

# POLICY FOR RESPONDING TO AN ALLEGATION OF THE SEXUAL ABUSE OF A MINOR

## CONGREGATION OF THE RESURRECTION UNITED STATES OF AMERICA PROVINCE

Revised: 31 December 2018

### Preamble

*"The Congregation of the Resurrection announces and give witness to the Paschal Mystery. We desire to be faithful to the grave received by our founders and believe that God's love for us is merciful and unending. We believe that God calls us to live together sharing gifts that we have received, supporting one another, praying and working together for his glory. We call others, especially youth and families, to communities of the Risen Christ in which faith, hope and love radiate as a sign of union with Christ and his mother, Mary, in the Church."*

### Mission Statement

We must be mindful that in Baptism *"we have clothed ourselves in Christ"* (Galatians 3:27) and we are God's temples and that God's Spirit dwells in us (1 Corinthians 3:16-17). Also, by our religious vows of poverty, chastity, and obedience, we have dedicated and consecrated ourselves totally to the Risen Christ. Regrettably, through human weakness some may violate their vows, the sanctity of the human person, and the moral values of the Sixth Commandment. If these immoral/unethical actions arise, we are obliged to act in a positive way, safeguarding the rights of the involved individuals.

This policy provides for positive formation and on-going education in the area of human sexuality and demands a prompt response to any allegations of abuse where there is reasonable belief that such has occurred. We will comply with the obligations of civil and ecclesiastical law regarding the reporting and investigation of an allegation of abuse. Of paramount concern are the victims and their families to whom we will communicate our sincere commitment to their spiritual and emotional well-being.

Remembering the obligations of canon law (no. 220) and Christian charity, we will respect the privacy of the individuals involved and share with others only appropriate information. Finally, as members of the Congregation of the Resurrection, we are religious in the Church and for the Church. Even though explicit references have not been made to prevailing Church legislation in every instance, we consider pertinent ecclesiastical legislation and directives to be binding in our religious and apostolic lives (Constitutions, no. 11).

## **Introduction**

From the very beginning of its foundation, the Province has been entrusted with the concern and care for minors in its ministry. Called to renew society in the name of the Risen Lord, many of its members have left a legacy of compassionate care and “new life” in its pastoral and educational involvement with youth, which continues to be sustained by the faithfulness of its members.

Over the years the Church, like society at large, has grown in its understanding of and ability to deal effectively with the problem of sexual abuse of minors and has taken comprehensive steps to ensure the protection of minors in all Church-related activities. As one further step in this process, these policies and procedures are published to ensure that the members of the Province completely understand that sexual misconduct by its members involving minors will not be tolerated. When such misconduct comes to light, quick and effective action will be taken to ensure the safety and well-being of the minor. These policies also make clear that all members should exercise diligence and vigilance in providing a safe and healthy environment for minors in the Church’s care.

The following policies/procedures are intended to reconcile the requirements of the Code of Canon Law, the pastoral responsibilities of the Church, and the obligations of individuals under the civil laws of the jurisdiction of instance. In particular, it governs the manner in which the Provincial Superior will exercise his authority and is subject to ecclesiastical law in all respects, including the presumption of innocence and the inviolability of the sacramental seal (canons 983 and 984).

The policy applies to all professed members of the USA Province of the Congregation of the Resurrection (“the Province”). It is immediately effective, and its promulgation to members of the province is the responsibility of the provincial superior and all local superiors.

### **I. Prevention of Sexual Misconduct Involving Minors**

- Prior to entrance into the novitiate, the Province will provide professional screening for all candidates to the Congregation. Among the instruments used are the Thematic Apperception Test (TAT), MMPI II, Wechsler, and/or Rorschach, as well as a Clinical Interview.
- All members of the Province are expected to maintain good physical and mental health by means of appropriate care for themselves, and they are encouraged to make use of professional assistance when necessary.
- The Province will provide opportunities to assist members in identifying in themselves areas that may lead to sexual misconduct, take part in

workshops on sexuality and go through the Child safety programs as mandated by the diocese in which the members live and work.

- As criminal and civil laws vary considerably in the countries/states/provinces/regions in which the members of the Province reside and minister, the Provincial Superior will establish, in each, a relationship with a good law firm prior to the need of using one. Each firm will be put on retainer, educated regarding religious life, and consulted on any problem that could result in litigation. The Provincial Superior will rely on these firms for updated laws regarding civil reporting requirements regarding sexual misconduct with minors and will rely on information forthcoming from any (arch)diocese in which we serve.

## **II. Reporting an Allegation of Sexual Misconduct of a Minor**

1. a) Sexual misconduct with a minor includes sexual molestation or exploitation and other behavior by which an adult uses a minor as an object of sexual gratification. Such a transgression relates to obligations arising from an objectively grave violation of the sixth commandment of the Decalogue and which is contrary to the vow of chastity. It need not be a complete act of intercourse nor, to be objectively grave, does an act need to involve force, physical contact, or a discernable harmful outcome.  
  
b) The same applies to a “vulnerable” adult, namely, one who lacks an adult mental or emotional capacity and, by reason of a physical illness, mental disorder, or other disability, is unable to protect him/herself from sexual abuse.
2. If the initial accusation is made by an alleged victim or guardian of same or other family member to another member of the Province besides the Provincial Superior, that member has the responsibility to inform the Provincial within twenty-four hours. The member must also inform the complainant that the member is obliged to make this report, not only to the Provincial Superior but to DCFS. All members of the province are Mandated Reporters and must comply with all civil laws in this regard. In the event that DCFS does not take the report, civil authorities will be notified.
3. Even if an accusation is not made by an alleged victim or guardian of same, any report of sexual abuse of minors is extremely serious. It is the responsibility of every member of the Province to give an accounting of any concern or report of sexual misconduct involving a minor. When a member has reasonable grounds to suspect that a person under the age of eighteen

years is, may be, or may have suffered abuse by another member of the Province, he shall immediately notify the civil authorities and advise the Provincial Superior that such a report has been made, regardless of his belief in its legitimacy or the magnitude of the incident.

