "Au dehors, l'anglais pour des affaires, mais à la maison, rien que de français," quoted in Couture, "New England's First National Parish," pp. 52-53.
- ³⁴ Rumilly, *Histoire des Franco-Américains*, p. 35.
- ³⁵ Florence Maria Chevalier, "The Role of French National Societies in the Socio-Cultural Evolution of the Franco-Americans of New England from 1860 to the Present" (Ph.D. dissertation, Catholic University of America, 1972), pp. 49-53.
- ³⁶ *Burlington City Directory and Business Advertiser* (Burlington, Vt.: Free Press Association, 1869), p. 15.
- ³⁷ Lauren-Glenn Davitian, "The 'Frogs Across the Pond': Perceptions of Change in a Vermont Mill Community" (Undergraduate research paper, University of Vermont, 1983), Wilbur Collection, Bailey-Howe Library, University of Vermont, Burlington, Vt., p. 40.
- ³⁸ Thériault, "The Franco-Americans of New England," p. 141.
- ³⁹ *Burlington (Vermont) Daily Free Press*, 24 June 1869.
- ⁴⁰ Thériault, "The Franco-Americans of New England," pp. 146-147.
- ⁴¹ Bassett, "Urban Penetration of Rural Vermont," p. 300.
- ⁴² Joseph Amrhein, "Burlington, Vermont: the Economic History of a Northern New England City" (Ph.D. dissertation, New York University School of Business Administration, 1958), p. 126.
- ⁴³ James Elliott Defebaugh, *History of the Lumber Industry of America* (Chicago: The American Lumberman, 1906-07), 1:172.
- ⁴⁴ William G. Gove, "Burlington, the Former Lumber Capital," *The Northern Logger and Timber Forester* 19 (May 1971): 38-39.
- ⁴⁵ Amrhein, "Burlington, Vermont," p. 42.
- ⁴⁶ Bassett, "Urban Penetration of Rural Vermont," p. 297.

⁴⁷ Amrhein, "Burlington, Vermont," p. 218.

⁴⁸ *Ibid.*, p. 227.

⁴⁹ *Ibid.*, p. 245.

⁵⁰ Bassett, "Urban Penetration of Rural Vermont," p. 293.

⁵¹ Amrhein, "Burlington, Vermont," pp. 204-210.

⁵² *Ibid.*

⁵³ For a concise, informative article on the history of the Burlington Mill Company while in the hands of the Harding Brothers, see David Blow, "Industrial Fluctuations in Winooski," *Chittenden 5* (January 1974): 32. For information on the number of operatives employed by the Burlington Mill Company in 1860, see Bassett, "Urban Penetration of Rural Vermont," p. 302a.

⁵⁴ These population figures are based on a count taken from the 1850 and 1860 U.S. manuscript censuses for Burlington and Colchester of all the members of families having at least one parent born in Canada and who were French-speaking. To determine whether or not a Canadian-born person was French, I followed a series of steps. First, I determined if the surname was French, an Anglicized spelling of a French name (e.g. "Johndro" for "Gendreau") or an English translation of a French name (e.g. "White" for "Leblanc" or "Stone" for "Desroches"). Since there are English-speaking families with names such as "White" or "Stone," I then looked for a French given name such as Napoleon or Philomene among family members. If none of these procedures clearly determined the Frenchness of the name, I consulted a list of Anglicized names that appears in the records of St. Joseph's parish, the French Canadian parish in Burlington, to see if the name was included. This procedure, while careful, was not foolproof. When in doubt of the language of a Canadian-born person I assumed that he / she was not French-speaking, so these figures are underestimations.

The count of Irish immigrants is also taken from the 1850 manuscript censuses for Burlington and Colchester and included the members of every family having at least one Irish-born parent. Families having a French Canadian father and Irish mother were counted as French Canadian; those with Irish father and Canadian-born mother were counted as Irish.

⁵⁵ Amrhein, "Burlington, Vermont," p. 70.

⁵⁶ Comparative figures on wage rates for factory work and unskilled labor are based on Amrhein's reporting of combined census statistics for 1850 and 1860 for Burlington, South Burlington, and Colchester. Because the percentages of change over the decade given for each type of work are figured differently (on annual wages for factory labor and on daily wages for common labor), the comparisons are inexact. Even allowing for the difference in measurement, one can assume that a 14.7 percent rise in annual factory wages and a 66.7 percent rise in daily wages for unskilled work represent a marked difference. See Amrhein, "Burlington, Vermont," p. 74.

⁵⁷ There are no available statistics for employment of children under age fifteen in either the 1850 or 1860 censuses.

⁵⁸ According to Linda Gordon's statistics on fertility rates, the average number of live births for women in the United States declined from 5.42 to 5.21 between 1850 and 1860. See Linda Gordon, *Women's Bodies, Women's Lives: a Social History of Birth Control in America* (Harmondsworth, England: Penguin Books, 1977), p. 48.

⁵⁹ Ralph Dominic Vicero, "Immigration of French Canadians to New England, 1840-1900: a Geographical Analysis" (Ph.D. dissertation, University of Wisconsin, 1968), pp. 105-106.

⁶⁰ Two of the most glaring examples of the misspelling of names by census takers were for the French names "Courbet" and "Niquette." "Courbet" appeared as "Kirby" in 1850 and "Curby" in 1860 while "Niquette" became "Neequith" in 1850 and "Nigget" in 1860.

⁶¹ According to Ralph Vicero, in Massachusetts alone, six towns—Millbury, Southbridge, Webster, Spencer, Worcester, and Grafton—all had at least one hundred French Canadians in 1860. See Vicero, "Immigration of French Canadians to New England," p. 156.

⁶² Peter Haebler, "Habitants in Holyoke; the Development of the French Canadian Community in a Massachusetts City, 1865-1910," (Ph.D. dissertation, University of New Hampshire, 1976), p. 46.

⁶³ Stephan Thernstrom, *Poverty and Progress: Social Mobility in a Nineteenth Century City* (Cambridge, Mass.: Harvard University Press, 1964), p. 87.

⁶⁴ *Ibid.*, p. 168.

Appendix 4

CONTRACTUAL AGREEMENT

BETWEEN

THE ROMAN CATHOLIC DIOCESE OF BURLINGTON (VT.)

AND

LA COMMUNAUTE DES SOEURS DE CHARITE DE LA PROVIDENCE

CONCERNING THE OPERATION AND MANAGEMENT OF

ST. JOSEPH'S CHILD CENTER, 351 NORTH AVE., BURLINGTON, VT.

1. LA COMMUNAUTE DES SOEURS DE CHARITE DE LA PROVIDENCE agrees to provide care, education, and training of the children admitted to St. Joseph's Child Center by Vermont Catholic Charities, Inc.
2. The Sister Superior of St. Joseph's Child Center will direct the child care program and manage the affairs of the Institution under the supervision and with the collaboration and support of the Director of Vermont Catholic Charities, Inc.
3. The supreme authority in financial and management affairs rests with the Board of Directors of the Corporation owning and operating the Institution, of which the Bishop of the Diocese is ex-officio President, and the Sister Superior ex-officio a member; the official name of which is ST. JOSEPH'S CHILD CENTER, INC. (Charter Amended December 19, 1962).
4. Adequate financial support to operate the Institution is guaranteed by the Roman Catholic Diocese of Burlington through Vermont Catholic Charities, Inc.
5. LA COMMUNAUTE DES SOEURS DE CHARITE DE LA PROVIDENCE will supply, as much as possible, the staff needed to direct and manage the child care program.

6. Compensation for the work of the Sisters shall be computed at the rate of \$600.00 per year per Sister, plus room and board.
7. The authority of the Director of Vermont Catholic Charities, Inc. relative to St. Joseph's Child Center shall be acknowledged to be as described in the statement of Bishop Edward F. Ryan of July 21, 1945, attached hereto, except that Paragraph I shall be amended to read: "All placements of children in and out of St. Joseph's Child Center will be the responsibility of the Diocesan Director of Vermont Catholic Charities, Inc. in collaboration with the Superior of St. Joseph's Child Center. All financial arrangements with State and Town officials, parents and guardians will be the sole responsibility of the Diocesan Director of Vermont Catholic Charities, Inc."
8. This contract shall replace any existing agreements, written or oral; shall take effect upon the signatures of both parties and shall continue until abrogated by both parties.
9. Individual clauses may be amended annually or from time to time at the request of either party by mutual consent provided at least 90 days notice of such changes has been given.

SIGNED: For the Roman Catholic Diocese, ST. JOSEPH'S CHILD CENTER, INC.
and
VERMONT CATHOLIC CHARITIES, INC.

Date: 1 Aug 5, 1963

Robert F. Joyce
Bishop of Burlington
President, St. Joseph's Child Center,
President, Vt. Catholic Charities, Inc

SIGNED: LA COMMUNAUTE DES SOEURS DE CHARITE DE LA PROVIDENCE

Date: Aug 17 1963

Mother Joseph Aurele (Albertine Hudon)
Mother Joseph Aurele (Albertine Hudon)
Provincial Superior, St. Vincent de Pa
Province

Sister Emile (Antoinette Levesque)
Sister Emile (Antoinette Levesque)
Provincial Procurator

Appendix 5

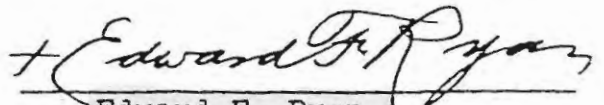
THE AUTHORITY AND RESPONSIBILITIES OF THE DIOCESAN DIRECTOR OF VERMONT CATHOLIC CHARITIES, INC. IN ST. JOSEPH'S ORPHANAGE ARE INDICATED AND OUTLINED IN THE FOLLOWING EPISCOPAL DIRECTIVE:

1. In 1939 by Episcopal Order all placements of children in and out of St. Joseph's became the sole responsibility of the Diocesan Director of Vermont Catholic Charities. This includes all financial arrangements with State and Town officials, parents, and guardians.
2. Since investigations, made prior to placement, are made by the Staff of Vermont Catholic Charities the Director is authorized to work out with the Superior of the institution the programs within the institution which will best serve the needs and problems of the children involved. In the case of girls the complete program of Domestic Arts is highly desirable. The Boys Program, especially in the older age group, should rest primarily with the Director.
3. The Spiritual Life and Program of the students is definitely under the supervision of the Director. All priests and seminarians working in St. Joseph's, as far as the children are concerned, are under his direction.
4. The Director and Superior should work out a system by which the Staff of Vermont Catholic Charities can follow the progress of their cases while they are at the institution.
5. The institution should keep all records of students which are considered necessary by the Director.
6. Plans for isolation of incoming students and infirmary care of the sick at St. Joseph's must meet the minimum requirements of the Director.

2.

7. The Summer Recreational Program employing the use of seminarians for boys and outside volunteers for girls is under the supervision of the Director of Charities.
8. All outside recreational facilities are subject to the Director.
9. To meet the requirements and to qualify for Federal Food Grants it is necessary that mennis and meals be planned in conjunction with the Director who represents the Diocese in dealing with these agencies. Scrupulous care in this instance must be exercised as it involves accounting for Federal money.
10. Since the Director must report to the Diocese the expenditure of funds collected in the Annual Drive -- all major expenditures and all lay employees and wages are subject to the approval of the Director. This prevails in all Diocesan institutions receiving allotments from Catholic Charities Drives.
11. To reduce overhead expenses and in the interest of economy the Director of Vermont Catholic Charities is authorized at his discretion to make wholesale purchases for dry goods and foods for all Diocesan institutions receiving allotments from the Catholic Charities Drives.

Signed:


Edward F. Ryan
Bishop of Burlington

Copies to:

Chancery Office
Superior at St. Joseph's Orphanage
Director of Vermont Catholic Charities ✓

THESE DIRECTIONS SHOULD BE INTERPRETED IN THE LIGHT OF THE
OF THE FOLLOWING:

1. The Social Worker should have access to her children within the Institution: First, through the medium of staff meeting with the Sisters involved: second, with the individual student alone at such time and place as determined by the Director and Superior. This would include the class room in exceptional cases.

2. Girls' Program is under the direct supervision of the Sisters. The Director of Charities is empowered to make recommendations for this program and to provide volunteer workers, especially for recreation, in as far as the Sisters deem advisable. In the event that volunteers have been placed at the Institution, with the consent of the Superior, the program should be carried out as planned.

3. Boy Guidance Department. The Boy Guidance Director will have primary responsibility in the disciplining of the boys. To assume this responsibility he must be cognizant of the disciplinary measures imposed by the Sisters. Such reports on discipline as he deems necessary should be available to him.

Assignments of boys made by the Guidance Director should be made in conjunction with the Superior. When the Superior is not available, in an emergency, the assignment may be made directly by the Director. He shall be required to leave notice at the Superior's office of the assignment.

In general, this agreement is intended to define the functions of both the Charity Department and the Sisters in St. Joseph's Orphanage, to the end that the Director of Charities and the Superior of the Institution may jointly establish a program for the best interests of the children. In the case of irreconcilable differences both the Director and the Superior may have recourse to the Bishop.

July - 1945

Appendix 6

Report to State of Vermont Office of the Attorney General regards to an information request on behalf
of the St. Joseph's Orphanage Task Force

Original 09/24/2019

Amended and Reissued 10/20/2020

James Forbes

Cynthia Walcott

VT Department for Children & Families

Family Services Division

On June 11, 2019 James Forbes, Senior Policy & Operations Manager, DCF Family Services Division and Kate Lucier, Director, AGO DCF-Family Services Unit received a letter of request from the Vermont Attorney General's Office. The request included review and production of relevant Department records related to any past Department interaction or relationship with the former St. Joseph's Orphanage in Burlington, VT. This included any Department records regarding a provided list of named individuals who had been cared for as children or youth by the orphanage.

The Family Services Division enlisted the assistance of Cynthia Walcott, retired Deputy Commissioner of the Division, to carry out the research necessary to respond to the request. This report will serve to inform the Vermont Attorney General's Office, and the Task Force, of the results of the research. We will report on the requested information and items individually, below.

On October 16, 2020 this report was amended and reissued. Initial research indicating that DSW records had been destroyed was later found to be incorrect. While paper files had been destroyed, many of these had been first transferred to microfilm. Found files are being made available in accordance with state statute to the VT Attorney General and to other relevant parties to include former residents.

Question 1. *“Any Department reports or files related to St. Joseph’s Orphanage. Specifically, reports that may explain the Department’s process for placement of children at the Orphanage; the relationship between the Department (formerly known as the Department for Social Welfare (DSW) or Social and Rehabilitation Services (SRS) and the Orphanage; and the Department’s role, if any, in the closure of the Orphanage. The Taskforce was made aware of a potential report or directive by DCF sometime between 1970-1975 on the topic of disciplinary protocols at the Orphanage. The Taskforce was also made aware of a potential report around the closing of the Orphanage in 1975.”*

Response 1. The inquiry around this topic was challenging as the Department has re-organized twice since 1975. First, the Department of Social and Rehabilitation Services (SRS) was formed about 1975. The new department took over responsibility for child welfare services formerly delivered by the Department of Social Welfare. Second, the Department for Children and Families (DCF) was formed in 2004. The Family Services Division of DCF continued to deliver the services formerly carried out by SRS's Social Services Division.

The only records we have been able to locate which are responsive to the request are records related to the licensure of Vermont Catholic Charities, under whose auspices St. Joseph's Orphanage was licensed. If the two reports or directives referred to in Question 1, existed at that time, they are not contained in the licensing record. No other records were found on site at the Department, nor did any Record Series at the Vermont State Archives & Records Administration (VSARA) suggest that they might contain such records or directives.

The earliest licensing records we were able to locate are from 1969. The records contain applications for re-licensure (first annual, then every other year), the licensing report, and correspondence. There is no mention in the record of allegations of child abuse or neglect with the exception of a report of an investigation that was done by the licensing unit in 1986 concerning an allegation concerning child to child sexual abuse at the St. Joseph's Group Home. There is no other reference to reports of child abuse

or neglect in the records, which almost certainly would have been investigated by the Licensing Unit, at least as potential violation of licensing standards.

Appendix 1 contains a table that summarizes information contained in the records that seemed at all relevant to the present inquiry. The only concerns outlined in the reports concerned the physical facility – in particular response to reports by the state fire marshal’s office. They are not mentioned in the summary as they were not judged relevant.

The summary ends with the 1975 licensing report, as St. Joseph’s, as it was, ceased to exist in 1974. Vermont Catholic Charities (VCC) continued to be licensed as a Child Caring Agency (later called a Child Placing Agency) through September 2008. During the earlier part of that period, VCC ran the St. Joseph’s Group Home that was quite different in nature than the previous Child Center. It was maintained in a separate building on the same campus.

The licensing record reflects that over the years, the number of children residing at St. Joseph’s Orphanage got smaller and smaller. In 1969, there were 102 children placed at St. Joseph’s Orphanage. By 1974, only 28 children lived there.

The file also contains a memo dated 1/4/1974 from Lyle McGinnis, social worker in the Burlington DSW district office to Enna Remick, supervisor of the Licensing Unit. Mr. McGinnis was the social worker assigned to the children residing at St. Joseph’s. The memo may be in response to a query from Ms. Remick. Mr. McGinnis says:

“I find it difficult to judge just how well the individual needs of children are met at St. Joseph’s. In respect to physical needs there has never been any question in my mind that this need is met very adequately. However, I have often questioned how well the emotional needs of children are being met.”

Later in the memo, Mr. McGinnis says that to his knowledge no placements were made by DSW in 1973. Four children from 2 families were reunited with their families in 1973. Both were families served by the Burlington DSW district.

Mr. McGinnis lists all of the children currently placed by DSW, with their dates of placement, and their DSW district office. There were 23 children from 11 different families. None of these children appear on the list we received from the Attorney General’s office.

Mr. McGinnis concludes: “Frankly, I would not refer any child for placement if a suitable alternative was available and I think other workers in this district are of a similar opinion.”

There is no indication in the Licensing Record that SRS played a role in the closure of St. Joseph’s Orphanage. Rather, it is apparent that best practice had moved away from the placement of children in large institutions. When Ms. Walcott began her work with SRS in 1977, there were few large child welfare-oriented institutions left in the state. Children placed in residential settings were living in smaller group homes, where perhaps 9-15 children resided. In fact, Vermont Catholic Charities itself ran one such small group home on North Avenue, adjacent to the St. Joseph’s Orphanage building.

Question 2: *Any records or files for the attached list of children who at one time resided at the St. Joseph's Orphanage.*

Response 2: The list originally provided by the Vermont Attorney General's Office on 7/10/2019 contained the names of 80 individuals who had been placed at St. Joseph's Orphanage as children. On 8/2/2019, the Vermont Attorney General's Office provided an amended list containing 132 names. The amended list also contained information about the entry and exit dates for the children listed. This information had been requested by the department in hopes that it would aid in the location of any records extant. The department added one more name, in response to an inquiry from the Victim's Advocate for the Burlington Police Department. All in all, this inquiry originally sought to locate records on 133 individuals.

These individuals were placed at St. Joseph's Orphanage from 1935 to 1970 for various lengths of time. In some cases, it was known that there was DSW involvement with the family. However, it is likely that many were privately placed by their families, perhaps with assistance from their parish priest.

Initial research performed by Ms. Walcott and reported to the Attorney General's Office in September 2019 indicated that past Department of Social Welfare (DSW) files related to named residents had been destroyed. This was later discovered to be incorrect when a separate query for an individual file revealed that some DSW files were still in existence. It was later confirmed with VSRARA that the existing DSW file series in question had been transferred to stored microfilm, while the original paper files were shredded.

AHS Records and Information Management Specialist Laura Carter, other VSARA staff, and DCF staff completed the review of over 500 separate microfilms related to DSW/SRS Record Series 58 spanning the years from 1949 through 1996. This represented well over 500 hours of staff time. The found files were uploaded to a state Sharepoint site and made available to both DCF and AAG staff for review. DCF worked with the reparative process representative to make found files available for viewing in accordance with state statute by interested past residents. This is ongoing at the time of this report submission.

145 discrete names were searched. This represented the original list of 132 names provided by the AG and included additional past residents currently active in the reparative process. Of the 145 names there were 45 found files (31%). During the process there was an additional 176 files found and recorded of individuals not named in the query. These will be available if any of these persons come forward in the future. In sum, 221 discrete past SJO residents were identified in the DSW record series.

It is difficult to conclude if this cache of files is comprehensive of all DSW involved children who were placed at the orphanage over these years. Some files may have not been transferred to storage; and others may have been included and sealed within adoption records. It is notable, however, that the 1973 Vermont Committed Child Study (summarized in Appendix 2) reported 108 children at SJO, 46 (or 43%) of whom were committed children. Most former residents were not committed children, and therefore would have no DSW record.

Other information:

As part of its research, DCF Family Services reviewed the 4 volumes Vermont Committed Child Study, published in August 1973 by the management consultant firm of Cresap, McCormick, and Paget, Inc. based on a study that firm completed in 1973.

The complete study is available through the Vermont Department of Libraries. The published study does not describe how the study came to be commissioned, but apparently it was at the behest of the Agency of Human Services. The volumes are as follows:

Vol.	Title	
I	Legal Framework and Case Tracking	<p>Describes the five categories of Vermont children who could be committed to state's custody at that time:</p> <ul style="list-style-type: none"> • Neglected – committed by district court to the Department of Social Welfare. • Unmanageable -- committed by district court to the Department of Social Welfare and usually placed at the Weeks School, a public institution. • Delinquent -- committed by district court to the Department of Corrections and placed at the Weeks School, a public institution • Mentally Defective – committed by the probate court to the Brandon Training School, a public institution. • Mentally Ill -- committed by the probate court to the Department of Mental Health and placed at the Vermont State Hospital, which then served children. <p>Profiles eleven children thought to represent typical children in the five categories.</p> <p>Provides an evaluation of services for each of the five categories. Summarizes recommendations for action.</p>
II	Profiles of Children	<p>Provides a description of data collection methods and a statistical analysis based on a review of records, and pertinent interviews for a sample of children in the five commitment categories.</p> <p>Explores implications for the scope, organization and service delivery process for committed children.</p>
III	Evaluation of Services	<p>Presents scope and method for the evaluation of services available to committed children in all five categories.</p> <p>Presents the result of the evaluation of services.</p>
IV	Recommendations	<p>Presents recommendations on the following topics:</p> <ul style="list-style-type: none"> • Legal Framework • Plan for a Service Delivery System • Development of treatment and placement facilities • Agency organization and operations • State-level planning and advocacy.

Appendix 2 contains a summary of the key findings from each volume. In Volume 1, case studies or profiles of eleven children in DSW custody were included. Two of the children, both characterized as neglected, had spent time at St. Joseph's Orphanage. One has been privately placed by his parents; the other was placed by DSW.

It is worth reading through the summary provided in Appendix 2, as it provides a window into some of the thinking of the time about various types of placements used for children in DSW custody.

Interestingly, the consultants casted institutional care in a positive light and seemed to suggest that institutional care was under-utilized in Vermont. In the decade that followed, however, Vermont moved more and more away from the use of institutional care.

APPENDIX 1

Summary of Licensing Records on St. Joseph's Child Center

The table below summarizes information contained in the Licensing Records that seemed at all relevant to the present inquiry.

The only concerns outlined in the reports concerned the physical facility – in particular response to reports by the state fire marshal's office. They are not mentioned in the summary below as they were not judged relevant.

The summary ends with the 1975 licensing report, as St. Joseph's, as it was, ceased to exist in 1974. Vermont Catholic Charities (VCC) continued to be licensed as a Child Caring Agency (later called a Child Placing Agency) through September 2008. During the earlier part of that period, VCC ran a group home that was quite different in nature than the previous Child Center. (St. Josephs Group Home)

Date	Summary
10/29/1969	<p>DSW licensed Vermont Catholic Charities (VSS) as a Child Caring Agency. They were specifically licensed to "provide institutional care for children deprived by death, illness, divorce or neglect by one or both parents; to provide foster homes for children unable to adjust to group living; to direct and guide teenage boys, pre-delinquent, dependent or maladjusted, and to provide placement in school employment homes" and other services, including adoption services. Expiry 10/23/1969.</p> <p>The licensing report indicates that children age 3 through grade 8 live at the center. There were 102 children placed (51 boys and 38 girls), most of whom had contact with family.</p> <p>The Center ran a school, grades 1-8. Five children were attending outside kindergarten. All high school age children being served were at boarding schools.</p> <p>Sister Lorraine was the Mother Superior and was in charge of the girls' department Under her were 25 sisters, six of whom were teachers. Three St. Michael's "college boys" lived in for room and board. They provided some "male figure" people.</p> <p>"Miss Markle" was "the social worker in residence". However, she had been away on educational leave for 2 years. She returned before 9/12/1969, having obtained her degree in social work.</p>
12/31/1969	License renewed for one year, expiring 10/23/1970.
Nov 1970	License renewal. Purpose remains the same. At that time 91 children were in residence, including seven in the infant nursery who would probably be placed for adoption. There were five ages 3-5 years in a second nursery. Since the last report, eighth graders now attending Cathedral School. At that time, 27 sisters worked at the Center, under the direction of a new Mother Superior, Sister Madelene Celine, who came in June 1970. Sister Madeline had been placed at St. Joseph's as a child. There were nine social worker, seven of whom worked at the Center. Miss Mary Markle, social worker, worked with children at the Center. "College boys" from St. Michael's College continued to reside there, in exchange for services.

Date	Summary
	<p>“St. Josephs’ Home for Children is meeting a need in our state. Father Bresnehan is a very capable, modern-thinking person. He has a degree in social work and he knows the needs of the children. He has persistently updated the program in an attempt to meet the needs of children in group living. Most of the social workers have their Master’s Degree.”</p>
<p>Oct 1971</p>	<p>License Renewal. There were 97 children in residence, including 8 infants and 8 toddlers. The others were ages 6-16 years. As Cathedral School had closed, the 8th graders attended the on-site school, or were living in foster homes. There were 28 sisters employed. The Mother Superior had once again changed. Sister Lucille Laperrier was just about to begin her duties, and was not met by the licenser. The social work staff remained the same.</p> <p>“Children are given good care here. Classes are small and sometimes special help can be given. If a Catholic family needs temporary placement to keep them together, this is an excellent placement for them. The social work staff are well trained and qualified to help pre-delinquent adolescents. Small caseloads make it possible to give concentrated help.</p> <p><u>With this many children in one building, however, there [sic] are somewhat regimentalized. There are favorite sisters who are close to the children and others who are busy with cleaning and mending.</u></p> <p>It <u>is</u> an institution, and of course children can be “forgotten” in institutions sometimes, unless careful, yearly evaluations and on-going planning is provided. The Dept. of Social Welfare has 44 children her at present. 20 of them have been here over 3 years. 7 were placed there 2 years ago and 19 were placed there less than a year ago.</p> <p>This institutions is meeting a need in Vermont and if social workers or individuals placing children here consult with the supervisory staff and see children often enough so they do not become “institution” children, it can be a very useful placement.”</p> <p>The license was for 98 children.</p>
<p>Oct 1972</p>	<p>The 1972 application for re-licensing contains a list of religious personnel working at the Center. The licensing report indicates that the professional social work staff were Joyce Corning (who worked with the aged), Mary Markle, Patricia Markle and Ray Syriac (who supervised adoptions). There were 25 sisters working at the Center. The mother superior was Sister Lucille Laperrier. Brother Michael Jacques served as house parent supervisor for the boys’ program. There was 34 boys and 46 girls in residence. The license was for 90 children.</p>
<p>Oct 1973</p>	<p>Lucille Allen was a new social worker working with girls at the Center. The same Mother Superior supervised 18 sisters acting as child care staff. Other sisters performed other duties. “Some of them are better with children than others and there are always favorite sisters who have a way with youngsters and others who are more rigid. Caseworkers work with sisters in interpreting the needs of specific children.” There were six teachers, supervised by Sister Lucille Belval. Two St. Michael’s College students helped with the boys; one (John Brennan) lived on site.</p>

Date	Summary
	<p>“There are fifty-eight children living at the Center. Twenty seven of these were placed there by our agency. Most of them have been there two years or over. This year (1973) we placed no children there. These are supervised by the Burlington district.”</p> <p>“The average length of stay is two or three years. Father Bresnehan does not recommend that a child stay longer than this.”</p> <p>As in the past, children had regular access to a pediatrician. Dr. Lucy, from the UVM Medical School, conducted a weekly clinic. Dr. Gerald McGinnis, psychiatrist, was on site 2 days each week, consulting with staff and seeing some children on a regular basis.</p> <p>“The Child Center has spaces for about a hundred children but has only 58 in residence. The fact that our agency is making fewer placements has caused some concern to Father Bresnehan. He is questioning whether our policy is now not to make institutional placements. I explained that the commitments recently have been unmanageables, over the age of twelve, which his facility does not take. . . .</p> <p>The fact that we have removed no children from this home in the last year makes me question the use we are making of the home, as I understand most of them have been there for two years or more. I can see it as being a good placement in many instances, but not for extended lengths of time.</p> <p>I feel there should be more frequent staff meetings and that the sisters who actually do the day-by-day care should have some special in-service training. They should also attend staffings and know more about each child’s specific problems.”</p>
Nov 1974	<p>The licensing report states that there was considerable change over the previous year. Only the northern end of the building was being used for children in residence. The numbers have been reduced from 98 to 28. The children were ages 9 – 15 years (16 boys and 12 girls). The younger children previously in residence had returned home, been placed in foster care, or had been adopted. The school had been discontinued; all children attended local public or parochial schools, except two who were being tutored on-site. The Center was now interdenominational, rather than being exclusively for Catholic children.</p> <p>There were six child care workers. No mention is made of Sisters. The director was Mary Markle, who had been with the home since 1963. Social workers Ray Syriac and Lucille Allen provide some services. Dr. Collette and Dr. Young provided health care.</p> <p>“The resident program is more like large family rather than an institution. It is therapeutic, personal, and all health is given regularly and as needed. The total program is pleasantly structured and child care staff are more child development oriented than previously.”</p> <p>A staff list is included in the application for re-licensure. It appears that only 2 staff are sisters. Father Bresnehan is still the director.</p>

Date	Summary
	<p>There is a letter from Monsignor Bresnehan in the file to David Ross, DSW. Dated 8/20/1974, it describes the new child care program to be run at the St. Joseph's Child Center, effective 8/31/1974. The child care staff are named in the letter, and included two Sisters and 5 others. It states that Mary Markle will direct the program.</p> <p>There is also a memo in the file from Lyle McGinnis, social worker in the Burlington district office to Enna Remick, supervisor of the Licensing Unit. Mr. McGinnis was the social worker assigned to the children residing at St. Joseph's. The memo may be in response to a query from Ms. Remick. He says:</p> <p>"I find it difficult to judge just how well the individual needs of children are met at St. Joseph's. In respect to physical needs there has never been any question in my mind that this need is met very adequately. However, I have often questioned how well the emotional needs of children are being met."</p> <p>Later in the memo, Mr. McGinnis says that to his knowledge no placements were made by DSW in 1973. Four children from 2 families were reunited with their families in 1973. Both were families served by the Burlington district.</p> <p>Mr. McGinnis lists all of the children currently placed by DSW, with their dates of placement, and their DSW district office. None of these children appear on the list we received from the Attorney General's office. There were 23 children from 11 different families.</p> <p>Mr. McGinnis concludes: "Frankly, I would not refer any child for placement if a suitable alternative was available and I think other workers in this district are of a similar opinion."</p>

APPENDIX 2
Summary of Vermont Committed Child Study, 1973

Volume I - Legal Framework and Case Tracking

Of the eleven children profiled in this volume, two of these children, both categorized as “neglected” spent some time at the St. Joseph’s Child Center. One stayed only a few days. The second has been known to Vermont Catholic Charities over time. His parents privately placed him and a sibling St. Joseph’s for over a year. Following his commitment to DSW, he stayed at St. Joseph’s for another 2 years. During that period, 3 siblings also committed to DSW were placed with him at St. Joseph’s. There is no mention of concerns about the treatment of the children in the profiles or following recommendations.

This case illustrates that children were placed privately at St. Joseph’s Child Center and they were also placed there by the Department of Social Welfare.

Volume II - Profiles of Children

Although this volume summarizes data for children in all five commitment categories, the information summarized here pertains only to neglected and unmanageable children committed to the Department of Social Welfare. About a third of children in each category were studied.

Category	Number committed	Number in Sample
Neglected	1000	333
Unmanageable	300	102

Although the study team looked at a wide variety of child and family characteristics, only information pertaining to placement in private institutions is presented here. Note that Volume III clarifies that the following five placements were considered private institutions¹:

- Josephine B. Baird Children’s Center – now Howard Center
- St. Joseph’s Child Center – now defunct
- Kurn Hatin Homes
- Elizabeth Lund Home – now Lund
- Rock Point School

Category	Number Placed in Private Institutions as First Placement	Percent Placed in Private Institutions as First Placement
Neglected	12	3.8%
Unmanageable	7	7.4%

¹ Vermont Committed Child Study (August 1973), Volume III, page II-3.

This volume does not summarize information about placements generally, after the first placement. See Volume III.

Volume III – Evaluation of Services

As part of the evaluation of services, professionals from state and private agencies were interviewed, as well as foster parents. This included interview of staff of St. Joseph’s Child Center.

On January 30, 1973, children committed to the Department of Social Welfare as neglected or unmanageable were placed in the following settings²:

Placement Type	Neglected		Unmanageable		All	
	Number	Percent	Number	Percent	Number	Percent
Foster Home	587	63%	67	22.4%	654	53.1%
Group Home	38	4.1%	22	7.4%	60	4.9%
Public Institution	14	1.5%	81	27.1%	95	7.7%
Private Institution	63	6.8%	27	9.0%	90	7.3%
Parent	116	12.4%	73	24.4%	189	15.4%
Relative	101	10.8%	18	6.0%	119	9.7%
Other	13	1.4%	11	3.7%	24	1.9%

This study seems to have concluded that private institutions provided a level of care and treatment superior to many other placements. Volume III, page II-43 describes private institutions as follows:

- “Private child care institutions have been established to provide residential care and treatment for group of children who cannot be cared for in their own homes.
 - Institutions generally care for large numbers of children, offer a wide range of services, and are staffed by professional child care workers.
 - Institutional care is believed to have the following advantages:
 - A wider range of professionals is available to meet special needs.
 - Services are easier to deliver, and coordination of services is facilitated.
 - The institution does not provide substitutes for the parental role, and thus leaves natural family loyalties intact.
 - Institutions vary in the range of services they provided, the ages and sex of children they serve, and the types of dysfunctional children they accept.
- In Vermont, many such child care institutions have been established, and approximately 12 are licensed to accept children committed to the care and custody of the State of Vermont.
 - Some are similar to boarding schools, and others deal with children who have special physical or emotional problems.
 - Private child care institutions tend to be clustered in or near the major urban centers.
 - About one-half of the special-purpose institutions are located in or immediately outside of Burlington.
 - A center for treating physically handicapped children in located in Rutland.

² Vermont Committed Child Study (August 1973), Volume III, Exhibit II-1 (no page number)

- The role of these institutions in the service system for neglected and unmanageable children committed children is essential, for many children with special problems cannot receive treatment elsewhere.
 - In the Profiles of Children survey, 5.2 per cent of neglected children and 6.9 per cent of unmanageable children had been initially placed in private institutions.
 - April [1973] statistic from the Department of Social Welfare list over 80 children in the care of private institutions.
 - St. Joseph’s Child Center reports that over 90 per cent of the committed children in residence had previously been placed in foster homes and that over 40 per cent had had two or more previous placements.
- Either the Department of Social Welfare or the State Department of Education licenses the private institutions which care for committed children.
 - DSW [the Department of Social Welfare] has established licensing standards for private institutions covering organizations and administration, programs and services, records and reports, facilities, transportation and emergency planning.
 - Licenses of such institutions are renewable annually, by application.
 - The State Department of Education approves the programs of institutions, such as Rock Point and Kurn Hatın, which are considered to be schools.
- Like group homes, private institutions are statewide resources.
 - DSW workers from any office may, after securing central office approval, place a child in an appropriate institution, if he meets the institution’s criteria, and if a place is available.
- Private institutions operate independently and usually provide social services to children through their own staff, rather than through DSW workers.”

Volume III describes the child private institutions visited, including St. Joseph’s Child Center. At that time St. Joseph’s Child Center had 108 children placed at the center, including 46 committed children. Only Kurn Hatın, with 130 children placed (including 9 committed children) was larger.³

The report further describes St. Joseph’s Child Center as follows⁴:

“St. Joseph’s Child Center is sponsored by the Roman Catholic Diocese; located in Burlington, it provides a home for dependent and neglected children.

- In addition to residential care, services provided include schooling, medical and dental treatment, counseling and adoption placement.
- At the time of the study, 46 of the 108 children in residence were committed to the care and custody of the State of Vermont.
 - Forty of them had been committed as neglected, five as unmanageable, and one was awaiting disposition.

As part of the report’s section of implication of findings, the following is included⁵:

³ Vermont Committed Children’s Study (August 1973), Volume III, un-numbered page following page II-45.)

⁴ Vermont Committed Children’s Study (August 1973), Volume III, page II-47.

⁵ Vermont Committed Children’s Study (August 1973), Volume III, page II-56.

“Private institutions in Vermont may not be sufficiently utilized as facilities for the care and treatment of neglected and unmanageable children.

- Fewer than 10 per cent of neglected and unmanageable children are placed in private institutions.
 - Many placements in private institutions are made after foster homes have proven inadequate.
- Institutional placements are frequently not made, even in light of the superior resources and professional staff capabilities of private institutions.
 - Foster home placements are the easiest to make, and the least expensive placement alternatives.
 - A strong antiinstitutional [sic] bias exists among those interested in child welfare in Vermont.”

Volume IV – Recommendations

A careful review of Volume IV does not reveal any content regarding the role of private child care institutions in providing care and placement for neglected or unmanageable children committed to the state.

Appendix 7

"Chronique de l'Orphelinat St. Joseph"

The Chronicle of Saint Joseph's Orphanage,
translated from the original French by William Goss,
Diocesan Archives 1977.

Original is preserved at the Motherhouse
of the Sisters of Providence in Montreal, Quebec.

Our first thought was to thank God, for (p.248) is not the cross the tree on which bloom the flowers which form the most beautiful crowns?
 After the singing of the Te Deum we begin to disinfect all the rooms in the house. May the holy name of God be praised!

New Year's Day.

We happily greet this new year which will bring us the Golden Jubilee of our Orphanage! We ask God to graciously bless this year which begins for us while for that which has just ended we say "Merci" and "Pardon" - yes, "Merci" for all the graces and favors received, and "Pardon" for the oversights, the ingratitude, and the faults committed.

Death of Mrs. Michaud.

15. The death of Mrs. Michaud, the mother of Bishop Michaud. Following an illness of several months this good mother watched death approach with a sweet tranquility, for there is nothing to fear when we have served the good Lord well. She was ninety- (p.249) three years old, but yet retained all her faculties and had a prodigious memory.

We submit our plans for the Jubilee to His Lordship, and the following is the response he gave us:

(letter is in English - w.g.)

Letter of Bishop Michaud.

Cathedral of Im. Conception.
 Burlington, Vt. Jan. 21st 1904.

Rev. Sister M. Precious Blood.

Ma Soeur:

I was just ten years old, Nov. 24th 1853, when as per the diary of the late Venerable Louis de Goesbriand, Bp. of Burl. he went to Montreal and visited with that great man, Monseigneur Bourget, Eveque de Montreal. At that visit he asked for the Sisters of Providence to come to Burlington Diocese.

In the month of St. Joseph this: "27th of March 1854 - the Pearl Street House bought by me for the sum of \$7,100.00 - the same day the Bishop of Montreal writes me that the Sisters of Providence - se placent a la disposition de Votre Grandeur. April 10th, '54 - the Sisters of Providence (p.250) have consented to come to take charge of the Pearl Street House - where it is intended they will teach school, harbor orphans, and perhaps sick persons - Sisters Caron and Theresa came Saturday to see the House and make arrangements - It is agreed that they will come about the first of May to occupy the house, take care of the garden and prepare children for First Communion. The others will come at the beginning of July - Sit nomen Domini benedictum.

You see, ma Soeur, that I am giving you the history of those days - as taken from the notes in the Bishop's diary -

Appendix 8

PREFACE
THE
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OF VERMONT
1933

INCLUDING THE PUBLIC ACTS OF 1933

WITH

THE DECLARATION OF INDEPENDENCE
THE ARTICLES OF CONFEDERATION

AND THE

CONSTITUTIONS OF THE UNITED STATES
AND THE STATE OF VERMONT



PUBLISHED BY AUTHORITY
1934

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CHAPTER 100.

(2321-2331)

GENERAL PROVISIONS.

G. L. § 2490.
61 Vt. 45.

SEC. 2321. **Indictment.** A person shall not be held to answer in court for an alleged crime or offense, unless upon indictment by a grand jury, except in proceedings before justice's or municipal courts and when a prosecution by information is authorized.

1919, No. 76, § 1.
G. L. § 2491.
2 Tyl. 387.
57 Vt. 637.
59 Vt. 84.
59 Vt. 654.

SEC. 2322. **Former acquittal a bar.** A person shall not be held to answer on the same or a second complaint, information or indictment for an offense of which he was acquitted by a jury upon the merits on a former trial, but such acquittal may be pleaded in bar of a subsequent prosecution for the same offense, notwithstanding defects in the form or substance of the complaint, information or indictment on which he was acquitted.

G. L. § 2492.

SEC. 2323. **Same; unless upon a variance.** When a person is acquitted by reason of a variance between the complaint, information or indictment and the proof, or upon an exception to the form or substance of the complaint, information or indictment, he may be arraigned again on a new complaint, information or indictment and may be tried and convicted for the same offense notwithstanding such former acquittal.

G. L. § 2493.

SEC. 2324. **Person not to be punished unless court has jurisdiction.** A person shall not be punished for an offense, unless he is convicted thereof in a court having jurisdiction of the cause and the person.

G. L. § 2494.
68 Vt. 311.
91 Vt. 330.

SEC. 2325. **Conviction to be by plea or verdict.** A person shall not be punished for an offense unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury accepted by the court and recorded, or by the judgment of a justice's or municipal court when the respondent waives trial by jury.

*See chapter 74 for certain sections relating to jurors in both civil and criminal causes.

CHAP. 101.]

SEC. 2326. **Separate trials for respondents.** Persons jointly informed against or indicted shall be tried separately or jointly in the discretion of the court, except that when two or more persons are jointly informed against or indicted for a felony punishable by death or imprisonment in the state prison for a term exceeding five years, such respondent requesting it shall be tried separately, provided that the provisions of this section shall not apply to a trial on an information or indictment charging conspiracy.

SEC. 2327. **Rights of accused on trial.** On the trial of an information or indictment, the party accused may defend himself, be heard by counsel, produce witnesses and proofs in his favor, and shall be confronted with the witnesses produced against him.

SEC. 2328. **Commitment, how made.** When a prisoner is committed to jail on criminal process, the commitment shall be in the manner prescribed for commitments on civil process.

SEC. 2329. **Copy of process for accused.** When an officer does not within six hours deliver a true copy of the warrant or process by which he detains a person in a criminal proceeding, to a person who demands such copy and tenders the fees therefor, he shall forfeit to such person two hundred dollars.

SEC. 2330. **Warrant, to whom directed.** A warrant issued in a criminal cause shall, except as otherwise provided, be directed to any sheriff or constable in the state.

SEC. 2331. **Costs in criminal causes.** In criminal causes where the punishment is by a fine or imprisonment, or both, costs shall follow unless otherwise ordered by the court.

CHAPTER 101.

(2332-2348)

GRAND JURY AND INFORMING OFFICERS.

Grand Jury.

SEC. 2332. **Foreman; powers and duties of jury.** After a grand jury is impaneled and sworn, the court shall appoint a foreman, who may administer oaths to witnesses before such grand jury. When the grand jury finds an indictment supported by good and sufficient evidence, the foreman shall write thereon "a true bill;" and when it does not find an indictment so supported, he shall write thereon "this bill not found," and the accused person shall be thereupon discharged.

SEC. 2333. **Bill, how found.** An indictment shall not be presented by a grand jury, unless twelve of the jurors agree in the same.

Clerk before Grand Jury.

SEC. 2334. **To take testimony.** A clerk may, at the expense of the state and upon the approval of the presiding judge, take testimony before the grand jury for the use of the state's attorney.

SEC. 2335. **Order of approval to be filed; oath.** The order of approval from the presiding judge shall be in writing and filed with the county clerk, and may be revoked by the judge for cause shown. The clerk shall, before entering upon his duties, make oath before the county clerk that he will keep secret all matters and things coming before the grand jury.

G. L. § 2505.

SEC. 2336. Clerk not to disclose testimony; exception; minutes property of state. The clerk shall not disclose testimony so taken by him, except to the attorney general, state's attorney and grand jury; and the minutes of testimony so taken shall be the property of the state and the same or a copy thereof shall not go out of the possession of the attorney general, state's attorney or their successors, except to an attorney appointed by the court to act in the place of or to assist the state's attorney, but nothing in this section shall prevent the clerk from disclosing such evidence on an order of the supreme or county court.

G. L. § 2506.

SEC. 2337. Penalty. A clerk approved as aforesaid who violates a provision of the two preceding sections shall be imprisoned not more than one year or fined not more than one thousand dollars nor less than one hundred dollars, or both.

Prosecutions by Information.

G. L. § 2507.
9 Vt. 57.
23 Vt. 698.
52 Vt. 476.
61 Vt. 45.

SEC. 2338. By state's attorney. Crimes not punishable by death or by imprisonment in the state prison for life may be prosecuted by a state's attorney by information.

G. L. § 2508.
34 Vt. 345.

SEC. 2339. By town grand juror. A town grand juror shall inquire into and due presentment make to proper authority of offenses which may come to his knowledge, within the town for which he is elected, or within an unorganized town or gore adjoining such town, which in his judgment ought to be prosecuted.

G. L. § 2509.
27 Vt. 328.
27 Vt. 553.
30 Vt. 467.

SEC. 2340. Same; how made. Presentments by a grand juror shall be made under his oath of office and official signature, to a justice or a municipal court, by a complaint in writing.

G. L. § 2510.

SEC. 2341. Grand juror may attend examination. A town grand juror may attend the examination of a person arraigned on such complaint.

G. L. § 2511.

SEC. 2342. Officers as informing officers, when. When a sheriff, deputy sheriff or constable, or a police officer of a city or incorporated village, arrests a person for a misdemeanor, without warrant, he shall forthwith take such person before a court having jurisdiction of the offense. Such officers shall be complaining officers for the purpose of making presentment against persons so arrested by them, by complaint in writing, under their oath of office and official signature, to the court before which such person is brought.

G. L. § 2512.

SEC. 2343. Same; procedure; notice. If, upon such presentment, the respondent pleads guilty, such court shall thereupon impose sentence; but if the respondent pleads not guilty, such court may, in its discretion, notify the town or city grand juror, or city or village attorney, who shall forthwith enter and prosecute such complaint, and be allowed the fees provided by section 9015, which shall be taxed against the respondent; and the court may, in its discretion, also notify the state's attorney of the county within which such misdemeanor is committed, who may also enter and prosecute such complaint. For making such complaint, the sheriff, deputy sheriff, constable or police officer shall receive no fee.

G. L. § 2513.

SEC. 2344. Amending complaint; when and by whom. State's attorneys, grand jurors and city or village attorneys may, whenever necessary, amend a complaint authorized to be made under the provisions of the preceding sections.

G. L. § 2514.
60 Vt. 618.

SEC. 2345. Recognizance, when required of complainant. A warrant to apprehend a person charged with a criminal offense shall not

be granted by a justice or a municipal judge except on information or complaint of an informing or complaining officer, until such magistrate has taken security to his satisfaction, by way of recognizance to the person so charged, that the prosecutor will answer the damages if he does not prosecute his information to effect, and a minute of such recognizance shall be made as in civil causes.

SEC. 2346. Discharge of person bound over for trial; how made; certificate; effect. When a person is confined in jail by reason of failure to furnish bail on being bound over to a county or municipal court, and the grand jury reports that a bill is not found against such person or the state's attorney notifies the county clerk or the judge of such municipal court, as the case may be, that an information will not be filed against such person, the clerk or judge shall forthwith certify such fact to the jailer, and thereupon such person shall be discharged from custody, and the date of such certificate shall be deemed to be the date on which such person was discharged.

Employment of Counsel.

SEC. 2347. Grand juror may employ. In the examination of a person charged with a crime exceeding the jurisdiction of a justice's or municipal court to try and determine, commenced upon the complaint of a complaining officer not entitled to draw a salary, and in the trial of a person before such court upon the complaint of such an officer, charging him with a crime within the jurisdiction of such court to try and determine, where the fine is payable to the state, such officer may employ counsel at the expense of the state, when the state's attorney is disqualified or unable seasonably to attend at such examination or trial.

SEC. 2348. Payment. The auditor of accounts shall allow counsel so employed a reasonable compensation for his services and expenses and shall issue his warrant for the amount allowed. Compensation shall not be allowed where it appears to the auditor that the prosecution was superfluous and instituted to enhance costs, nor in the trial of a person upon a complaint for intoxication or for any other offense against the chapter relating to intoxicating liquors, except where the respondent pleads not guilty.

CHAPTER 102.

(2349-2449)

PLACE OF TRIAL AND PROCEEDINGS IN COURT.

Place of Trial.

SEC. 2349. In what county. Criminal causes, when not otherwise provided, shall be tried in the county where the offense is committed. G. L. § 2518.

SEC. 2350. When act in one county causes death in another. A person feloniously wounding or poisoning a person in one county, whose death results therefrom in another county, may be indicted and tried in either county. G. L. § 2519.

SEC. 2351. Offense on boundary. If an offense is committed on the boundary of two or more counties, or within one hundred rods of such boundary, such offense may be alleged in the complaint, information or indictment to have been committed and may be prosecuted in any of such counties. G. L. § 2520.

SEC. 2352. Before a justice. Prosecutions of a criminal nature before a justice, within his jurisdiction to try and determine, shall be tried in the town where the offense is committed or the respondent resides. G. L. § 2522.
46 Vt. 176.
47 Vt. 78.

Change of Venue.

G. L. § 2523.
104 Vt. 379.

SEC. 2353. Application. When a person is under information or indictment for an offense punishable by death or imprisonment in the state prison, the respondent or the state's attorney of the county where the prosecution is pending, may apply to a superior judge, petitioning that the trial of such respondent be removed to and had in another county.

G. L. § 2524.

SEC. 2354. Respondent to be committed; effect on bail. If such respondent has given bail and is at liberty at the time the application for removal is made, the judge to whom the application is preferred, if in his opinion the same is proper to be granted, shall, before making the order of removal, issue a warrant commanding that such respondent be apprehended and committed to the jail of the county in which the prosecution is pending. Upon the commitment of such respondent, the bail shall be discharged, if such commitment is made previous to the term of court at which such respondent was recognized to appear.

G. L. § 2525.
104 Vt. 379.

SEC. 2355. Order for removal for trial. When such respondent is in custody at the time the application is made, or when, having been at liberty, he has been apprehended and committed as provided in the preceding section, the judge to whom the application is preferred, may, in his discretion, by an order in writing, direct that the trial of such respondent be removed to and had in some other county named, and such order shall be filed with the clerk of the county court in which such respondent was informed against or indicted.

G. L. § 2526.

SEC. 2356. Bail. The judge making the order of removal may, if the offense charged is bailable, take a recognizance with sufficient surety of such respondent, conditioned for his personal appearance before the court in which his trial is ordered to be had.

G. L. § 2527.

SEC. 2357. Order for removal of respondent. If such respondent is in custody from failure to find the required bonds or otherwise, or if the offense is not bailable, or if having entered into recognizance to appear, he is again apprehended and committed at the request of his bail, the judge making the order of removal shall, previous to the next term of the court in which such respondent is ordered to be tried, issue an order in writing to the sheriff of the county in which such respondent is confined, commanding him to deliver such respondent to the keeper of the jail in the county in which the trial is ordered to be had.

G. L. § 2528.

SEC. 2358. Service and return. The sheriff shall forthwith remove and deliver such respondent as directed in the order, leave a copy of the same with his return indorsed thereon with the keeper of the jail to which such respondent is committed and return the original order with his return indorsed thereon to the clerk of the court in the county in which such respondent was informed against or indicted.

G. L. § 2529.

SEC. 2359. Clerk to transmit papers; cause to proceed. The clerk shall, upon receipt of such order and return, forthwith transmit the same, together with the other papers in the cause, to the clerk of the court in the county in which the trial is ordered to be had; and thereupon such court shall have jurisdiction of the cause and the same proceedings had therein, as though such offense had been committed in such county.

G. L. § 2530.

SEC. 2360. Which state's attorney to prosecute. The state's attorney of the county in which the respondent is informed against or indicted, shall appear in behalf of the state at the trial of the respondent in the supreme court, or in any county to which the trial is removed, and in proceedings relating thereto shall have the same powers and be subject to the same duties and liabilities as though the trial were had in the county for which he is attorney.

Supreme Court May Allow Respondent to Plead.

SEC. 2361. In what causes; sentence. When a person is confined in jail on an information or indictment for a crime or misdemeanor, pending in the county court, the supreme court may, on his written application, stating that he desires to plead guilty to such information or indictment, issue an order to the clerk of such county court to transfer such information or indictment and the pleadings made in relation thereto, to the files of the supreme court; and, upon such information or indictment being so transferred, the supreme court may receive and record a plea of guilty and award sentence thereon. G. L. § 2531.

SEC. 2362. Causes remanded for trial, if one required. If, upon an information or indictment being so transferred to the supreme court, the respondent pleads not guilty, or a plea upon which an issue of fact is joined, such information or indictment, with the pleadings in relation thereto and a certificate of the proceedings thereon, shall be removed to the county court where such cause was pending, and be there tried as though the same had not been transferred to the supreme court. G. L. § 2532.

Filing Information at Request of Respondent.

