

Sexual Misconduct Toward Minors and Others at Risk The Policy of the Diocese of Gary

THESE POLICIES AND PROCEDURES ARE TO BE IMPLEMENTED IN
RESPONSE TO AN ALLEGATION OF SEXUAL MISCONDUCT TOWARD
MINORS AND OTHERS AT RISK.

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Introduction

The sin and crime of sexual abuse of minors and others at risk severely debilitates the victims, the victims' family, the local Church community, the perpetrators, and society in general. This diocesan policy exists to deal in a forthright and compassionate way with situations in which an employee, volunteer, or cleric is accused of sexual misconduct toward a minor or others at risk.

The purpose of this policy is to assure victims of sexual misconduct the healing they need to help reduce the destructive effects of their traumatic experience. It is our strong desire to ensure appropriate pastoral outreach to the affected families and local Church communities. Pastoral concern is also extended to the accused and to those ultimately found guilty of sexual misconduct as they are made aware of the destructiveness of their behavior by prescribing the necessary professional treatment.

With a profound respect for the dignity of each person involved, it is our goal that compassion and healing be the foundation upon which this policy is based. For those abused, those accused, and those found guilty of sexual misconduct, this is how we approach this work.

Policies and Procedures

I. RESPONSE TO COMPLAINTS AND ALLEGATIONS OF SEXUAL MISCONDUCT

- A. Indiana Code (I.C.) Sections 31-33-5-1, 31-33-5-2, 31-33-5-3, and 31-33-5-4 (See Appendix II) require that staff members of a private institution, school, or facility

who have reason to believe that a minor has been physically or sexually abused shall immediately orally report such belief to the local Child Protection Service or law enforcement agency.

1. Note that the statute says to report immediately when a person has “reason to believe” that physical or sexual abuse has occurred. This means that if a report is made of sexual abuse, it must be reported immediately and not after an “in-house” investigation.
 2. The definition of “Reason to Believe,” according to Indiana Statute, means that if presented to individuals of similar background and training, it would cause those individuals to make a judgment that a child was abused or neglected.
 3. The term sexual abuse as used herein, means any act which involves sexual molestation or sexual exploitation of a minor for the gratification of an adult; and includes, without limitation of the foregoing, any act that would constitute a sex-related criminal offense as set forth from time to time by the laws of the state of Indiana, or by the laws of the United States of America. Sexual molestation or sexual exploitation of a person who habitually lacks the use of reason is to be considered equivalent to sexual abuse of a minor. Sexual abuse includes the acquisition, possession, production or distribution of pornographic images of minors under the age of eighteen, by whatever means or using whatever technology.
- B. It is also the responsibility of every cleric, administrator, employee, or volunteer of the Diocese of Gary who receives a complaint or allegation of sexual abuse related to a minor to report it immediately to the Bishop’s Delegate. If he/she is not available, the report is made to the Bishop’s Vicar for Clergy. In the case of a minor, the public authorities will be notified and then the outside authorized licensed professional investigator.
- C. The Essential Norms of the USCCB are followed as particular law at all times for cases of clerics accused of sexual abuse of minors.
- D. The diocese will cooperate with the civil authorities in any investigation. The Bishop’s Delegate will direct an investigation of all rumors, anonymous phone calls, and unsigned letters. Members of the Review Board will be contacted after this process.
- E. The Diocese of Gary will not enter into confidentiality agreements.
- F. Any modifications to this policy will be made after consultation with the Review Board and, if appropriate, other consultative bodies of the diocese. Any modifications must have the approval of the Bishop of the Diocese of Gary. If modifications are made, the United States Conference of Catholic Bishops shall receive a copy of the revised policy within three months after such modifications.

II. REVIEW BOARD

- A. The Bishop has established a Review Board consisting of qualified people, the majority of which will be lay people not employed by the diocese. One member of the Review Board is the Bishop's Delegate and Chairperson. The concept of the Review Board is to have a small representative group which can act with promptness, fairness, confidentiality, and compassion toward all concerned. Also, the board can review relevant matters and give advice on all aspects of responses required in connection with these cases.
- B. The Team Chairperson's (Bishop's Delegate's) responsibility is to convene the Review Board to ensure that the prescribed process is implemented and that proper procedures are followed. It will also be the Chairperson's responsibility to keep the Bishop informed in a timely fashion of an allegation and the progress of authorized licensed professional investigator concerning the allegation.
- C. The Review Board is a confidential advisory body to the Bishop that assists the Bishop in assessing the credibility of allegations of sexual misconduct by Church personnel and in determining the fitness for ministry of Church personnel accused of sexual misconduct. The "Charter for the Protection of Children and Young People" requires the establishment of a review board for every diocese and eparchy in the United States.
- D. Members of the Review Board are appointed by the Bishop who is to ensure that the Board's composition reflects expertise in the areas addressed by the Board. Members are appointed to a six-year term which is renewable for no more than two consecutive six year terms. The Review Board will be comprised of at least five persons, one of whom is a priest who is an experienced and respected pastor; the majority will be comprised of laity who are not in the employ of the diocese. A majority of the Review Board will be in full communion with the Church.
- E. Process of Investigation: The Bishop's Delegate for Sexual Misconduct and Vicar for Clergy will take initial, preliminary reports to an outside authorized, licensed professional investigator. The investigator will provide a report for the Review Board and present the facts he/she has gathered for the board to review. The review board will decide whether the allegation is credible or not. It will then notify the Bishop of its decision. If the case and the investigation warrant, the Bishop will notify the Congregation for the Doctrine of Faith that sufficient evidence exists of sexual abuse of a minor and that canonical penal processes should be invoked.
- F. Final decisions with respect to the recommendations of the Review Board are reserved to the Bishop of the Diocese of Gary.
- G. The Review Board will meet proactively on a semi-annual basis. The Review Board will recommend to the Bishop such amendments to these policies and

