

# ANTILLES EPISCOPAL CONFERENCE

## REVISED COMMON NORMS FOR DIOCESAN POLICIES DEALING WITH ALLEGATIONS OF SEXUAL ABUSE OF MINORS BY PRIESTS OR DEACONS

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### INTRODUCTION

There is no doubt that the crime of sexual abuse of minors by clerics has inflicted a severe wound on the Body of Christ and has caused deep anguish and pain to countless number of persons, including the victims and their families around the world. No one can deny the fact that the Church has sincerely tried to deal with this issue to the best of her ability and continues to do so even now.

As the disclosure of sexual abuse of minors exploded around the world, Pope John Paul II promulgated the *motu proprio Sacramentorum sanctitatis tutela* on April 30, 2001 by which sexual abuse of a minor under the age of 18 years of age perpetrated by a cleric was included in the list of “*More grave delicts*” (*delicta graviora*) reserved to the Congregation for the Doctrine of the Faith. This *motu proprio* provided relevant Substantive and Procedural Norms related to those crimes. All Conferences of Bishops around the world were required to promulgate *Common Norms* based on the law contained in that document and subsequent legislative acts. In view of the notable developments in law and jurisprudence related to this matter during the past decade, the Congregation for the Doctrine of the Faith has now felt the need to mandate all Conferences of Bishops either to constitute such norms or where they already exist to revise them in light of the changes that have taken place in the legislation on the matter. In response to the Congregation’s Circular Letter, dated 3 May 2011, sent out to all Conferences of Bishops around the world providing assistance in developing or revising *Guidelines for Dealing with Cases of Sexual Abuse of Minors Perpetrated by Clerics*, the Antilles Episcopal Conference presents hereby the *Revised Common Norms* to be followed by all dioceses and religious institutes within the territory of the Conference in drafting *Guidelines* reflective of their socio-cultural and civil law contexts.

### 1 — IMPORTANT PASTORAL-CANONICAL PRINCIPLES

#### I

As pastor of his people, the diocesan bishop is responsible for the common good of the faithful entrusted to his care, especially the children and vulnerable young persons. When it is a matter of abuse of such innocent and vulnerable persons, every diocesan bishop has a special responsibility to respond effectively, responsibly and compassionately to the violation of their physical integrity, emotional and psychological health and human dignity. An appropriate response of this kind should include effective procedures conducive to assisting the victims of such abuse, and also to educating the ecclesial community concerning the protection of minors in accord with the provisions of both canon law and civil law of each country. The respective Major Superiors of Institutes of Consecrated Life and Societies of Apostolic Life present in the territory of the Antilles Episcopal Conference bear the same responsibility when members of their institutes are involved in such crimes. With respect to their solicitude for the welfare of the young children abused by clerics, bishops and respective religious superiors should reflect on the words of compassion and support expressed by Pope Benedict XVI in his Pastoral Letter to the Catholics of Ireland (n. 6): “You have suffered grievously and I am truly sorry. I know that nothing can undo the wrong you have endured. Your trust has been betrayed and your dignity has been violated.”

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#### II

It is highly recommended that programs of education and prevention of sexual abuse of minors are established in conjunction with the educational and legal programs available in each country within the territory of the Antilles Episcopal Conference in order to ensure “safe environments” for minors. Such programs would assist parents and those involved in pastoral work and schools to recognize the signs of abuse and to take appropriate measures.

#### III

In his response to the scandal caused by the sexual abuse of minors by clerics, Pope John Paul II stated in unequivocal terms that “there is no place in the priesthood and religious life for those who would harm the young” (*Address to the American Cardinals*, April 23, 2002, n. 3). These words highlight the responsibility of Bishops and Major Superiors and all who are responsible for the formation of future priests and religious. The Church’s teaching has consistently insisted on the proper discernment of vocations as well as a healthy human and spiritual formation of candidates for priesthood, which should necessarily include a genuine appreciation of chastity and celibacy. The candidates should also be instructed appropriately in the Church’s discipline in these matters. More specific directions on them should be integrated into the formation programs of seminaries and houses of formation of religious through the respective *Norms for Priestly Formation* of each region/nation and Institute of Consecrated Life and Society of Apostolic Life. These *Norms* should clearly indicate that the curriculum of every Seminary must contain programs of awareness and education which foster safe and protective environments for children. Moreover, when candidates for priesthood or religious life transfer from one seminary to another, especially when they are dismissed from a seminary or a religious institute, it is necessary that all relevant information on such candidates is exchanged between the dioceses involved, or between the religious institutes and the dioceses concerned.

