

AD HOC COMMITTEE ON SEXUAL ABUSE

OBJECTIVE NO. 1

DIOCESAN POLICIES

OUTLINE

Preamble 2

Definitions 3

The Five Principles 4

1. General Guidelines 4

2. Prevention - Education 6

3. Administrative Guidelines 10

 3.1 In General 10

 3.2 Civil Law 14

 3.3 Canon Law 16

 3.4 Insurance 16

4. Victims 18

5. Accused 20

6. Reassignment 23

7. Media 26

8. Conclusion 27

Appendix A - Summary of Committee Suggestions 28

Appendix B - Select Issues in Law on the Clergy 32

Appendix C - Some Issues in a Policy on Sexual Abuse 33

Appendix D - Catholic Mutual Group
(Sample Policy Relating to Sexual Misconduct) 34

PREAMBLE

In the workplan for the Ad Hoc Committee on Sexual Abuse the first objective set related to diocesan policies on sexual abuse. The intent was to review the policies in place, share with all NCCB members their general character, and offer comments and proposals that might be considered in the evolution of policies as experience indicates possible improvements.

The response to the request to the dioceses to supply copies of their policies was most encouraging for the committee: out of 188 dioceses, 178 replies, and 157 policies. Thirteen dioceses indicated that they had no policy, and eight informed the committee that they were working on one and would send it in when completed.

Of the 157 policies reviewed, 41 deal with clergy only, while 116 apply to diocesan employees (and often volunteers) as well. Whereas 39 address sexual abuse of minors exclusively, 118 cover that, plus sexual harassment, sexual exploitation, and sometimes neglect as well.

Many policies are in what has been termed the "second generation" category, that is, a revision of what had been developed in the mid to late 1980's. Obviously it is not the prerogative of the committee to judge the adequacy of any of the policies reviewed, first and foremost because it has no mandate to do so, but especially because what is paramount is the quality and competence of those implementing them at the diocesan level. That being said, it is noted that policies play a critical role in assuring a consistent approach to the phenomenon they are intended to regulate.

In submitting this report on diocesan policies in place in mid 1994, the committee has chosen a two-pronged approach: offering a selection of what the policies themselves say in key areas, followed by some commentary and suggestions for consideration.

The bishops on the committee are mindful of the evolutionary nature of diocesan policies and trust that this report will be found useful as NCCB members continue to review their local situations.

DEFINITIONS

The policies reviewed indicate that the topic covered is broadening considerably from the pedophilia context. While mindful of differences that may be indicated by state laws, the committee offers the following quotation from a diocesan policy which gives a succinct description of most of the terms found in the many of the policies examined.

The terms "ministry-related sexual misconduct" and "sexual misconduct," as used throughout this statement, refer to three related forms of misconduct. The first, which is sexual contact between a church leader and a minor or vulnerable adult, is often called "sexual abuse." The second, which is sexual contact between a church leader and a person who is receiving pastoral care from the church leader, is often called "sexual exploitation." The third, which is unwanted sexualized conduct or language between co-workers in the church work setting, is often called "sexual harassment." All three are addressed here together because they have this in common: usually each involves an abuse of power or authority. State statutes give legal definitions of each of these.

Many other dioceses have picked up almost verbatim this description of terms.

THE FIVE PRINCIPLES

Throughout much of this report you will see many quotations from diocesan policies that have been approved by individual bishops. However, there is a collective position taken by NCCB members that obviously has had great influence on the evolution of the policies, namely, the five principles that came out of the November 1992 General Meeting. To recall:

- * **Respond promptly to all allegations of abuse where there is reasonable belief that abuse has occurred.**
- * **If such an allegation is supported by sufficient evidence, relieve the alleged offender promptly of his ministerial duties and refer him for appropriate medical evaluation and intervention.**
- * **Comply with the obligations of civil law as regards reporting of the incident and cooperating with the investigation.**
- * **Reach out to the victims and their families and communicate sincere commitment to their spiritual and emotional well-being.**
- * **Within the confines of respect for privacy of the individuals involved, deal as openly as possible with the members of the community.**

1. GENERAL GUIDELINES

Here is a sample of some general guidelines found usually in the introduction of selected policies, or in the presentation of the document by the bishop.

Every society esteems its children. In their innocence a society recognizes its own innate goodness and its calling to build a better world. In their incompleteness a society understands that hope for a fuller life and second chances is never extinguished. This is no less true for the Church.

...the common mission of all of us is to be holy. A holy people will not allow one of its members to be a victim of sexual misconduct.

All human suffering as well as the weaknesses and imperfections of human beings deserve a response rooted in love, compassion, and concern.

As bishop ..., my obligations regarding this issue are numerous and complex. I am morally obligated to address the issue openly and honestly. I am legally obligated not to be negligent. I am financially obligated to act responsibly. I am obligated to uphold the image of the Catholic Church in working with the news media while at the same time respecting the confidentiality of victims and showing compassion for the accused.

The symbolic role of the bishop cannot be delegated.

Pastoral ministers are to maintain the integrity of the ministerial relationship at all times. Sexual contact between pastoral ministers and those in their care is a violation of the ministerial relationship and is never permissible.

Sexual misconduct by a priest with a minor violates human dignity, priestly commitment and the mission of the church.

The church in dealing with such tragedies can help the entire community to grow and develop, especially assisting it in combating the scourge of sexually abusive conduct. The spiritual well-being of all persons affected by sexual misconduct with a minor is of primary concern - "The salvation of souls is the supreme law" (c.1752)

As disciples of Jesus Christ, all persons directly or indirectly involved with incidents of child abuse are to act with honesty, charity and confidence in the Lord's power to forgive and to heal."

There is a need for the entire church to create an atmosphere where silence, ignorance and minimization are overcome by understanding, Christian love, and mutual respect.

Any sexual misconduct by church personnel, volunteers, and clergy of the diocese is contrary to Christian morals and principles and is obviously outside the scope of the duties of church ministry and employment for all personnel.

The diocese is committed to dealing with issues of sexual misconduct within its ranks in an open and straightforward manner. Officials will speak the truth. We will reach out to the injured. We will promote and protect the safety of children and families, women and men. We will stand by priests and deacons and employees of the church while upholding the right of the people to be safe and secure from risk and harm. We will promote healing where it is needed, guidance when it is called for, with firm justice and mercy towards all and a determination to do what is needed to correct and prevent sexual misconduct.

Since the principal attitudes that shine through many of the policies are compassion and accountability, diocesan policies can be effective public instruments to indicate a responsive and open approach to the matter of sexual abuse within the church. The very tone itself of the document can be an effective means to convey these attitudes. The committee proposes, therefore,

1. That all dioceses consider having a written policy on sexual abuse of minors.
2. That the tone of the diocesan policy, particularly in its introduction, be clearly pastoral, while appropriately dealing with the legal (civil and canonical) and financial obligations of the diocese.
3. That the policy be a public document thereby indicating that the local church is open to the accountability implied in it.
4. That any qualifying statements required in a policy be appropriately presented so that the pastoral tone not be diminished.

