



Policy: For Clergy Sexual Misconduct

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**CATHOLIC DIOCESE OF
PITTSBURGH**

Clergy Sexual Misconduct

The teaching of the Church, particularly her moral teachings rooted in Scripture and Tradition, serve as the basis for this policy. This teaching recognizes the dignity of every human person.

Because of our desire to protect the rights and dignity of every person in the Diocese of Pittsburgh entrusted to the care of a priest, **most especially the safety and wellbeing of children**, the following procedure will be followed whenever an allegation of clergy sexual misconduct is reported to the Diocese.

This policy is intended to complement and at the same time be in compliance with both the *Code of Canon Law*, the *Motu Proprio Normae de Gravioribus Delictis Congregationi Pro Doctrina Fidei Reservatis* and *Sacramentorum sanctitatis tutela* from the Congregation for the Doctrine of the Faith. It is also in conformity with the *Charter for the Protection of Children and Young People* and the *Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests, Deacons or Other Church Personnel* established by the United States Conference of Catholic Bishops.

The following principles guide the policy and its application:

- **Children come first.** The safety of anyone entrusted to the care of a priest, especially children, is the first priority in any pastoral assignment.
- **Concern for the victims.** We are always concerned about victims who have suffered abuse and their families. The Diocese offers pastoral and spiritual support to victims and their families as well as psychological counseling.
- **All allegations reported.** All allegations of sexual abuse of minors are turned over to the proper civil authorities.
- **Suitability for parochial ministry.** No cleric against whom there is an admitted or established allegation of sexual misconduct with a minor may serve in any ministry. It is the role of the Church alone to determine the suitability of a cleric for ministry.

This policy will be reviewed every two years to ensure its effectiveness.

In an attempt to review the serious matter of clergy sexual misconduct and how the Church addresses it, this diocesan policy is presented under two aspects: 1) The Pastoral Response and 2) The Administrative Process.

I. The Pastoral Response

The *Policy on Clergy Sexual Misconduct of the Diocese of Pittsburgh* is concerned with allegations that a cleric (a priest or a deacon) has engaged in either sexual misconduct with a minor¹, a vulnerable adult², or nonconsensual sexual misconduct with an adult³.

Allegations of consensual sexual misconduct by clergy will be addressed by the Vicar for Clergy. Recommendations for appropriate spiritual and/or psychological assistance will be made as needed.

The goal of the Diocese in this policy is to respond to allegations in a way that is pastorally and canonically effective in application. The prompt response of the Diocese to complaints of sexual misconduct by clergy will include among other steps:

- A. An examination by the Vicar for Clergy and the Diocesan Assistance Coordinator of the content of the allegation in order to begin the determination of its credibility as regarding the suitability of the cleric for any ministry (cf. Administrative Process);
- B. All allegations of sexual misconduct against minors will be turned over to proper civil authorities; in addition, the diocese encourages and supports the complainants to report the matter in question to the proper civil authorities;
- C. Designated diocesan officials – usually the Vicar for Clergy and the Diocesan Assistance Coordinator – will interview the person who made the allegation, and/or the alleged victim and where appropriate, that person’s parents, as well as the cleric against whom the allegation was made;
- D. In addition to turning the allegation over to proper civil authorities, actions which may also be taken as a result of these interviews may include: (1) immediate removal of the cleric from his diocesan assignment; (2) a complete medical and psychological assessment; and/ or (3) ongoing treatment; (4) and an assessment of the allegation and fitness for ministry by the Clergy Task Force and the Independent Review Board;
- E. Allegations cannot be received in confidence given the obligation and/or need to report this information to proper civil authorities;
- F. Assistance to the complainant and his or her family by offering pastoral and spiritual support and psychological counseling as needed;
- G. Recognition of the civil and canonical rights of all involved;

- H. Assistance to parishes or communities affected by the allegations through the help of a Pastoral Support Team, which will provide appropriate spiritual and psychological help;
- I. Availability of the Diocesan Assistance Coordinator to assure that appropriate assistance continues to be made available by the Diocese.

