



Diocesan Review Board  
Resource Booklet

## Introduction

This Diocesan Review Board Resource Booklet was developed jointly by the Committee on the Protection of Children and Young People (CPCYP), the National Review Board (NRB), and the Committee on Canonical Affairs and Church Governance (CCACG).

The purpose of this document is to provide bishops and eparchs and those who assist them with a step-by-step explanation of the various processes provided for in canon law to address the delict of clergy sexual abuse of a minor.

This resource contains three documents: (1) General Questions and Answers regarding Diocesan Review Boards, (2) the November 19, 2003, document distributed by the Committee on Canonical Affairs to all the bishops, and (3) Questions and Answers Regarding the Canonical Process for the Resolution of Allegations of Sexual Abuse of Minors by Priests and Deacons.

These documents are meant to serve *as resources only*. In preparing this booklet, the CPCYP, CCACG, and the NRB gave special attention to ensuring that the contents fully respect the governance of each bishop/eparch.

The documents in the Resource Booklet will be reviewed periodically and updated. If there are questions you wish addressed that are not included in the attached, please do not hesitate to forward them to the Secretariat of Child and Youth Protection c/o [scyp@usccb.org](mailto:scyp@usccb.org).

Enclosure

# **Diocesan Review Boards Questions & Answers**

The Catholic bishops of the United States adopted the *Charter for the Protection of Children and Young People (Charter)*, in June 2002. The *Charter* was revised and approved in June 2005. The *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons (Essential Norms)* was approved by the Apostolic See in December 2002 and a revision was approved January 2006. These documents stipulate that each bishop/eparch must establish a review board to function as a confidential, consultative body to the bishop/eparch on matters related to the response of the local church to issues surrounding the sexual abuse of minors by priests and deacons.

The *Charter* specifically states in Article 2:

*Dioceses/eparchies are also to have a review board that functions as a confidential consultative body to the bishop/eparch. The majority of its members are to be lay persons not in the employ of the diocese/eparchy (see Norm 5 in Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, 2002). This board is to advise the diocesan/eparchial bishop in his assessment of allegations of sexual abuse of minors and in his determination of a cleric's suitability for ministry. It is regularly to review diocesan/eparchial policies and procedures for dealing with sexual abuse of minors. Also, the board can review these matters both retrospectively and prospectively and give advice on all aspects of responses in connection with these cases.*

The Committee for the Protection of Children and Young People (CPCYP) and the National Review Board (NRB) present the following Questions and Answers as a resource to facilitate the functioning of the diocesan/eparchial review boards. The CPCYP and the NRB acknowledge that dioceses/eparchies differ in both their structure and resources and that the local review board structures vary. These questions and answers, therefore, are intended as outline possibilities that might be adapted to the various situations in which review boards operate. They are presented as a resource or tool to facilitate the review of local structures and procedures. They may also serve as a resource to diocesan/eparchial review boards in carrying out the functions outlined in the *Charter* and *Essential Norms*.

## **1. What is the nature and authority of the *Charter* and *Essential Norms*?**

Fundamental to the establishment of diocesan/eparchial review boards are several canonical considerations that are directly related to the authority of the *Charter* and *Essential Norms* and to the nature and authority of the diocesan/eparchial review boards. An awareness and understanding of these considerations can assist members of review boards and diocesan/eparchial officials in fulfilling their responsibilities and ensuring appropriate functioning of the review boards. Such considerations include the following:

- The two documents approved by the United States Conference of Catholic Bishops (USCCB), the *Charter for the Protection of Children and Young People* and *Essential Norms* together form a unity, but are different in nature.

- The *Charter* contains an extensive declaration of intent on the part of the bishops regarding future policies and provides a framework for the implementation of *Essential Norms*.
- The *Essential Norms*, which have received the required *recognitio* from the Holy See, constitute particular law for the dioceses/eparchies that belong to the United States conference of Catholic Bishops. As such, the *Essential Norms* bind those subject to them.
- While the bishops/eparchs freely agreed to follow the provisions of the *Charter*, the bishops/eparchs are legally bound to observe the stipulations of the *Essential Norms*.

## 2. **What is the authority of the bishop/eparch in relation to the review board?**

The bishop/eparch possesses all the “ordinary, proper and immediate power” he needs to carry out his pastoral ministry in the diocese entrusted to him. In exercising his pastoral leadership role in the diocese, universal Church law and the particular law of the diocese provide specific structures which the bishop/eparch may be required to consult on certain matters. Such consultative bodies assist the bishop/eparch in discharging his governance responsibilities and carrying out his pastoral ministry. The diocesan/eparchial review boards are consultative bodies which advise the bishop/eparch.

## 3. **What are some examples of how the bishop/eparch exercises his authority in relation to the diocesan/eparchial review board?**

Among the ways in which the authority of the bishop/eparch is exercised in relation to the review board are the following:

- establishment of diocesan/eparchial review board
- appointment of members of the review board
- appointment of the chairperson (and vice-chairperson, if applicable) of the diocesan/eparchial review board or delegation of the selection process to the review board
- authorizes the Promoter of Justice to participate in review board meetings
- approval and promulgation of the diocesan/eparchial policies on sexual abuse of minors that are recommended and/or approved by the review board.
- approval of review board statutes and/or policies and changes in same
- determination regarding allegations of sexual abuse of minors by priests and deacons after review and recommendation by the review board

## 4. **What is the role of the diocesan/eparchial review board?**

Both the *Charter* (Article 2) and *Essential Norms* (#5) require that each diocese/eparchy have a review board and refer to the Board as a consultative body that advises the bishop/eparch in his assessment of allegations of sexual of minors by priests and deacons and their suitability for ministry.

## **5. What are the functions and responsibilities of the diocesan/eparchial review board?**

- to advise the bishop/eparch in his assessment of allegations of sexual abuse of minors by priests or deacons
- to advise the bishop/eparch in his determination of suitability for ministry of priests or deacons accused of sexual abuse of minors
- to review diocesan/eparchial policies on sexual abuse of minors
- to advise the bishop/eparch, as requested, on all aspects of these cases, whether retrospectively or prospectively

**The role of the review board is not investigatory;** rather it evaluates evidence presented by the investigator and offers advice to the bishop/eparch.

## **6. What are the requirements for review board membership in the *Charter* and *Essential Norms*?**

Both the *Charter* and *Essential Norms* state that a majority of the review board members “will be lay persons who are not in the employ of the diocese/eparchy.” The *Essential Norms* specify additional requirements for membership:

- at least five persons of “outstanding integrity and good judgment in full communion with the Church”
- an experienced pastor of the diocese/eparchy
- an expert in the treatment of child sexual abuse

## **7. What other board membership issues might be given consideration?**

- Appointment of members

Generally, members of diocesan/eparchial review boards receive formal letters of appointment from the bishop/eparch setting forth the following:

- Duties and expectations
- Term of office
- Other pertinent information such as orientation materials, meeting schedules, list of review board members, list of diocesan/eparchial contact person(s)
- Indication regarding the intention of the bishop/eparch whether or not to make public the names of the members of the diocesan/eparchial review board.

The bishop/eparch meets with new review board members to acknowledge the importance of their service and the significance of their work in the life of the diocese/eparchy.

- Size of Review Board

The number of members serving on diocesan/eparchial review boards varies from five (5) to thirty (30). The average review board includes 8 members. Workload and manageability are important considerations in determining the size of the review board. While review boards with fewer members may be more manageable, larger size review boards may be organized into smaller groups (committees) for the handling of complaints. In addition to considerations of workload and manageability, the size of the review board is often determined by the pastoral needs of the diocese/eparchy and the availability of resources.

- Composition

Beyond the mandates of the *Charter* and *Essential Norms* regarding membership on review boards, the composition of diocesan/eparchial review boards varies across the country. Generally, review boards include representation from professions such as:

- law enforcement
- judiciary
- health care providers
- mental health practitioners

In addition, membership on some review boards includes attorneys, sex abuse prevention counselors, corporate executives, mental health practitioners, teachers, workers, parents of victims of sexual abuse and victims. All members of the review board should be attentive of the necessity and advantage of providing the bishop/eparch with objective judgments regarding the matters he brings before the board.

In dioceses/eparchies where membership on review boards exceeds the required five persons in full communion with the Church, some review boards include non-Catholic members such as, for example, ministers or rabbis who bring an experience and objectivity from their respective communities.

- Other participants

- Promoter of Justice:

The promoter of justice is appointed by the bishop/eparch for individual cases or for all cases in which the public welfare is involved. The Promoter of Justice is to foster and “safeguard the public good, that is, for the protection of the rights of all concerned and for the good of the Church in general.” Norm 5 of the *Essential Norms* make it possible, even desirable, that the Promoter of Justice participate in the meetings of the diocesan/eparchial review board to help ensure and safeguard the integrity of the process followed by the review board in fulfilling its duties; specifically, with regard to matters related to canon law.

A question that arises concerning the role of the Promoter of Justice is whether or not the Promoter of Justice should be a member of the board in a technical sense or strictly participate with no authority in making the final recommendations to the bishop/eparch. It is important that the policies and procedures for the

operation of the review board in each diocese/eparchy clarify the relationship of the Promoter of Justice to the review board indicating, for example, when the Promoter is permitted to speak or offer suggestions to the review board.

- Others

The bishop/eparch may wish to appoint other participants to the review board. Such participants have voice but do not vote in the deliberations of the review board.

In appointing others as participants, the bishop/eparch should designate the role of the person in relation to the board.

At all times the diocesan/eparchial review board should be free to carry out its responsibilities within the authority granted it in accordance with the *Charter* and *Essential Norms*. The process for offering advice and determining its recommendations should be free from intimidation or the appearance of such.

## **8. What is a preliminary investigation?**

Both the *Charter* and *Essential Norms* require a preliminary investigation to take place when an allegation of sexual abuse of a minor has been received that does not appear manifestly false or frivolous. The investigation is always to be conducted in accord with the provisions of canon law governing the preliminary investigation process..

The preliminary investigation required by canon law is intended to assist the bishop/eparch in reaching a decision as to whether it is probable that the canonical crime of sexual abuse of a minor by a priest or deacon did occur, and if so, what type of canonical process should be used to resolve the matter.

## **9. Who conducts a preliminary investigation?**

The preliminary investigation may be conducted by the bishop/eparch himself or by another person he appoints to carry out this responsibility. Generally, the bishop/eparch does not conduct this investigation himself, though the law permits him to do so. The preliminary investigation focuses on the facts and circumstances of the allegation and the responsibility of the accused, and can generally be completed in a brief time frame. The report of the investigator is shared with the review board. At that time, the investigator may be invited to present the report in person.

In some dioceses/eparchies, depending on available resources, the bishop/eparch entrusts the investigation to individuals with investigative experience in sexual abuse complaints involving minors, either on a full time basis or as needed.

The diocesan preliminary investigation should not interfere with any civil investigation ongoing at the same time. If necessary, the canonical process can be delayed to assure that the civil investigation will not be obstructed.

**10. What is the role of the diocesan/eparchial review board in the preliminary (canonical) investigation?**

In some dioceses the bishop/eparch reports the allegation to the review board prior to the preliminary canonical investigation; in others, he reports the results of the canonical investigation to the review board seeking its advice in evaluating the proofs (evidence) gathered by the investigator and its recommendation as to the credibility of the allegation. Prior to offering its recommendations, the review board may request additional evidence or ask to see specific evidence. **The nature of the review board, however, does not foresee it functioning as an investigative body.**

The preliminary investigation is required by canon law and seeks to determine probability that an ecclesiastical crime was committed. The local bishop/eparch often requests that a more detailed investigation be conducted either by designated diocesan staff or by an independent investigator. The results of this investigation are shared with the review board.

It is the decision of the bishop/eparch regarding when and to what extent he wishes to involve the review board in the preliminary canonical investigation. However, it is recommended that the review board be informed of all allegations and their resolution.

**11. What is the standard for determining a credible allegation?**

The canonical preliminary investigation is undertaken whenever the bishop/eparch receives an allegation that at least seems to be true. In general practice, this means that any allegation that is not manifestly false or frivolous is subject to a canonical preliminary investigation.

The purpose of the preliminary investigation is to allow the bishop/eparch to make a determination, based on the facts surrounding the allegation, as to whether or not a canonical crime has been committed, whether the alleged offender was imputable for the crime (responsible for it before the law), and what type of canonical process should be used to resolve the matter.

In advising the bishop/eparch, the review board will have to determine whether all the available evidence meets the threshold of a credible allegation. Except for cases in which an act is acknowledged or admitted (in which case the Review Board is assessing severity or notoriety), Review Boards have applied a variety of standards: believable and plausible, reasonable and probable, or preponderance of evidence. A diocesan canonical advisor will have to assist the Board in setting the proper threshold. The diocesan/eparchial review board should consider any objective information that is available, for example, consistency of the testimony of witnesses, accuracy of details such as the place of assignment of the accused at the time the allegation is said to have taken place, and physical evidence. In addition the Board may want to consider other corroborating evidence from files or other possible witnesses.

The role of the Diocesan Review Board is to function as a confidential consultative body to the bishop/eparch in discharging his responsibilities and is not to be confused with the role and responsibilities of the Congregation for the Doctrine of the Faith which is solely competent with regard to the status of the priest and any canonical process that should be followed to resolve allegations or admissions of guilt concerning the sexual abuse of minors by clerics



Article 5 of the *Charter* states the following:

*We affirm the words of His Holiness, Pope John Paul II, in his Address to the Cardinals of the United States and Conference Officers: “There is no place in the priesthood or religious life for those who would harm the young.”*

*Sexual abuse of a minor by a cleric is a crime in the universal law of the Church (CIC, c. 1395 §2; CCEO, c. 1453 §1). Because of the seriousness of this matter, jurisdiction has been reserved to the Congregation for the Doctrine of the Faith (Motu proprio, Sacramentorum sanctitatis tutela, AAS, 93, 2001). Sexual abuse of a minor is also a crime in all civil jurisdictions in the United States.*

*Diocesan/eparchial policy is to provide that for even a single act of sexual abuse of a minor\*—whenever it occurred—which is admitted or established after an appropriate process in accord with canon law, the offending priest or deacon is to be permanently removed from ministry and, if warranted, dismissed from the clerical state. In keeping with the stated purpose of this Charter, an offending priest or deacon is to be offered therapeutic professional assistance both for the purpose of prevention and also for his own healing and well-being.*

*The diocesan/eparchial bishop is to exercise his power of governance, within the parameters of the universal law of the Church, to ensure that any priest or deacon subject to his governance who has committed even one act of sexual abuse of a minor as described below shall not continue in ministry.*

*A priest or deacon who is accused of sexual abuse of a minor is to be accorded the presumption of innocence during the investigation of the allegation and all appropriate steps are to be taken to protect his reputation. He is to be encouraged to retain the assistance of civil and canonical counsel. If the allegation is not proven, every step possible is to be taken to restore his good name, should it have been harmed.*

*In fulfilling this article, dioceses/eparchies are to follow the requirements of the universal law of the Church and of the Essential Norms approved for the United States.*

**12. How do diocesan bishops/eparchs interact with their respective diocesan/eparchial review boards?**

Meetings between the review board and the bishop/eparch should be determined by what the bishop/eparch will find helpful and his personal style.

**13. What are the practical implications of this relationship for allegations of sexual abuse of minors by religious priests and deacons?**

In addressing allegations of sexual abuse of minors by religious priests and deacons, diocesan bishops/eparchs and religious superiors surely must work together. While committed to implementing the *Charter* and *Essential Norms*, both diocesan bishops/eparchs and religious superiors have at times approached the implementation of certain norms differently depending on their respective understandings of the relationship of the accused priest or deacon to the diocese/eparchy or to the religious institute.

For example, some diocesan bishops/eparchs, upon receiving an allegation against a religious priest or deacon send the case directly to the diocesan/eparchial review board; others send it directly to the appropriate religious institute or society of apostolic life to handle. Some religious institutes and societies of apostolic life have requested that diocesan/eparchial review boards assist them in handling such allegations; others have or are in the process of forming institute-wide, regional or provincial review boards.

It is essential in situations involving allegations of sexual abuse of minors by religious priests or deacons that diocesan bishops/eparchs and religious superiors work together in ways that respect the human dignity of each person for the common good of the diocese and for the unity of the Church.

