

Part One: Policies and Procedures

ARTICLE 10

Complaints Against Clergy- Penal and Administrative Processes

On Penal and Administrative Processes

Code of Canon Law, Canon 1718 §1: “When it seems that sufficient evidence has been collected, the ordinary is to decide: 1° whether a process to inflict or declare a penalty can be initiated; 2° whether, attentive to Canon 1341, this is expedient; 3° whether a judicial process must be used or, unless the law forbids it, whether the matter must proceed by way of extrajudicial decree.”

Code of Canon Law, Canon 1722: “To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard the Promoter of Justice and cited the accused, at any stage of the process can exclude the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even can prohibit public participation in the Most Holy Eucharist. Once the cause ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases.”

Pope John Paul II, *Sacramentorum sanctitatis tutela* 4 §1: “Reservation to the Congregation for the Doctrine of the Faith is also extended to a delict against the sixth Commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.”¹

Pope John Paul II, *Sacramentorum sanctitatis tutela* 13: “Whenever the Ordinary or Hierarch receives a report of a reserved delict which has at least a semblance of truth, once the preliminary investigation has been completed, he is to communicate the matter to the Congregation for the Doctrine of the Faith, which, unless it calls the case to itself due to particular circumstances, will direct the Ordinary or Hierarch to proceed further, with due regard, however, for the right to appeal against a sentence of the first instance only to the Supreme Tribunal of the same Congregation.”

¹ Pope John Paul II, *SST* 6 §1: “The Congregation for the Doctrine of the Faith is the Supreme Apostolic Tribunal for the Latin Church and for the Eastern Catholic Churches for the judgment of the delicts defined in the preceding articles.”

Pope John Paul II, *Sacramentorum sanctitatis tutela* 17: “The more grave delicts reserved to the Congregation for the Doctrine of the Faith may only be tried in a judicial process.”²

USCCB, *Essential Norms* §6: “When there is sufficient evidence that sexual abuse of a minor has occurred, the Congregation for the Doctrine of the Faith shall be notified. The bishop/eparch shall then apply the precautionary measures mentioned in *CIC*, canon 1722, or *CCEO*, canon 1473—i.e., withdraw the accused from exercising the sacred ministry or any ecclesiastical office or function, impose or prohibit residence in a given place or territory, and prohibit public participation in the Most Holy Eucharist pending the outcome of the process.”

USCCB, *Essential Norms* §8A: “If the case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the bishop/eparch may apply to the Congregation for the Doctrine of the Faith for a derogation from the prescription, while indicating relevant grave reasons”.

On Unfounded Complaints

USCCB, *Essential Norms* §13: “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 of the person against whom the charge has been made. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.”

On Penalties for the Delict of Sexual Abuse of a Minor

Code of Canon Law, Canon 1395 §2: “A cleric who...has committed an offense against the sixth Commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.”³

Pope John Paul II, *Sacramentorum sanctitatis tutela* 4 §2: “One who has perpetrated the delict mentioned in §1 [delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years] is to be punished according to the gravity of the offense, not excluding dismissal or deposition.”

² A faculty was granted to the Congregation for the Doctrine of the Faith by Pope John Paul II on 7 February 2003 to dispense from Article 17 in those grave and clear cases which, according to the Particular Congress of the Congregation for the Doctrine of the Faith, (a) may be referred directly to the Holy Father for an *ex officio* dismissal from the clerical state, or (b) may be treated under the summary process of canon 1720 by the ordinary who, in case he is of the opinion that the accused should be dismissed from the clerical state, will ask the CDF to impose dismissal by decree.

³ The age of a minor for offenses against the sixth commandment was raised to eighteen (18) by the *Rescript of the Secretariat of State* on 25 April 1994, granting a derogation from the *CIC* to the United States (*Protocol Number* 346.053). The age of eighteen (18) was instituted for the universal Church by Pope John Paul II in *SST* 4 § 1.

USCCB, *Essential Norms* §8; “When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accord with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants (cf. *CIC*, c. 1395 §2; *CCEO*, c. 1453 §1).