4. At no time after an allegation has been made against a member should the Provincial Superior or any of the priests involved in the procedure hear the sacramental confession of the accused.
5. Pornography is a distortion of sexuality and a violation of our commitment to chastity. It can appear in a variety of forms, in both still and moving pictures, on computers and printed pages. When a third-party (a passerby, a repair technician, etc.) notices evidence of pornography on a computer screen, for example, and reports it to anyone in the province, the repercussions will be similar to those policies established in the diocese or archdiocese where the pornography was reported. If the pornography contains still or moving images of a minor, then the police shall be immediately notified, a report made to the local Ordinary, the canonical faculties of an ordained member suspended, and the province Review Board undertakes an investigation.

### **III. Initial Response of Provincial Superior**

1. Upon receiving a report that a member of the Province is accused of sexual abuse of a minor, the Provincial Superior will delegate another member of the Province (“delegate”), other than a member of the Provincial Council, to inform the accused. This communication will be made even in the case of an anonymous accusation, provided the alleged victim is identifiable.
2. The delegate will immediately inform the accused that he should make no statements concerning the accusation until he has spoken with a canon lawyer. The delegate should encourage the accused to retain civil counsel if either civil or criminal proceedings have been initiated or are believed to be imminent. The accused must also be told that anything he says to anyone other than his civil attorney, can be used against him in a canonical, civil, or criminal proceeding, and that he is prohibited from contacting the complainant. The delegate shall then give the accused member a written statement with the same information, signed by the Provincial Superior.

The delegate will offer to assist the accused in securing the services of a canonical advisor and, if warranted, a civil attorney. The canonical advisor's and attorney's fees are to be paid by the Province. The Provincial Superior is to see that both the canonical advisor and the civil attorney have a copy of this policy.

3. If the complainant is still a minor, the Provincial Superior will immediately notify the competent authorities as required by the law of the applicable jurisdiction.

If the case is public or may soon become public, the Provincial Superior should notify the Superior General as well as the diocesan bishop where the crime allegedly occurred and the bishop of the diocese where the member now resides. If the crime is alleged to have occurred when the accused was serving in an apostolate, the bishop of that diocese is to be notified even if there is no danger of the case soon becoming public. He should inform them both of his intention to investigate the allegation(s) and to keep them informed of the progress of the case and the decisions taken.

Other persons should be notified as may be required by applicable laws, i.e. the local superior, always with the regard for canonical confidentiality, the presumption of innocence, and the right of the accused member to a good reputation.

4. The Provincial Superior shall determine whether the accused shall be assigned to another community, even if temporarily, and what therapeutic and spiritual support may appropriately be offered to him. The accused must be informed, however, that medical records are subject to subpoena in a civil or criminal case, although they may not be used in any canonical proceeding without his authorization.
5. A written record will be kept of all steps taken from the moment the allegation is first received. The record may be required to prove that the rights of the accused were fully respected if he takes recourse. Care is to be taken to protect the confidentiality of such documentation.
6. The Provincial Superior shall see that all applicable laws and policies, whether civil or ecclesiastical, are observed in harmony with these procedures, with the assistance of a canon lawyer and civil attorney if necessary.
7. In the case of an accusation against the Provincial Superior, the Vicar Provincial, after notifying the Superior General, shall assume the role of the Provincial Superior in this policy, unless the Superior General delegates another.
8. The above provisions that the Provincial Superior notify the local Bishop hold also for other misbehavior, such as adult sexual impropriety, financial impropriety, substance abuse, and other behaviors that can adversely affect the wellbeing of the local Church.

#### **IV. Pastoral Response to the Victim, the Church, and the Community**

1. The Provincial Superior will appoint a member of the Province, or other suitable person in the locality of the alleged victim, to coordinate a pastoral response to the alleged victim of the misconduct and all those affected by the allegation.
2. The person appointed shall be responsible for meeting with the alleged victim(s), family, and others affected by the allegation, to offer compassionate care and to facilitate communication with the Provincial Superior.
3. If the Provincial Superior determines that there may be substance to the allegation of misconduct, he or his delegate will immediately offer to provide appropriate professional counselling services, as necessary, for the alleged victim and immediate family of same, to begin when they are ready. Such services will be provided until the determination that they are no longer reasonably necessary, or that the allegation is not substantiated.
4. If required by the circumstance of the case, the Provincial Superior will design a pastoral response to those members of the broader community who have been affected by the allegation in order to bring healing for all involved.

#### **V. Reintegration of Clerics into Ministry**

1. If there is credible evidence that the crime of sexual abuse of a minor has been committed but the crime cannot be prosecuted under canon law, the decision regarding the reintegration of the cleric member into public pastoral ministry is reserved to the Provincial Superior with the consent of his Council. If diocesan faculties are required, the decision will be taken in agreement with the respective diocesan bishop.
2. In a case where the member will be living or ministering within another jurisdiction of the Congregation, the Major Superior must be informed and his explicit permission in writing must be obtained prior to permitting the member to engage in any ministry.
3. If a member is authorized to return to ministry, provision must be made for him to participate in one or other self-help or support groups, including joining in established networks for the ongoing formation of clerics. In all cases, the member should abide by the (following) program developed in consultation with professionals knowledgeable in the relevant psychological, spiritual, and professional fields.