Footnotes

¹Sexual misconduct with a minor (an individual under the age of 18) includes sexual molestation or sexual exploitation of a minor, viewing of child pornography, and other behavior by which an adult uses a minor as an object of sexual gratification.

In Church law, the transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment of the Decalogue. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment (USCCB, *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995, p.6). A canonical offense against the sixth commandment of the Decalogue (CIC, c. 1395 §2; CCEO §1) need not be a complete act of intercourse. Nor, to be objectively grave, does an act need to involve force, physical contact, or a discernible harmful outcome. Moreover, “imputability [moral responsibility] for a canonical offense is presumed upon external violations...unless it is otherwise apparent” (CIC, c. 1321 §3; CCEO, c. 1414 §2); cf. CIC, canons 1322-27, and CCEO, canons 1413, 1415, and 1416.

²A person 18 years 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 mental, emotional, physical, development disability, brain damage or the infirmities of aging.

³In addition to rape, “non-consensual sexual misconduct” also includes any breach of professional trust which has as its intent sexual contact. This would include sexual activity with a parish employee or an individual with whom the cleric is providing spiritual direction, counseling or ministry.

II. The Administrative Process

Phase One

If an allegation is lodged against a cleric regarding sexual misconduct with a minor or non-consensual sexual misconduct with an adult, the Vicar for Clergy and the Diocesan Assistance Coordinator must be notified immediately, an investigation is initiated, and the following steps will be taken. It should be noted that the steps presented in this policy should not be construed as a presumption of guilt of the accused cleric.

- A. Those making the allegation will be interviewed by the designated diocesan officials, normally the Vicar for Clergy and the Diocesan Assistance Coordinator. Both the substance and the source of the allegation must be shared with the cleric against whom the complaint is lodged.

No allegation can be received in confidence given the obligation and/or need to report this information to the proper civil authorities. If the allegation appears to have merit, the canonical administrative process begins when the allegation is confirmed in writing.

- B. The cleric must be apprised of the allegation during a separate interview conducted by the appropriate diocesan officials, normally the Vicar for Clergy and the Diocesan Assistance Coordinator. The cleric must be informed before he responds to the allegation that he has a right to canonical counsel, if he chooses. He will be assisted in identifying such counsel, if necessary.
- C. If the cleric against whom an allegation is made is a member of a religious community on assignment or in residence within the Diocese, the Vicar for Clergy and the Diocesan Assistance Coordinator will review the allegations made and the diocesan process with his religious superior. Cases of this nature are within the jurisdiction of the religious community of which the accused is a member.
- D. As a matter of policy, all allegations of clergy sexual misconduct with a minor, no matter how long ago the alleged misconduct occurred, are reported to the proper civil authorities.

Phase Two

After interviewing both the complainant and the accused cleric, the designated diocesan officials, normally the Vicar for Clergy and the Diocesan Assistance Coordinator, must determine action to be taken based on the credibility of the allegation.

A. First Scenario

If, after careful review of all available information, including the results of the civil investigation, the allegation is judged to be without merit, the matter will not be pursued further and the parties will be informed of this decision. Appropriate steps will be taken to affirm the cleric in his ministry and to repair any damage to his reputation.

B. Second Scenario

When the preliminary investigation of an allegation against a cleric is doubtful or there is a semblance of truth, the cleric is immediately removed from his diocesan assignment and placed on an administrative leave of absence.