USCCB, *Essential Norms* §8B: “If the penalty of dismissal from the clerical state has not been applied (e.g. for reasons of advanced age or infirmity), 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 is to be instructed not to wear clerical garb, or to present himself publicly as a priest.”

USCCB, *Essential Norms* §9: “At all times, the diocesan bishop/eparch has the executive power of governance, within the parameters of the universal law of the Church, through 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 by a cleric is a crime in the universal law of the Church and is a crime in all civil jurisdictions in the United States, for the sake of the common good and observing the provisions of canon law, the diocesan bishop/eparch shall exercise this power of governance to ensure that any priest or deacon who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.”⁴

USCCB, *Essential Norms* §10: “In exceptional cases, the bishop/eparch may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon”.

The Bishop’s “Votum” to the Congregation for the Doctrine of the Faith

10.1 When the Bishop transmits the proceedings of a preliminary investigation to the Congregation for the Doctrine of the Faith, he will send a *votum* to the Congregation that addresses whether a process to inflict a penalty can be initiated, whether a judicial process must be used, or whether the matter should proceed by way of extrajudicial decree.

10.1.1 The *votum* of the Bishop will include:

- personal data and the *curriculum vitae* of the cleric;
- the precise nature of the complaint and authentic copies or notarized summaries of the information gathered during the preliminary investigation, including any response made by the accused cleric to the complaint;

⁴ USCCB, *Essential Norms* footnote 6 references *CIC*, cc. 35-58; 149; 157; 187-189; 192-195; 277 §3; 381 § 1; 383; 391; 1348; and 1740-1747.

- an initial assessment whether the alleged action is imputable to the accused cleric;
- a risk assessment, including summaries of any potentially relevant information contained in the accused cleric's official records;
- relevant information concerning actions taken by public entities;
- an indication concerning the sustenance being afforded to the accused cleric during the investigation.

10.1.2 The *votum* of the Bishop will also include his opinion:

- whether a process to inflict a penalty can be initiated, attentive to the norms of Church law concerning means other than penalties for the repair of harm, the restoration of justice for the complainant and the Church, and the reform of the offender and to the age, health, or other extenuating circumstances affecting the accused cleric (cf. *Code of Canon Law*, c. 1341);
- whether the matter should be handled according to a judicial penal process, administrative penal process, or by way of extrajudicial decree (cf. *Code of Canon Law*, c. 1718 §1; Pope John Paul II, *SST* § 17);
- concerning the equitable resolution of damages (*Code of Canon Law*, c. 1718 §4);
- concerning pending legal action by civil authorities which might interfere with a tribunal's ability to question the complainant, accused cleric, or other relevant witnesses.

10.1.3 When the case is beyond the canonical statute of limitations, the *votum* of the Bishop will address whether 'grave reasons' exist for requesting a dispensation from the canonical statute of limitations. In determining whether such 'grave reasons' exist, the Bishop may consider the following:

- testimony concerning the cleric's life and ministry since the time of the alleged action;
- harm caused to the complainant;
- harm caused to the ecclesial community by the complaint;
- whether the harm may be repaired by other means.

10.1.4 The report to the Congregation may also include a professional assessment of the accused cleric, if available and permitted by the cleric.

The Precautionary Measures of Canon 1722

10.2 When the Bishop transmits the proceedings of a preliminary investigation to the Congregation for the Doctrine of the Faith, he will apply the precautionary measures of canon 1722 to the accused cleric, pending the outcome of the process. Prior to imposing these measures, the Bishop will consult the Promoter of Justice and cite the accused

cleric. The citation will invite the accused cleric to name a canonical advocate, if he has not yet done so (*Code of Canon Law*, canon 1722).

10.2.1 The precautionary measures of Canon 1722 may include a prohibition on the public exercise of sacred ministry, the exercise of any ecclesiastical office, residence in a given place or territory, and public participation in the Most Holy Eucharist. By law, the effects of the decree imposing the precautionary measures of Canon 1722 cease when all appeals have been exhausted or when the matter is settled by the execution of the judgment or renunciation of the action.

