

# Procedure for Handling Allegations of Sexual Misconduct by Clerics of Adults<sup>1</sup>

Bismarck Diocese

## A. Reception of Accusation

- a) Chancellor meets with accuser.
  - a. Information to be gathered: name of accuser, name of victim (if different), date(s) of alleged behavior, location(s), description of event(s). Also birth date of victim (to determine whether there was abuse of minor), and whether any solicitation occurred during the Sacrament of Confession. Also any additional individuals (e.g. witnesses) that could corroborate the accuser's accusation and timeline.
  - b. Ideally, the accuser's statement should be from their own hand (preferably typed), signed and dated by him/her. The form available on the Diocesan website would also suffice.
  - c. Inform the accuser and victim (if different) of their right to an attorney and to their right to make a statement to civil authorities (see below).
- b) Inform Bishop (and the religious superior, if applicable) and diocesan legal counsel.

## B. Assessment of Allegation → One question is central: "Is there a 'semblance of truth' to the allegation"?

- a) If there is NOT a semblance of truth: Chancellor documents how this determination has been made in writing, deposited in the secret archives. Chancellor informs the Bishop, the religious superior, the accuser, the accused, and diocesan legal counsel. Process ends.
- b) If there is a semblance of truth, continue below.

## C. Preliminary Investigation → A new question now becomes central: "Is the allegation manifestly false or frivolous?"

- a) Bishop consults with promoter of justice regarding imposition of administrative leave.

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<sup>1</sup> Audience: General promulgation.

Scope: applies to those allegations involving sexual misconduct with an adult over the age of 18 years at the time of alleged incident.

Sources: Diocesan policy manual *Establishing Bonds of Trust*; 1983 *Code of Canon Law* (cc. 1717-1731; 1311-1399); A Resource for Canonical Processes for the Resolution of Complaints of Clerical Sexual Abuse of Minors (USCCB); *Sacramentorum Sanctitatis Tutela* (SST), May 21, 2010; Charter for the Protection of Children and Young People (USCCB), June 2018; ND Century Code.

- b) Bishop decrees the opening of a preliminary investigation and the appointment of the Chancellor as instructor of investigation. Separately decreed are the imposition of “administrative leave” for the accused along with the order of no contact. Accused is informed of accusation, encouraged to secure counsel (canonical and civil), and is offered opportunity to formally respond in writing (which he can refuse). Parish corporate board informed; concerned parishes informed. Instructor gathers evidence as he sees fit and can secure outside assistance, such as from a private investigator.
- c) Final report by instructor: Collates depositions, evidence, and provides his written opinion on whether the allegation is ‘manifestly false or frivolous’, the estimated responsibility of accused, and any other recommendations.

#### **D. Final Determination by Bishop**

- a) Bishop decrees end to investigation and gives final determination in writing on whether allegation is ‘manifestly false or frivolous’ and the estimated responsibility of accused. He is able to utilize the recommendations of the instructor and others as he sees fit.
  - 1. If the allegation is determined by the Bishop to be manifestly false or frivolous, all parties are informed, administrative leave is ended, and written report and Bishop’s determination are placed in secret archives. Notified are the accused and his counsel (canonical and civil), the alleged victim, the religious superior (if applicable), diocesan legal counsel, concerned corporate boards, concerned parishes, etc. Process ends. If the good name of the cleric has been harmed, additional remedies can be pursued.
  - 2. If the allegation is determined by the Bishop to be NOT manifestly false or frivolous, the Bishop determines the penalty as per cc. 1331-1353. Notified are the accused and his canonical and civil counsels (along with a canonical letter of warning if applicable), the alleged victim, the religious superior (if applicable), diocesan legal counsel, concerned corporate boards, concerned parishes, etc.