#### IV

In its Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus* (n. 16), the Second Vatican Council characterized the relationship between the bishop and his priests in terms of “sons and friends,” and called on the bishop to be “compassionate and helpful to those priests who are in a kind of danger or who have failed in some respect.” In light of this teaching, the bishop should see to it that the priests of his diocese receive continuing formation, and are well informed of the damage done to victims of clerical sexual abuse. The priests should also be made aware of their own responsibilities in this regard in both canon law and civil law. When sexual abuse of a minor by one of his priests is brought to his attention, the bishop should follow as thoroughly as possible the discipline of canon law and civil law, with respect to the rights of the parties. Although the accused cleric is innocent until the contrary is proven, the bishop is always able to limit the exercise of the cleric’s ministry until the accusations are clarified. If the case so warrants, whatever measures deemed necessary to rehabilitate the good name of a cleric wrongly accused should be taken.

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#### V

In light of what is happening in the arena of civil law in different countries with regard to sexual abuse of minors by clerics, every diocesan bishop ought to realize that such abuse is not just a canonical delict but also a crime prosecuted by civil law. For this reason it is really important to cooperate from the beginning with the authorities who are responsible for handling cases of sexual abuse of minors as defined by the civil law of the country. Without prejudice to the sacramental internal forum, the bishop must see to it that the statutes of civil law regarding the reporting of such crimes to the designated authority are scrupulously followed in every case of sexual abuse of a minor. Moreover, this principle is applicable not only to cases of sexual abuse of minors by clerics but also to all such cases which involve religious or lay persons who are in the employ of ecclesiastical institutions.

#### 2 — COMMON PROCEDURAL NORMS

##### I

For the purposes of these *Common Norms*, sexual abuse shall include any offence by a priest or a deacon against the Sixth Commandment of the Decalogue with a minor below the age of eighteen years as understood in canon 1395, §2 of the 1983 Code of Canon Law and in Articles 4, §1 and §5 of the Apostolic Letter *Sacramentorum sanctitatis tutela* (SST) promulgated *motu proprio* by Pope John Paul II on April 30, 2001, and in the amendments introduced to Articles 4, §1 and §5 of that Apostolic Letter, now Articles 6, §1 and §7 in the revised *Normae de gravioribus delictis* [SSTR], approved by Pope Benedict XVI on May 21, 2010. Accordingly:

- a) the legal notion of a minor now includes, besides the one who is below the age of eighteen years, also: “**a person who habitually lacks the use of reason**” (SSTR, Art. 6, §1,1<sup>o</sup>);
- b) the definition of sexual abuse of a minor is expanded to include also: “**the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology**” (SSTR, Art. 6, §1,2<sup>o</sup>);
- c) the criminal action for the crime of sexual abuse of a minor “**is extinguished by prescription after twenty years, with due regard to the right of the Congregation for the Doctrine of the Faith to derogate from prescription in individual cases**” (SSTR, Art. 7, §1);
- d) the prescription in a case of sexual abuse of a minor begins to run from the day on which the minor against whom the crime of sexual abuse was perpetrated “**completes the eighteenth year of age**” (SSTR, Art. 7, §1; cf. also can. 1362, §2 of CIC).

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#### II

Keeping in mind the above mentioned pastoral principles and canonical prescripts, each diocese will formulate its own written policy on the sexual abuse of minors by priests and deacons in accord with the canons of the Code of Canon Law, the Articles of the *motu proprio Sacramentorum sanctitatis tutela* and the recently revised *Normae de gravioribus delictis*. This diocesan policy should fully comply with and specify in more detail the steps to be taken in implementing the requirements of canon law. A copy of this policy should be sent to the Antilles Episcopal Conference as soon as possible after the effective date of these *Common Norms*. Copies of any eventual revisions of the written diocesan policy should be filed with the Conference within three months from such modifications.

#### III

It is the responsibility of the Diocesan Bishop and of the Major Superior(s) to deal with cases of sexual abuse of minors. Therefore, each Diocesan Bishop/Major Superior should appoint a competent and knowledgeable person as his Delegate (with the faculty to substitute another competent person in case of necessity) to receive any allegation of sexual abuse and to make provision for immediate assistance and pastoral care, including psychological/spiritual counseling, to those who claim to have been sexually abused by priests or deacons. Therefore, when there is such an allegation it must be immediately referred to this Delegate. Furthermore, if civil law of a particular country requires reporting of such allegations to a designated authority within its jurisdiction, the Delegate should immediately report to that authority such allegations.

#### IV

The Diocesan Bishop will constitute in his diocese a Review Board to assist him in implementing the diocesan policy. This Review Board shall function as a confidential consultative or advisory body to the diocesan bishop in discharging his responsibilities related to the issue under consideration. The Review Board may be entrusted with the following tasks:

- a) Advise the diocesan bishop in assessing the allegations of sexual abuse of minors and in determining the future of the accused cleric if the allegation is proven to be true.
- b) Review the report and recommendation(s) of the bishop's Delegate deputed to conduct the preliminary investigation. The Board will make its own proposals and recommendations on a given case to the bishop. It will also suggest to the bishop an appropriate pastoral response to the alleged victim of abuse, to his or her family, to the parish or institution affected by the alleged abuse and to the accused cleric.
- c) In order to keep the diocesan policy current, the Review Board should evaluate it periodically and suggest to the diocesan bishop modifications it deems necessary and appropriate.