10.2.2 The Bishop will issue a decree listing the reasons that prompted its issuance, which may include the prevention of harm, the protection of the freedom of witnesses, and safeguarding the course of justice. The decree will also list the provisions that will be made for the support of the accused cleric.

10.2.3 The Moderator of the Curia will monitor compliance with the precautionary measures imposed and ensure that an accused cleric receives the stipulated support.

Judicial Penal Trials

10.3 When the Congregation for the Doctrine of the Faith directs the Bishop to conduct a judicial penal trial, he will instruct the Judicial Vicar to constitute a tribunal of at least three judges for a penal trial.

10.3.1 Judicial penal trials will be conducted in accord with the norms of canon law and any particular norms established by the Congregation. It is the responsibility of the tribunal to determine whether a canonical crime was committed by the accused cleric and, if warranted, to impose an appropriate canonical penalty. To the extent possible, a canonical penal process is not to be prolonged beyond one year (*Code of Canon Law*, 1453).

10.3.2 The Bishop will give the acts of the preliminary investigation to the Promoter of Justice, who will present a petition of accusation to the Judicial Vicar⁵. Upon receipt of the petition, the Judicial Vicar will constitute a tribunal of at least three judges.

10.3.3 The Presiding Judge will issue the decree of summons to the Promoter of Justice and the accused within twenty (20) business days of the acceptance of the case (*Code of Canon Law*, c. 1507 §2). In the decree of summons, the Presiding Judge will request that the accused cleric appoint a canonical advocate. If he fails to act, the Presiding Judge will appoint *ex officio* a competent advocate prior to the joinder of the issue. This advocate

⁵ The petition will state that it is being made at the request of the Bishop. It will request that the Judicial Vicar begin a penal trial of the accused for having committed the offense of sexual abuse with a minor and in general terms state the facts, witnesses, and evidence to be used to support the allegations. The petition will be signed by the Promoter of Justice, with the date affixed, and indicate the current address of the accused cleric (*CIC*, cc. 1502; 1504; 1721). The tribunal will decide whether or not to accept the petition within ten (10) days (*CIC*, c. 1506).

will remain in office as long as the accused does not personally appoint another advocate (cf. cc. 221 §1; 1481 §1; 1723).

10.3.4 The Promotor of Justice acts on behalf of the complainant and has the right to be present during all procedural acts. The Promoter is bound by office to provide for the public good and to see that the safeguards and requirements of the law are applied equitably. The trial is invalid if the Promotor was not cited, present, or at least able to inspect the acts prior to the sentence (*Code of Canon Law*, cc. 1430-1434; 1561; 1721).

10.3.5 The Presiding Judge will issue a decree stating the issues to be considered in the trial and setting the time for the Promotor of justice and the accused cleric to present and to complete the evidence they will offer to the tribunal (*Code of Canon Law*, c. 1516)⁶.

10.3.6 During the trial, either party may call witnesses and introduce proofs, documents, and other information into the official acts. A notary will be present during each procedural act and must notarize the written acts (*Code of Canon Law*, c. 1437). The judges must weigh all evidence in light of the facts and circumstances presented, and be attentive to circumstantial evidence that may corroborate the evidence presented by one of the parties (c. 1536). In accord with canon law, the tribunal will take certain factors into consideration when evaluating witness testimony:

- what the condition or reputation of the person is;
- whether the testimony offered by a witness derives from personal knowledge, especially what has been seen or heard personally, or whether from opinion, rumor, or hearsay;
- whether the witness is reliable and firmly consistent;
- whether there are supporting witnesses or support from other sources of evidence (cf. *Code of Canon Law*, cc. 1536; 1572)⁷.

