

## **DIOCESE OF SUPERIOR OPEN RECORDS POLICY FOR PRIESTS**

### **I. PREAMBLE**

The Church has never questioned that there are human rights of natural and ecclesial origin. There is, however, an ever increasing concern among the members of the church in regard to the delineation of such rights. Encyclicals like *Pacem in Terris* and *Mater et Magistra* as well as nearly every document of Vatican Council II have begun to shed new light on individual rights and freedoms. Due process systems have been introduced as one way in which rights can and should be protected.

Out of this theological context, the Bishop of the Diocese of Superior, upon advisement of the Superior Diocesan Presbyteral Council, has promulgated the policy which follows, with deep concern for the dignity of priests and the rights they must enjoy in their ministry.

The manner in which personnel files are maintained, used and accessed is a most substantive factor in safeguarding the dignity and rights of priests. Without just policies in these regards, it may easily happen that files may not justly reflect a person's reputation; assignments may be made or withheld on the basis of unsubstantiated material; contents of files may not be kept as confidential as they should be; unauthorized personnel may access a priest's file; inappropriate documents may be placed in the personnel file and many other injustices.

It is hoped that the policy which follows will prevent any possible injustice, lessen unfounded suspicion and thus strengthen morale.

For a priest to suspect there might be false information in his personnel file, irrefutable by him, which could damage his good name and reputation; or to think that he may be prevented from obtaining a certain appointment on the basis of information he has not seen are examples of injustices and fears which should be prevented by policies that clearly preclude such suspicions.

The policy on priests' files which follows is based on such fundamental values and principles as:

- A. Respect for the human person and every one's right to a good name and reputation. These are two values which clearly springs from the Gospels and honored criteria of moral theology.
- B. The common good of the Church and society. However, the common good is not achieved at the cost of human dignity. "...there is a growing awareness of the sublime dignity of the human person, who stands above all things and whose rights and duties are universal and inviolable. He ought, therefore, to have ready access to all that is necessary for living a genuinely human life; for example...the right to his good name, to respect,

to proper knowledge, the right to act accordingly to the dictates of conscience and to safeguarding his privacy. The social order and its development must constantly yield to the good of the person, since the order of things must be subordinate to the order of persons and not the other way around..." (*Church in the Modern World*, #26).

- C. The right of a priest to receive objective information particularly regarding the personnel policies and procedures of the Church as they affect him. "We believe that man is free only when he understands himself, his society, and his place within it. We believe that there should be no arbitrary restrictions placed upon man's ability to acquire information necessary to this understanding." (*Toward a Declaration of Christian Rights, Position Paper in the Case for Freedom*, Coriden, p. 12).
- D. The rights of persons employed by, or engaged in the services of, the Church to working conditions consonant with human dignity as well as their right to professional practices comparable to those in society at large.
- E. The well founded possibility of facilitating reconciliation. "The Church's task to be a sign of reconciliation means that it must engage in a ministry of reconciliation. The Good News is a message of hope, ...that God, in Christ, was reconciling the world to himself, not counting men's transgressions against them, and He has entrusted this message of reconciliation to us (II Corinthians 5:19)." (*Rite of Penance-Study Text 4*, NCCB Committee on the Liturgy, Washington, 1975, p.8).
- F. The right to due process.

## II. LEGAL PRINCIPLES

In both existing and proposed Church law, the custodial care of diocesan archives is basically entrusted by the diocesan Bishop to the Chancellor. Depending on the needs of a diocese, the Bishop may appoint others to assist the Chancellor in fulfilling this responsibility. All those responsible for the archives must be of good reputation and beyond suspicion concerning their character and trustworthiness. (cc. 482-491)

As part of the diocesan archives the various priests' files actually constitute one file, even though they may be maintained in different places. The prime reason for their being maintained is to enable the diocesan Bishop to know his priests and their capabilities so that he can carry out his mission as Bishop. He also must see to it that the individual priest's file is properly maintained and used in keeping with the common good of the Church as well as the private good of the priest himself, a responsibility that he, generally speaking, exercises through his chancellor. General Church law presumes that the archives of a diocese are maintained permanently.

From the standpoint of civil law, it is possible that an aggrieved priest might sue the diocesan bishop for damages allegedly incurred by reason of the maintenance of such

files. Under the Fourth Amendment of the United States Constitution and the doctrine of separation of Church and State, a civil law demand for a diocesan file on a priest can be resisted as protected from subpoena because the file is a necessary part of the internal discipline of the Church which a priest accepts at ordination.

### III. DIOCESAN POLICY

#### A. Scope of this Policy

These policies pertain only to priests' files that belong to the diocesan archives and are maintained at the Chancery. The seminary files as well as the bishop's files are not to be considered as part of this policy's concern.