Article 17 of the *Charter* addresses this subject of cooperative/collaborative expectation and specifically states:

*We pledge our complete cooperation with the Apostolic Visitation of our diocesan/eparchial seminaries and religious houses of formation recommended in the Interdicasterial Meeting with the Cardinals of the United States and the Conference Officers in April 2002. We commit ourselves to work individually in our dioceses/eparchies and together as a Conference, through the appropriate committees, to strengthen our programs both for initial priestly formation and for the ongoing formation of priests. With new urgency, we will promote programs of human formation for chastity and celibacy for both seminarians and priests based upon the criteria found in Pastores Dabo Vobis, the Program of Priestly Formation, and the Basic Plan for the Ongoing Formation of Priests. We will continue to assist priests, deacons, and seminarians in living out their vocation in faithful and integral ways.*

*We bishops and eparchs commit ourselves to work as one with our brother priests and deacons to foster reconciliation among all people in our dioceses/eparchies, especially with those individuals who were themselves abused and the communities that have suffered because of the sexual abuse of minors that occurred in their midst.*

This cooperative/collaborative expectation is additionally mentioned in Article 15 as follows:

*To ensure continuing collaboration and mutuality of effort in the protection of children and young people on the part of the bishops and religious ordinaries, two representatives of the Conference of Major Superiors of Men are to serve as consultants to the Committee for the Protection of Children and Young People. At the invitation of the Major Superiors, the Committee will designate two of its members to consult with its counterpart at CMSM. Diocesan/eparchial bishops and major superiors of clerical institutes or their delegates are to meet periodically to coordinate their roles concerning the issue of allegations made against a cleric member of a religious institute ministering in a diocese/eparchy.*

**14. What are some areas of review board functioning for which policies/procedures can be considered?**

- 1. Orientation of Diocesan/Eparchial Review Boards:** An orientation policy addresses the need to introduce new members of review boards to their responsibilities and tasks. A policy statement might outline, among other things particular to the diocese/eparchy, the materials to be presented to new members, the process used to assess allegations, and expectations of confidentiality.

2. **Term of Office:** *Essential Norms* specifies a five year term of office for members of the diocesan/eparchial review board, renewable. The Norms are silent of frequency of renewal. Thus, it would be up to the Bishop regarding any renewal of terms. Additionally, it is recommended that the Diocesan Review Board develop guidelines in this area. Terms may be staggered to ensure continuity. Details for this process might be found in a policy statement. This policy might also address the procedure for filling vacancies on the review board as well as the procedure for dismissal of review board members.
3. **Confidentiality:** The diocesan/eparchial review board is established as a “confidential, consultative body.” To emphasize the importance of this principle, the bishop/eparch may ask review board members to sign a pledge to maintain confidence about review board deliberations or he may administer an oath. The letter of appointment might state this expectation.
4. **Communication with Media:** As members of a confidential, consultative body, review board members do not speak to the media regarding review board matters unless expressly permitted by local guidelines. The circumstances, under which the chairperson of the diocesan/eparchial review board or one of its members may speak to the media, if applicable, might be outlined in the Communications Policy called for in the *Charter*.
5. **Record-keeping:** Policies regarding the collection and maintenance of records of the deliberations of diocesan/eparchial review boards are generally made by the bishop/eparch based on canonical norms, advice of legal counsel and the needs and expectations of their respective dioceses/eparchies.
6. **Decision-making Process:** The process for arriving at recommendations of the diocesan/eparchial review board, either by consensus, vote or some other means, is reflected in such a policy. The minimum number of members required to affirm a recommendation may also be specified in the policy.
7. **Teleconferencing/Videoconferencing:** A policy might identify those circumstances under which a member of the diocesan/eparchial review board who is unable to be physically present may participate in a board meeting. The use of videoconferencing as a mechanism for conducting a meeting of the review board, if permitted, might be included in the policy.
8. **Attendance Requirements:** Requirements for attendance at review board meetings may be delineated in the policy as well as the impact of frequent absence from board meetings.
9. **Non-member Attendees at Diocesan/Eparchial Review Board Meetings:** The purpose for which a guest might attend a meeting of the review board, the permission required, and the portion of the meeting open to guests may be spelled out in such a policy.
10. **Staffing of Diocesan/Eparchial Review Boards:** Responsibility for staffing review boards (e.g., office, contact persons), as well as the scope of services provided by the diocese/eparchy, might be described in a policy on how review boards function.



## Committee on Canonical Affairs

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3100 • FAX 202-541-3166

November 19, 2003

To All Bishops

Your Eminence/Excellency,

In recent months, the question of how properly to observe the canonical procedures which have been established for dealing with accusations against clergy of sexual abuse of minors has been a topic of much conversation. As you will recall, it came up several times during our recent General Meeting.

In order to meet this need, in consultation with Bishop Gregory, I have convened a task force of canonists, who, in close consultation with the Congregation for the Doctrine of the Faith, have been working to draw up a *Resource for Canonical Processes for the Resolution of Complaints of Clerical Sexual Abuse of Minors*. I am particularly grateful to Msgr. John Renken and Fr. Ronny Jenkins for their assistance in the composition of this handbook. I have reviewed this resource as well. Two copies of this document are being forwarded herewith, one for you and one for your Judicial Vicar. Additional copies can be obtained at a nominal cost by contacting the office of the General Secretary of the USCCB.

As you can see from the Preface, its purpose is to “provide the diocesan/eparchial Bishop, and those who assist him, with a step-by-step explanation of the various processes provided for in canon law” in order to address this delict. It is hoped that such a common reference might assist us to administer justice to both victims and the accused. In addition, it is hoped that the information and the formularies which are included might help the Congregation for the Doctrine of the Faith (CDF) to process more expeditiously any cases which are referred to them.

In recent contacts, the CDF has strongly indicated the importance of using the tables and formularies included in this handbook when referring cases to Rome. These formularies, you will recall, were also discussed at our recent General Meeting in Washington. The Conference has placed an electronic copy of the Tables which you could then fill in for each case on the “Bishops’ Only Website”.

Finally, I would suggest once more that you be aware of the canonical advice provided by Fr. Jenkins who serves as the Special Consultant to the General Secretariat of the USCCB for the Implementation of *Sacramentorum sanctitatis tutela*. He can be reached at 202-541-3118 or at [rjenkins@usccb.org](mailto:rjenkins@usccb.org). I would also ask that you consider sending to Fr. Jenkins any information which you receive that might contribute to our overall understanding of the manner in which the

CDF handles these cases, or any other aspects of this developing canonical jurisprudence. This will help the Conference to advise dioceses when they call with questions.

Naturally, this resource cannot be expected to respond to every unique situation. There may well be future revised editions as the jurisprudence develops. However, I hope that by reference to this handbook we will be more able to carry out the canonical responsibilities which have been entrusted to us as Bishops.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Thomas G. Doran".

Most Reverend Thomas G. Doran  
Bishop of Rockford  
Chairman

Enclosed:

Copy of *Handbook for Canonical Processes* for the local Bishop  
Copy of *Handbook for Canonical Processes* for the Judicial Vicar

***A RESOURCE FOR CANONICAL PROCESSES FOR THE  
RESOLUTION OF COMPLAINTS OF CLERICAL SEXUAL  
ABUSE OF MINORS***

**A RESOURCE PREPARED BY A TASK FORCE CONVENED BY THE CHAIRMAN OF  
THE BISHOPS' COMMITTEE ON CANONICAL AFFAIRS OF THE UNITED STATES  
CONFERENCE OF CATHOLIC BISHOPS**

November 2003

This document is a resource which has been prepared by a Task Force convened by Bishop Thomas G. Doran, Chairman of the Bishops' Committee on Canonical Affairs. The document has been reviewed by him. Its publication has been approved by the undersigned.

Monsignor William P. Fay  
General Secretary  
USCCB

# A Handbook for Canonical Processes for the Resolution of Complaints of Clerical Sexual Abuse of Minors

## PREFACE

The purpose of this *Resource* is to provide the diocesan/eparchial bishop and those who assist him with a step-by-step explanation of the various processes provided for in canon law to address the canonical delict of sexual abuse of a minor by clerics.

The *Resource* has three parts. PART ONE is an overview of the existing canonical legislation on the delict of sexual abuse of minor by a cleric. PART TWO is the step-by-step presentation of the processes to be used when an allegation of such abuse has been received by Church officials. PART THREE contains several *sample tables and formularies* which may assist Church officials with preparing the various decrees required by law. The APPENDIX contains the text of *Sacramentorum sanctitatis tutela*, the governing universal legislation.

## PART ONE: CANONICAL LEGISLATION APPLICABLE TO THE DELICT OF SEXUAL ABUSE OF A MINOR BY A CLERIC

- **Types of Canonical Legislation**
  - When an ordinary/hierarchy resolves allegations of sexual abuse, he must follow both the universal and particular law of the Church. The *universal* law applies to the entire Church, while the *particular* law will apply to the Church in the United States and to an individual diocese/eparchy.
    - **Universal law.** The universal sources of law are:
      - For the Latin Church: the *Code of Canon Law* [henceforth, *CIC*], (effective November 25, 1983); and for the Eastern Churches: the *Code of Canons of the Eastern Churches* [henceforth, *CCEO*], (effective October 1, 1991)<sup>1</sup>
      - Pope John Paul II, *Sacramentorum sanctitatis tutela* [henceforth, *SST*], (*motu proprio*, April 30, 2001) and the papal derogations from it given by the Roman Pontiff on:

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<sup>1</sup>For the Latin Church, the canons of the 1917 *Code of Canon Law* on what constituted a crime will apply if the alleged act occurred before November 27, 1983. For the Eastern Churches, various universal and particular laws will apply depending on the Church *sui iuris* and the time of the commission of the act.



- November 7, 2002: permitting the Congregation for the Doctrine of the Faith [henceforth, CDF] to derogate from prescription
- February 7, 2003:
  - (1) permitting the CDF in individual cases to dispense from the requirement that tribunal officials hold doctorates in canon law;
  - (2) permitting conferences of bishops to allow one judge on a collegiate tribunal to be a lay person (otherwise, all the judges must be priests);
  - (3) empowering the CDF to refer grave and clear cases to the Roman Pontiff for *ex officio* dismissal, or to allow use of a summary process according to *CIC*, c. 1720 (*CCEO*, c. 1486), in which case the ordinary, if he is of the opinion the accused should be dismissed, is to ask CDF to impose dismissal by decree;<sup>2</sup> and
  - (4) enabling the CDF to sanate acts for procedural law violations of lower tribunals
- February 14, 2003: requiring that recourse against administrative acts of CDF are to be referred to the *Feria IV* of the CDF which will decide on the merits of the case and on questions of lawfulness (not to the Apostolic Signatura--thus derogating from *Pastor Bonus*, 123)

The foregoing universal legislation is to be observed throughout the world. It comprises both the substantive and procedural penal law for the United States. It would be operative *even if there had been no decisions made by the USCCB at Dallas in 2002.*

- ***Particular law.*** In addition to the universal legislation, for the dioceses of the United States some particular sources of law have been and remain operative. The particular legislation consists of:
  - Secretariat of State, *Rescript* (Prot. No. 346.053, dated April 25, 1994): age of minors has been raised to 18 (from 16) for *CIC*, c. 1395 § 2 (continually renewed)

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<sup>2</sup>This reflects the particular law which had already been approved for the United States: “In exceptional cases, the bishop/eparch may request of the Holy Father the dismissal of the priest or deacon from the clerical state *ex officio*, even without the consent of the priest or deacon.” (*EN*, 10)

- United States Conference of Catholic Bishops, *Essential Norms* [henceforth, *EN*]; (approved December 8, 2002; promulgated December 12, 2002; effective March 1, 2003)
- Particular law of the diocese/eparchy, such as diocesan/eparchial norms and policies, that address the matter of sexual abuse of children by clergy (*EN*, 2)<sup>3</sup>

- ***Substantive Penal Law***

- The substantive law concerning the delict of sexual abuse of a minor by a cleric is provided by the *Code of Canon Law*:

**A cleric who ... has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state, if the case so warrants. (*CIC*, c. 1395 § 2)**

- The following points should be kept in mind when considering the determination of what constitutes the delict of sexual abuse of a minor:
  - **The age of “16 years” was raised to “18 years” for delicts committed in the United States, effective April 25, 1994.** The universal law now stipulates that the delict is committed by a cleric who sexually abuses any minor under the age of 18.<sup>4</sup>
  - **The current legislation applies only to acts of sexual abuse of a minor committed by *clerics*.** It does not apply to acts of sexual abuse of minors by lay persons (nor by religious who are not clerics). Nor does it apply to acts committed by someone before he became a cleric.<sup>5</sup>
  - Further, **if the cleric committed an act of sexual abuse before April 25, 1994 with a *minor* aged 16 or 17, his behavior was *not* criminal** (since the crime applied only to minors below 16 years of age, not to *all* minors), so the penalty of *CIC*, c. 1395 § 2 cannot be imposed even though other administrative actions may be taken to address the matter.<sup>6</sup>

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<sup>3</sup>This handbook will not address particular diocesan/eparchial law.

<sup>4</sup>“Reservation to the Congregation of the Doctrine of the Faith is also extended to a delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.” (*SST*, 4 § 1)

<sup>5</sup>If a cleric committed sexual abuse of a minor before he became a cleric, a diocesan/eparchial bishop may wish to proceed in some other fashion with the cleric (e.g., he may wish to apply administrative restrictions) but a penalty cannot be imposed. See *EN*, 9, fn. 6.

<sup>6</sup>Again, the diocesan/eparchial bishop may apply a non-penal, administrative restriction on the cleric. See *EN*, 9, fn. 6.

- The current law also has a **statute of limitations (in canonical terms, “prescription”) extending 10 years after the victim turns 18**. This has been particular law for the United States since April 25, 1994.<sup>5</sup> If the time of the statute of limitations has passed, the *Essential Norms* say the diocesan/eparchial bishop shall seek a dispensation from prescription from the CDF so the criminal process can take place.<sup>6</sup>
- ***Procedural Penal Law***
  - The existing legislation mandates that the **processing of any new claim (regardless of when the act allegedly occurred) is now strictly reserved** to the Supreme Tribunal of the CDF.<sup>7</sup>
  - This means that **all other tribunals (and any lower authority) are absolutely incompetent** to act without prior authorization of the CDF.
    - The process to be observed is that indicated in *SST*
      - As a rule, a *judicial penal process* is foreseen by the law as the means of resolving accusations lodged against a cleric.<sup>8</sup>
      - In *grave and clear cases*, however, the CDF’s particular congress either (1) can refer a case directly to the Roman Pontiff for *ex officio* dismissal, or (2) can allow the ordinary/hierarchy to enact the summary process in *CIC*, 1720 and to ask CDF to impose dismissal by decree of the CDF.<sup>9</sup>

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<sup>5</sup>The canonical statute of limitations (prescription) “runs from the day on which the delict was committed or, if the delict is continuous or habitual, from the day on which it ceased.” (*CIC*, c. 1362 § 2). For sexual abuse of a minor by a cleric committed before April 25, 1994, the statute of limitations was 5 years (*CIC*, c. 1362 § 1, 2°; cf. 1917 *CIC*, c. 1703, 2°). The particular law for the United States from April 25, 1994 stated: “With regard to canon 1362 § 1, 2°: in those matters which pertain to the above delict, this norm is to be applied that the criminal action is not extinguished unless the following conditions have taken place: (a) the one who suffered the delict has completed the twenty-eighth year of age; and (b) at least one year has passed from the denunciation regarding the same delict, as long as the denunciation was made before the one who suffered the injury has completed the twenty-eighth year of age.” (Secretariat of State, *Rescript*, Prot. No. 346.053, April 25, 1994)

<sup>6</sup>“If a case would otherwise be barred by prescription, because sexual abuse of a minor is a grave offense, the bishop/eparch shall apply to the Congregation for the Doctrine of the Faith for a dispensation from the prescription, while indicating appropriate pastoral reasons.” (*EN*, 8a)

<sup>7</sup>“Reservation to the Congregation of the Doctrine of the Faith is also extended to a delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.” (*SST*, 4 § 1)

<sup>8</sup>“The more grave delicts reserved to the Congregation for the Doctrine of the Faith may only be tried in a judicial process.” (*SST*, 17)

<sup>9</sup>*Papal Derogations*, February 7, 2003.

In every case, three issues are to be distinguished: (1) *What is a crime?* This depends on the substantive criminal law existing at the time the act occurred. An act done when it was not a crime does not later become a crime. Notice, however, the exception to this principle established by canon 1399: “In addition to the cases established here or in other laws, the external violation of a divine or canonical law can be punished by a just penalty only when the special gravity of the violation demands punishment and there is an urgent need to prevent or repair scandals.” (2) *What are the time limits within which to prosecute the crime?* This can be modified; that is, the “statute of limitations” allowing the penal process can be extended or even eliminated. (3) *What process is to be used for that prosecution?* The procedure used to prosecute a crime is the procedure existing when the trial occurs, not when the crime was committed.

## **PART TWO: STEP-BY-STEP PRESENTATION OF THE PROCESS TO BE USED WHEN AN ALLEGATION OF SEXUAL ABUSE OF A MINOR IS RECEIVED**

The following five steps are operative in the process to be used when the ordinary/hierarchy receives an allegation of sexual abuse of a minor by a cleric, each of which will be considered in greater detail below:

- (1) LODGING OF COMPLAINT WITH ORDINARY/HIERARCH
- (2) PRELIMINARY INVESTIGATION
- (3) REFERRAL TO THE CONGREGATION FOR THE DOCTRINE OF THE FAITH
- (4) SUBSEQUENT CANONICAL PROCESS
- (5) CHALLENGING THE OUTCOME OF THE PROCESS

### **STEP ONE: LODGING OF COMPLAINT WITH ORDINARY/HIERARCH**

- **Receipt of a complaint**

- The process for the resolution of allegations of sexual abuse of minors by members of the clergy begins after a complaint of a possible infraction is received by the ordinary/hierarchy.
- There are several possible **sources for complaints** (*CIC*, c. 1717 § 1; *CCEO*, c. 1468 § 1): the alleged victim; a third party (e.g., a parent or guardian); anonymous sources; the public sphere (e.g., media outlets), etc.
- **In all cases, each and every complaint should be treated promptly and seriously. No complaint should be dismissed without at least a minimum of prompt and serious attention.**
  - As a rule, the complaint **should be made in writing.**
    - It should be signed by the complainant, dated, and then notarized by an ecclesiastical notary.
    - The complaint should be as detailed as possible with regard to the identity of the accused, the nature of the acts, the time and place of the acts, and special circumstances surrounding acts (e.g., use of drugs/alcohol, force/threats, gifts/promises, etc.)