⁶ Canon law requires that a tribunal be composed of at least three clerical judges when it is foreseen that the canonical penalties in the case may include dismissal from the clerical state or excommunication (*CIC*, c. 1425 §1, 2°). When the Bishop judges the case to present especially difficult issues, or to be 'of greater importance' he may constitute a tribunal of five clerical judges (*CIC*, c. 1426). Once the judges are assigned, the Judicial Vicar will not appoint substitutes except for a most serious reason (*CIC*, c. 1425 §3, §5). When possible, the Presiding Judge will be the Judicial Vicar (*CIC*, cc. 1425, §1, 2°, 1426). The collegiate tribunal must proceed as a collegial body and pass its sentences by a majority vote (*CIC*, c. 1426 § 1). One of the judges of the tribunal will normally carry out the instruction of the case (*CIC*, c. 1561). At his own discretion, however, the Presiding Judge may designate an auditor to carry out the instruction, selecting a person approved for this function by the Bishop (*CIC*, c. 1428 §1). The Presiding Judge will assign one of the collegiate judges as the one who reports on the case at the meeting of the judges and puts the sentence into writing (*CIC*, c. 1429).

⁷ Canons 1558-1571 will be observed in taking the depositions of witnesses. The questioning will establish the identity of a witness, his/her relationship with the parties, the sources of the person's knowledge of what is alleged, and the precise time in which the witness learned the information that is alleged (*CIC*, cc. 1547; 1552; 1563). The Promotor of Justice and the accused cleric may submit questions for the examination of witnesses or a judge may permit them to pose questions directly (*CIC*, cc. 1533; 1552 §2; 1561; 1570).

10.3.7 The accused cleric is not bound to admit the offense, nor may an oath be demanded of him (*Code of Canon Law*, c. 1728 §2). If the cleric decides to give testimony, either spoken or in writing, he has the right to do so last, personally or through his advocate or procurator (c. 1725). If it becomes clear to the tribunal, at any point, that the accused cleric did not commit the alleged offense, the tribunal has the duty to declare this fact *ex officio* in a judicial sentence and to acquit the accused (c. 1726).

10.3.8 The tribunal will take due account of any findings by a civil authority or the determination of a civil court. A public document will be trusted concerning every thing it directly and principally affirms, unless contrary and evident arguments show otherwise (*Code of Canon Law*, c. 1541)⁸.

10.3.9 Once all the evidence has been collected, the Presiding Judge will order the publication of the acts⁹. The Promoter of Justice and the accused cleric will then be given an opportunity to propose other evidence. When this process is complete, the Presiding Judge will decree the conclusion of the case. The Promoter of Justice and the canonical representatives of the accused cleric will then present their pleadings and be given the opportunity to reply (*Code of Canon Law*, cc. 1601—1603).

10.3.10 The Tribunal must reach moral certitude of the accused cleric's guilt, based on the material presented at trial (*Code of Canon Law*, c. 1608). The decision of the tribunal will be pronounced in a judicial sentence, which must answer the questions stated in the joinder of issues (c. 1611). If the tribunal finds the accused guilty, the judges will impose a just penalty by a majority vote, including permanent removal from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants (USCCB, *Essential Norms* §8; cf. *Code of Canon Law*, c. 1395 §2).

10.3.11 If the majority of judges are unable to arrive at moral certainty that the crime was committed by, and is imputable to, the accused cleric, the tribunal will dismiss him as absolved of all charges (*Code of Canon Law*, cc. 1608—1609).

⁸ The record of a finding by a civil authority or the determination of a civil court does not represent conclusive proof of the facts found by the authority or court. In particular, a canonical tribunal must examine the standards of proof used by the authority or court, because the tribunal must reach moral certitude in order to convict the accused cleric.

⁹ The decree of the Presiding Judge will be issued after the evidence has been collected and, under pain of nullity, will permit the parties and their representatives to inspect the acts not yet known to them at the tribunal office. Each party may then propose additional evidence to the judge (*CIC*, c. 1598 §1). When this evidence has been collected, the Presiding Judge may again issue a decree permitting the parties and their representatives to inspect the acts not yet known to them at the tribunal office (*CIC*, c. 1598 §2).