SEC. 2363. In supreme court. When a person is confined in jail on a complaint for a crime or misdemeanor, the supreme court may, on his written application, direct an information to be filed against him for the offense for which he stands charged, and on such information being filed, may receive and record a plea of guilty and award sentence thereon and hear and determine questions of law arising on such information. G. L. § 2533.
78 Vt. 124.

SEC. 2364. Removal to county court for trial. If, upon such information, the respondent pleads not guilty, or a plea upon which an issue of fact is joined, such information, with a certificate of the proceedings thereon, shall be removed to the county court in the county where such respondent was confined when he made his application and there tried as if an indictment had been presented against him. G. L. § 2534.

SEC. 2365. In county court. If a person is confined in jail on a complaint for a crime or misdemeanor, the county court for the county may, on his written motion, direct an information to be filed against him for such offense, and on such information being filed may try him as if an indictment had been presented against him. G. L. § 2535.
78 Vt. 124.

SEC. 2366. Capital crimes excepted. The provisions of the three preceding sections shall not extend to a crime for which the punishment is death or imprisonment in the state prison for life. G. L. § 2536.

SEC. 2367. Special terms of county court. When a person is confined in jail on a complaint for an offense which may be prosecuted by information, any superior judge in vacation may, on the written petition of the respondent, direct an information to be filed against him with the clerk of the county court for the county in which such jail is located, for the offense charged; and, on such information being filed, the assistant judges of such court may convene a special term thereof. G. L. § 2537.

SEC. 2368. Same; plea of guilty; mittimus. At such special term, the court may receive and record a plea of guilty and award sentence thereon and hear and determine questions of law arising on such information. The clerk of the court shall forthwith issue a mittimus to carry such sentence into effect. G. L. § 2537.

SEC. 2369. Procedure if respondent pleads not guilty. If, upon such information, the respondent pleads not guilty, or a plea upon which an issue is joined, such information, with a certificate of the proceedings therein signed by the court, shall be filed with the clerk of the court, G. L. § 2538.

and thereupon the respondent shall be ordered recommitted to such jail and the clerk of the court shall issue a mittimus accordingly.

Counsel Assigned.*

G. L. § 2539.
89 Vt. 490.

SEC. 2370. How paid; exceptions. Compensation shall not be paid by the state to counsel assigned to defend a respondent in a criminal proceeding, except to counsel assigned by the county court in capital causes or in causes where the punishment is by imprisonment in the state prison; or to counsel assigned to assist the state's attorney in a criminal proceeding, except in capital causes or where the punishment is by imprisonment in the state prison for a term exceeding ten years or where the state's attorney is disqualified by reason of interest or relationship to the respondent.

Pleadings in Criminal Causes.

G. L. § 2540.
55 Vt. 211.

SEC. 2371. Time allowed respondent. A person shall not be compelled to plead to an information or indictment until twenty-four hours after being furnished with a copy of the same, and the clerk of the court shall furnish such copy.

G. L. § 2541.
41 Vt. 691.
50 Vt. 731.
54 Vt. 179.
55 Vt. 550.
58 Vt. 524.
59 Vt. 661.
64 Vt. 372.
65 Vt. 439.
90 Vt. 125.
G. L. § 2542.
85 Vt. 233.

SEC. 2372. Objections to formal defects; amendment. Objections to a complaint, information or indictment, for a formal defect apparent upon the face thereof, shall be taken by demurrer or motion to quash, before the jury is sworn; and the court may cause the complaint, information or indictment to be forthwith amended in such particular by some officer of the court.

SEC. 2373. Standing mute. When a person arraigned on a complaint, information or indictment stands mute or refuses to plead or be tried by due course of law, he shall be treated as pleading not guilty, and the trial shall proceed accordingly.

G. L. § 2543.

SEC. 2374. Judgment against corporation on default. If a corporation, having been served with process, does not answer to a complaint, information or indictment, its default shall be recorded and the charges in the complaint, information or indictment shall be taken to be true and judgment rendered accordingly.

G. L. § 2544.

SEC. 2375. Proof showing a greater offense a nolle prosequi may be allowed. If, upon the trial of a person charged with an offense, the facts given in evidence amount in law to a greater offense than the one charged, such person shall not by reason thereof be acquitted, but the court may, in its discretion, allow a nolle prosequi to be entered in order that he may be prosecuted for the greater offense.

G. L. § 2545.

SEC. 2376. Defense in prosecution for libel. If a person is prosecuted by information or indictment for uttering and publishing a libel, or for defaming the civil authority of the state, he may, under a plea of not guilty, give in evidence to the jury the truth of the words contained in such supposed libel, as set forth in the information or indictment; and if he proves their truth to the satisfaction of the jury, it shall in its verdict find the respondent not guilty.

G. L. § 2546.
70 Vt. 247.
85 Vt. 115.

SEC. 2377. Indictment for murder or manslaughter. In an indictment for murder or manslaughter, the manner in which or the means by which the death of the deceased was caused, need not be set forth; but it shall be sufficient in an indictment for murder to charge that the respondent did feloniously, wilfully and of his malice aforethought kill and murder the deceased, and in an indictment for manslaughter to charge that the respondent did feloniously kill and slay the deceased.

*See Sec. 1424.

SEC. 2378. Description of paper forged or counterfeited. In a G. L. § 2547. complaint, information or indictment for forgery or counterfeiting, or for uttering and publishing as true an instrument, document or paper which may be the subject of the offense of forgery or counterfeiting, it shall be sufficient to describe such instrument, document or paper by the name or designation by which it is usually known, or by the purport thereof, without setting forth a copy or facsimile or otherwise describing the same or its value; and a misnaming of such instrument, document or paper shall not affect the cause, provided, that as set forth, the same appears to be any one of the instruments, documents or papers which is made a subject of the offense of forgery or counterfeiting.

SEC. 2379. Description of money stolen. In a complaint, in- G. L. § 2548. formation or indictment for larceny, in which it is necessary to make an averment as to money, or bank bills or promissory notes, issued or purporting to be issued by an incorporated bank or banking institution, or currency authorized to be circulated and circulating as money, it shall be sufficient to describe such money, bank bills, bank notes or currency, simply as money, without specifying any particular coin, bank bill, bank note or currency; and such allegation, so far as regards the description of property, shall be sustained by proof of any amount of coin, or of any bank bill, bank note or piece of currency, although the particular species of coin of which such amount was composed, or the particular nature of such bank bill, bank note or currency, is not proved.

SEC. 2380. Joinder of counts for larceny and receiving stolen goods. In a complaint, information or indictment for larceny against one or more persons, counts may be added for buying, receiving or aiding in the concealment of property stolen, or a part thereof, knowing the same to be stolen; and in such cause the prosecutor shall not be put to his election, but the jury may convict or acquit, upon one or more of the counts, one or more of the defendants, according to the proofs.

SEC. 2381. Certain omissions not to affect indictment. A com- G. L. § 2550. plaint, information or indictment shall not be held bad, nor shall the trial, 41 Vt. 691. judgment or other proceedings thereon be affected, by reason of the omis- 90 Vt. 125. sion of the words "as appears of record," or of the words "with force and arms," or for the insertion of the words "against the form of the statute," instead of the words "against the form of the statutes," or vice versa, or for the omission of such words, or for omitting to state the time at which the offense was committed in any case where time is not the essence of the offense, or for stating the time imperfectly, or upon a day in the future, or upon an impossible day, or a day that has never happened, or for want of a proper or perfect venue, where it shall appear by the complaint, information or indictment, that the court has jurisdiction of the offense.

SEC. 2382. Certain variances cured by amendment. If, on the G. L. § 2551. trial of a complaint, information or indictment, there appears to be a 64 Vt. 405. variance between the averments therein and the evidence offered in 64 Vt. 569. proof, in the name or description of a place mentioned, or of a person 71 Vt. 405. alleged to be the owner of property which forms the subject of an offense 72 Vt. 46. charged, or which is alleged to be injured or damaged, or intended to be 72 Vt. 410. injured or damaged by the commission of such offense, or in the christian 75 Vt. 202. name or surname, or both christian name and surname, or other descrip- 75 Vt. 308. tion of a person named or described, or in the name or description of any matter or thing whatsoever, the court before whom such trial is had, if it considers such variance not material and that the respondent cannot be prejudiced thereby in his defense upon the merits, may order the complaint, information or indictment to be amended, according to the proof, by some officer of the court, in that part wherein the variance occurs, on

such terms as to a postponement of the trial as the court thinks reasonable; and after amendment, the trial shall proceed in the same manner and with the same consequences as if such variance had not occurred.

Witnesses and Depositions.

G. L. § 2554.
40 Vt. 555.
65 Vt. 66.
104 Vt. 379.

SEC. 2383. Respondent a competent witness. In the trial of complaints, informations, indictments and other proceedings against persons charged with crimes or offenses, the person so charged shall, at his own request and not otherwise, be deemed a competent witness, the credit to be given to his testimony being left solely to the jury, under the instructions of the court, but the refusal of such person to testify shall not be considered by the jury as evidence against him.

G. L. § 2555.

SEC. 2384. Witnesses for poor respondent summoned by state.* When it appears to a county court in which a criminal cause is pending, that the respondent is from poverty unable to procure the attendance of witnesses in his behalf, such court may order as many of such witnesses to be summoned by the prosecuting officer, at the expense of the state, as it judges necessary to secure the respondent an impartial trial.

G. L. § 2556.

SEC. 2385. Nonresident witnesses, testimony of, how taken. When an issue of fact is joined upon a complaint, information or indictment, the court may, on application of the respondent, grant a commission to examine material witnesses residing out of the state, and the prosecuting officer may join in such commission and name material witnesses to be examined on the part of the state.

G. L. § 2557.

SEC. 2386. Recognizance may be required of witness. In a proceeding before a court or magistrate, for the investigation or prosecution of a criminal offense, the court or magistrate may order any witness appearing before such court or magistrate to enter into a sufficient recognizance with surety for his appearance before any court or magistrate where his attendance in such investigation or prosecution is necessary; and if the witness refuses to enter into such recognizance with surety, he may be committed to jail in the county where his attendance as a witness is required, on a warrant of the court or magistrate making the order, and there detained until such time as his attendance to testify is required.

Sending Witnesses Out of the State.

1931, No. 39, § 1.
G. L. § 2558.

SEC. 2387. Summons. If the clerk of a court in another of the United States certifies that there is a criminal cause pending in such court, and that a person residing in the state is supposed to be a material witness therein, or if a judge of a court or a magistrate, in another of the United States, certifies that a grand jury is or will be in attendance upon such court and a subpoena has been issued for a person residing in this state who is supposed to be a material witness to the investigation of the grand jury, a justice or municipal judge shall, upon such certificate, issue a summons requiring such witness to appear and testify at such court.

1931, No. 39, § 2.
G. L. § 2559.

SEC. 2388. Penalty for not obeying. A person on whom such a summons has been served, and having been tendered twenty cents for each mile to be traveled to and from such court and ten dollars for each day his attendance is required, who unreasonably neglects to attend and testify in such court shall be fined not more than five hundred dollars.

Summons to Testify in State.

G. L. § 2560.
10 Vt. 493.
56 Vt. 698.

SEC. 2389. Penalty for not obeying. A person legally summoned to attend a court in this state to testify in a criminal cause, who wilfully

*See Sec. 1424.

or wrongfully refuses to attend and testify, shall be imprisoned not more than six months or fined not more than one hundred dollars nor less than ten dollars, or both.

SEC. 2390. Counseling or aiding in nonattendance; penalty. G. L. § 2561. A person who knowingly and wrongfully counsels, aids or assists a person, so summoned to testify, to absent himself from attendance before such court, shall be fined not more than fifty dollars nor less than ten dollars.

Depositions.

SEC. 2391. To perpetuate testimony. A person complained of, informed against or indicted for a crime may make affidavit before a justice of the supreme court, a superior judge or a judge of the county court, that the testimony of certain witnesses is material in his defense, and thereupon the same proceedings may be had as in perpetuating testimony in civil causes.

SEC. 2392. Notice. Reasonable notice shall be given to the prosecuting attorney of the time and place when and where the witnesses will be examined, specifying therein the complaint, information or indictment on the trial of which such testimony is to be used and the names of the witnesses proposed to be examined.

SEC. 2393. Admissible on trial. Depositions so taken to be used in criminal causes, if taken at least ten days before the session of the court in which the same are offered as evidence, may be admitted on the trial of the complaint, information or indictment relative to which they are to be used, subject to the conditions provided as to similar depositions to be used in civil causes.

Proceedings Before a Municipal Court in Criminal Causes.

SEC. 2394. Jurisdiction; misdemeanors. A municipal court shall have jurisdiction, throughout the county, wherein located, except as otherwise provided, to try and finally determine prosecutions for misdemeanors committed within such county, and an appeal shall not be allowed from the judgment of such court.

SEC. 2395. Same. A municipal court shall have jurisdiction to try and finally determine prosecutions for violations of by-laws or ordinances of a village or city within the county, except as otherwise provided.

SEC. 2396. Same. A municipal court shall have jurisdiction to render judgment and pass sentence upon a plea of guilty in prosecutions for felony, wherein the maximum penalty of imprisonment is for less than life.

Proceedings Before Justices of the Peace in Criminal Causes and Appeals Therefrom.

SEC. 2397. Jurisdiction. Except as otherwise provided, a justice may try and determine prosecutions and actions of a criminal nature, only where the punishment is by fine not exceeding one hundred dollars, and issue a warrant to carry the judgment into effect in case an appeal is not taken, and shall have the same authority in other criminal causes where jurisdiction is given him.

SEC. 2398. Testimony to be written. A justice shall take in writing the substance of the evidence of witnesses testifying before him in a criminal cause.

SEC. 2399. Testimony to be filed with clerk, if appeal taken. When a respondent appeals from the judgment of a justice, in a cause

within his jurisdiction to try and determine, the justice shall, at least two days before the sitting of the court to which appeal is taken, file with the clerk thereof the evidence so taken by him.

G. L. § 2573.

G. L. § 2574.
35 Vt. 562.
42 Vt. 430.
43 Vt. 265.
55 Vt. 1.
60 Vt. 199.
64 Vt. 203.

G. L. § 2575.

SEC. 2400. Jury, how drawn. When a criminal cause is tried by jury before a justice, the jury shall be drawn as in civil causes.

SEC. 2401. Appeal, when allowed. An appeal shall not be allowed in a criminal cause where the respondent is acquitted or where the respondent pleads guilty; but the respondent may appeal from a judgment or sentence of a justice against him in all other causes, if the appeal is claimed within two hours after the rendition thereof.

SEC. 2402. Appeal from justice, where heard. In prosecutions before a justice in which an appeal is taken from his judgment and sentence, such appeal shall lie to a municipal court within the same county, if there is such a court therein. Such appeal shall be heard at the county courthouse in the county where the complaint was first heard, at such time as the judge of such court shall determine; provided however, that the judge shall not compel a respondent to go to trial within twenty days from the time of entering such appeal.

G. L. § 2576.

SEC. 2403. Appeal to county court, when. In counties not having a municipal court, the appeal shall be taken to the county court.

G. L. § 2577.

SEC. 2404. Appeals; time for entering. Appeals to a county or municipal court shall be entered within twenty-one days from the date of the judgment or sentence appealed from.

G. L. § 2578.
10 Vt. 544.
44 Vt. 363.
47 Vt. 62.

SEC. 2405. Recognizance; entry for affirmance. A party appealing from a justice shall not be released from custody, unless at the time of the appeal he gives surety, by way of recognizance to the state, county, town or village, as the case may be, in which the offense is charged to have been committed, if the prosecution is on complaint or information of a complaining or informing officer, or, if otherwise, to the prosecutor, conditioned that the respondent will personally appear before the court to which the cause is appealed, and there prosecute his appeal to effect and abide the order of court thereon. If the respondent does not enter his appeal in a proper court within the time prescribed, the appellee may enter the same for affirmance; and, if cause is not shown to the contrary, the same shall be affirmed with additional costs.

G. L. § 2579.

SEC. 2406. Same; how prosecuted after affirmance. When such judgment or sentence is affirmed, the recognizance taken by the justice shall be prosecuted as in civil causes.

G. L. § 2580.
63 Vt. 537.
71 Vt. 476.

SEC. 2407. Appeal not entered, warrant may issue. If the respondent in a criminal cause appeals from the judgment or sentence of a justice, the appeal shall suspend the judgment or sentence, but shall not vacate it; and if neither the prosecuting officer nor the respondent enters the cause in court within twenty-one days from the day of such judgment or sentence, the justice shall issue a warrant to carry such judgment and sentence into effect as if an appeal had not been taken.

G. L. § 2581.
64 Vt. 203.

SEC. 2408. Recognizance, prosecution of. If such appeal is not entered for affirmance, the prosecuting officer may have an action of contract, in the name of the state, against the bail, upon the recognizance for the appeal. The judgment shall be for such sum as is just, which, if the respondent cannot be found, shall be the amount of fine, costs and interest; and, if the sentence was imprisonment, such sum as the court adjudges equitable. A judgment against the bail, and payment of the same, shall not relieve the respondent from the sentence of imprisonment.

G. L. § 2582.
44 Vt. 363.
63 Vt. 537.

SEC. 2409. Payment of fine after appeal; effect. The respondent in a criminal cause appealed from the decision of a justice may, where

the sentence is for fine and costs only, tender or pay to such justice the fine and costs at any time before such appeal is entered in court and within twenty-one days from the day of the judgment appealed from; and the justice shall receive and enter the same on the records, which shall be a full satisfaction of the judgment.

SEC. 2410. Waiving appeal; effect. A respondent in a criminal cause appealed from the decision of a justice may, at any time before such appeal is entered in court and within twenty-one days from the day of the judgment appealed from, personally appear before the justice and waive his appeal, and thereupon the justice shall issue a warrant to carry the judgment into effect as if an appeal had not been taken. G. L. § 2583.

Binding Over to County and Municipal Courts.

SEC. 2411. Powers as to. A justice's or municipal court may determine, to be apprehended and committed to jail or bound over with sufficient sureties by way of recognizance, for his appearance at the next term of the county court within the county in which such cause is triable, to answer to such information or indictment as may be brought against him, and from term to term thereafter; provided however, that in proceedings before a justice, if there is a municipal court within the county having jurisdiction to try and determine the cause, the respondent shall be bound over to such court to appear on the last Wednesday of the month next following, to answer to such complaint or information as may be brought against him, and from day to day thereafter; but if there is not a municipal court within the county, or if there is not such a court therein having jurisdiction to try and determine such cause, the respondent shall be bound over to the county court as herein provided. G. L. § 2584.
82 Vt. 37.
90 Vt. 150.

SEC. 2412. Copy of record to be filed. The justice or court shall, in such cases, file with the clerk of the county court, if the respondent is bound over to such court, the evidence taken by him and a certified copy of the records and process in the cause within thirty days after the trial or examination, but if there are not thirty days before the next term of the county court, then on the first day of the term; but if the respondent is bound over to a municipal court, the justice shall file such copy with the judge or clerk of such court within ten days after the trial or examination. G. L. § 2585.

SEC. 2413. Respondent may waive examination. A person arrested and brought before a justice's or municipal court, charged with an offense exceeding the jurisdiction of such court to try and determine, may waive examination and shall thereupon be committed to jail or bound over as provided in the second preceding section. G. L. § 2586.

Sureties of Peace, and on Continuance.

SEC. 2414. Sureties of the peace. A justice's or municipal court may order a person, arrested for a criminal offense, to find sureties that he will keep the peace, when it is necessary, and may commit him to jail until he complies. G. L. § 2587.

SEC. 2415. Bail, when hearing postponed. When a justice's or municipal court postpones the trial of a criminal cause, or the examination of a person charged with a criminal offense which is bailable, the court may take security of the person by way of recognizance to the state, for his appearance before the court, on the day to which the trial or examination is postponed. G. L. § 2588.
85 Vt. 484.

Search Warrants.

G. L. § 2589.

SEC. 2416. **For daytime.** A justice of the peace or a municipal judge may grant a warrant for searching, in the daytime, a dwelling house or other place where personal property, stolen, embezzled or obtained by false tokens, is suspected to be concealed; and also for searching for counterfeit coin, forged or counterfeit bank bills or notes, forged or counterfeit public or corporate securities and the tools and materials for such forgery or counterfeiting; gaming implements and apparatus; obscene books, pictures, figures or descriptions; lottery tickets or materials for a lottery; fish, quadrupeds or birds protected by title 25 and believed to have been taken contrary to law, or implements or devices for taking such fish, quadrupeds or birds, subject to seizure or unlawfully possessed; where the discovery of such articles, fish, quadrupeds or birds may tend to convict a person of an offense.

G. L. § 2590.

SEC. 2417. **Oath.** Such search warrant shall not be granted except upon the oath of a state's attorney, grand juror or some creditable person, that he has reason to suspect and does suspect that such articles, fish, quadrupeds or birds are concealed in the place to be searched.

G. L. § 2591.

SEC. 2418. **For nighttime.** When satisfactory evidence is adduced to two justices of the peace, or to a municipal judge, that a person against whom a warrant for a criminal offense has been issued, is secreted, or that property that has been stolen, embezzled or obtained by false tokens, or any of the articles, fish, quadrupeds or birds mentioned in the second preceding section are concealed in a particular house or place, when the discovery of such articles, fish, quadrupeds or birds may tend to convict a person of an offense, a warrant may issue for the search of such house or place, in the nighttime.

G. L. § 2592.
72 Vt. 55.

SEC. 2419. **Fees paid by state, when.** When the state's attorney of a county or the town grand juror of a town in which a search is to be made, under the provisions of the three preceding sections, applies for such a warrant or certifies in writing on the warrant that the search ought to be made, the fees for such warrant and the service thereof shall be paid by the state.

Justices to Make Report to Town Treasurer, Etc.

G. L. § 2593.

SEC. 2420. **Fines and penalties.** A justice shall annually, on or before February 10, deliver an abstract of the fines and penalties imposed by him in the preceding year, ending January 31, to the treasurer of the village, town or county to which the fine or penalty belongs, with the name of the person to whom the execution or warrant for the collection of the same was delivered, and, on failure so to do, shall forfeit to the use of such village, town or county a sum equal to the fine or penalty, to be recovered in an action of tort, on this statute.

G. L. § 2594.

SEC. 2421. **Statistics and costs.** A justice shall furnish to the treasurer of the town, liable to pay the costs of prosecution, a written statement of criminal prosecutions tried by him, giving the name of the person prosecuted, his offense and sentence; the name of the prosecuting officer, the officer making the arrest and the witnesses, and the fees due each; also a description of the orders and the amount thereof drawn by him in such prosecution; and such statement shall be made within ten days after the trial.

G. L. § 2595.

SEC. 2422. **Penalty.** A justice who does not comply with the provisions of the preceding section shall be fined five dollars.

Questions of Law in Supreme Court.

SEC. 2423. **Passing cause to supreme court.** Questions of law decided by the county court, arising upon demurrer, trial by jury or motion in arrest, in a prosecution by information or indictment for a crime or misdemeanor, shall, after a verdict of guilty is returned, upon motion of the respondent, be allowed and placed upon the record; and the same shall thereupon pass to the supreme court for final decision; and judgment, sentence and execution shall be respited and stayed in capital causes, and in other causes only at the discretion of the court.

SEC. 2424. **Proceeding in supreme court.** If, upon the inspection of the record in a cause where judgment, sentence and execution have been respited and stayed, the supreme court is of opinion that judgment ought to be rendered upon the verdict, it shall render judgment and sentence thereon and cause execution thereof to be done; but when the county court has passed judgment and sentence upon the verdict of the jury, and the supreme court does not find an error in the proceedings of the county court, it shall adjudge that the exceptions be overruled; but if it finds error, the judgment and sentence of the county court shall be reversed and judgment of acquittal rendered by the supreme court, or the cause remanded to the county court for a new trial.

SEC. 2425. **Exceptions to supreme court; remand.** Questions of law decided against the state by a county or municipal court, in a prosecution by complaint, information or indictment for a felony or misdemeanor, shall, upon exceptions taken by the state, be allowed and placed upon the record before final judgment; and, when so taken and allowed, such court may, in its discretion, pass the same to the supreme court before final judgment. The supreme court shall hear and determine the questions upon such exceptions and render final judgment thereon, or remand the cause to such county or municipal court for further trial or other proceedings, as justice and the state of the cause may require.

SEC. 2426. **May be heard in absence of respondent.** Questions of law for final decision in the supreme court may, in the discretion of the court, be heard in the absence of the respondent.

SEC. 2427. **Bail forfeited in supreme court.** When a respondent in a criminal prosecution, after conviction in a municipal or county court, and after going at large upon bail for his appearance before the supreme court, forfeits his bail, the supreme court shall render judgment that the bonds are forfeited, adjudge that the respondent has waived his exceptions and order the cause to be remanded to the court for sentence or such further proceedings as the law requires.

SEC. 2428. **No writ of error.** A writ of error shall not be allowed in a criminal cause prosecuted by complaint, information or indictment.

Proceedings in Case of Insanity.

SEC. 2429. **Commitment for observation.** When a person is indicted or informed against for a criminal offense, or is committed to jail on a criminal charge by a justice's or municipal court, the presiding judge of the county court before whom the person is to be tried, may, in term time or vacation, if a plea of insanity is made in court or if he is satisfied that a plea of insanity will be made, order the person into the care of the superintendent of the Vermont state hospital for the insane, to be detained and observed by the superintendent until further order of the judge or of such county court, that the truth or falsity of such plea may be ascertained.

G. L. § 2603.
84 Vt. 363.

SEC. 2430. When person is not indicted because insane; confinement. When a person held in prison on a charge of having committed a criminal offense is not indicted by the grand jury by reason of insanity, the grand jury shall so certify to the court, and thereupon, if the discharge or going at large of the insane person is considered by the court dangerous to the community, the court may order him confined in the county jail, or in the Vermont state hospital for the insane, or some other suitable place, at his own expense, if he has estate sufficient for that purpose, and if not, at the expense of the state.

G. L. § 2604.

SEC. 2431.* On acquittal by reason of insanity; confinement. When a person, tried on a complaint, information or indictment for a criminal offense, is acquitted by the jury by reason of insanity, the jury, in giving its verdict of not guilty, shall state that it is given for such cause, and thereupon, if the discharge or going at large of the insane person is considered dangerous to the community, the court may, in its discretion, order him to be confined in the state prison, or in the Vermont state hospital for the insane, or in some other suitable place, on such terms as the court directs, and at his own expense, if he has sufficient estate for that purpose, and if not, at the expense of the state.

G. L. § 2604.

SEC. 2432.* Same; change of place of confinement. A superior judge, upon hearing, after twelve days' notice to the state's attorney of the county in which the case was tried, may, for good cause shown, order a change of the place of confinement of a person confined under the provisions of the preceding section.

G. L. § 2605.

SEC. 2433. Insane respondent may petition for discharge. A person confined under an order of court, pursuant to the three preceding sections, shall be discharged from confinement only by order of the county court for the county in which the order for confinement was made, upon petition therefor, made returnable to a stated term of such court, and served upon the state's attorney for that county at least twelve days before the beginning of the term. This section shall not affect the right of a person so confined to sue out a writ of habeas corpus.

G. L. § 2606.

SEC. 2434. Same; by supervisors. If the person has no estate, the petition may be brought in his behalf by the supervisors of the insane at the expense of the state; in which case, recognizance for costs shall not be required.

G. L. § 2607.

SEC. 2435. Witness for respondent at expense of state, when. If it appears to the court that the person is from poverty unable to procure the attendance of witnesses in his behalf, it may order such witnesses subpoenaed at the expense of the state as it deems necessary to secure the petitioner an impartial hearing. The witnesses shall be paid as in other state causes.

G. L. § 2608.

SEC. 2436. Court may order respondent produced. Such court may issue an order, directed to any sheriff or constable in the state, commanding him to bring the person before the court for hearing; and the officer executing the order shall deliver an attested copy thereof to the custodian of the person, who shall thereupon surrender him to the officer.

G. L. § 2609.

SEC. 2437. Hearing; discharged or recommitted. If, upon hearing, it appears that the person has become sane, and the court considers that his release or going at large is not dangerous to the community, it shall order his discharge from confinement; otherwise the petition shall be dismissed and the person, if before the court, shall be recommitted to the place of confinement from which he was brought.

G. L. § 2610.

SEC. 2438. Costs. If, upon hearing, it appears that the person has

*See Sec. 8799.

sufficient estate, the court may, in its discretion, upon dismissing the petition, award costs against such estate and issue execution therefor.

SEC. 2439. Change of terms of confinement; petition. When a person acquitted of a criminal offense because of his insanity is confined by order of the court, such court may thereafter alter the terms on which the person is confined, upon petition therefor, returnable to a stated term of the court and served upon the state's attorney for the county in which the order was made, at least twelve days before the beginning of the term.

Miscellaneous.

SEC. 2440. Trial for murder; conviction may be for what. Under an indictment for murder, the respondent may be convicted of murder in the first degree, murder in the second degree or of manslaughter, as the case may be upon the proofs. G. L. § 2612.
53 Vt. 560.
58 Vt. 457.
85 Vt. 115.

SEC. 2441. Same; burglary or robbery. A person arraigned and tried for murder may be convicted of manslaughter, if the jury finds that offense proved; and a person arraigned and tried for burglary or robbery may be convicted of larceny, if the jury finds that offense proved. G. L. § 2613.
53 Vt. 560.

SEC. 2442. Several indicted for jointly receiving stolen goods; one or more may be convicted. On trial of two or more persons upon complaint, information or indictment, for jointly buying, receiving or aiding in the concealment of stolen property, knowing the same to be stolen, if it is proved that one or more of the persons separately bought, received or aided in the concealment of any of such property, the jury may convict such of the persons as are proved to have bought, received or aided in the concealment of any part of such property, knowing the same to have been stolen. G. L. § 2614.

SEC. 2443. Allegations of ownership; extent of proof to support. In the prosecution of an offense committed upon, or in relation to, or in any way affecting, real estate, or an offense committed in stealing, embezzling, injuring or fraudulently receiving or concealing money or other personal estate, it shall be sufficient and not a variance if it is proved on trial that, at the time when the offense was committed, the actual or constructive possession, or the general or special property in whole or in part of such real or personal estate, was in the person alleged in the complaint, information or indictment, to be the owner thereof. G. L. § 2615.
64 Vt. 405.
89 Vt. 148.

SEC. 2444. Intent to defraud, allegation and proof. When an intent to defraud is required to constitute a criminal offense, it shall be sufficient to allege in the complaint, information or indictment an intent to defraud, without naming the person or body corporate intended to be defrauded; and on trial it shall be sufficient and shall not be deemed a variance if there appears to have been an intent to defraud the United States, a state, county, town, city, district, a body corporate, a public officer in his official capacity, a partnership or members thereof or a person. G. L. § 2616.

SEC. 2445. Conviction of theft need not be averred or proved in certain prosecutions. In a prosecution for buying, receiving or aiding in the concealment of money or other property known to have been stolen, it shall not be necessary to aver nor on trial to prove that the person who stole the property has been convicted. G. L. § 2617.

SEC. 2446. Respondent on trial ordered into custody, when. On the trial of a person on information or indictment for a felony, the court may, in its discretion, order the person into custody, to be retained in discharge of his recognizance. G. L. § 2618.
73 Vt. 149.

G. L. § 2619.
50 Vt. 316.
58 Vt. 378.
61 Vt. 153.

SEC. 2447. Witnesses examined separately, when. On the trial of a person for a criminal offense, or on the examination of a person charged therewith before a justice's or municipal court, the court shall, on the request of the prosecuting attorney or the party accused, have the witnesses examined separately and apart from each other.

G. L. § 2620.

SEC. 2448. Expert evidence. A superior judge or the attorney general may, to prevent a failure of justice, order an examination to be made by an expert or experts, either within or without the state, in the investigation of a crime supposed to have been committed within the state. Such order shall be made only on the petition of the state's attorney for the county in which the crime is supposed to have been committed, setting forth the facts because of which the order is applied for, and verified by affidavit, and shall name the expert or experts by whom the examination is to be made, and limit the expense of the examination, and such expense shall be paid in the manner provided for the payment of witness fees in state causes in the county court.

G. L. § 2621.

SEC. 2449. Autopsy. A superior judge or the attorney general may, to prevent a failure of justice, upon the petition of the state's attorney, order an autopsy to be made in the preparation of a state cause for trial in any court, and fix the compensation therefor, not to exceed twenty-five dollars.

CHAPTER 103.

(2450-2460)

LIMITATION OF CRIMINAL PROSECUTIONS AND ACTIONS ON PENAL STATUTES.

G. L. § 2622.
1 Tyl. 283.

SEC. 2450. Felonies and misdemeanors in general. Prosecutions for a felony or misdemeanor, other than larceny, robbery, burglary, forgery, arson and murder, shall be commenced within three years after the commission of the offense, and not after.

G. L. § 2623.

SEC. 2451. Larceny, robbery, burglary and forgery. Prosecutions for larceny, robbery, burglary and forgery shall be commenced within six years after the commission of the offense, and not after.

G. L. § 2624.
56 Vt. 111.
80 Vt. 510.

SEC. 2452. Proceedings begun after time limited, void. If a prosecution for a felony or misdemeanor, other than arson and murder, is commenced after the time limited by the two preceding sections, such proceedings shall be void.

G. L. § 2625.

SEC. 2453. If prosecutor has penalty. Actions upon a statute for a penalty or forfeiture given in whole or in part to a person who prosecutes for the same, shall be commenced within one year after the commission of the offense, and not after.

G. L. § 2626.
43 Vt. 587.

SEC. 2454. If state, county or town has penalty. Actions founded upon a statute for a penalty or forfeiture given in whole or in part to the state, county or town shall be commenced within two years after the commission of the offense, and not after, unless otherwise provided.

G. L. § 2627.
19 Vt. 559.
55 Vt. 61.
80 Vt. 510.

SEC. 2455. If party aggrieved has penalty. Actions upon a statute for a penalty or forfeiture given in whole or in part to the party aggrieved shall be commenced within four years after the commission of the offense, and not after.

G. L. § 2628.

SEC. 2456. Prosecutions limited by other statutes. The six preceding sections shall not apply to an action, complaint, information or indictment limited by a statute to be commenced within a shorter or longer time than is prescribed in such sections.

SEC. 2457. Time of exhibiting complaint, etc., to be minuted. When a complaint, information or indictment is exhibited in a cause mentioned in this chapter, the clerk of the court or magistrate to whom it is exhibited shall, at the time, make a minute thereon in writing, under his official signature, of the day, month and year when the same was exhibited.

77 Vt. 258. 80 Vt. 510.

SEC. 2458. Time of signing writ to be minuted. When an action is commenced in a cause mentioned in this chapter, the clerk or magistrate signing the writ shall enter upon it a minute of the day, month and year when the same was signed.

16 Vt. 604. 19 Vt. 559. 46 Vt. 90.
17 Vt. 48. 26 Vt. 178. 77 Vt. 258.

SEC. 2459. Effect of omitting such minute. A complaint, information, indictment or writ on which a minute of the day, month and year is not made, as provided by the two preceding sections, shall, on motion, be dismissed.

SEC. 2460. Actions against moneyed corporations for penalty. The provisions of this chapter shall not apply to actions against moneyed corporations, or against the directors or stockholders thereof, to recover a penalty or forfeiture imposed, or to enforce a liability created by the act of incorporation or other law; but such actions shall be brought within six years after the discovery, by the aggrieved party, of the facts upon which the penalty or forfeiture attached, or by which the liability was created.

CHAPTER 104.

(2461-2464)

NEW TRIALS IN CRIMINAL CAUSES.

SEC. 2461. Provisions applicable; recognizance. The provisions for new trials in civil causes shall govern applications for new trials by respondents in criminal causes, except as hereinafter provided; but the magistrate signing the citation may or may not, in his discretion, require a recognizance for costs.

SEC. 2462. Petition in capital cases after time limited. When a person is convicted of a capital offense and sentenced to suffer the punishment of death, he may bring a petition for a new trial at any time before execution of the sentence. Such petition shall set forth the grounds for a new trial; and, if for newly discovered evidence, the same shall be attached thereto, with a copy of the evidence taken at his trial.

SEC. 2463. Filing petition; staying execution; former adjudication as a bar. Such petition shall be presented to two justices of the supreme court, who, upon examination thereof, shall determine whether it shall be filed, and shall certify their determination thereon; and, if the petition is allowed to be filed, such justices shall make an order staying the execution of sentence until after the time fixed for hearing the petition by the supreme court. An adjudication of a former petition shall not be a bar to a subsequent one based upon evidence discovered after the former adjudication.

SEC. 2464. Appointing another time for execution. When the trial of the petition does not take place until after the time appointed for execution, if a new trial is refused, the court hearing the petition shall appoint a time for executing sentence, and issue its order to the sheriff for that purpose.

CHAPTER 105.

(2465-2476)

JUDGMENT AND EXECUTION IN CRIMINAL CAUSES.

Effect of Judgment.

G. L. § 2637.
86 Vt. 130.

SEC. 2465. Sentence to successive terms of imprisonment. A person convicted of two or more offenses punishable by imprisonment in the state prison or house of correction, and sentenced at the same time for more than one of such offenses, may be sentenced to as many terms of imprisonment as there are offenses of which he is convicted, one term being limited to commence upon the expiration of another, in the order designated by the court.

G. L. § 2638.

SEC. 2466. Copy of indictment, testimony and charge to be filed in certain cases. When a person is sentenced to death or imprisonment for life in the state prison, the clerk of the court in which the person was tried shall procure a copy of the indictment, testimony on trial and charge of the court, and file the same in his office.

1933, No. 157, § 2289.
1929, No. 134, § 1.

SEC. 2467. Copy of judgment record for commissioner of public welfare. The clerks of county and municipal courts shall forward to the commissioner of public welfare on blanks to be supplied by him, a certified copy of such portions of the records of judgments rendered in their respective courts in all cases of felony in which a conviction or a plea of guilty is had, as the commissioner may require. The copies shall be preserved in the office of the commissioner. Fees of fifty cents each for such certified copies shall be allowed by the auditor of accounts in settlement of the accounts of such courts.

G. L. § 2639.

SEC. 2468. Imprisonment in state prison to be at hard labor. A person convicted of an offense punishable by imprisonment in the state prison shall be confined at hard labor during such imprisonment.

G. L. § 2640.

SEC. 2469. Effect of sentence to state prison for life. A person sentenced to imprisonment at hard labor during life in the state prison shall be considered as dead, so far as relates to his marriage or the settlement of his estate.

Execution.

1933, No. 157, § 2292.
1927, No. 131, § 2.
G. L. § 2641.

SEC. 2470. Capital crime; time set for, warrant; reprieve. In pronouncing sentence of death upon a person who is convicted of a capital crime, the court shall appoint a week within which the sentence shall be executed; and the court shall, at the time of such sentence, order a warrant to be issued by the clerk, under the seal of the court for the county in which such sentence is passed, to be directed to the warden of the state prison, stating the conviction and sentence and commanding him to cause execution to be done in accordance with the provisions of such sentence, upon a day within the week so appointed. The clerk shall, at the same time, transmit to the sheriff of the county in which such sentence is passed a certified copy of such warrant. The sentence of death shall be executed by the warden of the state prison, or by a person acting under his direction, within the week appointed by the court, unless a reprieve is granted or the convict is pardoned. If a reprieve is granted, the sentence of death shall be executed within the week beginning on the day next after the day on which the term of respite expires, and such sentence shall be executed on such day within such week as the warden elects; but previous announcement thereof shall not be made, except to such persons as are to be present.

SEC. 2471. Pardon; governor to issue his warrant. If such convict is pardoned by the governor, the governor shall forthwith issue his warrant to the warden of the state prison superseding the original warrant provided for in the preceding section. 1933, No. 157, § 2293.
1927, No. 131, § 2.
G. L. § 2642.

SEC. 2472. Place of. The sentence of death shall be carried into effect within the walls of the state prison or in the enclosed yard of the same, in rooms provided and furnished for that purpose. G. L. § 2643.

SEC. 2473. Manner of confinement. When the sentence of death is imposed, the court shall, at the same time, sentence the respondent to hard labor in the state prison until thirty days before the week fixed in the sentence for the execution thereof, and shall also sentence him to solitary confinement in the state prison from the expiration of the sentence to hard labor until the time of execution. G. L. § 2644.

SEC. 2474. Execution attended by whom. There shall be present at the execution of the sentence of death, the warden of the state prison, or, in case of his disability, the keeper, the person who is to perform the execution and his assistant, such officers of the state prison as the officer in charge of such execution shall designate, the prison physician, and one other physician whom the officer in charge approves. The physicians present shall be the legal witnesses of the execution. There may also be present the sheriff of the county in which the condemned was convicted, or one of his deputies approved by him, the prison chaplain or such other clergyman as the condemned may desire, and not more than three other persons to be selected by the warden. There shall be paid to the person actually performing the execution and to his assistant such sums for services and expenses as the commissioner of public welfare shall approve. 1933, No. 157, § 2296.
1927, No. 131, § 2.
G. L. § 2645.

SEC. 2475. Manner of execution. The punishment of death shall be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current shall be continued until such convict is dead. G. L. § 2646.

SEC. 2476. Returns of sheriff. When the warden of the state prison inflicts the punishment of death upon a convict, in obedience to a warrant as aforesaid, he shall forthwith return a copy thereof with his doings thereon to the office of the secretary of state, and shall forthwith return the original warrant with his doings thereon to the court from which it issued, and the clerk thereof shall subjoin to the record of the sentence a brief abstract of the warden's return upon such warrant. 1933, No. 157, § 2298.
1927, No. 131, § 2.
G. L. § 2647.

CHAPTER 106.

(2477-2505)

FINES, COSTS AND RECOGNIZANCES IN CRIMINAL CAUSES.

Collection of Fines.

SEC. 2477. By complaint, information or indictment. Fines, forfeitures and penalties incurred or imposed by statute may be recovered by complaint, information or indictment, unless some other mode of recovery is specially provided. G. L. § 2648.
87 Vt. 602.

SEC. 2478. Costs of prosecution include commitment and keeping. The costs of committing, keeping and supporting in jail a person charged with a criminal offense, before and after judgment, shall be deemed a part of the costs of prosecution. G. L. § 2649.

SEC. 2479. Fine to be paid or secured; body or estate liable. A person fined for the breach of a penal law or other offense shall pay such G. L. § 2650.

fine with the costs of prosecution, or give sufficient security for the same, or shall, by order of the court or justice before whom the trial is had, be imprisoned as provided in such case, or be liable to have his estate sold therefor.

G. L. § 2651.

SEC. 2480. Mittimus may issue against body or estate. A mittimus issued by a court or justice for the collection of a penalty, fine and costs, or for costs in criminal prosecutions, may, in the discretion of such court, in addition to the prescribed form, be issued against the goods, chattels or lands of the respondent in the form in which executions are issued; and such mittimus may be levied upon the goods, chattels or lands of the respondent, and the same sold in satisfaction thereof as in the sale of personal property or real estate upon execution.

To What Treasury Penalty Belongs.

SEC. 2481. When to town or village; when to state. Fines, forfeitures and penalties, imposed for an offense, or for the breach of a penal law, with costs, unless the same are otherwise disposed of by law, shall, if the prosecution is commenced and tried before a justice, belong and be paid to the town or, if the prosecution is upon complaint of a village police officer, to the village, in which the offense is committed; but if the prosecution is commenced and tried before a municipal or county court, the same shall belong and be paid to the state; provided that in causes appealed to and entered in a municipal or county court, the fine and costs, when imposed, shall be paid to the state; and provided further that fines imposed by a municipal court for violation of a village or city ordinance, with costs, shall belong and be paid to the village or city.

G. L. § 2652.
59 Vt. 332.
74 Vt. 315.

SEC. 2482. To state only. All fines and costs collected in prosecutions under titles 22 and 25 shall belong and be paid to the state.

G. L. § 2653.

SEC. 2483. From unorganized towns and gores. Fines, forfeitures and penalties imposed on a person residing in an unorganized town or gore, with costs, unless otherwise disposed of by law, shall belong and be paid to the state.

G. L. § 2654.

Provisions as to Payment of Costs.

SEC. 2484. Paid from treasury to which penalty belongs; exception. The costs of prosecution for the breach of a penal law or other offense shall be paid out of the treasury to which the fine in case of conviction would belong; but, if the respondent is committed to the house of correction, they shall be paid out of the state treasury.

G. L. § 2655.
59 Vt. 332.
72 Vt. 55.
74 Vt. 315.

SEC. 2485. Costs not allowed, when. There shall not be taxed or paid by the respondent, town or state, any bill of costs in a prosecution for a misdemeanor in a justice's or municipal court, where there has been a prior conviction of the respondent for an offense grounded upon the same facts.

G. L. § 2656.

SEC. 2486. Orders for costs in cases tried in minor courts. Justices of the peace and municipal judges shall draw orders on the treasury of the town or village liable to pay the costs of a prosecution commenced and tried before them, in favor of the persons entitled to the same.

G. L. § 2657.
50 Vt. 231.

Prosecutions by Common Informers.

SEC. 2487. Name and residence entered; costs. When a person other than an informing officer, becomes a prosecutor, he shall enter his name and place of residence at the foot of the complaint, information or

G. L. § 2658.
11 Vt. 339.

indictment, and shall be liable to pay costs on such prosecution, and, on conviction, may receive costs.

SEC. 2488. Recognizance to respondent. The prosecutor shall, before a warrant issues for the arrest of the respondent, enter into a recognizance, with surety to the respondent, conditioned to prosecute to effect, or, on failure thereof, to pay the costs adjudged to the respondent.

SEC. 2489. Prosecutor to advance fees. The prosecutor shall advance the fees and incur the expenses of prosecution in the same manner as in civil causes, and no treasury shall be liable for the same.

SEC. 2490. Bail bond. When a person other than an informing officer becomes a prosecutor, and the person prosecuted is admitted to bail, the bail bond or recognizance shall be taken as well to the state, county, town or village to which the penalty or forfeiture would belong, as to the prosecutor; and, if such bond or recognizance becomes forfeited, the state, county, town or village and the prosecutor may have the benefit of it, and either may prosecute the same and recover as the court adjudges.

G. L. § 2661.
11 Vt. 339.

Taking Bail Out of Court.

SEC. 2491. Of persons committed for trial in a county or municipal court. If a person charged with a crime, not capital, is committed to jail for trial in a county or municipal court, or is so committed for failing to give bail, on appeal from a conviction of a crime before a justice's court, a superior judge or a judge or the clerk of the court having jurisdiction of such crime or of the county court in the county where such commitment is made, may take a recognizance, with sufficient sureties, of the person for his personal appearance to answer the charge before the court having jurisdiction of such crime, and thereupon order his release from commitment, and the keeper of the jail shall discharge such person upon receipt of such order.

G. L. § 2662.
53 Vt. 568.
57 Vt. 398.
58 Vt. 21.

SEC. 2492. Recognizance to be returned. The authority taking such recognizance shall return the same to the judge or clerk of the court before which the person is required to appear, before the time when the respondent is required to appear.

G. L. § 2663.
39 Vt. 353.

SEC. 2493. When cause is passed to supreme court. If a person is convicted of a bailable offense in a county or municipal court and the cause is passed to the supreme court, a judge of such county or municipal court may take a recognizance to the state, with sufficient surety, for the personal appearance of the person before the supreme court, to answer to the prosecution, and thereupon direct the discharge of the person from commitment.

G. L. § 2664.
78 Vt. 337.
89 Vt. 326.

Relief of Bail.

SEC. 2494. Warrant to apprehend and commit principal. If the bail for a person accused of a crime wishes to surrender the principal in discharge of his recognizance, he may apply in writing to the authority who took the recognizance, for a warrant to apprehend the principal and commit him to jail in the county where the offense is charged to have been committed. The authority shall thereupon issue such warrant, directed to any sheriff or constable in the state; and, on commitment of the principal to jail upon such warrant, the bail shall be discharged.

G. L. § 2665.
73 Vt. 149.

SEC. 2495. Commitment; expense paid by bail. An officer, on receipt of such warrant and tender of his legal fees, shall apprehend the principal and commit him to jail, according to the directions in his precept, and leave with the jailer a copy of the warrant, with his return

1933, No. 157, § 2317
G. L. § 2666.
73 Vt. 149.

thereon as in other cases. The expense of arrest and commitment shall be paid by the person applying for the warrant.

1933, No. 157, § 2318.
G. L. § 2667.

SEC. 2496. Fees. Fees for the arrest and commitment shall be the same as for the service of other process; and, if there is dispute about the amount, the same shall be audited by the authority who took the recognizance, and his decision shall be final.

G. L. § 2668.

SEC. 2497. Bail taken on continuance before minor courts. Similar proceedings may be had in case of bail on a continuance before a justice's or municipal court, and the form of the warrant may be changed to adapt it to such a case.

G. L. § 2669.

SEC. 2498. If authority taking bail is out of office. If the authority taking such recognizance is dead or out of office, the bail may return the recognizance so taken, or the original files of the justice, to the county clerk's office, and the clerk may issue the warrant; but in case the authority was a judge or clerk of a municipal court, the recognizance so taken shall be returned to his successor in office, who shall issue the warrant, but if such a successor has not been appointed, to the county clerk as herein provided.

To Whom Recognizance to be Taken.

G. L. § 2670.

SEC. 2499. To political division entitled to fine. A recognizance given by a person charged with a criminal offense, or by a witness in a criminal prosecution, conditioned for the appearance of the person or witness before the court, in causes where the offense is punishable by fine or imprisonment, and in appealed causes, shall be taken to the state, county, town or village to which the fine and costs are payable, and shall remain binding upon parties until discharged or until the prosecution is finally determined. The person or witness shall personally attend upon the court in which the prosecution is pending, from day to day and from term to term, and not depart without permission of the court, until the final determination of such prosecution.

G. L. § 2671.

SEC. 2500. Same; taken to the treasurer; effect. A bond or recognizance required to be taken to the state, county, town or village, if taken to the treasurer thereof, shall be valid, and the same proceedings may be had thereon as if taken to the state, county, town or village.

Chancering Bonds.

G. L. § 2672.
57 Vt. 53.
70 Vt. 96.

SEC. 2501. Motion; time limit; hearing. When a recognizance in a criminal prosecution pending in supreme, county or municipal court, is forfeited for a breach of the condition thereof, the sureties may, if in supreme or county court, at the term of the court at which such recognizance is forfeited, or, if in a municipal court, within thirty days of such forfeiture, file a motion to chancer; and the court shall forthwith, unless cause is shown for delay, hear the parties upon the motion to chancer and render judgment thereon without costs; and the sureties may pay to the clerk of such court or judge of such municipal court, as the case may be, the sum fixed by the judgment, and the same shall be accounted for as though an action had been brought on such recognizance and recovery of judgment had thereon.

G. L. § 2673.
70 Vt. 96.

SEC. 2502. Scire facias after forfeiture in supreme court. When a recognizance in a criminal prosecution is forfeited in the supreme court, scire facias thereon may be brought in the county court in the county in which such recognizance was taken.

G. L. § 2674.
70 Vt. 71.
70 Vt. 96.

SEC. 2503. Surrendering of principal considered in chancering. If a person bound to appear before a county or municipal court on

a complaint, information or indictment, does not appear, but forfeits his recognizance, such court shall order a warrant to be issued from time to time to take the body of the person for trial, and the surety of the person may take and deliver him to the officer having such warrant or to the court that issued it; and, on motion to chancer, the court shall consider the same in favor of the surety.

SEC. 2504. In action on recognizance, court may chancer. In actions brought to recover the penalty or forfeiture annexed to a recognizance taken in a criminal cause, the court may reduce the penalty of such bond and render judgment thereon as the circumstances of the case require.

G. L. § 2675.
54 Vt. 503.
55 Vt. 49.
70 Vt. 71.
70 Vt. 96.

Collection of Forfeited Bail.

SEC. 2505. Municipal courts. When a recognizance in a criminal prosecution is forfeited in a municipal court, scire facias thereon may be brought in the county court in the county in which such recognizance was taken.

CHAPTER 107.

(2506-2550)

EXTRADITION; TRANSPORTATION OF PRISONERS.

Uniform Criminal Extradition Act.

SEC. 2506. Definitions. The word "governor," as used in this chapter, shall include any person performing the functions of governor by authority of the law of this state. The words "executive authority" shall include the governor, and any person performing the functions of governor in a state other than this state. And the word "state" referring to a state other than this state shall mean any other state or territory organized or unorganized of the United States of America.

SEC. 2507. Duty of governor. Subject to the qualifications of this chapter, and the provisions of the constitution of the United States controlling, and acts of Congress in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

SEC. 2508. Application for extradition. A demand for the extradition of a person charged with crime in another state shall not be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate therein, together with a copy of any warrant which was issued thereon. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

SEC. 2509. Investigation. When a demand shall be made upon the governor by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

TITLE 37.

CRIMES AND OFFENSES.

(8361-8751)

- CHAPTER 334.—Treason, offenses against the government and raids. (8361-8373)
- CHAPTER 335.—Offenses against the person. (8374-8418)
- CHAPTER 336.—Arson and burning. (8419-8427)
- CHAPTER 337.—Unlawful transportation of explosives and tear bombs. (8428-8435)
- CHAPTER 338.—Burglary, larceny and embezzlement. (8436-8458)
- CHAPTER 339.—Frauds. (8459-8483)
- CHAPTER 340.—Forgery, counterfeiting and illicit money. (8484-8497)
- CHAPTER 341.—Cruelty to animals. (8498-8515)
- CHAPTER 342.—Trespasses and malicious injuries. (8516-8578)
- CHAPTER 343.—Tramps. (8579-8584)
- CHAPTER 344.—Breaches of the peace and disturbances. (8585-8599)
- CHAPTER 345.—Offenses against chastity and morality. (8600-8626)
- CHAPTER 346.—Offenses against public health. (8627-8649)
- CHAPTER 347.—Offenses against public justice. (8650-8682)
- CHAPTER 348.—Offenses against public policy. (8683-8740)
- CHAPTER 349.—Accessories, attempts, criminal intent and compounding felony. (8741-8749)
- CHAPTER 350.—Crimes defined and habitual criminals. (8750, 8751)

CHAPTER 334.