1. The allegation is referred to the Clergy Task Force and the Independent Review Board to assess the allegation and the cleric's fitness for ministry.
2. Limitations are placed on the ministry of the cleric such as, but not limited to, the following: prohibition from performing any public celebration of sacraments or sacramentals; prohibition from wearing clerical attire; prohibition concerning living in a certain place or territory; and revocation of diocesan faculties.
3. The cleric is urged to undergo, as soon as possible, a complete medical and psychological assessment at a facility selected by the Diocese. Likewise, the cleric is to grant permission that the results of this assessment be shared by the treatment facility with the appropriate diocesan authorities.
4. Those making the allegation will be provided an appropriate update on the process.
5. If either the Clergy Task Force or the Independent Review Board reviews the allegation and recommends to the Diocesan Bishop that the cleric should not be returned to ministry and the bishop accepts the recommendation, one of the following will occur: 1) The cleric may be offered the opportunity to withdraw from priestly ministry; 2) The cleric may seek a dispensation from the obligations arising from the priesthood; or 3) The diocese will initiate a canonical process.
6. When the accusation has proved to be unfounded, every step possible will be taken to restore the good name of the cleric, and he will be returned to ministry.

C. Third Scenario

Where sexual abuse by a cleric is admitted or is established after an appropriate investigation in accord with canon law, the following will pertain:

1. The offending cleric will be permanently removed from ministry and the appropriate canonical process will be applied.
2. An offending cleric will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention.
3. In every case, the processes provided for in canon law must be observed, and the various provisions of canon law must be considered (cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995; cf. Letter from the Congregation for the Doctrine

of the Faith, May 18, 2001). These provisions may include a request by the cleric for dispensation from the obligation of holy orders and the loss of the clerical state, or a request by the bishop for dismissal from the clerical state even without the consent of the cleric.

4. For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the diocese will supply canonical counsel to a cleric.
5. The cleric will be offered assistance for career retraining.
6. If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), the offender is to lead a life of prayer and penance. He will not be permitted to celebrate Mass publicly, to wear clerical garb, or to present himself publicly as a priest.

III. The Independent Review Board Norms/ Procedures

Article I – Statement of Jurisdiction

1. **Coverage** – These procedures are established solely for the purpose of presenting to the Diocesan Bishop a recommendation as to a particular course of action to be taken when a doubt remains regarding credibility of an allegation involving sexual misconduct or when the suitability to hold ecclesiastical office or any other ministerial assignment has been questioned due to circumstances beyond those defined in the universal law of the Church. In addition this Board will assist the Diocesan Bishop in a regular review of diocesan policies and procedures for dealing with sexual abuse of minors.
2. **Limitation of Action** – An assessment under these procedures shall be convened only by the Diocesan Bishop or by one specifically delegated by him to act on his behalf.
3. **Exclusion** – These procedures are not applicable to doctrinal matters of faith and morals, the validity of sacred orders or canonical imposition of penalties by judicial or administrative procedures.

Article II – Powers and Duties

1. The Vicar for Canonical Services shall be responsible for the implementation and application of these procedures.
2. It shall be the duty of the Vicar for Canonical Services to:

- a. Effect the proper operation of these procedures;
 - b. Process the request through the established procedures;
 - c. Maintain accurate records;
 - d. Transmit said records together with the recommendation of the Independent Review Board to the Vicar for Clergy following conclusion of the action.
3. A roster of people qualified to serve on the Independent Review Board shall consist of laity not employed by the Diocese, as well as pastors and religious, appointed by the Diocesan Bishop. The list shall include persons who are learned in civil law or the human sciences and who meet any other qualifications which the Diocesan Bishop may establish. They shall be appointed for a five (5) year term that is renewable.
 4. Five (5) members of the Independent Review Board, including at least one pastor, and at least one person who has expertise in the treatment of sexual abuse of minors shall be selected for each case by the Vicar for Canonical Services of these procedures.