10.3.12 The sentence is to be published to the Promoter of Justice and the accused as soon as possible, with an indication of the ways in which it can be challenged (*Code of Canon Law*, cc. 1614-1615)¹⁰. The tribunal will send the definitive sentence and the full acts of the case as soon as possible to the Supreme Tribunal of the Congregation for the Doctrine of the Faith (Pope John Paul II, *SST* §13, §17, §22)¹¹.

10.3.13 The acts of the trial will be placed in the archives regulated by *Code of Canon Law*, canons 489-490, and preserved according to the canonical norms.

Administrative Processes

10.4 When a matter does not proceed according to a judicial penal trial, the Bishop may institute an administrative process in accord with the provisions of Church law. In accord with the USCCB, *Essential Norms* §9, the Bishop can exercise his executive power of governance to remove an offending cleric from office, to remove or restrict his faculties, and to limit his exercise of priestly ministry¹².

10.4.1 The Bishop may institute a process for declaring or imposing a penalty, in accordance with Church law (*Code of Canon Law*, cc. 1342 §1; 1718 §1, 3^o; 1720)¹³.

10.4.2 In exceptional cases, the Bishop may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon (USCCB, *Essential Norms* § 10).

10.4.3 The Bishop may request that an offending cleric freely resign from any currently held ecclesiastical office¹⁴. Should the cleric decline to resign and the Bishop judge him to be truly unsuitable for holding an office previously freely conferred, then he may remove the cleric from office, in accord with the required canonical procedures¹⁵.

¹⁰ The tribunal will meet to discuss the individual opinions of each judge and will vote on each of the issues joined (*CIC*, cc. 1608-1609). The sentence must address the questions stated in the joinder of issues and address both the issues of guilt and the punishment to be imposed. The sentence will also indicate the ways in which it is based on the acts of the case and the manner in which it may be challenged (*CIC*, cc. 1614-1615). The sentence is to be published as soon as possible after the decree concluding the case and a copy given to the Bishop, the Promoter of Justice, and the accused cleric.

¹¹ Pope John Paul II, *SST* 22 §1: ‘With due regard for the right to appeal to this Supreme Tribunal, once an instance has finished in any manner before another Tribunal, all of the acts of the case are to be transmitted *ex officio* as soon as possible to the Congregation for the Doctrine of the Faith.’ When a finding of guilt and the imposition of a penalty is upheld by the Supreme Tribunal of the Congregation for the Doctrine of the Faith, the Congregation will direct the Bishop to execute the sentence. The accused cleric will be notified of the executory judicial decree immediately (cf. *CIC*, c. 1651).

¹² The administrative act imposing a penalty must be issued in writing and by means of a decree (*CIC*, cc. 47-58), in order that the cleric may be afforded the opportunity for recourse in accord with canon law (*CIC*, cc. 1734-1739).

¹³ The faculty to dispense from certain provisions in *SST* was granted to the Congregation for the Doctrine of the Faith by Pope John Paul II on 7 February 2003. The Congregation may determine that a grave and clear case may be treated under the summary process of canon 1720 and the Ordinary request that the Congregation impose dismissal from the clerical state by decree.

¹⁴ Resignation from ecclesiastical office is governed by *CIC*, canons 187-189.

¹⁵ Sec *CIC*, cc. 149 §1; 157; 192—195; 1740-1747. A person may be removed from an ecclesiastical office conferred for an indefinite period of time only for grave causes. A person may be removed from an ecclesiastical office held at the discretion of a competent authority for a just cause. The Bishop can remove a cleric from office if he determines that the cleric’s reputation has been irreparably damaged, or that aversion has resulted from his actions, either among the upstanding and serious members of his parish or the Diocese (cf. *CIC*, c. 1741, 3) The Bishop may remove a pastor whose ministry has become “harmful or at least

10.4.4 For a cleric who holds no office in the Diocese, any previously delegated faculties may be administratively removed (*Code of Canon Law*, c. 391 §1; 142 §1), while any *de iure* faculties may be removed or restricted by the competent authority as provided in law (e.g., *Code of Canon Law*, c. 764).

