

# **COMMON NORMS OF THE ANTILLES EPISCOPAL CONFERENCE FOR DIOCESAN POLICIES DEALING WITH ALLEGATIONS OF SEXUAL ABUSE OF MINORS BY PRIESTS OR DEACONS**

## **INTRODUCTION**

Jesus loved children in a very special way (Mt 18: 2-5; 19: 13-15; Mk 10: 13-16; 9: 36-37; Lk 9: 47) and had harsh words against those who would harm “these little ones” (Lk 17: 2). The Church has followed this teaching of Jesus and has, in fact, considered the abuse of children, especially the sexual abuse, by a cleric, a crime punishable with grave penalties, not excluding dismissal from the clerical state.

The recent disclosure of numerous incidents of sexual abuse of children by some clerics has caused deep anguish and pain to the victims and their families and irreparable harm to the credibility and good name of the Church. In response to the scandal caused by the inappropriate behaviour of these clerics, Pope John Paul II stated in unequivocal terms that there is no place in the ministry of the Church for those who abuse children. The Antilles Episcopal Conference, conscious of this fact, intends to protect children and to restore the credibility of the Church.

Therefore, in order to ensure that each diocese within its territory will have appropriate procedures in place to respond promptly and effectively to all allegations of sexual abuse of minors, the Antilles Episcopal Conference decrees the following *Common Norms* dealing with allegations of sexual abuse of minors by diocesan and religious priests and deacons in the employ of the dioceses of the Conference.

For the purposes of these *Common Norms*, sexual abuse shall include any offense by a cleric against the Sixth Commandment of the Decalogue with a minor as understood in canon 1395, §2 of the 1983 Code of Canon Law and Article 4, §1 of the Apostolic Letter *Sacramentorum sanctitatis tutela* promulgated *motu proprio* by Pope John Paul II on 30 April 2001.

This action of the Conference is not to be construed as a lack of confidence in, or negative criticism of our clergy. The Bishops cherish and celebrate the faith, sacrifices and selfless ministry offered by our priests and deacons. Nevertheless, at the same time, we recognize the immense harm done by the behaviour of a few to the credibility and good name of countless others. It is our hope that these *Common Norms* will help in reducing confrontation and will assure a just and equitable approach to each and every allegation brought to the attention of the diocesan bishop.

## **COMMON NORMS**

### **I**

These *Common Norms* have been granted *recognitio* by the Holy See. The *nihil obstat* was given by the Congregation for the Doctrine of the Faith on July 18, 2006. Approval was given by the Congregation for the Evangelization of Peoples on November 23, 2006. In accordance with the practice of the Antilles Episcopal Conference, they are legitimately promulgated on April 23, 2007 and constitute particular law for all the dioceses of the Conference.

### **II**

Each diocese will formulate its own written policy on the sexual abuse of minors by priests and deacons in accord with the canons of the Code of Canon Law and the Articles of the *motu proprio Sacramentorum sanctitatis tutela*. This diocesan policy should fully comply with and specify in more detail the steps to be taken in implementing the requirements of canon law, particularly canons 1717-1719. A copy of this policy should be sent to the Antilles Episcopal Conference as soon as possible after the effective date of these *Common Norms*. Copies of any eventual revisions of the written diocesan policy should be filed with the Conference within three months from such modifications.

### **III**

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

Delegate should report to that authority such allegations.

#### IV

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

**A.** Advise the diocesan bishop in assessing the allegations of sexual abuse of minors and in determining the future of the accused cleric if the allegation is proven to be true.

**B.** Review the report and recommendation(s) of the bishop's Delegate deputed to conduct the preliminary investigation. The Board will make its own proposals and recommendations on a given case to the bishop. It will also suggest to the bishop an appropriate pastoral response to the alleged victim of abuse, to his or her family, to the parish or institution affected by the alleged abuse and to the accused cleric.

**C.** In order to keep the diocesan policy current, the Review Board should evaluate it periodically and suggest to the diocesan bishop modifications it deems necessary and appropriate.

**D.** Offer advice to the diocesan bishop on all aspects of cases involving sexual abuse of minors.

#### V

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

#### VI

Sexual abuse of minors represents a very serious breach of trust and it can cause even very serious psychological and spiritual harm to its victims. Therefore, every allegation of sexual abuse of a minor by a cleric brought to the attention of the diocesan bishop must be taken seriously. Because of the very nature of the delict of sexual abuse of a minor by a priest or a deacon, the bishop should promptly initiate appropriate action keeping in mind the canonical rights of the accused. As prescribed by canon 1717, the bishop should either personally or through his Delegate initiate promptly and objectively a preliminary investigation in order to establish the objective basis of the allegation and of the substance, that is, of the object of the alleged delict.

#### VII

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

#### VIII

When the allegation is brought to the attention of the Delegate, the accused should be immediately informed of it. And also the accused should be properly informed of the process that will be followed and the ways in which he might participate in the process. He should be made aware of all aspects of the diocesan policy concerning allegations of sexual abuse of minors by priests and deacons. He should also be advised of the importance of retaining a civil and canonical adviser from the beginning of the process in order to offer a proper response to the allegations.

## IX

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

## X

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

## XI

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

## XII

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

## XIII

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

## XIV

Because of the very nature of the problem involved, it might be necessary to have a psychological/psychiatric evaluation of the one accused of the offense in order to assist in determining his suitability for ministry or to assist him in the process of healing. However, if it is determined, with appropriate consultation, that such an evaluation is necessary, the praxis of the Roman Curia should be followed in this regard.

## XV

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

## XVI

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

## XVII

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

## XVIII

The priest or deacon may at any time request a dispensation from the obligations of the clerical state. In exceptional cases, the bishop may request of the Holy Father the dismissal *ex officio et in poenam* of the priest or deacon from the clerical state without the consent of the priest or deacon.

## XIX

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

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

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

## XX

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

## XXI

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

Approved and promulgated on April 23, 2007 by the Annual Plenary Meeting of the Antilles Episcopal Conference (AEC) in Hamilton, Bermuda.