Article III – Process of Assessment

1. The designated Independent Review Board shall hold hearings upon any case referred to it by the Vicar for Canonical Services, with the initial hearing being scheduled not more than fifteen (15) calendar days after such referral unless extended by the Vicar for Canonical Services. The Board is convened by the Vicar for Canonical Services with the approval of the Diocesan Bishop.
2. The Vicar for Canonical Services shall set a time, date and place for each hearing and notify the parties, in writing, not less than ten (10) calendar days prior to such hearings.
3. Prior to establishing a time, date and place for the initial hearing by the Vicar for Canonical Services, the Vicar for Clergy or his delegate shall submit to the Vicar for Canonical Services all documentation and information which has been previously gathered concerning the allegation and shall determine the willingness of the person making it to participate in these procedures.
4. All testimony shall be taken under oath or affirmation. The Board may take testimony of the parties and witnesses by deposition, affidavits or otherwise when it is deemed necessary.
5. The Independent Review Board shall make its

recommendation on the evidence presented. All testimony shall be taken in the presence of the entire Board. The parties may offer any evidence as they desire, subject to a decision by the Board as to its relevancy and materiality.

6. Upon completion of the process, the Independent Review Board shall submit, in writing, its findings and recommendations to the Vicar for Clergy through the Vicar for Canonical Services of these procedures. The recommendations are then shared in full with the Diocesan Bishop.
7. The recommendation of the Independent Review Board shall be handed down no later than ten calendar days from the date of the closing of the process.

IV. Canonical Penal Procedures

Introduction

The canonical penal process establishes the fundamental procedures by which truth and justice is served within the ecclesial community. The penal process is divided into two phases:

1. The Prior Investigation; (c. 1717-1719)
2. The Development of the Process. (c.1720-1728)

These two phases form the administrative and judicial process by which the *Code of Canon Law* safeguards the rights of the complainant and the cleric, repairs scandal and restores justice. In addition, the penal process is governed by the *Normae de Gravioribus Delictis Congregationi Pro Doctrina Fidei Reservatis*, and *Sacramentorum sanctitatis tutela*.

Prior Investigation

The prior investigation phase has two distinct components. The first component is the investigation by the Diocesan Bishop or his delegate to determine:

- The specific offense *alleged to have been* committed;
- The precise canonical violation;
- The evidence available; and
- The canonical statute of limitation (prescription).

As in civil law, during the investigation, the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation.

Development of the Process

When this first component is completed the Diocesan Bishop proceeds to the second component and determines:

1. Whether the specific offense is a delict of the type reserved to the Congregation for the Doctrine of the Faith, in conformity with the *Motu Proprio, Normae de Gravioribus Delictis Congregationi Pro Doctrina Fidei Reservatis*, and *Sacramentorum sanctitatis tutela*.
2. If the Diocesan Bishop has reasonable belief that a reserved delict probably has been committed after the appropriate canonical investigation, he transmits this to the Congregation for the Doctrine of the Faith which, unless the Congregation claims jurisdiction of the case itself, will order the Ordinary to proceed to a conclusion, with due regard, nevertheless, for the right of appealing against a sentence of the first grade to the Supreme Tribunal of the Congregation for the Doctrine of the Faith.
3. If the process is directed to be handled by the Diocesan Bishop, on a local level, the Congregation for the Doctrine of the Faith will forward appropriate norms governing the handling of the case.
4. . If a case is not reserved to the Congregation for the Doctrine of the Faith, a determination must be made by the Diocesan Bishop if the process is to be administrative or judicial.
5. If the Diocesan Bishop decides to proceed by an administrative process, he must inform the cleric of the evidence and offer the cleric the opportunity of self - defense before a decision is rendered.
6. If the Diocesan Bishop decides to proceed by a judicial process in a case that is not reserved to the Congregation for the Doctrine of the Faith, he must do so by transmitting the evidence collected to the Promoter of Justice who is to present a formal petition to the Diocesan Tribunal. The Diocesan Tribunal must act on the petition in accord with the procedural norms established by the Code of Canon Law and the *Motu Proprio, Normae de Gravioribus Delictis Congregationi Pro Doctrina Fidei Reservatis* and *Sacramentorum sanctitatis tutela* from the Congregation for the Doctrine of the Faith.



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