

## **Policy Regarding Sexual Abuse of Minors By a Member of the Clergy**



Updated July 2022

## Introduction

Priests and deacons (“clergy” or “cleric”) in the Diocese of Des Moines (“Diocese”) provide faithful service with generosity and care to the people of the Diocese. The sexual abuse of a minor by a member of the clergy is an exception. Sexual abuse is an abuse of their authority, is a gross offense against the human dignity of the victim, and a violation of trust. The integrity of the Church and the well-being of its community demand a prompt and effective response to both victims and offenders. This policy sets out the response of the Diocese to allegations of sexual abuse of a minor.

The Diocese endorses the Charter for the Protection of Children and Young People (rev. 2018); created by the United States Bishops and the Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons and adopts the following policies and procedures concerning sexual abuse of a minor by clergy.

Section II, DEFINITION OF SEXUAL ABUSE OF A MINOR, provides an updated definition of what acts constitute sexual abuse of a minor, to be consistent with the 2018 revision of the charter. According to this revised definition, sexual abuse of a minor includes persons below the age of eighteen years (effective April 25, 1994)<sup>1</sup>, persons who habitually lack the use of reason<sup>2</sup>, and the acquisition, possession, or distribution of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology<sup>3</sup>. All references to sexual abuse of a minor within this policy pertain to this definition.

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<sup>1</sup> The 1983 Code of Canon Law defined a minor “below the age of sixteen years.” Effective April 25, 1994, the Holy See granted permission to the Bishops of the United States to raise the age for canonical crime against a minor to below the age of eighteen. This extended to the Universal Church in the *motu proprio* “*Sacramentorum sanctitatis tutela*” on 30 April 2001. It is important to note that any allegations of sexual abuse of a minor occurring prior to April 25, 1994 is subject to the interpretation defining a minor as below the age of sixteen.

<sup>2</sup> Meaning “vulnerable person” as defined by Pope Francis in his 2019 Apostolic Letter, *Vos Estis Lux Mundi* (Art. 1), “any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence.”

<sup>3</sup> Book VI Revision of the Code of Canon law clarifies that the sexual abuse of a minor also refers to those who “groom (to be understood as ‘recruit’) or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognizes equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated” (Can. 1398.2) and “immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason” (Can. 1398.3).

## **Policies**

It is the policy of the Diocese that:

- The protection of children and young people is of the highest priority.
- The Diocese will reach out to victims of sexual abuse and their families to provide counseling, advocacy, support services, and spiritual guidance.
- The Diocese will maintain procedures to respond promptly and effectively to any allegation of sexual abuse of a minor. A Victim Assistance Advocate will be appointed to support the process.
- The Diocese will report allegations of sexual abuse of a minor to law enforcement within 24 hours of receiving them. The Diocese will cooperate in any investigation with law enforcement.
- The Allegation Review Committee will advise the Bishop in his assessment of the plausibility of the accusations, without hindering the investigation by law enforcement.
- The Bishop may remove an accused cleric from active ministry and prohibit him from exercising his clerical faculties before the preliminary investigation is completed.
- If even a single act of sexual abuse of a minor is admitted or established after an appropriate process in accord with canon law, the offending cleric will be removed permanently from ministry.
- Clergy permanently removed from ministry for sexual abuse of a minor will be referred to appropriate sex offender treatment.
- A clear set of standards will be published in the Code of Conduct for Personnel of the Diocese for ministerial behavior and appropriate boundaries for clergy and other church personnel who have regular contact with children and young people.
- Diocesan communications concerning issues of sexual abuse of minors by clergy will be as open and transparent with the public as possible within the confines of respect for privacy and the reputation of the individuals involved. This is especially so with regard to informing parish and other church communities directly affected by sexual abuse of a minor. At a minimum, the procedures for making a complaint of sexual abuse of a minor by clergy shall be published or publicly announced annually by the Diocese.