(8361-8373)

TREASON, OFFENSES AGAINST THE GOVERNMENT AND RAIDS.

G. L. § 6786.

SEC. 8361. **Definition.** A person, who, owing allegiance to this state, levies war or conspires to levy war against the same, or adheres to the enemies thereof, giving them aid and comfort, within the state or elsewhere, shall be guilty of treason against this state and shall suffer the punishment of death.

G. L. § 6787.

SEC. 8362. **Place of trial; testimony.** Such person may be tried in any county in the state, but shall not be convicted except upon testimony equivalent to two witnesses to the same overt act of treason of which he stands indicted, or upon confession in open court.

G. L. § 6788.
80 Vt. 249.

SEC. 8363. **Misprision of treason; penalty.** A person owing allegiance to this state, knowing such treason to have been committed, or knowing of the intent of a person to commit such treason, who does not, within fourteen days from the time of having such knowledge, give information thereof to the governor of the state, to one of the justices of the supreme court, a superior or municipal judge or a justice of the peace, shall be guilty of misprision of treason and shall be imprisoned in the state prison not more than ten years nor less than five years, or fined not more than two thousand dollars, or both.

Prohibition of Certain Acts While the United States is at War, or is Threatened With War.

SEC. 8364. **Obtaining maps, etc.; penalty.** A person who, without permission of lawful authority, while the United States is at war or threatened with war, makes or attempts to make, or has in his possession or attempts to obtain, or aids another to obtain, any map, drawing, plan, model, description, or picture of any military camp, fort, armory, arsenal or building in which munitions of war are stored, or of any bridge, road, canal, dockyard, telephone or telegraph line or equipment, wireless station or equipment, railway or property of any corporation subject to the supervision of the public service commission, or of any municipality or part thereof, shall be imprisoned in the state prison not more than ten years. G. L. § 6789.

SEC. 8365. **Furnishing information.** A person who furnishes, or attempts to furnish, information as to the location, construction or condition of a military camp, fort, armory, arsenal or building in which munitions of war are being manufactured or are stored, or as to the proposed location of such camp, fort, armory, arsenal or building, or as to the location or condition or proposed location of a bridge, road, car, boat, canal, dockyard, telephone or telegraph line or equipment, wireless station or equipment, railway or railway equipment, property of a corporation subject to the supervision of the public service commission, or as to the topography of the state or a part thereof, or as to the number, character, condition, or location of the National Guard or the land or naval forces of the United States, in this state, to a government at war with or threatening war on the United States, or to a citizen of such a government or to a person whom he has reason to believe will furnish or attempt to furnish such information to such a government or citizen, shall be imprisoned in the state prison not more than ten years. G. L. § 6790.

SEC. 8366. **Injuries to certain property.** A person who, while the United States is at war or threatened with war, injures or attempts or conspires, or has in his possession any tool, explosive or means with intent to use the same or for some one else to use, to injure any bridge, road, car, boat, canal, dockyard, telephone or telegraph line or equipment, wireless station or equipment, railway, railway or highway equipment, road or railway making equipment, property of a corporation subject to the supervision of the public service commission, property designed for use by the state or a municipality or railway, telephone or telegraph company, property of a person, copartnership or corporation engaged in or about to engage in making munitions of war or property to become the property of the state, or a building belonging to the state or a municipality or to a railway, telephone, or telegraph company or to a corporation subject to the supervision of the public service commission, or to pollute or place any poisonous substance in any water liable to be used by a person or domestic animal, shall be imprisoned in the state prison not more than twenty years. G. L. § 6791.

SEC. 8367. **Concerted action by three or more; penalty.** If three or more persons, acting in concert, with force and violence, attempt to kill, maim or wound a person, or to rob a person, corporation or community of money or other property, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house, or other building or depository of property, or a railway car or engine, or a steamboat, vessel or other water craft, finished or unfinished, for use in navigable waters, or property of a corporation subject to the supervision of the public service commission, each person so offending shall suffer the penalty of death. The provisions of this section shall be in force only while the United States is at war or threatened with war. G. L. § 6792.

G. L. § 6793.

SEC. 8368. **Penalty when offense is treason.** A person who commits an offense punishable under one of the four preceding sections, and such offense amounts to treason, shall be punished for treason in lieu of the penalty prescribed in such section.

G. L. § 6794.

SEC. 8369. **Powers of certain officers to make arrest; proceedings.** A justice of the peace, municipal judge, sheriff, deputy sheriff, constable or police officer having notice or knowledge, or who suspects, that a person has committed treason or an offense mentioned in the five preceding sections, shall arrest such person without warrant and take him before a justice of the supreme court or a superior judge, who shall have authority to commit such person to jail, or may bind him over with sufficient sureties by way of recognizance, for his appearance at the next term of the county court of the county in which the offense was committed, to answer to such information or indictment as may be brought against him, and from term to term thereafter. Section 2412 shall apply to such a justice of the supreme court and to such a superior judge.

Anarchy.

1919, No. 194.

SEC. 8370. **Promotion penalized.** A person who, by speech, or directly or indirectly by exhibition, distribution or promulgation of any written or printed document or paper or pictorial representation, shall advocate, advise, counsel or incite unlawful assault upon, or the killing of a public official, or the unlawful destruction of property, or the overthrow by force or violence of the government of the state, or who, at any meeting or in the presence of more than three persons in any place or in any manner, shall advise, advocate or counsel the violation of, or unlawful refusal to obey, a law of the state, respecting the preservation of the peace and the protection of life or property, shall be imprisoned not more than three years or fined not more than one thousand dollars, or both.

Raids.

G. L. § 6795.
67 Vt. 690.

SEC. 8371. **Conspiring to make.** If three or more persons conspire together for the purpose and with the intent, violently and forcibly, to kill, maim or wound a person, or to rob a person, corporation or community, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house or other building or depository of property, or a railroad car or engine, a vessel, steamboat or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned in the state prison not more than twenty years and fined not more than ten thousand dollars.

G. L. § 6796.
67 Vt. 690.

SEC. 8372. **Attempting to make.** If three or more persons, acting in concert, with force and violence, attempt to kill, maim or wound a person, or to rob a person, corporation or community of money or other property, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house, or other building or depository of property, or a railroad car or engine, or a steamboat, vessel or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned in the state prison for life or for not less than five years or fined not more than ten thousand dollars.

G. L. § 6797.
67 Vt. 690.

SEC. 8373. **Accessories deemed principals.** A person who wilfully and knowingly aids, assists, counsels, advises or supports the commission of any or either of the offenses named in the two preceding sections, or having knowledge thereof, does not disclose the same, shall be deemed to be a principal in the commission of such offense and shall be punished as such.

CHAPTER 335.

(8374-8418)

OFFENSES AGAINST THE PERSON.

Murder, Manslaughter, Homicide and Attempts to Kill.

SEC. 8374. **Murder; degrees defined.** Murder committed by means of poison, or by lying in wait, or by wilful, deliberate and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, rape, robbery or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

SEC. 8375. **Determination of degree.** The jury by whom a person is tried for murder, if it finds such person guilty thereof, shall state in its verdict whether it is murder in the first or in the second degree. If such person is convicted on confession in open court, the court, by examination of witnesses, shall determine the degree of the crime and give sentence accordingly.

SEC. 8376. **Penalty.** The punishment of murder in the first degree shall be death, and the punishment of murder in the second degree shall be imprisonment in the state prison for life.

SEC. 8377. **Penalty for manslaughter.** A person who commits manslaughter shall be imprisoned in the state prison for life or for not less than one year or fined not more than one thousand dollars.

SEC. 8378. **Trial for murder; conviction of manslaughter.** If, in the opinion of the jury, the evidence is not sufficient to convict of murder a person arraigned and put upon trial for that offense, it may convict him of manslaughter, if, in its opinion, the evidence is sufficient to prove that offense.

SEC. 8379. **Person killing or wounding another, when guiltless.** If a person kills or wounds another in the just and necessary defense of his own life or the life of his wife, parent, child, brother, sister, master, mistress or servant, or kills or wounds another who is attempting to commit murder, rape, burglary or robbery, with force or violence; or if a civil officer, or a military officer or private when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or assist in serving legal process, kills or wounds a person in suppressing opposition against him in the just and necessary discharge of his duty, such person or officer shall be guiltless.

SEC. 8380. **Mother, when guilty of felony if bastard found dead.** A woman who is privately delivered of an illegitimate child, if such child is found dead under such circumstances as to create a strong presumption that it was born alive and came to its death by the premeditated and wilful neglect, violence or procurement of the mother, shall be imprisoned in the state prison not more than three years or fined not more than two hundred dollars.

SEC. 8381. **Mother on trial for murder; conviction under preceding section.** If, upon trial of a woman for the murder of an illegitimate child so found dead, the evidence is not, in the opinion of the jury, sufficient to prove murder, it may, upon sufficient evidence, find her guilty of the felony specified in the preceding section; and, in that event, she shall be punished as there provided.

SEC. 8382. **Poisoning food, drink, medicine or water.** A person who mingles poison with food, drink or medicine, with intent to kill or injure another person, or wilfully poisons a spring, well or reservoir of

water, with a like intent, shall be imprisoned in the state prison not more than twenty years.

G. L. § 6807.

SEC. 8383. Attempting to murder by poisoning, drowning, etc. A person who attempts to commit the crime of murder by poisoning, drowning or strangling another person, or by means not constituting an assault with intent to murder, shall be imprisoned in the state prison not more than ten years and fined not more than one thousand dollars.

G. L. § 6808.
68 Vt. 282.

SEC. 8384. False testimony with intent to cause death. A person who wilfully and corruptly bears false testimony with intent to take away the life of a person and thereby causes the life of such person to be taken, shall suffer the punishment of death.

Obstructing Railroads.

G. L. § 6819.

SEC. 8385. Manslaughter, when death results. A person who wilfully and maliciously displaces or removes a railroad switch or rail, or injures a railroad track, bridge or fence, or places an obstruction on such railroad track or bridge, or does or causes to be done an act whereby an engine, machine or structure, or any matter or thing appertaining thereto, is stopped, obstructed or injured, with intent to injure a person or property passing over such railroad, and in consequence thereof a person is killed, shall be guilty of manslaughter.

G. L. § 6820.

SEC. 8386. Injuring or endangering traveler's person or property. A person who wilfully and maliciously displaces or removes a railroad switch or rail, or injures a railroad track or railroad bridge, or places an obstruction on such track or bridge, or who unlawfully and maliciously displays, hides or removes a signal or light upon or near to a railroad, or by an unlawful act or wilful omission to act endangers or causes to be endangered, or unlawfully and maliciously does or causes to be done anything, with intent to endanger, the safety of persons traveling or being upon such railroad, shall be imprisoned in the state prison not more than ten years nor less than two years; but if in consequence of such act a person passing over such railroad suffers bodily harm, or property is injured, the time of imprisonment may be lengthened, provided it does not exceed in all twenty years, except in the case provided in the preceding section.

G. L. § 6821.

SEC. 8387. Throwing missiles at train. A person who unlawfully and maliciously throws or causes anything to be thrown or to fall into or upon, or to strike against a railroad train or an engine, tender, car or truck, with intent to injure or endanger the safety of any person on such train or on such engine, tender, car or truck, shall be punished as provided in the preceding section.

Rape.

G. L. § 6822.
47 Vt. 82.
63 Vt. 673.
68 Vt. 540.
69 Vt. 428.
77 Vt. 10.
77 Vt. 166.
78 Vt. 124.
78 Vt. 157.

SEC. 8388. By person over sixteen. A person over the age of sixteen years who ravishes and carnally knows a female person of the age of sixteen years or more, by force and against her will, or unlawfully and carnally knows a female person under sixteen years of age, with or without her consent, shall be imprisoned in the state prison not more than twenty years or fined not more than two thousand dollars, or both.

G. L. § 6823.
63 Vt. 673.

SEC. 8389. By person under sixteen. If a person under the age of sixteen years unlawfully and carnally knows a female person under the age of sixteen years with her consent, both persons shall be guilty of a misdemeanor, and may be committed to the Vermont industrial school; and a person under the age of sixteen years, who unlawfully and carnally knows any female person by force and against her will shall be punished as provided in the preceding section.

Maiming and Assaults with Intent to Kill or Maim.

SEC. 8390. Maiming. A person who, with malicious intent to maim or disfigure, cuts out or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts or slits or mutilates the nose or lip, or cuts or disables a limb or member of another person, and a person privy to such intent who is present aiding in the commission of such offense, shall be imprisoned in the state prison for life or for not less than seven years.

SEC. 8391. Assault with intent to kill or maim. A person who assaults another with intent to kill, or to maim or disfigure his person as mentioned in the preceding section, shall be imprisoned in the state prison not more than ten years and fined not more than one thousand dollars.

Kidnapping.

SEC. 8392. What constitutes; penalty. A person who, without legal authority, forcibly or secretly confines or imprisons another person within this state against his will, or forcibly carries or sends such person out of the state, or forcibly seizes or confines or inveigles or kidnaps another person with intent to cause him to be secretly confined or imprisoned in this state against his will, or to cause him to be sent out of this state against his will, or in any way held to service against his will, shall be imprisoned in the state prison not more than twenty-five years or fined not more than ten thousand dollars, or both.

SEC. 8393. Same; child under sixteen; penalty. A person who commits an offense described in the preceding section upon a person under the age of sixteen years, with or without the consent of such person, shall be imprisoned in the state prison not more than thirty years or fined not more than ten thousand dollars, or both.

SEC. 8394. Same; extortion; penalty. A person who commits an offense described in the second preceding section with intent to extort money or other valuable thing shall suffer the punishment of death or be imprisoned in the state prison for life.

Cruelty to Persons.

SEC. 8395. Abandonment or exposure of child. A person who abandons or exposes a child under the age of two years, whereby the life or health of such child is endangered, shall be imprisoned in the state prison not more than ten years or fined not more than one thousand dollars, or both.

SEC. 8396. Cruelty to children under ten by one over sixteen. A person over the age of sixteen years, having the custody, charge or care of a child under ten years of age, who wilfully assaults, illtreats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, illtreated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his health, shall be imprisoned in the state prison not more than two years or fined not more than five hundred dollars, or both.

SEC. 8397. By person having custody. A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned in the state prison not more than one year or fined not more than two hundred dollars, or both.

G. L. § 6830.
57 Vt. 576.
82 Vt. 37.

SEC. 8398. **To person of unsound mind.** A person who wilfully and maliciously teases, plagues, annoys, angers, irritates, maltreats, worries or excites another of unsound or feeble mind shall be imprisoned not more than one year or fined not more than one hundred dollars nor less than five dollars, or both.

G. L. § 6830.
57 Vt. 576.
82 Vt. 37.

SEC. 8399. **Same; justice jurisdiction.** Justices shall have concurrent jurisdiction with county and municipal courts of offenses under the preceding section to the extent of fining the respondent fifty dollars or sentencing him to imprisonment in the county jail for not more than three months, or both.

Assaults.

G. L. § 6832.

SEC. 8400. **With robbery, by one armed.** A person who assaults another and feloniously robs, steals and takes from his person money or other property, the subject of larceny, being armed with a dangerous weapon, with intent if resisted to kill or maim the person robbed, shall be imprisoned in the state prison not more than twenty years and fined not more than one thousand dollars.

G. L. § 6833.

SEC. 8401. **With robbery, by one not armed.** A person who, not being armed with a dangerous weapon, by force, or by assault and putting in fear, feloniously robs, steals and takes from the person of another, money or other property, the subject of larceny, shall be imprisoned in the state prison not more than ten years nor less than three years.

G. L. § 6834.

SEC. 8402. **With intent to rob, by one armed.** A person who, armed with a dangerous weapon, assaults another with intent to rob shall be imprisoned in the state prison not more than ten years nor less than three years.

G. L. § 6835.

SEC. 8403. **With intent to rob, by one not armed.** A person who, not being armed with a dangerous weapon, assaults another with force and with intent to steal or rob shall be imprisoned in the state prison not more than seven years nor less than two years.

G. L. § 6836.
25 Vt. 247.
32 Vt. 607.
43 Vt. 324.
62 Vt. 334.
63 Vt. 673.

SEC. 8404. **With intent to commit rape.** A person who assaults a female person with intent to commit rape shall be imprisoned in the state prison not more than ten years or fined not more than one thousand dollars, or both.

67 Vt. 477.

68 Vt. 540.

1919, No. 196, § 1.
G. L. § 6837.
2 Aik. 181.
40 Vt. 603.

SEC. 8405. **With intent to kill, by one armed.** A person who, armed with a dangerous weapon, assaults another with intent to kill or murder shall be imprisoned in the state prison not more than thirty years.

41 Vt. 564.

70 Vt. 524.

Slungshots, Etc.

G. L. § 6838.

SEC. 8406. **Use or possession; penalty.** A person who uses a slungshot, blackjack, brass knuckles or similar weapon against another person, or attempts so to do, or is found in possession of a slungshot, blackjack, brass knuckles, or similar weapon, with intent so to use it, shall be imprisoned in the state prison not more than five years.

G. L. § 6839.

SEC. 8407. **Manufacture, sale, etc.; penalty.** A person who within the state manufactures or causes to be manufactured, or sells or gives away or parts with, or offers so to do, or keeps for sale or gift, a slungshot, blackjack, brass knuckles or similar weapon, shall be imprisoned not more than two years or fined not more than five hundred dollars nor less than two hundred dollars.

Threatening.

SEC. 8408. **With intent to extort money.** A person who maliciously threatens to accuse another of a crime or offense, or with an injury to his person or property, with intent to extort money or other pecuniary advantage, or with intent to compel the person so threatened to do an act against his will, shall be imprisoned in the state prison not more than two years or fined not more than five hundred dollars.

G. L. § 6840.
79 Vt. 463.

Carrying Weapons.

SEC. 8409. **With intent to injure another.** A person who carries a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, shall be imprisoned not more than two years or fined not more than two hundred dollars, or both.

G. L. § 6841.
75 Vt. 295.

SEC. 8410. **By children at school.** A person who, while a member of and in attendance upon a school, carries or has in his possession a firearm, dirk knife, bowie knife, dagger or other dangerous or deadly weapon, shall be fined not more than twenty dollars.

G. L. § 6842.
75 Vt. 295.

SEC. 8411. **While committing a crime.** A person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony or while committing an offense under section 8116, or while committing the crime of smuggling of an alien as defined by the laws of the United States, shall be imprisoned not less than three months nor more than two years.

1927, No. 1271

Firearms.

SEC. 8412. **Furnishing to minor under sixteen; exception.** A person, other than a parent or guardian, who sells or furnishes to a minor under the age of sixteen years a firearm or other dangerous weapon shall be fined not more than fifty dollars nor less than ten dollars. This section shall not apply to an instructor or teacher who furnishes military weapons to pupils for instruction and drill.

G. L. § 6843.

SEC. 8413. **Possession by child under sixteen.** A child under the age of sixteen years shall not, without the consent of his parent or guardian, have in his possession or control a pistol or revolver constructed or designed for the use of gunpowder or other explosive substance with leaden ball or shot. A child who violates a provision of this section shall be deemed a delinquent child under the provisions of chapter 226.

G. L. § 6844.

SEC. 8414. **Negligent use of gun.** A person who carelessly or negligently wounds another person by gun shot shall be imprisoned in the house of correction not more than five years or fined not more than one thousand dollars, or both.

1931, No. 164, § 1.

Gun Silencers.

SEC. 8415. **Manufacture, sale and use; penalty.** A person who manufactures, sells or uses or possesses with intent to sell or use, an appliance known as or used for a gun silencer shall be fined twenty-five dollars for each offense. The provisions of this section shall not prevent the use or possession of gun silencers for military purposes when so used or possessed under proper military authority and restriction.

G. L. § 6845.

Pointing Firearms.

SEC. 8416. **Without malice or injury.** A person who intentionally, without malice, points a firearm towards another person, shall be fined not more than fifty dollars nor less than five dollars. If he discharges

G. L. § 6846.
75 Vt. 295.

without warrant, as in cases of persons found breaking the peace; and the person making an arrest with or without warrant shall use reasonable diligence to give notice thereof to the owner of the animals, and shall properly care and provide for them until the owner takes charge of them, if within sixty days from the date of such notice. The person making such arrest shall have a lien on such animals for the expense of such care and provision.

G. L. § 6927.

SEC. 8508. Search warrants. When complaint is made on oath to a magistrate authorized to issue warrants in criminal causes, that the complainant has reason to believe and does believe that the law in relation to cruelty to animals has been violated in a particular building or place, the magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing a sheriff, deputy sheriff, constable or police officer to search such building or place, but such search shall not be made after sunset unless specially authorized by the magistrate upon cause shown.

G. L. § 6928.
77 Vt. 61.

SEC. 8509. Prosecutors. Sheriffs, deputy sheriffs, constables, police officers, other prosecuting officers and all officers of societies for the prevention of cruelty to animals shall prosecute violations of the preceding sections of this chapter which come to their notice or knowledge.

G. L. § 6929.
82 Vt. 37.

SEC. 8510. Jurisdiction. County and municipal courts, and justices in their respective counties, shall have concurrent jurisdiction of offenses arising under this chapter.

G. L. § 6930.

SEC. 8511. Remission of fine. In a prosecution arising under this chapter the court may remit a fine or such part thereof as it deems best, where the animal is surrendered by its owner for destruction.

Societies for the Prevention of Cruelty to Animals.

1933, No. 157, § 8160;
G. L. § 6931.

SEC. 8512. Officers, agents and members; powers. An officer, agent or member of the Vermont Humane Society or of any incorporated humane society or society for the prevention of cruelty to animals may lawfully interfere to prevent the perpetration of an act of cruelty upon an animal in his presence. A person who interferes with or obstructs such officer, agent or member of such society in the discharge of his duty shall be fined not more than fifty dollars.

G. L. § 6932.

SEC. 8513. Same; powers of officers and agents. Whenever an animal is found abandoned or otherwise not properly cared for, an officer or agent of such society may call two reputable citizens to examine it in his presence, and if in their judgment such animal is glandered or otherwise afflicted with an infectious or incurable disease and is a menace to the public health, or is permanently unfit for work or injured or starved past recovery, such officer or agent may notify the owner or person in charge of such animal, if known, and demand that it be at once killed; and if such animal is not killed by its owner or person having it in charge within six hours after such notice, or if a person adjudged suitable by such officer, or agent, and such citizens, does not appear within six hours to take charge of such animal, such officer or agent may, in the presence of a witness, thereupon kill such animal and bury its body.

G. L. § 6933.

SEC. 8514. Same; care of mistreated animals; lien. An officer or agent of the Vermont Humane Society or of an incorporated humane society or society for the prevention of cruelty to animals may lawfully take charge of an animal found abandoned, neglected, lame, sick, unfit for the labor it is performing or otherwise cruelly treated and shall thereupon give notice thereof to the owner, if known, or his agent and may provide suitable care for such animal until the owner or agent shall take

charge of the same or until such animal is deemed by such officer or agent to be in suitable condition to be delivered to such owner or agent; and the expense of such care and provision shall be a charge against the owner of such animal, collectable by action from such owner by such society, and such society shall have a lien on such animal for all expenses so incurred.

SEC. 8515. Same; power to arrest; penalty for impeding; badge. G. L. § 6934.
An officer or agent of the Vermont Humane Society or of an incorporated humane society or society for the prevention of cruelty to animals and such special agents as may be appointed by such society shall have the same power and authority to arrest as an officer authorized to serve criminal process for the purpose of enforcing the laws in relation to cruelty to animals, such power and authority to extend throughout the state. A person who interferes with or obstructs any of such agents in the discharge of their duty shall be guilty of impeding an officer and punished as provided in section 8676, provided that all such officers and agents shall, when making such arrests, declare their authority and exhibit and expose a suitable badge which has been adopted by such society.

CHAPTER 342.

(8516-8578)

TRESPASSES AND MALICIOUS INJURIES.

Removal of Dead Bodies.

SEC. 8516. Unauthorized. A person who, not being authorized by law, digs up, disinters, removes or carries away a human body, or the remains thereof, interred or entombed in this state, or knowingly aids in such disinterment, removal or carrying away, or is accessory thereto, shall be imprisoned not more than fifteen years nor less than one year or fined not more than two thousand dollars nor less than one hundred dollars, or both. G. L. § 6935;
1 Vt. 331.

SEC. 8517. Search warrants. A justice of the peace or a municipal judge shall, upon the complaint and oath of a person made to him in writing that the remains of a dead person have been disinterred and removed and that the complainant has reason to believe that the remains of such dead person are secreted in a dwelling house or other building, issue a warrant, directed to any sheriff or constable, commanding him to make search in such place for such dead person; and the officer serving such process shall not be liable for executing such warrant, whether the body of such dead person is found or not. G. L. § 6936.

SEC. 8518. Subject for dissection. The preceding section shall not prevent a surgeon or physician from having in his possession a dead human subject for anatomical investigation and instruction of students, if such subject was obtained without violating the law of the state. G. L. § 6937.

Injuries to Gravestones, Burial Grounds and Historical Markers.

SEC. 8519. Injury to burial grounds and historical tablets; penalty. A person who wilfully and without right or authority removes, injures or destroys, or procures or causes to be removed, injured or destroyed, a gravestone or monument erected to the memory of a deceased person, or erected and intended for such use; or a tomb, or a portion of a tomb, in which the body of a deceased person is interred, or G. L. No. 166, § 1.
G. L. § 6938.
73 Vt. 70.

which is intended for the interment of a deceased person; or a monument, tablet or marker erected for the commemoration of some historical event or place by an historical or patriotic association or society on land on which such association or society has a right to erect the same, or a person who wilfully and maliciously injures a fence or other erection, tree or shrubbery in or about a burial ground, or a road, path or avenue therein, or a lot therein designed for burial, or wilfully and maliciously digs up, displaces, takes away or breaks off a root, plant, vine, flower, shrub or tree within a burial ground, or wilfully and without authority removes or causes to be removed, breaks down, injures or destroys an ornament, token or emblem used to decorate, mark or distinguish the grave or tomb of a deceased person, shall be imprisoned in the state prison not more than five years or fined not more than two hundred dollars nor less than ten dollars.

1931, No. 166, § 1.
G. L. § 6938.
73 Vt. 70.

SEC. 8520. Jurisdiction. Justices and municipal courts shall have concurrent jurisdiction with the county court of offenses arising under the preceding section, to the extent of fining the respondent twenty dollars, or may bind the offender over for trial, but municipal courts may accept a plea of guilty and thereupon shall have the same power to pass sentence as a county court.

1931, No. 166, § 2.
G. L. § 6939.
71 Vt. 78.
73 Vt. 70.

SEC. 8521. Tort action. A person who violates a provision of the second preceding section shall be further liable to an action of tort, on this statute, for damages; and such action may be brought in the name of the owner of the property so injured, or in the name of the town in which such burial ground is situated, or in the name of the commissioners, or association or corporation, which holds lawful possession of such burial ground at the time such damage is committed, or, if the property injured is a gravestone or monument erected to the memory of a deceased person, or a tomb in which the body of a deceased person is interred, in the name of the surviving heirs or descendants of such deceased person, jointly, or in the name of one or more of them for the benefit of all, or in the name of the historical or patriotic association or society erecting such monument, tablet or marker.

1931, No. 166, § 2.
G. L. § 6939.
71 Vt. 78.
73 Vt. 70.

SEC. 8522. Same; damages, how used. Such damages, when recovered by a town, association, society, corporation, or by commissioners, shall be expended under the direction of the party recovering the same for the benefit of the property injured.

Injuries to Buildings and Their Appurtenances.

G. L. § 6940.

SEC. 8523. Malicious injuries; tort action. A person who wilfully and maliciously breaks a door or window of, or otherwise injures, a dwelling house or other building, whether occupied or not, or a sign thereon, or a fence or wall, not being his own property, or disfigures the same with paint or otherwise, or defaces the same by writing, printing or painting thereon any obscene word, figures or devices, shall be imprisoned not more than ninety days or fined not more than twenty dollars, or both; and the offender shall be liable to the owner for the damages sustained, and the same may be recovered in an action of tort, on this statute.

1933, No. 157, § 8172.
G. L. § 328.

SEC. 8524. Injuring state property; penalty. A person who wilfully or carelessly injures any part of the state house or other public building owned by the state, wherever located, or the appurtenances thereof or anything connected therewith, or who posts bills or notices upon such buildings or on the fences or trees connected therewith, or who wilfully trespasses on the land connected with such buildings not open to the public, shall be fined not more than fifty dollars nor less than five dollars, if the damage does not exceed twenty-five dollars; but if it

exceeds twenty-five dollars, he shall be fined not more than one thousand dollars.

SEC. 8525. Without malice. A person who carelessly and without malice injures or defaces any part of a building belonging to a county, town or town school district, or the appurtenances thereof, or any public building, hall or room, by cutting, writing, marking, standing in the windows, or in any other manner, or injures the furniture, fence, yard, posts, grounds, shade trees or shrubbery connected with such building, or fastens a horse or other animal to the fence, posts or trees about the same, or posts bills, placards and notices upon such building or its appurtenances, or upon the fence or trees belonging thereto, whereby any defacement results, shall be fined not less than two dollars.

Jurisdiction.

SEC. 8526. Under three preceding sections. Justices of the county shall have concurrent jurisdiction with the county court of offenses arising under the three preceding sections, to the extent of fining the respondent twenty dollars, or may bind the offender over for trial.

Injuries to Vessels, Mills and Bridges.

SEC. 8527. Vessels. A person who wilfully scuttles, casts away, sinks or otherwise destroys a steamboat or vessel, with intent to injure or defraud the owner thereof, or the owner of property on board the same, or an insurer of such steamboat, vessel or property, or injures or removes the wheels or machinery of a steamboat, shall be imprisoned in the state prison not more than five years and fined not more than five hundred dollars.

SEC. 8528. Mills; dams; bridges. A person who wilfully and maliciously injures, removes or opens a dam, reservoir, gate, or flume or injures or removes the wheels, mill gear, or machinery of a water mill, or injures, removes or destroys a public or toll bridge, shall be imprisoned in the state prison not more than five years or fined not more than five hundred dollars.

Removal of Packing from Journal Boxes.

SEC. 8529. Penalty. A person who wilfully and maliciously takes or removes the waste or packing from a journal box of a locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon a railroad, whether operated by steam or electricity, shall be imprisoned not more than three years or fined not more than five hundred dollars.

Injuries Caused by Explosives.

SEC. 8530. Wilful and malicious. A person who wilfully and maliciously, by the explosion of gunpowder or any other explosive substance, unlawfully destroys or injures a dwelling house, office, shop or other building, or a ship, vessel, or a dam or reservoir for storing water, shall be imprisoned in the state prison not more than twenty years or fined not more than one thousand dollars.

SEC. 8531. Attempts. A person who wilfully and maliciously throws into, against or upon, or puts, places or explodes, or causes to be exploded, in, upon or near a dwelling house, office, shop, building, ship, vessel, or any dam or reservoir for storing water, gun powder or other explosive substance, or a bombshell, torpedo or other instrument filled or loaded with an explosive substance, with intent unlawfully to destroy or

G. L. § 6993.

SEC. 8588. Officer killing resisting rioter, not liable. Officers, and persons assisting them, in lawfully dispersing or apprehending such rioters, shall not be liable in a civil or criminal proceeding if a rioter, by reason of his resistance, is killed or injured.

G. L. § 6994.

SEC. 8589. Rioters injuring building or vessel. Persons riotously assembled who destroy or injure a dwelling house or other building, steamboat or vessel shall each be imprisoned in the state prison not more than five years and fined not more than one thousand dollars and be answerable to the person injured for the damages in an action of tort.

Intimidation of Workmen.

G. L. § 6995.
59 Vt. 273.
67 Vt. 690.

SEC. 8590. Threats to prevent employment. A person who threatens violence or injury to another person with intent to prevent his employment in a mill, manufactory, shop, quarry, mine, railroad or other occupation shall be imprisoned not more than three months or fined not more than one hundred dollars.

G. L. § 6996.
59 Vt. 273.
67 Vt. 690.
71 Vt. 1.
78 Vt. 364.

SEC. 8591. Same; to stop work. A person who, by threats, intimidation or by force, alone or in combination with others, affrights, drives away or prevents another person from accepting, undertaking or prosecuting such employment, with intent to prevent the prosecution of work in such mill, shop, manufactory, mine, quarry, railroad or other occupation, shall be imprisoned in the state prison not more than five years or fined not more than five hundred dollars.

Disturbances.

G. L. § 6997.
1 Tyl. 180.
11 Vt. 236.
22 Vt. 321.
42 Vt. 542.
47 Vt. 290.
57 Vt. 576.
59 Vt. 548.

SEC. 8592. Of the public peace. A person who disturbs or breaks the public peace by tumultuous and offensive carriage, by threatening, quarreling, challenging, assaulting, beating or striking another person shall be imprisoned not more than five years or fined not more than one thousand dollars, or both.

64 Vt. 25.	79 Vt. 521.	91 Vt. 88.	97 Vt. 461.
69 Vt. 98.	80 Vt. 175.	91 Vt. 507.	

G. L. § 6998.

SEC. 8593. Of a lawful meeting or school. A person who by a disorderly or unlawful act disturbs a town, society or district meeting, or a school, or any meeting lawfully assembled, or by force or menace interrupts the business of such meeting or school, shall be fined not more than one hundred dollars.

G. L. § 6999.

SEC. 8594. Religious meetings. A person who wilfully disturbs or interrupts an assembly of people met together for religious worship or religious instruction by noisy, rude or indecent behavior, or by profane discourse, either within or without the place where such assembly is collected, or violates any prescribed rules or regulations for the government of such meetings shall be fined not more than forty dollars nor less than five dollars.

G. L. § 7000.
64 Vt. 25.

SEC. 8595. By noise in nighttime; exception. A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns or other unnecessary and offensive noise shall be fined not more than fifty dollars; but this section shall not prevent a person employing workmen, for the purpose of giving notice to his employees, from ringing bells or using whistles or gongs of such size and weight, in such manner and at such hours as the selectmen of the town, the aldermen of the city or the trustees of the village may prescribe in writing.

G. L. § 7001.
57 Vt. 576.
74 Vt. 323.
82 Vt. 37.

SEC. 8596. Jurisdiction. Justices shall have concurrent jurisdiction with county and municipal courts of offenses arising under the four preceding sections, to the extent of fining the respondent fifty dollars

or sentencing him to imprisonment in the county jail for a period of not more than three months, or both.

SEC. 8597. Of schools by persons over ten years. A person over ten years of age, not connected with the school, who annoys or disturbs a school by remaining at or near it, or by not departing on request of the teacher, school directors or prudential committee, shall be fined not more than twenty dollars.

SEC. 8598. Officers' powers and duties at religious meetings. A justice, municipal judge, sheriff and deputy sheriff of the county, and a constable and grand juror of the town, being present at the disturbance of a religious meeting, may, without warrant, upon view, arrest a person so making disturbance, and detain him in custody during the time of such meeting, or until a trial of such offense is had; and such magistrate, sheriff, deputy sheriff, constable and grand juror may command assistance, in the execution of the aforesaid duties, as sheriffs by law may; and persons so commanded, who refuse to obey such command, shall be subject to the same penalties as persons who refuse to assist sheriffs in the discharge of their office and duty.

SEC. 8599. Limitation. Prosecutions for disturbing a religious meeting shall be commenced within thirty days after the commission of the offense, and not after.

CHAPTER 345.

(8600-8626)

OFFENSES AGAINST CHASTITY AND MORALITY.

Adultery and Bigamy.

SEC. 8600. Adultery; penalty. A person who commits adultery shall be imprisoned in the state prison not more than five years or fined not more than one thousand dollars, or both.

74 Vt. 223.	83 Vt. 305.	92 Vt. 290.
75 Vt. 293.	88 Vt. 464.	

SEC. 8601. Married man and unmarried woman. A married man and an unmarried woman who commit an act which would be adultery if such woman were married shall each be guilty of adultery.

75 Vt. 293.	83 Vt. 305.	92 Vt. 290.
81 Vt. 400.	88 Vt. 464.	

SEC. 8602. Parties found in bed together. A man with another man's wife, or a woman with another woman's husband, found in bed together, under circumstances affording presumption of an illicit intention, shall each be imprisoned in the state prison not more than three years or fined not more than one thousand dollars.

SEC. 8603. Parties to divorce or annulled marriage. A man and woman who are divorced, or whose marriage is declared void, who cohabit or have connection as husband and wife, while such divorce or decree annulling such marriage remains in force, shall each be fined not more than five hundred dollars.

SEC. 8604. Bigamy. A person having a husband or wife living who marries another person, or continues to cohabit with such second husband or wife in this state, shall be imprisoned in the state prison not more than five years. This section shall not extend to a person whose husband or wife has been continually beyond the sea, or out of the state for seven consecutive years, the party marrying again not knowing the other to be living within that time; or to a person whose former marriage has been

avoided by divorce or sentence of nullity, or was contracted under the age of consent and not afterwards assented to.

G. L. § 7010
68 Vt. 414.

SEC. 8605. Proofs of respondent's marriage. In prosecutions for crimes and penalties where it is necessary to prove the fact of the marriage of the respondent, acts of cohabitation by the respondent with the supposed husband or wife, and other acts, admissions and declarations of the respondent tending to prove such marriage shall be admitted in evidence as competent testimony.

G. L. § 7011
68 Vt. 414.

SEC. 8606. Alleging marriage in prosecution for bigamy. In prosecutions for bigamy it shall be sufficient to allege in the information or indictment that, at the time of the second marriage, the respondent had a wife or husband living, without specifying the time or place of the former marriage or the name of the former husband or wife.

G. L. § 7012
59 Vt. 527.
59 Vt. 614.
52 Vt. 556.

SEC. 8607. Marriage within prohibited degree. Persons between whom marriages are prohibited by the laws of this state who intermarry or commit fornication with each other shall be punished as in case of adultery.

Abortion.

G. L. § 7013.
32 Vt. 380.
54 Vt. 179.
68 Vt. 527.
80 Vt. 422.
35 Vt. 508.

SEC. 8608. Penalty; exception. A person who wilfully administers or advises or causes to be administered anything to a woman pregnant, or supposed by such person to be pregnant, or employs or causes to be employed any means with intent to procure the miscarriage of such woman, or assists or counsels therein, unless the same is necessary to preserve her life, shall, if the woman dies in consequence thereof be imprisoned in the state prison not more than twenty years nor less than five years, and if she does not die in consequence thereof, shall be imprisoned in the state prison not more than ten years nor less than three years; but the woman whose miscarriage is caused or attempted shall not be liable to the penalties prescribed by this section.

G. L. § 7014.

SEC. 8609. Same; indictment; conviction. A person who is indicted for the murder of an infant child, or of a woman pregnant or supposed by such person to be pregnant, may be charged in the same indictment with the offenses under the preceding section, and may be found guilty of any charge in the indictment sustained by the proof, and judgment and sentence shall be awarded accordingly.

G. L. § 7015.
66 Vt. 434.

SEC. 8610. Advertising or dealing in anything to cause miscarriage. A person who knowingly causes to be made public by print, writing, words or language that give any information where anything, or any advice or information, may be obtained for the purpose of causing or procuring the miscarriage of a pregnant woman, shall be imprisoned in the state prison not more than ten years nor less than three years; and a person who sells or gives away anything for the purpose of producing such miscarriage shall be imprisoned in the state prison not more than three years nor less than one year and fined not more than five hundred dollars nor less than two hundred dollars.

Lewdness and Prostitution.

G. L. § 7016.
18 Vt. 574.
68 Vt. 243.
97 Vt. 219.

SEC. 8611. Penalty. A person guilty of open and gross lewdness and lascivious behavior shall be imprisoned not more than five years or fined not more than three hundred dollars.

G. L. § 7017.
91 Vt. 290.

SEC. 8612. Disorderly house or house of ill fame. A person who keeps a disorderly house, or a house of ill fame, resorted to for the purpose of prostitution and lewdness, whether the same is occupied or frequented by one or more females, shall be imprisoned not more than four years or fined not more than three hundred dollars.

SEC. 8613. Definitions. The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire and shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. The term "lewdness" shall be construed to mean open and gross lewdness. The term "assignation" shall be construed to include the making of an appointment or engagement for prostitution or lewdness as defined in this section.

SEC. 8614. Unlawful acts. A person shall not occupy a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation and no person shall knowingly permit a place, structure, building or conveyance owned by him or under his control to be used for the purpose of prostitution, lewdness or assignation. A person shall not receive or offer, or agree to receive, a person into a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation or shall permit a person to remain there for such purpose. A person shall not direct, take or transport or offer or agree to take or transport a person to a place, structure, building or conveyance or to any other person knowingly, or with reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation. A person shall not procure or solicit or offer to procure or solicit a female person for the purpose of prostitution, lewdness or assignation. A person shall not reside in, enter or remain in a place, structure or building or enter or remain in a conveyance for the purpose of prostitution, lewdness or assignation or engage in prostitution, lewdness or assignation, or aid or abet prostitution, lewdness or assignation, by any means whatsoever.

SEC. 8615. Penalty. A person who violates a provision of the preceding section shall be fined not more than one hundred dollars or may be imprisoned for not more than one year and a person convicted under the preceding section for a second offense shall be imprisoned for not more than three years.

SEC. 8616. Terms of probation. Probation or parole shall be granted or ordered in the case of a person infected with a venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread of such disease.

SEC. 8617. Females; probation. A female person convicted under the provisions of the third preceding section shall not be placed on probation or parole in the care or charge of a person other than a woman probation officer.

White Slavery.

SEC. 8618. White slave traffic. A person who induces, entices or procures a female person to come into the state or to go from the state for the purpose of prostitution or for any immoral purpose or to enter a house of prostitution in the state; or who wilfully or knowingly aids such a female in obtaining transportation to or within the state for such purposes; or who places a female person in the charge or custody of another person for immoral purposes or in a house of prostitution; or who induces, entices, procures or compels such a female to reside in a house of prostitution; or who induces, entices, procures or compels such a female to live a life of prostitution, for gain and profits, shall be imprisoned in the state prison not more than ten years nor less than one year or fined not more than two thousand dollars nor less than two hundred dollars, or both.

SEC. 8619. Same. A person who induces, entices, procures or compels a female person, for the purpose of prostitution or for any other im-

in full of such stallion to the third ancestor on the side of both sire and dam, if known, and as much of such information as is not given shall be acknowledged as not known and so stated and pedigrees given in advertising such stallion shall be as recorded in the town clerk's office.

1919, No. 219, § 7.
G. L. § 7114.

SEC. 8737. Same; record; fees. The town clerk shall record such statement in a book kept for that purpose and shall receive from the applicant the sum of one dollar for each stallion so registered and shall furnish the owner or keeper procuring such a registration a certified copy of the same.

1919, No. 219, § 7.
G. L. § 7114.

SEC. 8738. Failure to comply, penalty. The owner or keeper of the stallion who fails to comply with the provisions of the second preceding section shall be fined not more than fifty dollars nor less than ten dollars and shall not receive compensation for the breeding services of such stallion. A person who makes a false certificate under the provisions of the second preceding section shall be fined one hundred dollars.

1933, No. 157, § 8377.
G. L. § 7115.

SEC. 8739. Obstructing passages in public buildings. A person who, during a public entertainment, places or causes to be placed any portable seat or obstruction in the halls, doorways, stairways, aisles or passages of a theatre, public hall or other place used for purposes of amusement, when the same is situated above the ground floor, shall be fined not more than one hundred dollars nor less than ten dollars.

G. L. § 7117.

SEC. 8740. Barbed wire fence around schoolhouse. A person who builds or maintains a barbed wire fence around a schoolhouse yard shall be fined not more than fifty dollars nor less than twenty dollars.

CHAPTER 349.

(8741-8749)

ACCESSORIES, ATTEMPTS, CRIMINAL INTENT AND COMPOUNDING FELONY.

Accessories.

G. L. § 7118.

SEC. 8741. Punished as principal. A person who aids in the commission of an offense punishable by death or imprisonment in the state prison shall be punished as a principal.

G. L. § 7119.
70 Vt. 288.

SEC. 8742. Before the fact; prosecutions; venue. A person who is accessory before the fact by counseling, hiring or otherwise procuring an offense to be committed may be complained of, informed against or indicted, tried, convicted and punished as if he were a principal offender and in the court and county where the principal might be prosecuted.

G. L. § 7120.
17 Vt. 145.
80 Vt. 249.

SEC. 8743. After the fact. A person not standing in the relation of husband, wife, parent, grandparent, child, grandchild, brother or sister, by consanguinity or affinity, to a person who has committed an offense punishable by death or imprisonment in the state prison, who harbors or conceals, maintains or assists such offender, or gives him other aid, knowing that he has committed such offense, with intent that he shall avoid or escape arrest or punishment, shall be deemed an accessory after the fact and shall be imprisoned in the state prison not more than seven years or fined not more than one thousand dollars.

G. L. § 7121.

SEC. 8744. Same; prosecution; venue. Such accessory after the fact may be prosecuted, convicted and punished whether the principal has or has not been previously convicted, or is or is not amenable to justice, in the county where such person becomes an accessory or in the county where the principal offense is committed.

Attempts.

SEC. 8745. Penalties. A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, if other express provision is not made by law for the punishment of such attempt, shall, if the offense attempted to be committed is punishable by death or imprisonment in the state prison for life, be imprisoned in the state prison not more than ten years, and if the offense attempted to be committed is punishable other than by death or imprisonment in the state prison for life, shall be imprisoned in the state prison or in the house of correction or Vermont industrial school, or be fined, respectively, as the offense so attempted to be committed is by law punishable; but the punishment of such last mentioned attempt shall not exceed half the greatest punishment which might have been inflicted if the offense so attempted had been committed.

SEC. 8746. Inciting to felony. A person who endeavors to incite, procure or hire another person to commit a felony, though a felony is not actually committed as a result of such inciting, hiring or procuring, shall be imprisoned in the state prison not more than five years or fined not more than five hundred dollars.

SEC. 8747. On charge of felony, may be convicted for attempt. Under an information or indictment charging the commission of an offense punishable by death or imprisonment in the state prison, the jury may, according as the proof is, return a verdict that the respondent is not guilty of the principal offense, but is guilty of an attempt to commit the same, in the manner stated in the preceding section, or the court may allow the respondent to plead guilty of such an attempt, and the court shall, in either case, pass sentence accordingly.

Criminal Intent.

SEC. 8748. Penalized, when. A person who, with intent to commit a crime, does an act within this state in execution or part execution of such intent, which culminates in the commission of a crime either within or without this state, shall be punished for such crime in this state in the same manner as if the same had been committed entirely within this state.

Compounding Felony.

SEC. 8749. Penalty. A person having knowledge of the commission of a felony who takes money, or a gratuity or reward, or an engagement therefor, upon an agreement or understanding, expressed or implied, to compound or conceal such felony or not to prosecute therefor, or not to give evidence thereof, shall be imprisoned in the state prison not more than ten years or fined not more than one thousand dollars.

CHAPTER 350.

(8750,8751)

CRIMES DEFINED AND HABITUAL CRIMINALS.

Felonies and Misdemeanors.

SEC. 8750. Definitions. Offenses which may be punished by death or imprisonment in the state prison are felonies; all other offenses are misdemeanors.

Appendix 9

THE
VERMONT STATUTES,
REVISION OF 1947.

INCLUDING THE PUBLIC ACTS OF 1947

WITH

THE DECLARATION OF INDEPENDENCE
THE ARTICLES OF CONFEDERATION

AND THE

CONSTITUTION OF THE UNITED STATES
AND THE STATE OF VERMONT



CLARENCE R. WHITE,
Commissioner in Charge,
SHERMAN R. MOULTON,
HARRISON J. CONANT,
Advisory Commissioners.

January 31, 1948.

PUBLISHED BY AUTHORITY
1947

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Anarchy.

8236. Promotion penalized. A person who by speech or directly or indirectly by exhibition, distribution or promulgation of any written or printed document or paper or pictorial representation, shall advocate, advise, counsel or incite unlawful assault upon, or the killing of a public official, or the unlawful destruction of property, or the overthrow by force or violence of the government of the state, or who, at any meeting or in the presence of more than three persons in any place or in any manner, shall advise, advocate or counsel the violation of or unlawful refusal to obey a law of the state respecting the preservation of the peace and the protection of life or property shall be imprisoned not more than three years or fined not more than \$1,000.00, or both.

P. L. § 8370. 1919, No. 194.

Raids.

8237. Conspiring to make. If three or more persons conspire together for the purpose and with the intent, violently and forcibly, to kill, maim or wound a person, or to rob a person, corporation or community, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house or other building or depository of property, or a railroad car or engine, a vessel, steamboat or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned in the state prison not more than twenty years and fined not more than \$10,000.00.

1947, No. 202, § 8391. P. L. § 8371. G. L. § 6795. P. S. § 5878. V. S. § 5052. R. L. § 4236. 1864, No. 2, § 1. 67 Vt. 690. 106 Vt. 183.

8238. Attempting to make. If three or more persons, acting in concert, with force and violence, attempt to kill, maim or wound a person, or to rob a person, corporation or community of money or other property, or to burn, blow up or otherwise destroy a bank building, store, factory, dwelling house, or other building or depository of property, or a railroad car or engine, or a steamboat, vessel or other water craft, finished or unfinished, for use in navigable waters, each person so offending shall be imprisoned in the state prison for life or for not less than five years or fined not more than \$10,000.00.

P. L. § 8372. G. L. § 6796. 1908, No. 170. P. S. § 5879. V. S. § 5053. R. L. § 4237. 1864, No. 2, § 2. 67 Vt. 690. 106 Vt. 183.

8239. Accessories deemed principals. A person who wilfully and knowingly aids, assists, counsels, advises or supports the commission of an offense named in the two preceding sections, or, having knowledge thereof, does not disclose the same, shall be deemed to be a principal in the commission of such offense and shall be punished as such.

1947, No. 202, § 8393. P. L. § 8373. G. L. § 6797. P. S. § 5880. V. S. § 5054. R. L. § 4238. 1864, No. 2, § 3. 67 Vt. 690.

CHAPTER 360.**OFFENSES AGAINST THE PERSON.****Murder, Manslaughter, Homicide and Attempts to Kill.**

8240. Murder; degrees defined. Murder committed by means of poison, or by lying in wait, or by wilful, deliberate and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, rape, robbery or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

P. L. § 8374. G. L. § 6798. P. S. § 5693. V. S. § 4884. R. L. § 4086. 1869, No. 44, § 1. 32 Vt. 491. 50 Vt. 483. 53 Vt. 37. 53 Vt. 560. 58 Vt. 457. 64 Vt. 466. 70 Vt. 247. 72 Vt. 381. 73 Vt. 149. 85 Vt. 115. 96 Vt. 85.

8241. Determination of degree. The jury by whom a person is tried for murder, if it finds such person guilty thereof, shall state in its verdict whether it is murder in the first or in the second degree. If such person is convicted on confession in open court, the court, by examination of witnesses, shall determine the degree of the crime and give sentence accordingly.

P. L. § 8375. G. L. § 6799. P. S. § 5694. V. S. § 4885. R. L. § 4087. 1869, No. 44, § 1. 73 Vt. 149. 96 Vt. 85.

8242. Penalty. The punishment of murder in the first degree shall be death. The punishment of murder in the second degree shall be imprisonment in the state prison for life.

P. L. § 8376. 1933, No. 157, § 8019. G. L. § 6800. 1912, No. 228. 1910, No. 225. P. S. § 5695. V. S. § 4886. R. L. § 4088. 1869, No. 44, § 2. G. S. 112, § 1. R. S. 94, § 1. 1818, p. 4. R. 1797, p. 156, § 3. R. 1787, p. 68. 86 Vt. 71.

8243. Penalty for manslaughter. A person who commits manslaughter shall be imprisoned in the state prison for life or for not less than one year or fined not more than \$1,000.00.

P. L. § 8377. G. L. § 6801. P. S. § 5696. 1900, No. 99, § 1. V. S. § 4887. R. L. § 4089. G. S. 112, § 15. R. S. 94, § 11. 1818, p. 6. R. 1797, p. 158, § 8. R. 1787, p. 68. 24 Vt. 127. 35 Vt. 378.

8244. Trial for murder; conviction of manslaughter. If, in the opinion of the jury, the evidence is not sufficient to convict of murder a person arraigned and put upon trial for that offense, the jury may convict him of manslaughter, if, in its opinion, the evidence is sufficient to prove that offense.

1947, No. 202, § 8398. P. L. § 8378. G. L. § 6802. P. S. § 5697. V. S. § 4888. R. L. § 4090. 1880, No. 18, § 2. G. S. 120, § 12. R. S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41. 85 Vt. 115.

8245. Person killing or wounding another, when guiltless. If a person kills or wounds another under any of the circumstances enumerated below, he shall be guiltless:

I. In the just and necessary defense of his own life or the life of his or her husband, wife, parent, child, brother, sister, master, mistress, servant, guardian or ward; or

II. In the suppression of a person attempting to commit murder, rape, burglary or robbery, with force or violence; or

III. In the case of a civil officer; or a military officer or private soldier when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or to assist in serving legal process, in suppressing opposition against him in the just and necessary discharge of his duty.

P. L. § 8379. G. L. § 6803. P. S. § 5698. V. S. § 4889. R. L. § 4091. G. S. 12, § 13. G. S. 112, § 16. R. S. 11, § 13. R. S. 94, § 12. 1818, p. 6. R. 1797, p. 137, § 7. R. 1797, p. 158, § 8. R. 1787, pp. 68, 139.

8246. Poisoning food, drink, medicine or water. A person who mingles poison with food, drink or medicine, with intent to kill or injure another person, or who, with a like intent, wilfully poisons a spring, well or reservoir of water shall be imprisoned in the state prison not more than twenty years.

