

Procedures

Regarding Sexual Abuse Against Minors by Priests or Deacons DIOCESE OF BROOKLYN

On November 13, 2002, the United States Conference of Catholic Bishops (USCCB) approved "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons." These Norms, having received the required canonical *recognitio* from the Holy See on December 8, 2002, together with the "Charter for the Protection of Children and Young People," were approved by the United States Conference of Catholic Bishops on June 14, 2002,³ and were the basis for the Policy and the Procedures of the Diocese of Brooklyn ("Diocese") issued in 2003. It is the intention of the Bishop of Brooklyn ("Bishop") that these revised Procedures for the Diocese be received in conjunction with the current Policy of the Diocese of Brooklyn, issued by the Most Reverend Thomas V. Daily, on June 15, 2003. It is the intention of the Bishop that the Policy and Procedures of the Diocese of Brooklyn comply with the requirements of the revised Charter published in June 2005 and with the revised Essential Norms, promulgated on May 5, 2006, by the United States Conference of Catholic Bishops, as well as with other applicable canonical directives. The Diocese adopts the description established in the Essential Norms as to what constitutes sexual abuse.

I. REPORTING AN ALLEGATION

The Diocese of Brooklyn urges all victims to report any instances of sexual abuse against a minor by a member of the clergy to the appropriate District Attorney (Kings County: 718-250-2217, Queens County: 718-286-6310).

Victims are also urged to notify the Diocese by calling the following toll-free number **888-634-4499**. A person associated with the Diocese of Brooklyn will respond to this toll-free number. This person will ensure that the allegation is transmitted to the appropriate District Attorney and to the appropriate representatives of the Diocese of Brooklyn. This person, while an attorney, does not provide legal counsel or any service to the Diocese of Brooklyn, other than that which is described in these Procedures. While some individuals initially may speak directly to a priest or deacon or another pastoral minister of their own choosing, such allegations are not investigated at the parish level, but are to be reported to the toll-free number indicated above. The person making the allegation of sexual abuse against a minor is reminded of his or her right to report it to the appropriate District Attorney directly. While the absolute confidentiality of information given in the Sacrament of Penance is to be maintained, the Diocese of Brooklyn is committed to full cooperation with the civil authorities in the reporting and investigation of such allegations.⁴

Once an allegation of sexual abuse against a minor is received at the toll-free

number, it will be reported to the appropriate District Attorney. The person making the allegation will not screen such reports for credibility. In addition, the report will be transmitted to the Diocesan Bishop (or his representative), and to the Diocesan Victims/Survivors Assistance Coordinator. The accompanying flow chart is meant to illustrate the process that takes place once an allegation is received.

II. INVESTIGATING THE ALLEGATION OF MISCONDUCT

Meeting with the Person Making the Allegation

The Diocese takes allegations of sexual abuse against minors on the part of clergy with the greatest seriousness. The person making an allegation will meet with a private investigator retained by the Diocese, in order to receive a more detailed account of the allegation.

In order to insure accuracy, the investigator will ask for, and encourage the person making the allegation to provide to the Diocese within a short period of time, a written account of the allegations being made, as well as any supporting evidence. The investigator will give a copy of this account to the priest or deacon who has been accused. In the event that the person making the allegation does not give such a written account, the Diocese will provide to the accused priest or deacon a written summary of the allegation that was made.

An allegation that remains anonymous cannot be pursued according to these procedures. Such an allegation will be presented to the priest or deacon who is accused so that he is aware that such an allegation has been made against him. The Bishop, in conjunction with the Diocesan Review Board, will determine the credibility of the allegation and the way it is to be pursued.

Meeting with the Accused Priest or Deacon

The investigator will meet with the priest or deacon who has been accused and present to him an account of the allegation, including the identity of the accuser and any documentation that may have been presented.