- The Diocese will not enter into confidentiality agreements except for grave and substantial reasons brought forward by the victim and noted in the text of the agreement.
- The Diocese will take no action that would restrict the victim's choice to speak publicly about their experience of sexual abuse by clergy. The Diocese shall advise every person alleging clerical sexual abuse of that person's right to report any abuse to law enforcement, and the Diocese shall support that right.
- The Diocese will provide education and training for children, youth, parents, ministers, educators and others about ways to make and maintain a safe environment for children in cooperation with parents, law enforcement, educators and community organizations.
- The Diocese will conduct background checks utilizing the resources of law enforcement and other community agencies and will continue to employ evaluative techniques in deciding the fitness of candidates for ordination.
- Before a cleric from the Diocese is assigned for ministry outside the Diocese, or a cleric from another diocese or religious community is assigned to ministry within the Diocese, an accurate and complete description of their record will be provided before assignment. This will include whether there is anything in his background that would raise questions about his suitability for ministry. The Diocese shall not transfer for a ministerial assignment within the Diocese or to another diocese any cleric who has committed an act of sexual abuse of a minor, or has a pending complaint of alleged sexual abuse of a minor.
- Before the Diocese can receive a cleric who has committed an act of sexual abuse of a minor from another diocese or religious order for non-ministry residence, including retirement, the Diocese must obtain necessary information regarding the acts of sexual abuse. Before the Diocese can transfer a cleric who has committed an act of sexual abuse of a minor to another residence outside the Diocese, including for retirement, the Bishop must forward to the bishop of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information indicating that he has been or may be a danger to children or young people. The Bishop then can make an informed judgment that suitable safeguards are in place for the protection of children and young people.
- The Diocese will cooperate with national efforts to implement the United States Conference of Catholic Bishop's Charter for the Protection of Children and Young People.

## **Victim Assistance Advocate and Allegation Review Committee**

### ***1. Victim Assistance Advocate***

The Bishop has appointed a Victim Assistance Advocate (“advocate”) to receive allegations of sexual abuse of minors and to promote the well-being of victims who contact the Diocese. The advocate will assist throughout the process and will refer a victim to support and counseling services.

### ***2. Allegation Review Committee***

The diocesan Allegation Review Committee consists of at least five members and no more than fifteen, the majority of which will be laypersons not employed by the Diocese, its parishes or schools. At least one member is the diocesan Vicar General and one member should have particular expertise in the treatment of sexual abuse of minors. Committee members shall be appointed by the Bishop. When possible, the committee will include members expert in civil law, law enforcement, childhood education and development, and should have geographic and gender diversity. Committee members shall elect a chair, who will coordinate the committee’s communications with the victim, the public, the alleged offender, and the Diocese. The Diocese shall provide staff as necessary for the committee. Committee members will serve five-year terms, renewable once. The committee shall meet at least twice each year, or more frequently as needed.

The Allegation Review Committee has three responsibilities:

- 1) Advise the Bishop in his assessment of allegations of clerical sexual abuse of minors and in his determination of a cleric’s suitability for ministry. Offer advice on all aspects of these cases, either retrospectively or prospectively.
- 2) At the discretion of the Bishop, advise him on allegations of inappropriate conduct by clerics other than those involving sexual abuse of minors.
- 3) Annually review diocesan policies and procedures for dealing with sexual abuse of minors.

## **Making A Complaint**

An allegation of sexual abuse of a minor may be made to the Diocese in a variety of ways, directly to the advocate, to the diocesan offices, to the Bishop or other diocesan official, or to a pastor or other official in a parish. Allegations can also be made directly to law enforcement or child protective agencies. While the process outlined below offers a formal pathway for victims to make a complaint, the Bishop must act on any information concerning an allegation of abuse of minors. These include: formal written or oral reports by the alleged victim, his or her guardians or other persons claiming to have knowledge about the matter; from civil authorities;

through public media, including social media; even through hearsay. Regarding anonymous source allegations, the anonymity of the source should not automatically lead to the conclusion that the report is false. However, great care is exercised in considering such allegations, and are regarded with great circumspection.