4. The member who is allowed to carry out some type of pastoral ministry should have a priest monitor, distinct from his confessor or spiritual director, acceptable to both the Provincial Superior and the member, with whom he would meet regularly. The monitor would have appropriate freedom to report to the Provincial Superior and to advise him concerning the individual's suitability for ministry.
5. As another form of support and ongoing evaluation, the member could also be encouraged to see a professional counsellor on a regular basis or as needed. The member's permission would be sought to allow the counsellor to report to the Provincial Superior concerning his continued suitability for involvement in some form of ministry.
6. With suitable consultation with diocesan authorities and other appropriate persons, attention should be focused on identifying those facets of ministry that could be appropriate for the particular case. Any ministerial function will be so defined as to avoid any assigned responsibilities that would entail associating with individuals or groups similar to those with whom he has had difficulty.
7. Keeping in mind the canonical provisions applicable in the territory, it might not be possible for the member to resume active ministry in that territory. Or, in certain cases, it might be appropriate not to restore all his faculties but only those that are necessary for the assigned ministry.
8. Before any reintegration takes place, some contact between the Provincial Superior or the delegate and those involved in the misconduct and, if applicable, their families, may appropriately take place.
9. A written record should be kept on all steps leading to readmission or to a decision not to readmit.

# CANONICAL INVESTIGATION

## Procedure

This procedure applies (1) when the Provincial Superior receives a report that a member of the Province has sexually abused a person who was under eighteen at the time of the alleged abuse and (2) when the case is subject to prosecution under canon law, in particular, when the alleged victim has not yet reached his or her twenty-eighth birthday.

1. Unless it is immediately apparent that the allegation lacks foundation or the accused has already admitted to the crime before witnesses or in writing, the Provincial is to commence a preliminary investigation (Code of Canon Law, cc. 1717-1719). In the decree by which this process is formally initiated, the Provincial Superior is to refer the allegation to the Provincial Review Board. The decree should be transmitted to the accused and/or his canonical advisor. In general, when any credible allegation is made, and even prior to an examination by the Review Board, the member's canonical faculties will be immediately and temporarily suspended.
2. The principal task of the Review Board will be to get a statement in writing from the complainant or guardian which provides the following information: the name of the person being accused; the date(s), at least approximate, when the crime(s) occurred; the exact nature of the alleged crime(s); the place(s) in which the crime(s) occurred and the circumstances. Alternatively, the Review Board may take the complainant's statement orally, in which case a transcript of the interview must be signed by the complainant and a witness. In either case, the Investigator may ask the complainant for supporting information (e.g., psychiatric treatment records, witness testimony, etc.).

If the alleged victim or guardian of same refuses to file the complaint of art. 2a, the Provincial Superior, in consultation with the Review Board, shall determine whether other evidence exists that may warrant the continuation of the investigation.

3. The Review Board must complete their investigation as soon as possible but normally not later than three weeks from the time the allegation has been referred to the Board, unless prevented for a just cause (such as criminal proceedings against the accused). On the basis of the Review Board's report, and in consultation with an experienced canon lawyer the Provincial shall determine whether there is evidence supporting the accusation that the accused committed an offence against the sixth commandment with a minor. No accusation shall be deemed credible if:
  - the accused could not have had the opportunity to commit the crime at the time or the place alleged (e.g., he was not then a member of the Province, was infirm, lived in a distant place, etc.);
  - the complainant was not under the age of eighteen at the time of the alleged abuse (e.g., the date of assignment of the accused to the place where the abuse reportedly occurred was after the eighteenth birthday of the complainant)

4. If the Provincial Superior determines the accusation is not supported by evidence, he is to communicate this information to the complainant (either directly or through his/her attorney), the accused (either directly or through his canonical advisor), as well as to the Superior General and any diocesan bishop who had been informed of the accusation.
5. If the Provincial Superior decides that there is some basis for the accusation, he shall transmit a copy of the complaint to the accused member or his canonical advisor.

The delegate of the Provincial will invite the accused to respond in writing to the complaint. This response normally should be prepared by his canonical advisor. The accused has one month to submit the response, but the Provincial may extend this deadline at his discretion. The accused, however, is under no obligation to respond and has the right to remain silent.

6. After receiving the response of the accused, the Provincial Superior will determine whether further investigation is necessary. When he decides that he has sufficient information to close the investigation, and after consulting two canonical judges or experts in canon law (c. 1718, 3), the Provincial Superior shall issue a decree (1) stating that the accuser and the accused were cited and (2) determining whether sufficient evidence exists to refer the case to the Congregation for the Doctrine of the Faith (CDF).

If he determines that sufficient evidence exists, he should issue a second decree transmitting the acts of the investigation to the CDF via the Superior General. The Provincial will also suggest which penalty or other outcome should appropriately be requested of the CDF in keeping with the facts and circumstances of the case. However, if the accused has admitted the crime and is willing to petition for indulgences of secularization and laicization, this information must be conveyed to the CDF.

He should also determine whether to apply any of the measures of canon 1722; if so, they are to be communicated to the accused by written rescript, a copy of which is to be included with the acts of the case.

7. The canonical advisor has up to one month to prepare a brief for inclusion in the acts, but this deadline may be extended at the discretion of the Provincial Superior.
8. The Provincial Superior shall transmit all the acts of the investigation to the Superior General, requesting that the latter review and transmit them promptly to the CDF with his own *votum* on the merits of the case and the procedure observed.
9. If the CDF orders a penal trial or an extrajudicial penal process, the Provincial Superior is not to proceed without the advice and close cooperation of an experienced canon lawyer.

# **POLICY FOR RESPONDING TO AN ALLEGATION OF SEXUAL MISCONDUCT INVOLVING AN ADULT**

## **CONGREGATION OF THE RESURRECTION UNITED STATES OF AMERICA PROVINCE**

### **Preamble**

The policy of each Province and Region of the Congregation of the Resurrection provides for positive formation and on-going education in the area of human sexuality and demands a prompt response to any allegations of abuse where there is reasonable belief that such has occurred. We will comply with the obligations of civil and ecclesiastical law regarding the reporting and investigating of an allegation of abuse. Of paramount concern are the victims and their families to whom we will communicate our sincere commitment to their spiritual and emotional well-being.

Remembering the obligations of canon law (no. 220) and Christian charity, we will respect the privacy of the individuals involved and share with others only appropriate information. Finally, as members of the Congregation of the Resurrection, we are religious in the Church and for the Church. Even though explicit references have not been made to prevailing Church legislation in every instance, we consider pertinent ecclesiastical legislation and directives to be binding in our religious and apostolic lives (Constitutions, no. 11).