In a typical, rather well developed policy there are more than a few technical terms be they legal, medical or otherwise. Therefore, for both educational and interpretative reasons, it is proposed

5. That a glossary be provided of the technical terms used in the policy.

2. PREVENTION - EDUCATION

As one follows the evolution of diocesan policies into the "second generation" (revisions) category, it is evident that more and more attention is being given to matters of education and prevention. Obviously, in this context the use of the word "prevention" does not refer to preventing the development of the disorder pedophilia. It seems this fact has to be pointed out from time to time.

Through the quotations from the policies which follow, readers will get an impression of how the prevention-education topic is presented.

It is most important that those in church leadership become familiar and comfortable with the issues surrounding sexual abuse.

The most important step in dealing with problems associated with our sexuality is prevention. Prevention in turn requires awareness. Accordingly, the policy of this diocese is not avoidance of sexual issues, but rather affirmation of our own humanity as sexual beings. At the same time, as we recognize our essential humanity, we also must reaffirm our commitment to the dominant spiritual values which we have knowingly embraced as the basis for the dedication of our lives to the ministry of Jesus Christ.

Each adult is responsible for his or her own sexual growth and maturity.

Persons working with minors must always avoid the kind of contact that could cause comment on the part of reasonable people.

Priests have a special responsibility to be their brothers' keepers in these matters.

A priest discovering or determining he is having or has had trouble in the area of child abuse is strongly urged to speak with the bishop about these difficulties. In this instance the diocese will assist him to seek the help needed and do everything possible to support him.

Immediate help is offered to any priest who seeks help to control sexual behavior and to act in accordance with his sacramental commitment to celibacy and sexual continence.

The diocese recognizes that in order to more fully address the problem of sexual misconduct by church personnel, it must embark on a comprehensive program of education to create an atmosphere of understanding to help maintain the integrity of the ministerial relationship and prevent the misuse of power and authority.

All who minister to children in the church are to be aware of the causes and signs of child abuse, the steps to take to protect children, and the procedures to follow if abuse is suspected or observed.

All those involved in the appointment, hiring, or retention processes are educated about procedures designed to prevent the exposure of unfit persons to children or others who may be vulnerable.

Pastors are encouraged to provide some form of regular education about sexual issues in ministry for their staff, volunteers, and members.

In-service training and educational programs are offered regularly for priests, deacons, seminarians, employees, and volunteers regarding child sexual abuse and sexual molestation, reporting requirements, and diocesan policies and procedures.

Programs of clergy formation include psychological screening and background checks of prospective candidates. Although no perfect screening method exists, we are committed to using the currently accepted methods and continue working with competent professionals in strengthening that screening.

Applicants for the priesthood or permanent diaconate, priests seeking incardination, priests or religious seeking ministry or residence in the diocese, and employees and volunteers are screened for their fitness to work with minors.

All superiors of religious communities proposing names of individual religious for ministry or residence in parishes or other diocesan institutions, as well as those simply requesting priestly faculties, are required to state clearly in writing that there is no history which would render the individual unsuitable to work with minors.

No pastor, associate pastor, or director of any diocesan institution or facility is permitted to grant residence, or full time or part time or regular weekend ministry to an extern priest or religious without prior written approval from the diocese.

An independent review board meets regularly to review reports of child abuse and all actions taken in response to reports, to insure the integrity of the process, to offer advice regarding investigations, and to provide oversight of the handling of all cases.

The following excerpt makes a point that was emphasized in many different ways throughout the policies examined:

Any agent of the church who has actual knowledge of or who has reasonable cause to suspect an incident of child sexual abuse shall comply with any applicable reporting or other requirements of state or local laws, unless to do so would violate the priest-penitent relationship of the sacrament of penance.

Reasonable cause means to believe that a child has been subjected to sexual abuse. The suspicion of abuse should be based on the reasonable interpretation of the child's complaints or on observation of the child's physical condition, behavior, and/or changes in either over a period of time. It is not necessary that a reporting employee observe any external physical signs of injury to the child. It is sufficient to suspect that abuse has occurred when a child complains of having been sexually molested. In such cases, the report must be made.

Through its diocesan policy the local church is in a position to have some influence on how society at large copes with sexual abuse. The policy has potential to be an instrument for raising awareness, for education, and for prevention. It is proposed therefore

- 6. That policies make special reference to prevention and education measures in place.**

More and more dioceses are requiring better screening procedures for employees, volunteers, diocesan clergy, externs, religious and seminarians. Various questionnaires and forms are developed for this purpose. The committee sees this evolution positively and therefore proposes

- 7. That policies include a reference to appropriate screening procedures for seminarians, employees, and volunteers with responsibilities for dealing with the young.**
- 8. That the policy be communicated to priests and religious, and to employees if applicable, and that all acknowledge acceptance in a formal manner.**

Education sessions for clergy are receiving increasing attention. More than a few references in the policies allude to the importance of priests being their brothers' keepers. In this respect the committee proposes

- 9. That in educational sessions priests be provided with regular opportunities for updating their knowledge on child sexual abuse from viewpoints such as new scientific knowledge, church policy and canon law, civil laws, and issues of moral theology, professional ethics, the theology of sexuality, the pastoral care of victims, and coping with the disclosure of misconduct by a colleague.**

NB As documentation separate from this report on diocesan policies, the committee has arranged for a series of articles that hopefully will be helpful to NCCB members. They will be referred to throughout this report. Three are relevant to this proposal no. 9:

- "Pedophilia: Diagnostic Concepts, Treatment, and Ethical Considerations" by Fred Berlin, M.D., Ph.D. and Edgar Krout, M.A.
- "Sexual Abuse as an Abuse of Power" by James Gill, S.J., M.D.
- "False Memory Syndrome" by Paul R. McHugh, M.D.

Because a smooth working, comprehensive policy is potentially a good means for prevention and education, the committee proposes

- 10. That consideration be given to setting up a diocesan advisory body to evaluate periodically the effectiveness of the policy in place and to propose revisions as indicated.**

This body would be consultative in nature, independent of the day-to-day working of the policy, be seen to have an arms length relationship with regard to internal diocesan structures, and be responsible to the bishop.

3. ADMINISTRATIVE GUIDELINES

3.1 In General

Before entering into detailed procedural points, many of the policies have some general comments to contextualize what was to follow. Here are some examples.

The intent of all that follows is to promote a ministerial environment in which those who minister in the church and those who receive the church's services can expect to do so in safety.

The primary purpose of the policy is the safety of children, the well-being of the community, and the integrity of the church.

All involved are to be treated with candor, fairness, and dignity.

These policies and procedures are to be implemented with justice and equity: they shall also be fair and responsive to the pastoral needs of the victim, the victim's family, the parish community and diocesan community and to all other persons.