10.4.5 The Bishop may also determine that circumstances surrounding a particular case constitute the just and reasonable cause for a cleric to celebrate the Eucharist with no member of the faithful present (*Code of Canon Law*, c. 906). The Bishop may forbid the cleric to celebrate the Eucharist publicly and to administer the sacraments, for the good of the Church and for his own good. Depending on the gravity of the case, the Bishop may also dispense (cc. 85-88) the cleric from the obligation of wearing clerical attire (c. 284) and may urge that he not do so, for the good of the Church and for his own good.

10.4.6 The Bishop may consult with experts concerning the psychological health of the accused cleric. On this basis, he may declare the accused cleric to be impeded from exercising sacred orders due to a psychic illness (*Code of Canon Law*, c. 1044 §2, 2°)¹⁶.

Acquittal of an Accused Cleric

10.5 When an accusation has been proven to be false or unfounded, every step possible will be taken to restore the good name of the cleric who was accused (cf. USCCB, *Essential Norms* §13).

10.5.1 Whenever an accused cleric is to be restored to ministry, the Bishop will invite him to a personal meeting to discuss steps to be taken to restore him to ministry. These steps may include:

- public concelebration of Mass with the Bishop;
- a meeting with a parish, school, or other diocesan institution by a representative of the Diocese;
- a public announcement by the Moderator of the Curia.

10.5.2 The Moderator of the Curia will offer the accused cleric the assistance he needs relative to return to ministry, including pastoral support and professional assistance.

ineffective for any cause” (*CIC*, c. 1740) or for the reasons listed in canon 1741: “(1) a manner of acting which brings grave detriment or disturbance to ecclesiastical communion; (2) ineptitude or a permanent infirmity of mind or body which renders the pastor unable to fulfill his functions usefully; (3) loss of a good reputation among upright and responsible parishioners or an aversion to the pastor which it appears will not cease in a brief time.” Canons 1740-1752 must then be followed. Those who are removed from ecclesiastical office will be provided with financial support for a suitable transitional period, unless other provision is made (*CIC*, c. 195).

¹⁶ In accord with canon law, a cleric who is affected by “amentia or some other psychic illness” may be judged by an Ordinary to be incapable (*inhibilis*) of rightly carrying out the ministry and declared to be impeded from exercising orders (cf. *CIC* c. 1044 §2, 2). Prior to declaring the impediment, the Bishop will hear the cleric, unless precluded by legitimate reasons (*CIC*, c. 51). The Bishop will request that the cleric seek a psychological assessment and that the cleric permit the release of the information. If the cleric refuses, the Bishop will consult two experts, inviting them to review the proceedings of a canonical investigation and to offer an opinion regarding the cleric’s psychic capacity for rightly carrying out the sacred ministry. The Bishop’s declaration will be issued in the form of a decree, which will include a statement of the facts and reasons that prompted it and the judgment that has been reached.

10.5.3 A cleric is not prohibited by the law of the universal or particular Church from undertaking a civil or canonical action against a person who has made a false accusation.

Conviction of the Accused Cleric

10.6 When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after an appropriate process in accordance with canon law, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants (cf. USCCB, *Essential Norms* §8; *Code of Canon Law*, c. 1395 §2)¹⁷.

10.6.1 If the penalty of dismissal from the clerical state has not been applied (e.g., for reasons of advanced age or infirmity), 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 is to be instructed not to wear clerical garb or to present himself publicly as a priest (USCCB, *Essential Norms* §8B).

10.6.2 If it is determined that an offense against chastity has been committed, but that the offense does not fall within the norms of Canon 1395, the accused cleric may be admonished appropriately, as a means for providing for the public good and for the person's own good. This admonishment can include penal remedies if circumstances warrant it (*Code of Canon Law*, c. 1348).

Right of Appeal and Hierarchical Recourse

10.7 All decisions concerning the disposition of a complaint of sexual abuse of a minor will be issued in written form.

10.7.1 If a decision is rendered by a judicial sentence an appeal may be directed to the Congregation for the Doctrine of the Faith¹⁸.