### **Introduction**

The following policies/procedures are intended to reconcile the requirements of the Code of Canon Law, the pastoral responsibilities of the Church, and the obligations of individuals under the laws of the jurisdiction of instance. In particular, it governs the manner in which the Provincial Superior will exercise his authority and is subject to ecclesiastical law in all respects, including the presumption of innocence and the inviolability of the sacramental seal (canons 983 and 984).

This policy applies to all professed members of the Congregation of the Resurrection USA Province ("the Province") in a case of an allegation of sexual misconduct of a member of the Province involving another adult. In particular, it governs the manner in which the Provincial Superior (or his delegate(s)) will exercise his/their authority.

The policy applies not only to crimes that may be prosecuted in canon law but also to an allegation of sexual exploitation; sexual harassment; or another serious, publicly known sin against the vow of chastity. The application of this policy is subject to canon law in all respects, including the presumption of innocence and the inviolability of the sacramental seal (canons [cc.] 983 and 984).

## I. Definitions

1. **Sexual exploitation.** Sexual exploitation is inappropriate sexual contact between a member of the Province ("member") and an adult who is receiving his pastoral care or who is subject to his authority or who is a vulnerable adult, as defined by local law. Sexual exploitation is presumed if the free will of the adult was impaired by physical force; the administration of substances that would reduce judgment, such as mind-altering drugs or excessive alcohol; or the presence of psychological coercion.
2. **Sexual harassment.** Sexual harassment is unwanted sexualized contact or sexualized behavior between a member and a lay employee or a lay person in his pastoral care or subject to his authority. Sexual harassment includes but is not limited to the following behaviors:
  - making unsolicited sexual advances and propositions;
  - using sexually degrading or gender-demeaning words to describe an individual or his/her behavior;
  - telling inappropriate, sexually-related or demeaning jokes;
  - retaliating against a person who refuses sexual advances or demands an end to other sexual behavior;
  - offering favors or employment benefits such as promotions, favorable performance evaluations, favorably assigned duties or shifts, recommendations, etc., in return for sexual favors;
  - sexualized or gender-demeaning behavior that creates a hostile work environment.
3. **Crimes in canon law (cc. 1395, 695).** The following offences are subject to prosecution in canon law:
  - living in concubinage;
  - persisting in another sin against the sixth commandment of the Decalogue;
  - any offense against the sixth commandment committed by force or threats or publicly;
  - attempted marriage.
4. **Other serious, publicly known sins against the vow of chastity.** A publicly known sin is one that is known by one or more persons, including other members of the Province, provided this knowledge had not been obtained by a violation of professional confidentiality or the right to personal privacy. The seriousness of the offense depends on various factors, not only the gravity of the sin but also the number of persons aware of it, the existence of scandal, or the harm caused to an individual or to the community.

## II. Reporting an Allegation of Sexual Misconduct

1. Whenever a Resurrectionist receives information regarding the sexual misconduct of another member, he is required to assist the accuser in contacting the Provincial Superior or his delegate. The allegation should be

- made in writing, if possible, and contain the signature of the complainant.
2. If an allegation is made orally, the member to whom the allegation is made shall report it to the Provincial Superior. The latter or his delegate will:
    - seek to record the specifics of the allegation: the date, time, and place of the alleged violation, the name of the person making the allegation and, if applicable, that person's relationship to the alleged victim;
    - obtain the signature of the complainant on that written record.
  3. If a person is reluctant to make a formal allegation, he or she may give a general and anonymous description of the concern to the Provincial Superior or his delegate. The Provincial Superior or his delegate shall then report the content of the allegation to the member accused, letting him know that no action will be taken against him at this time and warning him to avoid any behaviors that may give rise to a formal allegation against him.
  4. In the case of an accusation against the Provincial Superior, the Vicar Provincial, after notifying the General Superior, shall assume the role of the Provincial Superior in this policy, unless the General Superior delegates another.

### **III. Initial Response to an Allegation**

1. When an allegation of sexual misconduct is received, the Provincial Superior will review the information and determine whether the allegation seems to have some foundation. The Provincial Superior may consult with experts in the law in making this determination, if he so chooses.
2. A delegated investigator or Review Board of the Provincial Superior will meet as soon as possible with the complainant to:
  - assure the complainant of the Province's concern;
  - obtain more information regarding the allegation, if necessary;
  - explain the process;
  - assess the pastoral response needed;
  - prepare a report for the Provincial Superior.
3. If he chooses to do so, the Provincial Superior may also meet with the complainant to offer pastoral care.
4. After reviewing the findings of the investigator / Review Board, if the Provincial Superior deems the accusation to be lacking credibility or does not constitute sexual misconduct as defined in Section I of this policy, he must do all he can to help the accused member regain his reputation and good name, if they have been harmed. If inappropriate behavior is determined to have occurred without actual misconduct taking place, the Provincial Superior may speak fraternally to the member, encouraging him to modify his behavior accordingly.