P. L. § 8382. G. L. § 6806. P. S. § 5701. V. S. § 4892. 1882, No. 83, § 1. R. L. § 4094. G. S. 112, § 20. R. S. 94, § 23.

8247. Attempting to murder by poisoning, drowning, etc. Any person who shall attempt to commit the crime of murder by poisoning, drowning or strangling another person, or by any means not constituting an assault with intent to murder, shall be imprisoned in the state prison not more than ten years and fined not more than \$1,000.00.

1947, No. 202, § 8401. P. L. § 8383. G. L. § 6807. P. S. § 5702. V. S. § 4893. R. L. § 4095. G. S. 112, § 19. R. S. 94, § 15.

8248. False testimony with intent to cause death. A person who wilfully and corruptly bears false testimony with intent to take away the life of a person and

thereby causes the life of such person to be taken, shall suffer the punishment of death. P. L. § 8384. G. L. § 6808. P. S. § 5703. V. S. § 4894. R. L. § 4096. G. S. 112, § 2. R. S. 94, § 2. 1818, p. 4. R. 1797, p. 156, § 4. R. 1787, p. 67. 68 Vt. 262.

Obstructing Railroads.

8249. Manslaughter, when death results. A person who wilfully and maliciously displaces or removes a railroad switch or rail, or injures a railroad track, bridge or fence, or places an obstruction on such railroad track or bridge, or does or causes to be done an act whereby an engine, machine or structure, or any matter or thing appertaining thereto, is stopped, obstructed or damaged, with intent to injure a person or property passing over such railroad, and in consequence thereof a person is killed, shall be guilty of manslaughter. 1947, No. 202, § 8403. P. L. 8385. G. L. § 6819. P. S. § 5714. V. S. § 4905. R. L. § 4107. G. S. 112, § 21. 1849, No. 41, § 36.

8250. Injuring or endangering traveler's person or property. A person shall not:

I. Wilfully and maliciously displace or remove a railroad switch or rail, or injure a railroad track or railroad bridge, or place an obstruction on such track or bridge; or

II. Unlawfully and maliciously display, hide or remove a signal or light upon or near to a railroad; or

III. By an unlawful act or wilful omission to act, endanger or cause to be endangered, or unlawfully and maliciously do or cause to be done anything, with intent to endanger the safety of persons traveling or being upon such railroad. P. L. § 8386. G. L. § 6820. P. S. § 5715. V. S. § 4906. R. L. § 4108. 1876, No. 24. 1866, No. 51, § 2. G. S. 112, § 20. 1849, No. 41, § 35.

8251. Same; penalties. A person who violates a provision of the preceding section shall be imprisoned in the state prison not more than ten years. If in consequence of such violation a person passing over such railroad suffers bodily harm, or property is injured, the time of imprisonment may be lengthened, provided it does not exceed in all twenty years, except in the case provided in section 8249. P. L. § 8386. G. L. § 6820. P. S. § 5715. V. S. § 4906. R. L. § 4108. 1876, No. 24. 1866, No. 51, § 2. G. S. 112, § 20. 1849, No. 41, § 35.

8252. Throwing missiles at train. A person who unlawfully and maliciously throws or causes anything to be thrown or to fall into or upon, or to strike against a railroad train or an engine, tender, car or truck, with intent to injure or endanger the safety of any person on such train or on such engine, tender, car or truck, shall be punished as provided in the preceding section. P. L. § 8387. G. L. § 6821. P. S. § 5716. V. S. § 4907. R. L. § 4109. 1866, No. 51, § 1.

Rape.

8253. By person over sixteen. A person over the age of sixteen years who ravishes and carnally knows a female person of the age of sixteen years or more, by force and against her will, or unlawfully and carnally knows a female person under sixteen years of age, with or without her consent, shall be imprisoned in the state prison not more than twenty years or fined not more than \$2,000.00, or both. P. L. § 8388. G. L. § 6822. P. S. § 5717. 1898, No. 118, § 1. V. S. § 4908. 1886, No. 63, § 1. R. L. § 4110. G. S. 112, § 28. 1849, No. 7, § 1. R. S. 94, § 21. 1818, p. 7. R. 1797, p. 159, §§ 10, 11. 1791, p. 22. 47 Vt. 82. 63 Vt. 673. 68 Vt. 540. 69 Vt. 428. 77 Vt. 10. 77 Vt. 166. 78 Vt. 124. 78 Vt. 157. 109 Vt. 73.

8254. By person under sixteen. If a person under the age of sixteen years unlawfully and carnally knows a female person under the age of sixteen years with her consent, both persons shall be guilty of a misdemeanor, and may be committed to the Weeks school. A person under the age of sixteen years who unlawfully and

carnally knows any female person by force and against her will shall be punished as provided in the preceding section. P. L. § 8389. G. L. § 6823. P. S. § 5718. 1898, No. 118, § 2. V. S. § 4909. 1886, No. 63, § 2. 63 Vt. 673.

Maiming and Assaults with Intent to Kill or Maim.

8255. Maiming. Any person with malicious intent to maim or disfigure, who shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut, slit or mutilate the nose or lip, or cut or disable a limb or member of another person, and any person privy to such intent who shall be present aiding in the commission of such offense shall be imprisoned in the state prison for life or for not less than seven years. 1947, No. 202, § 8409. P. L. § 8390. G. L. § 6824. P. S. § 5719. V. S. § 4910. R. L. § 4111. G. S. 112, § 17. R. S. 94, § 13. 1818, p. 6. R. 1797, p. 158, § 9. R. 1787, p. 67. 110 Vt. 1.

8256. Assault with intent to kill or maim. Any person who shall assault another with intent to kill, or with intent to maim or disfigure his person in any of the ways mentioned in the preceding section, shall be imprisoned in the state prison not more than ten years and fined not more than \$1,000.00. 1947, No. 202, § 8410. P. L. § 8391. G. L. § 6825. P. S. § 5720. V. S. § 4911. R. L. § 4118. G. S. 112, § 18. R. S. 94, § 14. 40 Vt. 603. 41 Vt. 564. 70 Vt. 1. 89 Vt. 490.

Kidnapping.

8257. What constitutes; penalty. A person who, without legal authority, forcibly or secretly confines or imprisons another person within this state against his will, or forcibly carries or sends such person out of the state, or forcibly seizes or confines or inveigles or kidnaps another person with intent to cause him to be secretly confined or imprisoned in this state against his will, or to cause him to be sent out of this state against his will, or in any way held to service against his will, shall be imprisoned in the state prison not more than twenty-five years or fined not more than \$10,000.00, or both. P. L. § 8392. 1933, No. 147. G. L. § 6826. P. S. § 5721. R. 1906, § 5580. 1904, No. 149, §§ 1, 2. V. S. § 4912. R. L. § 4112. G. S. 112, § 31. R. S. 94, § 24. 1814, p. 138. 1806, p. 157. 84 Vt. 154.

8258. Same; child under sixteen; penalty. A person who commits an offense described in the preceding section upon a person under the age of sixteen years, with or without the consent of such person, shall be imprisoned in the state prison not more than thirty years or fined not more than \$10,000.00, or both. P. L. § 8393. 1933, No. 147. G. L. § 6826. P. S. § 5721. R. 1906, § 5580. 1904, No. 149, §§ 1, 2. V. S. § 4912. R. L. § 4112. G. S. 112, § 31. R. S. 94, § 24. 1814, p. 138. 1806, p. 157. 84 Vt. 154.

8259. Same; extortion; penalty. A person who commits an offense described in section 8257 with intent to extort money or other valuable thing shall suffer the punishment of death or be imprisoned in the state prison for life. P. L. § 8394. 1933, No. 147. G. L. § 6826. P. S. § 5721. R. 1906, § 5580. 1904, No. 149, §§ 1, 2. V. S. § 4912. R. L. § 4112. G. S. 112, § 31. R. S. 94, § 24. 1814, p. 138. 1806, p. 157. 84 Vt. 154.

Cruelty to Persons.

8260. Abandonment or exposure of child. A person who abandons or exposes a child under the age of two years, whereby the life or health of such child is endangered, shall be imprisoned in the state prison not more than ten years or fined not more than \$1,000.00, or both. P. L. § 8395. G. L. § 6827. P. S. § 5722. 1896, No. 54, § 1.

8261. Cruelty to children under ten by one over sixteen. A person over the age of sixteen years, having the custody, charge or care of a child under ten years of age, who wilfully assaults, ill treats, neglects or abandons or exposes

such child, or causes or procures such child to be assaulted, illtreated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his health, shall be imprisoned in the state prison not more than two years or fined not more than \$500.00, or both.

8262. By person having custody. A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned in the state prison not more than one year or fined not more than \$200.00, or both.

8263. To person of unsound mind. A person who wilfully and maliciously teases, plagues, annoys, angers, irritates, maltreats, worries or excites another of unsound or feeble mind shall be imprisoned not more than one year or fined not more than \$100.00 nor less than \$5.00, or both.

8264. Same; justice jurisdiction. Justices shall have concurrent jurisdiction with county and municipal courts of offenses under the preceding section to the extent of fining the respondent \$50.00 or sentencing him to imprisonment in the county jail for not more than three months or both.

Assaults.

8265. With robbery, by one armed. A person who assaults another and feloniously robs, steals and takes from his person money or other property, the subject of larceny, being armed with a dangerous weapon, with intent if resisted to kill or maim the person robbed, shall be imprisoned in the state prison not more than twenty years and fined not more than \$1,000.00.

8266. With robbery, by one not armed. A person who, not being armed with a dangerous weapon, by force or by assault and putting in fear, feloniously robs, steals and takes from the person of another, money or other property, the subject of larceny, shall be imprisoned in the state prison not more than ten years nor less than three years.

8267. With intent to rob by one armed. A person who, armed with a dangerous weapon, assaults another with intent to rob shall be imprisoned in the state prison not more than ten years nor less than three years.

8268. With intent to kill by one armed. A person who, armed with a dangerous weapon, assaults another with intent to kill or murder shall be imprisoned in the state prison not more than thirty years.

8269. With intent to rob, by one not armed. A person who, not being armed with a dangerous weapon, shall assault another with force and with intent

to steal or rob shall be imprisoned in the state prison not more than seven years nor less than two years.

8270. With intent to commit rape. A person who shall assault a female person with intent to commit rape shall be imprisoned in the state prison not more than ten years or fined not more than \$1,000.00, or both.

Slungshots, Etc. 8271. Use or possession; penalty. A person who uses a slungshot, blackjack, brass knuckles or similar weapon against another person, or attempts so to do, or is found in possession of a slungshot, blackjack, brass knuckles, or similar weapon, with intent so to use it, shall be imprisoned in the state prison not more than five years.

8272. Manufacture, sale, etc.; penalty. A person within the state who manufactures or causes to be manufactured, or sells or gives away or parts with, or offers so to do, or keeps for sale or gift, a slungshot, blackjack, brass knuckles or similar weapon, shall be imprisoned not more than two years or fined not more than \$500.00 nor less than \$200.00.

Threatening. 8273. With intent to extort money. A person who maliciously threatens to accuse another of a crime or offense, or with an injury to his person or property, with intent to extort money or other pecuniary advantage, or with intent to compel the person so threatened to do an act against his will, shall be imprisoned in the state prison not more than two years or fined not more than \$500.00.

Carrying Weapons. 8274. Weapons, penalty. A person who carries a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, or who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the approval of the warden or superintendent of the institution, shall be imprisoned not more than two years or fined not more than \$200.00, or both.

8275. By children at school. A person who, while a member of and in attendance upon a school, carries or has in his possession a firearm, dirk knife, bowie knife, dagger or other dangerous or deadly weapon, shall be fined not more than \$20.00.

8276. While committing a crime. A person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony or while committing an offense under section 6212, or while committing the crime of smuggling of an alien as defined by the laws of the United States, shall be imprisoned not less than three months nor more than two years.

Record of Firearm Sales.

8277. Records of sales. All pawnbrokers and retail merchants dealing in firearms shall keep a record book in which they shall record the sale by them of all revolvers and pistols, and the purchase by them of all secondhand revolvers and pistols. Such record shall include the date of the transaction, the marks of identification of the firearm, including the manufacturer's name, the caliber, model and manufacturer's number of the firearm, the name, address, birthplace, occupation, age, height, weight and color of eyes and hair of the purchaser or seller. Such purchaser or seller shall sign his name to the record and the pawnbroker or merchant shall preserve such record book for six years after the date of last entry and shall permit all enforcement officers to inspect the same at all reasonable times. A person, partnership or corporation who violates a provision of this section shall be fined not more than \$100.00. 1947, No. 202, § 8430. 1939, No. 222, § 1.

Firearms.

8278. Furnishing firearms to minors, penalty. A person, firm or corporation, other than a parent or guardian, who sells or furnishes to a minor under the age of sixteen years a firearm or other dangerous weapon or ammunition for firearms shall be fined not more than \$50.00 nor less than \$10.00. This section shall not apply to an instructor or teacher who furnishes firearms to pupils for instruction and drill. 1947, No. 161, § 1. P. L. § 8412. G. L. § 6843. 1912, No. 229, § 1. P. S. § 5738. 1904, No. 152, §§ 1, 2. 1896, No. 111, § 1.

8279. Possession by child under sixteen. A child under the age of sixteen years shall not, without the consent of his parent or guardian, have in his possession or control a pistol or revolver constructed or designed for the use of gunpowder or other explosive substance with leaden ball or shot. A child who violates a provision of this section shall be deemed a delinquent child under the provisions of chapter 417. P. L. § 8413. G. L. § 6844. 1917, No. 254, § 6662. 1912, No. 229, § 2. P. S. § 5739. R. 1906, § 5598. 1896, No. 111, § 2.

8280. Negligent use of gun. A person who carelessly or negligently wounds another person by gun shot shall be imprisoned in the house of correction not more than five years or fined not more than \$1,000.00, or both. P. L. § 8414. 1931, No. 164, § 1. 108 Vt. 60. 110 Vt. 173.

Gun Silencers.

8281. Manufacture, sale and use; penalty. A person who manufactures, sells or uses or possesses with intent to sell or use, an appliance known as or used for a gun silencer shall be fined \$25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers for military purposes when so used or possessed under proper military authority and restriction. P. L. § 8415. G. L. § 6845. 1912, No. 237.

Pointing Firearms.

8282. Aiming gun at another. Any person who shall intentionally point or aim any gun, pistol or other firearm at or towards another, except in self-defense or in the lawful discharge of official duty, shall be punished by fine not exceeding \$50.00. Any person who shall discharge any such firearm so intentionally aimed or pointed shall be punished by imprisonment for not more than one year or fined not more than \$100.00, or both. 1947, No. 202, § 8435. P. L. §§ 8416, 8418. G. L. §§ 6846, 6848. P. S. §§ 5740, 5742. V. S. §§ 4924, 4926. R. L. §§ 4122, 4124. 1872, No. 30, §§ 1, 2, 5. 75 Vt. 295. 110 Vt. 173.

CHAPTER 361.

ARSON AND BURNING.

8283. Causing death. A person who wilfully and maliciously burns the building of another, or wilfully and maliciously sets fire to a building owned in whole or in part by himself, by means of which the life of a person is lost, shall suffer the punishment of death. P. L. § 8419. G. L. § 6849. P. S. § 5743. V. S. § 4927. R. L. § 4125. G. S. 113, § 1. R. S. 95, § 1. 1818, p. 5.

8284. First degree arson. A person who wilfully and maliciously sets fire to or burns or causes to be burned, or who wilfully and maliciously aids, counsels or procures the burning of any dwelling house, whether occupied, unoccupied or vacant, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging, or adjoining thereto, whether the property of himself or of another, shall be guilty of arson in the first degree, and shall be imprisoned in the state prison not more than ten years nor less than two years or fined not more than \$2,000.00. 1947, No. 202, § 8437. 1935, No. 202, § 1. 110 Vt. 453.

8285. Second degree arson. A person who wilfully and maliciously sets fire to or burns or causes to be burned, or who wilfully and maliciously aids, counsels or procures the burning of any building or structure of whatsoever class or character, whether the property of himself or of another, not included or described in the preceding section, shall be guilty of arson in the second degree, and shall be imprisoned in the state prison not more than five years nor less than one year or fined not more than \$1,000.00. 1947, No. 202, § 8438. 1935, No. 202, § 2.

8286. Third degree arson. A person who wilfully and maliciously sets fire to or burns or causes to be burned, or who wilfully and maliciously aids, counsels or procures the burning of any personal property of whatsoever class or character, not less than \$25.00 in value and the property of another person, shall be guilty of arson in the third degree, and shall be imprisoned in the state prison not more than three years nor less than one year, or fined not more than \$500.00. 1947, No. 202, § 8439. 1935, No. 202, § 3.

8287. Fourth degree arson. A person who wilfully and maliciously attempts to set fire to or wilfully and maliciously attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in the three preceding sections, or who wilfully and maliciously commits any act preliminary thereto, or in furtherance thereof, shall be guilty of arson in the fourth degree, and shall be imprisoned in the state prison not more than two years nor less than one year or fined not more than \$500.00. 1947, No. 202, § 8440. 1935, No. 202, § 4.

8288. Attempts. The placing or distributing of any inflammable, explosive or combustible material or substance, or any device, in any building or property mentioned in the four preceding sections in any arrangement or preparation with intent wilfully and maliciously to set fire to or burn the same, or to procure the setting fire to or burning of the same shall, for the purposes of this chapter, constitute an attempt to burn such building or property. 1935, No. 202, § 5.

8289. Setting fire with intent to injure insurer. A person who wilfully and with intent to injure or defraud the insurer sets fire to or burns or attempts so to do or who wilfully and maliciously causes to be burned or who wilfully and maliciously aids, counsels or procures the burning of any building, structure or personal property, of whatsoever class or character, whether the property of himself or of another, which shall at the time be insured by any person, company or corporation

petration of an act of cruelty upon an animal in his presence. A person who interferes with or obstructs such officer, agent or member of such society in the discharge of his duty shall be fined not more than \$50.00. P. L. § 8512. 1933, No. 157, § 8160. G. L. § 6931. 1917, No. 237, § 1.

8373. Same; powers of officers and agents. Whenever an animal is found abandoned or otherwise not properly cared for, an officer or agent of such society may call two reputable citizens to examine it in his presence, and if in their judgment such animal is glandered or otherwise afflicted with an infectious or incurable disease and is a menace to the public health, or is permanently unfit for work or injured or starved past recovery, such officer or agent may notify the owner or person in charge of such animal, if known, and demand that it be at once killed. If such animal is not killed by its owner or person having it in charge within six hours after such notice, or if a person adjudged suitable by such officer or agent, and such citizens, does not appear within six hours to take charge of such animal, such officer or agent may, in the presence of a witness, thereupon kill such animal and bury its body.

P. L. § 8513. G. L. § 6932. 1917, No. 237, § 2.

8374. Same; care of mistreated animals; lien. An officer or agent of the Vermont Humane Society or of an incorporated humane society or society for the prevention of cruelty to animals may lawfully take charge of an animal found abandoned, neglected, lame, sick, unfit for the labor it is performing or otherwise cruelly treated and shall thereupon give notice thereof to the owner, if known, or to his agent and may provide suitable care for such animal until the owner or agent shall take charge of the same or until such animal is deemed by such officer or agent to be in suitable condition to be delivered to such owner or agent. The expense of such care and provision shall be a charge against the owner of such animal, collectible by action from such owner by such society, and such society shall have a lien on such animal for all expenses so incurred.

P. L. § 8514. G. L. § 6933. 1917, No. 237, § 3.

8375. Same; power to arrest; penalty for impeding; badge. An officer or agent of the Vermont Humane Society or of an incorporated humane society or society for the prevention of cruelty to animals and such special agents as may be appointed by such society shall have the same power and authority to arrest as an officer authorized to serve criminal process for the purpose of enforcing the laws in relation to cruelty to animals, such power and authority to extend throughout the state. A person who interferes with or obstructs any of such agents in the discharge of their duty shall be guilty of impeding an officer and punished as provided in section 8538, provided that all such officers and agents, when making such arrests, shall declare their authority and exhibit and expose a suitable badge which has been adopted by such society.

P. L. § 8515. G. L. § 6934. 1917, No. 237, § 4.

CHAPTER 367.

TRESPASSES AND MALICIOUS INJURIES.

Removal of Dead Bodies.

8376. Unauthorized. A person who, not being authorized by law, digs up, disinters, removes or carries away a human body, or the remains thereof, interred or entombed in this state, or knowingly aids in such disinterment, removal or carrying away, or is accessory thereto, shall be imprisoned not more than fifteen years nor less than one year or fined not more than \$2,000.00 nor less than \$100.00, or both.

P. L. § 8516. G. L. § 6935. P. S. § 5821. 1904, No. 140, § 6. 1902, No. 114, § 7. 1898, No. 116, § 2. V. S. § 5004. 1884, No. 85, § 4. R. L. § 4194. G. S. 117, § 17. R. S. 99, § 14. 1830, No. 9. 1828, No. 5. 1804, Jan., p. 58. 1 Vt. 331.

8377. Search warrants. Upon the complaint and oath of a person made to him in writing that the remains of a dead person have been disinterred and removed and that the complainant has reason to believe that the remains of such dead person are secreted in a dwelling house or other building, a justice of the peace or a municipal judge shall issue a warrant, directed to any sheriff or constable, commanding him to make search in such place for such dead person. The officer serving such process shall not be liable for executing such warrant, whether the body of such dead person is found or not.

P. L. § 8517. G. L. § 6936. 1908, No. 62. P. S. § 5822. V. S. § 5005. R. L. § 4195. G. S. 117, § 18. R. S. 99, § 15. 1832, No. 14.

8378. Subject for dissection. The preceding section shall not prevent a surgeon or physician from having in his possession a dead human subject for anatomical investigation and instruction of students, if such subject was obtained without violating the law of the state.

P. L. § 8518. G. L. § 6937. P. S. § 5823. V. S. § 5006. R. L. § 4196. G. S. 117, § 19. 1853, No. 28, § 1.

8379. Injury to burial grounds and historical tablets. A person shall not wilfully and without right or authority remove, injure or destroy, or procure or cause to be removed, injured or destroyed, a gravestone or monument erected to the memory of a deceased person, or erected and intended for such use, or a tomb, or portion thereof, in which the body of a deceased person is interred, or which is intended for the interment of a deceased person, or a monument, tablet or marker erected for the commemoration of some historical event or place by a historical or patriotic association or society on land on which such association or society has a right to erect the same.

P. L. § 8519. 1931, No. 166, § 1. G. L. § 6938. 1915, No. 91, § 3. 1908, No. 62. P. S. §§ 5824, 5828. V. S. §§ 5007, 5011. 1888, No. 119, § 1. R. L. §§ 4192, 4193. 1878, No. 68, §§ 1, 2. 1863, No. 9. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43, 54. 1859, No. 40. 1854, No. 45, § 2. 1853, No. 31, § 2. 73 Vt. 70. 112 Vt. 202.

8380. Same. A person shall not wilfully and maliciously injure a fence or other erection, tree or shrubbery in or about a burial ground, or a road, path or avenue therein, or a lot therein designed for burial, or dig up, displace, take away or break off a root, plant, vine, flower, shrub or tree within a burial ground.

P. L. § 8519. 1931, No. 166, § 1. G. L. § 6938. 1915, No. 91, § 3. 1908, No. 62. P. S. §§ 5824, 5828. V. S. §§ 5007, 5011. 1888, No. 119, § 1. R. L. §§ 4192, 4293. 1878, No. 68, §§ 1, 2. 1863, No. 9. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43, 54. 1859, No. 40. 1854, No. 45, § 2. 1853, No. 31, § 2. 73 Vt. 70. 112 Vt. 202.

8381. Same. A person shall not wilfully and without authority remove or cause to be removed, break down, injure or destroy an ornament, token or emblem used to decorate, mark or distinguish the grave or tomb of a deceased person.

P. L. § 8519. 1931, No. 166, § 1. G. L. § 6938. 1915, No. 91, § 3. 1908, No. 62. P. S. §§ 5824, 5828. V. S. §§ 5007, 5011. 1888, No. 119, § 1. R. L. §§ 4192, 4193. 1878, No. 68, §§ 1, 2. 1863, No. 9. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43, 54. 1859, No. 40. 1854, No. 45, § 2. 1853, No. 31, § 2. 73 Vt. 70. 112 Vt. 202.

8382. Penalty. A person who violates a provision of the three preceding sections shall be imprisoned in the state prison not more than five years or fined not more than \$200.00 nor less than \$10.00.

P. L. § 8519. 1931, No. 166, § 1. G. L. § 6938. 1915, No. 91, § 3. 1908, No. 62. P. S. §§ 5824, 5828. V. S. §§ 5007, 5011. 1888, No. 119, § 1. R. L. §§ 4192, 4193. 1878, No. 68, §§ 1, 2. 1863, No. 9. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43, 54. 1859, No. 40. 1854, No. 45, § 2. 1853, No. 31, § 2. 73 Vt. 70. 112 Vt. 202.

8383. Jurisdiction. Justices and municipal courts shall have concurrent jurisdiction with the county court of offenses arising under the four preceding sections, to the extent of fining the respondent \$20.00, or may bind the offender

over for the trial, but municipal courts may accept a plea of guilty and thereupon shall have the same power to pass sentence as a county court.

P. L. § 8520. 1931, No. 166, § 1. G. L. § 6938. 1915, No. 91, § 3. 1908, No. 62. P. S. §§ 5824, 5828. V. S. §§ 5007, 5011. 1888, No. 119, § 1. R. L. §§ 4192, 4193. 1878, No. 68, §§ 1, 2. 1863, No. 9. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43, 54. 1859, No. 40. 1854, No. 45, § 2. 1853, No. 31, § 2. 73 Vt. 70.

8384. Tort action. A person who violates a provision of sections 8379 to 8382 inclusive, shall be further liable for damages in an action of tort on this statute. Such action may be brought in the name of the owner of the property so injured, or in the name of the town in which such burial ground is situated, or in the name of the commissioners, or association or corporation which holds lawful possession of such burial ground at the time such damage is committed, or, if the property injured is a gravestone or monument erected to the memory of a deceased person or a tomb in which the body of a deceased person is interred, in the name of the surviving heirs or descendants of such deceased person, jointly, or in the name of one or more of them for the benefit of all, or in the name of the historical or patriotic association or society erecting such monument, tablet or marker.

P. L. § 8521. 1931, No. 166, § 2. G. L. § 6939. P. S. § 5825. V. S. § 5008. R. L. § 4193. 1878, No. 68, § 1. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43. 1859, No. 40. 1854, No. 45, § 2. 71 Vt. 78. 73 Vt. 70.

8385. Same; damages, how used. Such damages, when recovered by a town, association, society, corporation, or by commissioners, shall be expended under the direction of the party recovering the same for the benefit of the property injured.

P. L. § 8522. 1931, No. 166, § 2. G. L. § 6939. P. S. § 5825. V. S. § 5008. R. L. § 4193. 1878, No. 68, § 1. 1863, No. 23, § 8. G. S. 18, § 7. G. S. 113, §§ 42, 43. 1859, No. 40. 1854, No. 45, § 2. 71 Vt. 78. 73 Vt. 70.

Injuries to Buildings and Their Appurtenances.

8386. Malicious injuries; tort action. A person who wilfully and maliciously damages a dwelling house or other building, whether occupied or not, or a sign thereon, or a fence or wall, not being his own property, or disfigures the same with paint or otherwise, or defaces the same by writing, printing or painting thereon any obscene word, figures or devices, shall be imprisoned not more than ninety days or fined not more than \$20.00, or both. The offender shall be liable to the owner for the damages sustained, and the same may be recovered in an action of tort on this statute.

1947, No. 202, § 8539. P. L. § 8523. G. L. § 6940. P. S. § 5826. V. S. § 5009. R. L. § 4199. G. S. 113, §§ 48, 52, 53. 1856, No. 43. 1853, No. 31, § 1. 1852, No. 16. 1842, No. 36. R. S. 95, § 25. R. 1797, p. 187, § 1. R. 1797, p. 189, § 3.

8387. Injuring state property; penalty. A person who wilfully or carelessly damages any part of the state house or other public building owned by the state, wherever located, or the appurtenances thereof or anything connected therewith, or who posts bills or notices upon such buildings or on the fences or trees connected therewith, or who wilfully trespasses on the land connected with such buildings not open to the public, shall be fined not more than \$50.00 nor less than \$5.00, if the damage does not exceed \$25.00; but if it exceeds \$25.00, he shall be fined not more than \$1,000.00.

1947, No. 202, § 8540. P. L. § 8524. 1933, No. 157, § 8172. G. L. § 328. 1917, No. 254, § 330. P. S. § 259. R. 1906, § 230. V. S. § 194. R. L. § 133. G. S. 6, § 6. R. S. 6, § 6. 1836, No. 37. 1812, p. 173, § 2.

8388. Without malice. A person who carelessly and without malice injures or defaces any part of a building belonging to a county, town or town school district, or the appurtenances thereof, or any public building, hall or room, by cutting, writing, marking, standing in the windows, or in any other manner, or injures the furniture, fence, yard, posts, grounds, shade trees or shrubbery connected with such building, or fastens a horse or other animal to the fence, posts or trees about the same, or posts bills, placards and notices upon such building or its appurtenances,

or upon the fence or trees belonging thereto, whereby any defacement results, shall be fined not less than \$2.00.

1947, No. 202, § 8541. P. L. § 8525. G. L. § 6941. 1917, No. 254, § 6755. P. S. § 5827. V. S. § 5010. R. L. § 4200. G. S. 113, § 50. 1856, No. 42.

8389. Jurisdiction; concurrent. Justices of the county shall have concurrent jurisdiction with the county court of offenses arising under the three preceding sections, to the extent of fining the respondent \$20.00, or may bind the offender over for trial.

P. L. § 8526. G. L. § 6942. P. S. § 5828. V. S. § 5011. R. L. § 4192. 1878, No. 68, § 2. 1863, No. 9. G. S. 113, § 54. 1853, No. 31, § 2.

Injuries to Vessels, Mills and Bridges.

8390. Vessels. A person who wilfully scuttles, casts away, sinks or otherwise destroys a steamboat or vessel, with intent to injure or defraud the owner thereof, or the owner of property on board the same, or an insurer of such steamboat, vessel or property, or injures or removes the wheels or machinery of a steamboat, shall be imprisoned in the state prison not more than five years and fined not more than \$500.00.

P. L. § 8527. 1919, No. 198, § 1. G. L. §§ 6943, 6944. P. S. §§ 5829, 5830. V. S. §§ 5012, 5013. R. L. §§ 4197, 4198. G. S. 113, §§ 24, 31. R. S. 95, §§ 16, 18. 1834, No. 6.

8391. Mills; dams; bridges. A person who wilfully and maliciously injures, removes or opens a dam, reservoir, gate, or flume or injures or removes the wheels, mill gear, or machinery of a water mill, or injures, removes or destroys a public or toll bridge, shall be imprisoned in the state prison not more than five years or fined not more than \$500.00.

P. L. § 8528. 1919, No. 198, § 1. G. L. § 6944. P. S. § 5830. V. S. § 5013. R. L. § 4198. G. S. 113, § 31. R. S. 95, § 18. 1834, No. 6.

Removal of Packing from Journal Boxes.

8392. Penalty. A person who wilfully and maliciously takes or removes the waste or packing from a journal box of a locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon a railroad shall be imprisoned not more than three years or fined not more than \$500.00.

1947, No. 202, § 8545. P. L. § 8529. G. L. § 6945. P. S. § 5831. 1904, No. 151, § 1.

Injuries Caused by Explosives.

8393. Wilful and malicious. A person who wilfully and maliciously, by the explosion of gunpowder or any other explosive substance, unlawfully destroys or injures a dwelling house, office, shop or other building, or a ship, vessel, or a dam or reservoir for storing water, shall be imprisoned in the state prison not more than twenty years or fined not more than \$1,000.00.

P. L. § 8530. G. L. § 6946. P. S. § 5832. 1900, No. 100, § 1.

8394. Attempts. A person who wilfully and maliciously throws into, against or upon, or puts, places or explodes, or causes to be exploded, in, upon or near a dwelling house, office, shop, building, ship, vessel, or any dam or reservoir for storing water, gun powder or other explosive substance, or a bombshell, torpedo or other instrument filled or loaded with an explosive substance, with intent unlawfully to destroy or injure such dwelling house, office, shop, building, ship, vessel or any dam or reservoir for storing water, or any person or property therein, shall be imprisoned in the state prison not more than ten years or fined not more than \$500.00.

P. L. § 8531. G. L. § 6947. P. S. § 5833. 1900, No. 100, § 2.

saulting, beating or striking another person shall be imprisoned not more than five years or fined not more than \$1,000.00, or both.

P. L. § 8592. G. L. § 6997. P. S. § 5870. 1906, No. 200, § 8. 1898, No. 120, § 1.
V. S. § 5043. R. L. § 4228. G. S. 116, § 1. R. S. 98, § 1. 1826, No. 14, § 1. 1821, p. 12.
R. 1797, p. 187, § 21. 1788, p. 9. 1 Tyl. 180. 11 Vt. 236. 22 Vt. 321. 42 Vt. 542.
47 Vt. 290. 57 Vt. 576. 59 Vt. 548. 64 Vt. 25. 69 Vt. 98. 79 Vt. 521. 80 Vt. 175.
91 Vt. 88. 91 Vt. 507. 97 Vt. 461.

8459. Of a lawful meeting or school. A person who by a disorderly or unlawful act disturbs a town, society or district meeting, or a school, or any meeting lawfully assembled, or by force or menace interrupts the business of such meeting or school, shall be fined not more than \$100.00.

P. L. § 8593. G. L. § 6998. P. S. § 5871. V. S. § 5044. R. L. § 4229. G. S. 116, § 10.
1854, No. 115. R. S. 98, § 10. 1821, p. 10. R. 1797, p. 185, § 19.

8460. Religious meetings. A person who wilfully disturbs or interrupts an assembly of people met together for religious worship or religious instruction by noisy, rude or indecent behavior, or by profane discourse, either within or without the place where such assembly is collected, or violates any prescribed rules or regulations for the government of such meetings shall be fined not more than \$40.00 nor less than \$5.00.

P. L. § 8594. G. L. § 6999. P. S. § 5872. V. S. § 5045. R. L. § 4231. G. S. 93, § 5.
R. S. 82, § 5. 1827, No. 25, § 1. 1819, p. 20. R. 1797, p. 197, § 2. R. 1787, p. 134.

8461. By noise in nighttime; exception. A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns or other unnecessary and offensive noise shall be fined not more than \$50.00. However, this section shall not prevent a person employing workmen, for the purpose of giving notice to his employees, from ringing bells or using whistles or gongs of such size and weight, in such manner, and at such hours as the selectmen of the town, the aldermen of the city or the trustees of the village may prescribe in writing.

P. L. § 8595. G. L. § 7000. P. S. § 5873. V. S. §§ 4699, 5046. 1890, No. 75. R. L. § 4234.
G. S. 116, § 11. 1863, No. 9. 64 Vt. 25.

8462. Jurisdiction. Justices shall have concurrent jurisdiction with county and municipal courts of offenses arising under the four preceding sections, to the extent of fining the respondent \$50.00 or sentencing him to imprisonment in the county jail for a period of not more than three months, or both.

P. L. § 8596. G. L. § 7001. P. S. § 5874. 1906, No. 188, § 1. V. S. § 5048. R. L. § 4235.
1863, No. 9. 57 Vt. 576. 74 Vt. 323. 82 Vt. 37.

8463. Of schools by persons over ten years. A person over ten years of age, not connected with the school, who annoys or disturbs a school by remaining at or near it, or by not departing on request of the teacher, school directors or prudential committee, shall be fined not more than \$20.00.

P. L. § 8597. 1933, No. 157, § 8240. G. L. § 7002. 1915, No. 91, § 1. 1908, No. 62.
P. S. § 5875. V. S. § 5049. R. L. § 4230. 1870, No. 60.

8464. Officers' powers and duties at religious meetings. A justice, municipal judge, sheriff and deputy sheriff of the county, and a constable and grand juror of the town, being present at the disturbance of a religious meeting, without warrant, upon view, may arrest a person so making disturbance, and detain him in custody during the time of such meeting, or until a trial of such offense is had. Such magistrate, sheriff, deputy sheriff, constable and grand juror may command assistance, in the execution of the aforesaid duties, as sheriffs by law may. Persons so commanded, who refuse to obey such command, shall be subject to the same penalties as persons who refuse to assist sheriffs in the discharge of their office and duty.

P. L. § 8598. G. L. § 7003. 1908, No. 62. P. S. § 5876. V. S. § 5050. R. L. § 4232.
G. S. 93, § 6. R. S. 82, § 6. 1827, No. 25, § 1. 1819, p. 21.

8465. Limitation. Prosecutions for disturbing a religious meeting shall be commenced within thirty days after the commission of the offense, and not after.

P. L. § 8599. G. L. § 7004. 1910, No. 91, § 5. P. S. § 5877. V. S. § 5051. R. L. § 4233.
G. S. 93, §§ 8, 9. R. S. 82, §§ 9, 10. 1827, No. 25, § 2. R. 1797, p. 198, § 7. R. 1787, p. 135.

CHAPTER 370.

OFFENSES AGAINST CHASTITY AND MORALITY.

Adultery and Bigamy.

8466. Adultery; penalty. A person who commits adultery shall be imprisoned in the state prison not more than five years or fined not more than \$1,000.00, or both.

P. L. § 8600. G. L. § 7005. P. S. § 5881. V. S. § 5055. R. L. § 4239. G. S. 117, § 1.
R. S. 99, § 1. 1818, p. 11. R. 1797, p. 164, § 21. R. 1787, p. 20. 56 Vt. 516. 65 Vt. 482.
68 Vt. 659. 74 Vt. 223. 75 Vt. 293. 83 Vt. 305. 88 Vt. 464. 92 Vt. 290.

8467. Married man and unmarried woman. A married man and an unmarried woman who commit an act which would be adultery if such woman were married shall each be guilty of adultery.

P. L. § 8601. G. L. § 7006. P. S. § 5882. V. S. § 5056. R. L. § 4240. G. S. 117, § 2.
R. S. 99, § 2. 1818, p. 11. 6 Vt. 311. 56 Vt. 516. 65 Vt. 482. 69 Vt. 403. 75 Vt. 293.
81 Vt. 400. 83 Vt. 305. 88 Vt. 464. 92 Vt. 290. 114 Vt. 238.

8468. Parties found in bed together. A man with another man's wife, or a woman with another woman's husband, found in bed together, under circumstances affording presumption of an illicit intention, shall each be imprisoned in the state prison not more than three years or fined not more than \$1,000.00.

P. L. § 8602. G. L. § 7007. P. S. § 5883. V. S. § 5057. R. L. § 4241. G. S. 117, § 3.
R. S. 99, § 3. 1826, No. 12. 1818, p. 11. R. 1797, p. 166, § 24. R. 1778, p. 20. 6 Vt. 311.
12 Vt. 396. 60 Vt. 90. 65 Vt. 482. 107 Vt. 354. 107 Vt. 358. 108 Vt. 299.

8469. Parties to divorce or annulled marriage. A man and woman who are divorced, or whose marriage is declared void, who cohabit or have connection as husband and wife, while such divorce or decree annulling such marriage remains in force, shall each be fined not more than \$500.00.

P. L. § 8603. G. L. § 7008. P. S. § 5884. V. S. § 5058. R. L. § 4242. G. S. 117, § 4.
R. S. 99, § 4. 1818, p. 11. R. 1797, p. 164, § 22. R. 1787, p. 21.

8470. Bigamy. A person having a husband or wife living who marries another person, or continues to cohabit with such second husband or wife in this state, shall be imprisoned in the state prison not more than five years. This section shall not extend to a person whose husband or wife has been continually beyond the sea, or out of the state for seven consecutive years, the party marrying again not knowing the other to be living within that time; or to a person whose former marriage has been avoided by divorce or sentence of nullity, or was contracted under the age of consent and not afterwards assented to.

P. L. § 8604. G. L. § 7009. P. S. § 5885. V. S. § 5059. R. L. § 4243. G. S. 117, §§ 5, 6.
R. S. 99, §§ 5, 6. 1818, p. 12. R. 1797, p. 165, § 23. R. 1787, p. 21. 29 Vt. 60. 75 Vt. 163.
79 Vt. 69.

8471. Proofs of respondent's marriage. In prosecutions for crimes and penalties where it is necessary to prove the fact of the marriage of the respondent, acts of cohabitation by the respondent with the supposed husband or wife, and other acts, admissions and declarations of the respondent tending to prove such marriage shall be admitted in evidence as competent testimony.

P. L. § 8605. G. L. § 7010. P. S. § 5886. V. S. § 5060. R. L. § 4244. G. S. 117, § 7.
1856, No. 12. 68 Vt. 414.

8472. Alleging marriage in prosecution for bigamy. In prosecutions for bigamy it shall be sufficient to allege in the information or indictment that, at the time of the second marriage, the respondent had a wife or husband living, without specifying the time or place of the former marriage or the name of the former husband or wife.

P. L. § 8606. G. L. § 7011. P. S. § 5887. V. S. § 5061. R. L. § 4245. G. S. 117, § 8.
1858, No. 16. 68 Vt. 414.

8473. Marriage within prohibited degree. Persons between whom marriages are prohibited by the laws of this state who intermarry or commit fornication with each other shall be punished as in case of adultery.

P. L. § 8607. G. L. § 7012. P. S. § 5888. V. S. § 5062. R. L. § 4246. G. S. 117, § 9. R. S. 99, § 7. 1818, p. 13. R. 1797, p. 166, § 25. R. 1787, p. 94. 59 Vt. 527. 59 Vt. 614. 82 Vt. 556.

Abortion. A person who wilfully administers, advises or causes to be administered anything to a woman pregnant, or supposed by such person to be pregnant, or employs or causes to be employed any means with intent to procure the miscarriage of such woman, or assists or counsels therein, unless the same is necessary to preserve her life, if the woman dies in consequence thereof, shall be imprisoned in the state prison not more than twenty years nor less than five years. If the woman does not die in consequence thereof, such person shall be imprisoned in the state prison not more than ten years nor less than three years. However, the woman whose miscarriage is caused or attempted shall not be liable to the penalties prescribed by this section.

8474. Penalty; exception. A person who wilfully administers, advises or causes to be administered anything to a woman pregnant, or supposed by such person to be pregnant, or employs or causes to be employed any means with intent to procure the miscarriage of such woman, or assists or counsels therein, unless the same is necessary to preserve her life, if the woman dies in consequence thereof, shall be imprisoned in the state prison not more than twenty years nor less than five years. If the woman does not die in consequence thereof, such person shall be imprisoned in the state prison not more than ten years nor less than three years. However, the woman whose miscarriage is caused or attempted shall not be liable to the penalties prescribed by this section.

P. L. § 8608. G. L. § 7013. P. S. § 5889. V. S. § 5063. R. L. § 4247. 1867, No. 57, § 1. G. S. 117, § 10. 1846, No. 33. 32 Vt. 380. 54 Vt. 179. 68 Vt. 529. 80 Vt. 422. 95 Vt. 508. 106 Vt. 126. 107 Vt. 487.

8475. Dying declarations. In all prosecutions under the provisions of the preceding section, the dying declaration of the woman whose death is produced by any of the means set forth in such section may be admitted in evidence subject to the same restrictions as in cases of homicide.

1935, No. 203, § 1.

8476. Same; indictment; conviction. A person who is indicted for the murder of an infant child, or of a woman pregnant or supposed by such person to be pregnant, may be charged in the same indictment with the offenses under the second preceding section, and may be found guilty of any charge in the indictment sustained by the proof, and judgment and sentence shall be awarded accordingly.

P. L. § 8609. G. L. § 7014. P. S. § 5890. V. S. § 5064. R. L. § 4248. 1867, No. 57, § 2.

8477. Advertising or dealing in anything to cause miscarriage. A person who knowingly causes to be made public by print, writing, words or language that give any information where anything, or any advice or information, may be obtained for the purpose of causing or procuring the miscarriage of a pregnant woman, shall be imprisoned in the state prison not more than ten years nor less than three years. A person who sells or gives away anything for the purpose of producing such miscarriage shall be imprisoned in the state prison not more than three years nor less than one year and fined not more than \$500.00 nor less than \$200.00.

P. L. § 8610. G. L. § 7015. P. S. § 5891. V. S. § 5065. R. L. § 4249. 1867, No. 57, § 3. 66 Vt. 434.

Lewdness and Prostitution.

8478. Penalty. A person guilty of open and gross lewdness and lascivious behavior shall be imprisoned not more than five years or fined not more than \$300.00.

1947, No. 202, § 8632. P. L. § 8611. G. L. § 7016. P. S. § 5892. V. S. § 5066. 1888, No. 138, § 1. R. L. § 4250. G. S. 117, § 11. R. S. 99, § 8. 18 Vt. 574. 68 Vt. 243. 97 Vt. 219.

8479. Lewdness, penalty. A person who shall wilfully and lewdly commit any lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of such person or of such child, shall be imprisoned in the state prison not less than one year nor more than five years.

1937, No. 211, § 1.

8480. Same. A person participating in the act of copulating the mouth of one person with the sexual organ of another shall be imprisoned in the state prison not less than one year nor more than five years.

1937, No. 211, § 2.

8481. Disorderly house or house of ill fame. A person who keeps a disorderly house, or a house of ill fame, resorted to for the purpose of prostitution and lewdness, whether the same is occupied or frequented by one or more females, shall be imprisoned not more than four years or fined not more than \$300.00.

P. L. § 8612. G. L. § 7017. 1917, No. 239. P. S. § 5893. V. S. § 5067. 1884, No. 95, § 1. R. L. § 4251. G. S. 117, § 12. R. S. 99, § 9. 1834, No. 7. 18 Vt. 70. 67 Vt. 454. 91 Vt. 290.

8482. Definitions. The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire and shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. The term "lewdness" shall be construed to mean open and gross lewdness. The term "assignation" shall be construed to include the making of an appointment or engagement for prostitution or lewdness as defined in this section.

P. L. § 8613. 1919, No. 199, § 2. 100 Vt. 373.

8483. Unlawful acts. A person shall not:

I. Occupy a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

II. Knowingly permit a place, structure, building or conveyance owned by him or under his control to be used for the purpose of prostitution, lewdness or assignation;

III. Receive or offer, or agree to receive, a person into a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

IV. Permit a person to remain in a place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

V. Direct, take or transport or offer or agree to take or transport a person to a place, structure, building or conveyance or to any other person knowingly, or with reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;

VI. Procure or solicit or offer to procure or solicit a female person for the purpose of prostitution, lewdness or assignation;

VII. Reside in, enter or remain in a place, structure or building or enter or remain in a conveyance for the purpose of prostitution, lewdness or assignation;

VIII. Engage in prostitution, lewdness or assignation; or

IX. Aid or abet prostitution, lewdness or assignation, by any means whatsoever.

P. L. § 8614. 1919, No. 199, § 1.

8484. Penalty. A person who violates a provision of the preceding section shall be fined not more than \$100.00 or may be imprisoned not more than one year. For a second offense such person shall be imprisoned for not more than three years.

1947, No. 202, § 8638. P. L. § 8615. 1919, No. 199, § 1.

8485. Terms of probation. Probation or parole shall be granted or ordered in the case of a person infected with a venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread of such disease.

P. L. § 8616. 1919, No. 199, § 3.

8486. Females; probation. A female person convicted under the provisions of section 8483 shall not be placed on probation or parole in the care or charge of a person other than a woman probation officer.
P. L. § 8617. 1919, No. 199, § 4.

White Slavery.

8487. White slave traffic. A person shall not:
I. Induce, entice or procure a female person to come into the state or to go from the state for the purpose of prostitution or for any immoral purpose or to enter a house of prostitution in the state;

II. Wilfully or knowingly aid such female in obtaining transportation to or within the state for such purposes;

III. Place a female person in the charge or custody of another person for immoral purposes or in a house of prostitution;

IV. Induce, entice, procure or compel such female to reside in a house of prostitution; or

V. Induce, entice, procure or compel such female to live a life of prostitution.

A person violating a provision hereof shall be imprisoned in the state prison not more than ten years nor less than one year or fined not more than \$2,000.00 nor less than \$200.00, or both.

P. L. § 8618. G. L. § 7018. 1910, No. 228, § 1. 114 Vt. 285.

8488. Same. A person shall not:

I. Induce, entice, procure or compel a female person, for the purpose of prostitution or for any other immoral purpose, to enter a house of prostitution;

II. Receive money or other valuable consideration for or on account of placing a female person in a house of prostitution for the purpose of causing her to cohabit with a male person to whom she is not married;

III. Pay money or other valuable consideration to procure a female person for the purpose of placing her for immoral purposes in a house of prostitution, with or without her consent; or

IV. Knowingly receive money or other valuable thing for or on account of procuring or placing a female person in a house of prostitution for immoral purposes, with or without her consent.

A person violating a provision hereof shall be punished as provided in the preceding section.

P. L. § 8619. G. L. § 7019. 1910, No. 228, § 2.

8489. Same. A person shall not:

I. Hold, detain or restrain a female person in a house of prostitution for the purpose of compelling such female, directly or indirectly, by her voluntary or involuntary service or labor, to pay, liquidate, or cancel a debt, dues or obligations incurred or claimed to have been incurred in such house of prostitution; or

II. Accept, receive, levy or appropriate money or other valuable thing from the proceeds or earnings of a female person engaged in prostitution.

An acceptance, receipt, levy or appropriation of such money or valuable thing shall be presumptive evidence of lack of consideration. A person who violates a provision of this section shall be punished as provided in section 8487.

P. L. § 8620. G. L. § 7020. 1917, No. 254, § 6836. 1910, No. 228, § 3.

Obscene Books, Pictures and Shows.

8490. Books and pictures. A person who imports, prints, publishes, sells, lends, circulates, distributes, exhibits or introduces into a family or place of educa-

tion a book, print, picture or other thing which is obscene, lewd or indecent, or which contains obscene, lewd, or indecent language, prints, pictures, figures or descriptions, or which manifestly tends to the corruption of the morals of youth, or who buys, procures or has in his possession any such book, print, picture or other thing, with intent to sell, lend, circulate, distribute or exhibit the same, or to introduce it into a family or place of education, shall be imprisoned not more than one year or fined not more than \$200.00.

P. L. § 8621. G. L. § 7021. P. S. § 5894. 1896, No. 110, § 1. V. S. § 5068. R. L. § 4252.
G. S. 117, § 13. R. S. 99, § 10. 1821, p. 13. 27 Vt. 619.

8491. Posters and shows. A person who posts or publicly exhibits a picture, figure, print, description or language which is obscene, lewd, indecent or which manifestly tends to the corruption of the morals of youth, or who as owner, manager, director, agent or in any other capacity prepares, advertises, gives, presents or participates in an obscene, lewd, indecent, immoral show or entertainment, or a show or entertainment manifestly tending to corrupt the morals of youth, shall be imprisoned not more than three months or fined not more than \$200.00.

P. L. § 8622. G. L. § 7022. P. S. § 5895. 1896, No. 110, § 2. V. S. § 5069. 1892, No. 88, § 1.

8492. Same; moving pictures. A person who exhibits to the public moving pictures which are obscene or immoral shall be imprisoned not more than three months or fined not more than \$200.00, or both.

P. L. § 8623. 1933, No. 157, § 8266. G. L. § 7023. 1917, No. 240.

Blasphemy and Profanity.

8493. Blasphemy. A person who publicly denies the being and existence of God, or of the Supreme Being, or contumeliously reproaches His providence and government shall be fined not more than \$200.00.

P. L. § 8624. G. L. § 7024. P. S. § 5896. V. S. § 5070. R. L. § 4253. G. S. 117, § 14.
R. S. 99, § 11. 1818, p. 11. R. 1797, p. 163, § 20. R. 1787, p. 68.

Defaming a Court.

8494. Penalty. A person who defames a court of justice, or a sentence or proceeding thereof, or defames the magistrate, judge or justice of such court, as to an act or sentence therein passed, shall be fined not more than \$200.00.

P. L. § 8626. G. L. § 7026. P. S. § 5898. V. S. § 5072. R. L. § 4255. G. S. 117, § 15.
R. S. 99, § 12. 1818, p. 14. R. 1797, p. 166, § 26. R. 1787, p. 46. 74 Vt. 12. 82 Vt. 382.

CHAPTER 371.

OFFENSES AGAINST PUBLIC HEALTH.

8495. Spitting on sidewalks or in public buildings; notices. A person who expectorates or spits on a public sidewalk or in a public building except in receptacles provided for that purpose shall be fined not more than \$10.00 for each offense. A suitable notice containing a copy of this section shall be posted in all public buildings.

P. L. § 8627. G. L. § 7027. 1910, No. 229, § 1. P. S. § 5899. 1906, No. 187, §§ 1, 2.

8496. Spitting in cars, stations and waiting rooms; notices. A person who expectorates or spits upon the floor, platform or interior furnishings, except cuspidors, of a steam railroad, passenger or street railway car or upon the floor, furnishings, registers or radiators of a passenger station or public waiting room, shall be fined not more than \$10.00. However, there shall be no prosecution unless the provisions of this section are posted in a conspicuous place in such cars, stations or waiting rooms and suitable cuspidors provided except in street railway cars.

P. L. § 8628. G. L. § 7028. 1910, No. 229, § 2. P. S. § 5900. 1902, No. 70, § 1.

8497. Sewage; penalty; jurisdiction. A person shall not discharge sewage or other polluted matter into the waters of a pond or lake having an area of one thousand acres or more lying wholly within the state. A person who violates a provision of this section shall be fined not more than \$200.00 nor less than \$20.00. Justices shall have concurrent jurisdiction with county and municipal courts of offenses arising under this section.
P. L. § 8629. G. L. § 7029. 1908, No. 171.