procedures as the Board believes circumstances require. The work of the Review Board is confidential.

III. VICTIM ASSISTANCE COORDINATOR

The Bishop will appoint a Victim Assistance Coordinator. The Victim Assistance Coordinator ensures that appropriate professional and pastoral care is provided to the alleged victim and family to assist in the healing process. After services are initiated, the Victim Assistance Coordinator will provide follow-up monitoring to ensure that the services being provided are appropriate. The scope, type, and duration of this service will be determined by the Victim Assistance Coordinator on a case-by-case basis. The Victim's Assistance Coordinator may or may not be a member of the review board.

IV. INTERVENTION PROCESS

- A. The person who made the allegation, the parents of the minor or other at risk, and, if advisable, the victim of the sexual misconduct will be interviewed by an authorized licensed independent investigator.
- B. The victim will be advised of his/her right to make a report to the public authorities.
- C. The cleric, employee or volunteer against whom the allegation is made will be informed of the allegation and advised of their right to legal counsel and/or canonical counsel. The accused party will have the opportunity to present their response to the authorized licensed professional investigator.
- D. Every interview will be respectful and courteous. The goal is to determine each person's account of the alleged incident.
- E. If, after careful review of the facts presented by an authorized independent licensed investigator, the Review Board judges the complaint to be without merit, the Bishop's Delegate will fully inform all parties in a timely fashion of the results of the investigation. All necessary steps will be taken to protect the accused from defamation and to restore the peace of the community.
- F. If, after careful review, the complaint is judged to be credible, the Review Board will recommend that the Bishop take immediate administrative action toward the accused.
- G. If the accused is a Priest or Deacon the following procedure will then apply in accordance with the Essential Norms:
 - 1. Where sexual abuse of a minor by a priest or deacon is deemed credible after an appropriate preliminary investigation in accordance with Canon Law and the Essential Norms, the following will apply:

The local authorities will be notified immediately.

The accused will be encouraged to retain the assistance of civil and canonical counsel and will be promptly notified of his rights and obligations and the results of the investigation.

When there is sufficient evidence that sexual abuse of a minor may have occurred, the Congregation for the Doctrine of the Faith shall be notified to determine how the formal canonical investigation shall proceed.

The Bishop/Eparch shall then apply the precautionary measures mentioned in CIC, canon 1722, or CCEO, canon 1473, and 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 or other ministry pending the outcome of the process.

The alleged offender will be requested to seek, and will be urged voluntarily to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to the diocese/eparchy and to the accused.

H. If the accused is a volunteer or an employee, the following procedure will apply:

1 Where sexual abuse is found credible by a volunteer:

Based upon the findings of civil investigations, the volunteer will be immediately relieved of all volunteer duties, responsibilities, and activities, and deemed ineligible to serve the Diocese of Gary in the future.

2. Where sexual abuse is found credible by an employee:

The employee will be immediately terminated or placed on administrative leave at the discretion of the Bishop who will determine whether or not the leave will be with or without pay as well as further employment action.

I. When even a single act of sexual abuse of a minor by a priest or deacon is admitted or is established after the formal canonical investigation mentioned in G., and 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. The Bishop of the Diocese of Gary has the executive power of governance, 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.

Priestly or Diaconal Ministry
See Essential Norm 9.

1. In the case of a minor, where the penalty of dismissal from the clerical state has not been applied for reasons such as advanced age or infirmity, the offender is to lead a life of prayer and penance. A priest-offender will not be permitted to celebrate Mass publicly, wear clerical garb, or present himself publicly as a priest.