#### **IV. Response to a Credible Allegation**

1. If the Provincial Superior deems the allegation to be credible and the nature of the alleged misconduct warrants it (e.g., public notoriety, scandal, aversion toward the member by others), he may, with the consent of his council, assign the member to another community, even if temporarily, for the well-being of both the ecclesial community and the member himself. He should avoid, however, revealing unnecessary details of the allegation to the council or to anyone else that may illegitimately cause harm to the reputation of the accused member.
2. If the case is public or may soon become public, and if the gravity of the allegation warrants it, the Provincial Superior should inform the bishop of the diocese in which the member resides as well as the bishop of the diocese in which the alleged misconduct occurred.
3. If civil or criminal legal action is likely, the Provincial Superior should encourage the accused to retain the assistance of legal counsel whose reasonable expenses shall be paid by the Province.
4. The Provincial Superior may seek a review of the allegation by a psychologist or other expert to see whether the accused member may benefit from some form of therapeutic intervention. If so, he may encourage the member to seek a psychological evaluation and therapy for any problems that may have led to the behavior. The member may not be coerced into seeking such treatment. If released by the member, the results of the psychological evaluation and therapy may be used by the Provincial Superior to determine future suitability for ministerial and community assignments.
5. In the event of an allegation of a canonical crime (Section I, 3), the Provincial Superior shall not proceed with the preliminary investigation until he has consulted with a canon lawyer.
6. The accused enjoys the presumption of innocence until proven otherwise according to the procedures of canon law. He has the right that his good reputation not be harmed illegitimately and the right to protect his own privacy (c. 220). He cannot be required to confess to the crime or to say anything that may be self-incriminating. He has the right of defense and the right not to be punished except according to the norm of law (c. 221). The Provincial Superior shall see that the member accused of a canonical crime has access to the services of a canonical advisor.
7. Unless the gravity of the case demands it, the Provincial Superior is not to resort to a penal process until other measures have been taken to reform the offender such as fraternal correction, reproof, pastoral care, and spiritual direction (cf. c. 1341). If warranted, and in consultation with a canonist, he may apply a penal remedy, penance, or precept as may be appropriate (cf. cc. 1319, 1339, 1340).
8. Before any reintegration takes place, some contact between the Provincial Superior or the delegate and those involved in the misconduct and, if applicable, their families, may appropriately take place.

9. A written record should be kept on all steps leading to readmission or to a decision not to readmit.

**VI.** Ongoing Formation – Education: The Religious will become familiar with these policies. Local superiors will conduct an annual house meeting during which these policies are reviewed and studied. The Religious will also be certain to acquaint themselves and adhere to all relevant policies of the diocese or archdiocese in which they reside or work.

# Appendix I

## PROCEDURES

### Applicable to a Member Accused of Sexual Abuse of Minors

These procedures and policies apply to all members of the Province, including brothers and priests. Certain procedures that apply solely to priests are specifically noted

1. *I have been accused of sexual abuse of a minor. What do I do?*

You will be notified of the allegation by the Provincial Superior. You are presumed innocent and will continue to receive the support and assistance of the Province. An investigation will be commenced and you will be asked to cooperate with that investigation. You will be instructed to have no contact with the person making the allegation or the family. *EN § 6, Canon 695.*

During the investigation, you may be removed from public ministry. You may be urged to seek a voluntary psychological assessment, medical and/or psychological treatment and professional counseling. *EN §§ 6, 7.*

While the allegation is being investigated, the Provincial Superior may direct that you temporarily cease all public ministry and he may assign you to a place of temporary residence. Such measures are a matter of prudence and reflect the seriousness with which allegations of abuse are regarded. They are not intended to, and do not, indicate any judgment on the part of the Provincial Superior or his advisors as to your innocence or guilt. *Canon 695, 1722; EN §§ 6, 8, 13.*

When appropriate, the Provincial Superior will assist you in obtaining legal counsel distinct from that of the Province to advise you of your rights and provide independent representation in any civil or criminal proceedings that may arise. *Canon 1723; EN § 6.*

2. *What is the procedure to investigate the allegations of sexual abuse of a minor that have been made against me?*

An investigation will be started by the Provincial Superior. The purpose of the investigation is to gain a clear and specific understanding of the circumstances of the alleged abuse. During the investigation, information will be gathered to determine whether you committed the alleged action and whether the action fits the canonical definition of the crime of sexual abuse of a minor. The initiation of this investigation is not an indication of guilt. Innocence is presumed. *Canon 698; EN § 6.*

3. *What are my rights and obligations when I am the subject of an investigation of a claim of sexual abuse of a minor?*

- a. the right to a fair, objective, and thorough examination of the allegation by competent and unbiased persons;
- b. the right to have one's good name, rights, and privacy protected;
- c. the right to due notice of proceedings;
- d. the right to offer evidence;
- e. the right to know the results of the investigation;
- f. the right to appeal, in accord with Church law;
- g. the right to know the nature of the allegation and the identity of the person who is alleged to have been harmed;
- h. the right to be heard in one's own defense and not to be required to implicate one's self;
- i. where appropriate, the right to counsel independent of the Province;
- j. the obligation not to interfere with the investigative process;
- k. the obligation to provide accurate and complete information;
- l. the obligation to observe any restrictions lawfully imposed; and
- m. the obligation not to have contact with the alleged victim and family during the investigation.

*Canon 698; 1438(c); 1717-1723; 1727; EN § 6.*

4. *Does the Provincial Superior act alone in determining whether the allegation is credible?*

No. Although the Provincial Superior is responsible for implementing the policies and procedures, he is assisted by various consultants, including a Review Board, to whom he refers the investigative information, at his sole discretion. However, the Provincial Superior alone makes the determination of whether or not a claim is credible after receiving the advisory opinion of the Review Board and input from other advisors. If you are a priest or a deacon, the canonical process continues after the Provincial Superior determines that the allegation is credible. He submits the case to the Congregation for the Doctrine of the Faith. You have a right to appeal to the Congregation for the Doctrine of the Faith during this canonical process if you disagree with the Provincial Superior's determination that the allegation is credible.

5. *What does "credible" mean?*

Neither the Charter nor the Norms contain a definition of "credible." In general, an allegation will be determined to be credible if, based upon all available information, the allegation appears worthy of belief, reliable, and more likely than not to be true and accurate.

6. *What is the Review Board and its function?*

The Review Board is a group of at least 5 individuals of outstanding integrity and good judgment, in full communion with the Church, who have been selected by the Provincial Superior to assist him in determining whether an allegation is credible. The names of the

members of the Review Board are confidential and the majority of them are not members or employees of the Province. Members of the Review Board include at least one ordained member and lay persons with expertise in those areas relevant for their investigation.

