

Policy on Sexual Misconduct on the Part of the Church Personnel of the Archdiocese of San Antonio (Revised October 2003)

The Catholic Church expects its personnel to live chaste and moral lives, respecting in every way the gift of sexuality. Inappropriate sexual activity of any type abuses the call to ministry, the power and authority of the pastoral role of all who work for and serve the people of God. Thus, sexual misconduct by church personnel of the Archdiocese of San Antonio is contrary to Christian morals, canon law and in some cases civil law. It is obviously outside the scope of the duties of church ministry and employment for all personnel of the Archdiocese, its parishes, schools and other agencies, and will not under any circumstances be tolerated.

It is imperative that all personnel of the Archdiocese, its parishes, schools and other agencies comply with all applicable church, federal, state, and local laws regarding incidents of actual, alleged or suspected sexual misconduct, and with the procedures outlined in this document.

Sexual abuse is a transgression of canon, civil, and criminal law. A violation of the criminal law of the State of Texas can subject the perpetrator to a prison sentence and/or fine. An act of sexual abuse can also be the basis for a civil suit for monetary damages. To assist in the implementation of this policy, the Archbishop has established a Crisis Intervention Committee, which will act immediately on any complaint to the Archdiocese of sexual misconduct on the part of church personnel. The Archdiocese has also established a Review Board to review policies and procedures.

I. DEFINITIONS

A. Sexual Misconduct

For the purpose of this policy, it will be understood as:

1. Sexual Abuse is defined as sexual contact with a minor¹ or legally protected adult.
2. Sexual Harassment (inflicting unwanted sexual attention on a co-worker). (See Archdiocese Statement on Sexual Harassment on pages 13 and 14.)
3. Sexual Exploitation is a betrayal of trust in pastoral relationship by the development or the attempted development of a sexual and/or romantic relationship between a church worker and a person with whom that worker has a pastoral relationship. The apparent consent of a victim to the sexual or romantic relationship seldom determines whether there has been sexual exploitation because the imbalance of power between the church worker and the person in a pastoral relationship may undermine the validity of such consent.

B. Church Personnel

The following are included in the definition of church personnel:

1. Clerics incardinated in the Archdiocese of San Antonio.
2. Priests who are members of religious institutes assigned to pastoral work in the Archdiocese.
3. Priests of other jurisdictions who are assigned to pastoral work in this Archdiocese; priests seeking incardination in this Archdiocese; other priests, including those who are retired, who request canonical faculties to do part-time or supply ministry.
4. Permanent and transitional deacons incardinated in this Archdiocese; permanent deacons incardinated in other dioceses but with canonical faculties to function in this Archdiocese; those enrolled in the Permanent Diaconate Formation Program.
5. Women religious and men religious working for the Archdiocese, its parishes, schools or agencies.
6. All paid personnel whether employed in areas of ministry or other kinds of services by the Archdiocese, its parishes, schools or other agencies; also, those who contract their services to church agencies.
7. Volunteers or any person who enters into or offers himself/herself for a church-related service of his/her own free will, which acting in that capacity.

II. THE CHURCH'S PASTORAL CONCERN FOR ALL

A. Care of the One Who Alleges Sexual Misconduct

The Archdiocese will comply with all applicable civil laws with respect to the reporting of allegations of sexual abuse to civil authorities and will cooperate in their investigation. In every instance, the Archdiocese will advise and support a person's right to make a report to public authorities.²

The Archdiocese of San Antonio will respond immediately and effectively to deal with any allegation of sexual misconduct brought against a church minister or church personnel. The willingness of the Archdiocese to respond to an allegation is in no way a prejudgment of the person being alleged of misconduct. Innocence is always presumed unless facts prove otherwise. At all times it is expected that an allegation brought by the one directly involved or by that person's parent or legal guardian is based on fact and is an honest representation of the truth. It is always important for all members of the church to be sensitive to the needs and feelings of those who allege sexual misconduct. The Church will offer pastoral assistance to the victim to enable healing. The Archdiocese will designate a competent person to coordinate assistance for the immediate pastoral care of persons who claim to have been sexually abused when they were minors by priests or deacons.³