The investigator will advise the priest or deacon that he should contact civil and canonical counsel, and that he may bring with him a canonical advisor to the meeting. The priest will be reminded that the matter has been presented to the appropriate District Attorney. In the event that the priest or deacon is accused of sexual abuse of a minor, the Bishop may impose an immediate, although temporary, administrative leave as part of the preliminary investigation. This is in order to protect any of the faithful who may be at risk. In the event that the priest or deacon is accused of sexual abuse of a minor said to have taken place within the criminal statute of limitations of New York State, the Bishop may impose an immediate, although temporary, administrative leave as part of the preliminary investigation. This is in order to protect any of the faithful who may be at risk.⁵

The Ongoing Investigation

The Diocese will conduct its own investigation in harmony with canon law.⁶ The Bishop will issue a decree authorizing a preliminary investigation. Should the case warrant retaining the services of a private investigator, the Diocesan Review Board will authorize these services. During this time, the investigator may seek direct testimony of the person making the allegation as well as the priest or deacon who has been accused.

During the course of the investigation, the priest or deacon who has been accused is permitted to review his file at the Chancery Office accompanied by his own canonical counsel. Documents may be reviewed at the Chancery Office and notes may be taken but copies are not to be made of the documents.

When the Diocesan Review Board determines that sufficient investigation has taken place, the Board will write to the Bishop with its recommendation regarding its assessment of the allegation and its assessment of the suitability for ministry of the accused priest or deacon, as well as regarding any other aspect of the case. Accompanying this recommendation will be supporting documentation, including the reasons for coming to the conclusion that has been reached.

When the preliminary investigation finds that sufficient evidence of sexual abuse of a minor has occurred,⁷ the Bishop shall notify the Congregation for the Doctrine of the Faith. The Congregation will direct the Bishop as to how to proceed.

Once the Congregation has been notified, the Bishop shall issue a decree applying the precautionary measures of Canon 1722. The priest:

- is permitted to celebrate Mass privately only;
- is not permitted to exercise any public ministry;
- may be required to depart from his place of residence;
- continues to receive the same salary and benefits as before the allegation.

In cases involving deacons, the precautionary measures of canon 1722 will be appropriately adopted.

In addition, in particular cases, the Bishop may issue a canonical precept by which the priest or deacon is:

- not permitted to wear ecclesiastical garb;
- not permitted to present himself publicly as a priest or deacon

The accused priest or deacon will be asked to undergo a psychological and

medical evaluation at a professional facility specializing in the treatment of sexual misconduct and which is mutually acceptable to the Diocese and to the accused.8

The Bishop will write a letter to the parish of the assignment of the priest or deacon, to be read by the Episcopal Vicar, regarding the investigation and the steps that have been taken.

In the instructions from the Congregation for the Doctrine of the Faith, the Diocese may be directed to conduct a canonical trial with regard to the accused priest or deacon. Should the trial determine that a crime indicated in canon 1395§2, has been committed, various penal measures may be imposed. These may include permanent removal from ministry, or, in some cases, dismissal from the clerical state.

Should the trial fail to determine that a crime indicated in canon 1395§2 has been committed, the Diocesan Bishop will consult with the Diocesan Review Board in order to make the final determination regarding the ultimate status of the priest or deacon. Such determination will include whether or not the priest or deacon may resume public ministry, and whether or not limitations will be imposed upon that ministry.

III. DIOCESAN REVIEW BOARD

In accordance with the Essential Norms, the Diocese has established a **Diocesan Review Board** that will assist the Bishop and the Diocese in responding to allegations of sexual abuse of a minor. 9 The functions of this board include:

- advising the Bishop in his assessment of allegations of sexual abuse of minors and his determination of suitability of the accused priest or deacon for ministry;
- reviewing diocesan policies for dealing with sexual abuse of minors;
- offering advice on all aspects of these cases, whether retrospectively or prospectively.
- in addition, the Diocesan Review Board authorizes retaining the services of a private investigator and supervises the ongoing investigation.