The Review Board convenes once the initial investigation is completed and reviews any interviews, statements, and documents obtained during that investigation. The Review Board sends an advisory report to the Provincial Superior on whether or not they believe the allegation is credible and whether the allegation conforms to the definition of sexual abuse of a minor. They may also make recommendations to the Provincial Superior concerning the member's fitness to continue in ministry, when they determine that the action described in the allegation does not conform to the definition of sexual abuse of a minor.

7. *Are the meetings or the decisions of the Review Board public?*

No, the deliberations of the Review Board are confidential. The Review Board will submit a written report to the Provincial Superior that will indicate whether the allegation is deemed credible based upon their review of the information provided to them. This report is advisory only. No other written records will be maintained by the Review Board.

8. *What will I be told about the investigation?*

After the investigation is completed, you will be contacted by the Provincial Superior. He will tell you whether the allegation has been deemed credible or not. If the allegation has been deemed credible, you will be advised regarding what actions will be taken and your rights of appeal.

9. *If I admit that the allegation is true, what can I expect?*

The Provincial Superior will remove you from public ministry, prohibit you from presenting yourself publicly as a priest or deacon (if you are an ordained member) and, where appropriate, he will assign you to another community where access to other potential victims is restricted. You will be placed under supervision and you will be required to abide by a "safety plan" which will impose restrictions upon you. The members of the Provincial Council will be informed, as will be your local superior and the superior of the community to which you will be assigned. The Provincial Superior, after consulting canonical and civil counsel, will decide what information is given to the other members of the Province and the public. *Canon 695; 1395 §2; EN § 8.*

You may be urged to seek a voluntary psychological assessment, medical and/or psychological treatment and professional counseling. The results of any psychological evaluation will only be used in accord with canon law and applicable civil law pertaining to privileges. *EN §§ 6, 7.*

If you are a priest or deacon, the Congregation for the Doctrine of Faith

will be notified as required under Canon Law after consulting with the Province's canonical and legal counsel. At the conclusion of the canonical process you will be removed permanently from ecclesiastical ministry. (The CDF has the authority to dismiss you from the clerical state if the case so warrants; such a dismissal carries with it an automatic removal from religious life.) In all cases, notice will also be given to the Bishops of the dioceses where you were assigned and where the abuse occurred. This information may initially be given in person or by telephone, but will be confirmed in writing. *EN* §§6, 8, 9.

If you are arrested, the Provincial Superior will arrange for a criminal attorney to represent you. *EN* § 6.

*10. What action is taken if I deny the allegation?*

At the conclusion of the investigation, if the Provincial Superior deems the allegation credible despite your denial, you will be removed from public ministry and the same action that is taken when an admission of guilt is made (described in the previous question/answer) will be taken in this case. If you are a priest or deacon, the Provincial Superior will submit the case to the Congregation for the Doctrine of Faith. You have a right to appeal to the Congregation for the Doctrine of the Faith during this canonical process if you disagree with the Provincial Superior's determination that the allegation is credible. At the conclusion of the canonical process, if the allegation is still deemed credible, you will be removed permanently from ecclesiastical ministry. (The CDF has the authority to dismiss you from the clerical state if the case so warrants; such a dismissal carries with it an automatic removal from religious life.) In all cases, the Provincial Superior will notify the Bishops of the dioceses where you are residing and where the abuse occurred, of the allegation, your denial, and any actions that have been taken. *Canon 1395; EN* §§ 6, 8, 9.

*11. How does my admission of guilt or a finding that the allegation is credible affect my life as a member of the Province?*

All of your rights in the Church and the Province will be respected. You will be assured of fraternal support, understood in the context of living under supervision. Your assignments will not include public ministry, in keeping with the Norms that mandate permanent removal from ecclesiastical ministry, not excluding dismissal from the clerical state, for "even a single act of sexual abuse (of a minor) by a priest or deacon." You will be requested to lead a life of prayer and penance. If you are an ordained member, you will also be instructed not to wear clerical garb or to present yourself publicly as a priest. *Canons 695, 1395 §2; EN* §§ 6, 8.

The Provincial Superior, your superior, and your assigned supervisor will develop a comprehensive safety plan which will impose restrictions upon you that are designed to minimize the risk of another incident of sexual abuse of a minor. The type and extent of the restrictions will depend to some degree upon a determination of the level of risk you pose to

minors. This safety plan may also direct you to seek secular employment. You will be requested to sign the safety plan indicating your willingness to cooperate with the plan. *EN § 7.*

*12. Could I be removed from the Congregation because of my offense?*

Yes, if you are a priest or deacon, the Congregation for the Doctrine of the Faith, at the conclusion of the canonical process regarding the allegation, has the authority to dismiss you from the clerical state if the case so warrants. Such a dismissal carries with it an automatic removal from religious life. In exceptional cases, the Provincial Superior may request that the Holy Father dismiss you from the clerical state, *ex officio*, even without your consent. Such a dismissal also carries with it an automatic removal from religious life.

Under most circumstances, efforts will be made to allow you to remain with a community under the safety plan for the protection of the young and to provide you fraternal support and appropriate ongoing supervision.

*13. What happens if I do not comply with the safety plan?*

The Provincial Superior, in concert with your superior and your supervisor, will monitor your compliance with the safety plan. If you fail to comply with the safety plan, the Provincial Superior may implement a constitutional process which ultimately could result in your dismissal from the Congregation.

