



**Policy and Procedure for Response of Abuse**

**Promulgated by**

**The Most Reverend William A. Wack CSC**

**As particular law relating to the**

**Diocese of Pensacola-Tallahassee**

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## **I. Introduction**

The Diocese of Pensacola-Tallahassee is committed to safeguarding the well-being of those that are served by the Church. The People of God have a right to be able to trust those who minister to them in God's name. The violation of this well-being through any sexual abuse by Church personnel is a source of great pain, not only for those involved, but also for the entire Church community.

The Diocese of Pensacola-Tallahassee will make every reasonable effort to prevent sexual abuse and to respond promptly to all allegations of abuse. The Diocese will also comply with all obligations of civil law, and support the rights of priests, deacons, religious and lay personnel in such matters, while upholding the right of the people to be safe and secure from risk of harm. The Diocese will promote healing where it is needed, guidance when it is called for, with firm justice and mercy toward all, and a determination to prevent any sexual abuse. This policy applies to the Diocese, all Diocesan agencies, and all parishes and parish activities within the Diocese.

Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and the person against whom the charge has been made. When the accusation has been proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

## **II. Glossary of Terms**

For the purposes of this agency:

Allegation: A statement or accusation of sexual abuse that is yet to be proven.

Bishop's Designee: The Bishop's Designee is a person appointed by the Diocesan Bishop who is responsible for making the preliminary inquiry into all allegations of sexual misconduct, organizing and chairing the Response Team, overseeing the investigation of the allegations, and consulting with the Independent Review Board.

Child or Minor: Person less than eighteen (18) years of age.

Elderly Person and Disabled Adult: Such persons as so defined in Florida Statutes Chapter 415.102:26. "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

Diocesan Contact Person: Person named by the Diocesan Bishop who can be contacted at 850-435-3500.

Victim Assistant Coordinator: Person named by the Bishop who will be available to aid in the immediate pastoral care of persons who claim to have been abused by church personnel when they were minors or vulnerable adults.

Promoter of Justice: The prosecuting attorney in church canonical matters.

DCFS: The Florida Department of Children and Families.

Church Personnel: For purposes of this *policy* only, Church personnel will include any person who is employed by, or engaged in a ministry, for the Diocese, an agency controlled by the Diocese, or a parish, and any volunteer involved in any Diocesan or parish activity. "Personnel" as defined herein, has reference only to the applicability of this policy, and is not indicative of any agency or employment relationship between the Diocese and the party whose compliance with this policy is sought. Separately incorporated agencies, not directly bound by this policy, are urged to adopt a similar policy.

Parties: Generally, the complainant, the accused, the victim and his or her guardian(s).

Diocesan Response Team: A response team appointed by the Bishop, whose membership may include the following:

- Bishop's Designee;
- Diocesan Attorney;
- Diocesan Investigator;
- Mental Health Professional;
- Secretary for Education;
- Diocesan Director of Communications;
- Victim Assistance Coordinator.

Further members may be added on an "as needed" basis.

Sexual Abuse: Sexual abuse means any act constituting sexual abuse as defined in Florida Statutes, whether perpetrated against a child, elderly person, or disabled adult as defined herein.

Independent Review Board: A review board appointed by the Bishop, including individuals not employed by the Diocese.

Probable Cause: Probable cause exists when there is substantial evidence or testimony, which would lead a reasonable person to believe the offense, may have been committed. A determination of the existence of probable cause is not a final

determination of the fact. It is only a determination that there is sufficient information to rule a discreet investigation.

### **III. Policy**

#### **A. Summary of Purpose**

The Diocese of Pensacola-Tallahassee rejects and condemns all forms of sexual abuse by Diocesan personnel. Such actions violate principles of Judeo-Christian morality and the terms of any employment, agency, or volunteer relationship with the Diocese. The Diocese of Pensacola-Tallahassee will neither tolerate such behavior nor protect anyone who engages in this behavior. It is the policy of the Diocese of Pensacola-Tallahassee that all personnel of the Diocese will comply with the teaching of the Church and all applicable federal, state and local laws regarding incidents of sexual abuse and child abuse insofar as such laws are consistent with the rights guaranteed to the Church by the Constitutions of the United States of America and the State of Florida.