- A complaint may be lodged orally if circumstances so require. In these cases, the complaint should still be put down in writing by an ecclesiastical official and duly notarized. If possible, it should then be reviewed and signed by the complainant.
  - **Anonymous complaints**, or complaints by those who wish to remain anonymous, should also be given due consideration. It should be kept in mind, however, that the identity of the accuser and/or alleged victim will ultimately have to be revealed to the accused (except for cases involving the sacrament of penance).<sup>10</sup> Still, the initial treatment of the complaint may proceed even though the identity is not yet known or revealed.
  - **Allegations may also arise without the actual lodging of a complaint directly to the Church.** This could happen, for instance, if an alleged victim tells his/her story to the media, but does not approach ecclesiastical authorities with a complaint. If the ordinary/hierarch becomes aware of the allegation, an obligation to examine it may still exist even though the alleged victim did not approach the ordinary/hierarch.
- **Civil Reporting Requirements**
    - “The diocese/eparchy will comply with all applicable civil laws with respect to reporting of allegations of sexual abuse of minors to civil authorities and will cooperate in their investigation. In every instance, the diocese/eparchy will advise and support a person’s right to make a report to public authorities.” (*EN*, 11)
    - The civil requirement to report information regarding abuse may bind ecclesiastical authorities even if they consider the complaint to be frivolous or non substantiated according to ecclesiastical standards. **The fact that no ecclesiastical process will go forward does not mean the civil reporting is not required.**
    - On the other hand, the civil standard for reporting may be higher than what canon law sets as a minimum for the canonical process to move forward. Consequently, the civil and canonical determinations should be made separate of one another and based on the particular legal provisions applicable to each legal system.
  - **Initial Evaluation of the Complaint**
    - Following the receipt of a complaint, the ordinary/hierarch must make a determination as to whether or not the complaint **has the semblance of truth.**
      - The ordinary/hierarch may use the expertise of others – most especially the diocesan/eparchial review board – to reach such a determination.
      - This initial evaluation, however, is not a finding for or against guilt of the accused. It seeks only to establish whether or not the complaint itself at least seems true.

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<sup>10</sup>*SST*, 21 explains that, in cases of an alleged delict involving the sacrament of penance the ordinary/hierarch (or tribunal) “cannot indicate the name of the accuser to either the accused or his Patron unless the accuser has expressly consented.” (see *SST*, 3; *CIC*, c.1387; *CCEO*, c. 1458)

- The ordinary/hierarchy has the sole responsibility to determine the status of the complaint by considering, for example:
  - The facts alleged in the complaint and the circumstances surrounding them (e.g., was the priest assigned to the parish at that time?)
  - The credibility of the accuser
  - The internal consistency of the complaint itself (e.g., does the complaint lodge vague and unsubstantiated accusations? does the complaint contradict itself in irreconcilable ways?)
- **Actions Following the Evaluation of the Complaint**
  - If the ordinary/hierarchy determines that the complaint **does not have at least the semblance of truth**
    - No action against the cleric is mandated (even though administrative actions may still be applied depending on circumstances: cf. *EN*, 9).
    - No referral to the CDF is required.
    - The complainant can be informed of the outcome.
    - The accused cleric, if he had been made aware of the accusation, should be informed of the outcome.
    - Manifestly **false or frivolous accusations** do not result in canonical action against the cleric. Moreover: “When an accusation has proven to be unfounded, every step possible will be undertaken to restore the good name of the person falsely accused.” (*EN*, 13)<sup>11</sup>
      - If the allegation is determined to be manifestly false or frivolous, the ordinary/hierarchy is not expected to refer the case to the CDF (cf. *SST*, 13; 22 § 1). The acts are to be placed into the diocesan secret archives (cf. *CIC*, c. 1719; *CCEO*, c. 1470).
      - Indeed, if at any stage and grade of a judicial penal process it is evidently established that the accused did not commit the delict, the judge must declare this in a sentence and absolve the accused (*CIC*, c. 1726; *CCEO*, c. 1482).<sup>12</sup>
  - If the ordinary/hierarchy determines that the allegation **does have at least a semblance of truth**, he is to issue a **decree** opening a “preliminary investigation” (see *Formulary I*).

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<sup>11</sup>A false denunciation is a canonical crime (*CIC*, c. 1390; *CCEO*, cc. 1452, 1454).

<sup>12</sup>*CIC*, c. 1348: “When an accused is acquitted of an accusation or when no penalty is imposed, the ordinary can provide for the welfare of the person and for the public good through appropriate warnings and other means of pastoral solicitude or even through penal remedies if the matter warrants it.”

- Again, the determination made at this point concerns the nature of the allegation, not the guilt or innocence of the accused.
- If the allegation at least seems true, the process moves forward to a preliminary investigation even though the ordinary/hierarchy may feel that the investigation will result in little further information to substantiate the allegation.

## STEP TWO: PRELIMINARY INVESTIGATION

- **Purpose of the preliminary investigation**

- The purpose of the preliminary investigation is indicated in *CIC*, c. 1717 §1: “[the ordinary] is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous.” (see *CCEO*, c. 1468 § 1)
- Hence, the preliminary investigation is meant to give the ordinary/hierarchy a sense of *probability* that a delict *did* or *did not* occur. He makes this judgment after the preliminary investigation offers *sufficient elements* leading to that judgment (cf. *CIC*, c. 1718 § 1; *CCEO*, c. 1469, § 1).<sup>13</sup>
- **The preliminary investigation is not a trial** (or even a pre-trial hearing); the matter is not yet before the tribunal and the issue is not yet *in contradictorio*. The preliminary investigation is an “administrative” action. Therefore, the accused does not have a series of procedural rights to be protected as he would have in a trial.
- **The focus of the preliminary investigation is on facts, circumstances, imputability.** Imputability is presumed “unless it is otherwise apparent” (*CIC*, c. 1321 § 1; cf. *CCEO*, c. 1414 § 2). Imputability is the legal term referring to the responsibility a person has before the law for an action.
- The preliminary investigation **may be completed in a very brief period of time.**<sup>14</sup> On the other hand, if it proves impossible to conduct an investigation immediately upon receipt of a credible allegation, the ordinary/hierarchy **may prudently delay the investigation** until it is suitable to proceed. For instance, civil authorities may request that the Church not investigate an allegation until their civil investigation is complete.

- **Opening the preliminary investigation**

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<sup>13</sup>The *CCEO* says that the hierarchy ends the preliminary investigation “if the investigation seems sufficiently instructed” (*CCEO*, c. 1469 § 1).

<sup>14</sup>If the preliminary investigation is done in a brief time, the review board may be informed afterwards (*EN*, 4c: the review board offers advice on all aspects of these cases, “whether retrospectively or prospectively”).



- If the ordinary/hierarch judges that the initial allegation at least has the semblance of truth, he issues the **decree** opening a “preliminary investigation.” (See *Formulary I*)<sup>15</sup>
  - Care must be taken that the good name of anyone is not endangered from this preliminary investigation (*CIC*, cc. 1717 § 2, 220; *CCEO*, cc. 1468 § 2, 23).
  - The preliminary investigation is conducted either by the ordinary/hierarch personally<sup>16</sup> or by another suitable person (cleric or lay), who “has the same powers and obligations as an auditor in the process [and] cannot act as a judge in the matter if judicial process is initiated later.” (*CIC*, c. 1717 § 3; *CCEO*, c. 1468 § 3).
  - The person chosen by the ordinary/hierarch to conduct the preliminary investigation should be appointed to the task by **decree** (*Formulary 2*) unless the appointment is contained within the decree opening the preliminary investigation.
- **Role of the Diocesan/Eparchial Review Board**
    - The diocesan/eparchial review board may offer the diocesan/eparchial bishop its advice about the preliminary investigation beforehand and about its conclusions afterwards, but the preliminary investigation itself is *not* done by the review board.
    - The purpose of the review board is to assist diocesan/eparchial bishops by functioning “as a confidential consultative body to the bishop/eparch in discharging his responsibilities.”
    - “The functions of this board may include:
      - Advising the diocesan bishop/eparch in his assessment of allegations of sexual abuse of minors and in his determination of suitability for ministry;
      - Reviewing diocesan/eparchial policies for dealing with sexual abuse of minors;
      - Offering advice on all aspects of these cases, whether retrospectively or prospectively.” (*EN*, 4)
    - It is ultimately the decision of the diocesan/eparchial bishop as to what extent and at what point in time he wishes to involve the review board in the preliminary investigation.
- **Rights of the Accused Cleric**
    - The preliminary investigation should in no way illegitimately harm the right of the cleric to a good reputation (*CIC*, cc. 1717 § 2, 220; *CCEO*, cc. 1468 § 2, 23).

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<sup>15</sup>The ordinary/hierarch will later issue a **decree** closing the preliminary investigation (*Formulary 3*).

<sup>16</sup>In the practical order, the ordinary/hierarch will probably not conduct the investigation personally.

- Once the cleric knows of the allegation and the process against him, he should be “encouraged to retain the assistance of civil and canonical counsel” (*EN*, 6).<sup>17</sup>
- There is no requirement in law that the cleric avail himself of counsel during the preliminary investigation, or that the diocese pay for the expenses of either canonical or civil counsel at this stage of the process.
- If the cleric is invited to participate in the preliminary investigation, however, it is strongly urged that he be provided the assistance of canonical counsel.
- To be a canonical advocate, the person must be approved for that role by the diocesan/eparchial bishop (*CIC*, c. 1483; cf. *CCEO*, c. 1141).
  - Before episcopal approval, the canonist is a “canonical advisor” or a “canonical consultant,” but not strictly a “canonical advocate.” Only a canonical advocate can take part in a penal process.
  - Further, *SST* expects the canonical advocate to be a *priest* (*SST*, 12), but the CDF can dispense from the “priest” requirement (*Papal Derogation*, February 14, 2003)
- The law for the Latin Church does not require that the ordinary inform the accused of the accusation against him or of the fact that a preliminary investigation is underway.
  - Nor does the accused have a right to participate in the preliminary investigation. If the accused does participate in the preliminary investigation, however, he cannot be forced to take an oath before speaking or to confess to any criminal action (cf. *CIC*, c. 1728 § 2; *CCEO*, c. 1471 § 2).
  - As a rule, it is prudent to inform the accused of the accusation and to hear his response to it (if he is willing) at least before the ordinary makes a final determination regarding the probability of the commission of the delict.
- The law for the Eastern Churches does foresee that the hierarch will inform the accused of the complaint and be given an opportunity to respond at some point before the hierarch concludes the preliminary investigation (*CCEO*, 1469 §3)
- The accused does not have the *right* to inspect the acts of the preliminary investigation or to receive a copy of them.
  - Of course, the ordinary/hierarch is free to allow him to inspect the acts, and to provide a summary response to them.
  - The law does not foresee a sort of “mini-trial” taking place at this point in the process. If the accused has taken part in the preliminary investigation,

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<sup>17</sup>“For the sake of due process, the accused is to be encouraged to retain the assistance of civil and canonical counsel. When necessary, the diocese/eparchy will supply canonical counsel to a priest or deacon.” (*Charter*, 5-b; cf. *EN* 6, 8a)

however, the CDF will welcome his defense (which should, therefore, be included in the materials sent to the CDF).

- **Conclusion of the Preliminary Investigation**

- The preliminary investigation concludes when the ordinary/hierarch determines sufficient elements have been collected to reach a determination with regard to the question of the investigation: whether or not it is probable that a delict has been committed as alleged (*CIC*, c. 1718 § 1; *CCEO*, c. 1469 § 1).
- At that point, the ordinary/hierarch is to issue a **decree** closing the preliminary investigation (*CIC*, c. 1719; *CCEO*, c. 1470; see *Formulary 3*). Unless the accusation is manifestly false or frivolous, the decree should also indicate that the acts are to be forwarded to the CDF together with his own *votum*.
- The investigator charged by the ordinary/hierarch to investigate the allegation should submit a report to the ordinary/hierarch.
  - The report should indicate the investigator's own conclusion about the probability of the delict having occurred.
  - It should also state how the investigator came to that conclusion; i.e., it should explain on what elements gained during the investigation the report's conclusion is based.
- Upon receiving the report of the investigator, the ordinary/hierarch is to consider carefully all the acts of the investigation, the report of the investigator, and any observations offered by the diocesan/eparchial review board.
- The ordinary/hierarch is to formulate his own opinion – or *votum* – on whether or not it seems probable that a delict has been committed
  - The *votum* of the ordinary/hierarch will play a significant role in determining whether or not further canonical action is warranted and, if so, what that action might be.

<p style="text-align: center;"><b>STEP THREE: REFERRAL TO THE CONGREGATION FOR THE DOCTRINE OF THE FAITH</b></p>
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- **Notification of Allegation to the CDF**

- Upon concluding the preliminary investigation, the ordinary/ hierarch is to notify the CDF of the results of the investigation (*SST*, 13)
  - This is *always* done unless the accusation is determined to be manifestly false or frivolous during the preliminary investigation.
  - It is always the CDF that makes the determination of how to proceed with the matter, even though the *votum* of the ordinary/hierarch will be very important in the considerations leading to the CDF's decision.

- The same notification to CDF is made when the accused cleric seeks voluntary laicization following his admission of illicit actions with a minor.
  - The accused's petition for laicization should be included in the referral.
  - His petition should address clearly his reasons for requesting dispensation from the obligations of the clerical state, the circumstances surrounding the accusation, etc.
- When the CDF is notified of the allegation, the accused **must** be informed of the allegation if he does not already know about it.<sup>18</sup>
- The ordinary/hierarch may also choose **at this point** to impose the precautionary measures of the so-called "administrative leave:"
  - "To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard the promoter of justice and cited the accused, at any stage of the process can exclude the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even can prohibit public participation in the Most Holy Eucharist. Once the cause ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases." (*CIC*, c. 1722; cf. *CCEO*, c. 1473)
  - By means of a **decree** the ordinary/hierarch can impose these measures as soon as the acts of the case, with the *votum* of the ordinary/hierarch, are sent to the CDF (see *Formulary 4*). As the canon itself indicates, the measures end when the penal process is concluded.<sup>19</sup>
  - If the ordinary/hierarch determines it prudent to apply similar measures *prior to* referral to the CDF, he must do so by means of a precept imposed on the accused cleric, not by means of canon 1722. Such a precept may be imposed from the time the preliminary investigation is opened. However, all rights of recourse against such a decree are available to the cleric (*Formulary 5*).
- Must past allegations be reported to the CDF?
  - Prior to the effective date of *SST*, the operative penal process was that outlined in the *CIC* and the *CCEO*. Judicial or administrative penal processes which began prior to *SST*<sup>20</sup> are to be completed according to the

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<sup>18</sup>Presumably the accused will have been informed of the allegation soon after the ordinary/hierarch has received word of it. Still, the ordinary/hierarch may have judged it best not to inform him of the allegation until even the preliminary investigation is concluded. Legally, the accused is not a figure in the preliminary investigation, which serves to give a certain "sense" to the ordinary/hierarch about the "probability" of the accusation.

<sup>19</sup>If necessary, before this time the ordinary/hierarch can use his executive power of governance to impose measures similar to those outlined in this canon. Indeed, he may exercise his authority at any time in the process. (cf. *EN*, 9)

<sup>20</sup>Such penal processes begin when the respondent is cited.

codal legislation **provided appeals are lodged exclusively before the Tribunal of the CDF.**

- Any processes not started before *SST*, however, are to begin and be completed according to the provisions of *SST*, even if the action is barred by prescription.
- If a case had already been resolved through a penal process, then it should not be presented to the CDF. The principle of law applies that no one should be punished twice for the same crime.
- If a past case was resolved through a non-penal administrative act by decree, but now the ordinary/hierarchy feels the public awareness of the crime and the public good demand new action, he is to refer the case to the CDF with his *votum*:
  - To request the use of his administrative power (e.g., *CIC*, c.1740; *CCEO*, c. 1389) to address the issue anew in light of current circumstances;
  - To request the use of the judicial or administrative penal process;
  - To request *ex officio* dismissal from the clerical state.