This policy sets forth a process of internal church governance and is not determinative of any civil or criminal liability of the accused, the diocese or any religious order involved.

All procedures may not apply to a given situation and may require modification to meet particular needs; therefore the bishop reserves the right to modify or replace these procedures at his discretion and commits himself to review them periodically for adequacy.

A prime objective of all investigations conducted under this policy is the determination of the fitness of the accused person for the ministry previously exercised in the church or for any other ministry in the church. In order to obtain the fullest information possible, such investigations and the information resulting from them shall be held confidential by all concerned except for mandatory reporting required by law.

Care must be taken to avoid defamation of the character of all concerned.

It is important for all the Christian faithful to know that both civil law and canon law provide penalties for the crime of falsehood in which innocent individuals become victims of false denunciation and calumny.

When an accusation is made, the rights of all persons involved must be protected. Prompt and incisive action is essential and non-negotiable.

The response of the diocese includes the pastoral care of the victim, the well-being of the community, and the assessment and treatment of the offender. Care is taken that all persons involved will be treated in a manner that is consistent with the gospel values of dignity, compassion, understanding, justice, as well as those standards which are normative in the wider professional community.

Every assurance is given that the diocese will spare no effort to determine the truth and to deal appropriately with the individual who is accused.

Retaliation and/or discrimination against any person who complains of or who reports sexual misconduct is strictly prohibited and will not be tolerated.

No action regarding a priest will be taken on the basis of anonymous, uncorroborated accusations.

Anonymous complaints are dismissed in the absence of accompanying firm, and/or readily verifiable, facts. The priest is informed of the anonymous complaint and of the disposition of the matter.

It is to be noted these policies are administrative and not penal in nature. They take into account the enacted and acknowledged rights and duties by civil and canon law.

(After nine years evolving) ... The policies and the procedures we have adopted reflect our experience and the studies of many others. These policies must always be construed in the light of the gospel and the principle salus animarum suprema lex, that is, the well-being of the people is our primary obligation.

The response of the diocese to any allegation of sexual misconduct by clergy, lay employees, or volunteers must be based in the gospel values of dignity, compassion, understanding, and justice.

Justice calls the church to respond with compassion and fairness to the persons involved and to uphold the integrity of the church's witness and ministry.

When an allegation is made against a priest assigned to an institution belonging to a religious community or other non-diocesan entity, or who is in residence in the diocese, his religious community or home diocese handles the complaint according to its policies and procedures. However, the diocese does not delegate its responsibility, as provided in this policy, to report when allegations come to it.

When allegations are made, the diocese requires full disclosure of any of the facts the one making the allegation might have.

Actions taken by the diocese when it receives an allegation of abuse by a priest are not an expression of any judgment concerning the veracity of the allegations, but rather are intended to indicate the serious nature of such cases and to respect the rights of all concerned.

We have no policy.... we would follow the policy of the local Roman Rite diocese, wherein the transgression allegedly took place.(an eastern rite).

It must be kept in mind that individual circumstances may prescribe a course of action that is at variance with these guidelines, particularly when the requirements of civil or canon law indicate a different approach.

Individual circumstances prescribing a course of action at variance with the guidelines will be documented.

These guidelines are not intended to create any rights in any person, to obligate the diocese to act at any time or in any manner, or to establish any responsibility of the diocese. In addition, there may be cases where the tenets of the Catholic religion, the prescriptions of canon law, or the greater good of all concerned require that action at variance with the provisions of these guidelines be taken.

We present these guidelines not because of past failures on our part, not to cause alarm or fear, but rather to set forth a clear policy for the protection of our clergy, deacons, religious and laity.

As was noted above, 116 of the 157 policies examined apply not only to clergy and religious, but to diocesan lay employees as well. With this inclusive approach the policy is a broader instrument for education. All who have to subscribe to it in a formal way (through written acceptance) would see themselves having special responsibilities within the diocesan church. The committee sees this trend as worthwhile and proposes, unless there is already a separate policy in place for employees,

- 11. That consideration be given to having the diocesan policy apply to clergy, religious, and employees, in the context of sexual abuse, misconduct, exploitation, and harassment.**

If this approach seems feasible for a given diocese,

- 12. That in the principal diocesan policy dealing with sexual abuse there be mainly general references to the manner of dealing with clergy and religious, and there be developed a sub-policy to cover the intricacies of canon law in their regard.**

From general information available, the committee is aware that a fair number of allegations are raised regarding acts that supposedly happened in the distant past. Obviously the requirements in different dioceses are varied, but there seems to be a growing need to differentiate between current and past allegations and the manner in which they are handled. Accordingly, the committee proposes

- 13. That each diocese examine its history in this regard and, based on the risk to the innocent and the vulnerable, consider having a risk track and a non-risk track approach to implementing the procedures.**

Most policies make explicit provision for a detailed, investigative phase of an inquiry. This critical phase of the process is to be carried out as professionally as possible. Therefore out of fairness to all concerned it is proposed

- 14. That because of the special skills required to do a proper and expeditious investigation, individuals with the primary responsibility for this role be given appropriate training before assuming the position.**

In the policies there are frequent references to confidentiality. There is of course no question of bending or breaking the sacramental seal. However, dealing with professional confidentiality in the face of imminent danger of child abuse is quite another question. The principle generally recognized is that professional confidentiality does not prohibit disclosure of information if there is a danger in not doing so. Moreover, there are statutory reporting mechanisms in place requiring this disclosure to specified authorities. Beyond this statutory provision the general rule in the case of the danger of child abuse is disclosure on a need-to-know basis. Disclosure for any other purpose is only made with the consent of the person providing the information. A final point: those in a position of responsibility are mindful of the negative consequences of invoking the confidentiality argument unnecessarily, an action which can lead to a perception by the public of cover up.

The complexity of dealing with an incident of sexual abuse is acknowledged by everyone who has had any kind of direct experience with the matter. All the more reason therefore that the whole problem be dealt with from the multidisciplinary perspective. In so approaching the issue, there is a greater prospect that all the individuals and groups involved - victim, family, parish community, diocesan church, the accused, and society at large - will be appropriately cared for and dealt with. Therefore, it is proposed

15. **That there be identified in each diocese experts from the many disciplines involved in the serious study of issues connected with sexual abuse in order to approach the problem in its pastoral, legal, psychological, sociological, medical, and educational dimensions.**

3.2. Civil Law

The role of diocesan attorneys is referred to throughout many of the policies. When an incident of sexual abuse comes to the attention of a diocesan official, attorneys are immediately informed in order to assure that the civil law responsibilities of the bishop are met. Here are some references to attorneys in other contexts.

In order to have access to the full response of the diocese it is not necessary to hire an attorney or to initiate legal proceedings. But it is the right of anyone to do just that.

Our offer of financial assistance in getting therapy and/or spiritual direction cannot and should not be taken as an admission of guilt on anyone's part.