This Review Board is composed of at least five persons of outstanding integrity and good judgment, in full communion with the Church. The majority of the members of this Board are laypersons that are not in the employ of the Diocese of Brooklyn. At least one member is a priest who is an experienced and respected pastor of the Diocese. At least one member has expertise in the treatment of sexual abuse of minors. These members are appointed for a period of five years, which may be renewed. The Promoter of Justice, while not a member of the Board, may participate in the meetings of the Board.10

IV. RESPONSE BY THE DIOCESE TO AN ALLEGATION

The Diocese has appointed an **Assistance Coordinator** “for the immediate pastoral care of persons who claim to have been sexually abused when they were minors by priests or deacons.”¹¹ In conjunction with the Assistance Coordinator, the Diocese will offer to provide independent professional counseling selected by the person making the allegation. Many victims have suffered for many years with the lingering effects of sexual abuse. This offer of professional counseling seeks to provide a means of support of and a manifestation of pastoral concern for the victim of the alleged abuse. The Assistance Coordinator speaks and acts in the name of the Bishop and of the Diocese, attempting to bring the compassion and healing of Christ to one who may have been harmed by an ordained minister of the Church.

The Bishop of the Diocese must make the final determination regarding whether a priest or deacon may be permitted to resume or to remain in active ministry. For even a single act of sexual abuse of a minor, established in accord with canonical process, the offending clergyman will be permanently removed from ministry.¹²

In order to reach this final determination, the Bishop shall observe the processes provided for in canon law. Unless the Congregation for the Doctrine of the Faith calls the case to itself, it will direct the Bishop to proceed according to the procedures established by the Code of Canon Law and other pertinent canonical directives.¹³

The accused priest or deacon is encouraged to make use of civil and canonical counsel at all times. When necessary, the Diocese will supply canonical counsel to the priest or deacon.¹⁴

At any time in the process, the Bishop may exercise his pastoral governance in removing an offending priest or deacon from office, in removing or restricting his faculties, and in prohibiting him from exercising the sacred ministry.¹⁵

V. RESTORING THE GOOD NAME OF A FALSELY ACCUSED

The Diocese acts on the presumption that an allegation is not proof of guilt. Due to the hidden nature of most offenses of sexual abuse, however, and in order to protect the members of the faithful, particularly the young who may be more vulnerable, it has become necessary to take the steps outlined above in the face of an allegation. It is to be understood, therefore, that such steps by the Diocese are not to be interpreted as a judgment of guilt of the priest or deacon. It is a recognition of the possibility that wrongdoing may have taken place and therefore might possibly occur again. It is this risk that underlies the decision to take responsible action at all times.

When it has been established, however, that an accusation is without merit, the Diocese will take the following steps to restore the good name of the priest or deacon:

- reinstatement following counsel with the Review Board;
- the Diocese will take appropriate steps to disseminate information regarding the investigation and the reason for reaching the conclusion that the allegation against the priest or deacon cannot be proven. The Diocese will communicate this information to the faithful by means of a letter from the Bishop to the parish where the clergyman is assigned, to be read by the regional Episcopal Vicar or another delegate at weekend Masses, and to be printed in the parish bulletin. The letter will become the basis of a news release that will be printed in *The Tablet*, placed on the Diocesan Web site and made available to the secular media;
- copies of all decrees, as well as the restoration of faculties, are to be kept in the file of the priest or deacon.

VI. PREVENTIVE MEASURES

Candidates for Holy Orders

Consistent with established practice, each applicant for admission to Holy Orders must go through thorough professional psychological testing and evaluation in order to assess his psychosexual development and maturity. It is recognized, however, that these steps have a limited role in detecting potential sexual offenders in all walks of life. As science progresses and the understanding of sexual pathology increases, further measures will be incorporated into each evaluation. The Congregation for Catholic Education (of Seminaries and Institutes of Higher Studies) is in the process of reviewing guidelines for applicants for Holy Orders. We will implement such guidelines, as well as any new psychological tools that may emerge, in order to evaluate more carefully applicants for sacred ministry.¹⁶

In addition, all applicants for priestly formation or for the permanent diaconate shall undergo a background check as part of the application process.