- **Contents of the Notification**

- The “notification packet” sent to the CDF should include the following data and documents.
  - **General information** regarding the accused cleric: personal data, curriculum vitae (especially present circumstances, such as offices held, honors, etc.), and other pertinent circumstances (such as bad health condition, etc.)
  - **Copies of any decrees** issued at any stage following the reception of the accusation and related to it and, where the law so requires it of the ordinary/hierarchy, indication of how such decrees were notified to those concerned.
  - **Any pertinent communications** made by the accused to the ordinary/hierarchy (e.g., his desire to leave the ministry).
  - **Essential details of the accusation.** These details should already be contained in a summary of the preliminary investigation prepared by the investigator. A copy of the investigator’s report may also be included. The details include:
    - circumstances regarding the alleged crime(s)
    - dates of accusation(s)
    - dates of alleged act(s)
    - names (alleged injured party, third parties, etc.)
    - present age of alleged victim(s)
    - sex of alleged victim(s)

- nature of the offense(s) (kind, number, and any extenuating circumstances)
- circumstances regarding the alleged perpetrator
- whether the cleric is a current risk to others and, if so, why
- whether the cleric exhibits any signs of symptoms of psychological abnormalities
- whether the cleric has undergone psychological or medical evaluations (state whether the evaluations were voluntary and include a release, if available)
  
- **Current status of the cleric**
  - where is the cleric now residing?
  - what has been provided for his sustenance?
  - have the provisions of canon 1722 been implemented? (provide decree)
  
- **Votum of the ordinary/hierarch**
  - concerning penal procedures
    - what procedure is recommended to resolve the issue?
    - what are the factors that make the suggested procedure suitable and feasible?
    - what penalty does the ordinary/hierarch consider warranted?
  - concerning the suitability of the cleric for any future ministry in the Church
  - concerning whether or not the cleric is considered to be a continued threat to minors
  - concerning the status of any pending civil process (and its possible relation to the canonical process)
  - other issues the ordinary/hierarch might want to mention
  - in cases where **voluntary laicization** is sought by the accused, the *votum* should
    - include the ordinary's/hierarch's position regarding laicization (strong words should be used if the laicization is strongly desired)
    - suggest the public effect of the laicization (Will lack of laicization cause scandal? Will the granting of laicization repair scandal and help to restore justice?)
  - in cases where **involuntary dismissal from the clerical state** is sought by the ordinary/hierarch, the *votum* should

- mention that the cleric was invited to seek laicization voluntarily but refused (and reasons for the refusal)
- suggest the public effect of the dismissal
- the *votum* may also request various dispensations and derogations:
  - that one judge on a collegiate tribunal and any other officials (i.e., the promoter of justice, the procurator or advocate for the accused, the notary) be someone other than a priest (i.e., a deacon or lay person) in the event that the case is returned to the diocesan tribunal for the judicial penal process (cf. *SST*, art. 12);<sup>21</sup>
  - the ordinary's/hierarch's request for a derogation from prescription (cf. *EN*, 8a)
- **Defense comments of the accused.** If the accused has taken part in the preliminary investigation, the CDF will welcome his defense which should, therefore, be included in the materials sent to the CDF.
- The “notification packet” should be notarized by an ecclesiastical notary. One copy of it is sent to the CDF.

#### STEP FOUR: SUBSEQUENT CANONICAL PROCESS

- **Four Possible Actions.** The CDF will review the acts of the preliminary investigation and will consider the *votum* of the ordinary/hierarch; thereafter, it will typically respond in one of the following ways, each of which will be treated below:
  - 1) CDF may remand the case to the ordinary/hierarch to be processed in a judicial trial in the diocesan/eparchial tribunal (perhaps with some directives on how to proceed further); or
  - 2) CDF may try the case in a judicial process in its own tribunal; or
  - 3) CDF may direct the ordinary/hierarch to treat the matter through an administrative (extrajudicial or summary) penal process (*CIC*, c. 1720; *CCEO*, c. 1486); or
  - 4) The particular congress (*Feria VI*) of the CDF may recommend to the Roman Pontiff that *ex officio* dismissal be imposed.
  - While the decision to follow one of these four options rests exclusively with the CDF, the Congregation will give most serious consideration to the *votum* of the diocesan/eparchial bishop.

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<sup>21</sup>The ordinary/hierarch should mention the reasons for seeking such dispensations (e.g., the lack of other well-trained canonists, the personal skills qualifications of those recommended, etc.)

- Moreover, it may happen that the CDF responds to the “notification packet” by requesting further information or clarification on the data already submitted.
  - The CDF might also suggest a solution other than one of the four options listed above.
  - In all cases, the ordinary/hierarch is welcome to communicate with the CDF on the processing and possible outcome of a case.
- **The Judicial Penal Process in the Diocese/Eparchy**
    - The CDF may return the case to the ordinary/hierarch so that the judicial penal process will be pursued in the diocesan/eparchial tribunal. The CDF may also offer some special directives on how the tribunal would proceed.
    - If a penal trial is mandated by the CDF, the norms of the *CIC/CCEO* regarding the formal contentious penal trial are to be followed. Any applicable norms of *SST* must also be observed.
    - The ordinary/hierarch entrusts the case to the promoter of justice, who presents the *libellus* of accusation to the tribunal (*CIC*, c. 1721 § 1; *CCEO*, c. 1472 § 1).
      - The court will consist of three or five judges, a promoter of justice, and a notary. As a rule, all the officials will be priests (*SST*, 12).
      - The ordinary/hierarch may request dispensations from the CDF in order to allow qualified lay persons to function on the tribunal.
      - The ordinary/hierarch may entrust the case to the currently assigned officials of his tribunal, who will hear the case according to the usual rotation of judges. In the interest of assuring an unbiased court, however, it is strongly recommended that the diocesan/eparchial bishop consider appointing judges from outside the diocese/eparchy. Names of qualified judges are available from the USCCB should he desire to do so. He can request their names in writing from the President of the Conference through the General Secretariat. He then appoints the judges (and any other external officials) *ad hoc* by his **decree**.
      - The function of the promoter of justice may best be filled by someone from within a diocese/eparchy. A local promoter of justice might be in a better position to suggest the proofs that are to be gathered in the diocese/eparchy.
    - The tribunal then accepts (or rejects) the petition. Thereafter, the ordinary penal procedural norms of the *CIC/CCEO* and *SST* are followed.
    - Some relevant legal provisions should be kept in mind when a penal trial is conducted. They are:
      - In the trial, the promoter of justice is the *petitioner* and the accused is the *defendant*. The alleged victim or complainant is not a party to the trial, but may function as a witness.



- In the penal process, the defendant is not bound to confess the delict, and cannot be compelled to take an oath (*CIC*, c. 1728 § 1; *CCEO*, c. 1471 § 1).
  - The defendant is to be invited to name a canonical advocate who must be approved by the diocesan/eparchial bishop; if he does not appoint one, the judge assigns an advocate who functions until the defendant himself would appoint one (*CIC*, c. 1723; *CCEO*, c. 1474).<sup>22</sup> **The defendant in a penal trial must have the services of a canonical advocate available to him.**
  - All procedural rights due the defendant must be assiduously observed by the court. This includes the right to know the charges (i.e., the citation, including the names of the court officials), to submit proofs, to inspect all acts of the case, to submit a written defense, to receive a copy of the definitive sentence, and to challenge the sentence itself.
  - The process continues according to the norms for an ordinary contentious trial, with the appropriate adaptations reflecting penal procedure outlined in universal law. The court receives briefs from both the promoter of justice and the advocate for the accused.<sup>23</sup>
  - The definitive sentence of the court determines answers to these questions:
    - 1) Was a violation of penal law committed? (*actus reus*)
    - 2) Was the accused legally responsible for the act (imputable)? (*mens rea*)
    - 3) What penalty, if any, is just?
  - Whether the verdict of the court is to convict or acquit the defendant, the sentence is open to appeal by (1) the promoter of justice, (2) the defendant, or (3) the second instance promoter of justice (at the CDF) within a month of his becoming aware of the first instance sentence (*SST*, 22 § 2).
- **The Judicial Penal Process at the CDF**
    - The CDF may respond to the initial referral of the ordinary/hierarchy by indicating that a penal trial will be held by the Supreme Tribunal of the CDF. This means that the CDF itself will try the case in first and any subsequent instances.

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<sup>22</sup>“When necessary, the diocese/eparchy will supply canonical counsel to a priest [or deacon].” (*EN*, 8a)

<sup>23</sup>The typical structure of a brief is:

- (1) short summary of facts;
- (2) the matter of the controversy (*dubium concordatum*);
- (3) principles of law: delict, imputability, elements of proof;
- (4) arguments for or against: analysis of each accusation, evidence for or against, including questions of reliability of proofs; conclusion for or against each accusation;
- (5) summary conclusion
- (6) ancillary petitions to the tribunal (e.g., plea for clemency, plea for harsher penalty, request for reinstatement of good name, etc.)

- The diocese/eparchy will forward any and all relevant evidence to the CDF, and may be called upon to assist in further instruction of the case by way of a rogatory commission.

- **The Administrative (Extrajudicial or Summary) Penal Process**

- The papal derogations of *SST* granted by the Roman Pontiff on February 7, 2003, permit the CDF to instruct the ordinary/hierarch to resolve a complaint by means of the extrajudicial (summary) penal process in *CIC*, c. 1720, *CCEO*, c. 1486.<sup>24</sup>
- If the CDF instructs the ordinary/hierarch to initiate this extrajudicial penal process, he should take the following steps:
  - 1) He summons the accused to a meeting at a specific date and time in order to inform him of the accusation and the proofs in support of it.
  - 2) He then gives the accused the opportunity to defend himself (unless the accused neglected to appear after being properly summoned).<sup>25</sup>
    - The accused should have the use of a canonical advocate available to him.
    - Any defense presented by the accused should be submitted in writing.
  - 3) He next weighs carefully all the proofs, arguments, and any defense presented by the accused.
    - This is done with the assistance of two assessors.

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<sup>24</sup>*CIC*, c. 1720 states: “If the ordinary thinks that the matter must proceed by way of extrajudicial decree: 1° he is to inform the accused of the accusation and the proofs, giving an opportunity for self-defense, unless the accused neglected to appear after being properly informed; 2° he is to weigh carefully all the proofs and arguments with two assessors; 3° if the delict is certainly established and a criminal action is not extinguished, he is to issue a decree according to the norm of cann. 1342-1350, setting forth the reasons in law and in fact at least briefly.”

There are some slight variations in *CCEO*, c. 1486 § 1, which says: “For the validity of the [extra-judicial] decree that imposes a penalty, it is required that: 1° the accused be notified of the accusation as well as the proofs and be given the opportunity of fully exercising the right of self-defense, unless the accused neglected to appear after being cited in accord with the norm of law; 2° an oral discussion be held between the hierarch or his delegate and the accused with the promoter of justice and a notary present; 3° it be explained in the decree itself the reasons in fact and law on which the penalty is based.”

<sup>25</sup>If the accused refuses to appear and does not provide a legitimate reason for not doing so, he is considered to have renounced his right to defense within the process initiated by the ordinary/hierarch. Proof of the summons by the ordinary/hierarch should be in writing.

- The assessors, as a rule, should be canonists of proven ability and with some years of experience.<sup>26</sup>
  - 4) He issues his decree which should set forth at least briefly the reasons in law and in fact for his decision.
    - If he decides to impose a non-permanent expiatory penalty, he should decree such penalty and inform the CDF of his decision.
    - If he is of the opinion that the case warrants the penalty of dismissal from the clerical state, his decree ends with a “recommendation” to the CDF.
  - 5) Finally, he forwards the acts of the process to the CDF which **alone** is competent to enact the dismissal from the clerical state after an extrajudicial penal process.
    - The *Feria VI* (the “Friday meeting” of the particular congress of the CDF, consisting of the Prefect, Secretary, Undersecretary, and Promoter of Justice) issues the decision.
    - Recourse may be made to the *Feria IV* (the “Wednesday meeting” of the ordinary congregation of the CDF, consisting of cardinals and bishops).
- ***Ex Officio Dismissal by the Roman Pontiff***
    - The Roman Pontiff may always exercise his prerogative of dismissing a priest or deacon from the clerical state; however, this is done in individual and rare cases.
    - The ordinary/hierarchy may request this in his *votum* to the CDF.
    - It should be understood, however, that this process is envisioned as a rare means of resolving only the most notorious of cases; for example, in cases where
      - the accused has admitted to his crime(s), especially if his admission occurred in a civil judicial forum;
      - the accused is already incarcerated following a civil penal process;
      - public notoriety surrounds the accused’s actions (and the subsequent civil processes which addressed them);
      - the public good of the Church demands immediate action to resolve the issue; etc.

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<sup>26</sup>*CCEO*, c. 1486 § 1, 2<sup>o</sup> *requires* an oral discussion between the hierarchy (or his delegate) and the accused, in the presence of the promoter of justice and a notary. The *CIC* does not state this requirement. Moreover, the ordinary/hierarchy is to weigh the matter carefully with the two assessors--ideally, canonists of proven worth. It may be helpful if they are present with the accused, in the presence of a notary.

- If the Roman Pontiff grants an *ex officio* dismissal, there is no appeal of or recourse against his decision. It is final. (Obviously, there is also no appeal against the Roman Pontiff's decision *not* to grant the dismissal; then, the case will need to be resolved in some other fashion.)

<p><b>STEP FIVE: CHALLENGING THE OUTCOME OF THE PROCESS</b></p>
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- **Appeal of Judicial Sentences**

- Following the first instance judicial penal trial in the diocesan/eparchial tribunal, any decision (for or against the defendant) can be appealed by the promoter of justice or the defendant to the CDF.
  - This appeal *must be made* to the CDF (*SST*, 16) within a month (*SST*, 23, n. 2).<sup>27</sup>
  - Indeed, even if the decision is not appealed, all the acts of the case are sent to the CDF *ex officio* (*SST*, 22 § 2).
  - If the first instance decision finds the defendant not guilty, the sentence can be appealed by the first instance promoter of justice *or* the second instance promoter of justice.
  - The alleged victim or complainant does not have standing to lodge an appeal, since he/she is not a principal in the case. Clearly, however, he/she is able to make his/her concerns known to the promoter of justice.
- The CDF can sanate procedural law violated in lower tribunals acting upon mandate from the CDF. (*Papal Derogation*, February 7, 2003)
- The administrative leave of *CIC*, c. 1722/*CCEO*, c. 1473 ceases at the conclusion of the judicial penal process.

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<sup>27</sup>Normally an appeal must be made (*interpositio*) within the peremptory period of 15 useful/canonical days from the notice of the publication of the sentence (*CIC*, c. 1630 § 1; *CCEO*, c. 1311 § 1) and then must be pursued (*prosecutio*) within a month from its introduction (*CIC*, c. 1633; *CCEO*, c. 1314). *SST* 23, n.2 does not distinguish between *interpositio* and *prosecutio* and indicates a generic term for appeal (*propositio*) which should occur within one month. *SST* 22 § 2 notes that the Promoter of Justice of the CDF may challenge a sentence within one month from the day on which the sentence of first instance was made known to him.

- The penal judicial sentence becomes final (i.e., a *res iudicata*) in one of the following ways (*SST*, 23):
  - 1) when a sentence has been rendered in the second instance by the CDF (no matter which tribunal rendered the first instance decision);
  - 2) when an appeal against a first instance sentence has not been proposed within a month; or
  - 3) when, at the appellate stage, the instance is *abated* (i.e., when no procedural activity occurs for six months - *CIC*, c. 1520; *CCEO*, c. 1201), or is *renounced* by either party (*CIC*, cc. 1524-1525; *CCEO*, cc. 1205-1206; however, *for validity*, the defendant must accept a renunciation posed by the promoter of justice - *CIC*, c. 1724; *CCEO*, c. 1474).
- If the decision has become final *and* the guilty cleric has not been dismissed from the clerical state, the diocesan/eparchial bishop is to exercise his executive power of governance and take one or more of the several administrative actions listed in *EN*, 9, fn. 6.
- **Recourse Against the Administrative Penal Process**
  - All recourse lodged against the results of the administrative penal process undertaken by an ordinary/hierarchy by authority of the CDF is heard exclusively by the CDF itself.
  - If the Roman Pontiff granted the request for *ex officio* dismissal, however, no recourse against or appeal of his decision is possible.
- **Recourse Against Non-Penal Administrative Acts of the Ordinary/Hierarchy**
  - *EN*, 9 explains the power of the diocesan/eparchial bishop to discontinue the ministry of any priest or deacon guilty of sexual abuse of a minor, whether or not a penal process has dismissed him from the clerical state.<sup>28</sup>
  - The diocesan/eparchial bishop is to apply specific restrictions on a given cleric through a **decree**.<sup>29</sup>

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<sup>28</sup>“At all times, the diocesan bishop/eparch 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 the exercise of priestly ministry. Because sexual abuse of a minor by a cleric is a crime in the universal law of the Church and is a crime in all jurisdictions in the United States, for the sake of the common good and observing the provisions of canon law, the diocesan bishop/eparch shall exercise this power of governance to ensure that any priest who has committed even one act of sexual abuse of a minor as described above shall not continue in active ministry.” (*EN*, 9)

<sup>29</sup>“A decree is to be issued in writing, with the reasons at last summarily expressed if it is a decision.” (*CIC*, c. 51; *CCEO*, cc. 1514, 1519 § 2) *EN*, fn. 6 identifies to specific canons to which the diocesan/eparchial bishop may make reference in his decree limiting the cleric’s activity: *CIC* cc. 35-58; 149; 157; 187-189; 192-195; 277 § 3; 381 §.1; 383; 391; 1348; 1740-1747. *CCEO* cc. 1510 §1 and § 2, nn. 1-2; 1511; 1512 §§ 1-2; 1513 §§ 2-3 and 5; 1514-1516; 1517 § 1; 1518; 1519 § 2; 1520 §§ 1-3; 1521; 1522 § 1; 1523-1526; 940; 946; 967-971; 974-977; 374; 178; 192 §§ 1-3; 193 § 2; 191; 1389-1396.