8498. Sewage disposal in certain bodies of water. A person who deposits or causes to be deposited sewage or other polluted matter in the following bodies of water or tributaries thereof or upon the shores thereof, within thirty feet of the high water mark, shall be imprisoned not more than three months or fined not more than \$50.00, or both, for each offense:

- I. Lake Eden in the town of Eden;
- II. Echo Lake in the town of Charleston;
- III. Lake Elmore in the town of Elmore;
- IV. Lake St. Catherine in the towns of Poultney and Wells;
- V. Metcalf Pond in the town of Fletcher;
- VI. Ryder Brook in the town of Morristown, above the dam authorized by vote of the village of Morrisville, September 17, 1912.

1947, No. 202, § 8652. 1937, No. 212, § 1. P. L. §§ 8630-8634. 1933, No. 157, § 8274. 1933, No. 162, § 1. 1933, No. 164, § 1. 1931, No. 184, § 1. G. L. §§ 7030, 7031. 1915, No. 238. 1912, No. 268.

8499. Dead animal. A person who puts, or causes to be put, a dead animal or animal substance into or upon the bank of a lake, pond, running stream or spring of water so that it is drawn or washed into the same and suffers it to remain therein for a period of forty-eight hours shall be fined not more than \$50.00 nor less than \$5.00.

P. L. § 8635. G. L. § 7032. P. S. § 5462. 1902, No. 113, § 25. V. S. § 4695. R. L. § 3926. G. S. 99, § 11. 1852, No. 50, § 1.

8500. Dead animals left unburied; limitation. A person who, between the months of March and December, puts or causes to be put within five hundred feet of a dwelling house or highway, a dead animal or any animal substance and suffers the same to remain unburied shall be liable to the same penalty as provided in the preceding section if prosecution therefor is commenced within six months after the offense is committed.

P. L. § 8636. G. L. § 7033. P. S. § 5463. R. 1906, § 5330. 1902, No. 113, § 25. V. S. § 4696. R. L. §§ 3927, 3928. G. S. 99, §§ 12, 13, 14. 1860, No. 15. 1853, No. 34, §§ 1, 2. 1852, No. 50, § 1.

8501. Criminal use of anaesthetics. A person who administers, attempts to administer or causes to be administered to a person, chloroform, sulphuric ether or any anaesthetic agent, with intent to commit a crime or offense, or who secretly commits or attempts to commit a crime or offense against a person or the property of one who is rendered insensible or unconscious or incapable of resistance by such anaesthetic agent, shall be imprisoned in the state prison for life or for not less than three years.

P. L. § 8637. G. L. § 7034. P. S. § 5901. V. S. § 5078. R. L. § 4261. G. S. 118, § 6.

8502. Marrying when infected with venereal disease. A person, having been told by a physician that he or she was infected with gonorrhoea or syphilis in a stage which is or may become communicable to a marital partner, or knowing that he or she is so infected, who marries, without assurance and certification from a legally qualified practitioner of medicine and surgery or osteopathy that he or she is free from such disease in a stage which is or may become communicable to the

marital partner shall be imprisoned not less than two years or fined not less than \$500.00, or both.
1947, No. 202, § 8656. 1941, No. 65, § 9. P. L. § 8638. 1919, No. 179, § 2. G. L. § 7035. 1917, No. 238, § 1. 1915, No. 198, § 1.

8503. Sexual intercourse when infected with venereal disease. A person who has sexual intercourse while infected with gonorrhoea or syphilis in a communicable stage shall be imprisoned not more than two years or fined not more than \$500.00.
1943, No. 153, § 1. P. L. § 8639. 1919, No. 179, § 3. G. L. § 7036. 1915, No. 198, § 2.

8504. Distribution of samples of medicine. A person, firm or corporation that distributes or causes to be distributed a free or trial sample of a medicine, drug, chemical or chemical compound, by leaving the same exposed upon the ground, sidewalks, porch, doorway, letter box or in any other manner, that children may become possessed of the same, shall be fined not more than \$300.00 nor less than \$100.00.
P. L. § 8640. G. L. § 7037. P. S. § 5902. 1906, No. 186, § 1. 85 Vt. 99.

8505. Wood or methyl alcohol; sale for medicinal purposes. A person shall not sell, offer or expose for sale or have in his custody, possession or control with intent to distribute or sell any commodity, food, drug, preparation or mixture of any kind whatever intended for internal use, which contains methyl or wood alcohol, or sell, offer or expose for sale or distribution, or have in his custody, possession or control with intent to distribute, sell, furnish, or use upon or apply to the body of another, any drug, hair tonic, bay rum or similar preparation intended for external use, which contains methyl or wood alcohol. Nothing in this section shall apply to veterinary remedies containing methyl or wood alcohol when such remedies are plainly and distinctly labeled in such manner as to indicate that they are intended solely for external use on animals.
P. L. § 8641. G. L. § 7038. 1917, No. 242, § 1.

8506. Same; penalty. A person who violates a provision of the preceding section shall be imprisoned not more than three months or fined not more than \$100.00 nor less than \$5.00.
P. L. § 8642. G. L. § 7039. 1917, No. 242, § 2.

8507. Bread to be wrapped. A person shall not carry or cart about with intent to sell or offer for sale, or deliver to customers after it has been sold, for human food, any kind or quality of bread or cake in loaf form, unless each loaf is wrapped separately in waxed paper, tissue paper or some similar wrapper or a sanitary container of sufficient thickness and quality to protect the bread and cake from dust and dirt. A person who violates a provision of this section shall be fined \$5.00 for each offense.
P. L. § 8643. G. L. § 7040. 1912, No. 236.

8508. Furnishing tobacco to persons under seventeen; penalty. A person who sells or gives away a cigar, snuff or tobacco in any form to a person under seventeen years of age except upon the written order or permission of the minor's parents or guardian shall be fined not more than \$20.00.
1937, No. 213, § 1. P. L. § 8644. G. L. § 7041. P. S. § 5903. R. 1906, § 5759. 1900, No. 102, § 1. V. S. § 5156. 1888, No. 132, §§ 1, 2, 3.

8509. Adulterated tobacco and cigarettes. A person, firm or corporation shall not sell, barter, give away or keep for sale cigarettes, cigars or tobacco, or other commodities intended for smoking, in which there is a mixture or compound of the drug cannabis indica, otherwise known as Indian hemp.
1947, No. 202, § 8663. 1935, No. 204, § 1.

8510. Penalty. A person, firm or corporation violating a provision of the preceding section shall be fined not more than \$100.00, or imprisoned for not more than sixty days, or both.
1947, No. 202, § 8664. 1935, No. 204, § 2.

A person transferred from the house of correction under this section shall forfeit no rights under the law that would have remained to him as an inmate in the house of correction. A sheriff or constable in the state, or an officer of the state prison or house of correction, having a written order from the governor, may so transfer inmates.

1947, No. 202, § 8134. P. L. § 8819. 1925, No. 135. G. L. § 7244. 1908, No. 174. P. S. § 6091. V. S. § 5277. R. L. § 4433. 1880, No. 3, § 10.

7991. Transfer to Weeks school. When it appears to the commissioner of institutions and corrections to be in the best interests of such person and the best interests of the welfare of the state, a person under the age of twenty-one years confined in the house of correction or state prison in execution of a sentence may, on the written order of the governor, be transferred from the house of correction or state prison to the Weeks school to serve the remainder of his original sentence or until such time as the governor may, by written order, return him to the house of correction or state prison.

1947, No. 202, § 8135. 1937, No. 216, § 1.

7992. Terms of imprisonment expiring on Sunday. A person committed to a penal institution in this state, whose term of imprisonment therein expires on Sunday, shall be discharged therefrom the morning of the preceding day.

P. L. § 8820. G. L. § 7245. P. S. § 6092. 1896, No. 116, § 1.

CHAPTER 348.

COUNTY JAILS.

Maintenance.

7993. Jail yard limits. The boundaries of the state are constituted the limits of the jail yard to every jail therein.

P. L. § 8821. G. L. § 7247. P. S. § 6094. V. S. § 5280. R. L. § 4435. G. S. 121, § 21. 1852, No. 7. R. S. 103, § 7. 1813, p. 163. R. 1797, p. 320, § 9. R. 1787, p. 77. 112 Vt. 438.

7994. Examination of jail; report. The grand jury in each county whenever impeached shall examine and present to the county court the condition of the jail; and, if it finds the same insufficient for the safe and comfortable keeping of prisoners, shall report the fact and what repairs are needed.

P. L. § 8822. G. L. § 7248. P. S. § 6095. V. S. § 5281. R. L. § 4436. G. S. 121, § 3. R. S. 103, § 3. R. 1797, p. 317, § 2. 1793, p. 56.

7995. Examination of state institution; order of court; report. Upon order of the court, the grand jury in each county whenever impeached shall examine any state institution located entirely or partly in the county, and present to the county court the condition of such institution; and if it finds the same insufficient for the safe and comfortable keeping of the prisoners or inmates or if inefficient in management, it shall report the facts and its recommendations to the court. Thereupon, the county clerk shall send a certified copy of such report to the governor and to the commissioner of institutions and corrections.

1937, No. 217. P. L. § 8822. G. L. § 7248. P. S. § 6095. V. S. § 5281. R. L. § 4436. G. S. 121, § 3. R. S. 103, § 3. R. 1797, p. 317, § 2. 1793, p. 56.

7996. Jail insufficient; sheriff to repair. When a jail is presented as insufficient, the sheriff, under the advice of one or more of the judges of the county court, shall forthwith make the required repairs.

P. L. 8823. G. L. § 7249. P. S. § 6096. V. S. § 5282. R. L. § 4437. G. S. 121, § 4. R. S. 103, § 4. R. 1797, p. 317, § 2. 1793, p. 56. 27 Vt. 178.

7997. Examination by commissioner. The commissioner of institutions and corrections, or his deputy, at any time, may visit each county jail and there examine into its condition, sanitary or otherwise, and into the treatment of prisoners con-

fined therein. If he finds that such conditions or treatment ought to be corrected, he shall forthwith report the facts to the governor for such action as the latter may direct.

P. L. § 8824. 1933, No. 157, § 8462.

7998. Jail broken, repairs. If a jail is broken, or by other accident out of repair, so as to be insufficient, the sheriff, under the direction of one or more of the judges, shall at once repair the same.

P. L. § 8825. G. L. § 7250. P. S. § 6097. V. S. § 5283. R. L. § 4438. G. S. 121, § 6. R. S. 103, § 6. R. 1797, p. 319, p. 5. 1793, p. 58.

7999. Destroyed or insecure, prisoners removed. When a jail is destroyed by fire or other casualty or becomes insecure, the sheriff may remove the persons confined therein to a jail in an adjoining county.

P. L. § 8826. G. L. § 7251. P. S. § 6098. V. S. § 5284. R. L. § 4439. G. S. 12, § 37. 1851, No. 51, § 1.

8000. Audit of expense of removing and keeping prisoners. The auditor of accounts shall audit the account of the sheriff for necessary expenses in removing and keeping such prisoners and for which other provision is not made by law, and allow so much thereof as he deems just, and designate such allowance against the state.

P. L. § 8827. G. L. § 7252. P. S. § 6099. V. S. § 5285. R. L. § 4440. G. S. 12, § 38. 1851, No. 51, § 2.

8001. Same; payment. The auditor of accounts shall issue his warrant for such allowance against the state, and the county clerk shall draw an order on the county treasurer for the balance against the county.

P. L. § 8828. G. L. § 7253. P. S. § 6100. V. S. § 5286. R. L. § 4441. G. S. 12, § 39. 1851, No. 51, § 3.

Jail Register.

8002. Sheriff to keep; contents. At the expense of the state, the sheriff shall provide the jail in his county with a bound book, suitable for a convenient register, and cause to be entered therein the names of prisoners committed to the jail, their residence, time of commitment, for what cause and by what authority, and a particular description of the persons, giving age, occupation, place of birth, height, color of eyes, color of hair, complexion, with any further description tending to identify the prisoners; and he shall register in such book the time when and the authority by which a prisoner is discharged, and the time and manner of a prisoner's escape.

P. L. § 8829. G. L. § 7254. P. S. § 6101. V. S. § 5287. R. L. § 4442. 1876, No. 11, § 1.

8003. Open to inspection. The jail register, at all proper times, shall be subject to the inspection of the courts and persons interested.

P. L. § 8830. G. L. § 7255. P. S. § 6102. V. S. § 5288. R. L. § 4443. 1876, No. 11, § 2.

8004. Failure to keep; penalty. A sheriff in any county who refuses or neglects for thirty days to provide and keep such register shall be fined not less than \$5.00.

P. L. § 8831. G. L. § 7256. P. S. § 6103. V. S. § 5289. R. L. § 4444. 1876, No. 11, § 3.

Commitments to County Jails.

8005. Term of imprisonment; further committal. Whenever a person over sixteen years of age is convicted of an offense which may be punished by imprisonment in the house of correction, and a sentence of imprisonment is imposed, whether primary or alternative, if the minimum term of the sentence as imposed does not exceed three months, with or without costs, the sentence shall be that the respondent be confined at hard labor for the term of the sentence in the county jail of the county where the offense was committed. If costs are imposed as a part of the sentence, the court shall order that if the same are not paid, including the costs

of detention and commitment, on or before conclusion of the term of imprisonment, the respondent shall be further confined in such county jail at hard labor for as many days as twice the number of dollars included in the bill of costs, such time to be computed from the expiration of the term of imprisonment, and only one mitimus shall be required.

P. L. § 8832. 1933, No. 157, § 8470. 1919, No. 200, § 9. G. L. § 7257. 1917, No. 254, § 7060. 1912, No. 242. 1908, Nos. 177, 179.

Employment of Prisoners.

8006. By sheriff. A male person imprisoned under sentence in a county jail, if physically able to work, may be required by the sheriff of the county to perform not more than ten hours of manual labor, within or without the walls of such county jail, each day of such imprisonment, except on Sundays and legal holidays.

P. L. § 8833. G. L. § 7258. 1915, No. 223, § 1. P. S. § 6104. 1906, No. 200, § 1. 79 Vt. 521. 80 Vt. 175.

8007. Classification of labor; regulations. Such labor to be performed in a county shall be classified and fixed from time to time by the sheriff and shall be subject to such rules and regulations as are made by the sheriff to secure humane treatment of such prisoners and to provide employment for them within or without the walls of such jail; but the rules and regulations in respect to the care of persons employed on the public highways as herein provided shall be subject to the approval of the governor and the attorney general.

P. L. § 8834. 1933, No. 157, § 8472. G. L. § 7259. 1917, No. 243, § 1. 1917, No. 244, § 26. 1917, No. 254, § 7062. 1915, No. 1, § 173. 1915, No. 223, § 2. 1912, No. 244, § 1. 1910, No. 236. P. S. § 6105. 1906, No. 200, §§ 2-5, 8. 80 Vt. 175.

8008. Work on highways. The sheriff may require and compel able-bodied prisoners so confined upon conviction for crime to work in the improvement of the public highways, within a radius of thirty miles from such jail and outside of a city or incorporated village. The state highway commissioner shall designate, subject to the approval of the sheriff, the highways and portions thereof in such county upon which such labor shall be employed and such portion so designated and approved shall be under the control of such commissioner or his assistants during the time such work is in progress and he or his assistants shall direct the manner in which the work shall be done, but the care of such prisoners while so employed shall be under the direction of the sheriff or his deputies or other qualified officers. The sheriff is authorized to expend such sum out of the public moneys in the treasury of the county as is required for the purchase of material and tools adapted to the work provided by this and the preceding section.

P. L. § 8835. 1933, No. 157, § 8473. G. L. § 7259. 1917, No. 243, § 1. 1917, No. 244, § 26. 1917, No. 254, § 7062. 1915, No. 1, § 173. 1915, No. 223, § 2. 1912, No. 244, § 1. 1910, No. 236. P. S. § 6105. 1906, No. 200, §§ 2-5, 8. 80 Vt. 175.

8009. Proceeds of labor. The proceeds of such labor, if any, shall be applied in payment of materials or tools so furnished, and half of any balance left thereafter shall be turned over to the state treasurer and the remaining half thereof shall be paid to the wife and minor children of such prisoner, or to some person designated by the court committing such prisoner, for the use of the wife and minor children, and in case such prisoner has no wife or minor children, such half shall be paid by the jailer to the state probation officer.

P. L. § 8836. 1933, No. 157, § 8474. G. L. § 7259. 1917, No. 243, § 1. 1917, No. 244, § 26. 1917, No. 254, § 7062. 1915, No. 1, § 173. 1915, No. 223, § 2. 1912, No. 244, § 1. 1910, No. 236. P. S. § 6105. 1906, No. 200, §§ 2-5, 8. 80 Vt. 175.

8010. Annual account to auditor. Annually, on or before February 10, the sheriff shall render an account, accompanied by vouchers, to the auditor of ac-

counts to and including January 31 of such year, and pay over any balance in his hands as provided in the preceding section.

P. L. § 8837. 1933, No. 157, § 8475. G. L. § 7259. 1917, No. 243, § 1. 1917, No. 244, § 26. 1917, No. 254, § 7062. 1915, No. 1, § 173. 1915, No. 223, § 2. 1912, No. 244, § 1. 1910, No. 236. P. S. § 6105. 1906, No. 200, §§ 2-5, 8. 80 Vt. 175.

8011. Interfering with prisoner at work; penalty. A person who interferes with or in any way interrupts the work of a person employed under the provisions of section 8006 upon public highways shall be imprisoned not more than one year or fined not more than \$300.00, or both. An officer having in charge persons so employed upon such highways may arrest without a warrant a person found violating a provision of this section.

P. L. § 8838. G. L. § 7260. 1917, No. 254, § 7062a. 1912, No. 244, § 2.

8012. Guards; compensation. The sheriff may employ such deputies or other officers as shall be required for the supervision, safekeeping and good conduct of the prisoners while employed within or without the walls of such county jail, and the compensation of such deputies or officers shall be fixed by the sheriff not to exceed \$2.00 a day.

P. L. § 8839. G. L. § 7261. P. S. § 6106. 1906, No. 200, § 6.

8013. Prison breach. If, while employed as heretofore provided without the walls of a county jail, a prisoner makes his escape, he shall be punished as provided by section 8532.

P. L. § 8840. G. L. § 7262. 1917, No. 254, § 7064. 1915, No. 212. P. S. § 6107. 1906, No. 200, § 7.

Removal of Prisoners.

8014. On order of the governor. In his discretion, the governor may remove a person confined in a jail or removed to a detention farm to another jail or detention farm. A person in jail not under sentence shall not be so removed without his consent. Such removal shall be made by the written order of the governor addressed to the sheriff of the county wherein the person is confined or where the person to be removed is, and shall be returnable to the governor, with the officer's doings thereon. The order shall recite the process upon which the person was committed to the jail and shall state the day of such commitment. The original of such order of removal shall be kept on file in the executive department, and three certified copies thereof, certified to by the secretary of civil and military affairs, shall be furnished the sheriff.

P. L. § 8841. 1933, No. 157, § 8479. G. L. §§ 7263, 7264. 1917, No. 34, § 7. 1912, No. 241. 1910, No. 233. 1908, No. 176, §§ 2, 3.

8015. By sheriff. The sheriff shall remove the person named in such order of removal to the jail or detention farm named in such order and shall give one of such copies to the keeper of the jail in which the person is confined or to the superintendent of the detention farm where such person is, and the other copy shall be delivered by the sheriff to the keeper of the jail or the superintendent of the detention farm to which such person is removed.

P. L. § 8842. 1933, No. 157, § 8480. G. L. §§ 7263, 7264. 1917, No. 34, § 7. 1912, No. 241. 1910, No. 233. 1908, No. 176, §§ 2, 3.

8016. Term of sentence not affected. If the person so removed is under sentence, the term of the sentence shall be computed from the day of the original commitment and the term of such sentence shall be stated in the order of removal, and the time spent in removing and in serving in the jail or detention farm to which removed, shall be computed as time served under the sentence.

P. L. § 8843. 1933, No. 157, § 8481. G. L. §§ 7263, 7264. 1917, No. 34, § 7. 1912, No. 241. 1910, No. 233. 1908, No. 176, §§ 2, 3.

8017. Town reimbursed for costs, when. When such removal is made and the town from which the original commitment was made has paid the costs of prose-

cution and commitment in whole or in part, the state shall reimburse such town for such expense.
P. L. § 8844. 1933, No. 157, § 8482. G. L. § 7264. 1912, No. 241. 1910, No. 233. 1908, No. 176, § 3.

8018. Authority of keeper of jail to which removal is made. The keeper of the jail to which such person is removed shall have the same authority and be subject to the same duties and liabilities as to the person so removed, as in the case of a prisoner originally committed to such jail under sentence.
P. L. § 8845. 1919, No. 200, § 10. G. L. § 7265. 1908, No. 176, §§ 4, 5.

Discharge of Prisoners.

8019. On payment of fine and costs. A person committed to a county jail to serve an alternative sentence for the nonpayment of a fine, may be discharged on payment to the jailer of the fine and costs imposed by the court together with the costs of commitment to such jail. All such fines and costs so received shall be paid by the jailer to the county clerk within ten days, but a fine and costs imposed by a municipal court shall be paid to the clerk of such court.
P. L. § 8846. 1933, No. 152. G. L. § 7266. 1917, No. 254, § 7068. P. S. § 6108. 1906, No. 201, §§ 1, 2.

8020. Discharge on paying balance of fine. A person confined for failure to pay a fine and costs, or for failure to pay costs, may at any time during the time of such alternative sentence be discharged on paying the balance of the fine and costs, or the costs, as the case may be, after deducting fifty cents for each day he has been committed for such default.
1947, No. 202, § 8599. P. L. § 8580. 1933, No. 157, § 8223. G. L. § 6987. 1915, No. 207. 1912, No. 234. P. S. § 5860. 1906, No. 200, § 8. 1902, No. 120, § 1. 1896, No. 106, § 1. V. S. § 4761. 1894, No. 75, § 1. R. L. § 3967. 1880, No. 43. 1878, No. 14, §§ 1, 5. 1864, No. 5. 79 Vt. 521. 80 Vt. 175.

Prisoners of the United States.

8021. Where to be kept; regulations. The common jails in the several counties and the jail in the city of Vergennes, shall be jails for receiving and safe keeping such prisoners as are committed under the authority of the United States, until discharged by due course of the laws of the United States. The keepers of such jails respectively shall receive such prisoners under like pains and penalties for neglect of duty therein as in case of prisoners committed under the authority of this state. A keeper of such jail shall not receive such prisoner unless the United States pays the keeper \$2.50 a month for each prisoner during the time he is confined therein, the expense of supporting him and the fees for committing and discharging him.
P. L. § 8847. 1925, No. 137, § 1. 1919, No. 200, § 11. G. L. § 7267. P. S. § 6109. V. S. § 5290. R. L. § 4445. 1880, No. 11. R. S. 103, §§ 8, 9. 1832, No. 5. 1820, p. 32. 1812, p. 114. 1804, Jan. p. 11. 1801, p. 36. 1799, p. 4. R. 1797, p. 328, § 18. 1794, p. 116. 1792, p. 78.

8022. Discipline. When a criminal convicted of an offense against the United States is so imprisoned, he shall in all respects be subject to the same discipline and treatment as convicts sentenced under the authority of this state, and shall be exclusively under the control of the officers having charge of the institution in which he is imprisoned.
P. L. § 8848. G. L. § 7268. P. S. § 6110. V. S. § 5291. 1884, No. 128, § 1.

8023. Jailer to pay over receipts for use of jail. Annually, on February 1, each keeper of a jail shall pay to the treasurer of the county, or the city of Vergennes, to which such jail belongs, sixty per cent of the moneys received from the United States, for the use of such jails and forty per cent of such money to the state treasurer.
P. L. § 8849. 1925, No. 137, § 2. G. L. § 7269. 1917, No. 254, § 7071. P. S. § 6111. V. S. § 5292. R. L. § 4446. G. S. 121, § 9. R. S. 103, § 43. R. 1797, p. 329, § 19.

8024. Escapes through insufficiency of jail; no liability. The county or keeper of a jail shall not be liable for the escape of a prisoner, committed under the authority of the United States, when such escape is made through insufficiency of the jail.
P. L. § 8850. G. L. § 7270. P. S. § 6112. V. S. § 5293. R. L. § 4447. G. S. 121, § 10. R. S. 103, § 44. R. 1797, p. 329, § 19.

Jail in City of Vergennes.

8025. Commitments. When process is delivered to a person authorized to serve the same in the county of Addison, by which it becomes the duty of such person to commit a prisoner to the county jail in such county, and the person required to be committed is confined in the jail in the city of Vergennes, such person shall commit the prisoner to the jail in the city of Vergennes.
P. L. § 8851. G. L. § 7271. P. S. § 6113. V. S. § 5294. R. L. § 4448. G. S. 121, § 64. R. S. 103, § 55. 1803, p. 69.

8026. Regulations. The keeper of the jail in the city of Vergennes, as to persons so committed, shall be governed by the laws relating to keepers of county jails. A prisoner so committed shall be subjected to the restraints and entitled to the privileges of persons confined in the county jail. The keeper of such jail and the city of Vergennes shall be liable for escapes, as keepers of county jails and counties are by law.
P. L. § 8852. G. L. § 7272. P. S. § 6114. V. S. § 5295. R. L. § 4449. G. S. 121, § 65. R. S. 103, § 56. 1803, p. 70.

Miscellaneous.

8027. Separating younger from older prisoners. A person under the age of sixteen years committed to a jail shall be kept separate from older persons committed to await trial, or on conviction for crime.
1947, No. 202, § 8170. P. L. § 8853. G. L. 7273. P. S. § 6116. V. S. § 5297. R. L. § 4451. G. S. 21, § 121. 1855, No. 44. 85 Vt. 366.

8028. Prisoner may provide own food, etc., or pay jailer legal rate. The keeper of a jail shall furnish a prisoner good board for such time as is required by him, upon a tender of the sum allowed by law for boarding state prisoners. A prisoner may provide himself with such food, bedding and apparel as he chooses.
P. L. § 8854. G. L. § 7274. P. S. § 6117. V. S. § 5298. R. L. § 4452. G. S. 121, § 18. R. S. 103, § 14. 1836, No. 12. R. 1797, p. 319, §§ 7, 8. 1791, p. 10. R. 1787, p. 76.

8029. If a state prisoner is poor, bedding, etc., furnished by state. When a state prisoner confined in a jail is in need of and unable to procure bedding, clothing, nursing or medical attendance, the keeper of the jail shall procure the same at the expense of the state.
P. L. § 8855. G. L. § 7275. P. S. § 6118. V. S. § 5299. R. L. § 4453. G. S. 121, § 62. R. S. 103, § 54. 1817, p. 126. 99 Vt. 183. 108 Vt. 117. 114 Vt. 5.

8030. Jailer's wrongful act as to prisoner; penalty. A keeper of a jail who does, or causes or suffers to be done, wrong or injury to a prisoner committed to his custody, or refuses to board a prisoner after compensation tendered, or demands and receives a greater price for board than is allowed by law, shall pay treble damages to the party aggrieved, to be recovered in an action of tort on this statute, and shall also pay such fine as the county court adjudges reasonable.
P. L. § 8856. G. L. § 7276. P. S. § 6119. R. 1906, § 5992. V. S. § 5300. R. L. § 4454. G. S. 121, § 19. R. S. 103, § 15. R. 1797, p. 319, § 7.

8031. Jail library. Jailers shall receive books given by Christian churches and benevolent individuals for a library for persons confined in jail. The jailer shall enter the names of the donors in a book of record, with the titles of the books, which shall be open to the inspection of all persons. The jailer shall be librarian and shall keep safely the books in the library and distribute them to persons con-

fined in jail, and exchange the same from time to time; but he shall not deliver books to a person who in his opinion will destroy or misuse them.
P. L. § 8857. G. L. § 7277. P. S. § 6120. V. S. § 5301. R. L. § 4455. 1863, No. 28.

CHAPTER 349.

TOWN AND VILLAGE LOCKUPS.

8032. Erection. At a meeting called for that purpose, a town or incorporated village may authorize the selectmen of the town or trustees of the village, to purchase or erect and maintain at the expense of such town or village within its corporate limits one or more lockups.

P. L. § 8858. G. L. § 7278. P. S. § 6121. R. 1906, § 5994. V. S. § 5302. R. L. § 4456. 1866, No. 48. 78 Vt. 104.

8033. Jailer; appointment; removal. The selectmen of a town or the trustees of an incorporated village may appoint a jailer of such lockup and may remove him at pleasure. Such appointment or removal shall be in writing and recorded in the office of the town or village clerk.

P. L. § 8859. G. L. § 7279. P. S. § 6122. V. S. § 5303. R. L. § 4457. 1874, No. 63, § 1. 1866, No. 48. 78 Vt. 104.

8034. Same; oath; duties and liabilities. Such jailer shall be sworn, and shall perform the duties and be subject to the penalties imposed on county jailers, and shall have the same fees.

P. L. § 8860. G. L. § 7280. P. S. § 6123. V. S. § 5304. R. L. § 4458. 1874, No. 63, § 2. 78 Vt. 104.

8035. Commitments. When process is delivered to an officer to serve, requiring him to commit a person to jail to await examination or trial before a justice's or a municipal court, if such order for commitment was made within the limits of a town or an incorporated village maintaining a lockup, such person shall be committed to such lockup and be subject to the restraints and entitled to the privileges provided by law for persons confined in the county jail.

P. L. § 8861. G. L. § 7281. P. S. § 6124. R. 1906, § 5997. 1902, No. 90, § 99. V. S. § 5305. R. L. § 4459. 1874, No. 63, § 3. 1866, No. 48. 78 Vt. 104.

CHAPTER 350.

COUNSEL FOR PERSON RESTRAINED OF LIBERTY.*

8036. Duties of officers and jailers; penalty. Officers having the custody of a person committed, imprisoned or restrained of his liberty, except in cases of imminent danger of escape, shall admit a practicing attorney of this state, whom such person may desire to see or consult, to see and consult with such person so imprisoned, alone and in private at the jail, lockup or other place of custody. When such prisoner is about to be removed beyond the limits of this state by a person or public officer, he shall be entitled to a reasonable delay for the purpose of obtaining counsel, and of availing himself of the laws of this state for the security of personal liberty. A person who violates a provision of this section shall be fined not more than \$200.00.

P. L. § 8862. 1925, No. 136, § 1.

8037. Posting copies of law. Sheriffs, jailers of lockups and all officers or persons having charge of a prison, jail, lockup or other place used for the detention, imprisonment or safe keeping of persons restrained of their liberty shall cause a plainly printed copy of this chapter to be conspicuously posted in every room or cell in such jail, lockup or other place so used as aforesaid, and to keep

* See Chapter 97 (Habeas Corpus).

such copies so posted. A sheriff, jailer, officer or person who fails to post such copies and to keep at all times such copies so posted shall be fined not more than \$50.00 nor less than \$10.00.
P. L. § 8863. 1925, No. 136, § 2.

8038. Furnishing copies of law to officials. Annually, on or before February 1, the secretary of state shall furnish plainly printed copies of this chapter to all sheriffs, deputy sheriffs, constables, jailers of lockups and town clerks. At all times upon application therefor he shall furnish such copies to the officers and persons herein mentioned.
P. L. § 8864. 1925, No. 136, § 3.

CHAPTER 351.

UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION.

8039. Compact, terms. The governor shall execute a compact on behalf of the state of Vermont with any of the United States legally joining therein the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

I. That it will be competent for the duly constituted judicial and administrative authorities of a state, party to this compact, (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state, party to this compact, (herein called "receiving state"), while on probation or parole, if:

(a). Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b). Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

II. That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

III. That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: provided however, that if at

the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

IV. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

V. That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary more effectively to carry out the terms of this compact.

VI. That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed, it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

VII. That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

1947, No. 202, § 8202. 1937, No. 218, § 1.

8040. Construction. If any section, subdivision, sentence or clause of this chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this chapter.

1947, No. 202, § 8203. 1937, No. 218, § 2.

8041. Citation. This chapter may be cited as the Uniform Act for Out-of-State Parolee Supervision.

1937, No. 218, § 3.

CHAPTER 352.

PARDONS AND DISCHARGES.

8042. Application for pardon; notice of hearing. When a person in confinement under sentence for a term of one year or more in the state prison or house of correction applies to the governor for a pardon, the application shall be in writing stating in substance the reasons for such application. If the governor, in his opinion, believes the reason stated in such application, if proved true, would constitute cause for granting the pardon, within reasonable time he shall designate a time and place for hearing the same. He shall cause notice of the application and of the hearing to be given to the applicant and to the state's attorney of the county in which the applicant was convicted and sentenced.

P. L. § 8885. G. L. § 7282. P. S. § 6125. V. S. § 5310. R. L. § 4462. 1880, No. 17. 1878, No. 75, § 1.

8043. Governor may call justices to advise. In his discretion, the governor may request to sit with him at the hearing of an application not more than three justices of the supreme court, such as he may select. When so requested, such justices shall sit with him at such hearing, and counsel and advise with him as to all matters pertaining thereto and as to the propriety of granting the pardon. But nothing in this section shall be construed to take away from the governor his power to grant or refuse a pardon in his discretion.

P. L. § 8886. G. L. § 7283. P. S. § 6126. V. S. § 5311. R. L. § 4463. 1878, No. 75, § 2.

8044. Hearing; decision. At such hearing, the governor and justices may direct as to the method of procedure in all respects and may adjourn the hearing from time to time as their convenience requires. When a decision has been made, it shall be communicated in writing to the applicant and to the state's attorney, and, in the discretion of the governor, may be published in one or more newspapers published in the state.

P. L. § 8887. G. L. § 7284. P. S. § 6127. V. S. § 5312. R. L. § 4464. 1878, No. 75, § 3.

8045. Conditional pardon; breach. In his discretion, the governor may grant a pardon for offenses against the state upon such conditions as he judges proper. Until a person to whom such conditional pardon is granted is excused from the performance of the conditions thereof, the governor shall have all the authority, rights and powers over and in relation to such person which he would have if he were surety in the case upon the recognizance of such person before conviction, and he shall be the sole and exclusive judge as to whether the conditions of such pardon have been violated. If, in the judgment of the governor, such conditions have been violated, he may cause such person to be apprehended and returned to his former condition of custody that execution of sentence may be complied with.

P. L. § 8888. 1919, No. 203, § 1. 112 Vt. 441. 113 Vt. 1.

8046. Governor may commute punishment of certain minors and remove to Weeks school; expense. In his discretion, the governor may commute the punishment of persons under sixteen years of age, who are sentenced to or confined in the state prison, and remove them to the Weeks school. The cost of removal shall be paid as provided in case of commitments to the state prison. The officer in charge of the person so removed shall retain him in his custody until he receives information from the superintendent of the Weeks school that there is room for such person in the school.

1947, No. 202, § 8209. P. L. § 8889. G. L. § 7285. P. S. § 6129. R. 1906, § 6002. V. S. § 5314. 1894, No. 297. R. L. § 4466. 1865, No. 1, § 5.

8047. When discharged for non-payment of fine. The governor may discharge a person committed to jail for nonpayment of a fine and costs, on such conditions as he judges proper.

P. L. § 8890. G. L. § 7286. P. S. § 6130. V. S. § 5315. R. L. § 4467. G. S. 121, § 63. R. S. 103, § 57. 1826, No. 11, § 1.

PART II
(2354-2601)

PROCEEDINGS IN CRIMINAL CAUSES.

- CHAPTER 110.—General provisions. (2354-2364)
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CHAPTER 110.

GENERAL PROVISIONS.

2354. Indictment. Except in proceedings before a justice or municipal court and when a prosecution by information is authorized, a person shall not be held to answer in court for an alleged crime or offense, unless upon indictment by a grand jury.

P. L. § 2321. G. L. § 2490. 1915, No. 91, § 1. P. S. § 2212. V. S. § 1856. R. L. § 1608. G. S. 111, § 1. R. S. 93, § 1. 1818, p. 19. R. 1797, p. 173, § 36. 61 Vt. 45.

2355. Former acquittal a bar. A person shall not be held to answer on a second complaint, information or indictment for an offense of which he was acquitted by a jury upon the merits on a former trial. Such acquittal may be pleaded in bar of a subsequent prosecution for the same offense, notwithstanding defects in the form or substance of the complaint, information or indictment on which he was acquitted.

1935, No. 50, § 1. P. L. § 2322. 1919, No. 76, § 1. G. L. § 2491. P. S. § 2213. V. S. § 1857. R. L. § 1609. G. S. 111, § 4. R. S. 93, § 4. 2 Tyl. 387. 57 Vt. 637. 59 Vt. 84. 59 Vt. 654.

2356. Same; unless upon a variance. When a person is acquitted by reason of a variance between the complaint, information or indictment and the proof, or upon an exception to the form or substance of the complaint, information or indictment, he may be arraigned again on a new complaint, information or indictment and may be tried and convicted for the same offense notwithstanding such former acquittal.

P. L. § 2323. G. L. § 2492. P. S. § 2214. V. S. § 1858. R. L. § 1610. G. S. 111, § 5. R. S. 93, § 5.

2357. Person not to be punished unless court has jurisdiction. A person shall not be punished for an offense unless he is convicted thereof in a court having jurisdiction of the cause and the person.
 P. L. § 2324. G. L. § 2493. P. S. § 2215. V. S. § 1859. R. L. § 1611. G. S. 111, § 6. R. S. 93, § 6.

2358. Conviction to be by plea or verdict. A person shall not be punished for an offense unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury accepted by the court and recorded, or by the judgment of a justice or municipal court when the respondent waives trial by jury.
 P. L. § 2325. G. L. § 2494. 1917, No. 254, § 2457. P. S. § 2216. V. S. § 1860. R. L. § 1612. G. S. 111, § 3. R. S. 93, § 3. 68 Vt. 311. 91 Vt. 330. 106 Vt. 97.

2359. Separate trials for respondents. Persons jointly informed against or indicted shall be tried separately or jointly in the discretion of the court, except that when two or more persons are jointly informed against or indicted for a felony punishable by death or imprisonment in the state prison for a term exceeding five years, a respondent requesting it shall be tried separately. However, the provisions of this section shall not apply to a trial on an information or indictment charging conspiracy.
 P. L. § 2326. G. L. § 2495. P. S. § 2217. R. 1906, § 2113. 1898, No. 47, § 1.

2360. Rights of accused on trial. On the trial of an information or indictment, the party accused may defend himself, be heard by counsel, produce witnesses and proofs in his favor, and shall be confronted with the witnesses produced against him.
 P. L. § 2327. G. L. § 2496. P. S. § 2218. V. S. § 1861. R. L. § 1613. G. S. 111, § 2. R. S. 93, § 2. 1818, p. 20. R. 1797, p. 174, § 40. 104 Vt. 279.

2361. Commitment, how made. When a prisoner is committed to jail on criminal process, the commitment shall be in the manner prescribed for commitments on civil process.
 P. L. § 2328. G. L. § 2497. P. S. § 2219. V. S. § 1862. R. L. § 1614. G. S. 33, §§ 59-61. R. S. 28, §§ 24, 25, 26, et seq. 73 Vt. 149.

2362. Copy of process for accused. When an officer does not within six hours deliver a true copy of the warrant or process by which he detains a person in a criminal proceeding, to a person who demands such copy and tenders the fees therefor, he shall forfeit to such person \$200.00.
 P. L. § 2329. G. L. § 2498. P. S. § 2220. V. S. § 1863. R. L. § 1615. G. S. 43, § 23. R. S. 38, § 23.

2363. Warrant, to whom directed. Except as otherwise provided, a warrant issued in a criminal cause shall be directed to any sheriff or constable in the state.
 P. L. § 2330. G. L. § 2499. 1917, No. 254, § 2462. P. S. § 2289. V. S. § 1928. R. L. § 1668. G. S. 31, § 9. R. S. 26, § 57. R. 1797, p. 418, § 9. 1789, p. 10. R. 1787, p. 84.

2364. Costs in criminal causes. In criminal causes where the punishment is by a fine or imprisonment, or both, costs shall follow unless otherwise ordered by the court.
 P. L. § 2331. G. L. § 2500. P. S. § 2221. V. S. § 1864. 1894, No. 162, § 1803a. 75 Vt. 329.

CHAPTER 111.

GRAND JURY AND INFORMING OFFICERS.

Grand Jury.

2365. Foreman; powers and duties of jury. After a grand jury is impaneled and sworn, the court shall appoint a foreman, who may administer oaths to wit-

nesses before such grand jury. When the grand jury finds an indictment supported by good and sufficient evidence, the foreman shall write thereon "a true bill." When it does not find an indictment so supported, he shall write thereon "this bill not found" and the accused person shall be thereupon discharged.

P. L. § 2332. G. L. § 2501. P. S. § 2222. V. S. § 1865. R. L. § 1616. G. S. 37, § 14. R. S. 32, § 14. R. 1797, p. 106, § 65. R. 1787, p. 82. 12 Vt. 300. 31 Vt. 602. 56 Vt. 532.

2366. Bill, how found. An indictment shall not be presented by a grand jury unless twelve of the jurors agree in the same.

P. L. § 2333. G. L. § 2502. P. S. § 2223. V. S. § 1866. R. L. § 1617. G. S. 37, § 15. R. S. 32, § 15. R. 1797, p. 106, § 65.

Testimony before Grand Jury.

2367. To take testimony. At the expense of the state and upon the approval of the presiding judge, a clerk may take testimony before the grand jury for the use of the state's attorney.

P. L. § 2334. G. L. § 2503. P. S. § 2224. 1898, No. 45, § 1. 70 Vt. 341.

2368. Order of approval to be filed; oath. The order of approval from the presiding judge shall be in writing and filed with the county clerk, and may be revoked by the judge for cause shown. Before entering upon his duties, the clerk shall make oath before the county clerk that he will keep secret all matters and things coming before the grand jury.

P. L. § 2335. G. L. § 2504. P. S. § 2225. 1898, No. 45, § 2.

2369. Clerk not to disclose testimony; exception; minutes property of state. The clerk shall not disclose testimony so taken by him, except to the attorney general, state's attorney and grand jury. The minutes of testimony so taken shall be the property of the state and the same or a copy thereof shall not go out of the possession of the attorney general, state's attorney or their successors, except to an attorney appointed by the court to act in the place of or to assist the state's attorney. Nothing in this section shall prevent the clerk from disclosing such evidence on an order of the supreme or county court.

P. L. § 2336. G. L. § 2505. P. S. § 2226. R. 1906, § 2122. 1898, No. 45, § 3.

2370. Penalty. A clerk approved as aforesaid who violates a provision of the two preceding sections shall be imprisoned not more than one year or fined not more than \$1,000.00 nor less than \$100.00, or both.

P. L. § 2337. G. L. § 2506. P. S. § 2227. 1898, No. 45, § 4.

Prosecutions by Information.

2371. By state's attorney. Crimes not punishable by death or by imprisonment in the state prison for life may be prosecuted by a state's attorney by information.

P. L. § 2338. G. L. § 2507. P. S. § 2228. 1904, No. 64, § 1. 1898, No. 46, § 1. V. S. § 1867. R. L. § 1618. G. S. 120, § 1. R. S. 102, § 1. 1819, p. 19. 8 Vt. 57. 23 Vt. 698. 52 Vt. 476. 61 Vt. 45. 67 Vt. 690. 77 Vt. 166. 78 Vt. 124.

2372. By town grand juror. A town grand juror shall inquire into and make due presentment to proper authority of offenses which may come to his knowledge, within the town for which he is elected, or within an unorganized town or gore adjoining such town and which in his judgment ought to be prosecuted.

P. L. § 2339. G. L. § 2508. P. S. § 2229. V. S. § 1868. R. L. § 1619. G. S. 15, § 86. 1854, No. 8, § 1. R. S. 13, § 68. 1819, p. 19. 1801, p. 5. R. 1797, p. 171, § 32. R. 1797, p. 197, § 4. R. 1797, p. 599, § 1. R. 1787, p. 83. 34 Vt. 345. 113 Vt. 374.

2373. Same; how made. Presentments by a grand juror shall be made by a complaint in writing under his oath of office and official signature to a justice or a municipal court.

P. L. § 2340. G. L. § 2509. 1915, No. 91, § 1. 1908, No. 62. P. S. § 2230. V. S. § 1869. R. L. § 1620. G. S. 15, § 87. R. S. 13, § 69. 1801, p. 5. 27 Vt. 328. 27 Vt. 553. 30 Vt. 467. 45 Vt. 258. 47 Vt. 290. 52 Vt. 376. 113 Vt. 374.

2374. Grand juror may attend examination. A town grand juror may attend the examination of a person arraigned on such complaint.

P. L. § 2341. G. L. § 2510. P. S. § 2231. V. S. § 1870. R. L. § 1621. G. S. 15, § 88. R. S. 13, § 70. 1801, p. 5. 113 Vt. 374.

2375. Time of filing, taking bail. Whenever an information is brought by a state's attorney pursuant to the provisions of section 2371, such information shall be filed forthwith with the clerk of the court in which such prosecution is commenced. Such clerk shall issue a summons or capias against the respondent. Upon the arrest of the person named as respondent in such information, he shall be brought forthwith before an assistant judge or the clerk of such court who shall fix and take bail.

1945, No. 32, § 1.

2376. Officers as informing officers, when. When a sheriff, deputy sheriff or constable, or a police officer of a city or incorporated village, arrests a person for a misdemeanor without warrant, he shall take such person forthwith before a court having jurisdiction of the offense. Such officers shall be complaining officers for the purpose of making presentment against persons so arrested by them, by complaint in writing, under their oath of office and official signature, to the court before which such person is brought.

P. L. § 2342. G. L. § 2511. 1917, No. 254, § 2474. 1915, No. 93, §§ 1, 2. 1910, No. 91, §§ 1, 2. P. S. § 2232. V. S. § 1870. R. L. § 1622. 1876, No. 68, § 1. 113 Vt. 374.

2377. Same; procedure; notice. Upon such presentment, if the respondent pleads guilty, such court shall thereupon impose sentence. If the respondent pleads not guilty, such court, in its discretion, may notify the town grand juror, or city or village attorney, who shall forthwith enter and prosecute such complaint, and be allowed the fees provided by section 10,520, which shall be taxed against the respondent. Such court, in its discretion, may also notify the state's attorney of the county within which such misdemeanor is committed, who may also enter and prosecute such complaint. For making such complaint, the sheriff, deputy sheriff, constable or police officer shall receive no fee.

P. L. § 2343. G. L. § 2512. 1915, No. 93, § 2. 1910, No. 91, § 2. 113 Vt. 374.

2378. Amending complaint; when and by whom. State's attorneys, grand jurors and city or village attorneys, whenever necessary, may amend a complaint authorized to be made under the provisions of the preceding sections.

P. L. § 2344. G. L. § 2513. 1910, No. 91, § 4.

2379. Recognizance, when required of complainant. A warrant to apprehend a person charged with a criminal offense shall not be granted by a justice or a municipal judge except on information or complaint of an informing or complaining officer, until such magistrate has taken security to his satisfaction, by way of recognizance to the person so charged, that the prosecutor will answer the damages if he does not prosecute his information to effect, and a minute of such recognizance shall be made as in civil causes.

P. L. § 2345. G. L. § 2514. 1908, No. 62. P. S. § 2288. V. S. § 1927. R. L. § 1667. G. S. 31, § 8. R. S. 26, § 24. R. 1797, p. 418, § 10. 60 Vt. 618. 113 Vt. 374.

2380. Discharge of person bound over for trial; how made; certificate; effect. When a person is confined in jail by reason of failure to furnish bail on being bound over to a county or municipal court, and the grand jury reports that a bill is not found against such person or the state's attorney notifies the county clerk or the judge of such municipal court, as the case may be, that an information or complaint will not be filed against such person, the clerk or judge shall forthwith certify such fact to the jailer. Such person shall thereupon be discharged from custody and the date of such certificate shall be deemed to be the date on which such person was discharged.

P. L. § 2346. G. L. § 2515. 1917, No. 254, § 2478. 1908, No. 66. 113 Vt. 374.

Employment of Counsel.

2381. Grand juror may employ. In the examination of a person charged with a crime exceeding the jurisdiction of a justice's or municipal court to try and determine, commenced upon the complaint of a complaining officer not entitled to draw a salary, and in the trial of person before such court upon the complaint of such an officer, charging him with a crime within the jurisdiction of such court to try and determine, where the fine is payable to the state, such officer may employ counsel at the expense of the state, when the state's attorney is disqualified or unable seasonably to attend at such examination or trial.

P. L. § 2347. G. L. § 2516. 1917, No. 254, § 2479. P. S. § 2234. V. S. § 1873. 1884, No. 126, § 1. 113 Vt. 374.

2382. Payment. The auditor of accounts shall allow counsel so employed a reasonable compensation for his services and expenses and shall issue his warrant for the amount allowed. Compensation shall not be allowed where it appears to the auditor that the prosecution was superfluous and instituted to enhance costs, nor in the trial of a person upon a complaint for intoxication or for any other offense against the chapter relating to intoxicating liquors, except where the respondent pleads not guilty.

P. L. § 2348. G. L. § 2517. P. S. § 2235. R. 1906, § 2131. V. S. § 1874. 1884, No. 126, §§ 1, 2. 113 Vt. 374.

CHAPTER 112.

PLACE OF TRIAL AND PROCEEDINGS IN COURT.

Place of Trial.

2383. In what county. When not otherwise provided, criminal causes shall be tried in the county where the offense is committed.

P. L. § 2349. G. L. § 2518. P. S. § 2243. V. S. § 1882. R. L. § 1624. G. S. 120, § 3. R. S. 102, § 3. 1818, p. 19. R. 1797, p. 173, § 76.

2384. When act in one county causes death in another. A person feloniously wounding or poisoning a person in one county, whose death results therefrom in another county, may be indicted and tried in either county.

P. L. § 2350. G. L. § 2519. P. S. § 2244. V. S. § 1883. R. L. § 1625. G. S. 120, § 3. R. S. 102, § 3. 1818, p. 19. R. 1797, p. 173, § 76.

2385. Offense on boundary. If an offense is committed on the boundary of two or more counties or within one hundred rods of such boundary, such offense may be alleged in the complaint, information or indictment to have been committed and may be prosecuted in any of such counties.

P. L. § 2351. G. L. § 2520. P. S. § 2245. V. S. § 1884. R. L. § 1626. 1870, No. 5, § 8.

2386. Before a justice. Prosecutions of a criminal nature before a justice within his jurisdiction to try and determine shall be tried in the town where the offense is committed or the respondent resides.

P. L. § 2352. G. L. § 2522. P. S. § 2246. V. S. § 1885. R. L. § 1627. G. S. 31, § 2. 1859, No. 11. 46 Vt. 176. 47 Vt. 78.

Change of Venue.

2387. Application. When a person is under information or indictment for an offense punishable by death or imprisonment in the state prison, the respondent or the state's attorney of the county where the prosecution is pending may apply to a superior judge, petitioning that the trial of such respondent be removed to and had in another county.

P. L. § 2353. G. L. § 2523. P. S. § 2247. 1906, No. 63, § 33. V. S. § 1886. R. L. § 1628. 1880, No. 22, § 1. 1865, S. S. No. 1, § 1. 104 Vt. 379.

2388. Respondent to be committed; effect on bail. If such respondent has given bail and is at liberty at the time the application for removal is made, the judge to whom the application is preferred, if in his opinion the same is proper to be granted, before making the order of removal, shall issue a warrant commanding that such respondent be apprehended and committed to the jail of the county in which the prosecution is pending. Upon the commitment of such respondent, the bail shall be discharged, if such commitment is made previous to the term of court at which such respondent was recognized to appear.

P. L. § 2354. G. L. § 2524. P. S. § 2248. V. S. § 1887. R. L. § 1629. 1880, No. 22, § 2.

2389. Order for removal for trial. When such respondent is in custody at the time the application is made or when, having been at liberty, he has been apprehended and committed as provided in the preceding section, the judge to whom the application is preferred, in his discretion, by an order in writing, may direct that the trial of such respondent be removed to and had in some other county named. Such order shall be filed with the clerk of the county court in which such respondent was informed against or indicted.

P. L. § 2355. G. L. § 2525. P. S. § 2249. V. S. § 1888. R. L. § 1630. 1880, No. 22, § 3. 1865, S. S. No. 1, § 1. 104 Vt. 379.

2390. Bail. If the offense charged is bailable, the judge making the order of removal may take a recognizance with sufficient surety of such respondent, conditioned for his personal appearance before the court in which his trial is ordered to be had.

P. L. § 2356. G. L. § 2526. P. S. § 2250. V. S. § 1889. R. L. § 1631. 1880, No. 22, § 4.

2391. Order for removal of respondent. If such respondent is in custody from failure to furnish bail or otherwise, or if the offense is not bailable, or if having entered into recognizance to appear he is again apprehended and committed at the request of his bail, the judge making the order of removal, before the next term of the court in which such respondent is ordered to be tried, shall issue an order in writing to the sheriff of the county in which such respondent is confined, commanding him to deliver such respondent to the keeper of the jail in the county in which the trial is ordered to be had.

P. L. § 2357. G. L. § 2527. P. S. § 2251. V. S. § 1890. R. L. § 1632. 1880, No. 22, § 5.

2392. Service and return. The sheriff shall forthwith remove and deliver such respondent as directed in the order, leave a copy of the same with his return indorsed thereon with the keeper of the jail to which such respondent is committed and return the original order with his return indorsed thereon to the clerk of the court in the county in which such respondent was informed against or indicted.

P. L. § 2358. G. L. § 2528. P. S. § 2252. V. S. § 1891. R. L. § 1633. 1880, No. 22, § 6.

2393. Clerk to transmit papers; cause to proceed. Upon receipt of such order and return, the clerk shall forthwith transmit the same, together with the other papers in the cause, to the clerk of the court in the county in which the trial is ordered to be had. Thereupon such court shall have jurisdiction of the cause and the same proceedings had therein as though such offense had been committed in such county.