Therefore, it has been determined that with respect to issues of sexual abuse there must be effective written policies and procedures:

1. To train all personnel of the Diocese with respect to dealing with issues of professional boundaries and sexual misconduct;
2. To report and respond to information concerning allegations of sexual misconduct; cases;
3. To provide expert pastoral care to all persons involved in such;
4. To take proper administrative action.

#### **B. Policy Distribution and Implementation**

A copy of this policy will be distributed to each Diocesan agency and parish, and made available to all Church personnel as defined in the Glossary of Terms, and to all future personnel. Personnel of the Diocese will also receive copies of the reporting requirements of applicable law relating to incidents of sexual abuse, as well as those statutes identifying unlawful sexual acts. All personnel are required to be familiar with these laws and their respective responsibilities with regard to reporting violations thereof.

The Diocese will oversee the continuing education of personnel in this area so that it is ongoing and current throughout the Diocese. All teachers in Diocesan Catholic schools will participate in ongoing education and in-service training on methods of recognizing and preventing sexual abuse involving children and others. Clergy will be provided with regular opportunities for updating their knowledge on sexual abuse, including insights from the social

sciences, civil and criminal law, Church policy and canon law, moral theology, professional ethics, and pastoral care of victims.

### **C. Obligation of Church Personnel to Report Abuse**

Any Church personnel who have actual knowledge of, or who have probable cause to suspect, an incident of sexual abuse by any personnel of the Diocese will immediately report same to the Diocese as referenced in this policy. In addition, any personnel of the Diocese who knows, or have reasonable cause to suspect, that a child, elderly person, or disabled adult has been a victim of sexual abuse by any person, including other Church personnel, will immediately make any report required by applicable law directly to the Florida Department of Children and Family Services (DCFS). Any mandatory report required by law may be made by calling the toll free statewide abuse or neglect hotline at 1-800-962-2873, or by calling the local DCFS office responsible for receiving such reports. Any verbal report to DCFS, which is required by law to be confirmed in writing, will be confirmed in writing to the local DCFS within forty-eight (48) hours of the making of the verbal report. All instances of suspected sexual abuse will be reported promptly to the pastor, school principal, director of religious education, or other responsible supervisor, and the Bishop's Designee.

Any report made to DCFS should contain, where possible,

- The names and addresses of the child/or elderly/disabled adult, and of the child or elderly/disabled adult's parent, guardian or other adult having custody and control of the child/elderly or disabled adult;
- The child or elderly/disabled adult's age;
- The nature and possible extent of the child or elderly/disabled adult's injuries; and
- Any other information that the person reporting believes may be helpful with respect to the investigation of the alleged abuse; and
- The identity of the alleged perpetrator.

If the complaint is not received from the parent or guardian of the child/elderly or disabled adult, arrangement should be made to notify immediately the parent or guardian. Notice should not be given to the parent or guardian if he or she is the person against whom the complaint is made. Appropriate pastoral concern and support will also be shown to all parties involved, including the family. All information relating to a child or elderly/disabled adult incident, in which a complaint is made against Church personnel, will be assembled and retained in a written form in a confidential manner by the Bishop's Designee.

#### **Internal Investigation**

Upon receipt of a verbal or written report concerning alleged sexual abuse by Church personnel, the Response Team will institute its own internal

investigation of the matter. Prior to beginning such investigation, the Diocese will confirm that a proper report has been made to DCFS in all cases requiring the filing of such a report. At the discretion of the Bishop, the accused may be removed from any possible contact with children or elderly/disabled adults, as the case may be, pending the resolution of the charges and the outcome of the investigation.

### **Cooperation**

The Diocese will cooperate with public authorities about reporting cases when the person alleged to have been abused is no longer a minor. In every instance, the Diocese will advise and support a person's right to make a report to public authorities.

### **Agreements**

In cases of child sexual abuse, the Diocese will not enter into confidentiality agreements except for grave or substantial reasons brought forward by the victim or survivor and noted in the text of the agreement.