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- d) Offer advice to the diocesan bishop on all aspects of cases involving sexual abuse of minors.
- e) It must be kept in mind that the Review Board's discernment concerning individual cases, foreseen in some places, cannot substitute for the discernment and *power of governance* of individual bishops.

#### V

The Review Board should be composed of at least five persons of outstanding integrity, good judgement and in *full* communion with the Catholic Church. The majority of the Board members must be lay persons who are not in the employ of the diocese. At least one member should be an experienced and respected parish priest of the diocese, and, if possible, at least one member should have expertise in the treatment of victims of sexual abuse. The Board members will be appointed to a term of *three* years, which can be renewed by the diocesan bishop. For the initial appointment this term may be staggered so that not all members complete their mandate in the same year.

#### VI

Sexual abuse of minors represents a very serious breach of trust and it can cause very serious psychological and spiritual harm to its victims. Therefore, every allegation of sexual abuse of a minor by a cleric brought to the attention of the diocesan bishop must be taken seriously. Because of the very nature of the *delict* of sexual abuse of a minor by a priest or a deacon, the bishop should promptly initiate appropriate action keeping in mind the canonical rights of the accused. As prescribed by canon 1717, the bishop should either personally or, as mentioned above, through his Delegate initiate promptly and objectively a preliminary investigation in order to establish the objective basis of the allegation and of the substance, that is, of the object of the alleged *delict*. If a case is referred directly to the Congregation for the Doctrine of the Faith without a preliminary investigation having been undertaken, the steps preliminary to the process, which fall by common law to the Ordinary, may be carried out by the Congregation itself (SSTR, Art. 17).

#### VII

The preliminary investigation should be conducted with such care that the principle of confidentiality is maintained during the entire process in order to respect and safeguard the dignity and good name of all parties. The preliminary investigation focuses on gathering the facts and understanding the circumstances surrounding the alleged incident(s). It does not determine guilt, but allows the bishop, in consultation with the Review Board, to determine whether further action is necessary. Since the right to know what one is accused of and to respond to the accusations is a natural right, it cannot be denied to the cleric, even in cases of this nature. It is important to note, however, that the canonical tradition ordinarily does not allow the parties to be present when witnesses are being interviewed.

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#### VIII

When the allegation is brought to the attention of the Delegate, the accused should be immediately informed of it and of the process that will be followed and the ways in which he might participate in the process. He should be made aware of all aspects of the diocesan policy concerning allegations of sexual abuse of minors by priests and deacons. He should also be advised of the importance of retaining a civil and canonical adviser from the beginning of the process in order to offer a proper response to the allegations. Furthermore, during the course this process, the accused should always be offered just and fit sustenance, and if necessary, appropriate psychological treatment and pastoral care.

#### IX

If the accused cleric is from another diocese, his bishop should be informed of the allegation as well as of any determination concerning the steps to be taken relative to the accusation. Similarly, if the allegation is made against a cleric who is a member of a Religious Institute or of a Society of Apostolic Life, the Delegate will refer it immediately to his competent Major Superior. Whoever undertakes the preliminary investigation must communicate the progress and results of the investigation with the competent Ordinary or Superior until the case is resolved.

#### X

The Delegate will interview the accuser and, if necessary other witnesses, and compile a written report on all submissions. The accused and his advocate shall be given access to the evidence gathered, unless for serious reasons the Delegate decides that some testimony cannot be shown to anyone; the Delegate is to take care, however, that even in this situation the right of defence remains intact (canon 1598, §1). The accused should be invited to make his own statement in his defence in light of the testimonial evidence. If he so chooses, he could make his response either in person before the Delegate or in writing.

#### XI

When the preliminary investigation is complete, the Delegate should compose his own *votum* with his suggestions and recommendations appropriate to the case in question. These should be handed over to the Review Board for its own review and its recommendations to be presented for the bishop's consideration. The accuser and the accused should be promptly informed of the results of this investigation.

#### XII

The accuser or victim should be informed of his/her right to intervene in the canonical procedures as an injured party and, therefore, his/her right to bring a contentious action to repair damages, if any, incurred personally from the delict, within the same canonical process (cf. can. 1729).

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#### XIII

According to the *motu proprio Sacramentorum sanctitatis tutela*, Art. 13 [cf. *SSTR*, Art. 16], if the results of the preliminary investigation lead to the conclusion that the information obtained at least seems to be true of commission of an offense, the diocesan bishop is no longer competent to proceed with the case in conformity with canon 1718. He must refer the case, including his *votum*, to the Congregation for the Doctrine of the Faith. The Congregation which will determine the course of action to be taken on the basis of information it has received from the diocese and will inform the diocesan bishop of its decision and the future course of action.