J. For clerics accused of boundary violations involving minors:

When allegations of boundary violations are brought against a cleric, the Bishop may seek the counsel of the Review Board. Possible outcomes may include, but are not limited to, the following:

1. a ministerial assignment with various conditions
2. the cleric receiving no ministerial assignment within the diocese;
3. support for resignation from priestly or diaconal ministry;
4. canonical process for laicization;

V. FOLLOW-UP

A. For the victims of sexual misconduct:

The Bishop's Delegate and/or the Victim Assistance Coordinator will continue to monitor the pastoral needs of the victim as well as to confirm that proper medical/psychological care, group support, or other social services are available for an appropriate period of time. Similar pastoral care and reconciliation will be offered to the affected community.

B. For clerics accused but found not guilty of sexual misconduct:

If it has become public knowledge, every possible appropriate step will be taken by the Bishop's Delegate, in collaboration with the Bishop and the falsely accused cleric, to repair any damage to the cleric's reputation.

C. For volunteers and lay employees accused but not found guilty of sexual misconduct:

Every possible appropriate step will be taken by the Bishop's Delegate to repair any damage to the volunteer's and lay employee's reputation.

APPENDIX I

DEFINITION OF TERMS:

In this Policy, regarding allegations of sexual misconduct towards minors and others at risk, the following terms are defined:

- Cleric*** For the purpose of this Policy, the term “cleric” shall include and be limited to diocesan priests, religious priests, and transitional and permanent deacons.
- Employee*** For the purpose of this Policy, the term “employee” means any person employed by the diocese or any subdivision thereof. An employee may be a cleric, a lay person, or a member of a religious order.
- Volunteer*** For the purpose of this Policy, the term “volunteer” shall mean any person who serves as a volunteer in a Church-sponsored activity, or under the auspices of the diocese or a subdivision thereof. This would include, but is not limited to, student teachers, aides, coaching assistants, special instructors, catechists, scout leaders, server coordinators, etc.
- Minors*** For the purpose of this Policy, the term “minors” shall be limited to persons under eighteen (18) years of age. For purposes of this Policy, the term “others at risk” shall include developmentally disabled persons, who habitually lack the use of reason.
- Sexual Abuse*** The term sexual abuse as used herein, means any act which involves sexual molestation or sexual exploitation of a minor for the gratification of an adult; and includes, without limitation of the foregoing, any act that would constitute a sex-related criminal offense as set forth from time to time by the laws of the state of Indiana, or by the laws of the United States of America. Sexual molestation or sexual exploitation of a person who habitually lacks the use of reason is to be considered equivalent to a minor. Sexual misconduct includes the acquisition, possession, production or distribution of pornographic images of minors under the age of eighteen, by whatever means or using whatever technology.

APPENDIX II

INDIANA CODE 31-33-5-1 DUTY TO MAKE REPORT

Sec. 1. In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article. *As added by P.L.1-1997, Sec. 16.*

INDIANA CODE 31-33-5-2 NOTIFICATION OF INDIVIDUAL IN CHARGE OF INSTITUTION, SCHOOL, FACILITY OR AGENCY; REPORT

Sec. 2 (a) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency.

(b) An individual notified under subsection (a) shall report or cause a report to be made. *As added by P.L.1-1997, Sec. 16.*

INDIANA CODE 31-33-5-3 EFFECT OF COMPLIANCE ON INDIVIDUAL'S OWN DUTY TO REPORT

Sec. 3 This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief. *As added by P.L.1-1997, Sec. 16.*

INDIANA CODE 31-33-5-4 IMMEDIATE ORAL REPORT TO LOCAL CHILD PROTECTION SERVICE OR LAW ENFORCEMENT AGENCY

Sec. 4 A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

- (1) the local child protection service; or
- (2) the local law enforcement agency. *As added by P.L.1-1997, Sec. 16.*

APPENDIX III

AGENCIES FOR REPORTING SEXUAL ABUSE OR NEGLECT

<i>LAKE COUNTY</i>	Child Protection Services If closed, contact local police or the Sheriff's Department at:	(219) 881-6966 (219) 755-3300
<i>LA PORTE COUNTY</i>	Child Protection Services If closed, contact local police or the Sheriff's Department at:	(219) 326-5870 (219) 326-7700
<i>PORTER COUNTY</i>	Child Protection Services If closed, contact local police or the Sheriff's Department at:	(219) 462-7555 (219) 477-3000
<i>STARKE COUNTY</i>	Child Protection Services If closed, contact local police or the Sheriff's Department at:	(574) 772-3411 (574) 772-3771

CONTACT CATHOLIC FAMILY SERVICES FOR COUNSELING FOR CHILD ABUSE

<i>LAKE COUNTY</i>	Crown Point East Chicago Gary Hammond	(219) 663-8417 (219) 397-5803 (219) 886-3549 (219) 844-4883
<i>LA PORTE COUNTY</i>	Michigan City	(219) 879-9312
<i>PORTER COUNTY</i>	Portage	(219) 762-1177

VICTIM ASSISTANCE COORDINATOR

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BISHOP'S DELEGATE FOR SEXUAL MISCONDUCT CASES

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