P. L. § 2359. G. L. § 2529. P. S. § 2253. V. S. § 1892. R. L. § 1634. 1880, No. 22, § 7. 1865, S. S. No. 1, § 1.

2394. Which state's attorney to prosecute. The state's attorney of the county in which the respondent is informed against or indicted shall appear in behalf of the state at the trial of the respondent in the supreme court or in any county to which the trial is removed, and in proceedings relating thereto he shall have the same powers and be subject to the same duties and liabilities as though the trial were had in the county for which he is such attorney.

P. L. § 2360. G. L. § 2530. P. S. § 2254. V. S. § 1899. R. L. § 1635. 1880, No. 22, § 8.

2395. In county court. If a person is confined in jail on a complaint for a crime or misdemeanor, the county court for the county, on his written motion, may direct an information to be filed against him for such offense, and on such information being filed may try him as if an indictment had been presented against him.

P. L. § 2365. G. L. § 2535. P. S. § 2259. V. S. § 1897. R. L. § 1639. G. S. 30, § 88. R. S. 25, § 61. 1828, No. 2, § 3. 78 Vt. 124.

2396. Capital crimes excepted. The provisions of the preceding section shall not extend to a crime for which the punishment is death or imprisonment in the state prison for life.

P. L. § 2366. G. L. § 2536. P. S. § 2260. V. S. § 1898. R. L. § 1640. G. S. 30, § 89. R. S. 25, § 62. 1828, No. 2, § 5.

Counsel Assigned.*

2397. How paid; exceptions. Compensation shall not be paid by the state to counsel assigned to defend a respondent in a criminal proceeding, except to counsel assigned by the county court in capital causes or in causes where the punishment is by imprisonment in the state prison. Compensation shall not be paid by the state to counsel assigned to assist the state's attorney in a criminal proceeding, except in capital causes or where the punishment is by imprisonment in the state prison for a term exceeding ten years or where the state's attorney is disqualified by reason of interest or relationship to the respondent.

P. L. § 2370. G. L. § 2539. P. S. § 2261. V. S. § 1900. 1892, No. 43. R. L. § 1636. 1880, No. 31, § 1. 1872, No. 27. G. S. 124, §§ 6, 7. 1860, No. 12. 89 Vt. 490.

Pleadings in Criminal Causes.

2398. Time allowed respondent. A person need not plead to an information or indictment until twenty-four hours after being furnished with a copy of the same, and the clerk of the court shall furnish such copy.

P. L. § 2371. G. L. § 2540. P. S. § 2262. V. S. § 1901. R. L. § 1641. G. S. 30, § 83. R. S. 25, § 56. R. 1797, p. 106, § 65. 55 Vt. 211.

2399. Objections to formal defects; amendment. Objections to a complaint, information or indictment, for a formal defect apparent upon the face thereof, shall be taken by demurrer or motion to quash, before the jury is sworn. The court may cause the complaint, information or indictment to be amended forthwith in such particular by some officer of the court.

P. L. § 2372. G. L. § 2541. P. S. § 2263. V. S. § 1902. R. L. § 1642. 1870, No. 5, § 1. 41 Vt. 691. 50 Vt. 731. 54 Vt. 179. 55 Vt. 550. 58 Vt. 524. 59 Vt. 661. 64 Vt. 372. 65 Vt. 439. 90 Vt. 125.

2400. Notice of alibi or insanity plea. Whenever a respondent, in a criminal cause pending before a municipal or county court, shall propose to offer in his defense testimony to establish an alibi or his insanity either at the time of the alleged offense or at the time of trial, he shall serve upon the prosecuting attorney a notice in writing of his intention to claim such defense at least forty-eight hours before the trial of such cause. In cases of a claimed alibi such notice shall include information as to the place at which the accused claims to have been at the time of the alleged offense.

1939, No. 53, § 1. 1935, No. 51, § 1.

2401. Failure to file. In the event of the failure of a respondent to file the written notice prescribed in the preceding section, the court, in its discretion, may exclude evidence offered by such respondent for the purpose of establishing an alibi or the insanity of such respondent as set forth in the preceding section.

1935, No. 51, § 2.

* See 1458.

2402. Standing mute. When a person arraigned on a complaint, information or indictment stands mute or refuses to plead or be tried by due course of law, he shall be treated as pleading not guilty, and the trial shall proceed accordingly.

P. L. § 2373. G. L. § 2542. P. S. § 2264. V. S. § 1903. R. L. § 1643. G. S. 120, § 2. R. S. 102, § 2. 1818, p. 19. R. 1797, p. 173, § 35. R. 1787, p. 104. 85 Vt. 233. 108 Vt. 218.

2403. Judgment against corporation on default. If a corporation, having been served with process, does not answer to a complaint, information or indictment, its default shall be recorded and the charges in the complaint, information or indictment shall be taken to be true and judgment rendered accordingly.

P. L. § 2374. G. L. § 2543. P. S. § 2265. V. S. § 1904. R. L. § 1644. 1870, No. 5, § 7.

2404. Proof showing a greater offense, a nolle prosequi may be allowed. If, upon the trial of a person charged with an offense, the facts given in evidence amount in law to a greater offense than the one charged, such person shall not by reason thereof be acquitted, but the court, in its discretion, may allow a nolle prosequi to be entered in order that he may be prosecuted for the greater offense.

P. L. § 2375. G. L. § 2544. P. S. § 2266. V. S. § 1905. R. L. § 1645. 1870, No. 5, § 9. 110 Vt. 1.

2405. Defense in prosecution for libel. If a person is prosecuted by information or indictment for uttering and publishing a libel or for defaming the civil authority of the state, under a plea of not guilty, he may give evidence as to the truth of the words contained in such supposed libel, as set forth in the information or indictment. If he proves their truth to the satisfaction of the jury, it shall find the respondent not guilty in its verdict.

P. L. § 2376. G. L. § 2545. P. S. § 2267. V. S. § 1906. R. L. § 1646. G. S. 30, § 96. R. S. 25, § 68. 1804, Jan., p. 8.

2406. Indictment for murder or manslaughter. The manner in which, or the means by which, the death of the deceased was caused need not be set forth in an indictment for murder or manslaughter. In an indictment for murder it shall be sufficient to charge that the respondent did feloniously, wilfully and of his malice aforethought kill and murder the deceased. In an indictment for manslaughter, it shall be sufficient to charge that the respondent did feloniously kill and slay the deceased.

P. L. § 2377. G. L. § 2546. P. S. § 2268. V. S. § 1907. R. L. § 1647. 1880, No. 18, § 1. 70 Vt. 247. 85 Vt. 115.

2407. Description of paper forged or counterfeited. In a complaint, information or indictment for forgery or counterfeiting, or for uttering and publishing as true an instrument, document or paper which may be the subject of the offense of forgery or counterfeiting, it shall be sufficient to describe such instrument, document or paper by the name or designation by which it is usually known or by the purport thereof, without setting forth a copy or facsimile or otherwise describing the same or its value. A misnaming of such instrument, document or paper shall not affect the cause, provided, that as set forth, the same appears to be any one of the instruments, documents or papers which is made a subject of the offense of forgery or counterfeiting.

P. L. § 2378. G. L. § 2547. P. S. § 2269. V. S. § 1908. R. L. § 1648. 1880, No. 19.

2408. Description of money stolen. In a complaint, information or indictment for larceny, in which it is necessary to make an averment as to money, bank bills or promissory notes, issued or purporting to be issued by an incorporated bank or banking institution or currency authorized to be circulated and circulating as money, it shall be sufficient to describe such money, bank bills, bank notes or as money, simply as money, without specifying any particular coin, bank bill, bank note or currency. So far as regards the description of property, such allegation shall be sustained by proof of any amount of coin or of any bank bill, bank note or piece of currency, although the particular species of coin of which such amount

was composed or the particular nature of such bank bill, bank note or currency, is not proved.

P. L. § 2379. G. L. § 2548. P. S. § 2270. V. S. § 1909. R. L. § 1649. 1870, No. 5, § 6.

2409. Joinder of counts for larceny and receiving stolen goods. In a complaint, information or indictment for larceny against one or more persons, counts may be added for buying, receiving or aiding in the concealment of property stolen or a part thereof, knowing the same to be stolen. In such cause the prosecutor shall not be put to his election, but upon one or more of the counts, the jury may convict or acquit one or more of the defendants, according to the proofs.

P. L. § 2380. G. L. § 2549. P. S. § 2271. V. S. § 1910. R. L. § 1650. 1870, No. 5, § 3.

2410. Certain omissions not to affect indictment. Where it shall appear by the complaint, information or indictment, that the court has jurisdiction of the offense, a complaint, information or indictment shall not be held bad, nor shall the trial, judgment or other proceedings thereon be affected, by reason of the omission of the words "as appears of record," or of the words "with force and arms," or for the insertion of the words "against the form of the statute," instead of the words "against the form of the statutes," or vice versa, or for the omission of such words, or for omitting to state the time at which the offense was committed in any case where time is not the essence of the offense, or for stating the time imperfectly, or upon a day in the future, or upon an impossible day, or a day that has never happened, or for want of a proper or perfect venue.

P. L. § 2381. G. L. § 2550. P. S. § 2272. V. S. § 1911. 1882, No. 86, § 1. 41 Vt. 691. 90 Vt. 125.

2411. Certain variances cured by amendment. If, on the trial of a complaint, information or indictment, there appears to be a variance between the averments therein and the evidence offered in proof, in the name or description of a place mentioned, or of a person alleged to be the owner of property which forms the subject of an offense charged, or which is alleged to be injured or damaged, or intended to be injured or damaged by the commission of such offense, or in the Christian name or surname, or both Christian name and surname, or other description of a person named or described, or in the name or description of any matter or thing whatsoever, the court before whom such trial is had, if it considers such variance not material and that the respondent cannot be prejudiced thereby in his defense upon the merits, may order the complaint, information or indictment to be amended, according to the proof, by some officer of the court, in that part wherein the variance occurs, on such terms as to a postponement of the trial as the court thinks reasonable. After amendment, the trial shall proceed in the same manner and with the same consequences as if such variance had not occurred.

P. L. § 2382. G. L. § 2551. P. S. § 2273. V. S. § 1912. 1882, No. 86, § 2. 64 Vt. 405. 64 Vt. 569. 71 Vt. 405. 72 Vt. 46. 72 Vt. 410. 75 Vt. 202. 75 Vt. 308. 107 Vt. 487.

Witnesses and Depositions.

2412. Respondent as witness, failure to testify. In the trial of complaints, informations, indictments and other proceedings against persons charged with crimes or offenses, the person so charged shall, at his own request and not otherwise, be deemed a competent witness. The credit to be given to his testimony shall be left solely to the jury, under the instructions of the court but the failure of such person to testify may be a matter of comment to the jury and the jury may draw reasonable inferences therefrom.

1935, No. 52, § 1. P. L. § 2383. G. L. § 2554. P. S. § 2276. V. S. § 1915. R. L. § 1655. 1866, No. 40. 40 Vt. 555. 65 Vt. 66.

2413. Witnesses for poor respondent summoned by state. When it appears to a county court in which a criminal cause is pending, that the respondent is from poverty unable to procure the attendance of witnesses in his behalf, such court may order as many of such witnesses to be summoned by the prosecuting

officer, at the expense of the state, as it judges necessary to secure the respondent an impartial trial.

P. L. § 2384. G. L. § 2555. P. S. § 2277. R. 1906, § 2173. V. S. § 1916. R. L. § 1656. G. S. 36, § 31. R. S. 31, § 19. 1830, No. 3.

2414. Nonresident witnesses, testimony of, how taken. When an issue of fact is joined upon a complaint, information or indictment, on application of the respondent, the court may grant a commission to examine material witnesses residing out of the state, and the prosecuting officer may join in such commission and name material witnesses to be examined on the part of the state.

P. L. § 2385. G. L. § 2556. P. S. § 2278. V. S. § 1917. R. L. § 1657. G. S. 120, § 25. R. S. 102, § 17.

2415. Recognizance may be required of witness. In a proceeding before a court or magistrate for the investigation or prosecution of a criminal offense, the court or magistrate may order any witness appearing before such court or magistrate to enter into a sufficient recognizance with surety for his appearance before any court or magistrate where his attendance in such investigation or prosecution is necessary. If the witness refuses to enter into such recognizance with surety, he may be committed to jail in the county where his attendance as a witness is required, on a warrant of the court or magistrate making the order, and there detained until such time as his attendance to testify is required.

P. L. § 2386. G. L. § 2557. 1910, No. 89, § 1. P. S. § 2279. R. 1906, § 2175. V. S. § 1918. R. L. § 1658.

Summons to Testify in State.

2416. Penalty for not obeying. A person legally summoned to attend a court in this state to testify in a criminal cause, who wilfully or wrongfully refuses to attend and testify, shall be fined not less than \$10.00 nor more than \$100.00 or imprisoned not more than six months, or both.

P. L. § 2389. G. L. § 2560. P. S. § 2282. V. S. § 1921. R. L. § 1661. G. S. 36, § 32. 1861, No. 23, § 1. 10 Vt. 493. 56 Vt. 698.

2417. Counseling or aiding in nonattendance; penalty. A person who knowingly and wrongfully counsels, aids or assists a person so summoned to testify, to absent himself from attendance before such court, shall be fined not more than \$50.00 nor less than \$10.00.

P. L. § 2390. G. L. § 2561. P. S. § 2283. V. S. § 1922. R. L. § 1662. G. S. 36, § 33. 1861, No. 23, § 2.

Depositions.

2418. To perpetuate testimony. A person complained of, informed against or indicted for a crime may make affidavit before a justice of the supreme court, a superior judge or a judge of the county court, that the testimony of certain witnesses is material in his defense, and thereupon the same proceedings may be had as in perpetuating testimony in civil causes.

P. L. § 2391. G. L. § 2562. 1915, No. 1, § 96. P. S. § 2284. R. 1906, § 2180. V. S. § 1923. R. L. § 1663. G. S. 36, § 41. 1858, No. 32, § 1.

2419. Notice. Reasonable notice shall be given to the prosecuting attorney of the time and place when and where the witnesses will be examined, specifying therein the complaint, information or indictment on the trial of which such testimony is to be used and the names of the witnesses proposed to be examined.

P. L. § 2392. G. L. § 2563. P. S. § 2285. R. 1906, § 2181. V. S. § 1924. R. L. § 1664. G. S. 36, § 42. 1858, No. 32, § 2.

2420. Admissible on trial. Depositions so taken to be used in criminal causes, if taken at least ten days before the session of the court in which the same are offered as evidence, may be admitted on the trial of the complaint, information or indictment relative to which they are to be used, subject to the conditions provided as to similar depositions to be used in civil causes.

P. L. § 2393. G. L. § 2564. P. S. § 2286. V. S. § 1925. R. L. § 1665. G. S. 36, § 43. 1858, No. 32, § 3.

Proceedings Before a Municipal Court in Criminal Causes.

2421. Jurisdiction; misdemeanors. Municipal courts shall have concurrent jurisdiction with county courts, except as otherwise provided, to try and finally determine prosecutions for misdemeanors committed within their jurisdictions, but an appeal shall not be allowed from the judgment of such municipal court to the county court.

1939, No. 45, § 2. P. L. § 2394. G. L. § 2565. 1915, No. 91, § 1. 90 Vt. 150. 91 Vt. 330.

2422. Same. A municipal court shall have jurisdiction to try and finally determine prosecutions for violations of by-laws or ordinances of a village or city within the county, except as otherwise provided.

P. L. § 2395. G. L. § 2566. 1915, No. 91, § 2.

2423. Same. A municipal court shall have jurisdiction to render judgment and pass sentence upon a plea of guilty in prosecutions for felony, wherein the maximum penalty of imprisonment is for less than life.

P. L. § 2396. G. L. § 2567. 1917, No. 254, § 2530. 1915, No. 91, § 3.

Procedure in a County Having No Municipal Court.

2424. Filing of information, appearance. When a person is confined in jail in a county not having a municipal court established by law, on a complaint for an offense which may be prosecuted by information, any superior judge or judge of any municipal court within the state on the written petition of the respondent, may direct an information for the offense charged to be filed against him by the state's attorney of such county with the clerk of the county court for the county in which such jail is located. On such information being filed, such superior judge or municipal judge may order the appearance of such respondent before him at some place within the county where such jail is located, with notice of such order to the state's attorney of such county.

1939, No. 51, § 1.

2425. Hearing. At such hearing, such judge may receive and record a plea of guilty, award sentence thereon and hear and determine questions of law arising on such information, and shall file with such county clerk a record of his doings, findings and sentence, as may be required. The clerk of the court shall forthwith issue a mittimus to carry such sentence into effect.

1939, No. 51, § 2.

2426. Mittimus. Such mittimus shall be sufficient in law, providing a reference to this subheading and the name of the superior or municipal judge awarding such sentence is designated therein.

1939, No. 51, § 3.

2427. Same, not guilty plea. Upon such information, if the respondent pleads not guilty or a plea upon which an issue is joined, such information, with a certificate of the proceedings thereon, signed by such superior or municipal judge, shall be filed with the clerk of the county court in such county and thereupon the respondent shall be ordered recommitted to such jail and the clerk of the county court shall issue a mittimus accordingly.

1939, No. 51, § 4.

Proceedings Before Justices of the Peace in Criminal Causes and Appeals Therefrom.

2428. Jurisdiction. Except as otherwise provided, a justice may try and determine prosecutions and actions of a criminal nature, only where the punishment is by fine not exceeding \$100.00, and issue a warrant to carry the judgment

into effect in case an appeal is not taken, and shall have the same authority in other criminal causes where jurisdiction is given him.

P. L. § 2397. 1931, No. 40, § 1. G. L. § 2570. 1917, No. 254, § 2533. P. S. § 2287. V. S. § 1926. R. L. § 1666. G. S. 31, § 1. R. S. 26, § 1. 1816, p. 137. R. 1797, p. 413, § 1. 1789, p. 9. R. 1787, p. 84. 25 Vt. 247. 57 Vt. 576. 60 Vt. 618. 82 Vt. 37.

2429. Testimony to be written. A justice shall take in writing the substance of the evidence of witnesses testifying before him in a criminal cause.

P. L. § 2398. G. L. § 2571. P. S. § 2291. V. S. § 1930. R. L. § 1670. 1880, No. 119, § 8. 56 Vt. 451.

2430. Testimony to be filed with clerk, if appeal taken. When a respondent appeals from the judgment of a justice, in a cause within his jurisdiction to try and determine, the justice shall file with the clerk thereof the evidence so taken by him at least two days before the sitting of the court to which appeal is taken.

P. L. § 2399. G. L. § 2572. P. S. § 2292. V. S. § 1931. R. L. §§ 1671, 1672. 1880, No. 119, §§ 9, 10. 56 Vt. 451.

2431. Jury, how drawn. When a criminal cause is tried by jury before a justice, the jury shall be drawn as in civil causes.

P. L. § 2400. G. L. § 2573. P. S. § 2290. V. S. § 1929. R. L. § 1669. G. S. 31, § 44. R. S. 26, § 34. R. 1787, p. 83. R. 1797, p. 420, § 15.

2432. Appeal, when allowed. An appeal shall not be allowed in a criminal cause where the respondent is acquitted or where the respondent pleads guilty. The respondent may appeal from a judgment or sentence of a justice against him in all other causes, if the appeal is claimed within two hours after the rendition thereof.

P. L. § 2401. G. L. § 2574. P. S. § 2293. V. S. § 1932. 1894, No. 47, § 1. R. L. § 1673. 1880, No. 23, § 3. 1876, No. 64. G. S. 31, §§ 63, 70. R. S. 26, §§ 45, 51. 1821, pp. 76, 78. R. 1797, p. 414, § 4. 1792, p. 62. 1789, p. 11. R. 1787, p. 86. 35 Vt. 562. 42 Vt. 430. 43 Vt. 265. 55 Vt. 1. 60 Vt. 199. 64 Vt. 203.

2433. Appeal from justice, where heard. In prosecutions before a justice in which an appeal is taken from his judgment and sentence, such appeal shall lie to a municipal court within the same county, if there is such a court therein. Such appeal shall be heard at the county courthouse in the county where the complaint was first heard, at such time as the judge of such court shall determine. However, the judge shall not compel a respondent to go to trial within twenty days from the time of entering such appeal.

P. L. § 2402. G. L. § 2575. 1917, No. 254, § 2536. 1915, No. 91, § 7.

2434. Appeal to county court, when. In counties not having a municipal court, the appeal shall be taken to the county court.

P. L. § 2403. G. L. § 2576. 1915, No. 91, § 7.

2435. Appeals; time for entering. Appeals to a county or municipal court shall be entered within twenty-one days from the date of the judgment or sentence appealed from.

P. L. § 2404. G. L. § 2577. 1917, No. 254, § 2538.

2436. Recognizance; entry for affirmance. A party appealing from a justice shall not be released from custody, unless at the time of the appeal he gives surety, by way of recognizance to the state, county, town or village, as the case may be, in which the offense is charged to have been committed, if the prosecution is on complaint or information of a complaining or informing officer, or, if otherwise, to the prosecutor, conditioned that the respondent will personally appear before the court to which the cause is appealed, and there prosecute his appeal to effect and abide the order of court thereon. If the respondent does not enter his appeal in a proper court within the time prescribed, the appellee may enter the same for affirmance. If cause is not shown to the contrary, the same shall be affirmed with additional costs.

P. L. § 2405. G. L. § 2578. 1915, No. 91, § 7. P. S. § 2294. V. S. § 1934. R. L. § 1674. G. S. 31, § 64. 1859, No. 12, § 1. R. S. 26, § 46. R. 1797, p. 414, § 4. 1792, p. 62. 1789, p. 11. 10 Vt. 544. 44 Vt. 363. 57 Vt. 62.

2437. Same; how prosecuted after affirmance. When such judgment or sentence is affirmed, the recognizance taken by the justice shall be prosecuted as in civil causes.

P. L. § 2406. G. L. § 2579. P. S. § 2295. V. S. § 1935. R. L. § 1675. G. S. 31, § 65. 1859, No. 12, § 2.

2438. Appeal not entered, warrant may issue. If the respondent in a criminal cause appeals from the judgment or sentence of a justice, the appeal shall suspend the judgment or sentence, but shall not vacate it. If neither the prosecuting officer nor the respondent enters the cause in court within twenty-one days from the day of such judgment or sentence, the justice shall issue a warrant to carry such judgment and sentence into effect as if an appeal had not been taken.

P. L. § 2407. G. L. § 2580. 1915, No. 91, § 1. P. S. § 2296. 1906, No. 72, § 1. V. S. § 1936. 1894, No. 48. R. L. § 1676. 1865, No. 10, § 1. 63 Vt. 537. 71 Vt. 476.

2439. Recognizance, prosecution of. If such appeal is not entered for affirmance, the prosecuting officer may have an action of contract, in the name of the state, against the bail, upon the recognizance for the appeal. The judgment shall be for such sum as is just, which, if the respondent cannot be found, shall be the amount of fine, costs and interest. If the sentence was imprisonment, the judgment shall be for such sum as the court adjudges equitable. A judgment against the bail, and payment of the same, shall not relieve the respondent from the sentence of imprisonment.

P. L. § 2408. G. L. § 2581. P. S. § 2297. V. S. § 1937. R. L. § 1677. 1865, No. 10, § 3. 64 Vt. 203.

2440. Payment of fine after appeal; effect. The respondent in a criminal cause appealed from the decision of a justice may, where the sentence is for fine and costs only, tender or pay to such justice the fine and costs at any time before such appeal is entered in court and within twenty-one days from the day of the judgment appealed from. The justice shall receive and enter the same on the records, which shall be a full satisfaction of the judgment.

P. L. § 2409. G. L. § 2582. 1915, No. 91, § 1. P. S. § 2298. 1906, No. 72, § 2. V. S. § 1938. R. L. § 1678. 1865, No. 10, § 2. 44 Vt. 363. 63 Vt. 537.

2441. Waiving appeal; effect. A respondent in a criminal cause appealed from the decision of a justice may, at any time before such appeal is entered in court and within twenty-one days from the day of the judgment appealed from, personally appear before the justice and waive his appeal. Thereupon the justice shall issue a warrant to carry the judgment into effect as if an appeal had not been taken.

P. L. § 2410. G. L. § 2583. P. S. § 2299. 1906, No. 72, § 3. V. S. § 1939. 1886, No. 50.

Binding Over to County and Municipal Courts.

2442. Powers as to. A justice or municipal court may cause a person charged with a crime, exceeding its jurisdiction to try and determine, to be apprehended and committed to jail or bound over with sufficient sureties by way of recognizance, for his appearance before the county court within the county in which such cause is triable, to answer to such information or indictment as may be brought against him. However, if the proceedings are before a justice, and there is a municipal court within the county having jurisdiction to try and determine the cause, the respondent shall be bound over to such court to appear on the last Wednesday of the month next following, to answer to such complaint or information as may be brought against him, and from day to day thereafter. If there is not a municipal court within the county, the respondent shall be bound over to the county court as herein provided.

P. L. § 2411. G. L. § 2584. 1917, No. 254, § 2545. 1915, No. 91, §§ 1, 8. P. S. § 2300. 1898, No. 43, § 2. V. S. § 1940. R. L. § 1679. G. S. 31, § 6. R. S. 26, § 2. 1830, No. 2, § 1. R. 1797, p. 413, § 2. 1789, p. 9. R. 1787, p. 84. 82 Vt. 37. 90 Vt. 150.

2443. Copy of record to be filed. In such cases, the justice or municipal court shall file with the clerk of the county court, if the respondent is bound over to such court, the evidence taken by him and a certified copy of the records and process in the cause within thirty days after the trial or examination, but if there are not thirty days before the next term of the county court, then on the first day of the term. If the respondent is bound over to a municipal court, the justice shall file such copy with the judge or clerk of such court within ten days after the trial or examination.

P. L. § 2412. G. L. § 2585. 1917, No. 254, § 2546. P. S. § 2301. V. S. § 1941. R. L. §§ 1672, 1680. 1880, No. 119, § 10. G. S. 31, § 7. R. S. 26, § 3. 1826, No. 6.

2444. Respondent may waive examination. A person arrested and brought before a justice or municipal court and charged with an offense exceeding the jurisdiction of such court to try and determine, may waive examination. He shall thereupon be committed to jail or bound over as provided in section 2442.

P. L. § 2413. G. L. § 2586. P. S. § 2302. 1902, No. 46, § 1.

Sureties of Peace, and on Continuance.

2445. Sureties of the peace. A justice or municipal court may order a person who is arrested for a criminal offense, to find sureties that he will keep the peace, when it is necessary, and may commit him to jail until he complies.

P. L. § 2414. G. L. § 2587. 1908, No. 62. P. S. § 2304. V. S. § 1943. R. L. § 1682. G. S. 31, § 12. R. S. 26, § 6.

2446. Bail, when hearing postponed. When a justice or municipal court postpones the trial of a criminal cause or the examination of a person charged with a criminal offense which is bailable, the court may take security of the person by way of recognizance to the state, for his appearance before the court on the day to which the trial or examination is postponed.

P. L. § 2415. G. L. § 2588. 1910, No. 89, § 3. 1908, No. 62. P. S. § 2305. V. S. § 1944. R. L. § 1683. G. S. 31, § 13. R. S. 26, § 21. R. 1797, p. 423, § 20. 85 Vt. 484.

Search Warrants.

2447. Search warrants; daytime; nighttime. For the purpose of procuring evidence of a crime, a justice of the peace or a municipal judge may issue a warrant for searching in the daytime, or two justices of the peace or a municipal judge may issue a warrant for searching in the nighttime, a dwelling house or other place in the following cases:

I. To search for and seize personal property, stolen, embezzled or obtained by false tokens, where such property is alleged to be concealed; or

II. To search for and seize a person against whom a warrant for a criminal offense has been issued, when such person is believed to be secreted; or

III. To search a house of ill fame for the purpose of getting evidence of prostitution; or

IV. To search for and seize counterfeit coin, forged or counterfeit bank bills or notes, forged or counterfeit public or corporate securities and the tools and materials for such forgery or counterfeiting, when the discovery of such articles may tend to convict a person of a criminal offense; or

V. To search for and seize gaming implements and apparatus when the discovery of such articles may tend to convict a person of a criminal offense; or

VI. To search for and seize obscene books, pictures, figures or descriptions when the discovery of such articles may tend to convict a person for a criminal offense; or

VII. To search for and seize lottery tickets or materials for a lottery when the discovery of such articles may tend to convict a person of a criminal offense; or

VIII. To search for and seize fish, quadrupeds or birds protected by chapters 279 and 280 and believed to have been taken unlawfully, or implements or devices for taking such fish, quadrupeds, or birds, subject to seizure or unlawfully possessed, when the discovery of such fish, game, implements or devices may tend to convict a person of an offense; or

IX. To search for and seize implements, devices, tools, materials, or any other personal property alleged to have been used in the commission of, or which may constitute evidence of, a crime.

1935, No. 53, § 1. P. L. § 2416. G. L. § 2589. 1908, No. 62. P. S. § 2315. 1896, No. 35, § 1. V. S. § 1954. R. L. § 1693. 1870, No. 5, § 11. G. S. 31, § 14. R. S. 26, § 69. R. 1797, p. 138, § 8. R. 1797, p. 171, § 32. R. 1787, p. 140.

2448. Oath. Such search warrant shall not be granted except upon the oath of the attorney general, a state's attorney, grand juror or some creditable person, that he has reason to suspect and does suspect that a person against whom a warrant for a criminal offense has been issued is secreted in the house or place to be searched, that the house or place to be searched is a house of ill fame resorted to for the purpose of prostitution, that property which has been stolen, embezzled or obtained by false tokens or any of the articles, fish, quadrupeds or birds mentioned in the preceding section are concealed in a particular house or place or that the discovery of such article, fish, quadrupeds, birds or implements, devices, tools, materials or any personal property suspected to have been used in the commission of a crime might upon discovery of the same tend to convict a person of a criminal offense.

1935, No. 53, § 2. P. L. § 2417. G. L. § 2590. P. S. § 2316. R. 1906, § 2212. V. S. § 1955. R. L. § 1694. G. S. 31, § 15. R. S. 26, § 70. R. 1797, p. 171, § 32.

2449. Fees paid by state, when. When the state's attorney of a county or the grand juror of a town in which a search is to be made, under the provisions of the two preceding sections, applies for such a warrant or certifies in writing on the warrant that the search ought to be made, the fees for such warrant and the service thereof shall be paid by the state.

P. L. § 2419. G. L. § 2592. P. S. § 2318. V. S. § 1957. 1890, No. 51, § 1. 72 Vt. 55.

Justices to Make Report to Town Treasurer.

2450. Fines and penalties. Annually, on or before February 10, a justice shall deliver an abstract of the fines and penalties imposed by him in the preceding year, ending January 31, to the treasurer of the village, town or county to which the fine or penalty belongs, with the name of the person to whom the execution or warrant for the collection of the same was delivered. On failure so to do, such justice shall forfeit to the use of such village, town or county a sum equal to the fine or penalty, to be recovered in an action of tort on this statute.

P. L. § 2420. G. L. § 2593. 1917, No. 254, § 2554. P. S. § 2319. R. 1906, § 2215. V. S. § 1958. R. L. § 1696. G. S. 31, §§ 2, 3. 1854, No. 8, § 2. R. S. 26, §§ 66, 67. R. 1797, p. 429, § 30. R. 1787, p. 71.

2451. Statistics and costs. Within ten days after the trial, a justice shall furnish to the treasurer of the town liable to pay the costs of prosecution, a written statement of criminal prosecutions tried by him. Such statement shall contain the name of the person prosecuted, his offense and sentence, the name of the prosecuting officer, the officer making the arrest, the witnesses, and the fees due each. It shall also contain a description of the orders and the amount thereof drawn by him in such prosecution.

P. L. § 2421. G. L. § 2594. 1917, No. 254, § 2555. P. S. § 2320. V. S. § 1959. R. L. § 1697. 1876, No. 72. G. S. 31, § 4. 1860, No. 47, § 1.

2452. Penalty. A justice who does not comply with the provisions of the preceding section shall be fined \$5.00.

P. L. § 2422. G. L. § 2595. 1917, No. 254, § 2556. P. S. § 2321. V. S. § 1960. R. L. § 1698. G. S. 31, § 5. 1860, No. 47, § 2.

Questions of Law in Supreme Court.

2453. Appeal, stay of sentence. After a verdict of guilty is returned and upon motion of the respondent, questions of law decided by the county court arising upon demurrer, trial by jury or motion in arrest, in a prosecution by information or indictment for a crime or misdemeanor, shall be allowed and placed upon the record, and the same shall thereupon pass to the supreme court for final decision. Judgment, sentence and execution shall be respited and stayed in all causes where the respondent has been convicted of a misdemeanor and in capital causes, and in other causes only at the discretion of the court.

1937, No. 47, § 1. P. L. § 2423. G. L. § 2596. P. S. § 2322. V. S. § 1961. R. L. § 1699. G. S. 30, § 93. 1856, No. 9. R. S. 25, §§ 64, 65. 1828, No. 2, § 1. 60 Vt. 90. 65 Vt. 1. 66 Vt. 134. 66 Vt. 356. 86 Vt. 479. 89 Vt. 326. 89 Vt. 490. 90 Vt. 65. 199 U. S. 425.

2454. Recognizance. Whenever a person charged with or convicted of a misdemeanor is able to furnish sufficient sureties, such person shall not be confined in jail, but his recognizance shall be taken as provided by law and he shall be released from custody, provided that such recognizance is taken before such cause is finally determined by expiration of the time for taking or entering an appeal or for filing exceptions, or by final entry in supreme court or otherwise.

1937, No. 47, § 2.

2455. Proceeding in supreme court. If, upon the inspection of the record in a cause where judgment, sentence and execution have been respited and stayed, the supreme court is of opinion that judgment ought to be rendered upon the verdict, it shall render judgment and sentence thereon and cause execution thereof to be done. When the county court has passed judgment and sentence upon the verdict of the jury, and the supreme court does not find an error in the proceedings of the county court, it shall adjudge that the exceptions be overruled. If it finds error, the judgment and sentence of the county court shall be reversed and judgment of acquittal rendered by the supreme court, or the cause remanded to the county court for a new trial.

P. L. § 2424. 1933, No. 35, § 1. G. L. § 2597. P. S. § 2324. V. S. § 1963. R. L. § 1700. G. S. 30, § 94. R. S. 25, § 66. 1828, No. 2, § 1. 1816, p. 126. 66 Vt. 134. 66 Vt. 356. 86 Vt. 479.

2456. Exceptions to supreme court; remand. In a prosecution by complaint, information or indictment for a felony or misdemeanor, upon exceptions taken by the state, questions of law decided against the state by a county or municipal court shall be allowed and placed upon the record before final judgment. When such exceptions are so taken and allowed, in its discretion such court may pass the same to the supreme court before final judgment. The supreme court shall hear and determine the questions upon such exceptions and render final judgment thereon, or remand the cause to such county or municipal court for further trial or other proceedings, as justice and the state of the cause may require.

P. L. § 2425. G. L. § 2598. 1912, No. 96, §§ 1, 2. 92 Vt. 477. 93 Vt. 304. 109 Vt. 349. 110 Vt. 361. 113 Vt. 34. 114 Vt. 292.

2457. May be heard in absence of respondent. The supreme court, in its discretion, may hear questions of law for final decision in such court in the absence of the respondent.

P. L. § 2426. G. L. § 2599. 1912, No. 95. P. S. § 2323. V. S. § 1962. 1892, No. 28, § 6.

2458. Bail forfeited in supreme court. When a respondent forfeits his bail after conviction in a municipal or county court and after going at large upon bail for his appearance before the supreme court, the supreme court shall render judgment that the bonds are forfeited, adjudge that the respondent has waived his exceptions and order the cause to be remanded to the court for sentence or such further proceedings as the law requires.

P. L. § 2427. G. L. § 2600. 1917, No. 254, § 2561. P. S. § 2325. V. S. § 1964. 1882, No. 87.

2459. No writ of error. A writ of error shall not be allowed in a criminal cause prosecuted by complaint, information or indictment.
P. L. § 2428. G. L. § 2601. P. S. § 2326. V. S. § 1965. R. L. § 1701. G. S. 30, § 95.
R. S. 25, § 67. 1828, No. 2, § 1.

Proceedings in Case of Insanity.

2460. Commitment for observation. If a person is indicted or informed against for a criminal offense or is committed to jail on a criminal charge by a justice or municipal court, and a plea of insanity is made in court, or if the judge is satisfied that a plea of insanity will be made, the presiding judge of the county court before whom the person is to be tried, or any municipal, or superior judge in term time or in vacation, may order the person into the care of the superintendent of the Vermont state hospital, to be detained and observed by the superintendent until further order of such judge, or of such county court, that the truth or falsity of such plea may be ascertained.

1939, No. 52, § 1. P. L. § 2429. G. L. § 2602. 1917, No. 254, § 2563. P. S. § 2327.
1898, No. 48, § 1. 73 Vt. 205.

2461. When person is not indicted because insane; confinement. When a person held in prison on a charge of having committed a criminal offense is not indicted by the grand jury by reason of insanity, the grand jury shall so certify to the court. If in such case the discharge or going at large of the insane person is considered by the court dangerous to the community, the court may order him confined in the county jail, or in the Vermont state hospital, or some other suitable place at his own expense, if he has estate sufficient for that purpose, and if not, at the expense of the state.

P. L. § 2430. G. L. § 2603. P. S. § 2328. V. S. § 1966. 1894, No. 65. 1888, No. 55.
1884, No. 50. R. L. § 1702. G. S. 120, § 23. 1842, No. 27. R. S. 102, § 15.
1825, No. 7, §§ 1, 2. 84 Vt. 363.

2462. On acquittal by reason of insanity; confinement. When a person, who has been tried on a complaint, information or indictment for a criminal offense, is acquitted by the jury by reason of insanity, the jury, in giving its verdict of not guilty, shall state that it is given for such cause. In such case, if the discharge or going at large of the insane person is considered dangerous to the community, the court, in its discretion, may order him to be confined in the state prison, or in the Vermont state hospital, or in some other suitable place, on such terms as the court directs, and at his own expense, if he has sufficient estate for that purpose, and if not, at the expense of the state.

P. L. § 2431. G. L. § 2604. 1910, No. 90. P. S. § 2329. V. S. § 1967. 1884, No. 50.
R. L. § 1703. G. S. 120, § 21. 1841, No. 12, § 1. R. S. 102, § 16. 1825, No. 7, §§ 1, 2.
113 Vt. 414.

2463. Same; change of place of confinement. Upon hearing, after twelve days' notice to the state's attorney of the county in which the case was tried, for good cause shown, a superior judge may order a change of the place of confinement of a person confined under the provisions of the preceding section.

P. L. § 2432. G. L. § 2604. 1910, No. 90. P. S. § 2329. V. S. § 1967. 1884, No. 50.
R. L. § 1703. G. S. 120, § 21. 1841, No. 12, § 1. R. S. 102, § 16. 1825, No. 7, §§ 1, 2.

2464. Petition for discharge. A person confined under an order of court, pursuant to the three preceding sections, shall be discharged from confinement only by order of the county court for the county in which the order for confinement was made, upon petition therefor, returnable to such court, and served upon the state's attorney for that county within twenty-one days from the date of issuing the same. The state's attorney shall enter his appearance therein not later than twenty-one days after the date of the service thereof. This section shall not affect the right of a person so confined to sue out a writ of habeas corpus.

1945, No. 29, § 29. P. L. § 2433. G. L. § 2605. P. S. § 2330. V. S. § 1968.
1882, No. 49, §§ 1, 9. 113 Vt. 414.

2465. Same; by state board. If the person has no estate, the petition may be brought in his behalf by the state board of mental health at the expense of the state. In such case, recognizance for costs shall not be required.

P. L. § 2434. G. L. § 2606. P. S. § 2331. V. S. § 1969. 1882, No. 49, § 2.

2466. Witness for respondent at expense of state, when. If it appears to the court that the person is for reasons of poverty unable to procure the attendance of witnesses in his behalf, it may order such witnesses subpoenaed at the expense of the state as it deems necessary to secure the petitioner an impartial hearing. The witnesses shall be paid as in other state causes.

P. L. § 2435. G. L. § 2607. P. S. § 2332. V. S. § 1970. 1882, No. 49, §§ 3, 8.
113 Vt. 414.

2467. Court may order respondent produced. Such court may issue an order, directed to any sheriff or constable in the state, commanding him to bring the person before the court for hearing. The officer executing the order shall deliver an attested copy thereof to the custodian of the person, who shall thereupon surrender him to the officer.

P. L. § 2436. G. L. § 2608. P. S. § 2333. V. S. § 1971. 1882, No. 49, § 4. 113 Vt. 414.

2468. Hearing; discharged or recommitted. On hearing, if it appears that the person has become sane, and the court considers that his release or going at large is not dangerous to the community, it shall order his discharge from confinement. Otherwise the petition shall be dismissed and the person, if before the court, shall be recommitted to the place of confinement from which he was brought.

P. L. § 2437. G. L. § 2609. P. S. § 2334. V. S. § 1972. 1882, No. 49, § 5. 113 Vt. 414.

2469. Costs. On hearing, if it appears that the person has sufficient estate, in its discretion and upon dismissing the petition, the court may award costs against such estate and issue execution therefor.

P. L. § 2438. G. L. § 2610. P. S. § 2335. V. S. § 1973. 1882, No. 49, § 6.

2470. Change of terms of confinement; petition. When a person acquitted of a criminal offense because of his insanity is confined by order of the court, such court may thereafter alter the terms on which the person is confined, upon petition therefor returnable to the court and served upon the state's attorney for the county in which the order was made, at least twelve days before the return date thereof.

P. L. § 2439. G. L. § 2611. P. S. § 2336. V. S. § 1974. 1882, No. 49, § 7.

Miscellaneous.

2471. Trial for murder; conviction may be for what. Under an indictment for murder, the respondent may be convicted of murder in the first degree, murder in the second degree or of manslaughter, as the case may be, upon the proofs.

P. L. § 2440. G. L. § 2612. P. S. § 2337. V. S. § 1975. R. L. § 1704. 1880, No. 18, § 2.
G. S. 120, § 12. R. S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41. 53 Vt. 560. 58 Vt. 457.
85 Vt. 115.

2472. Same; burglary or robbery. A person arraigned and tried for murder may be convicted of manslaughter, if the jury finds that offense proved. A person arraigned and tried for burglary or robbery may be convicted of larceny, if the jury finds that offense proved.

P. L. § 2441. G. L. § 2613. P. S. § 2338. V. S. § 1976. R. L. § 1705. G. S. 120, § 12.
R. S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41. 53 Vt. 560. 110 Vt. 1.

2473. Several indicted for jointly receiving stolen goods; one or more may be convicted. On trial of two or more persons upon complaint, information or indictment, for jointly buying, receiving or aiding in the concealment of stolen property, knowing the same to be stolen, if it is proved that one or more of the persons separately bought, received or aided in the concealment of any of such property, the jury may convict such of the persons as are proved to have bought,

received or aided in the concealment of any part of such property, knowing the same to have been stolen.

P. L. § 2442. G. L. § 2614. P. S. § 2339. V. S. § 1977. R. L. § 1706. 1870, No. 5, § 4.

2474. Allegations of ownership; extent of proof to support. In the prosecution of an offense committed upon, or in relation to, or in any way affecting real estate, or an offense committed in stealing, embezzling, injuring or fraudulently receiving or concealing money or other personal estate, it shall be sufficient and not deemed a variance if it is proved on trial that, at the time when the offense was committed, the actual or constructive possession, or the general or special property in whole or in part of such real or personal estate was in the person alleged in the complaint, information or indictment to be the owner thereof.

P. L. § 2443. G. L. § 2615. 1917, No. 254, § 2576. P. S. § 2340. V. S. § 1978. R. L. § 1707. G. S. 120, § 18. R. S. 102, § 13. 64 Vt. 405. 89 Vt. 148.

2475. Intent to defraud, allegation and proof. When an intent to defraud is required to constitute a criminal offense, it shall be sufficient to allege in the complaint, information or indictment an intent to defraud, without naming the person or body corporate intended to be defrauded. On trial it shall be sufficient and shall not be deemed a variance if there appears to have been an intent to defraud the United States, a state, county, town, city, district, a body corporate, a public officer in his official capacity, a partnership or members thereof or a person.

P. L. § 2444. G. L. § 2616. P. S. § 2341. V. S. § 1979. R. L. § 1708. G. S. 114, § 8. R. S. 96, § 8.

2476. Conviction of theft need not be averred or proved in certain prosecutions. In a prosecution for buying, receiving or aiding in the concealment of money or other property known to have been stolen, it shall not be necessary to aver nor on trial to prove that the person who stole the property has been convicted.

P. L. § 2445. G. L. § 2617. P. S. § 2342. V. S. § 1980. R. L. § 1709. G. S. 113, § 17. R. S. 95, § 9.

2477. Respondent on trial ordered into custody, when. On the trial of a person on information or indictment for a felony, the court, in its discretion, may order the person into custody, to be retained in discharge of his recognizance.

P. L. § 2446. G. L. § 2618. P. S. § 2343. V. S. § 1981. 1890, No. 30. R. L. § 1710. G. S. 30, § 84. R. S. 25, § 57. 1805, p. 144. 73 Vt. 149.

2478. Witnesses examined separately, when. On the trial of a person for a criminal offense or on the examination of a person charged therewith before a justice's or municipal court, on the request of the prosecuting attorney or the party accused, the court shall have the witnesses examined separately and apart from each other.

P. L. § 2447. G. L. § 2619. 1908, No. 62. P. S. § 2344. V. S. § 1982. R. L. § 1711. G. S. 30, § 85. R. S. 25, § 58. 50 Vt. 316. 58 Vt. 378. 61 Vt. 153.

2479. Expert evidence. To prevent a failure of justice, a superior judge or the attorney general may order an examination to be made by an expert or experts, either within or without the state, in the investigation of a crime supposed to have been committed within the state. Such order shall be made only on the petition of the state's attorney for the county in which the crime is supposed to have been committed, setting forth the facts because of which the order is applied for, and verified by affidavit, and shall name the expert or experts by whom the examination is to be made, and limit the expense of the examination. Such expense shall be paid in the manner provided for the payment of witness fees in state causes in the county court.

P. L. § 2448. G. L. § 2620. P. S. § 2345. 1906, No. 63, § 33. 1904, No. 58, § 3. V. S. § 1983. 1882, No. 101, § 3.

2480. Autopsy. To prevent a failure of justice, upon the petition of the state's attorney, a superior judge or the attorney general may order an autopsy to be

made in the preparation of a state cause for trial in any court, and fix the compensation therefor, not to exceed \$25.00.

P. L. § 2449. G. L. § 2621. P. S. § 2346. 1906, No. 63, § 33. 1904, No. 58, § 3. V. S. § 1984. 1886, No. 94, § 2.

CHAPTER 113.

UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT THE STATE IN CRIMINAL CASES.

2481. Definitions. As used in this chapter, "action" shall include any proceeding or investigation by a grand jury commenced or about to be commenced, or any action, prosecution or proceeding; "witness" shall include a person whose testimony is desired in any such action; and the word "state" shall include any territory of the United States and District of Columbia.

1937, No. 46, § 1.

2482. Summoning witnesses in this state to testify in another state; certificate; notice of hearing. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in an action in this state, certifies under the seal of such court that there is such action pending in such court, that a person being within this state is a material witness in such action, and that his presence will be required for a specified number of days, upon presentation of such certificate to any superior judge or a judge of a municipal court in the county in which such person is, such judge shall fix a time and place for a hearing in such county and shall notify the witness thereof by an order stating the purpose of the hearing and directing him to appear therefor at a time and place certain.

1937, No. 46, § 2.

2483. Same; hearing, summons. If at such hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in such action in the other state, and that the laws of the state in which such action is pending will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the action is pending at a time and place specified in the summons. In such hearing the certificate shall be prima facie evidence of all the facts stated therein.

1937, No. 46, § 3.

2484. Same; arrest; recognizance. If such certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may direct, in lieu of notification of the hearing, that such witness be forthwith brought before him for such hearing. If at such hearing the judge is satisfied as to the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, he may order, in lieu of issuing subpoena or summons, that such witness be taken forthwith into custody and delivered to an officer of the requesting state, provided however, that a witness so taken into custody may enter into recognizance for such attendance as provided in section 2415.

1937, No. 46, § 4.

2485. Same; penalty. If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile and \$10.00 for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the

summons, he shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

1937, No. 46, § 5.

2486. Witness from another state summoned to testify in this state. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in an action in this state, is a material witness in such action pending in a court of record in this state, a superior judge or a judge of a municipal court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Such certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. Such certificate shall be presented to a judge of a court of record of the state in which the witness is found.

1937, No. 46, § 6.

2487. Same; fees; penalty. If the witness is summoned to attend and testify in this state, he shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where such action is pending and \$10.00 a day for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for in section 2485.

1937, No. 46, § 7.

2488. Exemption from arrest and service of process. If a person comes into this state in obedience to a summons directing him to attend and testify in such action in this state, he shall not, while in this state pursuant to such summons, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance under the summons.

1937, No. 46, § 8.

2489. Same. If a person passes through this state while going to another state in obedience to a summons to attend and testify in such action in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

1937, No. 46, § 9.

2490. Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

1937, No. 46, § 10.

2491. Construction. If any part of this chapter is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

1937, No. 46, § 13.

2492. Citation. This chapter may be cited as the Uniform Act to Secure the Attendance of Witnesses from without the State in Criminal Cases.

1937, No. 46, § 11.

CHAPTER 114.

LIMITATION OF CRIMINAL PROSECUTIONS AND ACTIONS ON PENAL STATUTES.

2493. Felonies and misdemeanors in general. Prosecutions for a felony or misdemeanor, other than larceny, robbery, burglary, forgery, arson and murder,

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testify in this state. If
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in this state, is a material
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uniform Act to Secure the
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NS AND ACTIONS

Prosecutions for a felony
rgery, arson and murder,

shall be commenced within three years after the commission of the offense, and not after.

P. L. § 2450. G. L. § 2622. P. S. § 2347. V. S. § 1985. R. L. § 1712. G. S. 62, § 1.
R. S. 57, § 1. R. 1797, p. 594, § 3. R. 1787, p. 91. 1 Tyl. 283.

2494. Larceny, robbery, burglary and forgery. Prosecutions for larceny, robbery, burglary and forgery shall be commenced within six years after the commission of the offense, and not after.

P. L. § 2451. G. L. § 2623. P. S. § 2348. V. S. § 1986. R. L. § 1713. G. S. 62, § 2.
R. S. 57, § 2. R. 1797, p. 594, § 3. R. 1787, p. 91.

2495. Proceedings begun after time limited, void. If a prosecution for a felony or misdemeanor, other than arson and murder, is commenced after the time limited by the two preceding sections, such proceedings shall be void.

P. L. § 2452. G. L. § 2624. P. S. § 2349. V. S. § 1987. R. L. § 1714. G. S. 62, § 3.
R. S. 57, § 3. R. 1797, p. 594, § 3. R. 1787, p. 91. 56 Vt. 111. 80 Vt. 510.

2496. If prosecutor has penalty. Actions upon a statute for a penalty or forfeiture given in whole or in part to a person who prosecutes for the same, shall be commenced within one year after the commission of the offense, and not after.

P. L. § 2453. G. L. § 2625. P. S. § 2350. V. S. § 1988. R. L. § 1715. G. S. 62, § 4.
R. S. 57, § 4. R. 1797, p. 593, § 1. R. 1787, p. 91.

2497. If state, county or town has penalty. Actions founded upon a statute for a penalty or forfeiture given in whole or in part to the state, county or town shall be commenced within two years after the commission of the offense, and not after, unless otherwise provided.

P. L. § 2454. G. L. § 2626. P. S. § 2351. V. S. § 1989. R. L. § 1716. G. S. 62, § 5.
R. S. 57, § 5. R. 1797, p. 593, § 1. R. 1787, p. 91. 43 Vt. 587.

2498. If party aggrieved has penalty. Actions upon a statute for a penalty or forfeiture given in whole or in part to the party aggrieved shall be commenced within four years after the commission of the offense, and not after.

P. L. § 2455. G. L. § 2627. P. S. § 2352. V. S. § 1990. R. L. § 1717. G. S. 62, § 6.
R. S. 57, § 6. 1808, p. 129. R. 1797, p. 593, § 1. R. 1787, p. 91. 19 Vt. 559. 55 Vt. 61.
80 Vt. 510.

2499. Prosecutions limited by other statutes. The six preceding sections shall not apply to an action, complaint, information or indictment limited by a statute to be commenced within a shorter or longer time than is prescribed in such sections.

P. L. § 2456. G. L. § 2628. P. S. § 2353. V. S. § 1991. R. L. § 1718. G. S. 62, § 7.
R. S. 57, § 7. R. 1797, p. 594, § 4.

2500. Time of exhibiting complaint to be minuted. At the time when a complaint, information or indictment is exhibited in a cause mentioned in this chapter, the clerk of the court or magistrate to whom it is exhibited shall make a minute hereon in writing, under his official signature, of the day, month and year when the same was exhibited.

P. L. § 2457. G. L. § 2629. P. S. § 2354. V. S. § 1992. R. L. § 1719. G. S. 62, § 8.
R. S. 57, § 8. R. 1797, p. 595, § 5. R. 1787, p. 91. 6 Vt. 282. 11 Vt. 650. 15 Vt. 435.
17 Vt. 145. 54 Vt. 503. 57 Vt. 369. 58 Vt. 722. 60 Vt. 618. 77 Vt. 258. 80 Vt. 510.
109 Vt. 217.

2501. Time of signing writ to be minuted. When an action is commenced in a cause mentioned in this chapter, the clerk or magistrate signing the writ shall enter upon it a minute of the day, month and year when the same was signed.