## **D. Reports by Other Than Diocesan Personnel**

Any person having knowledge of suspecting sexual misconduct on the part of Diocesan personnel may make a report by calling the Diocesan Abuse Hotline at 850-435-3536. Written reports may be sent to the Bishop's Designee at the Pastoral Center, 11 North "B" Street. Pensacola, Florida 32502.

Verbal or written reports of misconduct should include the name and position of the person about whom the complaint is being made, a description of the nature of the conduct involved, and the name and means of contacting the person providing the information.

Anonymous reports may be dismissed in the absence of readily verifiable facts. Reports of this nature are a very serious matter. Persons who knowingly make false reports may be subject to legal action.

The Bishop's Designee will be responsible for compliance with civil law governing reports prior to activating the Diocesan inquiry.

## **IV. Pastoral Response and Review Board**

### **Responding to an Allegation**

When an allegation of sexual abuse of a minor by any Church personnel is received, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively. The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the preliminary findings of the investigation. If a credible allegation of sexual

abuse of a minor by Church personnel is made, the alleged offender will be temporarily relieved of any ecclesiastical ministry or function, pending an investigation in harmony with canon law which will promptly commence. The Diocese will exercise care not to interfere with any investigation by law enforcement. When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation of the Doctrine of the Faith shall be notified.

#### **A. Response Team**

In order to respond effectively to allegations of sexual abuse against Church personnel, a Diocesan Response Team has been created in the Diocese. The membership of the Response Team is appointed by the Bishop or his Designee. The Response Team is charged with responding to all allegations of sexual abuse referred by the Bishop. The Response Team will report to the Bishop as to its conclusions and recommendations with respect to each referred complaint.

#### **B. Membership**

The Diocesan Response Team consists of those individuals appointed by the Bishop or his Designee pursuant to Section II “Glossary of Terms”-“Diocesan Response Team”.

#### **C. Activation of Response Team**

The Bishop of the Diocese or his Designee will be solely responsible for the determination of whether an allegation of sexual abuse requires the activation of the Response Team, or any portion thereof. When so determined, the Bishop’s Designee will call a meeting of the Response Team. If the Bishop’s Designee is unavailable, a member of the Response Team will be notified, who in turn will call a prompt meeting of the Response Team. The Bishop’s Designee will serve as Chairperson of the Response Team, which will review every credible allegation of sexual abuse.

#### **D. Response Team Procedures**

The Response Team, through some or all of its representatives, will meet promptly after it has been notified of a complaint of sexual abuse which requires its review. At the initial meeting, the Response Team will evaluate the complaint to determine steps that need to be followed with respect to the particular complaint. If a member of the Response Team is contacted by the media, said person should be referred to the Response Team spokesperson, or if none has been appointed, to the Diocesan Director of Communications. Steps, which should be undertaken by the Response Team after consideration of the particulars of a given complaint, are as follows:

1. Interview the complaining party or parties, victim and associated family, and other witnesses. The Response Team should determine whether or not an interview should be granted, and if so, determine who is to conduct the interview. As part of its investigation and interviews, the Response Team should consider whether counseling and/or medical assistance would be appropriate for any person or persons. Recommendations concerning counseling and/or medical assistance should be made to the Bishop as soon as possible under the circumstances.
2. Cooperate with DCFS and/or other secular authorities in any investigation. Obtain and review all of the pertinent diocesan records as determined by the Bishop's Designee and any reports that may have been drawn up by civil authorities.
3. Maintain appropriate records of each incident reported and of the investigation and disposition thereof. Such records should be considered and treated as Confidential and Privileged as being prepared for the benefit and assistance of Diocesan counsel in contemplation of litigation.
4. The Response Team, either as a group or through one or more of its representatives, will interview the accused and determine whether any of the following should be recommended to the Bishop:
  - Placing the accused on administrative leave;
  - Requiring clinical evaluation of the accused;
  - Determining the need for independent legal representation of the accused.

Instances where the accused is a priest, deacon, or religious, all actions and recommendations of the Response Team will be in accordance with applicable canon law.