During the time of formation, psychological assistance, spiritual direction and spiritual formation provide ways to examine a candidate's psychosocial development. This includes the observation and evaluation of psychosocial behavior during his time of formation. Particularly for those who are being prepared to be leaders in the community and teachers and models of Christian morality, the spiritual, emotional and psychological maturity necessary for such a ministry needs to be measured in the light of the teaching of the Church and the integral development of the candidate.

Before and after ordination, the Diocese shall offer opportunities for continuing formation to explain and discuss personal and professional boundaries in the area of sexuality. Trained professionals from various related disciplines, including the behavioral sciences, spirituality, morality, civil and ecclesiastical law, conduct these sessions.

During the years of formation, and after ordination, candidates and clergy are to have a spiritual director, who may offer advice and assistance regarding the proper living out of the promises made at sacred ordination. In addition, counseling services are available so that the emotional and psychological dimensions of human sexuality may be discussed in a confidential environment.¹⁷

Other Measures

The Diocese continues to develop a plan that will foster the protection of children and provide them with a safe environment. To this end, the Diocese has associated with the national VIRTUS program and its PROTECTING GOD'S CHILDREN awareness and training program. All clergy, along with religious and lay employees and volunteers who interact with children, will be trained in this program and will undergo background checks. The content of the program will include the harms and warning signs of child sexual abuse, what trainees can do to prevent child sexual abuse, the Diocese's policies and procedures for preventing child sexual abuse and for acting responsibly should concerns arise. In addition, the Diocese has adopted a professional Code of Conduct, which all priests and deacons must acknowledge having received and read.

VII. CONCLUSION

These Procedures are promulgated as the intensive effort of the Diocese to address the issue of sexual abuse of minors on the part of clergy. It is our expressed aim to protect children from the tragedy and harm of such abuse and to continue to assist those who have already been wounded. Through just and responsible actions and increased awareness, we will continue to enhance the safe environment for our children.

By mandate of the undersigned Bishop of Brooklyn, these Procedures become effective for the Diocese of Brooklyn on April 25, 2007.

Most Reverend Nicholas DiMarzio, Ph.D., D.D.
Bishop of Brooklyn
April 16, 2007
Brooklyn, New York
Andrew J. Vaccari
Notary

¹ Pope John Paul II, "Address to U.S. Cardinals," April 23, 2002.

² In compliance with "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons," #2

WITH ALLEGATIONS OF SEXUAL ABUSE OF MINORS BY PRIEST OR DEACONS," #2.

3 These are referred to as Essential Norms and Charter respectively. Subsequent references are to the revised texts.

4 Essential Norms, 11.

5 Essential Norms, 9

6 Canon 1717.

7 As in the Guide to the Implementation of the U.S. Bishops' "Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons" (Washington, D.C.: Canon Law Society of America, 2003), p. 27, this is an assessment "whether the proofs which are gathered are sufficient to support the probable nature of the allegation."

8 Essential Norms, 7.

9 Essential Norms, 4.

10 Essential Norms, 5.

11 Essential Norms, 3.

12 Essential Norms, 8: "When even a single act of sexual abuse 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."

13 Cf. *Canonical Delicts Involving Sexual Misconduct and Dismissal from the Clerical State*, 1995; Letter from the Congregation for the Doctrine of the Faith, May 18, 2001; *Motu proprio "Sacramentorum sanctitatis tutela,"* April 30, 2001.

14 Essential Norms, 6, 8A.

15 Essential Norms, 9.

16 Charter, 13 states: "Dioceses/eparchies will evaluate the background of all diocesan/eparchial and parish personnel who have regular contact with minors. Specifically, they will utilize the resources of law enforcement and other community agencies. In addition they will employ adequate screening techniques in deciding the fitness of candidates for ordination (cf. National Conference of Catholic Bishops, "Program of Priestly Formation," 1993, no. 513)."

17 For seminarians, counselors are available at the seminaries where they are enrolled. For an ordained priest or deacon, the Diocese will assist him to

locate an appropriate counselor upon request and will assist him with the payment of the bills for this service.