Church law requires that whenever a cleric or religious “has notice of, or well-founded motives to believe that” sexual abuse of a minor has occurred, “that person is obliged to report promptly the fact to the local Ordinary or the Ordinary where the events are said to have occurred.”<sup>4</sup> The only exception for a priest is when he learns of the abuse from a penitent in the Sacrament of Reconciliation and is bound by the seal of confession. In this situation, the priest should exhort the penitent to report the offense to civil and Church authorities.

In addition to the requirement of the above universal church law, the Diocese requires that in addition to clergy, all staff and volunteers for parishes, schools and related organizations within the Diocese *must* report knowledge or belief that a child is the victim of abuse to the Bishop, whether through an appropriate supervisor or directly.

Diocesan personnel will also adhere to Iowa mandatory reporting laws, where applicable.

Clergy, staff, volunteers, or other agents of the Church shall report suspected abuse if he or she:

- a. Has actual knowledge that a child is the victim of abuse.
- b. Has *reasonable cause* to suspect that a child has been sexually abused.

“Reasonable cause” means a reason that would motivate a person of ordinary intelligence under the circumstances to believe, based on observations or conversations that a child has been or is being abused.

All diocesan, parish and school staff and volunteers will be informed about processing such information. In addition to contacting law enforcement and an appropriate Church official or supervisor, they will be instructed to assist the victim in contacting the advocate who will help the victim to process a complaint. If a victim wishes to speak first with a diocesan official or the Bishop, they should be helped to make that contact. In all cases, the person making the allegation is to be treated with solicitude, respect, and compassion. It is not the role of those initially receiving an allegation to judge whether it is plausible.

The following are specific options to bring a complaint:

**Contact the Victim Assistance Advocate.** Contact information for the Victim Assistance Advocate is on the diocesan website, diocesan newspaper and other public notices.

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<sup>4</sup> Vos Estis Lux Mundi, Art. 3, §1.

**If a victim does not wish to contact the Diocese directly**, the Victim Assistance Advocate, may be contacted to provide advocacy for victims and to assist in filing an allegation of sexual abuse of a minor that occurred in the Diocese of Des Moines, regardless of where the victim currently resides. The Victim Assistance Advocate may also assist in identifying counseling services. The advocate shall inform the victim of the right to report any abuse to public authorities.

**Contact the Diocese:** Reporting forms and contact information for the Diocese are available on the diocesan website. Please direct any communication to the Chancellor of the Diocese. The mailing address for the Diocese of Des Moines is 601 Grand Avenue, Des Moines, IA 50309. Please mark the letter “personal and confidential” and address it to the Chancellor.

## **Processing a Complaint**

### ***1. Victim Assistance Advocate***

The advocate will make a timely contact with the person making the allegation and offer to assist them in filing a complaint. Wherever possible, the advocate will meet personally with the victim. The advocate will help the individual understand and navigate the process and decide whether to pursue a complaint. If the person wants to file a complaint, the advocate will provide the complaint forms and assist in preparing them. It will be important to have as specific information as possible, giving the date and the place of the alleged abuse. Once the information is gathered, the advocate will explain the next steps in the process and assure the victim of assistance. If the victim wishes, the advocate will make a referral to appropriate services, including counseling, advocacy, support groups and spiritual guidance. The advocate shall take any necessary steps to support the victim’s right to report abuse to law enforcement.

Once a complaint has been received, the advocate shall immediately inform the Diocese, who will also immediately inform the chair of the Allegation Review Committee of any allegation of abuse. The advocate or Diocese shall inform law enforcement and/or the department of human services of any allegation of sexual abuse.