5. Based upon the specifics of the particular investigation, the Response Team will consider and recommend to the Bishop any appropriate media response. Should the particular matter warrant communications with the media, the Response Team will select a media spokesperson, and respond to any media inquiries as advised.

#### **E. Victim Assistance Coordinator**

The Diocese will designate a competent assistance coordinator to aid in the immediate pastoral care of persons who claim to have been sexually abused by Church personnel when they were minors or vulnerable adults.

## **F. Rights and Obligations of Parties Involved**

In both civil law and in canon law, a person is presumed innocent until it is proven otherwise; however the presumption of innocence does not preclude the Diocese from taking prudent action before the investigation is completed.

### **Complainants/Victims**

- a. Pastoral, moral, and spiritual help from the Diocese are to be offered to the victim (in case of a minor, parents must consent) and/or family if such is allowed by the appropriate public authority. Pastoral concern of the Diocese may include an offer to pay for counseling where needed. The extent of this offer will vary with circumstances of the case. This assistance will not be considered as an indication that the Diocese is in any way culpable or responsible for the actions of the accused.
- b. The victim and his or her family will be kept informed of the status of the investigation. In cases where separate criminal or civil action is anticipated or pending, it is important that the family be apprised that no judgment may be made by the Diocesan Bishop until the legal processes have been completed.
- c. No Diocesan personnel may be subjected to adverse conditions in their employment/ministry as a result of making a good faith report of sexual misconduct.
- d. At no time will the complainant/victim be required to physically face the accused under these procedures.

### **Accused**

- a. The accused is to be apprised of the allegations and the name of the person making the allegation. The accused is not bound to admit an offense, but failure to contest the charge may jeopardize employment. An oath may not be administered to the accused during the administrative inquiry/investigation. The accused should be apprised of this provision and that any statement made by him or her may be used against him or her in a canonical, criminal, or civil proceeding.
- b. Diocesan representatives dealing with the accused are to make it clear that they act as administrators and not as counselors or confessors. Neither the Diocesan Bishop nor any clergy of the Diocese personally familiar with the matters giving rise to the allegation or involved in the investigation of the allegation is to hear the sacramental confession of the accused.

- c. When a priest is asked to take leave from his assignment because of an allegation of sexual abuse appears to have merit, the Diocese may assist him in finding alternate housing (as appropriate), arrange for the accused's financial support and encourage him to receive pastoral and psychological support during the time immediately following the accusation.
- d. The participation of an accused cleric in appropriate professional counseling may be required as a matter of clerical obedience (Can. 273). Such counseling may be required by the Diocese of other personnel as a condition for continued employment/ministry. Counseling referral is for treatment and evaluation for ministry, and not for punishment, and will not be construed as an admission of guilt on the part of the accused.
- e. Pastoral, moral and spiritual help from the Diocese is to be offered to the accused. This assistance will not be construed as an indication that the Diocese is in any way culpable or responsible for the actions of the accused.
- f. The accused will be kept informed of the status of the investigation. In cases where separate criminal or civil action is anticipated or pending, it is important that the accused be apprised that no judgment may be made by the Bishop until the legal processes have been completed.
- g. The accused must be apprised that any statements made by him or her during the course of the Diocesan investigation may be used against them in a canonical, criminal or civil proceeding.
- h. All clerics are to be supplied with their canonical rights and obligations in such matters, referenced to the appropriate canons.
- i. A personnel file is maintained for each employee. All material in the personnel folder is considered confidential and the property of the Diocese and is secured in a locked file. Employees may review their folder by setting up an appointment with the Human Resource Department.

#### **G. Report to the Bishop**

The Response Team will report to the Bishop regarding the complaint. At the Bishop's request, the Response Team (including Diocesan counsel) will meet with the Bishop to respond to any questions of the Bishop, or provide additional information desired by the Bishop. All information received by the Response Team will be considered confidential, and will not be revealed by any member of the Response Team except to the Diocesan Attorney, other members of the Response Team, and the Bishop unless disclosure is required by law.