- This decree is subject to usual administrative recourse by the priest or deacon. This recourse, however, does not suspend the effects of the decree.<sup>30</sup> Note that this is not the so-called *penal* “administrative leave” of *CIC*, c. 1722 or *CCEO*, c. 1473 (which does *not* admit recourse and which ends at the conclusion of the penal process).
- **Support of the Cleric**
  - If the priest or deacon is not dismissed, provision is to be made for his decent support when he is not given a ministry that would see to his sustenance (*CIC*, c. 1350 § 1; *CCEO*, c. 1410).
  - Indeed, the ordinary/hierarchy is also to provide for a dismissed cleric who is truly in need because of the effects of the penalty (*CIC*, c. 1350 § 2; *CCEO*, c. 1410).
- **Document Retention**
  - The universal law requires that the acts of the preliminary investigation, the decrees beginning and closing it, and everything from the moment of “initial contact” are to be kept in the secret archive of the curia, if they are not needed for the penal process (*CIC*, c. 1719; *CCEO*, c. 1470).
  - Each year documents in criminal cases in the secret archives are to be destroyed if the accused party has died or if 10 years have lapsed since the condemnatory sentence. A brief summary and the text of the definitive sentence is to be retained (*CIC*, c. 489 § 2; *CCEO*, c. 259 § 2).
  - The ordinary/hierarchy is advised to be aware of any civil laws regarding the retention of records that might be used in subsequent civil proceedings.

**The law of the Church governing resolution of allegations or actions of sexual abuse of a minor by clerics must be followed in all cases. Hence, it is critical for those charged with resolving allegations to become well versed in the sources of law governing this issue. This *Handbook* is merely a guide to the implementation of those norms of law. As such, it does not claim to be an authoritative text. Rather, the law itself should always be consulted as the governing, legal authority for processing allegations and violations of the law.**

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<sup>30</sup>Cf. the canons on recourse: *CIC*, cc. 1732-1739; *CCEO*, cc. 996-1103 *passim*.

**PART THREE:  
SAMPLE TABLES AND FORMULARIES**

**A. SAMPLE *GRAVIORA DELICTA* TABLE**

<b>DIOCESE</b>	
<b>CDF PROT. N.</b> ( <i>if available</i> )	
<b>NAME OF CLERIC</b>	

<b>PERSONAL DETAILS OF THE CLERIC</b>	<b>Date of Birth</b>		<b>Age</b>	
	<b>Ordination</b>		<b>Years of Ministry</b>	
<b>ORIGINAL DIOCESE OF INCARDINATION</b>				
<b>MINISTRY IN/TRANSFER TO OTHER DIOCESE</b>				
<b>CONTACT ADDRESS OF THE CLERIC</b>				
<b>PROCURATOR</b> ( <i>include original signed mandate</i> )				
<b>CONTACT ADDRESS OF THE PROCURATOR</b>				
<b>ASSIGNMENTS</b>				
<b>Year</b>	<b>Parish</b>	<b>Location</b>	<b>Appointment</b>	

<b>ACCUSATIONS AGAINST THE CLERIC</b>				
Year	Victim	Age	Imputable Acts	Denunciation
<b>CIVIL PROCEEDINGS AGAINST THE CLERIC</b>				
Year	Type/Case	Conviction	Sentence ( <i>include copies of civil documents</i> )	
<b>MEASURES ADOPTED BY THE DIOCESE</b>				
Year				
<b>SUSTENANCE PROVIDED BY THE DIOCESE TO THE CLERIC</b>				
<b>RESPONSE/RECOURSE MADE BY THE CLERIC</b>				
Year				
<b>BISHOP'S VOTUM</b>				



## B. SAMPLE *GRAVIORA DELICTA* TABLE (COMPLETED)

<b>DIOCESE</b>	Name of diocese
<b>CDF PROT. N.</b> <i>(if available)</i>	123/1234
<b>NAME OF CLERIC</b>	Last Name, First, Middle

<b>PERSONAL DETAILS OF THE CLERIC</b>	<b>Date of Birth</b>	Insert date	<b>Age</b>	00
	<b>Ordination</b>	Insert date	<b>Years of Ministry</b>	00
<b>ORIGINAL DIOCESE OF INCARDINATION</b>		Insert name of diocese		
<b>MINISTRY IN/TRANSFER TO OTHER DIOCESE</b>		e.g., Graduate studies (S.T.L.) at the Pontifical University, Rome (1995-1998)		
<b>CONTACT ADDRESS OF THE CLERIC</b>		Insert address		
<b>PROCURATOR</b> <i>(include original signed mandate)</i>		Insert name of procurator		
<b>CONTACT ADDRESS OF THE PROCURATOR</b>		Insert address		
<b>ASSIGNMENTS</b>				
<b>Year</b>	<b>Parish</b>	<b>Location</b>	<b>Appointment</b>	
1966-1970	Name of Parish A	City, State	Parochial Vicar	
1970-1975	Name of Parish B	City, State	Pastor	
1975-1998	Name of Parish C	City, State	Parochial Vicar	
2001	Convent LMN	City, State	Chaplain	
<b>ACCUSATIONS AGAINST THE CLERIC</b>				
<b>Year</b>	<b>Victim</b>	<b>Age</b>	<b>Imputable Acts</b>	<b>Denunciation</b>
1967	Name of Victim A	12	Kissing, fondling of genitals repeatedly while seeing student after class.	1975
1970	Name of Victim B	15	Single occasion of oral sex while sleeping together on a camping trip.	1970
1980	Name of Victim C	14	Massages and fondling of genitals; mutual masturbation in rectory.	2000
1998-2001	Name of Victim	18-21	Homosexual relationship after priest and victim became friends.	2002

**CIVIL PROCEEDINGS AGAINST THE CLERIC**

Year	Type/Case	Conviction	Sentence (include copies of civil documents)
2002	Sexual abuse of minor (Name of Victim C)	yes	20 years incarceration
2003	Civil suit for damages	Pending	

**MEASURES ADOPTED BY THE DIOCESE**

Year	
1975	Priest advised to seek counseling to which he complied. Was assigned as Associate Pastor under supervision of Vicar Forane and Pastor.
2001	Priest placed on Administrative leave and sent for therapy at XYZ Center.
2001	Priest appointed resident chaplain to Convent LMN. Ministry not to be exercised outside of the convent.
2002	Priest is removed from office and faculties revoked by decree (c. 1722). He is told not to wear clerical attire, or to present himself as a priest. Priest makes hierarchical recourse. Personnel file is given to civil authorities. Priest is convicted and sentenced to 20 years incarceration.
2003	Bishop remands case to the Congregation for the Doctrine of the Faith.

**SUSTENANCE PROVIDED BY THE DIOCESE TO THE CLERIC**

Health care benefits, housing, food, and a monthly stipend were secured for the cleric. No financial harm was suffered due to the mere allegation of inappropriate behavior.

**RESPONSE/RECOURSE MADE BY THE CLERIC**

Year	
1970, 1975	Priest denies accusations saying students had a grudge against him.
2001	Admitted accusation of 2000 during therapy at XYZ Center (released psychological report attached). Accepted limited ministry as convent chaplain.
2003	Sought hierarchical recourse against removal from office, claiming his relationship with (name of Victim D) does not fall under the provisions of SST and that his prior delict is subject to prescription. Fr. JKL was appointed as his canonical advocate.

**BISHOP'S VOTUM**

(Cf. Appendix 27 of documentation) Given the overwhelming evidence of probable guilt, and the scandal occasioned by extensive press coverage of Fr. ABCD's case, I would ask that a derogation from prescription be granted in this case.

## C. SAMPLE FORMULARIES

### Formulary 1. Decree Opening the Preliminary Investigation

#### DECREE

In the name of God.

On [date], I, the undersigned Bishop of the Diocese of \_\_\_\_\_, received a complaint against the Reverend \_\_\_\_\_, a priest of this diocese, alleging that he had committed an act of sexual abuse of minor below the age of eighteen years in violation of the norm of *Sacramentorum sanctitatis tutela*, art. 4. Following an initial review of the allegation, I have found that it is neither manifestly frivolous nor false. Rather, I have determined that the allegation carries with it the semblance of truth.

Accordingly, I hereby decree that a preliminary investigation is to be conducted in conformity with the provisions of universal and particular law (*CIC* cc. 1717ff [*CCEO*, cc. 1468ff]; *USCCB Essential Norms*, n. 6). During this investigation, elements are to be gathered to assist in determining whether or not Reverend \_\_\_\_\_ may have committed the canonical crime alleged, and if so, to what extent he was legally responsible (imputable) for it.

The investigation will be conducted promptly and objectively. Moreover, the right of all persons to a good reputation will be maintained assiduously throughout the process (*CIC*, c. 220 [*CCEO*, c. 23]).

Given at the Chancery, on the [date]

Signed: [Bishop]

Signed: [Notary]

*SEAL*

## Formulary 2. Appointment of the Investigator

Dear Father [Mr., etc.] \_\_\_\_\_,

On [date], I received a complaint against the Reverend \_\_\_\_\_, a priest of this diocese, alleging that he had committed an act of sexual abuse of minor below the age of eighteen years in violation of the norm of *Sacramentorum sanctitatis tutela*, art. 4. I subsequently determined that the allegation does, in fact, have the semblance of truth concerning what it asserts.

For the sake of the public good and to bring just resolution to the complaint brought against the Reverend \_\_\_\_\_, it is important that further investigation into the allegation take place in an objective and prompt fashion. To that end, I have decreed that a preliminary investigation is to be conducted in accord with the norm of law. With this letter, then, I commit to you the task of conducting the canonical investigation. Your objective is to obtain elements indicating whether or not there is any basis for the accusation.

In performing your task, you will enjoy the powers of an auditor. I ask that you keep me informed regularly on the progress of the investigation. I also ask that, at the conclusion of the investigation, you provide a summary report to me of the elements gathered. Please also provide your own opinion on whether or not it appears that the Reverend \_\_\_\_\_ did commit the canonical crime of which he has been accused, and if so, as to what extent he was legally responsible (imputable) for it.

Throughout the preliminary investigation, all must remain aware that the allegation lodged against the Reverend \_\_\_\_\_ does not remove or weaken his natural right to a good reputation (*CIC*, c. 220 [*CCEO*, c. 23]). Consequently, the investigation should never cause illegitimate harm to his right by giving the impression that the investigation indicates guilt concerning the allegation. Accordingly, please make everyone contacted during your investigation aware that neither the allegation nor your investigation should cause suspicion to arise that the accused has, in fact, committed the alleged canonical crime.

Your task, although neither easy nor pleasant, is an important duty to protect those most vulnerable among us as well as to maintain the public trust placed in ecclesiastical authority. I thank you for your assistance.

Signed: [Bishop]

Signed: [Notary]

[Date]

*SEAL*

### Formulary 3. Decree Closing the Preliminary Investigation

- a. **With no referral** to the Congregation for the Doctrine of the Faith

#### DECREE

In the name of God.

Whereas, on [date], I opened a preliminary investigation into an allegation lodged against the Reverend \_\_\_\_\_ concerning a possible violation of *Sacramentorum sanctitatis tutela*, art. 4, that is, sexual abuse of a minor below the age of eighteen years; and

Whereas, the investigation has been sufficiently instructed to enable me to make a prudent and objective evaluation regarding the matter;

I hereby decree and declare, in conformity with the norm of law (*CIC*, c. 1718 [*CCEO*, c. 1469]), the conclusion of the preliminary investigation.

Further, having weighed the elements gathered by the duly appointed investigator, along with his own opinion about the matter, and having heard experts in the law and others possessing expertise concerning these issues, including the Diocesan Review Board (*USCCB Essential Norms* n. 4a), I find and declare that the allegation lodged against the Reverend \_\_\_\_\_ to be manifestly false [or frivolous]. Motives for this conclusion are contained in the acts of the preliminary investigation.

Wherefore, by this decree I direct that no further action be taken and that the documents, proofs, and decrees of this preliminary investigation be maintained in accord with the provisions of ecclesiastical law (*CIC*, c. 1719 [*CCEO*, c. 1470]). Moreover, every step possible must be taken to restore the good name of the Reverend \_\_\_\_\_ should it have been illegitimately harmed due to the accusation or the subsequent investigation into it (*USCCB Essential Norms* n. 13). This may include publication of this decree in an appropriate manner and place.

A petition for revocation or emendation of this decree is to be made to its author by one legitimately capable of doing so within the peremptory time period of ten (10) useful days. Recourse is subject to the applicable canons (*CIC*, cc. 1732-1739 [*CCEO*, cc. 996-1006]).

Given at the Chancery, on the [date]

Signed: [Bishop]

Signed: [Notary]

*SEAL*

b. **With referral** to the Congregation for the Doctrine of the Faith

**DECREE**

In the name of God.

Whereas, on [date], I opened a preliminary investigation into an allegation lodged against the Reverend \_\_\_\_\_ concerning a possible violation *Sacramentorum sanctitatis tutela*, art. 4, that is, sexual abuse of a minor below the age of eighteen years; and

Whereas, the investigation has been sufficiently instructed to enable me to make a prudent and objective evaluation regarding the matter;

I hereby decree and declare, in conformity with the norm of law (*CIC*, c. 1718 [*CCEO*, c. 1469]), the conclusion of the preliminary investigation.

Further, having weighed the elements gathered by the duly appointed investigator, along with his own opinion about the matter, and having heard experts in the law and others possessing expertise concerning these issues, including the Diocesan Review Board (*USCCB Essential Norms* n. 4a), I find and declare that the allegation lodged against the Reverend \_\_\_\_\_ does not appear to be manifestly false [or frivolous]. Motives for this conclusion are contained in the acts of the preliminary investigation.

Wherefore, by this decree I direct that the acts of the preliminary investigation, together with my own *votum* concerning the matter, be referred to the Congregation for the Doctrine of the Faith as mandated by the norm of universal law (*Sacramentorum sanctitatis tutela*, art. 13).

Given at the Chancery, on the [Date]

Signed: [Bishop]

Signed: [Notary]

*SEAL*

**Formulary 4 . Decree Imposing the Precautionary Measures of c. 1722 (administrative leave)**

**DECREE**

In the name of God.

Whereas on [date], I, the undersigned Bishop of the Diocese of \_\_\_\_\_, decreed the close of the preliminary investigation of an allegation lodged against the Reverend \_\_\_\_\_ for an alleged violation of the provisions of *Sacramentorum sanctitatis tutela*, art. 4, that is, sexual abuse of a minor by a cleric; and

Whereas I did then direct that the acts of the preliminary investigation, together with my own *votum* regarding the matter, be referred to the Congregation for the Doctrine of the Faith in accordance with the provisions of *Sacramentorum sanctitatis tutela*, art. 13; and

Whereas the Promoter of Justice, having received the acts of the preliminary investigation, has been heard regarding the possible imposition of the precautionary measure of *CIC*, c. 1722 [*CCEO*, 1473]; and

Whereas the Reverend \_\_\_\_\_, cited on [Date], has been afforded the opportunity to advance his own opinion regarding the imposition of the same precautionary measures;

I hereby decree, to prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, that the restrictions listed below, and as provided for in *CIC*, c. 1722 [*CCEO*, c. 1473], be imposed upon Reverend \_\_\_\_\_, effective immediately; namely, that he:

1. is excluded from the sacred ministry;
2. is excluded from the office of \_\_\_\_\_ and the ecclesiastical function of \_\_\_\_\_;
3. is to reside [is not to reside] in \_\_\_\_\_;
4. is not to have a public participation in the Most Holy Eucharist.

*[Note: Some or all of the above may be indicated in the decree of the ordinary.]*

Moreover, in accordance with the provisions of *CIC*, c. 284 [*CCEO*, c. 387], for his own good and the good of the Church, he is dispensed from the obligation to wear clerical attire.

Further, I hereby direct the [appropriate diocesan authority] to ensure that sufficient provisions are made for the support of the Reverend \_\_\_\_\_ during the time in which this decree remains in effect.

In accord with the norm of law (*CIC*, c. 1722 [*CCEO*, 1473]), this decree shall cease either when revoked by the competent ecclesiastical authority or, by the law itself, at the conclusion of the penal process.

Given at the Chancery, on the [Date]

Signed: [Bishop]  
Signed: [Notary]

*SEAL*

**Formulary 5. Decree Imposing a Precept During Preliminary Investigation (prior to use of *CIC*. 1722 [*CCEO*, c. 1473])**

**PRECEPT**

In the name of God.

On [date], a complaint was lodged against you, the Reverend \_\_\_\_\_, alleging that you committed a delict in contravention of *Sacramentorum sanctitatis tutela*, art. 4, that is, the sexual abuse of a minor under the age of eighteen years. After thoughtful consideration of the allegation, I determined that it was not manifestly false or frivolous. Accordingly, on [date], I decreed that a preliminary investigation into the matter was to begin.