B. Care of a Cleric Alleged to Have Engaged in Sexual Misconduct⁴

Sexual misconduct by a cleric is a serious failure of the responsibilities for the care of souls inherent in the pastoral office. Because of the nature of the cleric's role in the church as leader and guide, there is a sacred trust established between the cleric and the faithful. This trust is essential for his effectiveness. Some forms of sexual misconduct are a manifestation of a spectrum of dysfunctions and illnesses. It is the policy of the Archdiocese that clerics be afforded the necessary education, formation, and opportunities for growth necessary to maintain a healthy, celibate lifestyle. Should an allegation of sexual misconduct arise, compassion will always be exercised toward the alleged perpetrator as well as toward the person making the allegation. Any credible allegation of sexual misconduct involving a cleric will be taken seriously and the process of evaluation described in this policy will be initiated. As the policy indicates, several persons may be involved in this evaluation, but in so far as church law is concerned, the archbishop will make all final decisions regarding the cleric who was alleged to have engaged in sexual misconduct.

C. Care of Other Church Personnel Alleged to Have Engaged in Sexual Misconduct

The Archdiocese of San Antonio has a similar concern for any sexual misconduct by other church personnel and will apply the same process concerning the evaluation and action as in the case of a cleric.

The Archdiocese will assume appropriate responsibility to the extent of the relationship it has with the one against whom the allegation is brought. Care will be taken that all canonical and civil laws are observed and the alleged person's legal rights are upheld.

Trust is fundamental in all ministerial relationships. Any abuse of the authority surrounding the pastoral role by sexual misconduct by church personnel is cause for employer-initiated termination if any allegation is judged to be valid after due evaluation as required by this policy.

D. Care of the Christian Community Affected by Sexual Misconduct

The Archdiocese has a special concern for parishes and other church communities served by personnel alleged to have engaged in sexual misconduct. To the extent consistent with the right to privacy of those directly involved in the allegation, the church will make every effort to keep the local community informed about what is taking place and to provide the means by which the community can deal with the ensuing trauma and, with the help of the Holy Spirit, find consolation and healing.

III. PROCEDURE WHEN SEXUAL MISCONDUCT IS ALLEGED

A. When an Allegation of Sexual Abuse is Made

When an allegation is made regarding sexual abuse, the person reporting the complaint is to be told that the Archdiocese has a policy and a set of procedures to be followed. When any allegation involving sexual abuse by any church personnel is received, the Archbishop is to be notified immediately. His office telephone number is (210) 734-2620. In the Archbishop's absence, or if he cannot otherwise be reached, the notification is to be given to one of his Auxiliary Bishops or the Vicar General. The Archbishop (or the person acting in his absence) will immediately initiate the preliminary investigation as stated in Canon 1717 and following.⁵ He will direct the Crisis Intervention Committee⁶ (made up of clergy and laity) to begin a prompt and thorough evaluation of the alleged abuse. As soon as possible this Committee will report to the Archbishop its preliminary findings and the schedule of interviews to be conducted as part of the evaluation. Care will be taken to avoid endangering anyone's good name during this process.⁷

The Crisis Intervention Committee will organize the evaluation as the particular circumstances demand and speak directly with the parties involved. Other persons may be consulted. The Crisis Intervention Committee will report its findings directly to the Archbishop.

1. If the claim is judged to be unfounded: If there is no probable cause to believe that the alleged perpetrator has engaged in sexual abuse and the claim is judged not to be a valid allegation, the Archbishop is so notified and he suspends the process. The Archbishop sees that the alleged perpetrator is notified and the person who brought the allegation is also notified of the conclusion of the evaluation.
2. If the Crisis Intervention Committee determines that there is probable cause: If a valid claim is judged to exist, the Crisis Intervention Committee will meet with the Archbishop and the Promoter of Justice and present their findings and their recommendations to proceed with action. It is the Archbishop's responsibility to initiate the action phase and to implement final recommendations.

The same procedure would be used for other forms of sexual misconduct.

