

Part One: Policies and Procedures

ARTICLE 7

Principles for Ecclesiastical Investigations of Complaints of Sexual Abuse of Minors

On the Right of the Church to Investigate

Code of Canon Law, Canon 1401: “By proper and exclusive right the Church adjudicates: §1. cases which regard spiritual matters or those connected to spiritual matters; §2. the violation of ecclesiastical laws and all those matters in which there is a question of sin, in what pertains to the determination of culpability and the imposition of ecclesiastical penalties”.

USCCB, *Essential Norms* §11, footnote 7: “The necessary observance of the canonical norms internal to the Church is not intended in any way to hinder the course of any civil action that may be operative. At the same time, the Church reaffirms her right to enact legislation binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors.”

On Investigations

Code of Canon Law, Canon 1717: §1. “Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous. § 2. Care must be taken so that the good name of anyone is not endangered from this investigation. §3. The person who conducts the investigation has the same powers and obligations as an auditor in the process; the same person cannot act as a judge in the matter if a judicial process is initiated later. ”

USCCB, *Essential Norms* §6: “When an allegation of sexual abuse of a minor by a priest or deacon is received, a preliminary investigation in accordance with canon law will be initiated and conducted promptly and objectively (*CIC*, c. 1717; *CCEO*, c. 1468). During the investigation the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation. The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of the results of the investigation. 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.”

On the Protection of Rights

Code of Canon Law, Canon 220: “No one is permitted to harm illegitimately the good reputation which a person possesses nor to injure the right of any person to protect his or her privacy.”

Code of Canon Law, Canon 223; §1: “In exercising their rights, the Christian faithful, both as individuals and gathered together in associations, must take into account the common good of the Church, the rights of others, and their own duties toward others. §2. In view of the common good, ecclesiastical authority can direct the exercise of rights which are proper to the Christian faithful.”

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 been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.”

Diocesan Investigations

7.1 The Diocese will investigate complaints of sexual abuse of minors in accord with the principles of truth, honesty, openness, and justice, while respecting confidentiality, privacy, and the reputation of persons. The Diocese will cooperate with civil authorities concerning investigations of a complaint of sexual abuse of minors and conduct its own investigations with respect for civil law and the rights of individuals.

7.1.1 The investigation of a complaint of sexual abuse of a minor by a Bishop will be guided by the directives of canon law, which reserves such cases to the Roman Pontiff (cf. *Code of Canon Law*, c. 1405 §1, 3°).

7.1.2 The Diocese will cooperate with civil officials concerning the gathering of information when a civil or criminal investigation is being conducted. The Diocese will not conduct an interview with a complainant, accused person, or potential witness while a criminal investigation is underway without having consulted the appropriate civil authorities.

7.1.3 When a complainant, or the parent or guardian of a minor complainant, requests that the Church investigate a complaint of sexual abuse of a minor, the Diocese will request that this person make available any information generated by an investigation by civil officials.

Gathering Information from Minors

7.2 The Diocese will observe the norms of canon law concerning the gathering of information from minors during an investigation.

7.2.1 Children below fourteen (14) years of age will not normally be permitted to give testimony. Depending upon the civil jurisdiction and its protocols concerning the interviewing of minors, the Bishop may authorize the interviewing of a person under eighteen (18) years of age (cf. *Code of Canon Law*, c. 1550 §1).

7.2.2 When a complaint is received concerning a person presently under the age of eighteen (18), the delegated investigator will contact the appropriate civil authorities relative to obtaining the information needed for the Church's investigation of the complaint.

Due Process Protections

7.3 The Diocese will ensure that the protections of procedural due process (following of proper procedures) and substantive due process (protection against arbitrary or unfair deprivation of basic rights) are provided to all parties.

7.3.1 Competent and unbiased persons (such as court personnel, the Board of Review, etc.) will uphold due process by a fair, objective, and thorough examination of the complaint. The complainant and the person whose conduct is being investigated will receive due notice of investigations and proceedings and their rights to hierarchical recourse and appeal will be protected in accord with the norms of Church law.

7.3.2 To the extent possible, interviews concerning a complaint of sexual abuse of a minor will be conducted in a setting that is comfortable to the parties being interviewed. Whenever possible, the person to be interviewed will have the choice to have either a male or female staff member present during the interview.

7.3.3 In canon law, as in civil law, a person is presumed innocent until guilt has been proven or admitted. When the Moderator of the Curia communicates a complaint to an accused person, he will recommend that the accused retain appropriate legal representation. Whenever a possibility exists that canonical penalties may be applied, information will also be provided to the accused about contacting a canonical advocate.

7.3.4 The Moderator of the Curia will inform the accused that information generated in an investigation by the Church is considered confidential, but it may not be considered privileged by civil authorities. He will point out, therefore, the appropriateness of consulting a civil attorney.

7.3.5 An accused person may bring legal representation to any meeting concerning a complaint of sexual abuse of a minor. It is the personal responsibility of the accused to

retain and render payment to his or her legal representation. In accord with Church law, the Diocese will supply canonical counsel to a priest when necessary (USCCB, *Essential Norms* §8A).

7.4 In order to uphold due process, a person who brings an allegation of sexual abuse of a minor to the Church will be informed that a written and signed complaint is normally necessary before the Church can undertake an investigation.

7.4.1 Normally, it will be necessary that the complaint include:

- the name of the person against whom the complaint is made;
- the name of the complainant;
- a detailed description of the alleged abuse, including relevant dates, times, and circumstances;
- the names and contact information for persons who may have knowledge of the alleged abuse.

7.4.2 When a complaint is made by someone other than the person who has allegedly been abused, the testimony of the complainant will normally be necessary for the Diocese to conduct a thorough investigation.

7.4.3 A complaint may be made by someone chosen by the person who has allegedly been abused, such as a canon lawyer, a civil attorney, a family member, a friend, or a counselor. When requested, the Victims' Assistance Coordinator or the delegated investigator will assist a complainant in preparing the appropriate written statement.

7.4.4 When an adult reports having been abused as a minor by a person who is currently ministering, working, or serving in the Diocese, but does not wish to make a formal complaint for the purposes of a Church investigation, the person who receives the report will inform the Moderator of the Curia that an anonymous allegation has been received. The person who receives the report will first explain to the adult that the Diocese cannot normally investigate an anonymous allegation and that person will attempt to address the concerns of the adult making the report about participating in a Church investigation.

7.4.5 Allegations against laicized, deceased, or retired clergy, diocesan, school or parish personnel or volunteers shall be processed in substantially the same manner as any other allegation to the extent necessary to make a determination whether there is reasonable cause to suspect that the accused had engaged in sexual abuse of a minor during the time he or she was serving in the Diocese, to facilitate outreach to those affected, and to determine whether minors were and/or are currently at risk.