10.7.2 A person who claims to have been aggrieved by an administrative decree may seek recourse for any just reason to the hierarchic superior of the person who issued the

¹⁷ *Essential Norms* footnote 4 states that: "Removal from ministry is required whether or not the cleric is diagnosed by qualified experts as a pedophile or as suffering from a related sexual disorder that requires professional treatment."

¹⁸ Pope John Paul II, *Sacramentorum sanctitatis tutela* §16: "The Supreme Tribunal of the Congregation for the Doctrine of the Faith judges in second instance: 1° cases adjudicated in first instance by lower tribunals; 2° cases decided by the same Supreme Apostolic Tribunal in first instance." The parties have fifteen (15) days to lodge an appeal of the sentence, from the day on which the accused cleric is lawfully notified of the publication of the sentence. The Presiding Judge will ensure that the procedures on judicial appeal have been communicated to the parties. An appeal by the accused cleric suspends the effect of any penalty that has been imposed until the appeal is disposed. An appeal by the Promoter of Justice suspends a judgment absolving the accused until the appeal is disposed (*CIC*, cc. 1353; 1614-1615; 1628; 1630 §1; 1638; 1727 §2)."

decree¹⁹. Prior to seeking recourse, a person must seek revocation or amendment of the decree from its author (*Code of Canon Law*, c. 1734 §1, 3)²⁰. Hierarchical recourse may be proposed directly or it can be proposed before the author of the decree who must transmit it immediately to the competent hierarchical superior (c. 1737 §1). In matter concerning the sexual abuse of minors, recourse against a decree issued by the Bishop is to be sent to the Congregation for the Doctrine of the Faith.

Aftercare for Convicted Clergy

10.8 In imposing penalties on an accused cleric, the Bishop will take care that the cleric does not lack what is necessary for his adequate support. Even in cases of dismissal, if the cleric is truly in need, the Bishop will provide for him appropriately (*Code of Canon Law*, c. 1350 §2).

10.8.1 In keeping with the stated purpose of the *Charter*, an offending priest or deacon will be offered professional assistance for his own healing and well-being, as well as for the purpose of prevention” (USCCB, *Charter for the Protection of Children and Young People* §5).

10.8.2 The Diocese may address the legitimate mental health needs of clergy known to have committed an act of sexual abuse of a minor through services that may include:

- assessment by qualified experts;
- counseling, therapy, and other professional treatment;
- inpatient residential treatment

Transfers for Ministerial Assignments to Another Diocese

10.9 The Diocese will not permit any priest or deacon incardinated in the Diocese of Crookston known to have committed an act of sexual abuse of a minor to be transferred for ministerial assignment to another diocese/eparchy or to an institute of consecrated life, society of apostolic life, or personal prelature. The Diocese will not permit such a priest or deacon to be transferred for residence without having forwarded, “in a confidential manner, to the bishop/eparch 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.” (USCCB, *Essential Norms* §12).

¹⁹ Recourse suspends the execution of a decree by which a penalty is imposed extrajudicially (*CIC*, c. 353). In cases in which the law does not suspend the effects of the decree automatically; recourse does not suspend the effects of the decree (*CIC*, cc. 1732-1739).

²⁰ The request must be made in writing within ten (10) canonical days of legitimate notification of the decree, explaining clearly the reasoning and offering proofs or information in support of the reasoning (cf. *CIC*, c. 1734 §2). The author of the decree has thirty (30) continuous days in which to respond. When the author of the decree communicates a new decree within thirty (30) days from the date on which the petition is received, in which he revokes or amends the original decree or rejects the petition for recourse, the period for hierarchic recourse runs from the date of the legitimate notice of the new decree to the party making the recourse. When the author of the decree does not communicate a new decree within thirty (30) available days from the date on which the petition is received, the period for recourse runs from the thirtieth day (*CIC*, c. 1735).