B. Action Phase if Allegations Seem Founded

1. On acceptance of the final report from the Crisis Intervention Committee, the Archbishop will proceed in accord with the canons and/or the norms where applicable. He will also designate a particular Archdiocesan Official, normally the Vicar General, to assume direct, on-going responsibility for the following:
 - a. Cooperating with civil authorities in accordance with the provisions set forth in Texas law as applicable to a particular allegation.
 - b. Reporting the matter to the Archdiocesan insurance carrier.
 - c. Collaborating with the Archdiocesan Communications Director to prepare timely statements for the media should the need arise. The Communications Director will be the designated person to deal with the public media.
 - d. Approaching those affected by the ministry of the alleged perpetrator to initiate a process of healing.
 - e. Maintaining contact, already established in the earlier phase, with the victim and/or family to inform them of actions taken by the Archdiocese and to assist them in their process of healing.

2. If the alleged perpetrator is a Cleric of the Archdiocese: Because Church Law sets out particular obligations of the Archdiocese toward an incardinated cleric, the Archbishop will act accordingly. When necessary, he will place the cleric on administrative leave⁸ with his support intact, away from his official assignment. Care must be taken lest anyone's good name be endangered by this evaluation. At the same time consistent with the rights of all concerned, those closest to the cleric's assignment have the right to be informed of the Archbishop's decision and the reason for the cleric's absence. If suspended from ministry, the cleric may receive psychological and/or psychiatric evaluation in a recognized facility of the Archbishop's choice as quickly as scheduling permits.⁹ Upon receipt of the written report of the psychological and/or psychiatric evaluation with its recommended action, the Archbishop will take necessary action. When sexual abuse of a minor by a priest or a deacon is admitted or established after an appropriate process in accord with canon law, the following will pertain: The Archdiocese policy is that for even a single act of sexual abuse of a minor past, present, or future-the offending priest or deacon will be permanently removed from ministry, not excluding dismissal from the clerical state, if the case so warrants.

Amended: September 4, 2003

No cleric who has committed an act of sexual abuse of a minor may be transferred for ministerial assignment to another diocese/eparchy or religious province.¹⁰ Before a cleric can be transferred for residence to another diocese/eparchy or religious province, his bishop/eparch or religious ordinary shall forward, in a confidential manner, to the local bishop/eparch and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. This shall apply even if the cleric will reside in the local community of an institute of consecrated life or society of apostolic life (or in the Eastern Churches, as a monk or other religious, in a society of common life according to the manner of religious, in a secular institute, or in another form of consecrated life or society of apostolic life). Every bishop/eparch or religious ordinary who receives a cleric from outside his jurisdiction will obtain the necessary information regarding any past act of sexual abuse of a minor by the cleric in question.

3. If the alleged perpetrator is a cleric not of the Archdiocese: If the alleged perpetrator is a priest of another diocese or of a religious congregation, he will have his canonical faculties in the Archdiocese suspended and be relieved of all pastoral ministries. The results of the evaluation will be turned over to his proper ecclesiastical superiors.
4. If the alleged perpetrator is not a cleric of the Archdiocese, the Archdiocese will exercise appropriate action in accord with its relationship with the alleged perpetrator and the particular circumstances of the situation. While pastoral concern will be shown to all persons who have engaged in sexual abuse, appropriate action may require the termination of employment.

¹ In particular, for sexual abuse of a minor, see Preamble, Essential Norms for Diocesan/Eparchial policies dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons, (Norms), promulgated by the United States Conference of Catholic Bishops, December 12, 2002.

² Norms, #11

³ Norms, #3

⁴ See Canon 1095, 1983 Code of Canon Law (Code); John Paul II, 25 January 1983, ap. Const. *Sacrae disciplinae leges*, AAS 65, Part II (1983): VII-XIV; (TRANSL. Code of Canon Law: Latin-English Edition, prepared under auspices of the C.L.S.A., Washington, DC 1998).

⁵ Code, cc 1717-1731; Norms, #6

⁶ Norms, #4, 5

⁷ Norms, #13

⁸ Norms, #9

⁹ Norms, #7

¹⁰ Norms, #12