In light of the circumstances surrounding this serious matter, and with due regard for the pastoral needs of this Christian community, in virtue of the authority specified in *CIC*, c. 381 §1 [*CCEO*, c. 178], and in accord with the provisions of *CIC* c. 49 [*CCEO*, c. 1510 § 2, 2°], I, the Most Reverend \_\_\_\_\_, Bishop of \_\_\_\_\_, hereby bind you, the Reverend \_\_\_\_\_ with the following specific obligations:

1. To refrain from contact with persons under the age of eighteen (18) years [unless in the presence of an adult, etc.];
2. To refrain from any contact with persons having lodged the above mentioned complaint, with members of their families, and with all persons who might reasonably serve as witnesses to the matter; and to refrain in any other way from obstructing the preliminary investigation itself;
3. To reside in \_\_\_\_\_;
4. To refrain from public celebration of the sacraments and public exercise of ecclesiastical office.

*[Note: Some or all of the above may be indicated in the decree of the ordinary. Other similar matters may also be listed in such a precept.]*

Given the seriousness of the allegations of sexual abuse of a minor, which is a canonical crime, the provisions of this precept are both necessary and prudent pending the full investigation and resolution of this matter. At the same time, this precept should in no way be construed as a judgement of guilt concerning the allegation. Rather, the precept is a temporary measure intended to protect the rights and reputations of all involved, as well as to avoid any scandal to the Christian faithful.

The gravity of this matter requires me to state further that failure to observe the provisions of this precept shall be deemed a violation of *CIC*, c. 1371, 2° [*CCEO*, 1446], and so may render you liable to a just ecclesiastical penalty. Accordingly, this precept itself stands as due canonical warning of the same.

A petition for revocation or emendation of this decree is to be made to its author by one legitimately capable of doing so within the peremptory time period of ten (10) useful days. Recourse is subject to the applicable canons (*CIC*, cc. 1732-1739 [*CCEO*, 996-1006]).

Given at the Chancery, on the [Date]

Signed: [Bishop]  
Signed: [Notary]

*SEAL*



## APPENDIX

Litteræ Apostolicæ Motu Proprio Datæ\*\*\*\*\*  
quibus Normæ de gravioribus delictis  
Congregationi pro Doctrina Fidei Reservatis promulgantur  
Apostolic Letter Issued Motu Proprio\*\*\*\*\*  
by which are promulgated Norms on more grave delicts reserved  
to the Congregation for the Doctrine of the Faith

SACRAMENTORUM SANCTITATIS TUTELA, SS.mæ Eucharistiæ maxime et Pænitentiae, necnon fidelium in sortem Domini vocatorum præservatio in observantia sexti Decalogi præcepti, postulant ut ad salutem animarum procurandam, «quæ in Ecclesia suprema semper lex esse debet» (Codex Iuris Canonici, can. 1752), ipsa Ecclesia sua pastoralis sollicitudine interveniat ad præcavenda violationis pericula.

Iam inde a Prædecessoribus nostris per opportunas Apostolicas Constitutiones sanctitati sacramentorum, præsertim Pænitentiae, provisum est, sicut Benedicti Papæ XIV Constitutione *Sacramentum Poenitentiae*, die 1 mensis iunii anno 1741,<sup>1</sup> edita; itemque canones Codicis Iuris Canonici anno 1917 promulgati, cum eorum fontibus, quibus sanctiones canonicæ contra huius speciei delicta statutæ fuerant, eundem scopum persequerentur.<sup>2</sup>

Recentiore tempore ut ab his et conexas delictis præcaveatur, Suprema Sacra Congregatio Sancti Officii per Instructionem, incipientem a verbis Crimen sollicitationis, ad omnes Patriarchas, Archiepiscopos, Episcopos aliosque locorum Ordinarios «etiam Ritus Orientalis» directam die 16 mensis martii anno 1962, modum procedendi hisce in causis statuit, quippe quæ in ipsis iudicialis competentia, sive per viam administrativam, sive per viam processualem, exclusive tributa erat. In mente retinendum est quod huiusmodi Instructio vim legis habebat, cum Summus Pontifex, ad normam can. 247, § 1 Codicis Iuris Canonici anno 1917 promulgati, præerat Sancti Officii Congregationi et de sua ipsius auctoritate Instructio procedebat, Cardinale pro tempore existente tantum Secretarii munere fungente.

Felicis recordationis Summus Pontifex Paulus Papa VI competentiam iudicalem et administrativam in procedendo «secundum suas emendatas et probatas normas» confirmavit per Constitutionem Apostolicam de Romana Curia Regimini Ecclesiæ Universæ, die 15 mensis augusti anno 1967 editam.<sup>3</sup>

Denique, Nostra qua pollemus auctoritate, in Constitutione Apostolica Pastor bonus, die 28 mensis iunii anno 1988 promulgata, expresse statuimus: «Delicta contra fidem necnon graviora delicta tum contra mores tum in sacramentorum celebratione commissa, quæ ipsi delata

THE SAFEGUARDING OF THE SANCTITY OF THE SACRAMENTS, especially the Most Holy Eucharist and Penance, and the keeping of the faithful, called to communion with the Lord, in their observance of the sixth commandment of the Decalogue, demand that the Church itself, in her pastoral solicitude, intervene to avert dangers of violation, so as to provide for the salvation of souls “which must always be the supreme law in the Church” (CIC, can. 1752).

Indeed, Our Predecessors already provided for the sanctity of the sacraments, especially penance, through appropriate Apostolic Constitutions such as the Constitution *Sacramentum Poenitentiae*, of Pope Benedict XIV, issued June 1, 1741;<sup>1</sup> the same goal was likewise pursued by a number of canons of the *Codex Iuris Canonici*, promulgated in 1917 with their *fontes* by which canonical sanctions had been established against delicts of this kind.<sup>2</sup>

In more recent times, in order to avert these and connected delicts, the Supreme Sacred Congregation of the Holy Office, through the Instruction *Crimen sollicitationis*, addressed to all Patriarchs, Archbishops, Bishops, and other local Ordinaries “even of the Oriental Rite” on March 16, 1962, established a manner of proceeding in such cases, inasmuch as judicial competence had been attributed exclusively to it, which competence could be exercised either administratively or through a judicial process. It is to be kept in mind that an Instruction of this kind had the force of law since the Supreme Pontiff, according to the norm of can. 247, §1 of the *Codex Iuris Canonici* promulgated in 1917, presided over the Congregation of the Holy Office, and the Instruction proceeded from his own authority, with the Cardinal at the time only performing the function of Secretary.

The Supreme Pontiff, Pope Paul VI, of happy memory, by the Apostolic Constitution on the Roman Curia, *Regimini Ecclesiæ Universæ*, issued on August 15, 1967, confirmed the Congregation’s judicial and administrative competence in proceeding “according to its amended and approved norms.”<sup>3</sup>

Finally, by the authority with which we are invested, in the Apostolic Constitution, *Pastor Bonus*, promulgated on June 28, 1988, we expressly established, “[The Congregation for the Doctrine of the Faith] examines delicts against the faith and more grave delicts whether against morals or committed

\*\*\*\*\* April 30, 2001, in AAS, 93 (2001), pp. 737-739.

\*\*\*\*\* This unofficial translation is based on a translation of the *motu proprio* by the USCCB and revised by Joseph R. Punderson and Charles J. Scicluna. The translations of the canons of the CIC and the CCEO are from the translations published by the Canon Law Society of America in 1999 and 2001 respectively.

fuerint, [Congregatio pro Doctrina Fidei] cognoscit atque, ubi opus fuerit, ad canonicas sanctiones declarandas aut irrogandas ad normam iuris, sive communis sive proprii, procedit»,<sup>4</sup> ulterius confirmando et determinando iudicalem eiusdem Congregationis pro Doctrina Fidei competentiam tamquam Tribunalis Apostolici.

Approbata a Nobis Agendi ratione in doctrinarum examine,<sup>5</sup> necesse quidem erat pressius definire sive «graviora delicta tum contra mores tum in sacramentorum celebratione commissa», pro quibus competentia Congregationis pro Doctrina Fidei exclusiva manet, sive etiam normas processuales speciales «ad canonicas sanctiones declarandas aut irrogandas».

Hisce Nostris Litteris Apostolicis Motu Proprio datis hoc opus perfecimus ideoque per eas promulgamus Normas de gravioribus delictis Congregationi pro Doctrina Fidei reservatis, in duas partes distinctas, quarum prima continet Normas substantiales, secunda vero Normas processuales, mandando omnibus quorum interest ut studiose et fideliter servent. Ipsæ Normæ vim legis exserunt eadem die qua promulgatæ sunt.

Contrariis quibuscumque, etiam speciali mentione dignis, non obstantibus.

*Datum Romæ, apud Sanctum Petrum, die XXX mensis Aprilis, in memoria Sancti Pii V Papæ, anno XXXIII, Pontificatus Nostri vicesimo tertio.*

Ioannes Paulus PP. II

Pope John Paul II

<sup>1</sup> BENEDICT XIV. Constitution *Sacramentum Pœnitentiæ*, June 1, 1741, in *Codex Iuris Canonici*, prepared at the order of Pius X, Supreme Pontiff, promulgated by the authority of Pope Benedict XV, *Documenta*, Document V in AAS 9 (1917), Part II, 505-508.

<sup>2</sup> Cf. *Codex Iuris Canonici anno 1917 promulgatus*, cann. 817; 2316; 2320; 2322; 2368, §1; 2369, §1.

<sup>3</sup> Cf. POPE PAUL VI, Apostolic Constitution *Regimini Ecclesiae Universae*, On the Roman Curia, August 15, 1967, n. 36, AAS, 59 (1967), p. 898.

<sup>4</sup> POPE JOHN PAUL II, Apostolic Constitution *Pastor bonus*, On the Roman Curia, June 28, 1988, art. 52, in AAS, 89 (1988), p. 874.

<sup>5</sup> CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Agendi ratio in doctrinarum examine*, June 29, 1997, in AAS, 89 (1997), pp. 830-835.

in the celebration of the sacraments, which have been referred to it and, whenever necessary, proceeds to declare or impose canonical sanctions according to the norm of both common or proper law,<sup>4</sup> thereby further confirming and determining the judicial competence of the same Congregation for the Doctrine of the Faith as an Apostolic Tribunal.

After we had approved the *Agendi ratio in doctrinarum examine*,<sup>5</sup> it was necessary to define more precisely both “the more grave delicts whether against morals or committed in the celebration of the sacraments” for which the competence of the Congregation for the Doctrine of the Faith remains exclusive, and also the special procedural norms “for declaring or imposing canonical sanctions.”

With this apostolic letter, issued *motu proprio*, we have completed this work and we hereby promulgate the *Norms concerning the more grave delicts reserved to the Congregation for the Doctrine of the Faith*, which Norms are divided in two distinct parts, of which the first contains *Substantive Norms*, and the second *Procedural Norms*. We therefore enjoin all those concerned to observe them diligently and faithfully. These Norms take effect on the very day when they are promulgated.

All things to the contrary, even those worthy of special mention, notwithstanding.

Given in Rome at St. Peter's on April 30, 2001, the memorial of Pope St. Pius V, in the twenty-third year of Our Pontificate.

## Pars Prima—Normæ Substantiales Part One—Substantive Norms<sup>1</sup>

Art. 1, §1. Congregatio pro Doctrina Fidei, ad normam art. 52 Constitutionis Apostolicæ *Pastor bonus*,<sup>6</sup> cognoscit delicta graviora tum contra mores tum in sacramentorum celebratione commissa atque, ubi opus fuerit, ad canonicas sanctiones declarandas aut irrogandas ad normam iuris, sive communis sive proprii, procedit, salva competentia Pænitentiarie Apostolicæ<sup>7</sup> et firma manente *Agendi ratione in doctrinarum examine*.<sup>8</sup>

§2. Delicta de quibus in §1 Congregatio pro Doctrina Fidei cognoscit ad normam articulorum qui sequuntur.

Art. 2, §1. Delicta contra sanctitatem augustissimi Eucharistiæ Sacrificii et sacramenti, Congregationi pro Doctrina Fidei cognoscendo reservata, sunt:

1° abductio vel retentio in sacrilegum finem, aut abiectio consecratarum specierum,<sup>9</sup> de quibus in can. 1367 Codicis Iuris Canonici<sup>10</sup> et in can. 1442 Codicis Canonum Ecclesiarum Orientalium;<sup>11</sup>

2° attentatio liturgicæ eucharistici Sacrificii actionis, de qua in can. 1378 §2, n. 1 in Codicis Iuris Canonici,<sup>12</sup> vel eiusdem simulatio, de qua in can. 1379 Codicis Iuris Canonici<sup>13</sup> et in can. 1443 Codicis Canonum Ecclesiarum Orientalium;<sup>14</sup>

3° vetita in can. 908 Codicis Iuris Canonici<sup>15</sup> et in can. 702 Codicis Canonum Ecclesiarum Orientalium<sup>16</sup> eucharistici Sacrificii concelebratio, de qua in can. 1365 Codicis Iuris Canonici<sup>17</sup> et in can. 1440 Codicis Canonum Ecclesiarum Orientalium,<sup>18</sup> una cum ministris communitatum ecclesialium, qui successionem apostolicam non habent nec agnoscunt ordinationis sacerdotalis sacramentalem dignitatem.

§2. Congregationi pro Doctrina Fidei reservatum quoque delictum quod consistit in consecratione in sacrilegum finem alterius materiae sine altera in eucharistica celebratione, aut etiam utriusque extra eucharisticam celebrationem.<sup>19</sup> Qui hoc delictum patriverit, pro gravitate criminis puniatur, non exclusa dimissione vel depositione.

Art. 3. Delicta contra sanctitatem sacramenti Pænitentiae, Congregationi pro Doctrina Fidei cognoscendo reservata, sunt:

1° absolutio complicitis in peccato contra sextum Decalogi præceptum, de qua in can. 1378, §1 Codicis Iuris Canonici<sup>20</sup> et in can. 1457 Codicis Canonum Ecclesiarum Orientalium;<sup>21</sup>

2° sollicitatio in actu vel occasione vel prætextu confessionis ad peccatum contra sextum Decalogi præceptum, de qua in can. 1387 Codicis Iuris Canonici<sup>22</sup> et in can. 1458 Codicis Canonum Ecclesiarum Orientalium,<sup>23</sup> si ad peccandum cum ipso confessario dirigitur;

3° violatio directa sigilli sacramentalis, de qua in can. 1388, §1 Codicis Iuris Canonici<sup>24</sup> et in can. 1456, §1 Codicis Canonum Ecclesiarum Orientalium.<sup>25</sup>

Art. 4, §1. Reservatio Congregationi pro Doctrina Fidei extenditur quoque ad delictum contra sextum Decalogi

Art. 1, §1. The Congregation for the Doctrine of the Faith, according to the norm of art. 52 of the Apostolic Constitution *Pastor Bonus*,<sup>6</sup> judges more grave delicts whether against morals or committed in the celebration of the sacraments, and, whenever necessary, proceeds to declare or impose canonical sanctions according to the norm of both common and proper law, without prejudice to the competence of the Apostolic Penitentiary<sup>7</sup> and with *Agendi ratio in doctrinarum examine*<sup>8</sup> remaining in force.

§2. The Congregation for the Doctrine of the Faith judges the delicts mentioned in §1 according to the norms which follow.

Art. 2, §1. The delicts against the sanctity of the Most Holy Sacrifice and Sacrament of the Eucharist, reserved to the Congregation for the Doctrine of the Faith for judgment are:

1° the taking or retaining for a sacrilegious purpose, or the throwing away of the consecrated species<sup>9</sup> mentioned in can. 1367 of the Code of Canon Law<sup>10</sup> and in can. 1442 of the Code of Canons of the Eastern Churches;<sup>11</sup>

2° attempting the liturgical offering of the Eucharistic Sacrifice mentioned in can. 1378, §2, n. 1, of the Code of Canon Law,<sup>12</sup> or the simulation of the same, mentioned in can. 1379 of the Code of Canon Law<sup>13</sup> and in can. 1443 of the Code of Canons of the Eastern Churches;<sup>14</sup>

3° the concelebration of the Eucharistic Sacrifice prohibited in can. 908 of the Code of Canon Law<sup>15</sup> and in can. 702 of the Code of Canons of the Eastern Churches,<sup>16</sup> mentioned in can. 1365 of the Code of Canon Law<sup>17</sup> and in can. 1440 of the Code of Canons of the Eastern Churches,<sup>18</sup> with ministers of ecclesial communities, which do not have apostolic succession and do not acknowledge the sacramental dignity of priestly ordination.

§ 2. Also reserved to the Congregation for the Doctrine of the Faith is the delict which consists in the consecration for a sacrilegious purpose of one matter without the other in a Eucharistic celebration, or even of both outside of the Eucharistic celebration.<sup>19</sup> One who has perpetrated this delict is to be punished according to the gravity of the crime, not excluding dismissal or deposition.