Where an official proceeding is pending or about to be instituted, the diocese retains all records and other material that may be evidentiary which are related to the matter.

During the period of litigation the church offers support to the victims to every degree possible within the perimeters imposed by the diocesan legal counsel.

As regards the legal costs for the defense, dioceses take different approaches as illustrated by the following policies:

The legal costs for defense are borne by the perpetrator.

Should the matter become one of civil or criminal action, the diocese will cooperate with and respect the judicial process. The diocese will provide legal counsel to the priest.

The accused is advised to obtain an attorney and a canonical advisor at the accused's expense.

The accused is advised to enlist his/her own counsel, independent of that of the diocese. Diocesan assistance for such counsel may be available depending on the nature of the case.

The cost of legal assistance is borne by the priest. The diocese reimburses the priest for his reasonable legal expenses if he is found to be innocent of the allegations and in compliance with this policy.

The diocese has a right to take action against (the guilty person) to recover its judgment and legal expenses.

The vast majority of the policies are quite clear in stipulating ways in which they implement the principle articulated at the November 1992 NCCB General Meeting concerning civil law obligations in relation to sexual abuse cases. In this regard the committee proposes

- 16. That policies be reviewed to assure that this principle of honoring civil law obligations is articulated in a practical manner.**
- 17. That policies clearly state a willingness to cooperate with government authorities (civil and criminal proceedings) to the extent possible in the circumstances.**
- 18. That there be an explicit reference in the policy regarding coverage of the accused's legal expenses.**
- 19. That, while maintaining a pastoral tone, the policy be clear that there could be occasions when the Church may in justice defend itself.**

The committee draws your attention to two articles, among those referred to above at recommendation no. 9, concerning legal aspects to be attended to in relation to the sexual abuse question. These articles are:

- "The Role of the Diocesan In-House Attorney" by Jack M. Hammel
- "The Role of Outside Counsel" by Andrew Eisenzimmer

3.3. Canon Law

In such a serious and complex subject as the crime of sexual abuse of a minor by a cleric, canon law sets forth mandatory procedures. At the principle/guideline level many of the citations from the bishops given throughout this report are either the basis for or an expression of particular canons.

The many ways canon law can be articulated in a specific policy for a diocese are almost as varied as the dioceses themselves throughout the country. For that reason the committee has decided not to attempt to produce a model or typical policy. Moreover, as regards the canon law aspects touching on sexual misconduct, the members of the committee have noted the very complete report, dated September 1994, from the Committee on Canonical Affairs. Accordingly, only one further comment will be offered in this area. The review of the policies in place show that some are very brief and rely heavily on dealing directly with the canons in sorting out the various steps in the process. Others are quite lengthy and highly developed, spelling out in great detail how the canons are applied and the process unfolds in their dioceses. Both approaches have validity, especially when they are combined with competent and experienced personnel to implement them.

For your reference Appendix "A" of this report contains a bibliography of canon law articles on the topic of sexual abuse of minors by members of the clergy.

Appendix "B" is an outline of elements in a policy which includes canon law factors and other points as well.

3.4. Insurance

A review of the policies reveals that many dioceses have taken large portions of their procedures from sample policies supplied by their insurance companies. Some have simply taken the sample and, as it were, filled in the blanks.

Here are some excerpts regarding insurance from some of the policies reviewed:

The appropriate diocesan official notifies the diocesan attorney and (the insurer) immediately.

Ours is primarily a pastoral mission. In the legal system each one's rights are affirmed and defended. The diocese has contractual obligations with its insurers and we are bound to live up to them. It is our hope and preference to abide by our stated pastoral mission as well as our contractual obligations.

Reports of incidents must be given to the underwriting managers immediately upon receipt of knowledge by a responsible diocesan official. The diocese must use the sensitive claims team to investigate and handle such cases.

Notification of the incident will be given to the diocesan insurers in accordance with the terms of any applicable insurance policies.

Any insurance service for the diocese is put on notice of a possible claim and is requested to provide whatever service or coverage is available.

The (diocesan) delegate reports to the insurer of the diocese that an incident has taken place when it is established that this is in fact the case.

For initial treatment costs medical insurance provides primary coverage, with the diocese covering the excess of the insurance allowance. For second occurrence treatment, medical insurance provisions apply, with no additional obligation by the diocese. It is a condition of diocesan insurance coverage that for a priest who engages in sexual misconduct the diocese will not have liability insurance for that priest for a period of at least five years from the time the incident was reported to the insurance carrier.

Diocesan insurance does not cover an individual acting outside the scope of ministry within the church.

If the tone of the policy is an asset for its pastoral effectiveness and for education, it probably should not look as if it came directly off the desk of the insurance carrier. Conversations with personnel from these companies indicate that they are concerned and caring people, but they do need to see that their interests are protected by certain points being covered in diocesan policies. Accomplishing this end does not impede those responsible for the pastoral and education aspects from effectively putting their stamp on the policies. The committee therefore proposes:

- 20. That, to the extent possible, the pastoral and educational tone of the policy be maintained with reference to the insurance aspects that must be included in it.**
- 21. That dioceses seek insurance contracts to provide optimum pastoral and clinical support to those in need.**

As mentioned above, some insurance carriers have given sample guidelines or a framework around which a policy could be developed. For your information Appendix "C" contains one such example from The Catholic Mutual Group.

The committee once again refers you to another part of this report for an article done at its request entitled: "Sexual Abuse and the Catholic Church: An Insurance Viewpoint," authored by the leadership of the Catholic Mutual Group.

4. VICTIMS

Though many of the principles/guidelines already quoted are pastoral in nature, the following seem to be in a category by themselves.

In the Scriptures, Benjamin was the youngest of the children of Jacob and Rachel, profoundly vulnerable and even uncertain of his own name and identity (Genesis 35: 16-20). Born into a family troubled by rivalry and jealousy, and exploited by his siblings at times, Benjamin is a symbol for all whose early years are troubled. ...Thus, Benjamin is a symbol for the victim, the perpetrator, and the larger fabric of society which abandons its apathy and comes to an understanding of the evil of abuse, working for a new sense of justice and rehabilitation for all. (Excerpt from the introduction to Project Benjamin, "an active, pastoral response to persons involved in sexual abuse.")

We are open and respect your complaint.

We will provide an advisor/advocate, if you so choose.

WE will help you obtain counseling support.

We will provide information about support groups.

We will help you obtain spiritual direction.

We will help you bring your concern to the proper church officials outside our diocese.

While we are all in need of redemption and forgiveness for our failings, there is a special harm and injury given to those who are victim-survivors. We use that term because we want to underscore the fact that people are not simply victims as though what happened to them stops there. People are also resilient and however difficult the path to wholeness may be, they are survivors. By using the joint term, we acknowledge their being wounded. At the same time we mean to urge on their healing and recovery and aim to help it when we can.

Compassion requires that primary attention be given to the person alleged to have been offended.