## **H. Disposition of the Allegation**

When sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate investigation in accord with canon law, the following will pertain:

This policy provides that for even a single act of sexual abuse of a minor – past, present, or future – the offending priest or deacon will be permanently removed from ministry. At all times, the Bishop has the executive power of governance, though an administrative act, to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry. Because sexual abuse of a minor is a crime in all jurisdiction in the United States, for the sake of the common good and observing the provisions of canon law, the Bishop shall exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.

In every case, the processes provided for in canon law must be observed, and its various provisions be considered (cf. Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State 1995; Letter from the Congregation for the Doctrine of the Faith, 2001). These provisions may include a request from the priest or deacon for dispensation from the obligations of Holy Orders and the loss of the clerical state. The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the Bishop may request of the Holy Father the dismissal of the priest or deacon from clerical state *ex officio*, even without the consent of the priest or deacon. For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. The Diocese will supply canonical counsel to a priest.

If the penalty of dismissal from the clerical state has not been applied, the offender ought to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly or to administer the sacraments. He will be instructed not to wear clerical garb, or to present himself publicly as a priest.

## **I. Additional Action of the Response Team**

After reporting to the Bishop, the Response Team will continue to be involved in responding to a given matter to such extent as may be requested by the Bishop. Possible roles involve continuing as liaison between the Diocese and the accused, the victim, the victim's family, and the media. The Response Team may also provide any assistance requested by the Diocesan Attorney and authorized by the Bishop.

## **J. Review Meeting**

The Response Team will meet at a minimum, once every twelve (12) months to review its procedures and its organization.

## **V. Independent Review Board**

### **A. Purpose and Membership**

To assist the Bishop in his work, the Diocese will have an Independent Review Board that will function as a confidential consultative body established by the Bishop, which will be composed of at least five (5) persons of outstanding integrity and good judgment. The majority of the Independent Review Board members will be laypersons that are not in the employ of the Diocese, but at least one member should be a priest. At least one member should have particular expertise in the treatment of the sexual abuse of minors and vulnerable adults. The members will be appointed for a term of five (5) years, which can be renewed. The Promoter of Justice and The Diocesan Attorney may participate in the meetings of the Independent Review Board when it is deemed to be appropriate. The board will seek to insure the integrity of the Diocesan process for responding to reports of sexual abuse, offer advice regarding investigations, and provide oversight of the Diocese's handling of all such cases.

### **B. Role of the Independent Review Board**

The Independent Review Board will review the investigative findings and recommendations of the Response Team and any action taken by the Diocese. In addition, the Independent Review Board will provide advice and feedback to the Bishop and the Diocesan Response Team concerning the Diocese's policies and procedures in handling of specific cases. As an independent body, the review board will provide appropriate oversight of the Diocese's procedures in handling sexual abuse cases. In addition, the Independent Review Board will advise the Bishop:

- In his assessment of allegations of sexual abuse of minors and vulnerable adults;
- In determination of suitability for ministry;
- Offering advice on all aspects of these cases, whether retrospectively or prospectively.

### **C. Procedures**

If the allegations of sexual abuse of a minor are made against a Bishop, the response process outlined herein shall be fully utilized with the following modification: where the Policy and Procedural Guidelines refer to the Diocesan Bishop, his role and function under these guidelines shall be

assumed by the Metropolitan Archbishop or should there be no Metropolitan Archbishop, by the senior suffragan bishop of the province. If an allegation is made against the Metropolitan Archbishop, then the role and function of the Diocesan Bishop under this guideline shall be assumed by the senior suffragan bishop of the province. The Apostolic Nuncio shall also be notified of the allegation. In cases of financial demands for settlements involving allegations of any sexual misconduct with a minor by a bishop, the Metropolitan Archbishop will be informed. The senior suffragan bishop will be informed when such a demand has been made regarding the Metropolitan Archbishop.

#### **D. Transfer Requirements**

No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment in another diocese or religious province. Before a priest or deacon can be transferred for residence to another diocese or religious province, his bishop or religious superior shall forward in a confidential manner to the local bishop and religious superior of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This shall be applied even if the priest or deacon will reside in the local community of an institute of consecrated life or society of apostolic life.

#### Notes