Art. 3. The delicts against the sanctity of the sacrament of Penance reserved to the Congregation for the Doctrine of the Faith for judgement are:

1° the absolution of an accomplice in a sin against the sixth commandment of the Decalogue, mentioned in can. 1378, § 1, of the Code of Canon Law<sup>20</sup> and in can. 1457 of the Code of Canons of the Eastern Churches;<sup>21</sup>

2° the solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, mentioned in can. 1387 of the Code of Canon Law<sup>22</sup> and in can. 1458 of the Code of Canons of the Eastern Churches,<sup>23</sup> if it is directed to sinning with the confessor himself.

3° the direct violation of the sacramental seal, mentioned in can. 1388, §1, of the Code of Canon Law<sup>24</sup> and in can. 1456, §1, of the Code of Canons of the Eastern Churches.<sup>25</sup>

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<sup>1</sup>The Congregation for the Doctrine of the Faith granted permission to print the *Normæ substantiales* and the *Normæ processuales*.

The translation of the Norms is by Gregory Ingels, as revised by Joseph R. Punderson and Charles J. Scicluna. The translations of the canons of the *CIC* and the *CCEO* are from the translations published by the Canon Law Society of America in 1999 and 2001 respectively.

præceptum cum minore infra ætatem duodeviginti annorum a clerico commissum.

§2. Qui delictum de quo in §1 pataverit, pro gravitate criminis puniatur, non exclusa dimissione vel depositione.

Art. 5, §1. Actio criminalis de delictis Congregationi pro Doctrina Fidei reservatis præscriptione extinguitur decennio<sup>26</sup>.

§2. Præscriptio decurrit ad normam can. 1362, §2 Codicis Iuris Canonici<sup>27</sup> et can 1152, §3 Codicis Canonum Ecclesiarum Orientalium.<sup>28</sup> In delicto autem, de quo in art. 4, §1, præscriptio decurrere incipit a die quo minor duodevicesimum ætatis annum explevit.

Art. 4, § 1. Reservation to the Congregation for the Doctrine of the Faith is also extended to a delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.

§ 2. One who has perpetrated the delict mentioned in §1 is to be punished according to the gravity of the offense, not excluding dismissal or deposition.

Art. 5, §1. Criminal action for delicts reserved to the Congregation for the Doctrine of the Faith is extinguished by prescription after ten years<sup>26</sup>.

§2. Prescription runs according to the norm of can. 1362, § 2, of the Code of Canon Law<sup>27</sup> and can. 1152, § 3, of the Code of Canons of the Eastern Churches<sup>28</sup>. However, in the delict mentioned in art. 4, §1, prescription begins to run from the day on which the minor completes the eighteenth year of age.

## Pars Altera—Normæ Processuales Part Two—Procedural Norms

### Titulus I De Tribunali constitutione et competentia

Art. 6, §1. Congregatio pro Doctrina Fidei est Supremum Tribunal Apostolicum pro Ecclesia Latina necnon pro Ecclesiis Orientalibus Catholicis ad cognoscenda delicta articulis præcedentibus definita.

§2. Hoc Supremum Tribunal cognoscit etiam alia delicta, de quibus reus a Promotore Iustitiæ accusatur ratione conexione personæ et complicitatis.

§3. Sententiæ huius Supremi Tribunalis, latæ intra limites propriæ competentiæ, Summi Pontificis approbationi non subiciuntur.

Art. 7, §1. Iudices huius Supremi Tribunalis sunt ipso iure Patres Congregationis pro Doctrina Fidei.

§2. Patrum collegio, primus inter pares, præest Congregationis Præfectus et, munere Præfecti vacante aut ipso Præfecto impedito, eius munera explet Congregationis Secretarius.

§3. Præfecti Congregationis est nominare iudices stabiles vel deputatos.

Art. 8. Iudices nominati sacerdotes sint oportet, maturæ ætatis, laurea doctorali in iure canonico præditi, bonis moribus, prudentia et iuris peritia præclari, licet munus iudiciale vel consultivum apud aliud Dicasterium Romanæ Curiae simul exercent.

Art. 9. Ad accusationem exhibendam et sustinendam Promotor Iustitiæ constituitur, qui sit sacerdos, laurea doctorali in iure canonico præditus, bonis moribus, prudentia et iuris peritia præclarus, qui officium suum in omnibus iudicii gradibus expleat.

Art. 10. Ad munera Notarii et Cancellarii, deputantur sacerdotes, sive huius Congregationis Officiales sive externi.

Art. 11. Advocati et Procuratoris munere fungitur sacerdos, laurea doctorali in iure canonico præditus, qui a Præsidente collegii adprobatur.

Art. 12. In aliis Tribunalibus vero, pro causis de quibus in his normis, munera Iudicis, Promotoris Iustitiæ, Notarii atque Patroni tantummodo sacerdotes valide explere possunt.

Art. 13. Quoties Ordinarius vel Hierarcha notitiam saltem verisimilem habeat de delicto reservato, investigatione prævia peracta, eam significet

### Title I

### The Constitution and Competence of the Tribunal

Art. 6, §1. §1. The Congregation for the Doctrine of the Faith is the Supreme Apostolic Tribunal for the Latin Church and for the Eastern Catholic Churches for the judgement of the delicts defined in the preceding articles.

§2. This Supreme Tribunal also judges other delicts of which a defendant is accused by the Promoter of Justice by reason of connection of person and complicity.

§3. The sentences of this Supreme Tribunal, rendered within the limits of its proper competence, do not need to be submitted for the approval of the Supreme Pontiff.

Art. 7, §1. The Members of the Congregation for the Doctrine of the Faith are by the law itself judges of this Supreme Tribunal.

§2. The Prefect of the Congregation presides as first among equals over the college of the Members, and if the office of Prefect is vacant or if the Prefect himself is impeded, the Secretary of the Congregation carries out those duties of the Prefect.

§3. It pertains to the Prefect of the Congregation to appoint [other] judges, whether permanent (*stabiles*) or delegated (*deputatos*).

Art. 8. It is necessary that such appointed judges be priests, of mature age, possessing a doctorate in canon law, outstanding in good morals, prudence and expertise in the law. Such priests may at the same time exercise a judicial or consultative function before another Dicastery of the Roman Curia.

Art. 9. To present or sustain an accusation a Promoter of Justice is to be appointed, who is to be a priest, possessing a doctorate in canon law, outstanding in good morals, prudence and expertise in the law. He is to carry out his office in all grades of judgment.

Art. 10. For the functions of Notary and Chancellor, priests are appointed, whether or not they Officials of this Congregation.

Art. 11. The role of Advocate and Procurator is carried out by a priest, possessing a doctorate in canon law. He is to be approved by the Presiding Judge of the college.

Art. 12. Indeed, in the other Tribunals dealing with cases under these Norms, only priests can validly carry out the functions of Judge, Promoter of Justice, Notary, and Patron [Procurator and Advocate].

Art. 13. Whenever the Ordinary or Hierarch receives a report of a reserved delict which has at least a semblance of truth [*notitiam saltem verisimilem*], once the

Congregationi pro Doctrina Fidei quæ, nisi ob peculiaria rerum adiuncta causam sibi advocet, Ordinarium vel Hierarcham ad ulteriora procedere iubet, firmo tamen iure appellandi contra sententiam primi gradus tantummodo ad Supremum Tribunal eiusdem Congregationis.

Art. 14. Si casus ad Congregationem directe deferatur, investigatione prævia haud peracta, munera processui præliminaria, quæ iure communi ad Ordinarium vel Hierarcham spectant, ab ipsa Congregatione adimplentur.

Art. 15. Firmo iure Ordinarii imponendi quæ in can. 1722 Codicis Iuris Canonici<sup>29</sup> vel in can. 1473 Codicis Canonum Ecclesiarum Orientalium<sup>30</sup> statuuntur, etiam Præses Tribunalis pro turno, ad instantiam Promotoris Iustitiæ, eandem habet potestatem sub iisdem condicionibus in ipsis canonibus determinatis.

Art. 16. Supremum Tribunal Congregationis pro Doctrina Fidei iudicat in secunda instantia:

1° causas a Tribunalibus inferioribus in prima instantia iudicatas;

2° causas ab eodem Supremo Tribunali Apostolico in prima instantia definitas.

## Titulus II De ordine iudiciario

Art. 17. Delicta graviora Congregationi pro Doctrina Fidei reservata, nonnisi in processu iudicali perseguenda sunt.

Art. 18. Præfectus Turnum trium vel quinque iudicum ad causam cognoscendam constituat.

Art. 19. Si in gradu appellationis Promotor Iustitiæ accusationem specificè diversam afferat, hoc Supremum Tribunal potest, tamquam in prima instantia, illam admittere et de ea iudicare.

Art. 20, §1. In causis ob delicta, de quibus in art. 3, Tribunal nomen denuntiantis sive accusato sive etiam eius Patrono significare non potest, nisi denuntians expresse consenserit.

§2. Idem Tribunal perpendere debet peculiare momentum circa denuntiantis credibilitatem.

§3. Animadvertendum tamen est ut quodvis periculum violandi sigillum sacramentale omnino vitetur.

Art. 21. Si quæstio incidens exoriatur, Collegium per decretum rem expeditissime definiat.

Art. 22, §1. Salvo iure ad hoc Supremum Tribunal appellandi, instantia apud aliud Tribunal quovis modo finita, omnia acta causæ ad Congregationem pro Doctrina Fidei ex officio quam primum trasmittantur.

§2. Promotoris Iustitiæ Congregationis ius sententiam impugnandi decurrit a die qua sententia primæ instantiæ ipsi Promotori nota facta sit.

Art. 23. Res iudicata habetur:

1° Si sententia in secunda instantia prolata fuerit;

2° si appellatio adversus sententiam non fuerit intra mensem proposita;

3° si, in gradu appellationis, instantia perempta sit vel eidem renuntiatum fuerit;

4° Si lata fuerit sententia ad normam art 16.

preliminary investigation has been completed, he is to communicate the matter to the Congregation for the Doctrine of the Faith which, unless it calls the case to itself due to particular circumstances, will direct the Ordinary or Hierarch [how] to proceed further, with due regard, however, for the right to appeal against a sentence of the first instance only to the Supreme Tribunal of the same Congregation.

Art. 14. If a case is referred directly to the Congregation without a preliminary investigation having been undertaken, the steps preliminary to the process, which fall by common law to the Ordinary or Hierarch, are carried out by the Congregation itself.

Art. 15. With due regard for the right of the Ordinary to impose those measures which are established in can. 1722 of the Code of Canon Law<sup>29</sup> or in can. 1473 of the Code of Canons of the Eastern Churches,<sup>30</sup> the respective Presiding Judge, may, at the request of the Promoter of Justice, exercise the same power under the same conditions determined in the canons themselves.

Art. 16. The Supreme Tribunal of the Congregation for the Doctrine of the Faith judges in second instance:

1° cases adjudicated in first instance by lower tribunals;

2° cases decided by the same Supreme Apostolic Tribunal in first instance.

## Title II The Procedure to be followed in the Judicial Trial

Art. 17. The more grave delicts reserved to the Congregation for the Doctrine of the Faith may only be tried in a judicial process.

Art. 18. The Prefect is to constitute a Turnus of three or five judges to try the case.

Art. 19. If in the appellate stage the Promoter of Justice brings forward a specifically different accusation, this Supreme Tribunal can admit it and judge it as if at first instance.

Art. 20, §1. In cases concerning the delicts mentioned in art. 3, the Tribunal cannot indicate the name of the accuser to either the accused or his Patron unless the accuser has expressly consented.

§2. The same Tribunal must consider the particular importance of the question concerning the credibility of the accuser.

§3. Nevertheless, it is to be observed that any danger of violating the sacramental seal must be completely avoided.

Art. 21. If an incidental question arises, the College is to decide the matter by decree as promptly as possible [*expeditissime*, cf. cann. 1629, n. 5° CIC; 1310, n. 5° CCEO].

Art. 22, §1. With due regard for the right to appeal to this Supreme Tribunal, once an instance has finished in any manner before another Tribunal, all of the acts of the case are to be transmitted *ex officio* as soon as possible to the Congregation for the Doctrine of the Faith.

§2. The right of the Promoter of Justice of the Congregation to challenge a sentence runs from the day on which the sentence of first instance is made known to this same Promoter.

Art. 23. A *res iudicata* occurs:

1° if a sentence has been rendered in second instance;

2° if an appeal against a sentence has not been proposed within a month;

Art. 24, §1. *Expensæ iudiciales solvantur prout sententia statuerit.*

§2. *Si reus expensas solvere non valeat, eadem solvantur ab Ordinario vel Hierarcha causæ.*

Art. 25, §1. *Huiusmodi causæ secreto pontificio subiectæ sunt.*<sup>31</sup>

§2. *Quicumque secretum violaverit, vel ex dolo aut gravi negligentia, accusato vel testibus aliud damnum intulerit, ad instantiam partis læsæ vel etiam ex officio, congruis poenis a Turno superiore puniatur.*

Art. 26. *Hiscæ in causis, una cum præscriptis harum normarum, quibus omnia Tribunalia Ecclesiæ Latinæ et Ecclesiarum Orientalium Catholicarum tenentur, canones quoque de delictis et poenis necnon de processu poenali utriusque Codicis applicandi sunt.*

3° if, in the appellate stage, the instance is abated or is renounced;

4° if the sentence has been rendered in accord with the norm of art. 16.

Art. 24, §1. *Judicial expenses are to be paid as the sentence has determined.*

§2. *If the defendant is not able to pay the expenses, they are to be paid by the Ordinary or Hierarchy of the case.*

Art. 25, §1. *Cases of this nature are subject to the pontifical secret.*<sup>31</sup>

§2. *Whoever has violated the secret, whether deliberately (ex dolo) or through grave negligence, and has caused some harm to the accused or to the witnesses, is to be punished with an appropriate penalty by the higher Turnus at the request of the injured party or even ex officio.*

Art. 26. *In these cases, together with the prescripts of these Norms, by which all Tribunals of the Latin Church and Eastern Catholic Churches are bound, also the canons concerning delicts and penalties as well as the canons concerning the penal process of each Code must be applied.*

<sup>6</sup> JOHN PAUL II, apostolic constitution *Pastor Bonus*, On the Roman Curia, June 28, 1988, art. 52, in AAS, 80 (1988), p. 874: “[The Congregation for the Doctrine of the Faith] examines delicts against the faith and more grave delicts whether against morals or committed in the celebration of the sacraments, which have been referred to it and, whenever necessary, proceeds to declare or impose canonical sanctions according to the norm of both common and proper law.”

<sup>7</sup> JOHN PAUL II, apostolic constitution *Pastor Bonus*, On the Roman Curia, June 28, 1988, art. 118, in AAS, 80 (1988), pp. 890: “For the internal forum, whether sacramental or non-sacramental, it grants absolutions, dispensations, commutations, sanations, condonations and other favors.”

<sup>8</sup> CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Agendi ratio in doctrinarum examine*, June 29, 1997, in AAS, 89 (1997), pp. 830-835.

<sup>9</sup> PONTIFICAL COUNCIL FOR THE INTERPRETATION OF LEGISLATIVE TEXTS, Response to a proposed doubt, June 4, 1999, in AAS, 91 (1999), p. 918:

D. Whether or not the word “*abdicere*” in canons 1367 CIC and 1442 CCEO should be understood only as the act of throwing away.

R. *Negative and ad mentem.*

The “*mens*” is that the word “*abdicere*” should be considered to include any voluntarily and gravely contemptuous action towards the Sacred

Species.

<sup>10</sup> *Code of Canon Law*, can. 1367 – A person who throws away the consecrated species or takes or retains them for a sacrilegious purpose incurs a *latae sententiae* excommunication reserved to the Apostolic See; moreover, a cleric can be punished with another penalty, not excluding dismissal from the clerical state.

<sup>11</sup> *Code of Canon Law*, can. 1367. A person who throws away the consecrated species or takes or retains them for a sacrilegious purpose incurs a *latae sententiae* excommunication reserved to the Apostolic See; moreover, a cleric can be punished with another penalty, not excluding dismissal from the clerical state.

<sup>12</sup> *Code of Canon Law*, can. 1378, § 2. The following incur a *latae sententiae* penalty of interdict or, if a cleric, a *latae sententiae* penalty of suspension: 1° a person who attempts the liturgical action of the Eucharistic sacrifice though not promoted to the sacerdotal order.

<sup>13</sup> *Code of Canon Law*, can. 1379. In addition to the cases mentioned in can. 1378, a person who simulates the administration of a sacrament is to be punished with a just penalty.

<sup>14</sup> *Code of Canons of the Eastern Churches*, can. 1443. A person who has simulated the celebration of the Divine Liturgy or other sacraments is to be punished with an appropriate penalty, not excluding a major excommunication.

<sup>15</sup> *Code of Canon Law*, can. 908 – Catholic priests are forbidden to concelebrate the Eucharist with priests or ministers of Churches or ecclesial communities which do not have full communion with the Catholic Church.

<sup>16</sup> *Code of Canons of the Eastern Churches*, can. 702. Catholic priests are forbidden to concelebrate the Divine Liturgy with non-Catholic priests or ministers.

<sup>17</sup> *Code of Canon Law*, can. 1365. A person guilty of prohibited participation in sacred rites (*communicatio in sacris*) is to be punished with a just penalty.