Diocesan policy encourages the use of a friend, family member, colleague or anyone else of the person's choosing to accompany a person who is making a complaint.

In principle, nothing about what the pastoral team members say or do should leave room for inference that their purpose is to investigate the validity of the allegation.

Church authorities offer pastoral, moral, and spiritual help to the person and family involved. Such assistance follows from the caring role of the bishop and the church and shall not be considered as an indication that the diocese is in any way culpable or responsible for the actions of the employee.

Alleged victims and their families are advised that they may have legal rights that can be vindicated only with the assistance of an attorney of their choosing.

Pastoral support is offered to the victim if the parents are consenting and if such is allowed by the appropriate public authority.

No matter their age or experience, minors are not blamed for causing or encouraging the actions of the offender, even if at times the child appears somewhat responsible.

While reconciliation remains as desirable, the diocese in no sense requires participation as a condition for further involvement in the church community.

The victim should be neither pressured nor rushed to take part in a process of reconciliation.

The diocese will not require an attempt at reconciliation between violator and victim. The involvement of any diocesan personnel in non-authorized reconciliation efforts is treated as a violation of this policy.

Families often require the same compassion and sensitivity as that of the victims and are not to be forgotten in the healing process.

Only a minority of policies has elaborate guidelines for dealing with the affected parish community. For those that do the underlying principle seems to be:

In responding to affected parish communities the diocese is guided by these three principles:

- these parishes undergo a complex process of grieving when they learn a trusted and respected leader has been accused;**
- a most important element in healing is receiving accurate information of what happened;**

- the healing of the community is a multidisciplinary challenge**

The principles quoted above illustrate the compassion that informs many of the policies. It is important for victims to know early in the process of healing what the diocese can do for them and what it cannot do and why. It is generally accepted that the victim's greatest need is to be heard, and to be told of the church leadership's sorrow that the person has been hurt. The individual should be informed that appropriate action will be taken in regard to the perpetrator, and that the church will help the victim with the process of recovery. Providing information to the victim concerning the perpetrator can be an important aspect in the healing process but it is best read on a case by case basis by the professionals providing the care.

As regards victims, the committee proposes

22. That every policy recognize that primary attention be given to the person alleged to have been offended, to the family, and to the parish community.
23. That the policy indicate there is some kind of multidisciplinary body available to provide concrete, direct, and individualized assistance to victims, their families, and the affected parish community.
24. That the diocese seek ways to involve the people in general in the whole process of healing the often serious and long-lasting aftereffects of child sexual abuse.
25. That the diocese promote sessions to affirm and encourage the body of priests, whose morale can be adversely affected by the actions of relatively few of their colleagues.

You are referred in another part of this report to two more articles done at the request of the committee and focusing on victims. One is by Coadjutor Archbishop Harry J. Flynn entitled "Care for Victims and Their Families." The other, by Reverend Stephen J. Rossetti, Ph.D., D.Min. entitled "Parishes as Victims of Child Sexual Abuse."

5. ACCUSED

In the policies reviewed, the principles/guidelines dealing with the accused are generally consistent and frequently make the same points. Here is a sampling:

In both the secular courts and in canon law a person is presumed innocent until proven otherwise.

The presumption of innocence does not preclude the diocese from taking prudent action before the investigation is completed.

The diocese is solicitous of the needs of the accused priest in order to see that he gets the personal support he needs during a very difficult time.

At no time after an allegation has been made does the bishop or any priest involved in the case hear the sacramental confession of the accused priest.

Diocesan representatives dealing with the accused make it clear they act as administrators and not as counselors or confessors.

When a priest is asked to take a leave from his assignment because of an accusation of sexual misconduct, the Director of Priests' Personnel will assist him in finding housing, arrange for his financial support, and encourage him to receive pastoral and psychological support during the time immediately following the accusation.

Any administrative leave will be planned and circumstances determined in a way specific to each situation and to each priest in accord with canon 1722. In general, an administrative leave will be time limited, will allow for re-determination at the end of such time limit; will specify living arrangement, location, financial support; will address treatment, conduct and aftercare.

Because the stigma and shame associated with sexual abuse of children might make the accused fear that he/she will be abandoned by the church, the pastoral team does whatever it can to help the accused to experience the church's support whatever the outcome of an investigation or trial.

Participation of the accused cleric in appropriate professional counseling is required as a matter of clerical obedience (c.273). Counseling referral is for treatment, not for punishment.

In all possible cases the offender should be the primary person responsible for the payment of the victim's therapy and attendant expenses and will be required to reimburse the diocese for all expenses incurred.

The diocese has the right to take action against the perpetrator to recover its judgment and legal expenses.

In cases involving rumor, especially when the accuser retreats into anonymity, the case may be dismissed as poorly founded. However, the activity of the person in question is monitored to see what develops, if anything.

The diocese is responsible for the salary of a priest undergoing treatment who has been relieved of his pastoral responsibilities in accordance with this policy.

An accused cleric does not have the right to be assigned a ministry, nor to residential or long-term therapy at diocesan expense.

Note: Two dioceses have a protocol for dealing with an allegation against the bishop. One is a full page in length inserted in the general diocesan policy. The other states:

Allegations against the bishop are beyond the scope of this policy. Direct all allegations to the Vicar General who contacts the Papal Pro-Nuncio and the appropriate government department.

In most of the policies, certainly most in the "second generation" category, the accused is the principal subject in the section dealing with the investigation and the canonical disposition of its conclusions. One of the most difficult areas for a diocesan bishop is the appropriate handling - timing especially -of the administrative leave question. Some dioceses are developing a graduated series of restrictions, to be invoked depending on the degree of certainty the bishop has regarding the allegations.

On the question of certainty The Cardinal's Commission on Clerical Sexual Misconduct with Minors (Chicago: June 1992, 21) had the following comment:

This preponderance of evidence standard can be stated in this way: Would a reasonable person, viewing the evidence in the light most favorable to the victims, believe it was more likely than not that the alleged acts occurred, that they constituted sexual misconduct, and that the priest committed the acts. Hearsay is acceptable evidence to reach this conclusion. Its reliability determines the weight given to it; its reliability is determined by the Commission (the trier of fact) from the totality of the circumstances.

Given the complexity of the procedures involved as regards the accused, the committee has no special recommendations for this section. The quotations cited from the policies in use were offered principally to give a sense of how the accused is generally referred to in the policies. Next to appropriately caring for the victims, however, the future of the accused when the allegations are substantiated provides an enormous challenge for religious leaders and for the diocesan church. This report therefore has a separate section on the question of reassignment or reintegration into ministry.

6. REASSIGNMENT

This part of the policies - reassignment or reintegration into ministry - is evolving at a very rapid rate, as evidenced in the policies reviewed. Around this topic there is a convergence of all aspects of the sexual abuse question: pastoral, preventative, legal (civil and canonical), financial, clinical, and local (smaller dioceses simply do not have the possibilities of the larger ones.) Here are some citations from the policies themselves on this question.