*14. What action is taken if the allegations are deemed not to be credible?*

If the Provincial Superior determines that the allegation is not credible, your faculties will be restored (if they had been suspended) and every effort will be made to return you to public ministry as soon as possible. If your reputation has suffered as a result of the allegation, or in the course of the investigation, every possible step will be taken to restore your good name. Justice demands that you be restored and protected. You may be assigned to a community where the person who brought the allegation is not present or known. With the advice and assistance of counsel, the Provincial Superior will inform the person who brought the allegation of the results of the investigation. Any Bishop that has been notified of the investigation will be informed of the results. If the matter has been made public, a public statement of your innocence will be made by the Provincial Superior. *EN§ 13.*

*15. Who will respond if the allegations or investigation become public?*

In the event the Provincial Superior is contacted by the media about the allegation or investigation, the Provincial Superior, with the advice of counsel and in collaboration with the appropriate Bishop, will prepare

the necessary statements to be released. During the course of the investigation, this statement will only acknowledge that the allegation has been made, indicate that it is under investigation and that the alleged victim is receiving (or has been offered) pastoral assistance. Only the Provincial Superior or his delegate will respond to inquiries from civil authorities, the public, the media, or any other persons. The members have been instructed to refer all inquiries to the Provincial Superior.

*16. How can I protect myself from false allegations?*

The Province promotes the practice of established rules of conduct that assist you in identifying and keeping boundaries. Reducing even the appearance of improper conduct will reduce the opportunities for false allegations to be made.

# Appendix II

## PROCEDURES

### Applicable to a Person Bringing an Allegation of Sexual Abuse of a Minor against a Member

1. *Whom do I call if I have been sexually abused by a member of the Province?*

If you are a minor who has been sexually abused by a member of this Province; or if you are an adult who was sexually abused when you were a minor by a member of this Province; you should report this to the Provincial Superior or his Vicar. You will be immediately offered pastoral support and care.

The contact information for the USA Province of the Congregation of the Resurrection is:

Provincial Office  
3601 North California Avenue  
Chicago, Illinois 60618-4602  
Telephone: (773) 463-7506

The current Provincial Superior is Fr. Gene Szarek, C.R.  
The current Vicar Provincial is Fr. Gary Hogan, C.R.

Legal Counsel for the USA Province of the Congregation of the Resurrection is:

Kopon Airdo  
111 East Wacker Drive  
Suite 500  
Chicago, Illinois 60601  
Telephone: (312) 506-4450

2. *What happens after I report the allegation?*

After you report an allegation to the Provincial Superior, some or all of the following steps will be implemented as deemed appropriate by the Provincial Superior:

- a. You will be offered pastoral care.
- b. The Provincial Superior or his delegate will immediately begin

gathering information from you (or if you are a minor, from your parents or guardian)<sup>1</sup> and the accused member. Each person may be asked to complete a written report.

- c. The accused member will be informed of the allegation and will be instructed to have no further contact with you or your family. While the allegation is being investigated, the Provincial Superior may direct that the accused member temporarily cease all public ministry and may assign him to a place of temporary residence. Such measures are a matter of prudence and reflect the seriousness with which allegations of abuse are regarded. They are not intended to, and do not, indicate any judgment on the part of the Provincial Superior or his advisors as to the innocence or guilt of the accused.
- d. The Provincial Superior will report the allegation to the proper civil authorities as required by state law and inform you and your family of your right to do so.
- e. You will be informed of the procedures for investigating the claim.

### 3. *What are my rights and obligations during the investigation?*

- a. the right to a fair, objective, and thorough examination of the complaint by competent and unbiased persons;
- b. the right to have one's good name, rights and privacy protected;
- c. the right to due notice of proceedings;
- d. the right to offer evidence;
- e. the right to know the results of the investigation;
- f. the right to appeal, in accord with Church law;
- g. the obligation not to interfere with the investigative process;
- h. the obligation to provide accurate and complete information;
- i. the obligation to provide the Province with any information generated by an investigation by civil officials; and
- j. the obligation to submit a written and signed complaint.

### 4. *Does the Provincial Superior act alone in determining whether my allegation is credible?*

No. Although the Provincial Superior is responsible for implementing the policies and procedures, he is assisted by various consultants, including a Review Board, to whom he refers the investigative information, at his sole discretion. However, the Provincial Superior alone makes the determination of whether or not a claim is credible, after receiving the advisory opinion of the Review Board and input from other advisors. If the accused member is a priest or a deacon, the canonical process continues after the Provincial Superior determines that the allegation is credible. He submits the case to the Congregation for the Doctrine of the Faith.

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<sup>1</sup>Any member of the Province who learns of the allegation from you, or if you are a minor, from your family, is required to immediately forward the information to the Provincial Superior. When the alleged victim is still a minor, all communications will be through the minor's parents or guardian.

5. *What does “credible” mean?*

No precise definition of “credible” can be given. In general, an allegation will be determined to be credible if, based upon all available information, the allegation appears worthy of belief, reliable, and more likely than not to be true and accurate.

6. *What is the Review Board and its function?*

The Review Board is a group of at least five (5) individuals of outstanding integrity and good judgment, in full communion with the Church, who have been selected by the Provincial Superior to assist him in determining whether an allegation is credible. The names of the members of the Review Board are confidential and the majority of them are not members or employees of the Province. Members of the Review Board include at least one ordained member and lay persons with expertise in those areas relevant for their investigation.

The Review Board convenes once the initial investigation is completed and reviews any interviews, statements, and documents obtained during that investigation. The Review Board sends an advisory report to the Provincial Superior on whether or not they believe the allegation is credible and whether the allegation conforms to the definition of sexual abuse of a minor. They may also make recommendations to the Provincial Superior concerning the member’s fitness to continue in ministry, when they determine that the action described in the allegation does not conform to the definition of sexual abuse of a minor.

7. *Are the meetings or the decisions of the Review Board public?*

No, the deliberations of the Review Board are confidential. The Review Board will submit a written report to the Provincial Superior that will indicate whether the allegation is deemed credible based upon their review of the information provided to them. This report is advisory only. No other written records will be maintained by the Review Board.

8. *What will I be told about the investigation?*

After the investigation has been completed, you will be contacted by the Provincial Superior. He will tell you whether the allegation has been deemed credible or not. If the allegation has been deemed credible, you will be advised what actions have been taken and you will be offered continued pastoral assistance.