P. L. § 2458. G. L. § 2630. P. S. § 2355. V. S. § 1993. R. L. § 1720. G. S. 62, § 9.
R. S. 57, § 9. R. 1797, p. 595, § 5. R. 1787, p. 91. 1 Tyl. 345. 2 Tyl. 64. 2 Tyl. 85.
13 Vt. 275. 16 Vt. 604. 17 Vt. 48. 19 Vt. 559. 26 Vt. 178. 46 Vt. 90. 77 Vt. 258.
111 Vt. 403.

2502. Effect of omitting such minute. A complaint, information, indictment or writ on which a minute of the day, month and year is not made, as provided by the two preceding sections, shall be dismissed on motion.

P. L. § 2459. G. L. § 2631. P. S. § 2356. V. S. § 1994. R. L. § 1721. G. S. 62, § 10.
R. S. 57, § 10. R. 1797, p. 595, § 5. R. 1787, p. 91. 58 Vt. 722. 111 Vt. 403.

2503. Actions against moneyed corporations for penalty. The provisions of this chapter shall not apply to actions against moneyed corporations or against the directors or stockholders thereof, to recover a penalty or forfeiture imposed or to enforce a liability created by the act of incorporation or other law. Such actions shall be brought by the aggrieved party within six years after the discovery of the facts upon which the penalty or forfeiture attached or by which the liability was created.

P. L. § 2460. G. L. § 2632. P. S. § 2357. V. S. § 1995. R. L. § 1722. G. S. 62, § 11.
R. S. 57, § 11.

CHAPTER 115.

NEW TRIALS IN CRIMINAL CAUSES.

2504. Provisions applicable; recognizance. The provisions for new trials in civil causes shall govern applications for new trials by respondents in criminal causes, except as hereinafter provided. The magistrate signing the citation may or may not, in his discretion, require a recognizance for costs.

P. L. § 2461. G. L. § 2633. 1915, No. 1, § 97. P. S. § 2358. V. S. § 1996. R. L. § 1723.
69 Vt. 217. 77 Vt. 454. 100 Vt. 214.

2505. Petition in capital cases after time limited. When a person is convicted of a capital offense and sentenced to suffer the punishment of death, he may bring a petition for a new trial at any time before execution of the sentence. Such petition shall set forth the grounds for a new trial; and, if for newly discovered evidence, the same shall be attached thereto, with a copy of the evidence taken at his trial.

P. L. § 2462. G. L. § 2634. 1915, No. 1, § 98. P. S. § 2359. V. S. § 1997. R. L. § 1724.
1878, No. 19, § 1. 73 Vt. 380. 74 Vt. 478.

2506. Filing petition; staying execution; former adjudication as a bar. Such petition shall be presented to two justices of the supreme court who, upon examination thereof, shall determine whether it shall be filed, and shall certify their determination thereon. If the petition is allowed to be filed, such justices shall make an order staying the execution of sentence until after the time fixed for hearing the petition by the supreme court. An adjudication of a former petition shall not be a bar to a subsequent one based upon evidence discovered after the former adjudication.

P. L. § 2463. G. L. § 2635. P. S. § 2360. V. S. § 1998. R. L. § 1725. 1878, No. 19, § 1.
73 Vt. 380.

2507. Appointing another time for execution. When the hearing on the petition does not take place until after the time appointed for execution, the court hearing the petition shall appoint a time for executing sentence, and issue its order to the sheriff for that purpose in the event a new trial is refused.

P. L. § 2464. G. L. § 2636. P. S. § 2361. V. S. § 1999. R. L. § 1726. 1878, No. 19, § 2.

CHAPTER 116.

JUDGMENT AND EXECUTION IN CRIMINAL CAUSES.

Effect of Judgment.

2508. Sentence to successive terms of imprisonment. A person convicted of two or more offenses punishable by imprisonment in the state prison or house

number of dollars in the costs of prosecution, including the costs of detention and commitment.

1947, No. 202, § 8598. 1943, No. 152, § 1. P. L. § 8579. 1933, No. 157, § 8222. G. L. § 6987. 1915, No. 207. 1912, No. 234. P. S. § 5860. 1906, No. 200, § 8. 1902, No. 120, § 1. 1896, No. 106, § 1. V. S. § 4761. 1894, No. 75, § 1. R. L. § 3967. 1880, No. 43. 1878, No. 14, §§ 1, 5. 1864, No. 5. 79 Vt. 521. 80 Vt. 175.

8446. Jurisdiction. Justices shall have concurrent jurisdiction with county and municipal courts of offenses arising under sections 8444 and 8445.

P. L. § 8581. G. L. § 6987. 1915, No. 207. 1912, No. 234. P. S. § 5860. 1906, No. 200, § 8. 1902, No. 120, § 1. 1896, No. 106, § 1. V. S. § 4761. 1894, No. 75, § 1. R. L. § 3967. 1880, No. 43. 1878, No. 14, §§ 1, 5. 1864, No. 5. 79 Vt. 521. 80 Vt. 175.

8447. Costs paid by state. In prosecutions under sections 8444 and 8445, all costs shall be paid by the state and all fines and costs shall be paid to the state.

P. L. § 8582. G. L. § 6987. 1915, No. 207. 1912, No. 234. P. S. § 5860. 1906, No. 200, § 8. 1902, No. 120, § 1. 1896, No. 106, § 1. V. S. § 4761. 1894, No. 75, § 1. R. L. § 3967. 1880, No. 43. 1878, No. 14, §§ 1, 5. 1864, No. 5. 79 Vt. 521. 80 Vt. 175.

8448. Entering buildings; building fires; carrying weapons. A vagrant having entered a dwelling house or premises who persists in remaining against the will of the owner or occupant thereof, or kindles a fire in an outbuilding, schoolhouse or other public or unoccupied building, or on the lands, or in the public highway adjoining the lands, of any person between May 1 and December 1, without the consent of the owner or occupant thereof, or who is found carrying a firearm or other dangerous weapon, or threatens to injure persons or property, shall be imprisoned in the state prison not more than two years nor less than six months.

1947, No. 202, § 8602. P. L. § 8583. G. L. § 6988. 1917, No. 254, § 6801. 1915, No. 207. P. S. § 5861. V. S. § 4762. 1894, No. 75, § 2. R. L. § 3969. 1878, No. 14, § 3.

8449. Wilful injury; procuring food by threat or force. A vagrant who wilfully and maliciously injures the person or property of another, or procures, or attempts to procure, food, clothing or other property by threats or by force, shall be imprisoned in the state prison not more than five years nor less than one year.

1947, No. 202, § 8603. P. L. § 8584. G. L. § 6989. P. S. § 5862. V. S. § 4763. 1894, No. 75, § 3. R. L. § 3972. 1878, No. 14, § 4.

CHAPTER 369.

BREACHES OF THE PEACE AND DISTURBANCES.

Riots.

8450. Duties of officers. A justice, municipal judge, sheriff, deputy sheriff or constable having notice or knowledge of the unlawful, tumultuous or riotous assemblage of three or more persons within his jurisdiction, among or as near as he can safely come to such rioters, shall command them in the name of the state of Vermont immediately and peaceably to disperse. If after such command such rioters do not disperse, such officer or magistrate and such other person as he commands to assist him shall apprehend and forthwith take them before a justice or a municipal court.

P. L. § 8585. 1933, No. 157, § 8228. G. L. § 6990. 1908, No. 62. P. S. § 5863. V. S. § 5036. R. L. § 4221. G. S. 116, §§ 2, 3. R. S. 98, §§ 2, 3. 1821, pp. 8, 9. R. 1797, p. 183, §§ 15, 16. R. 1787, pp. 132, 133.

8451. Rioters refusing to disperse; penalty. Persons so unlawfully and riotously assembled who, after proclamation made, do not immediately disperse, and persons unlawfully and riotously assembled to the number of three or more who do an unlawful act against a man's person or property or against the public interest, and persons present at the place of an unlawful or riotous assemblage who, when commanded by a magistrate or officer to assist him or to leave the place of such riotous

[TITLE 41,

the costs of detention and

P. S. § 8586. G. L. § 6987.
1902, No. 120, § 1.
1880, No. 43.

jurisdiction with county
8444 and 8445.

§ 5860. 1906, No. 200, § 8.
5, § 1. R. L. § 3967.
80 Vt. 175.

er sections 8444 and 8445,
s shall be paid to the state.

§ 5860. 1906, No. 200, § 8.
5, § 1. R. L. § 3967.
80 Vt. 175.

ing weapons. A vagrant
ts in remaining against the

in an outbuilding, school-
ands, or in the public high-

nd December 1, without the
carrying a firearm or other

roperty, shall be imprisoned
i six months.

§ 6801. 1915, No. 207.
8, No. 14, § 3.

or force. A vagrant who
of another, or procures, or

threats or by force, shall
s nor less than one year.

V. S. § 4763.

DISTURBANCES.

dge, sheriff, deputy sheriff
tumultuous or riotous as-

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the name of the state of

such command such rioters
person as he commands to

re a justice or a municipal

P. S. § 5863. V. S. § 5036.
R. 1797, p. 183, §§ 15, 16.

Persons so unlawfully and
immediately disperse, and

r of three or more who do
nst the public interest, and

semblage who, when com-
e the place of such riotous

assemblage, fails so to do, shall each be imprisoned not more than six months or fined not more than \$100.00, or both.

P. L. § 8586. G. L. § 6991. P. S. § 5864. V. S. § 5037. R. L. § 4222. G. S. 116, §§ 4, 5.
R. S. 98, §§ 4, 5. 1821, p. 8. R. 1797, p. 183, § 15. R. 1787, p. 132.

8452. Hindering officer. A person who, with force and arms, wilfully and knowingly obstructs or in any manner hinders or hurts a person attempting to make proclamation against a riot, shall be punished as provided in the preceding section. Persons riotously assembled to whom proclamation would be made if the same were not hindered, who having knowledge of such hindrance do not immediately disperse, shall be imprisoned not more than six months or fined not more than \$100.00.

P. L. § 8587. G. L. § 6992. P. S. § 5865. V. S. § 5038. R. L. § 4223. G. S. 116, §§ 8, 9.
R. S. 98, §§ 8, 9. 1821, p. 10. R. 1797, p. 184, § 18. R. 1787, p. 134.

8453. Officer killing resisting rioter, not liable. Officers, and persons assisting them, in lawfully dispersing or apprehending such rioters, shall not be liable in a civil or criminal proceeding if a rioter, by reason of his resistance, is killed or injured.

P. L. § 8588. G. L. § 6993. P. S. § 5866. V. S. § 5039. R. L. § 4224. G. S. 116, § 6.
R. S. 98, § 6. 1821, p. 10. R. 1797, p. 184, § 17. R. 1787, p. 133.

8454. Rioters injuring building or vessel. Persons riotously assembled who destroy or injure a dwelling house or other building, steamboat or vessel shall each be imprisoned in the state prison not more than five years and fined not more than \$1,000.00 and be answerable to the person injured for the damages in an action of tort.

P. L. § 8589. G. L. § 6994. P. S. § 5867. V. S. § 5040. R. L. § 4225. G. S. 116, § 7.
R. S. 98, § 7.

Intimidation of Workmen.

8455. Threats to prevent employment. A person who threatens violence or injury to another person with intent to prevent his employment in a mill, manufactory, shop, quarry, mine, railroad or other occupation shall be imprisoned not more than three months or fined not more than \$100.00.

P. L. § 8590. G. L. § 6995. P. S. § 5868. V. S. § 5041. R. L. § 4226. 1867 S., No. 6, § 1.
59 Vt. 273. 67 Vt. 690.

8456. Same; to stop work. A person who, by threats, intimidation or by force, alone or in combination with others, affrights, drives away or prevents another person from accepting, undertaking or prosecuting such employment, with intent to prevent the prosecution of work in such mill, shop, manufactory, mine, quarry, railroad or other occupation, shall be imprisoned in the state prison not more than five years or fined not more than \$500.00.

P. L. § 8591. G. L. § 6996. P. S. § 5869. V. S. § 5042. R. L. § 4227. 1867 S., No. 6, § 2.
59 Vt. 273. 67 Vt. 690. 71 Vt. 1. 78 Vt. 364. 106 Vt. 183.

Conspiracy to Hold Certain Buildings.

8457. Conspiracy, penalty. If three or more persons conspire together or act in concert for the purpose and with the intent, forcibly and unlawfully to occupy, hold or possess any store, factory, mill, plant, garage, or any parts thereof, against the will and without the consent of the owner, lessee or management thereof, each person so offending shall be imprisoned not more than two years or fined not more than \$1,000.00.

1937, No. 210, § 1.

Disturbances.

8458. Of the public peace. A person who disturbs or breaks the public peace by tumultuous and offensive carriage, by threatening, quarreling, challenging, as-

saulting, beating or striking another person shall be imprisoned not more than five years or fined not more than \$1,000.00, or both.

P. L. § 8592. G. L. § 6997. P. S. § 5870. 1906, No. 200, § 8. 1898, No. 120, § 1.
V. S. § 5043. R. L. § 4228. G. S. 116, § 1. R. S. 98, § 1. 1826, No. 14, § 1. 1821, p. 12.
R. 1797, p. 187, § 21. 1788, p. 9. 1 Tyl. 180. 11 Vt. 236. 22 Vt. 321. 42 Vt. 542.
47 Vt. 290. 57 Vt. 576. 59 Vt. 548. 64 Vt. 25. 69 Vt. 98. 79 Vt. 521. 80 Vt. 175.
91 Vt. 88. 91 Vt. 507. 97 Vt. 461.

8459. Of a lawful meeting or school. A person who by a disorderly or unlawful act disturbs a town, society or district meeting, or a school, or any meeting lawfully assembled, or by force or menace interrupts the business of such meeting or school, shall be fined not more than \$100.00.

P. L. § 8593. G. L. § 6998. P. S. § 5871. V. S. § 5044. R. L. § 4229. G. S. 116, § 10.
1854, No. 115. R. S. 98, § 10. 1821, p. 10. R. 1797, p. 185, § 19.

8460. Religious meetings. A person who wilfully disturbs or interrupts an assembly of people met together for religious worship or religious instruction by noisy, rude or indecent behavior, or by profane discourse, either within or without the place where such assembly is collected, or violates any prescribed rules or regulations for the government of such meetings shall be fined not more than \$40.00 nor less than \$5.00.

P. L. § 8594. G. L. § 6999. P. S. § 5872. V. S. § 5045. R. L. § 4231. G. S. 93, § 5.
R. S. 82, § 5. 1827, No. 25, § 1. 1819, p. 20. R. 1797, p. 197, § 2. R. 1787, p. 134.

8461. By noise in nighttime; exception. A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns or other unnecessary and offensive noise shall be fined not more than \$50.00. However, this section shall not prevent a person employing workmen, for the purpose of giving notice to his employees, from ringing bells or using whistles or gongs of such size and weight, in such manner, and at such hours as the selectmen of the town, the aldermen of the city or the trustees of the village may prescribe in writing.

P. L. § 8595. G. L. § 7000. P. S. § 5873. V. S. §§ 4699, 5046. 1890, No. 75. R. L. § 4234.
G. S. 116, § 11. 1863, No. 9. 64 Vt. 25.

8462. Jurisdiction. Justices shall have concurrent jurisdiction with county and municipal courts of offenses arising under the four preceding sections, to the extent of fining the respondent \$50.00 or sentencing him to imprisonment in the county jail for a period of not more than three months, or both.

P. L. § 8596. G. L. § 7001. P. S. § 5874. 1906, No. 188, § 1. V. S. § 5048. R. L. § 4235.
1863, No. 9. 57 Vt. 576. 74 Vt. 323. 82 Vt. 37.

8463. Of schools by persons over ten years. A person over ten years of age, not connected with the school, who annoys or disturbs a school by remaining at or near it, or by not departing on request of the teacher, school directors or prudential committee, shall be fined not more than \$20.00.

P. L. § 8597. 1933, No. 157, § 8240. G. L. § 7002. 1915, No. 91, § 1. 1908, No. 62.
P. S. § 5875. V. S. § 5049. R. L. § 4230. 1870, No. 60.

8464. Officers' powers and duties at religious meetings. A justice, municipal judge, sheriff and deputy sheriff of the county, and a constable and grand juror of the town, being present at the disturbance of a religious meeting, without warrant, upon view, may arrest a person so making disturbance, and detain him in custody during the time of such meeting, or until a trial of such offense is had. Such magistrate, sheriff, deputy sheriff, constable and grand juror may command assistance, in the execution of the aforesaid duties, as sheriffs by law may. Persons so commanded, who refuse to obey such command, shall be subject to the same penalties as persons who refuse to assist sheriffs in the discharge of their office and duty.

P. L. § 8598. G. L. § 7003. 1908, No. 62. P. S. § 5876. V. S. § 5050. R. L. § 4232.
G. S. 93, § 6. R. S. 82, § 6. 1827, No. 25, § 1. 1819, p. 21.

8465. Limitation. Prosecutions for disturbing a religious meeting shall be commenced within thirty days after the commission of the offense, and not after.

P. L. § 8599. G. L. § 7004. 1910, No. 91, § 5. P. S. § 5877. V. S. § 5051. R. L. § 4233.
G. S. 93, §§ 8, 9. R. S. 82, §§ 9, 10. 1827, No. 25, § 2. R. 1797, p. 198, § 7. R. 1787, p. 135.

Appendix 10

VERMONT STATUTES
ANNOTATED

Titles 13 through 15
Title 16, sections 1-1690



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Preface

VERMONT STATUTES ANNOTATED is the latest revision of the statute laws of Vermont. Here all of the general and permanent laws of the state are classified under a new analysis of titles and chapters. As thus prepared this publication will permit a system of continuous statutory revision that will eliminate the necessity and expense of periodical revision of the entire statutory law.

History. In 1955 the general assembly, by Joint Resolution No. R-55, authorized the appointment of a commission to negotiate a contract for a revision of the Vermont statutes. On December 31, 1955, the commission reported to the general assembly, suggesting a contract and bill to authorize the preparation of a new edition of the statutes. The commission's recommendations with minor changes became No. 91 of the Acts of 1957.

A statutory revision commission was appointed by the governor under the provision of No. 91 of the Acts of 1957, 1 V.S.A. §§ 1 - 9. On May 23, 1957, the commission contracted with Equity Publishing Corporation for the editing and publishing of Vermont Statutes Annotated. Work thereon began immediately.

Classification. In this revision the body of statutory law is divided into thirty-three titles, each covering a separate subject. The chapters and sections of each title are numbered independently of those in other titles. In each title the chapters are assigned odd numbers in consecutive order and section numbers are skipped at the end of each chapter. The purpose of doing so is to permit an orderly and systematic integration of laws in the future.

For ease of reference the first four titles cover general provisions and the three branches of the government. The remaining titles are arranged alphabetically.

Text of Statutes. Vermont Statutes Annotated contains all general and permanent provisions still in effect of the Vermont Statutes, Revision of 1947, and of the laws enacted by the general assembly from 1949 through 1957.

Under the supervision of the commission the editors examined each section of the law and prepared master classification cards

Other notes cover short titles and separability provisions. Notes concerning effective dates, appropriations, and temporary provisions have been inserted where these matters are of general and current interest.

Cross references are made to other important provisions affecting the same subject in this publication, the United States Code, and to Uniform Laws.

As a general rule, notes which apply to an entire title, chapter or subchapter have been inserted under the first section thereof.

Annotations. A valuable new feature of Vermont Statutes Annotated consists of annotations of court decisions construing and applying the law. The annotations are arranged in logical order under numbered catchlines. Sections with ten or more annotation catchlines are provided with indexes to the annotations. These several editorial aids should facilitate the user's access to this material.

The annotations cover opinions of the Vermont Supreme Court through 120 Vt. 268, 138 A.2d 425. Decisions of the federal courts construing Vermont laws are also included. These close with cases in 354 U.S. 393, 77 S. Ct. 1424, 1 L. Ed. 2d 1559; 245 F.2d 264; and 151 F. Supp. 848.

For the first time the opinions of the attorney general of Vermont are made readily available to the public in the form of annotations. These cover opinions from 1938 through May 8, 1958.

Court Rules. Rules of the supreme court, the county court, and the court of chancery, with annotations, are set out in an appendix to Title 12.

Tables. The last volume contains distribution tables through which all provisions of V.S. 1947 and subsequent acts can be easily located. A table of acts cited by popular names is also included.

Index. A general index covering all titles will be found in the last volume. Great care has been exercised in an effort to prepare a thorough and accurate subject-word index.

Upkeep Service. Vermont Statutes Annotated will be kept to date by means of regular cumulative pocket part supplementation. To this end these volumes have been bound with pockets in the

showing its complete history with respect to amendments and repeals. The analysis of titles and chapters was based upon this research.

The order of the sections was changed where this would improve the arrangement of subject matter. In some cases a section was divided, or two or more sections were consolidated. Lengthy paragraphs were also divided. A uniform system of numbering subsections, subdivisions, and paragraphs was adopted. Definitions were rearranged in alphabetical order. Obvious typographical errors in spelling and punctuation were corrected. The section catchlines, which are not considered a part of the text of the law, were rewritten in many cases for greater ease of reference.

All other changes in the text of the law are explained in revision notes under the sections affected. Such changes include the reconciliation of inconsistent provisions and the omission of provisions which are clearly obsolete or superseded.

Historical Documents and Constitutions. A history of Vermont revisions and compilations is set out preceding Title 1. This will be useful in identifying the prior revisions cited in source notes under the sections. Following this is the text of the declaration of independence and the articles of confederation.

The constitutions of the United States and the state of Vermont are also set out preceding Title 1. These constitutions are annotated and each is followed by an index. Under the United States constitution, the annotations consist of Vermont cases.

Prima Facie Evidence. Vermont Statutes Annotated is published under certificate of authenticity by the chairman of the commission. Under section 4 of 1957, No. 91, 1 V.S.A. § 4, this publication is entitled to admission in all courts of Vermont as prima facie evidence of the law, until such time as the general assembly shall act upon this matter.

Historical Notes. Source notes under each section show the statute from which it was derived and all amendments thereto. These are cited by year, act number, and section. In the case of special sessions, the year is followed by "S".

A new feature is the citation of repealed sections of V.S. 1947 and later acts as "Prior law" notes under the present section covering the same subject. Revision notes explain any change in the text of the section.

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Crimes and Criminal Procedure

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less than thirty days, or fined not more than \$100.00 nor less than \$10.00. The provisions of this section shall not affect the provisions of sections 507 and 3906 of this title.

Source. V.S. 1947, § 8291. 1947, No. 202, § 8444. P.L. § 8427. G.L. § 6857. 1908, No. 166.

§ 509. Attempts

The placing or distributing of any inflammable, explosive or combustible material or substance, or any device, in any building or property mentioned in sections 502-505 of this title in any arrangement or preparation with intent wilfully and maliciously to set fire to or burn the same, or to procure the setting fire to or burning of the same shall, for the purposes of this chapter, constitute an attempt to burn such building or property.

Source. V.S. 1947, § 8288. 1935, No. 202, § 5.

Chapter 13. Assaults

SECTION

601. Assault with intent to kill by one armed.
602. Assault with intent to kill or maim.
603. Assault and robbery by one armed.
604. Assault and robbery by one not armed.
605. Assault with intent to rob by one armed.
606. Assault with intent to rob, by one not armed.
607. Assault with intent to commit rape.

§ 601. Assault with intent to kill by one armed

A person who, armed with a dangerous weapon, assaults another with intent to kill or murder shall be imprisoned in the state prison not more than thirty years.

HISTORY

Source. V.S. 1947, § 8268. P.L. § 8405. 1919, No. 196, § 1. G.L. § 6837. P.S. § 5732. V.S. § 4918. R.L. § 4119. G.S. 112, § 23. 1850, No. 18, § 1. R.S. 94, § 17. 1818, p. 8. R. 1797, p. 160, § 14.

Cross references. Breach of the peace by assaulting, beating, or striking another person, see § 1021 of this title.

ANNOTATIONS

1. Minor offense included in major. One indicted for an assault with an intent to commit murder could on trial be convicted of assault simply though indictment contained no count specially charging the minor offense. *State v. Coy* (1827) 2 Aik. 181.
2. Sufficiency of indictment. Although this section refers to intent "to kill or murder," there was no incongruity in embracing the two offenses in one

section in the alternative; each offense could be charged in a separate count in same indictment and there was no legal objection to charging both offenses in conjunctive in same count. *State v. Reed* (1868) 40 Vt. 603.

Upon an indictment for an assault, being armed with a dangerous weapon, with intent to kill and murder, respondent could legally be convicted of an assault, with intent to kill, without intent to murder being proved. *Id.*

3. Evidence. To rebut claim of respondent that person assaulted assumed a belligerent attitude towards him immediately before assault, it was admissible for state to show, not only that person assaulted did not assume such an attitude, but also that he had no intention of assaulting respondent, for this tended to make it less probable that he would assume such an attitude. *State v. Lawrence* (1898) 70 Vt. 524, 41 Atl. 1027.

§ 602. Assault with intent to kill or maim

Any person who shall assault another with intent to kill, or with intent to maim or disfigure his person in any of the ways mentioned in section 2701 of this title, shall be imprisoned in the state prison not more than ten years and fined not more than \$1,000.00.

HISTORY

Source. V.S. 1947, § 8256. 1947, No. 202, § 8410. P.L. § 8391. G.L. § 6825. P.S. § 5720. V.S. § 4911. R.L. § 4118. G.S. 112, § 18. R.S. 94, § 14.

ANNOTATIONS

1. Intent. The wicked and wilful intent to kill was an essential element of offense, and there must be a concurrence of both the act and intent to warrant a conviction. *State v. Daley* (1869) 41 Vt. 564.

Even though four persons were acting together with a common purpose of resisting arrest, fact that one of them shot officer in execution of that design and with intent to kill, while others were present assisting in assault, did not make others guilty of an assault with intent to kill unless they had the same intent; it would doubtless be otherwise if they were acting upon a common understanding that they would do whatever might be necessary to avoid arrest. *State v. Taylor* (1896) 70 Vt. 1, 39 Atl. 447, 16 B.U.L. Rev. 603, 622, 26 B.U.L. Rev. 142.

There is a well recognized distinction between an assault with intent to murder, and an assault with intent to kill; in former case proof must be such as shows that if death had been caused by assault, assailant would have been guilty of murder; and in latter case proof need only be such as that had death ensued, crime would have been manslaughter; in former case intent must be result of malice aforethought, and in latter, the result of sudden passion or emotion without time for deliberation or reflection. *State v. Reed* (1868) 40 Vt. 603.

2. Sufficiency of indictment. Indictment charging an assault with the "wicked, wilful and malicious intent to kill and slay," and in other respects in the language of statute, but not alleging that it was with felonious intent, was sufficient. *State v. Daley* (1869) 41 Vt. 564.

Where information charged that respondent committed assault with "wicked, wilful, malicious and felonious" intent to kill, failure to instruct on the question of respondent's wilfulness and maliciousness was not erroneous, since addition of the words "wilful" and "malicious" in information added nothing to state's burdens. *State v. Gomez* (1915) 89 Vt. 490, 96 Atl. 190.

§ 603. Assault and robbery by one armed

A person who assaults another and feloniously robs, steals and takes from his person money or other property, the subject of larceny, being armed with a dangerous weapon, with intent if resisted to kill or maim the person robbed, shall be imprisoned in the state prison not more than twenty years and fined not more than \$1,000.00.

HISTORY

Source. V.S. 1947, § 8265. 1947, No. 202, § 8419. P.L. § 8400. G.L. § 6832. P.S. § 5727. V.S. § 4913. R.L. § 4113. G.S. 112, § 22. R.S. 94, § 16. 1818, p. 8. R. 1797, p. 160, § 14. R. 1787, p. 68.

Cross references. Conviction of larceny in robbery prosecution, see § 2507 of this title.

Disposition of property upon arrest for larceny or robbery, see § 2506 of this title.

ANNOTATIONS

1. Intent. Evidence of confederate's intent to use unloaded revolver of considerable weight as club if resisted in course of holdup was not sufficient to warrant finding beyond reasonable doubt of intent to maim victim where revolver was not in fact so used. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

2. Taking from person. Requirement of taking from the person was satisfied by taking from his presence. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

A thing is in presence of person in respect to robbery, which is so within his reach, inspection, observation or control, that he could, if not overcome by violence or prevented by fear, retain his possession. *Id.*

3. Information. In prosecution for assault and robbery while armed with dangerous weapon, failure to allege in information ownership of money or property taken is amendable. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

4. Minor offense included in major. Supreme court would assume, where no faults were pointed out, that information, admitted by respondent to be sufficient to charge assault and robbery while armed with dangerous weapon, with intent to maim if resisted, also included all lower degrees of offenses of like nature, including simple assault. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

In prosecution for assault and robbery while armed with dangerous weapon, with intent to maim if resisted, evidence that respondent's confederate, in respondent's presence, stuck unloaded revolver in victim's ribs, would be sufficient to make respondent guilty of a battery and so to sustain his conviction for simple assault. *Id.*

In criminal prosecution, where according to evidence respondent's confederate held up storekeeper by sticking unloaded revolver in his ribs, while respondent took money from cash register, respondent could have been convicted, both as principal and as aiding and abetting, of all degrees of robbery and attempt to rob described in statutes, except the highest — robbery while armed with dangerous weapon with intent if resisted to kill or maim — and of larceny and simple assault. *Id.*

§ 604. Assault and robbery by one not armed

A person who, not being armed with a dangerous weapon, by force or by assault and putting in fear, feloniously robs, steals and takes from the person of another, money or other property, the subject of larceny, shall be imprisoned in the state prison not more than ten years nor less than three years.

Source. V.S. 1947, § 8266. P.L. § 8401. G.L. § 6833. P.S. § 5728.
V.S. § 4914. R.L. § 4114. G.S. 112, § 26. R.S. 94, § 19. 1818, p. 8.
R. 1797, p. 160, § 14. R. 1787, p. 68.

§ 605. Assault with intent to rob by one armed

A person who, armed with a dangerous weapon, assaults another with intent to rob shall be imprisoned in the state prison not more than ten years nor less than three years.

HISTORY

Source. V.S. 1947, § 8267. P.L. § 8402. G.L. § 6834. P.S. § 5729.
V.S. § 4915. R.L. § 4115. G.S. 112, § 24. R.S. 94, § 17. 1818, p. 8.
R. 1797, p. 160, § 14.

ANNOTATIONS

1. **Dangerous weapon.** In ordinary case of aggravated assault dangerous weapon is weapon which in way it is used or attempted to be used may endanger life or inflict great bodily harm, and whether revolver used as bludgeon is dangerous weapon depends upon its size, weight and manner of using it. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

§ 606. Assault with intent to rob, by one not armed

A person who, not being armed with a dangerous weapon, shall assault another with force and with intent to steal or rob shall be imprisoned in the state prison not more than seven years nor less than two years.

HISTORY

Source. V.S. 1947, § 8269. P.L. § 8403. P.S. § 5730. V.S. § 4916.
R.L. § 4116. G.S. 112, § 25. R.S. 94, § 18. 1818, p. 8.

ANNOTATIONS

1. **Force.** In cases of robbery and assault with intent to rob, offense committed or attempted to be committed is independent of the assault and may as well be accomplished by intimidation as by force. *State v. Deso* (1938) 110 Vt. 1, 1 A.2d 710, 26 B.U.L. Rev. 137.

To sustain criminal complaint for assault, there is no need for party assailed to be put in actual peril if only a well-founded apprehension is created, so that apparent power to do bodily harm is sufficient, and what is denoted to party assailed by conduct of assaulting party and attending circumstances is material rather than his secret intent or undisclosed fact of his ability or inability to commit battery. *Id.*

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§ 607. Assault with intent to commit rape

A person who shall assault a female person with intent to commit rape shall be imprisoned in the state prison not more than ten years or fined not more than \$1,000.00, or both.

HISTORY

Source. V.S. 1947, § 8270. P.L. § 8404. G.L. § 6836. P.S. § 5731.
V.S. § 4917. R.L. § 4117. G.S. 112, § 29. 1849, No. 7, § 2. 1818, p. 7.
R. 1797, p. 159, § 12. 1791, p. 22.

ANNOTATIONS

1. Elements of offense. If one lays hold of a woman and uses force upon her, with intent to have sexual intercourse with her against her will, and she resists his attempt for a while, but finally consents to the sexual connection then had with him, he is guilty of an assault with intent to commit a rape. State v. Hartigan (1860) 32 Vt. 607.

Upon an information for an assault with intent to commit rape, the respondent may be convicted upon proof that a rape was actually committed; where one offense is a necessary element in, and constitutes an essential part of, another offense, and both are in fact but one transaction, a conviction or an acquittal of one is a bar to a prosecution for the other. State v. Smith (1870) 43 Vt. 324.

Where an indictment charges the respondent with an assault upon a female, whose age is not averred, with the intent carnally to know her against her will, it must be shown on trial that the female did not consent, even though it appears that she was under the age of fourteen. State v. Wheat (1890) 63 Vt. 673, 22 Atl. 720, 81 A.L.R. 610.

2. Indictment. Indictment for an assault with intent to commit a rape is sufficient if it follows substantially the language of this section; it need not further describe the crime which is attempted than to call it "a rape." State v. Hanlon (1890) 62 Vt. 334, 19 Atl. 773.

Indictment need not specify means by which the assault was made; it was enough to charge that respondent "made an assault." Id.

3. Intoxication as defense. Where respondent became voluntarily intoxicated, fact of intoxication should not be considered by jury. State v. Hanlon (1890) 62 Vt. 334, 19 Atl. 773.

Chapter 15. Barratry

SECTION

701. Penalty.

§ 701. Penalty

A person who is a common barrator shall be fined not more than \$50.00 and become bound with sufficient surety for his good behavior for not less than one year.

Source. V.S. 1947, § 8527. P.L. § 8665. G.L. § 7060. P.S. § 5920.
V.S. § 5093. R.L. § 4275. G.S. 119, § 8.

camp meeting grounds, during the continuance of the camp meeting with the same power as is given to constables. Before acting as such special police they shall be sworn and, while on duty, wear a badge of office.

Source. V.S. 1947, § 8578. P.L. § 8712. G.L. § 7102. P.S. § 5960. V.S. § 5145. R.L. § 4319. 1874, No. 65.

§ 976. — Limitation on prosecutions

Prosecutions for offenses under section 974 of this title shall be commenced within thirty days after the commission of the offense and not after.

Source. V.S. 1947, § 8577. P.L. § 8711. G.L. § 7101. 1910, No. 91, § 9. P.S. § 5959. V.S. § 5144. R.L. § 4318. 1863, No. 9. G.S. 93, §§ 8, 9. R.S. 82, §§ 9, 10. 1827, No. 25, § 2. 1819, p. 21.

Subchapter 4. Other Disturbances of the Peace

§ 1021. Breach of the peace generally

A person who disturbs or breaks the public peace:

(1) By destruction of property, assaulting, beating or striking another person shall be imprisoned not more than five years or fined not more than \$1,000.00 or both;

(2) By any disorderly act or language, which does not amount to assault or battery, or destruction of property, shall be imprisoned not more than thirty days or fined not more than \$25.00 or both.

HISTORY

Source. 1957, No. 178. V.S. 1947, § 8458. P.L. § 8592. G.L. § 6997. P.S. § 5870. 1906, No. 200, § 8. 1898, No. 120, § 1. V.S. § 5043. R.L. § 4228. G.S. 116, § 1. R.S. 98, § 1. 1826, No. 14, § 1. 1821, p. 12. R. 1797, p. 187, § 21. 1788, p. 9.

Cross references. Arrest of intoxicated person, see T. 7, § 562.

Assaults generally, see ch. 13 of this title.

Trespasses and malicious injuries to property, see ch. 71 of this title.

ANNOTATIONS

1. **Prior law — Breach of Peace.** The term breach of peace is generic and includes all violations of the public peace or order. *State v. Wixon* (1955) 118 Vt. 495, 114 A.2d 410; *Stata v. Thompson* (1951) 117 Vt. 70, 84 A.2d 594; *State v. Christie* (1924) 97 Vt. 461, 123 Atl. 849, 34 A.L.R. 577; *State v. Mancini* (1916) 91 Vt. 507, 101 Atl. 581.

In order to secure a conviction on charge of breach of the peace the state must show more than a mere possibility that the respondent's act might produce violence or a disturbance of public peace. *State v. Thompson* (1951) 117 Vt. 70, 84 A.2d 594.

It was not required that person threatened should necessarily be put in fear to constitute a breach of peace. *State v. Wixon* (1955) 118 Vt. 495, 114 A.2d 410.

Threats of great bodily harm, accompanied by acts showing a formed intention to put them in execution, if intended to put person threatened in fear of their execution, and if they had that effect, and were calculated to produce that effect upon a person of ordinary firmness, constituted a breach of public peace, which was punishable by indictment. *State v. Benedict* (1839) 11 Vt. 236, 48 A.L.R. 84.

The use of loud, profane and obscene language upon public highway in presence of others comes within definition of "tumultuous and offensive carriage" as used in V.S. § 8458. *State v. Ploof* (1949) 116 Vt. 93, 70 A.2d 775.

Evidence that respondent, after midnight, went along highway past houses occupied by non-union workmen and their families, shouting, "scab," "bozo," and "rats," to annoyance, disturbance, and alarm of people living therein, warranted a conviction. *State v. Christie* (1924) 97 Vt. 461, 123 Atl. 849, 34 A.L.R. 577.

An indictment for sending a written challenge to fight a duel will not lie under this section as originally passed March 4th, 1797. *State v. S. S.* (1801) 1 Tyl. 180.

2. — Sufficiency of complaint. The omission of "vi et armis" was not fatal, when averments in English showed that criminal act was committed with force and violence. *State v. Hanley* (1875) 47 Vt. 290.

Complaint that respondent "did disturb and break the public peace by tumultuous and offensive carriage, by firing guns, blowing horns, and beating tin pans," charged offense. *State v. Coffin* (1891) 64 Vt. 25, 23 Atl. 632; *State v. Hanley* (1875) 47 Vt. 290.

Complaint charging an assault and battery, with force and arms, against form of statute and peace of state, etc., was a charge of a breach of the public peace. *State v. Barrows* (1885) 57 Vt. 576.

Complaint alleging that the respondent disturbed and broke the public peace by tumultuous and offensive carriage, in that he ran an automobile upon a public highway at a high rate of speed and in a dangerous, reckless and riotous manner, and in a manner to imperil the safety, peace and security of persons then using the highway, and put them in great fear of bodily harm, sufficiently charged a breach of the peace by tumultuous and offensive carriage, within the meaning of P.S. 5870. *State v. Boyd* (1916) 91 Vt. 88, 99 Atl. 515.

Complaint which charges a breach of the peace by "threatening to strike, heat, injure and assault divers and sundry persons," without naming them or alleging that their names are unknown, was bad on general demurrer. *State v. Bruce* (1896) 69 Vt. 98, 37 Atl. 238, same case 68 Vt. 183, 84 Atl. 701, 48 A.L.R. 91.

Complaint that respondents did break and disturb public peace by ringing a certain church bell, and, well knowing that one P was then living, did report and aver that P was dead and was to be buried on the next day, and did ring the said bell with intent to have it believed that the said P was then dead and with intent to annoy, harrass and vex the said P, and his family and friends, was insufficient. *State v. Riggs* (1850) 22 Vt. 321.

3. — Force in defense of self or property. Where court charged that a person in charge of property delivered to him to be kept is not justified in assaulting a trespasser in the first instance but must first require trespasser to depart, and then use only such force as is reasonably necessary to expel him, but if trespasser first uses violence, then person in charge, without a request to depart, may use violence in return; exception taken thereto on ground that notice is not necessary before person in charge may proceed to expel trespasser by force is not good. *State v. Bean* (1935) 107 Vt. 513, 180 Atl. 882.

While unlawful arrest may be lawfully resisted, right of resistance, being in nature of self-defense, permits arrested person to use only such amount of force as reasonably appears to him to be necessary under circumstances. *State v. Malnati* (1938) 109 Vt. 429, 199 Atl. 249.

§ 1022. Noise in the nighttime

A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns or other unnecessary and offensive noise shall be fined not more than \$50.00. However, this section shall not prevent a person employing workmen, for the purpose of giving notice to his employees, from ringing bells or using whistles or gongs of such size and weight, in such manner, and at such hours as the selectmen of the town, the aldermen of the city or the trustees of the village may prescribe in writing.

Source. V.S. 1947, § 8461. P.L. § 8595. G.L. § 7000. P.S. § 5873. V.S. §§ 4699, 5046. 1890, No. 75. R.L. § 4234. G.S. 116, § 11. 1863, No. 9.

§ 1023. Disturbing meetings and schools

A person who by a disorderly or unlawful act disturbs a town, society or district meeting, or a school, or any meeting lawfully assembled, or by force or menace interrupts the business of such meeting or school, shall be fined not more than \$100.00.

HISTORY

Source. V.S. 1947, § 8459. P.L. § 8593. G.L. § 6998. P.S. § 5871. V.S. § 5044. R.L. § 4229. G.S. 116, § 10. 1854, No. 115. R.S. 98, § 10. 1821, p. 10. R. 1797, p. 185, § 19.

ANNOTATIONS

1. **Questions for jury.** When persons attending an appointed lawful meeting of any description conduct themselves in a manner lawful in itself, but at variance with purpose of gathering and inconsistent with its orderly procedure, it will ordinarily be for jury to say whether their conduct was such as amounted, in circumstances, to a disturbance of peace. *State v. Mancini* (1916) 91 Vt. 507, 101 Atl. 581.

§ 1024. Disturbance of schools by persons over ten years

A person over ten years of age, not connected with the school, who annoys or disturbs a school by remaining at or near it, or by not departing on request of the teacher, school directors or prudential committee, shall be fined not more than \$20.00.

Source. V.S. 1947, § 8463. P.L. § 8597. 1933, No. 157, § 8240. G.L. § 7002. 1915, No. 91, § 1. 1908, No. 62. P.S. § 5875. V.S. § 5049. R.L. § 4230. 1870, No. 60.

Chapter 45. Homicide

SECTION

- 2301. Murder — Degrees defined.
- 2302. — Determination of degree.
- 2303. — Penalties.
- 2304. Manslaughter — Penalties.
- 2305. Justifiable homicide.
- 2306. Poisoning food, drink, medicine or water.
- 2307. Attempting to murder by poisoning, drowning, etc.
- 2308. False testimony with intent to cause death.
- 2309. Indictment for murder or manslaughter.
- 2310. Conviction of lesser offense on trial for murder.

§ 2301. Murder — Degrees defined

Murder committed by means of poison, or by lying in wait, or by wilful, deliberate and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, rape, robbery or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

HISTORY

Source. V.S. 1947, § 8240. P.L. § 8374. G.L. § 6798. P.S. § 5693. V.S. § 4884. R.L. § 4086. 1869, No. 44, § 1.

Cross references. Assault with intent to kill, see ch. 13 of this title.

Death in connection with:

Abortion, see §§ 101-103 of this title.

Arson, see § 501 of this title.

Railroad equipment, tampering with, see § 3101 of this title.

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1. Common law. Section has not altered the common law definition of murder. *State v. Blair* (1880) 53 Vt. 37.

2. Elements. Murder in the second degree involves malice, but not premeditation; and an instruction that it wants the elements of both malice and premeditation is erroneous. *State v. Bradley* (1892) 64 Vt. 466, 24 Atl. 1053, same case 67 Vt. 465, 32 Atl. 238.

If the killing of a human being is premeditated, and with malice, it is murder in the first degree. *State v. Blair* (1880) 53 Vt. 37.

3. Intent. If resistance to authorized arrest which is properly being made results in death of arresting officer the crime is murder, regardless of the question of malice. *State v. Shaw* (1900) 73 Vt. 149, 50 Atl. 863, 48 A.L.R.2d 566.

4. — Presumed. If one inflict a mortal wound with a deadly weapon upon a vital part, it is a presumption of fact that he designed the natural consequences of his act; and it is murder, unless he shows that the result was not designed, or that the act was done in heat of blood upon legal provocation, or under justifying circumstances. *State v. McDonnell* (1860) 32 Vt. 491, 52 Harv. L. R. 593.

5. — Change of intent. If jury found that respondent entered upon the affray with murderous intent, respondent was fully protected when the instruction permitted the jury to consider whether his design was altered during the affray before the homicide, and to determine the character of the homicide, in accordance with such altered design. *State v. Doherty* (1900) 72 Vt. 381, 48 Atl. 658, appeal dismissed 189 U.S. 514, 23 S. Ct. 850, 47 L. Ed. 729.

6. — Evidence. It was proper to show that respondent had been confined in jail, but had escaped therefrom, had immediately thereafter armed himself with a rifle and had set out upon the flight in which he was overtaken when he fired, since such evidence tended to show that respondent had reason to suppose that he would be pursued by officers of the law, and that he intended to use the rifle in resistance of arrest if overtaken. *State v. Shaw* (1900) 73 Vt. 149, 50 Atl. 863, 48 A.L.R.2d 566.

7. Premeditation. Where respondent went into a barn and then left the same and walked smartly a distance of some fifteen or twenty feet before he shot the deceased there was time for forming premeditated determination to kill after respondent left the barn. *State v. Doherty* (1900) 72 Vt. 381, 48 Atl. 658, appeal dismissed 189 U.S. 514, 23 S. Ct. 850, 47 L. Ed. 925.

When nothing else is wanting, no specific or particular length of time is necessary for premeditation to constitute murder in the first degree. *State v. Carr* (1880) 53 Vt. 37.

If design to kill be formed deliberately for ever so short a time before the infliction of the mortal wound, or if it be formed without such provocation as the law regards as sufficient justification for heat of blood and anger, the offense is murder. *State v. McDonnell* (1860) 32 Vt. 491, 52 Harv. L. R. 593.

8. — Provocation. In determining whether a homicide is murder or manslaughter, a proper attempt at a lawful arrest cannot be considered a provocation to passion and heat of blood. *State v. Shaw* (1900) 73 Vt. 149, 50 Atl. 863, 48 A.L.R.2d 566.

9. — Evidence. Where respondent shot and killed deceased with a revolver, evidence that the night before the shooting respondent purchased the revolver with which he shot, tended to show preparation and premeditation and was admissible. *State v. Doherty* (1900) 72 Vt. 381, 48 Atl. 658, dismissed 189 U.S. 514, 23 S. Ct. 850, 47 L. Ed. 925.

10. Causation. If one inflicts a mortal wound, but before death ensues another kills the same person by an independent act, the person causing the first wound cannot be convicted of murder, manslaughter or an assault with intent to kill, on an indictment charging both jointly with murder. *State v. Wood* (1881) 53 Vt. 560.

11. Insanity. See annotations under §§ 4801, 4802 of this title.

12. — Burden of proof. Reasonable doubt of guilt, produced in the minds of the jury by evidence of insanity, entitles the respondent to acquittal. *State v. Doherty* (1900) 72 Vt. 381, 48 Atl. 658, dismissed 189 U.S. 514, 23 S. Ct. 850, 47 L. Ed. 925.

13. Intoxication. Voluntary intoxication does not excuse or palliate crime, or operate to reduce the degree of homicide where the perpetrator was previously in the requisite condition of mental responsibility. *State v. Frotten* (1946) 114 Vt. 410, 46 A.2d 921.

Application of the common-law rule, that a criminal offense is neither excused nor mitigated by the voluntary intoxication of the person who commits it, in trials for murder was not affected by No. 44, Acts of 1869, making degrees of murder. *State v. Tatro* (1878) 50 Vt. 483.

14. Included crimes. Both voluntary and involuntary manslaughter are included in crime of murder, and on plea of not guilty to indictment charging that respondent "with force and arms, feloniously, wilfully, deliberately, with premeditation, and of malice aforethought, did kill and murder" deceased, defendant may be convicted of involuntary manslaughter. *State v. Averill* (1911) 85 Vt. 115, 81 Atl. 461.

15. Evidence. Where on direct examination a witness for state testified that he had been well acquainted with deceased for years, that the latter was an aged man and walked with a cane or crutch, inquiries on cross-examination as to whether witness had drunk intoxicating liquor with deceased, whether witness had ever seen deceased under the influence of liquor, and as to deceased's conduct in that condition, were properly excluded as not proper cross-examination. *State v. Lescord* (1922) 96 Vt. 85, 117 Atl. 242.

When on the trial of one charged with crime his flight is shown as tending to prove guilt, it is proper to show the extent of the flight and such actions and doings of the respondent, when pursued, including resistance of known officers in attempting his arrest, as tend to characterize the flight. *State v. Shaw* (1900) 73 Vt. 149, 50 Atl. 863, 25 A.L.R. 901, 48 A.L.R.2d 566.

Where child died from a fractured skull it was proper to permit the state to show that an infant's skull could be fractured by pressure of the hands, as tending to show that respondents had the means and physical ability to perpetrate the crime. *State v. Noakes* (1897) 70 Vt. 247, 40 Atl. 249, 55 Harv. L. Rev. 622.

16. — Presumption of innocence. See annotations under § 6502 of this title.

§ 2302. — Determination of degree

The jury by whom a person is tried for murder, if it finds such person guilty thereof, shall state in its verdict whether it is murder in the first or in the second degree. If such person is convicted on confession in open court, the court, by examination of witnesses, shall determine the degree of the crime and give sentence accordingly.

HISTORY

Source. V.S. 1947, § 8241. P.L. § 8375. G.L. § 6799. P.S. § 5694.
V.S. § 4885. R.L. § 4087. 1869, No. 44, § 1.

ANNOTATIONS

1. Questions for jury. It is for the jury to find from all the evidence whether the killing is murder, and if so, whether in the first or second degree. *State v. Carr* (1880) 53 Vt. 37.

2. Charge to jury. Where respondent might have been guilty of murder in the first or second degree or manslaughter it was error for the court, in its charge to the jury, to define two of the crimes without defining the other and

the court should have fully explained to the jury what constitutes each degree of murder and its distinguishing characteristics, so that they might have a correct standard by which to determine the degree. *State v. Meyer* (1886) 58 Vt. 457, 3 Atl. 195, 52 Harv. L. Rev. 593.

Charge to the jury was erroneous where, there being testimony tending to prove a case of manslaughter only, the court neglected to call the jury's attention to it in that light, or to the theory of the respondent's counsel upon the evidence, indicating that it was manslaughter and not murder, and omitted to inform the jury of the distinction between murder and manslaughter, except in a few abstract remarks, unaccompanied by any application of them to the facts in the case. *State v. McDonnell* (1860) 32 Vt. 491, 52 Harv. L. R. 593.

3. Confessions. Confession in a legal sense is an admission of something which proves, or tends to prove, that the party making it was himself connected with the alleged crime, in a criminal or questionable manner; hence, admissions which tend to criminate a third party, are not within the rules of law that exclude confessions induced by promises and hope of favor. *State v. Carr* (1880) 53 Vt. 37.

4. Evidence. Section contemplates for the purpose of determining the degree of the crime that evidence may be introduced showing the existence of any of the elements specified by reason of which it is murder in the first degree. *State v. Goyet* (1957) 120 Vt. 12, 132 A.2d 623, same case 119 Vt. 167, 122 A.2d 862.

Since perpetrating or attempting to perpetrate robbery results in murder in the first degree, proof of robbery only goes to the degree of murder and not to the proof of the criminal means by which it was committed. *Id.*

State may, under this section, introduce evidence to show that the murder was committed in perpetrating or attempting to perpetrate a robbery. *State v. Lescord* (1922) 96 Vt. 85, 117 Atl. 242.

§ 2303. — Penalties

The punishment of murder in the first degree shall be death or imprisonment in the state prison for life as the jury shall determine. For an unrelated second offense the punishment shall be death. The punishment of murder in the second degree shall be imprisonment in the state prison for life or for such term as the court shall order.

HISTORY

Source. 1957, No. 201, § 1. V.S. 1947, § 8242. P.L. § 8376. 1933, No. 157, § 8019. G.L. § 6800. 1912, No. 228. 1910, No. 225. P.S. § 5695. V.S. § 4886. R.L. § 4088. 1869, No. 44, § 2. G.S. 112, § 1. R.S. 94, § 1. 1818, p. 4. R. 1797, p. 156, § 3. R. 1787, p. 68.

ANNOTATIONS

1. Purpose. Former amendment which provided that punishment for murder in the first degree shall be death or imprisonment in the state's prison for life, "as the jury may determine," does not divide murder in the first degree into grades, but leaves it for the jury to determine the penalty, in the untrammelled exercise of a just and wise discretion, without any instructions as to the doctrine of reasonable doubt, presumptions, etc. *State v. Bosworth* (1912) 86 Vt. 71, 83 Atl. 657.

2. Factors for consideration of jury. Jury has no right to consider in its deliberations the different punishments for murder in the first degree and murder in the second degree, but is to consider the case solely upon the facts in determining whether it is murder in the first or second degree. *State v. Goyet* (1957) 120 Vt. 12, 132 A.2d 623, same case 119 Vt. 167, 122 A.2d 862.

§ 2304. Manslaughter — Penalties

A person who commits manslaughter shall be imprisoned in the state prison for not more than fifteen years or for not less than one year or fined not more than \$1,000.00.

HISTORY

Source. 1957, No. 201, § 2. V.S. 1947, § 8243. P.L. § 8377. G.L. § 6801. P.S. § 5696. 1900, No. 99, § 1. V.S. § 4887. R.L. § 4089. G.S. 112, § 15. R.S. 94, § 11. 1818, p. 6. R. 1797, p. 158, § 8. R. 1787, p. 68.

ANNOTATIONS

1. *Provocation.* If in a mutual combat arising without previous malice, mutual blows be given before respondent draws his knife and he then draws it in the heat and fury of the fight and deals a mortal wound, with the purpose of taking life, the offense is only manslaughter. *State v. McDonnell* (1860) 32 Vt. 491, 52 Harv. L. R. 593.

2. *Included crimes.* One indicted for manslaughter may, on trial, be convicted for an assault and battery, though the indictment contain no count specially charging the minor offense. *State v. Scott* (1852) 24 Vt. 127.

3. *Question for jury.* Refusal of court to comply with jury's request that they be informed as to maximum penalty for manslaughter, and instruction that they had nothing to do with penalty, and that it should not enter into their consideration or discussion, was without error, since court alone fixes penalty under this section. *State v. Lapan* (1928) 101 Vt. 124, 141 Atl. 686.