Some of the elements that help shape the bishop's decision are:

- **the outcome of proceedings in the civil courts;**
- **the advice and judgment of professional counsellors who have treated the priest;**
- **the wellbeing of those ministered to by the church;**
- **the best interests of the church.**

Upon the conclusion of therapy and aftercare a priest or deacon may be assigned to a parochial ministry, be assigned to a non-parochial ministry, or be assisted to resign from all clerical ministry. Some of the factors that will be considered in deciding to return a cleric to active ministry are: feelings of the victim(s), ability to assure the safety of the community or organization to be served, availability of an appropriate assignment.

If the bishop determines, after receiving the recommendation of the Advisory Committee, that a priest will not be returned to ministry, the bishop will offer him a program of retraining so that he can find employment and become self-supporting.

If the priest does not express a desire to return to restricted ministry or to live in such a supervised setting, or to resign from ministry and seek laicization, the diocese may pursue appropriate courses of action permitted under the Code of Canon Law.

If it is determined that no reasonable assurance can ever be given by diocesan officials that a given priest will not succumb again to behavior of the kind which brought the original complaint, no matter what the assignment, the priest will be counseled out of the ministry to another way of life, depending on the circumstances of each case. If a priest holds an ecclesiastical office, he will be asked to resign it; if he refuses to tender his resignation, the canonical procedures for removal from office will be followed or a formal ecclesiastical trial may be instituted according to canon 1740 and following of canon law.

... a convicted priest pedophile will not be permitted to return to active priestly ministry.

No priest who engages in sexual misconduct with a minor should be returned to a parish ministry or any other ministry with access to minors. No assigned conditions exist which make an exception to this.

An incardinated priest who has been judged guilty of child sexual abuse may be considered for a restricted assignment but only in accord with recommendations from the rehabilitation team.

The priest-monitor serves as a regular link between the returning priest and the diocese, as a friend for a fellow priest in very difficult circumstances, and insures that the aftercare program agreed on is being carried out.

Future ministry will require a full sharing with the bishop of all information developed in the course of treatment; authorization from the individual under treatment is required in all cases to allow the treatment providers to communicate freely with the bishop.

The diocese does not accept for ministry a religious or non-incardinated diocesan priest whom it knows to have sexually abused a minor.

In this section of the report on diocesan policies the committee offers some reflections based on previous NCCB discussions, and current publications, followed by several suggestions.

First of all it is widely acknowledged that the reassignment challenge involves seeking how to integrate the multiple factors that come into play. No single set of factors can or should dominate to such an extent that others are not properly honored.

The reassignment difficulty is grounded in such theological considerations as the identity of the priest in the church, the sacramentality of priestly ordination, and the priest's relationship to the diocese and to the bishop. Pastoral attention focuses on combining compassion and accountability with a view to understanding and forgiveness, along with a prudential judgment on the likelihood of recidivism. It is generally accepted that priests who have offended against children should never return to any ministry that includes minors. The possible return to some form of ministry has also to be read in the light of how the victim will be affected and on how well the church community is prepared. How open the perpetrator is to disclosure of his situation to those with a need to know is also of great importance.

More specifically, and allowing for the special characteristics of each case, the bishop is faced with issues such as

- the nature of the offense
- the depth of conversion
- the sincerity of resolve
- the availability of ministry
- adequate supervision, and
- stewardship of diocesan finances

Part of the reality of reassignment of one guilty of sexual abuse of minors is the substantial risk of liability for the diocese. It is generally agreed that the cause of action arising out of a priest's sexual misconduct is ordinarily grounded in the theory of negligent selection or retention. Hence the critical importance of exhibiting a reasonable standard of care. The treatment center normally has a key role in assisting diocesan officials at this stage. The conditions and the decision should also be in writing. All of which leads the committee to propose

- 26. That, given the complexity inherent in the reassignment question, the diocesan policy make provision for some type of advisory body to assist the bishop in this regard.**

As an incardinated cleric in the diocese, the individual has a right to ministry and/or support by the church. The dilemma for the bishop is weighing this right over against the duty to protect the diocesan church and society from a possible recidivist. It is acknowledged that priests in recovery should be under some type of supervision as long as they remain the responsibility of church authorities. The personnel available in the diocese and the financial resources needed are major factors in reaching acceptable conclusions. In deciding whether to permit a priest to return to ministry, therefore, each diocese has to adapt to its own possibilities, while living up to its obligations of fairness and justice.

For your information here are the options offered by one diocese:

1. Return to ministry with appropriate restrictions and follow-up program. The priest's immediate supervisor is fully informed of his background and current status.

2. Three to five years outside active ministry with a good prognosis for return. From the beginning the hope of both the priest and the bishop is that some form of ministry can be restored, and efforts are made to prepare for a possible return. Any return will involve restrictions and an aftercare program. The purpose of this program is to allow the priest to demonstrate continuing and progressive signs of recovery.
3. Three to five years outside active ministry with the understanding that there is little chance of return. A new assessment would be made should the priest in question petition for reinstatement to active priestly ministry.
4. No possibility of return. In this case the diocese assists the priest to petition for laicization. Should the priest be unwilling to submit such a petition, the diocese will initiate appropriate canonical procedures to preclude the priest from active ministry.

There is much to be said for a policy being as clear as practical in local circumstances regarding the possibilities of returning to ministry for a priest involved in sexual abuse. The committee therefore suggests:

27. **That the policy of the diocese be as detailed as feasible on the possibilities and types of reassignment that may or may not be open to a priest guilty of sexual abuse.**

The committee refers you to another article it has had done, by Frank Valcour, MD, entitled "Expectations of Treatment for Child Molesters." The committee is planning a major article on recidivism and long term care; this should be available late in the fall.

Finally it is the intention of the committee to prepare a major document on the practice and possibilities with regard to reassignment to ministry. This document should be ready toward the end of the year.

7. MEDIA

Most of the policies have at least a brief reference on giving information to the public. The following is a sampling of the approaches taken:

There is a primary spokesperson to the media both in answering questions about a particular case and in addressing the broader questions raised. Release of such information will preserve and protect the integrity of the policy and respect the rights of those involved.

The spokesperson is apprised as soon as the diocese learns of allegations or investigations.

All complaints are treated as confidential. Therefore the diocese neither confirms nor denies to the media 1) the identity of the person communicating the allegation; 2) the identity of the minor; and 3) that a complaint has been made against a particular person until such time as the person has been charged by the civil authorities, or until the allegation has become a matter of public knowledge.

To highlight the importance of the communications factor in dealing with sexual abuse cases, the committee proposes:

- 28. That the diocesan policy make reference to an approach for consistently relating with the media and to a designated, well informed and experienced spokesperson (with substitute) for all inquiries and news conferences.**

For an in depth treatment on this topic, you are referred to an article done for the committee by Msgr. Francis Maniscalco of the USCC's Office for Media Relations entitled "The Media and Sexual Abuse Cases: Elements of a Media Plan."