#### B. Content of Priests' Files

The priests' general files shall contain:

1. Letters of appointments, documents pertaining to ordination, and official correspondence between the priest and the Bishop or his delegates.
2. Written correspondence, summary statements of telephone conversations and interviews with the priest himself or with other persons.

The priests' restricted files shall contain:

1. Confidential reports of doctors, therapists, hospitals or other therapeutic agencies for which the priest has signed a medical release form.
2. Letters of complaint or allegations in compliance with Appendix B, III, D.
3. Evaluations of priests by supervisors, where applicable.

#### C. Custodian of Priests' Files

The Chancellor is ordinarily delegated by the bishop to have primary responsibility for maintenance of priests' general files. The Moderator of the Curia is responsible for maintaining priests' restricted files.

#### D. Policy and Procedure for Admitting Material to the Priests' Files

##### 1. Commendations

A commendation of a priest for his good service or outstanding performance will be placed in the priest's general file.

##### 2. Petitions

A petition is a request or complaint signed by more than one individual. A petition will be treated as a complaint as outlined in Section 3 below. If the petition does not state that its contents may be disclosed to the respondent priest, the entire petition will be returned to one of the petitioners. This will give the petitioners an opportunity to re-write the petition so that it allows disclosure. Until the petition is so emended and resubmitted it will be treated as in 3.b.2) below.

### 3. Complaints

#### a. Three major assumptions operative in this policy are:

- 1) Complaints submitted to the Chancery are submitted to effect a change for the better on the part of the priest and/or the Church community.
- 2) The principle of subsidiarity is operative; that is, complaints will be accepted, ordinarily, only if the complaints were taken to the person(s) involved without success and there is no other intermediary.
- 3) Unsigned complaints will be assumed not to be for the betterment of the Church and will therefore be discarded immediately.

#### b. Procedure

- 1) Ordinarily, confidentiality is not the primary value and the complainant is to be so notified with a request to allow the matter to be shared completely with the respondent (priest against whom the complaint is made).
- 2) If the complainant refuses to allow his/her name to be divulged, the substance of the matter is brought to the attention of the priest with a view to his taking appropriate action. If the priest denies the substance of the complaint and the complainant continues to refuse to allow his/her name to be divulged, the matter is dropped and no record of this is entered into the file. Signed complaints concerning sexual molestation or child abuse, however, will be maintained, kept and/or used as required by state law (cf. *Appendix D – Morals and Ethics Policy*).
- 3) If the complainant does allow his/her name to be divulged:
  - a) The matter is brought to the attention of the priest by the Bishop and/or his delegate.

- b) A record of the matter is then entered into the priest's restricted file. The priest is then allowed to examine his file concerning this allegation.
  - c) Upon examination of his restricted file by the priest, he is permitted to enter into this file a written response to any specific allegation or statement. The priest's written response shall then be attached to the disputed allegation.
- 4) The file may contain material accepted prior to the inception of the policy when the confidentiality for the complaint was assumed. In such situations the complainant will be asked to allow the complaint to be shared completely with the respondent priest.
- a) If the complainant opts to keep the matter confidential and refuses to allow his/her name to be divulged, the complaint will be treated as in 3.b.2) above.
  - b) If the complainant does not opt to keep the matter confidential and allows his/her name to be divulged, the complaint will be brought to the attention of the respondent priest as in 3.b.3) above.
- 5) Materials submitted by complainants who have died prior to expressing their willingness to divulge their name will be purged and treated as in 3.b.2) above.
- 6) No anonymous statements or reports will be filed.
- 7) All anonymous statements in the file prior to the inception of this policy will be treated as in 3.b.2) above.

#### E. Permanence of Priests' Files

- 1. A priest's general file is a permanent file. Upon the death of the priest this file will be maintained for the sake of history; the Chancellor, however, is to use discretion in purging the file in order to keep only those items of historical significance.
- 2. A priest's restricted file is to be destroyed by the Moderator of the Curia four (4) years after the death of the priest except in the following circumstances:
  - a. There exists ongoing activity subsequent to the priest's death. In this event the file shall be maintained for a period of four (4) years after the last activity regarding such event.

- b. In the event of any issue concerning a juvenile. In this event the file shall be kept until the juvenile reaches the age of 19 years.

F. Accessibility to Files:

1. A priest has access to the material present in any general file bearing his name and held by the Chancellor or the Personnel Board.
2. A priest has access to the material present in any restricted file bearing his name and held by the Moderator of the Curia.
3. The priest initiates a request to see his own file or any part thereof with the person(s) authorized to maintain the file. This is done in person, or by telephone, or in writing, allowing a suitable time convenient to both/all parties to examine the file.

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