§ 2305. Justifiable homicide

If a person kills or wounds another under any of the circumstances enumerated below, he shall be guiltless:

(1) In the just and necessary defense of his own life or the life of his or her husband, wife, parent, child, brother, sister, master, mistress, servant, guardian or ward; or

(2) In the suppression of a person attempting to commit murder, rape, burglary or robbery, with force or violence; or

(3) In the case of a civil officer; or a military officer or private soldier when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or to assist in serving legal process, in suppressing opposition against him in the just and necessary discharge of his duty.

HISTORY

Source. V.S. 1947, § 8245. P.L. § 8379. G.L. § 6803. P.S. § 5698. V.S. § 4889. R.L. § 4091. G.S. 12, § 13. G.S. 112, § 16. R.S. 11, § 13.

R.S. 94, § 12. 1818, p. 6. R. 1797, p. 137, § 7. R. 1797, p. 158, § 8.
R. 1787, pp. 68, 139.

Cross references. Officer killing rioter not liable, see § 904 of this title.

ANNOTATIONS

1. Self-defense. Doctrine of self-defense has no application to resistance of a lawful arrest properly attempted. *State v. Shaw* (1900) 73 Vt. 149, 50 Atl. 863, 48 A.L.R.2d 566.

Where one sees another coming towards him in a hostile attitude, and the circumstances are such as to reasonably lead him to believe that he is in danger of being killed or of great bodily harm, and he so believes, and through nervousness, fear, fright or cowardice fatally shoots his assailant, it reasonably appearing to him that he can defend himself in no other way, the homicide is justifiable as in self-defense. *State v. Doherty* (1900) 72 Vt. 381, 48 Atl. 658, appeal dismissed 189 U.S. 514, 23 S. Ct. 850, 47 L. Ed. 925.

§ 2306. Poisoning food, drink, medicine or water

A person who mingles poison with food, drink or medicine, with intent to kill or injure another person, or who, with a like intent, wilfully poisons a spring, well or reservoir of water shall be imprisoned in the state prison not more than twenty years.

Source. V.S. 1947, § 8246. P.L. § 8382. G.L. § 6806. P.S. § 5701.
V.S. § 4892. 1882, No. 83, § 1. R.L. § 4094. G.S. 112, § 20. R.S. 94, § 23.

§ 2307. Attempting to murder by poisoning, drowning, etc.

Any person who shall attempt to commit the crime of murder by poisoning, drowning or strangling another person, or by any means not constituting an assault with intent to murder, shall be imprisoned in the state prison not more than ten years and fined not more than \$1,000.00.

Source. V.S. 1947, § 8247. 1947, No. 202, § 8401. P.L. § 8383. G.L. § 6807.
P.S. § 5702. V.S. § 4893. R.L. § 4095. G.S. 112, § 19. R.S. 94, § 15.

§ 2308. False testimony with intent to cause death

A person who wilfully and corruptly bears false testimony with intent to take away the life of a person and thereby causes the life of such person to be taken, shall be guilty of murder in the first degree.

HISTORY

Source. 1957, No. 201, § 3. V.S. 1947, § 8248. P.L. § 8384. G.L. § 6808.
P.S. § 5703. V.S. § 4894. R.L. § 4096. G.S. 112, § 2. R.S. 94, § 2. 1818, p. 4.
R. 1797, p. 156, § 4. R. 1787, p. 67.

ANNOTATIONS

1. Instruction to jury. It was not error to charge jury, in connection with the testimony of certain witnesses for the state in a murder case, that if a person wilfully and corruptly bears false testimony with intent to take away the life of a person, and thereby causes the life of such a person to be taken,

the person so testifying shall suffer the punishment of death. *State v. Fournier* (1896) 68 Vt. 262, 35 Atl. 178, 70 A.L.R. 1192.

§ 2309. Indictment for murder or manslaughter

The manner in which, or the means by which, the death of the deceased was caused need not be set forth in an indictment for murder or manslaughter. In an indictment for murder it shall be sufficient to charge that the respondent did feloniously, wilfully and of his malice aforethought kill and murder the deceased. In an indictment for manslaughter, it shall be sufficient to charge that the respondent did feloniously kill and slay the deceased.

Source. V.S. 1947, § 2406. P.L. § 2377. G.L. § 2546. P.S. § 2268. V.S. § 1907. R.L. § 1647. 1880, No. 18, § 1.

§ 2310. Conviction of lesser offense on trial for murder

(a) Under an indictment for murder, the respondent may be convicted of murder in the first degree, murder in the second degree or of manslaughter, as the case may be, upon the proofs.

(b) A person arraigned and tried for murder may be convicted of manslaughter, if the jury finds that offense proved.

(c) If, in the opinion of the jury, the evidence is not sufficient to convict of murder a person arraigned and put upon trial for that offense, the jury may convict him of manslaughter, if, in its opinion, the evidence is sufficient to prove that offense.

HISTORY

Source. Subsec. (a): V.S. 1947, § 2471. P.L. § 2440. G.L. § 2612. P.S. § 2337. V.S. § 1975. R.L. § 1704. 1880, No. 18, § 2. G.S. 120, § 12. R.S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41.

Subsec. (b): V.S. 1947, § 2472. P.L. § 2441. G.L. § 2613. P.S. § 2338. V.S. § 1976. R.L. § 1705. G.S. 120, § 12. R.S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41.

Subsec. (c): V.S. 1947, § 8244. 1947, No. 202, § 8398. P.L. § 8378. G.L. § 6802. P.S. § 5697. V.S. § 4888. R.L. § 4090. 1880, No. 18, § 2. G.S. 120, § 12. R.S. 102, § 7. 1818, p. 21. R. 1797, p. 175, § 41.

Revision note. Provision of V.S. 1947, § 2472, as to burglary, robbery, and larceny is set out in § 2507 of this title.

ANNOTATIONS

1. Included crimes. Both voluntary and involuntary manslaughter are included in the crime of murder, and on a plea of not guilty to an indictment charging that respondent "with force and arms, feloniously, wilfully, deliberately, with premeditation, and with malice aforethought, did kill and murder" the deceased, alleging neither the manner nor the means, he may be convicted of involuntary manslaughter. *State v. Averill* (1911) 85 Vt. 115, 81 Atl. 461; *State v. Wood* (1881) 53 Vt. 560.

2. Charge to jury. Where respondent could have been guilty of murder in the first or second degree, or manslaughter it was error for the court, in its

charge to the jury, to define two of the crimes without defining the other; it was error for the court to express its opinion that, if the respondent was guilty, he was guilty of murder in the first degree; the court should have fully explained to the jury what constituted each degree of murder and its distinguishing characteristics, so that they might have a correct standard by which to determine the degree. *State v. Meyer* (1886) 58 Vt. 457, 3 Atl. 195, 52 Harv. L. Rev. 593.

Error, if any, in instructing jury that, if respondent had requisite mental capacity, there was no evidence that would justify his conduct in going to farm where wife was and shooting her, "so as to under any possibility reduce the crime to manslaughter," was cured by verdict of murder in first degree. *State v. Stacy* (1932) 104 Vt. 379, 160 Atl. 257, 747, 50 A.L.R.2d 547.

Chapter 47. Kidnapping

SECTION

- 2401. Definition and punishment.
- 2402. Child under sixteen.
- 2403. With intent to extort money.

§ 2401. Definition and punishment

A person who, without legal authority, forcibly or secretly confines or imprisons another person within this state against his will, or forcibly carries or sends such person out of the state, or forcibly seizes or confines or inveigles or kidnaps another person with intent to cause him to be secretly confined or imprisoned in this state against his will, or to cause him to be sent out of this state against his will, or in any way held to service against his will, shall be imprisoned in the state prison not more than twenty-five years or fined not more than \$10,000.00, or both.

HISTORY

Source. V.S. 1947, § 8257. P.L. § 8392. 1933, No. 147. G.L. § 6826. P.S. § 5721. R. 1906, § 5580. 1904, No. 149, §§ 1, 2. V.S. § 4912. R.L. § 4112. G.S. 112, § 31. R.S. 94, § 24. 1814, p. 138. 1806, p. 157.

ANNOTATIONS

1. **Elements — Force.** It is not necessary to show that the respondent used actual force on the person of the prosecutrix, and thus caused her to be sent out of this state. *State v. Rivers* (1909) 84 Vt. 154, 78 Atl. 786.

Moral force need not create a willingness on the girl's part to leave the state. *Id.*

Where there was no claim of actual force used by respondent, the size of the girl was immaterial. *Id.*

2. — **Inveigle.** The word "inveigle" is used in its ordinary sense and involves the idea of deception for the accomplishment of an evil purpose. *State v. Rivers* (1909) 84 Vt. 154, 78 Atl. 786.

such railroad suffers bodily harm, or property is injured, the time of imprisonment may be lengthened, provided it does not exceed in all twenty years, except in the case provided in section 3101 of this title.

Source. V.S. 1947, §§ 8250, 8251. P.L. § 8386. G.L. § 6820. P.S. § 5715. V.S. § 4906. R.L. § 4108. 1876, No. 24. 1866, No. 51, § 2. G.S. 112, § 20. 1849, No. 41, § 35.

§ 3103. Throwing missiles at train

A person who unlawfully and maliciously throws or causes anything to be thrown or to fall into or upon, or to strike against a railroad train or an engine, tender, car or truck, with intent to injure or endanger the safety of any person on such train or on such engine, tender, car or truck, shall be punished as provided in section 3102(b) of this title.

Source. V.S. 1947, § 8252. P.L. § 8387. G.L. § 6821. P.S. § 5716. V.S. § 4907. R.L. § 4109. 1866, No. 51, § 1.

§ 3104. Removal of packing from journal boxes

A person who wilfully and maliciously takes or removes the waste or packing from a journal box of a locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon a railroad shall be imprisoned not more than three years or fined not more than \$500.00.

Source. V.S. 1947, § 8392. 1947, No. 202, § 8545. P.L. § 8529. G.L. § 6945. P.S. § 5831. 1904, No. 151, § 1.

Chapter 63. Rape

SECTION

3201. Rape by person over sixteen.

3202. Rape by person under sixteen.

§ 3201. Rape by person over sixteen

A person over the age of sixteen years who ravishes and carnally knows a female person of the age of sixteen years or more, by force and against her will, or unlawfully and carnally knows a female person under sixteen years of age, with or without her consent, shall be imprisoned in the state prison not more than twenty years or fined not more than \$2,000.00, or both.

HISTORY

Source. V.S. 1947, § 8253. P.L. § 8388. G.L. § 6822. P.S. § 5717. 1898, No. 118, § 1. V.S. § 4908. 1886, No. 63, § 1. R.L. § 4110. G.S. 112, § 28.

1849, No. 7, § 1. R.S. 94, § 21. 1818, p. 7. R. 1797, p. 159, §§ 10, 11. 1791, p. 22.

Cross references. Assault with intent to commit rape, see § 607 of this title.

ANNOTATIONS

Age of defendant	3	Evidence	6
Common law	1	Evidence of age	9
Consent	4	Indictment for statutory rape	8
Defenses to statutory rape	10	Mental capacity to consent	5
Definitions	2	Statutory rape	7-10

1. Common law. Section imposing a penalty upon a "person over the age of sixteen years who ravishes and carnally knows a female person of the age of sixteen years or more, by force and against her will," is declaratory of common law as to offenses against women of sixteen or over. *State v. Jewett* (1937) 109 Vt. 73, 192 Atl. 7.

2. Definitions. Rape is defined as the carnal knowledge of a woman by force and against her will. *State v. Jewett* (1937) 109 Vt. 73, 192 Atl. 7.

3. Age of defendant. It was not necessary to allege age of respondent if he was under sixteen years of age; that was matter of defense. *State v. Sullivan* (1896) 68 Vt. 540, 35 Atl. 479.

Appearance of respondent himself before jury might be weighed as evidence upon his age. *Id.*

4. Consent. Charge to jury that if prosecutrix in the first instance consented to the intercourse but after it had commenced withdrew her consent, and respondent thereafter forcibly continued it, knowing of her dissent, it would be rape, was not error, since court might well consider physical strength of prosecutrix, the relation she sustained to respondent, and all other circumstances disclosed by evidence. *State v. Niles* (1874) 47 Vt. 82.

Where an indictment charged respondent with assault upon female whose age was not averred with intent carnally to know her against her will, it must be shown on trial that female did not consent, even though it appeared that she was under age of fourteen; for whether or not one can be convicted of an attempt carnally to know a female under fourteen years of age with her consent, that was not crime charged in indictment and for which respondent was on trial. *State v. Wheat* (1890) 63 Vt. 673, 22 Atl. 720, 81 A.L.R. 610.

5. Mental capacity to consent. Copulation with a woman known to be incapable of giving even an imperfect consent is rape, but a non compos woman whose infirmity was less profound may consent, as mere fact that woman was weak-minded did not disable or debar her from consenting to act. *State v. Jewett* (1937) 109 Vt. 73, 192 Atl. 7.

There being no statute for protection of mentally defective women, case involving prosecution for rape upon such woman thirty-two years old was to be decided according to common law principles. *Id.*

In prosecution for rape, where there was no evidence that any force or violence was used by respondent, but woman upon whom offense was alleged to have been committed was thirty-two years old but of subnormal mentality, there could be no conviction unless woman was incapable of understanding act, its motive and possible consequences. *Id.*

6. Evidence. Evidence that prosecutrix afterwards complained of act was only admissible as confirmatory of her testimony; mere lapse of time between commission of crime and making of complaint was not test of admissibility of such evidence, but was only matter for consideration of jury in determining upon weight to be given to it. *State v. Niles* (1874) 47 Vt. 82.

Rule is that it is competent to prove that prosecutrix made complaint, and that an individual, without naming him, was charged with crime. *Id.*

It was not error to allow state to introduce evidence of sexual intercourse had on different days, and to refuse to require it to elect occasion on which it would rely till close of its case. *State v. Willett* (1904) 78 Vt. 157, 62 Atl. 48, 167 A.L.R. 576.

7. Statutory rape — Generally. In a prosecution for an assault with intent to ravish a girl under the age of sixteen years, question of her consent was immaterial. *State v. Clark* (1904) 77 Vt. 10, 58 Atl. 796, 81 A.L.R. 603; *State v. Sullivan* (1896) 68 Vt. 540, 35 Atl. 479, 81 A.L.R. 603.

8. — Indictment. Indictment for "carnally knowing a female under fourteen years of age," "with or without her consent," must allege age of female. *State v. Wheat* (1890) 63 Vt. 673, 22 Atl. 720, 81 A.L.R. 603.

9. — Evidence of age. On question of prosecutrix's age in prosecution for statutory rape, evidence of her mother was entitled to very great weight, as was also testimony of child's grandmother who was present at prosecutrix's birth. *State v. Reynolds* (1922) 96 Vt. 37, 116 Atl. 116.

10. — Defenses. Where, in a prosecution for statutory rape, prosecutrix testified for state, respondent was not entitled to show by her in cross-examination, as bearing upon her credibility, that, since she was twelve years old down to time in question, she had had sexual intercourse with many different men. *State v. Stimpson* (1905) 78 Vt. 124, 62 Atl. 14, 140 A.L.R. 376.

§ 3202. Rape by person under sixteen

If a person under the age of sixteen years unlawfully and carnally knows a female person under the age of sixteen years with her consent, both persons shall be guilty of a misdemeanor, and may be committed to the Weeks school. A person under the age of sixteen years who unlawfully and carnally knows any female person by force and against her will shall be punished as provided in section 3201 of this title.

HISTORY

Source. V.S. 1947, § 8254. P.L. § 8389. G.L. § 6823. P.S. § 5718.
1898, No. 118, § 2. V.S. § 4909. 1886, No. 63, § 2.

ANNOTATIONS

1. Generally. See annotations under § 3202 of this title.

Chapter 25. Children and Incompetent Persons

SECTION

1301. Contributing to juvenile delinquency.
 1302. — Jurisdiction.
 1303. Abandonment or exposure of baby.
 1304. Cruelty to children under ten by one over sixteen.
 1305. Cruelty by person having custody of another.
 1306. Mistreatment of persons of unsound mind.
 1307. — Jurisdiction of justice.
 1308. Furnishing tobacco to persons under seventeen.
 1309. — Posting copy of law.
 1310. Discarded ice boxes.

§ 1301. Contributing to juvenile delinquency

A person responsible for, or any other person who contributes to, condones, encourages or causes, the delinquency of a child under sixteen years of age in the violation of any law of this state or a city or village ordinance; in associating with criminals or with vicious or immoral persons; or in growing up in crime or immoral conduct, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100.00 or imprisoned not more than one year, or both.

HISTORY

Source. 1949, No. 195, § 1.

Cross references. Dependent, neglected, and delinquent children, jurisdiction of juvenile court, see ch. 11 of Title 33.

Other offenses as to children:

Firearms, see §§ 4007, 4008 of this title.

Kidnapping, see ch. 47 of this title.

Lewdness, see ch. 51 of this title.

Obscenity, see ch. 55 of this title.

Rape, see ch. 63 of this title.

§ 1302. — Jurisdiction

County and municipal courts shall have concurrent jurisdiction of offenses under section 1301 of this title.

Source. 1949, No. 195, § 2.

§ 1303. Abandonment or exposure of baby

A person who abandons or exposes a child under the age of two years, whereby the life or health of such child is endangered, shall be imprisoned in the state prison not more than ten years or fined not more than \$1,000.00, or both.

Source. V.S. 1947, § 8260. P.L. § 8395. G.L. § 6827. P.S. § 5722.
1896, No. 54, § 1.

§ 1304. Cruelty to children under ten by one over sixteen

A person over the age of sixteen years, having the custody, charge or care of a child under ten years of age, who wilfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his health, shall be imprisoned in the state prison not more than two years or fined not more than \$500.00, or both.

HISTORY

Source. V.S. 1947, § 8261. P.L. § 8396. G.L. § 6828. P.S. § 5723.
1896, No. 54, § 2.

ANNOTATIONS

1. Complaint. It was essential that complaint allege that abandonment was wilful and that it was done in a manner to cause child unnecessary suffering or to endanger its health. In re Greenough (1950) 116 Vt. 277, 75 A.2d 569.

§ 1305. Cruelty by person having custody of another

A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned in the state prison not more than one year or fined not more than \$200.00, or both.

Source. V.S. 1947, § 8262. P.L. § 8397. G.L. § 6829. P.S. § 5724.
1896, No. 55, § 1.

§ 1306. Mistreatment of persons of unsound mind

A person who wilfully and maliciously teases, plagues, annoys, angers, irritates, maltreats, worries or excites another of unsound or feeble mind shall be imprisoned not more than one year or fined not more than \$100.00 nor less than \$5.00, or both.

Source. V.S. 1947, § 8263. P.L. § 8398. G.L. § 6830. P.S. § 5725.
1906, No. 188, § 1. V.S. §§ 5047, 5048. 1888, No. 90, § 1. R.L. § 4235.
1863, No. 9.

§ 1307. — Jurisdiction of justice

Justices shall have concurrent jurisdiction with county and municipal courts of offenses under section 1306 of this title to the extent of fining the respondent \$50.00 or sentencing him to im-

*Subchapter 1. Lewd and Indecent Conduct***§ 2601. Lewd and lascivious conduct**

A person guilty of open and gross lewdness and lascivious behavior shall be imprisoned not more than five years or fined not more than \$300.00.

HISTORY

Sources. V.S. 1947, § 8478. 1947, No. 202, § 8632. P.L. § 8611. G.L. § 7016. P.S. § 5892. V.S. § 5066. 1888, No. 138, § 1. R.L. § 4250. G.S. 117, § 11. R.S. 99, § 8.

ANNOTATIONS

1. Open and gross. Section deals only with lewdness which is open and gross and where attempted copulation was done privately and under concealment verdict was directed for defendant. *State v. Franzoni* (1926) 100 Vt. 373, 137 Atl. 465.

2. Lewd and lascivious. Information which charged that respondent was and is a lewd, wanton and lascivious person in speech and behavior was insufficient to charge an offense under this section as there is no penalty for being a person of that character, but the penalty is for acts constituting open and gross lewdness and lascivious behavior. *State v. Ryea* (1923) 97 Vt. 219, 122 Atl. 422.

Where man indecently exposed his person to a woman and solicited her to have sexual intercourse, notwithstanding her opposition, this was open and gross lewdness and lascivious conduct. *State v. Millard* (1846) 18 Vt. 574, 93 A.L.R. 1001.

§ 2602. Lewd or lascivious conduct with child

A person who shall wilfully and lewdly commit any lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of such person or of such child, shall be imprisoned in the state prison not less than one year nor more than five years.

Source. V.S. 1947, § 8479. 1937, No. 211, § 1.

§ 2603. Fellation

A person participating in the act of copulating the mouth of one person with the sexual organ of another shall be imprisoned in the state prison not less than one year nor more than five years.

Source. V.S. 1947, § 8480. 1937, No. 211, § 2.

§ 2604. Keeping house of ill fame

A person who keeps a disorderly house, or a house of ill fame, resorted to for the purpose of prostitution and lewdness, whether the same is occupied or frequented by one or more females, shall be imprisoned not more than four years or fined not more than \$300.00.

Appendix 11

V.S.A. Pockets Parts

1974 to 1977

(2) For the second offense and subsequent offenses, be imprisoned for not less than two years nor more than ten years.

(b) The sentence of a person convicted of violating this section shall not be suspended, nor shall it be deferred under section 7042 of this title. A person convicted of violating this section shall not be eligible for parole until having served the minimum sentence for the offense as provided herein.—Added 1973, No. 219 (Adj. Sess.), eff. 30 days from April 3, 1974.

Chapter 25. Children and Incompetent Persons

§ 1302. Repealed. 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

§ 1307. Repealed. 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

Chapter 27. Reports of Physical Abuse of Children

§ 1351. Purpose

The purpose of this chapter is to: protect children whose health and welfare may be adversely affected through abuse or neglect; to strengthen the family and to make the home safe for children whenever possible by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse and neglect, investigation of such reports and provision of services, when needed, to such child and family.—Amended 1973, No. 152 (Adj. Sess.), § 2, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 1, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Act No. 152 substituted "department of social and rehabilitation services" for "department of social welfare".
Act No. 237 amended section generally.

§ 1352. Definitions

(a) As used in this chapter:

(1) "Child" means an individual under the age of majority.

(2) "Abuse" means physical injury or injuries inflicted upon a child by a parent or other person responsible for his care by other than accidental, or any other means, treatment which places that child's life, health, development or welfare in jeopardy or which is likely to result in impairment of the child's health.

(3) "Neglect" means the abandonment of a child by his parents, guardian or other custodians;

(b) Nothing in this title shall be construed to mean that the life or health of a child is in jeopardy for the sole reason he is furnished remedial treatment in accordance with the tenets and practices of a recognized church or religious denomination.—Amended 1973, No. 237 (Adj. Sess.), § 2, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Amended section generally.

1353. Suspected child abuse and neglect; remedial action

(a) Any physician, surgeon, osteopath, chiropractor or physician's assistant licensed or registered under the provisions of Title 18, any resident physician or intern in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, dentist, or police officer who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(b) Any psychologist, school teacher, day care center worker, school principal, school guidance counselor, mental health professional, social worker, probation officer, or clergyman who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(c) Any person enumerated in subsection (a) or (b) of this section who in good faith makes a report shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report.

(d) Any person who violates subsection (a) of this section shall be fined not more than \$100.00.—Amended 1973, No. 152 (Adj. Sess.), § 3, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 3, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Act No. 152 substituted "department of social and rehabilitation services" for "department of social welfare".
Act No. 237 amended section generally.

1354. Nature and content of report; to whom made

(a) A report shall be made orally or in writing to the commissioner of social and rehabilitative services or his designee. If an oral report is made by telephone or otherwise, the commissioner or his designee shall request that it be followed within one week by a

report in writing. Reports shall contain the name of the reporter as well as the names and addresses of the child and his parents or other persons responsible for his care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or his siblings; and any other information that the reporter believes might be helpful in establishing the cause of the injury or injuries or reasons for the neglect as well as in protecting the child and assisting the family.

(b) The commissioner of social and rehabilitative services shall maintain a registry of the reports pursuant to this section and shall adopt regulations to permit the use of the registry while preserving the confidentiality of the reports.

(c) Written reports made pursuant to subsection (a) or those maintained in the registry shall only be disclosed to the commissioner or person designated by him to receive such reports, persons assigned by the commissioner to investigate reports, the person reported on, a prosecuting attorney, or other persons expressly designated by order of the human services board who shall have a need to receive the report. Any person who violates this subsection shall be fined not more than \$500.00.

(d) If the commissioner or his designee determines after investigation that the reported facts are either unfounded or that no services need to be provided, the report in the registry shall be expunged forthwith. All reports in the registry shall be expunged three years after the date of the report and no record or memoranda concerning it shall be preserved by any agency of government. A person reported on may, at any time, apply to the human services board for an order expunging from the registry a report concerning him on the grounds that it was unfounded or not otherwise expunged in accordance with this section. The board shall hold a fair hearing pursuant to 3 V.S.A. § 3091 on the application at which the burden shall be on the commissioner to establish that the report should not be expunged.—Amended 1973, No. 237 (Adj. Sess.), § 4, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Amended section generally.

§ 1355. Investigation; remedial action

(a) The commissioner of social and rehabilitative services shall cause reports made pursuant to subsection (a) of section 1354 of this title to be investigated within seventy-two hours. If the in-

Investigation produces evidence that the child has been abused or neglected, the commissioner shall cause assistance to be provided to the child and his family in accordance with a written plan of treatment.

(b) Services may be provided to the child's immediate family whether or not the child remains in the home.—Amended 1973, No. 237 (Adj. Sess.), § 5, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Amended section generally.

Revision note. Reference to "section 1354" was changed to "section 1354 of this title" to conform to V.S.A. style.

Chapter 31. Discrimination

§ 1451. Public accommodations

(a) An owner or operator of a place of public accommodation or an agent or employee of said owner or operator shall not, because of the race, creed, color or national origin of any person, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation.

(b) An owner or operator of a place of public accommodation or his employee or agent shall not prohibit a blind person accompanied by a dog guide from entering the public accommodation if the dog guide is properly identified as being from a recognized school for seeing eye or dog guides and if the dog guide is properly harnessed so as to be kept under control nor shall such owner or operator or his employee or agent require a blind person to make any extra payment or pay any additional charge when accompanied by a dog guide.

(c) A place of public accommodation within the meaning of this chapter means any establishment which caters or offers its services or facilities or goods to the general public.—Amended 1973, No. 142 (Adj. Sess.), eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Subsections (b) and (c): Former subsec. (b) renumbered as (c) and new subsec. (b) added.

Chapter 35. Escape

§ 1501. Escapes and attempts to escape

* * *

of this title. A person convicted of violating this section shall not be eligible for parole until having served the minimum sentence for the offense as provided herein.—Added 1973, No. 219 (Adj. Sess.), eff. 30 days from April 3, 1974.

Chapter 25. Children and Incompetent Persons

§ 1302. Repealed. 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

§ 1307. Repealed. 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

Chapter 27. Reports of Physical Abuse of Children

NEW SECTION

1356. Records of abuse and neglect.

§ 1351. Purpose

The purpose of this chapter is to: protect children whose health and welfare may be adversely affected through abuse or neglect; to strengthen the family and to make the home safe for children whenever possible by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse and neglect, investigation of such reports and provision of services, when needed, to such child and family.—Amended 1973, No. 152 (Adj. Sess.), § 2, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 1, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Act No. 152 substituted "department of social and rehabilitation services" for "department of social welfare".

Act No. 237 amended section generally.

§ 1352. Definitions

(a) As used in this chapter:

(1) "Child" means an individual under the age of majority.

(2) "Abuse" means physical injury or injuries inflicted upon a child by a parent or other person responsible for his care by other than accidental means, or any other treatment, including sexual abuse, which places that child's life, health, development or welfare in jeopardy or which is likely to result in impairment of the child's health.

(3) "Neglect" means the abandonment of a child by his parents, guardian or other custodians;

(b) Nothing in this title shall be construed to mean that the life or health of a child is in jeopardy for the sole reason he is furnished remedial treatment in accordance with the tenets and practices of a recognized church or religious denomination.—Amended 1973, No. 237 (Adj. Sess.), § 2, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 1, eff. March 24, 1976.

1975 (Adj. Sess.) amendment. Subsection (a)(2): Rephrased and added reference to sexual abuse.

1973 (Adj. Sess.) amendment. Amended section generally.

§ 1353. Suspected child abuse and neglect; remedial action

(a) Any physician, surgeon, osteopath, chiropractor or physician's assistant licensed or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, dentist, or police officer who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(b) Any psychologist, school teacher, day care worker, school principal, school guidance counselor, mental health professional, social worker, probation officer, clergyman or any other concerned person who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(c) Any person enumerated in subsection (a) or (b) of this section who in good faith makes a report shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report.

(d) Any person who violates subsection (a) of this section shall be fined not more than \$100.00.—Amended 1973, No. 152 (Adj. Sess.), § 3, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 3, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 2, eff. March 24, 1976.

1975 (Adj. Sess.) amendment. Subsection (a): Added reference to hospital administrator.

Subsection (b): Substituted "day care worker" for "day care center worker" and added reference to concerned person.

1973 (Adj. Sess.) amendment. Act No. 152 substituted "department of social and rehabilitation services" for "department of social welfare".

Act No. 237 amended section generally.

§ 1354. Nature and content of report; to whom made

A report shall be made orally or in writing to the commissioner of social and rehabilitation services or his designee. If an oral report is made by telephone or otherwise, the commissioner or his designee shall request that it be followed within one week by a report in writing. Reports shall contain the name and address of the reporter as well as the names and addresses of the child and his parents or other persons responsible for his care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or his siblings; and any other information that the reporter believes might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the commissioner of social and rehabilitation services or employees of that department, then such reports shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by staff of the departments of mental health, corrections or other appropriate staff other than staff of the department of social and rehabilitation services. If the report is substantiated, services shall be offered according to the requirements of section 1355.—Amended 1973, No. 237 (Adj. Sess.), § 4, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 3, eff. March 24, 1976.

1975 (Adj. Sess.) amendment. Amended section generally.

1973 (Adj. Sess.) amendment. Amended section generally.

§ 1355. Investigation; remedial action

(a) The commissioner of social and rehabilitative services shall cause reports made pursuant to subsection (a) of section 1354 of this title to be investigated within seventy-two hours. If the investigation produces evidence that the child has been abused or neglected, the commissioner shall cause assistance to be provided to the child and his family in accordance with a written plan of treatment.

(b) Services may be provided to the child's immediate family whether or not the child remains in the home.—Amended 1973, No. 237 (Adj. Sess.), § 5, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Amended section generally.

Revision note. Reference to "section 1354" was changed to "section 1354 of this title" to conform to V.S.A. style.

§ 1356. Records of abuse and neglect

(a) The commissioner of social and rehabilitation services shall maintain a registry which shall contain written records of all investigations initiated under section 1355 of this title unless the commissioner or his designee determines after investigation that the reported facts are unfounded, in which case the unsubstantiated report shall be destroyed.

(b) The commissioner shall adopt regulations to permit use of the registry while preserving confidentiality of the records.

(c) Written records maintained in the registry shall only be disclosed to the commissioner or person designated by him to receive such records, persons assigned by the commissioner to investigate reports, the person reported on, or a state's attorney. In no event shall records be made available for employment purposes, for credit purposes, or to a law enforcement agency other than the state's attorney. Any person who violates this subsection shall be fined not more than \$500.00. A person may, at any time, apply to the human services board for relief if he has reasonable cause to believe that contents of the registry are being misused. All registry records relating to an individual child shall be destroyed when the child reaches the age of majority. All registry records relating to a family or siblings within a family shall be destroyed when the youngest sibling reaches the age of majority. All registry records shall be maintained according to the name of the person who has been found to have abused or neglected a child.

(d) A person may, at any time, apply to the human services board for an order expunging from the registry a record concerning him on the grounds that it is unfounded or not otherwise expunged in accordance with this section. The board shall hold a fair hearing under section 3091 of Title 3 on the application at which hearing the burden shall be on the commissioner to establish that the record shall not be expunged.—Added 1975, No. 200 (Adj. Sess.), § 4, eff. March 24, 1976.

*Chapter 31. Discrimination***§ 1451. Public accommodations**

(a) An owner or operator of a place of public accommodation or an agent or employee of said owner or operator shall not, because of the race, creed, color or national origin of any person, refuse

of this title. A person convicted of violating this section shall not be eligible for parole until having served the minimum sentence for the offense as provided herein.—Added 1973, No. 219 (Adj. Sess.), eff. 30 days from April 3, 1974.

Chapter 23. Burglary

§ 1201. Burglary in nighttime

6. Evidence. Where defendant was charged with burglary in the nighttime and the state offered no evidence of the nighttime element of the offense, it was error to deny motion for verdict of acquittal on the ground that the evidence was insufficient to sustain a conviction of the offense charged. State v. Boutin (1976) 134 Vt. 151, 352 A.2d 689.

7. Instructions. Where defendant was charged with burglary in the nighttime and there was no evidence of the nighttime element of the offense, the court, absent a grant of motion for acquittal, which would have been proper, should have placed before the jury only the question of whether there was a burglary in the daytime, and instructions that if the jury could not find defendant guilty of burglary in the nighttime it could find him guilty of burglary in the daytime, without any definition of nighttime and daytime, was error, and reversal was required. State v. Boutin (1976) 134 Vt. 151, 352 A.2d 689.

Chapter 25. Children and Incompetent Persons

§ 1302. Repealed. 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

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Chapter 27. Reports of Physical Abuse of Children

NEW SECTION

1356. Records of abuse and neglect.

§ 1351. Purpose

The purpose of this chapter is to: protect children whose health and welfare may be adversely affected through abuse or neglect; to strengthen the family and to make the home safe for children whenever possible by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse and neglect, investigation of such reports and provision of services, when needed, to such child and family.—Amended 1973, No. 152 (Adj. Sess.), § 2, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 1, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Act No. 152 substituted "department of social and rehabilitation services" for "department of social welfare".
Act No. 237 amended section generally.

§ 1352. Definitions

(a) As used in this chapter:

(1) "Child" means an individual under the age of majority.

(2) "Abuse" means physical injury or injuries inflicted upon a child by a parent or other person responsible for his care by other than accidental means, or any other treatment, including sexual abuse, which places that child's life, health, development or welfare in jeopardy or which is likely to result in impairment of the child's health.

(3) "Neglect" means the abandonment of a child by his parents, guardian or other custodians;

(b) Nothing in this title shall be construed to mean that the life or health of a child is in jeopardy for the sole reason he is furnished remedial treatment in accordance with the tenets and practices of a recognized church or religious denomination.—Amended 1973, No. 237 (Adj. Sess.), § 2, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 1, eff. March 24, 1976.

1975 (Adj. Sess.) amendment. Subsection (a)(2): Rephrased and added reference to sexual abuse.

1973 (Adj. Sess.) amendment. Amended section generally.

§ 1353. Suspected child abuse and neglect; remedial action

(a) Any physician, surgeon, osteopath, chiropractor or physician's assistant licensed or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, dentist, or police officer who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(b) Any psychologist, school teacher, day care worker, school principal, school guidance counselor, mental health professional, social worker, probation officer, clergyman or any other concerned person who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 1354 of this title.

(c) Any person enumerated in subsection (a) or (b) of this section who in good faith makes a report shall be immune from any

liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report.

(d) Any person who violates subsection (a) of this section shall be fined not more than \$100.00.—Amended 1973, No. 152 (Adj. Sess.), § 3, eff. 30 days from March 15, 1974; No. 237 (Adj. Sess.), § 3, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 2, eff. March 24, 1976.

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Subsection (b): Substituted "day care worker" for "day care center worker" and added reference to concerned person.

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Act No. 237 amended section generally.

§ 1354. Nature and content of report; to whom made

A report shall be made orally or in writing to the commissioner of social and rehabilitation services or his designee. If an oral report is made by telephone or otherwise, the commissioner or his designee shall request that it be followed within one week by a report in writing. Reports shall contain the name and address of the reporter as well as the names and addresses of the child and his parents or other persons responsible for his care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or his siblings; and any other information that the reporter believes might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the commissioner of social and rehabilitation services or employees of that department, then such reports shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by staff of the departments of mental health, corrections or other appropriate staff other than staff of the department of social and rehabilitation services. If the report is substantiated, services shall be offered according to the requirements of section 1355.—Amended 1973, No. 237 (Adj. Sess.), § 4, eff. July 1, 1974; 1975, No. 200 (Adj. Sess.), § 3, eff. March 24, 1976.

1975 (Adj. Sess.) amendment. Amended section generally.

1973 (Adj. Sess.) amendment. Amended section generally.

§ 1355. Investigation; remedial action

(a) The commissioner of social and rehabilitative services shall cause reports made pursuant to subsection (a) of section 1354 of this title to be investigated within seventy-two hours. If the investigation produces evidence that the child has been abused or neglected, the commissioner shall cause assistance to be provided to the child and his family in accordance with a written plan of treatment.

(b) Services may be provided to the child's immediate family whether or not the child remains in the home.—Amended 1973, No. 237 (Adj. Sess.), § 5, eff. July 1, 1974.

1973 (Adj. Sess.) amendment. Amended section generally.

Revision note. Reference to "section 1354" was changed to "section 1354 of this title" to conform to V.S.A. style.

§ 1356. Records of abuse and neglect

(a) The commissioner of social and rehabilitation services shall maintain a registry which shall contain written records of all investigations initiated under section 1355 of this title unless the commissioner or his designee determines after investigation that the reported facts are unfounded, in which case the unsubstantiated report shall be destroyed.

(b) The commissioner shall adopt regulations to permit use of the registry while preserving confidentiality of the records.

(c) Written records maintained in the registry shall only be disclosed to the commissioner or person designated by him to receive such records, persons assigned by the commissioner to investigate reports, the person reported on, or a state's attorney. In no event shall records be made available for employment purposes, for credit purposes, or to a law enforcement agency other than the state's attorney. Any person who violates this subsection shall be fined not more than \$500.00. A person may, at any time, apply to the human services board for relief if he has reasonable cause to believe that contents of the registry are being misused. All registry records relating to an individual child shall be destroyed when the child reaches the age of majority. All registry records relating to a family or siblings within a family shall be destroyed when the youngest sibling reaches the age of majority. All registry records shall be maintained according to the name of the person who has been found to have abused or neglected a child.

(d) A person may, at any time, apply to the human services board for an order expunging from the registry a record concerning him on the grounds that it is unfounded or not otherwise expunged in accordance with this section. The board shall hold a fair hearing under section 3091 of Title 3 on the application at which hearing the burden shall be on the commissioner to establish that the record shall not be expunged.—Added 1975, No. 200 (Adj. Sess.), § 4, eff. March 24, 1976.

Chapter 31. Discrimination

§ 1451. Public accommodations

(a) An owner or operator of a place of public accommodation or an agent or employee of said owner or operator shall not, because of the race, creed, color or national origin of any person, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation.

(b) An owner or operator of a place of public accommodation or his employee or agent shall not prohibit a blind person accompanied by a dog guide from entering the public accommodation if the dog guide is properly identified as being from a recognized school for seeing eye or dog guides and if the dog guide is properly harnessed so as to be kept under control nor shall such owner or operator or his employee or agent require a blind person to make any extra payment or pay any additional charge when accompanied by a dog guide.

(c) A place of public accommodation within the meaning of this chapter means any school, restaurant, store or any other establishment which caters or offers its services or facilities or goods to the general public.—Amended 1973, No. 142 (Adj. Sess.), eff. July 1, 1974; 1977, No. 36, § 1, eff. April 11, 1977.

1977 amendment. Subsection (c): Added school, restaurant and store within meaning of a place of public accommodation.

1973 (Adj. Sess.) amendment. Subsections (b) and (c): Former subsec. (b) renumbered as (c) and new subsec. (b) added.

Chapter 35. Escape

§ 1501. Escapes and attempts to escape

8. **Burden of proof.** Where defendant charged with perjury had stated his military discharge was due to medical complications resulting from an appendectomy and he was actually discharged for character unsuitability, behavior disorders and apathy as a soldier, defendant had burden of proving that the character and behavior disorders were medical complications resulting from the appendectomy and state did not have to prove they were not. *State v. Lawrence* (1976) 134 Vt. 373, 360 A.2d 55.

Chapter 71. Rape

§§ 3201, 3202. Repealed. 1977, No. 51, § 2, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

Prior acts or offenses. 1977, No. 51, § 2, provided, in part: "Acts committed prior to July 1, 1977, are subject to prosecution pursuant to 13 V.S.A. Chapter 71".

ANNOTATIONS UNDER FORMER § 3201

13. **Penetration.** Jury could find that penetration, an essential element of rape, existed on the evidence before it. *State v. Eaton* (1976) 134 Vt. 205, 356 A.2d 504.

Chapter 72. Sexual Assault

SECTION

- 3251. Definitions.
- 3252. Sexual assault.
- 3253. Aggravated sexual assault.
- 3254. Trial procedure.
- 3255. Evidence.

§ 3251. Definitions

As used in this chapter:

(1) A "sexual act" means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body other than the fingers or any object into the genital or anal opening of another;

(2) "Sexual conduct" means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual acts, use of contraceptives, living arrangement and mode of living;

(3) "Consent" means words or actions by a person indicating a voluntary agreement to engage in a sexual act;

(4) "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any

by false token or other means to avoid payment for the service shall if the services exceed \$500.00 in value be imprisoned for not more than ten years or fined not more than \$5,000.00 or both. Otherwise, a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both. Where compensation for service is ordinarily paid immediately, upon the rendering of such service, as in the case of hotels, restaurants and transportation, refusal to pay or absconding without payment or offer to pay gives rise to a rebuttable presumption that the service was obtained by deception as to intention to pay.

(b) A person who, having control over the disposition of services of others, to which he is not entitled, knowingly diverts such services to his own benefit or to the benefit of another not entitled thereto shall if the services exceed \$500.00 in value be imprisoned for not more than ten years or fined not more than \$5,000.00 or both. Otherwise a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both.—Amended 1973, No. 199 (Adj. Sess.), § 2.

1973 (Adj. Sess.) amendment. Amended generally.

§§ 2583, 2584. Repealed. 1973, No. 199 (Adj. Sess.), § 3.

Chapter 59. Lewdness and Prostitution

Subchapter 1. Lewd and Indecent Conduct

§ 2602. Lewd or lascivious conduct with child

3. Review. Since all constitutional guarantees associated with traditional prosecutions apply to juvenile delinquency proceedings, supreme court will not search the record or accept conclusionary findings which merely repeat the definition of the statute, and where, though it was stipulated that a lewd and lascivious act was performed upon the complaining witness, no other facts were stipulated, the only finding was that the alleged delinquent committed a lewd act, and the lower court judge failed to state the facts bringing the case within the ambit of this section, a delinquent child being defined as one who has committed a delinquent act and such an act being defined as an act designated a crime under the laws of the state, the ultimate conclusion of delinquency could not stand; and argument that the act had been stipulated to was to no avail where the ultimate finding of delinquency and who had committed the act were disputed. In re R. B. (1976) 134 Vt. 368, 360 A.2d 77.

§ 2603. Repealed. 1977, No. 51, § 2, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

Prior acts or offenses. 1977, No. 51, § 2, provided, in part: "Acts committed prior to July 1, 1977, are subject to prosecution pursuant to 18 V.S.A. Chapter 71".

Subchapter 2. Prostitution

§ 2633. Repealed. 1973, No. 201 (Adj. Sess.), § 12.

Chapter 63. Obscenity

NEW SECTION

- 2804a. Publicly displaying sex or nudity for advertising purposes.
- 2804b. Displaying obscene materials to minors.
- 2808. Uniformity.
- 2809. Civil action prerequisite for criminal prosecution.
- 2810. Commencement of civil action.
- 2811. Procedure.
- 2812. Judgment.
- 2813. Injunctions.

§ 2801. Definitions

As used in this act:

* * *

(B) Is patently offensive to prevailing standards in the adult community in the state of Vermont as a whole with respect to what is suitable material for minors; and

(C) Is taken as a whole, lacks serious literary, artistic, political, or scientific value, for minors.

(7) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service, or the commercial exhibition of an entertainment.

(8) "Displays publicly" means the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, sidewalk, or lobby of a building which has unrestricted access by the public.—Amended 1973, No. 204 (Adj. Sess.), §§ 1, 2, eff. July 1, 1974.

Revision note. The word "It" was omitted in subdiv. (6)(B) and the word "Is" was inserted in clause (C) for purposes of clarity.

1973 (Adj. Sess.) amendment. Subdivision (6)(B): Inserted reference to state of Vermont.

Subdivision (6)(C): Amended generally.

Subdivisions (7) and (8): Added.

bodily member or organ.—Added 1977, No. 51, § 1, eff. date, see note set out below.

Effective date. 1977, No. 51, § 3, provided: "This act [which added this chapter and repealed section 2603 and chapter 71 of this title] shall take effect July 1, 1977 and shall apply only to acts committed on or after that date".

§ 3252. Sexual assault

A person who engages in a sexual act with another person, other than a spouse, and

(1) Compels the other person to participate in a sexual act:

(A) Without the consent of the other person; or

(B) By threatening or coercing the other person; or

(C) By placing the other person in fear that any person will be harmed imminently; or

(2) Has impaired substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person; or

(3) The other person is under the age of 16 and they are not married to each other; shall be imprisoned for not more than 20 years, or fined not more than \$10,000.00, or both.—Added 1977, No. 51, § 1, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

§ 3253. Aggravated sexual assault

A person who violates section 3252 of this title and causes the other person serious bodily injury shall be imprisoned for not more than 25 years, or fined not more than \$15,000.00, or both.—Added 1977, No. 51, § 1, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

§ 3254. Trial procedure

In a prosecution for a crime defined in this chapter:

(1) Lack of consent may be shown without proof of resistance;

(2) A person shall be deemed to have acted without the consent of the other person where the actor:

(A) Knows that the other person is mentally incapable of understanding the nature of the sexual act; or

(B) Knows that the other person is not physically capable of resisting, or declining consent to, the sexual act; or

(C) Knows that the other person is unaware that a sexual act is being committed.—Added 1977, No. 51, § 1, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

§ 3255. Evidence

(a) In a prosecution for a crime defined in this chapter:

(1) Neither opinion evidence of, nor evidence of the reputation of the complaining witness' sexual conduct shall be admitted;

(2) Evidence shall be required as it is for all other criminal offenses and additional corroborative evidence heretofore set forth by case law regarding rape shall no longer be required;

(3) Evidence of prior sexual conduct of the complaining witness shall not be admitted; provided, however, where it bears on the credibility of the complaining witness or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(A) Evidence of the complaining witness' past sexual conduct with the defendant;

(B) Evidence of specific instances of the complaining witness' sexual conduct showing the source of origin of semen, pregnancy or disease;

(C) Evidence of specific instances of the complaining witness' past false allegations of violations of this chapter.

(b) In a prosecution for a crime defined in this chapter, if a defendant proposes to offer evidence described in subsection (a) (3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the court shall rule on the objections forthwith, and prior to the taking of any other evidence.—Added 1977, No. 51, § 1, eff. date, see note set out below.

Effective date. For effective date of this section, see note set out under § 3251 of this title.

Chapter 73. Sabbath Breaking

§§ 3301-3308. Repealed. 1975, No. 207 (Adj. Sess.), § 2, eff. March 27, 1976.

Former section 3307. Prior to repeal of this chapter former section 3307 was repealed by 1973, No. 249 (Adj. Sess.), § 111, eff. April 9, 1974.

Similar provisions are contained in chapter 74 of this title.

Chapter 74. A Common Day of Rest

SECTION

- 3351. Title.
- 3352. Purpose.
- 3353. Prohibition of Sunday business and labor.
- 3354. Exemptions.
- 3355. Definitions.
- 3356. Criminal penalties.

§ 3351. Title

This chapter shall be known, and may be cited, as the Common Day of Rest Act.—Added 1975, No. 207 (Adj. Sess.), § 1, eff. March 27, 1976.

§ 3352. Purpose

The purpose of this chapter is to establish a common day of rest by means of the general cessation of work, which will create an atmosphere of repose and tranquility in which individuals can relax and families, friends, and relatives can gather together for social occasions and recreation.—Added 1975, No. 207 (Adj. Sess.), § 1, eff. March 27, 1976.

§ 3353. Prohibition of Sunday business and labor

It shall be unlawful on Sunday for any person, firm or corporation:

(1) to engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public; or

(2) to cause, direct, or authorize any employee or agent to engage in or conduct business or labor for profit in the usual manner and location, or to operate a place of business open to the public.

—Added 1975, No. 207 (Adj. Sess.), § 1, eff. March 27, 1976.

§ 3354. Exemptions

Nothing in section 3353 of this title shall apply to:

(1) any natural person who in good faith observes a day other than Sunday as the Sabbath, if he:

Appendix 12

St. Joseph's Restorative Inquiry September Newsletter



St. Joseph's Orphanage, Circa 1950

Overview:

This is the first of a monthly newsletter from the [St. Joseph's Restorative Inquiry](#) (SJRI). SJRI seeks to understand and document the events of the orphanage through the voices, experiences, and stories of those most impacted (former residents); and then facilitates inclusive processes of accountability, amends-making, learning, and change. Restorative Inquiry staff are committed to facilitate and respond to the stated priorities and requests of the former children of St. Joseph's Orphanage.

The Restorative Inquiry is a project of the [Burlington Community Justice Center](#). The project was launched in May of 2019 with funding and support from the Vermont Center for Crime Victim Services and is guided by an Advisory Team comprised of community stakeholders, restorative justice practitioners, and former St. Joseph's Orphanage residents. Project staff began with individual outreach to former residents of the Orphanage. Staff transitioned to group meetings in October of 2019. With the advent of COVID-19 in March, the project moved to weekly online group meetings. Currently, Restorative Inquiry participants meet every Friday from 11:00-1:00.

The weekly meetings allow participants to connect with each other and share perspectives and experiences. Beginning in July, the group decided to alternate between formal and informal weekly meetings. The weekly formal meetings are facilitated by Restorative Inquiry staff and frequently include project questions for the group to consider and decide upon. Group decisions are made by consensus, or when not feasible, through a vote.

Current Initiatives:

In addition to the weekly meetings, the Restorative Inquiry is facilitating a series of initiatives that reflect the expressed interests and requests of the former residents. The following is a summary of current initiatives:

- **Participant-Informed Historical Research Project:** The Restorative Inquiry established a collaboration with Bennington College in the spring of 2020 in order to conduct a participant-informed historical research project. Bennington College students India Carter-Bolick and Gabriela Yadegari initially met with the former residents to explore what Orphanage-related questions that the group wanted answered. India and Gabriela then conducted research into these questions, connecting with a variety of sources (including former residents); compiling documentation; and preparing both interim and final reports. They shared their research with the participants in June and August. A summary of their research will be published on the St. Joseph's Restorative Inquiry [website](#) by the end of this month.
- **Access to Department of Children and Families Family Files:** Several participants of the Restorative Inquiry were placed at the Orphanage by the State of Vermont. These participants requested the opportunity to view all state information (without redaction) related to their time at the St. Joseph's Orphanage. In order to respond to this request, the Department of Children and Families (DCF) has collaborated with the Secretary of State's Office to search the state archives for all available files. DCF is committed to facilitating opportunities for the Restorative Inquiry participants to view their family information in group and individual sessions. The Inquiry held the first viewing session in August and future sessions are being planned.
- **Medical Records:** Restorative Inquiry staff are working with UVM Medical Center to provide any available medical records of participants from their time at the Orphanage. UVM Medical Center is currently conducting a search and will send the records upon request.
- **Writer's Group:** In May, a group of Restorative Inquiry participants requested the opportunity to work together in a facilitated writers' workshop. The Restorative Inquiry contracted the services of Carol Adinolfi to coordinate a 10-week writers' group. Six former residents participated in the group and are now preparing to share their work with the select members of the public.
- **Orphanage Memorial:** Participants of the Restorative Inquiry have requested a public memorial to recognize the countless children who passed through and were impacted by the Orphanage. The group recently selected three representatives to a subcommittee to represent their interests in this initiative. In the coming weeks, staff of the Restorative Inquiry will be organizing meetings for the committee and relevant stakeholders.

Upcoming Initiatives:

- **Meeting with Public Policy Makers:** Participants of the Restorative Inquiry have a core request: that no child or vulnerable person ever again experience the harm that they experienced. This fall, the group will meet with a group of Vermont state legislators and other public policy makers to share their experiences, knowledge, and aspirations; and then collaboratively work together to better protect all vulnerable people.
- **Oral History Collaboration with the Vermont Folklife Center:** Later this fall, interested Restorative Inquiry participants will begin recording oral histories of their experiences with the Orphanage. Each participant will decide how and whether their recording is shared with others and potentially, the general public. With participants' permission and guidance, some of the recordings may form part of a multimedia exhibition.

Other Items:

- [REDACTED] is gathering a package of letters from former residents of St. Joseph's Orphanage who want to send a letter to the Pope. If you would like to have a letter included in this packet, you can send it to: [REDACTED]
[REDACTED]
- In the next month, we will be posting historical photographs from the Orphanage on our website. If you have photographs from the St. Joseph's Orphanage that you would like to share with Restorative Inquiry participants and/or the general public, please contact Marc Wennberg at marc@communityreentry.net.

How to get involved:

- If you are a former resident of St. Joseph's Orphanage and would like to participate in the restorative inquiry, please contact Marc Wennberg at: marc@communityreentry.net or by calling 802-522-7394.
- If you are a former resident of St. Joseph's Orphanage and in need of support, you can connect with Amy Farr, Victim Advocate at the Vermont Attorney General's Office at amy.farr@vermont.gov or at 802-279-1027.
- All other requests and questions can be directed to Marc Wennberg at: marc@communityreentry.net.