8. CONCLUSION

The committee is most grateful for the opportunity it has had to review and to reflect on the policies dealing with sexual misconduct in the church. Collectively they represent a powerful response to a difficult and disturbing phenomenon common to society at large. The "Five Principles" articulated at the November 1992 General Meeting continue to shine through and influence the evolution of the policies.

It is the hope of the Ad Hoc Committee on Sexual Abuse that this sharing of a sampling of what you the members of NCCB are saying in your local policies, along with the commentary and suggestions offered in this report, will be a worthwhile contribution to the evolution of the policies through the "second" and on to the "third" generation of the revisions underway.

APPENDIX A
AD HOC COMMITTEE ON SEXUAL ABUSE
DIOCESAN POLICIES
SUMMARY OF COMMITTEE SUGGESTIONS
SEPTEMBER 12, 1994

1. GENERAL GUIDELINES

1. That all dioceses consider having a written policy on sexual abuse of minors.
2. That the tone of the diocesan policy, particularly in its introduction, be clearly pastoral, while appropriately dealing with the legal (civil and canonical) and financial obligations of the diocese.
3. That the policy be a public document thereby indicating that the local church is open to the accountability implied in it.
4. That any qualifying statements required in a policy be appropriately presented so that the pastoral tone not be diminished.
5. That a glossary be provided of the technical terms used in the policy.

2. PREVENTION - EDUCATION

6. That policies make special reference to prevention and education measures in place.
7. That policies include a reference to appropriate screening procedures for seminarians, employees, and volunteers with responsibilities for dealing with the young.
8. That the policy be communicated to priests and religious, and to employees if applicable, and that all acknowledge acceptance in a formal manner.

9. That in educational sessions priests be provided with regular opportunities for updating their knowledge on child sexual abuse from viewpoints such as new scientific knowledge, church policy and canon law, civil laws, and of moral theology, professional ethics, the theology of sexuality, the pastoral care of victims, and coping with the disclosure of misconduct by a colleague.
10. That consideration be given to setting up a diocesan advisory body to evaluate periodically the effectiveness of the policy in place and to propose revisions as indicated.

3. ADMINISTRATIVE GUIDELINES

3.1 In General

11. That consideration be given to having the diocesan policy apply to clergy, religious, and employees, in the context of sexual abuse, misconduct, exploitation, and harassment.
12. That in the principal diocesan policy dealing with sexual abuse there be mainly general references to the manner of dealing with clergy and religious, and there be developed a sub-policy to cover the intricacies of canon law in their regard.
13. That each diocese examine its history in this regard and, based on the risk to the innocent and the vulnerable, consider having a risk track and a non-risk track approach to implementing the procedures.
14. That because of the special skills required to do a proper and expeditious investigation, individuals with the primary responsibility for this role be given appropriate training before assuming the position.
15. That there be identified in each diocese experts from the many disciplines involved in the serious study of issues connected with sexual abuse in order to approach the problem in its pastoral, legal, psychological, sociological, medical, and educational dimensions.

3.2. Civil Law

16. That policies be reviewed to assure that this principle of honoring civil law obligations is articulated in a practical manner.
17. That policies clearly state a willingness to cooperate with government authorities (civil and criminal proceedings) to the extent possible in the circumstances.
18. That there be an explicit reference in the policy regarding coverage of the accused's legal expenses.
19. That, while maintaining a pastoral tone, the policy be clear that there could be occasions when the Church may in justice defend itself.

3.3. Canon Law

3.4. Insurance

20. That, to the extent possible, the pastoral and educational tone of the policy be maintained with reference to the insurance aspects that must be included in it.
21. That dioceses seek insurance contracts to provide optimum pastoral and clinical support to those in need.

4. VICTIMS

22. That every policy recognize that primary attention be given to the person alleged to have been offended, to the family, and to the parish community.
23. That the policy indicate there is some kind of multidisciplinary body available to provide concrete, direct, and individualized assistance to victims, their families, and the affected parish community.

24. That the diocese seek ways to involve the people in general in the whole process of healing the often serious and long-lasting aftereffects of child sexual abuse.
25. That the diocese promote sessions to affirm and encourage the body of priests, whose morale can be adversely affected by the actions of relatively few of their colleagues.

5. ACCUSED

26. That, given the complexity inherent in the reassignment question, the diocesan policy make provision for some type of advisory body to assist the bishop in this regard.
27. That the policy of the diocese be as detailed as feasible on the possibilities and types of reassignment that may or may not be open to a priest guilty of sexual abuse.

7. MEDIA

28. That the diocesan policy make reference to an approach for consistently relating with the media and to a designated, well informed and experienced spokesperson (with substitute) for all inquiries and news conferences.

8. CONCLUSION

APPENDIX B

SELECT ISSUES IN LAW ON THE CLERGY

1. John P. Beal, "Administrative Leave: Canon 1722 Revisited," *Studia Canonica* 27 (1993) 293-320.
2. John P. Beal, "Doing What One Can: Canon Law and Clerical Sexual Misconduct," *The Jurist* 52 (1992) 642-683.
3. Nicholas P. Cafardi, "Stones Instead of Bread: Sexually Abusive Priests in Ministry," *Studia Canonica* 27 (1993) 145-172.
4. Peter Cimboric, "A Psychologist Looks at Sexual Misconduct," *The Jurist* 52 (1992) 598-614.
5. Bertram F. Griffin, "The Reassignment of a Cleric Who Has Been Professionally Evaluated and Treated for Sexual Misconduct with Minors: Canonical Considerations," *The Jurist* 51 (1994) 326-339.
6. L.M. Lothstein, "Can a Sexually Addicted Priest Return to Ministry After Treatment? Psychological Issues and Possible Forensic Solutions," *The Catholic Lawyer* 34 (1991) 89-115.
7. Francis Morrissey, "Procedures to Be Applied in Cases of Sexual Misconduct by a Priest," *Studia Canonica* 26 (1992) 39-73.
8. Francis Morrissey, "The Pastoral and Juridical Dimensions of Dismissal from the Clerical State and Other Penalties for Acts of Sexual Misconduct," *Proceedings of the Canon Law Society of America* (1990) 221-239.
9. Raymond C. O'Brien and Michael T. Flannery, "The Pending Gauntlet to Free Exercise: Mandating That Clergy Report Child Abuse," *Loyola of Los Angeles Law Review* 25 (1991) 1-56.
10. Jerome E. Paulson, "The Clinical and Canonical Considerations in Cases of Pedophilia: The Bishop's Role," *Studia Canonica* 22 (1988) 77-124.
11. James H. Provost, "Some Canonical Considerations Relative to Clerical Sexual Misconduct," *The Jurist* 52 (1992) 615-641.

APPENDIX C**SOME ISSUES IN A POLICY ON SEXUAL ABUSE**

Have a plan in place, along with the personnel for implementing it, before an accusation is received.