10.9.1 USCCB, *Essential Norms* §12: “No priest or deacon who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment in another diocese/eparchy. Before a priest or deacon can be transferred for residence to another diocese/eparchy, his diocesan/eparchial bishop shall forward, in a confidential manner, to the bishop 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.”

10.9.2 USCCB, *Essential Norms* §12: ‘In the case of the assignment for residence of such a clerical member of an institute or a society into a local community within a diocese/eparchy, the major superior shall inform the diocesan/eparchial bishop and share with him in a manner respecting the limitations of confidentiality found in canon law and civil law 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 and young people so that the bishop/eparch can make an informed judgment that suitable safeguards are in place for the protection of children or young people. This will be done with due recognition of the legitimate authority of the bishop/eparch; of the provisions of CIC, canon 678, (CCEO, canon 415 §1 and 554 §2), and of CIC, canon 679; and of the autonomy of the religious life (CIC, c. 586).

Transfers for Ministerial Assignments from another Diocese

10.10 The Diocese will not permit any priest or deacon who has committed an act of sexual abuse of a minor to be transferred to the Diocese of Crookston for ministerial assignment from another diocese/eparchy, institute of consecrated life, society of apostolic life, or personal prelature. The Diocese will not permit such a priest or deacon to be transferred for residence to the Diocese of Crookston without having received “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” from the appropriate local bishop/eparch or religious ordinary (cf. USCCB, *Essential Norms* §12).

10.10.1 An extern priest or deacon who seeks to minister in the Diocese of Crookston must follow the established procedure for requesting permission to minister in the diocese²¹. This includes granting permission for the Diocese of Crookston to request a written statement from his proper ordinary or superior containing all information relative to any act of sexual abuse of minors, including all allegations or complaints made against the cleric, and any other information concerning the cleric’s background or service that would render the cleric unsuitable for working with minors.

²¹ This procedure is outlined in Appendix E.

10.10.2 Pastors, administrators, or directors of all parishes, schools, and other diocesan institutions will not grant permission or delegation for ministry to a non-incardinated priest or permanent deacon without prior written approval of the Bishop or his delegate. An exception will be made for cases of simple concelebration.

Monitoring

10.11 The Diocese of Crookston will make a reasonable attempt to monitor a cleric who has admitted or been found to have committed an act of sexual abuse of a minor. A cleric who has admitted to or been found to have committed an act of sexual abuse of a minor will be subject to such monitoring for the remainder of his life as a cleric of the Diocese of Crookston and his file shall remain open.

10.11.1 The primary purposes of monitoring those who have engaged in sexual abuse of minors are to protect the safety of children and young people and the integrity of the Church.

10.11.2 Monitoring is to be implemented when deemed appropriate at the initial meeting of the Board of Review, when a cleric has been temporarily withdrawn from ministry pending further inquiry or the outcome of a judicial or administrative process, or when a cleric has been permanently removed from ministry but has been allowed to remain a cleric when sexual abuse by the cleric is admitted or is established after an appropriate investigation in accordance with canon law.

10.11.3 Monitoring programs are to be evaluated periodically and reviewed, and should be flexible to acknowledge individual circumstances, and recognize, in an appropriate way, redemption and forgiveness.

10.11.4 Monitoring programs and protocols should be developed and applied on a case-by-case basis but must include the following essential elements:

- continuing oversight by the Moderator of the Curia and the Board of Review, with periodic evaluation and reports to the Bishop;
- a written protocol signed by the cleric which sets forth the particular requirements applicable to him;
- restrictions from being alone with anyone under the age of eighteen (18);
- periodic physical evaluation and psychological reports as recommended by the Board of Review;
- regular individual spiritual direction;
- a provision requiring clerics who use the Internet to provide the Moderator of the Curia with a monthly print out of Internet sites visited.

10.11.5 A cleric's failure to comply with the agreement he has signed or any of the relevant conditions or restrictions imposed shall be the basis for the initiation of a review and may result in further canonical action or other appropriate measures taken by the Bishop.