9. *What actions may be taken by the Provincial Superior if he deems my allegation to be credible?*

If the allegation is deemed credible, the Provincial Superior will immediately remove the member from public ministry, if he has not been removed from public ministry at an earlier stage of the process. He will

reiterate his instructions to the member to have no contact with you and your family. He also will inform the Bishop of the diocese in which the offense occurred and the Bishop of the diocese where the member resides, of the outcome of the investigation.

The Provincial Superior, the member's immediate religious superior, and the member's designated supervisor will develop a comprehensive safety plan which will impose restrictions upon the member that are designed to minimize the risk of another incident of sexual abuse of a minor. The type and extent of the restrictions will depend to some degree upon a determination of the level of risk the member poses to minors.

*10. Can I make an anonymous allegation?*

Yes. All allegations will be investigated to the extent feasible.

**11. Who will handle communications with the public about my allegation?**

In the event the Provincial Superior is contacted by the media about your allegation, the Provincial Superior, with the advice of counsel and in collaboration with the appropriate Bishop, prepares the necessary statements to be released. During the course of the investigation, this statement will only acknowledge that the allegation has been made, indicate that it is under investigation and that the person who brought the allegation is receiving (or has been offered) pastoral assistance. Only the Provincial Superior or his delegate will respond to inquiries from civil authorities, the public, the media, or any other persons. The members have been instructed to refer all inquiries to the Provincial Superior.

# Appendix III

## Best Practices Boundaries & Behavioral Guidelines

Our relationships with minors are both professional and personal. For this reason, the following guidelines include ministerial relationships with minors and relationships with minors who are family members, recognizing that in certain family situations the application of the guidelines may require appropriate nuance. Though it is impossible to legislate for every individual situation, the guidelines do require members to conduct all relationships with minors, including relatives, in public with the full knowledge and consent of their parents. Cognizant of the times in which we live and of our sacred office, members are to exercise the utmost prudence in every situation of relationship with minors.

### BOUNDARY VIOLATIONS

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Sexual offenders violate physical, emotional and behavioral boundaries.

**Physical boundary violations** means touching too much or touching in ways most adults would not touch a child. Some examples are:

1. Roughhousing, or wrestling.
2. Tickling.
3. Encouraging minors to jump on an adult.
4. Accidentally touching inappropriately.
5. Putting legs around a minor.
6. Holding or hugging when the minor resists.
7. Too many hugs or hugs with too much body contact.

**Emotional boundary violations** means treating the relationship with a child as if it were a romantic or intimate adult relationship. Some examples:

1. Spending too much time with a minor.
2. Calling too much.
3. E-mailing too much.
4. Getting involved in too many of the minor's activities.
5. Acting too possessive.

**Behavioral boundary violations** means involving a child in activities that his or her parents would not allow the child to do. Some examples are:

1. Ridiculing the beliefs of a minor's parents.
2. Allowing a minor to do things against the wishes of parents.
3. Offering minors cigarettes, alcohol or drugs.
4. Allowing minors to look at pornography.
5. Allowing minors to visit inappropriate Internet sites.
6. Giving a minor gifts without the parents' permission.
7. Asking a minor to keep secrets from his or her parents.

## KEEP YOURSELF SAFE

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### *Appropriate displays of affection in ministry...*

- Asking permission before touching.
- Hugs.
- Pats on the shoulder or back.
- Hand-shakes.
- "High-fives" and hand slapping.
- Verbal praise.
- Touching hands, faces, shoulders, and arms.
- Arms around shoulders.
- Holding hands during prayer or when a person is upset.
- Holding hands while walking with small children.
- Sitting close to small children.
- Kneeling or bending down for hugs with a small child.
- Holding or picking up children 3 years old and younger.

### *Inappropriate displays of affection in ministry...*

- Any form of unwanted affection.
- Full frontal hugs or "bear hugs."
- Touching bottoms, chests or genital areas.
- Laying down or sleeping beside minors.
- Massages.
- Patting children on the thigh, knee, or leg.
- Tickling or wrestling.
- Touching or hugging from behind.
- Games involving inappropriate touching.
- Kisses on the mouth.
- Showing affection in isolated areas of the program such as bedrooms, closets, restricted areas, or other private rooms.
- Compliments that relate to physique or body development.



## KEEP YOURSELF SAFE

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### *Behaviors that have led to false allegations of abuse...*

- Meeting alone in isolated places.
- Showing favoritism.
- Engaging in physical contact that was misinterpreted.
- Wearing provocative or revealing attire.
- Giving money to a "special" minor.
- Meeting in homes and in bedrooms without others present.
- Being nude in front of minors.
- Sleeping in the bed with minors.
- Giving special or secret gifts.
- Graphically discussing sexual activities or allowing others to do so.
- Keeping "secrets" about relationships.
- Failing to adhere to uniform or accepted standards of affection.
- Showing affection when no one else was around.
- Staring while others were dressing.
- Commenting on minor's bodies.
- Taking pictures while minors are dressing or showering.
- Shaming or belittling an individual.



## SPOT THE WARNING SIGNS

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### *Pay attention to the warning signs of preferential offenders...*

1. Finds reasons to spend time alone with minors.
2. Prefers time with minors to time with peers.
3. Gives gifts to minors, especially without permission.
4. Goes overboard with physical contact with minors.
5. Always wants to wrestle or tickle minors.
6. Shows favoritism toward certain minors.
7. Treats minors like equals or adults.
8. Keeps secrets with minors.
9. Ignores policies about interacting with minors.
10. Breaks the rules.
11. Uses inappropriate language with minors.
12. Tells "off-color" jokes to minors.

### *Pay attention to the warning signs of situational offenders...*

1. Excessively using alcohol.
2. Uses of drugs.
3. Experiencing anxiety or depression.
4. Having trouble coping with loneliness.
5. Facing rejection or disappointment.
6. Coping with personal loss.
7. Feels unappreciated and unrewarded for hard work.
8. Becoming increasingly dependent on a "convenient" relationship with a minor, such as a minor who works in the house or is already involved with the individual.