1. Be sure the plan is in harmony with local civil laws.
2. When a complaint is to be made:
 - To whom should it be directed?
 - What is to be done for the victim(s)? To what extent?
 - What is to be the situation of the accused cleric while the investigation is pending?
 - What is the procedure for dealing with the media and the public?
 - In what manner and by whom will the complaint be evaluated?
 - Who will do what, when?
 - What procedure will be followed to reach a definitive resolution of the complaint?
 - What are the possibilities for reassignment, and how will that be decided?
3. Establish a working relationship with a treatment center.
4. Promulgate and publicize the policy.
5. Follow the policy.

APPENDIX D

CATHOLIC MUTUAL GROUP

SAMPLE POLICY RELATING TO SEXUAL MISCONDUCT

[The following policy is a sample and is provided only to assist a (Arch)Diocese in formulating a policy. Use of this sample is not required. Prior to the adoption of any policy on sexual misconduct, a (arch)diocese should obtain the advice of legal counsel.

If used, this sample policy must be revised as necessary to comply with applicable state and local laws and to conform to the organizational needs, abilities, and requirements of a particular (arch)diocese. No review of individual state and local laws was made in the preparation of this sample policy.

Comments appearing in brackets are those of the drafter and are not part of the policy itself. They should be removed by the (arch)diocese which adapts this sample for its own use.]

- 1.0 **Policy.** It is the policy of (Arch)(Diocese), that sexual misconduct by personnel of (Arch)(Diocese) while performing the work of the (Arch)(Diocese) is contrary to Christian principles and is outside the scope of the duties and employment of all personnel of (Arch)(Diocese). All personnel of (Arch)(Diocese) must comply with applicable state and local laws regarding incidents of actual or suspected sexual misconduct, and with the following requirements.

This policy does not address sexual misconduct in general, but only in the special circumstances described herein. It is intended to establish requirements and procedures in an effort to prevent sexual misconduct by personnel of the (Arch)(Diocese) and the resulting harm to others, while the work of the (Arch)(Diocese) is being performed, and to provide guidance to the personnel of the Diocese on how to respond to allegations of sexual misconduct if any do occur.

- 2.0 **Definitions.** For the purposes of this policy only:

- 2.1 "Sexual misconduct" means any sexual conduct of (Arch)(Diocese) personnel while performing the work of the (Arch)(Diocese) which is:

- a. Unlawful; or
- b. Contrary to the moral instructions, doctrines and canon law of the Catholic Church and causes injury to another.

- 2.2 "Personnel" includes all personnel of the (Arch)(Diocese), including officers, employees, lay volunteers, clerics and religious personnel.

- 3.0 **Distribution of Policy.** A copy of this Policy shall be distributed as follows:

[A sample "acknowledgement of receipt" form is attached for those dioceses which may wish to use such a form.]

- 4.0 **State and local laws.** [The following is a summary of reporting and other requirements of applicable state and local laws relating to incidents of sexual misconduct.] OR [Attached to this Policy is a copy of the reporting and other requirements of applicable state and local laws relating to incidents of sexual misconduct.]

- 5.0 **Education.** The following personnel of the Diocese, and such other personnel of the (Arch)(Diocese) as (identify position) may require from time to time, must attend designated educational programs on methods of recognizing and preventing sexual misconduct involving children or others:

Other personnel of the (Arch)Diocese are encouraged to attend such educational programs.

- 6.0 **Background and reference checks.** Beginning (date), the following prospective and current personnel of (Arch)(Diocese) shall complete an informational questionnaire, a copy of which is attached hereto:

[A sample informational questionnaire is attached as Example A. An alternative which has been suggested for priests is the adoption of an agreement between the (arch)diocese and appropriate religious Orders that the order will disclose to the (arch)diocese, in advance of the canonical presentation of any priest, any knowledge by the Order of actual or alleged physical or sexual abuse by the priest. The Diocesan clergy's background would of course be monitored by the (Arch)bishop and his clergy personnel director.]

- 6.1 Completed questionnaires shall be reviewed and, as appropriate, investigated by (identify position), and shall be maintained in the personnel file of the (arch)diocese, with access limited to (identify positions).
- 7.0 **Obligation to report.** Any personnel of (Arch)(Diocese) who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct by any personnel of (Arch)(Diocese) shall comply with any applicable reporting or other requirements of state and local laws (unless to do so would violate the priest/penitent relationship of the Sacrament of Reconciliation), and shall report to the (Arch)(Diocese) as follows:
- 7.1 A verbal report of the incident shall be made immediately to (position in (Arch)Diocese) and a written report shall be prepared. [A sample reporting form is attached as Example B.]
- 7.2 (Position identified in paragraph 7.1) shall immediately notify the (identify who in (Arch)Diocese should receive notice), (identify attorney) and (identify insurance administrator) of the reports.
- 8.0 **Investigation of incident reports.** Each reported incident will be immediately investigated, with care taken not to interfere with any criminal investigation, and with a high level of christian care, concern and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator.
- 8.1 Legal advise both civil and canonical, shall be immediately obtained; the investigation shall be conducted by (identify position(s) in (Arch)Diocese).
- 8.2 Investigation of a priest shall be made in accordance with Canon Law. (see canons 1717 and following)

- 8.3 The alleged perpetrator will be immediately relieved of responsibilities to (Arch)(Diocese) and placed on administrative leave pending the outcome of the internal and any outside investigation, such leave to be with or without pay or benefits as (position in (Arch)Diocese) may decide.
- 8.4 Appropriate records will be kept by (identify position) of each incident reported and of the investigation and the results thereof. Such records shall be marked confidential and be securely kept at (identify location), under lock, with access thereto limited to only the following: (insert position(s) in (Arch)Diocese).
- 8.5 Notification of the incident shall be given to insurers in accordance with the terms of applicable insurance policies.
- 8.6 When accusations are made of sexual misconduct involving personnel of the (Arch)(Diocese), contact by (identify position in (Arch)Diocese) with alleged victim and family should be promptly initiated. Contact should be made by priestly counselors chosen by the (arch)bishop for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of any accusation. Medical psychological and spiritual assistance and, in appropriate instances, economic assistance may be offered in the spirit of christian justice and charity, but legal advise must first be obtained.
- 8.7 Any media contact or inquiries regarding an incident of sexual misconduct by personnel of (Arch)(Diocese) must be directed to (identify position in (Arch)Diocese).
- 9.0 Action where guilt determined. Any non-clergy personnel of (Arch)(Diocese) who admits to, does not contest, or is found guilty of an incident of sexual misconduct shall be immediately terminated from employment and any position of responsibility with (Arch)(Diocese). Any clergy in similar circumstances will be suspended from the exercise of his ministerial duties according to the provisions of canon law. Further penal sanctions, including, but not limited to, dismissal from the clerical state, may be contemplated pending the outcome of any civil/criminal actions, if any.

11/16