#### XIV

If the investigation provides an objectively credible basis of the alleged *delict*, according to canon 1722 [cf. *SSTR* Art. 19], the diocesan bishop, after having heard the promoter of justice and cited the accused, at any stage of the process, can exclude the accused from sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even prohibit public participation of the Most Holy Eucharist pending the outcome of the process. This should be done in writing as the accused has the right to place recourse against such a decision.

#### XV

Without prejudice to VIII above, and because of the very nature of the problem involved, it might be necessary to have a psychological/psychiatric evaluation of the one accused of the offence in order to assist in determining his suitability for ministry or to assist him in the process of healing. However, if it is determined, with appropriate consultation, that such an evaluation is necessary, the praxis of the Roman Curia should be followed in this regard.

#### XVI

In order to present his arguments properly, the accused should be encouraged to retain throughout this process the assistance of civil and canonical counsel. When necessary, the diocese should supply canonical counsel to a cleric should he fail to seek it. As stated in number XIII above, the provisions of canon 1722 may be imposed by the diocesan bishop during the pendency of the penal process. If action is barred by prescription according to the norm of law, because sexual abuse of a child is regarded by the Church as an exceptionally grave offence, the diocesan bishop may apply, indicating the very serious reasons for such a request, to the Congregation for the Doctrine of the Faith for a derogation from the prescription (cf. *SSTR*, Art. 7, §1).

#### XVII

If an allegation has been proven, but the final decision does not apply the penalty of dismissal from the clerical state, e.g., for reasons related to health or age, the offender ought to lead a life of prayer and penance. He is not to be permitted to celebrate Mass publicly or to administer the

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sacraments. He must be instructed not to wear clerical garb or in any way to present himself publicly as a priest.

#### XVIII

If the cleric has been removed from office or restricted from exercising ministry temporarily due to a false or unsubstantiated allegation, a public statement to that effect should be made. He should be provided with whatever assistance he may need, including a just and fit sustenance and psychological and spiritual assistance to heal from the emotional trauma he might have suffered due to the false allegation. Restoration of the cleric to ministry in the diocese, however, should be made by the diocesan bishop only after taking into consideration all the circumstances of the case.

#### XIX

The priest or deacon proven guilty of the *delict* may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the Congregation for the Doctrine of the Faith, either *ex officio* or at the request of the Ordinary, may proceed by extra-judicial decree, as provided for in canon 1720 of the Code of Canon Law (cf. *SSTR*, Art. 21, §1). The same Congregation also may present grave cases to the decision of the Roman Pontiff with regard to dismissal from the clerical state or deposition, together with dispensation from the law of celibacy, when it is manifestly evident that the *delict* was committed and after having given the offender the possibility of defending himself (cf. *SSTR*, Art. 21, §2).

#### XX

The Church cannot tolerate sexual abuse of minors entrusted to its pastoral care. Therefore, no priest or deacon found guilty of sexual abuse of a minor may be transferred or recommended for ministry in another diocese. Every bishop who receives a priest or deacon from another diocese should obtain the necessary information regarding any past act of sexual abuse of a minor by the priest or deacon in question.

The same norm is applicable to a priest or deacon who is found guilty of sexual abuse of a minor who might seek transfer of residence. If such a proposal is made to a bishop, his own diocesan bishop should forward, in a confidential manner, to the bishop of the proposed place of residence any and all information indicating that he had been or may be a danger to children or young adolescents.

While assigning residence to a religious priest or deacon found guilty of the *delict* in question, the competent superior should see to it that the diocesan bishop is fully informed of the situation so that the bishop will be able to make an informed decision concerning the safety of children and young adolescents of the local community.



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#### XXI

The ultimate goal of all the Church's legislation is the salvation of souls (canon 1752), which, in the concrete circumstances of the type of cases we are dealing with here, include the effective protection of subjective rights of the faithful. Therefore, care should always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the priest or deacon accused of the offence. Hence, when an allegation has been proven to be unfounded, every step possible should be taken to restore the good name and reputation of the cleric.

#### XXII

We ask that these *Common Norms* be received in the spirit in which they are presented. Through them may the Lord enable all of us to recommit ourselves to the values of the Gospel and to the Lord whom we seek to love and serve without counting the cost. May we see this painful moment in the life of the Church as an opportunity for healing and growth.

Approved unanimously by the Bishops of the Antilles Episcopal Conference at their Annual Plenary Meeting in Guadeloupe 18 April 2013

Approved by the Congregation for the Doctrine of the Faith 3 July 2013

Decree of approval issued by the Congregation for the Evangelization of Peoples 18 November 2013