<sup>18</sup> *Code of Canons of the Eastern Churches*, can. 1440. A person who violates the norms of law concerning participation in sacred rites (*communicatio in sacris*) can be punished with an appropriate penalty.

<sup>19</sup> *Code of Canon Law*, can. 927. It is absolutely forbidden, even in extreme urgent necessity, to consecrate one matter without the other or even both outside the eucharistic celebration.

<sup>20</sup> *Code of Canon Law*, can. 1378, §1. A priest who acts against the prescript of can. 977 incurs a *latae sententiae* excommunication reserved to the Apostolic See.

<sup>21</sup> *Code of Canons of the Eastern Churches*, can. 1457. A priest who has absolved an accomplice in a sin against chastity is to be punished with a major excommunication, with due regard for canon 728, § 1, n. 2.

<sup>22</sup> *Code of Canon Law*, can. 1387. A priest who in the act, on the occasion, or under the pretext of confession solicits a penitent to sin against the sixth commandment of the Decalogue is to be punished, according to the gravity of the delict, by suspension, prohibitions, and privations; in graver cases he is to be dismissed from the clerical state.

<sup>23</sup> *Code of Canons of the Eastern Churches*, can. 1458. A priest who in the act, on the occasion, or under the pretext of confession, has solicited a penitent to sin against chastity, is to be punished with an appropriate penalty, not excluding deposition.

<sup>24</sup> *Code of Canon Law*, canon 1388, §1. A confessor who directly violates the sacramental seal incurs a *latae sententiae* excommunication reserved to the Apostolic See; one who does so only indirectly is to be punished according to the gravity of the delict.

<sup>25</sup> Code of Canons of the Eastern Churches, can. 1456, §1. A confessor who has directly violated the sacramental seal is to be punished with a major excommunication, with due regard for canon 728, § 1, n. 1; however, if he broke this seal in another manner, he is to be punished with an appropriate penalty.

<sup>26</sup> *Code of Canon Law*, can. 1362, §1. Prescription extinguishes a criminal action after three years unless it concerns:

1° delicts reserved to the Congregation for the Doctrine of the Faith . . .

Cf. *Code of Canons of the Eastern Churches*, can. 1152, § 2. A penal action is extinguished by prescription after three years, unless it is a question of:

1° delicts reserved to the Apostolic See ...

<sup>27</sup> *Code of Canon Law*, can. 1362, §2. Prescription runs from the day on which the delict was committed or, if the delict is continuous or habitual, from the day on which it ceased.

<sup>28</sup> Cf. *Code of Canons of the Eastern Churches*, can. 1152, § 3. Prescription runs from the day on which the delict was committed or, if the delict is continuous or habitual, from the day on which it ceased.

<sup>29</sup> *Code of Canon Law*, can. 1722. To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard the promoter of justice and cited the accused, at any stage of the process can exclude (*arcere*) the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even can prohibit public participation in the Most Holy Eucharist. Once the cause ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases.

<sup>30</sup> *Code of Canons of the Eastern Churches*, can. 1473. To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the hierarch, after having heard the promoter of justice and cited the accused, at any stage and grade of the penal trial can exclude (*arcere*) the accused from the exercise of sacred orders, an office, a ministry, or another function, can impose or forbid residence in some place or territory, or even can prohibit public reception of the Divine Eucharist. Once the cause ceases, all these measures must be revoked and they will end by the law itself when the penal trial ceases.

<sup>31</sup> SECRETARIAT OF STATE, Rescript from an Audience of the Holy Father *Il 4 febbraio*, by which the *Regolamento Generale della Curia Romana* is made public, April 30, 1999, *Regolamento Generale della Curia Romana*, April 30, 1999, art. 36, § 2, in AAS, 91 (1999), pp. 646: "With particular care, the pontifical secret will be observed, according to the norm of the Instruction *Secreta continere* of February 4, 1974."

THE SECRETARIAT OF STATE OR PAPAL SECRETARIAT, Rescript from an Audience, the Instruction *Secreta continere*, Concerning the Pontifical Secret, February 4, 1974, in AAS, 66 (1974), pp. 89-92:

"Art. 1. Included under the pontifical secret are: . . .

4. Extrajudicial denunciations received regarding delicts against faith and against morals, and regarding delicts perpetrated against the sacrament of Penance; likewise the trial and decision which pertain to those denunciations, with due regard for the right of the one who has been reported to the authorities to know of the denunciation, if such knowledge is necessary for his own defense. However, it will be permissible to make known the name of the denouncer only when it seems opportune to the authorities that the denounced person and the denouncer appear together in the trial; . . ." (p. 90).

***Questions and Answers Regarding the Canonical Process for the Resolution of Allegations of Sexual Abuse of Minors by Priests and Deacons***

**Q: Does the Church have its own laws against the sexual abuse of minors by members of the clergy?**

A: Yes, the Church has long had laws on the books that address this crime. Even before the majority of the Church laws were collected into a single code of laws (in 1917 and in 1983), sins against the Sixth Commandment with a minor were also considered criminal acts. From 1917 onwards, the Church promulgated concise legal norms that stated this and that imposed penalties on clergy that offended in this terrible way.

**Q: Which Church authority is responsible for addressing these offenses?**

A: In April 2001, Pope John Paul II issued a law stating that, from then on, the Congregation for the Doctrine of the Faith (CDF) in Rome, headed at the time by Cardinal Ratzinger, the future Pope Benedict XVI, would have sole Church authority over this crime. The Congregation for the Doctrine of the Faith is one of the offices that assist the Pope in fulfilling his mission as Supreme Pastor of the Catholic Church. Prior to 2001, the crime was generally to be dealt with on the local level by the diocesan bishop. The CDF would have been involved if the offense had occurred on the occasion of the celebration of the Sacrament of Penance (confession). Otherwise, the case would have gone for a second hearing (appeal from the diocese) to the Congregation for Clergy or the Tribunal of the Roman Rota, offices that assist the Pope, depending on how the allegation had been resolved on the local level.

**Q: What does canon law now require a bishop to do when he receives an allegation of sexual abuse of a minor committed by a cleric (priest or deacon)?**

A: The Code of Canon Law stipulates that the first steps after receipt of an allegation of the commission of an ecclesiastical crime are usually taken by the local bishop. If the priest against whom an allegation is brought is a member of a religious order, his superior might take the first steps instead. Any allegation that has the semblance of truth (it is not manifestly false or frivolous) undergoes what is referred to as a preliminary investigation. During the preliminary investigation, the accused enjoys the presumption of innocence and his good name must not be illegitimately harmed. According to the *Essential Norms*, which constitute law on sexual abuse of minors for the dioceses of the United States, the investigation should be conducted promptly and objectively. The *Essential Norms* also require the bishop to follow all civil reporting laws when the allegation concerns the sexual abuse of minors. Church officials are also to cooperate with civil authorities in their own investigations. Moreover, the bishop exercises his power of governance in other ways to make sure no harm comes to children during the phase of the preliminary investigation.

**Q: Does the Holy See become involved at this point?**

A: Usually not. The Congregation for the Doctrine of the Faith does have sole competence in resolving allegations of sexual abuse of minors committed by clerics. But this competence does



not yet “kick in.” The Congregation exercises its authority once a case is referred to it by the local bishop. The bishop makes the decision as to whether a case will be referred. In most instances, unless the allegation proves manifestly false, it must be reported to the Congregation. The *Essential Norms* require a bishop to report all cases to the CDF once he has sufficient evidence that the sexual abuse of a minor may have occurred. The Congregation would normally have knowledge of the accusation only when it is reported to the Congregation by the bishop or religious superior.

**Q: How does the preliminary investigation into the allegation take place?**

A: The bishop appoints an investigator. The investigator has the obligation and authority to collect the facts and circumstances surrounding the allegation so that the bishop can make a determination about its truthfulness and what further action he would recommend to the Congregation for the Doctrine of the Faith. The investigator often uses the expert services of others to assist with the investigation. In the United States, the bishop also makes use of the services of his Diocesan Review Board, a panel of experts, to help him review the allegation and associated information. The bishop and investigator are careful not to interfere with any civil investigation into the accusation that might take place. The investigator and others who assist in the investigation may be laypersons.

**Q: Does the bishop always report the case to the Congregation for the Doctrine of the Faith?**

A: The general rule is that all cases are referred to the Congregation. The exception, as noted above, would be when the allegation is manifestly false. In other words, if there is any semblance of truth at all to the allegation, the bishop seeks the intervention of the Congregation. If he is in doubt about the semblance of truth, he may seek the assistance of the Congregation to assist him in coming to a decision.

**Q: What happens after the bishop reports the results of the preliminary investigation to the CDF?**

A: The CDF will review the material and make a decision on what the next steps might be. The decision is based on the material gathered during the investigation and on the observations and recommendations of the bishop regarding the allegation and what might be a suitable way to address it. The next steps could include several options depending on what materials the CDF received. Among them, the CDF could authorize the bishop to hold a trial locally or to address the allegation through a simplified, administrative penal process. It could also hold a trial in Rome at the offices of the CDF. In the clearest and most egregious cases, the CDF could refer the matter to the Pope for immediate dismissal of the cleric (see below for more on this). It might also happen that more information is needed before a decision can be made. This would require the bishop to gather the information and forward it to the CDF. The CDF could also confirm, if the facts and circumstances warranted it, that there is not sufficient evidence of the commission of an ecclesiastical crime.

**Q: Is the priest or deacon still in ministry while all of this is being considered?**

A: No. A bishop may at any time withdraw a cleric from active ministry pending the outcome of an investigation of the allegation. This is done primarily to assure that children are not in danger should it prove true that the cleric had committed acts of abuse. At the same time, it must be emphasized again that the cleric enjoys the presumption of innocence. This should be made clear by the diocese to the public. If the allegation is unfounded, the bishop must strive to repair any illegitimate damage to the good reputation of the priest or deacon.

**Q: Does the Pope become involved in the consideration of how best to proceed with addressing an allegation?**

A: No. The CDF handles these cases. The Pope does not supervise the daily activities of the Congregation nor become involved in particular cases as they are being processed.

**Q: What does a sexual abuse trial look like when conducted under canon law?**

A: It is similar to criminal trials that take place in some European countries that follow a different legal tradition than that of the United States. Because of this, the canon law trial will not appear similar to those we might be familiar with in the United States. A panel of three judges hears the case. The accused has a canon lawyer to assist in his defense. The prosecutor is referred to as the “promoter of justice.” Tribunals in both a diocese and the CDF have promoters of justice. Witnesses are called to testify, including possible victims. The judges, rather than the canon lawyers, question the witnesses. Other forms of evidence are gathered, such as letters that might have been written. After this the defense canon lawyer and promoter of justice submit written arguments of their sides of the case. The judges then review the evidence carefully, deliberate together, and issue a verdict. If the finding is for guilt, the judges also impose a penalty (see below for types of Church penalties).

**Q: Is the verdict open to appeal?**

A: Yes. Once the tribunal issues its decision, the decision goes to the CDF. Both the verdict (whether for or against guilt) and penalty (if the verdict for guilt) may be appealed by either the accused or the promoter of justice of either the diocese or the CDF. If no appeal is lodged within a certain time frame, the sentence is final. If an appeal is lodged, another hearing of the case will take place by an appellate panel of judges. This may occur again at the CDF, or, with authorization of the CDF, at the local level.

**Q: Does the Pope have a role in hearing the appeal?**

A: No. The CDF has its own supreme tribunal. The Pope himself does not sit personally as a judge on the tribunal of the CDF. He has several judicial courts or tribunals that administer justice, one of which is the CDF tribunal. The decision of the CDF in an appeal of a judicial sentence is final.

**Q: Is a formal trial the only way that allegations of this crime can be resolved as a matter of canon law?**

A: No. In cases where the evidence of the possible commission of sexual abuse is stronger, the CDF might authorize what is called an *administrative penal process*. Here, unlike a judicial trial, the bishop himself makes the decision regarding the charges brought against the accused. He considers the evidence with the help of two persons called *assessors*. They are expert in canon law or some other discipline necessary for a thorough evaluation of the evidence. The accused also has the opportunity to offer a defense. The bishop then issues a decree with his decision and suggested penalty (if he finds for guilt). This decree is sent to the CDF for confirmation. The accused has the right to seek reconsideration of the outcome.

**Q: What Church penalty can be imposed for the crime of sexual abuse of minors?**

A: Catholic Church law provides a range of penalties for various crimes. For the sexual abuse of minors it provides for a just penalty that may include dismissal from the clerical state. In any event, according to the *Essential Norms*, in every case where a cleric admits to or is found guilty of the sexual abuse of minors he is permanently withdrawn from all public ministry. Nor may he present himself as a priest or deacon. Thus, even if a member of the clergy is not dismissed from the clerical state for having committed the crime of the sexual abuse of minors, his public ministry is still fully restricted in light of the gravity of the offense committed.

**Q: What does dismissal from the clerical state mean for the priest or deacon?**

A: The legal status of the priest or deacon changes. He now has the status of a lay person, not a cleric. He also has other restrictions placed on him that might not apply to other lay persons. So, for instance, a priest dismissed from the clerical state may no longer exercise priestly ministry, including saying Mass, present himself as a priest, use the title “Father” or “Reverend”, hold pastoral and teaching positions in the Church, and receive the income he did as a cleric.

**Q: Does the CDF ever ask the Pope to impose a penalty?**

A: Yes, in a very small subset of cases, where the guilt of the cleric is beyond doubt. This might occur, for instance, when the priest himself has confessed to this or been found guilty of the crime in a civil court of law. In the gravest cases, the CDF may request that the Pope dismiss the cleric “*ex officio*,” that is, without a first holding a trial or conducting another type of formal legal process. In such cases, the Pope himself issues a decree dismissing the priest or deacon from the clerical state. There is no appeal of this decision by the cleric.

**Q: Is dismissal from the clerical state the same thing as what is commonly called “laicization”?**

A: Dismissal from the clerical state is a permanent penalty imposed in response to the commission of an ecclesiastical crime. A priest or deacon can also lose the clerical state voluntarily by requesting it of his own accord from the Holy See. This is what is often called “laicization” in common parlance, but which more properly should be referred to as a

dispensation from the obligations of the clerical state. The priest or deacon is no longer counted as a cleric, but now has a different legal status in the Church. Among the consequences of his new status is the fact that is not able to function as a priest or deacon or to present himself as one publically.

**Q: How does dismissal from the clerical state differ from what is called “suspension”?**

A: Suspension of a member of the clergy is also a penalty imposed for violation of a criminal law. The effects of it are similar to dismissal from the clerical state inasmuch as the priest or deacon is not permitted to function in public ministry. However, suspension does not remove the cleric from the clerical state. He remains a member of the clergy even if he is not exercising any functions associated with it. Additionally, whereas dismissal is a permanent penalty, suspension is not. It is imposed so long as the reasons for its imposition remain. To offer one example, if a priest is suspended due to illegitimate behavior with a minor, the suspension remains in force, but would be lifted if the allegations are withdrawn or proven false.

**Q: Some priests have been assigned to what is called a “life of prayer and penance.” What does this mean?**

A: The *Essential Norms* recognize that there might be cases where a priest or deacon has either admitted to a past act of abuse or has been found guilty of one, but dismissal from the clerical state does not occur. This could happen, for instance, when a priest is seriously ill or of advanced age. So a life of prayer and penance is imposed on the priest instead. In these cases, too, he is forbidden from all public ministry and from otherwise presenting himself as a priest. He is expected to dedicate his life to praying for victims and repenting of his past offenses. In this way, the Church seeks even here to prevent any future abuse and to repair the injustice that has already taken place.

**Q: If a legal process does not result in the imposition of a penalty, does that mean the priest or deacon will return to public ministry?**

A: The presumption is that the cleric will be returned to ministry if he is not found guilty. However, the answer to this question depends on several factors that are particular to each case. It might turn out that even though a priest or deacon is not proven to have abused minors, other issues surrounding his ministry or behavior might have arisen during the investigation that cause concern for the bishop. This might involve, for instance, unacceptable boundary violations or improper behavior with adults. These situations would need to be addressed before the priest or deacon is returned to public ministry.

**Q: Are there cases where a priest or deacon is falsely accused of sexual abuse?**

A: Yes. As with all accusations brought to authorities, not all of them turn out to be true. In all cases, a thorough investigation is made to ascertain the truth of the allegation. The rights of everyone must be respected during this phase. If this process determines that the accusation was false, the good reputation of the cleric needs to be repaired. The *Essential Norms* state that every

step possible must be made to restore the good name of those who have been falsely accused and whose good reputation might have been illegitimately harmed.

**Q: Does the Church conduct the legal proceedings mentioned above in secret?**

A: The word “secret” is a literal translation of the Latin word “secretum.” The better translation would be “confidential.” Church law does require that formal trials and other processes that lead to the imposition of penalties be dealt with confidentially. This is meant to protect the accused, the witnesses, and the integrity of the Church process. For instance, general members of the public are not admitted to the court proceedings. Although these *proceedings* are confidential, that does not forbid or even discourage anyone from reporting the underlying *allegations* to civil authorities. In fact, the opposite is true when it comes to the sexual abuse of minors. The *Essential Norms* strictly mandate that bishops will follow civil reporting laws, and that they advise a person of his or her right to make a report to public authorities and support the person in doing so.