### ***2. Admission of Abuse***

If the cleric admits to the allegation, the Bishop shall prohibit the cleric from engaging in active ministry while the admission is reported to the Congregation for the Doctrine of the Faith. The offending cleric will either be removed permanently from ministry, request dispensation (release) from the obligations of the clerical state, be dismissed from the clerical state by the Holy Father at the request of the Bishop, or be remanded to a life of prayer and penance where he cannot celebrate Mass or administer the sacraments publicly, or present himself publicly as a priest or deacon.

### **3. *Role of the Allegation Review Committee***

#### *Report to Law Enforcement*

Upon receipt of a complaint, the first role of the Allegation Review Committee is to confirm that law enforcement has been notified. This may occur through the advocate, through the Bishop's Office, or a third party. However the complaint is received, the Committee is to guarantee reporting. Reporting to law enforcement ensures an objective process where the rights of the victim are protected.

#### *Assist the Bishop Conduct a Preliminary Investigation*

If the Bishop determines, with the help of the Allegation Review Committee, that there is a semblance of truth to the allegation, that is, the accusation is not manifestly false or frivolous, the Bishop will initiate a preliminary investigation. The preliminary investigation is not a trial, nor does it seek to attain moral certainty regarding the allegation. It serves to gather data useful for a more detailed examination of the allegation and to determine whether there is a reasonable belief that the allegation is true.

The Bishop will appoint an investigator during the preliminary investigation to gather detailed information about the allegation with regard to facts, circumstances and imputability. It is not necessary to assemble complete elements of proof (e.g. testimonies, expert opinions), as this will be conducted at a later time, if necessary. The investigator often uses the expert services of others to assist with the investigation.

The Allegation Review Committee assists the Bishop as he reviews the allegation and associated information that comes to light during the preliminary investigation. Care should be taken that the preliminary investigation does not interfere or compromise any investigation by law enforcement. It may be advisable to wait until the completion of a law enforcement investigation.

#### *Recommendation to the Bishop*

At the conclusion of the preliminary investigation, the committee shall make written recommendation to the Bishop whether there is a reasonable belief that the allegation is true. However, the Bishop makes the determination whether and how to proceed based upon the findings of the preliminary investigation and the Committee recommendation.

### **4. *Role of the Bishop***

During the preliminary investigation, the Bishop may decide if and when to inform the accused cleric. Should the Bishop choose to inform the cleric, he will first communicate and cooperate with law enforcement to avoid jeopardizing a criminal investigation. The Bishop may prohibit the accused cleric from ministerial duties during the preliminary investigation. The accused



cleric will be encouraged to have legal and canonical counsel. Should the cleric desire canonical counsel, the Diocese will assist in making arrangements.

During the preliminary investigation, it may be necessary where the common good is endangered to release information to the public concerning the allegation. Any public statements will take care not to prematurely indicate judgment about the guilt or innocence of the accused cleric, and to respect any desire for privacy expressed by the alleged victim.

The Bishop will communicate with the alleged victim his determination following the preliminary investigation. If the accused cleric and public were notified during the investigation, further communication will provide an update.

Whatever the outcome of the preliminary investigation, the Bishop shall have recourse to the Congregation for the Doctrine of the Faith, presenting the relevant facts and his own evaluation of the results of the investigation, seeking guidance on how to proceed. The Bishop shall then apply precautionary measures as necessary to assure the safety of minors.

#### **5. *Accused Clergy -- Rights and Expectations***

Clergy alleged to have committed sexual abuse of minors should expect the following:

- The Diocese will report allegations of sexual abuse of a minor to law enforcement within 24 hours of receiving them. The Diocese will cooperate with law enforcement in any investigation. The accused has the right to an objective investigation.
- If the allegation is not manifestly false or frivolous, the Bishop will appoint an investigator to conduct the preliminary investigation.
- The accused is to be presumed innocent during the investigation of the allegation and all appropriate steps are to be taken to protect his reputation. The Diocese will work to restore the good name of any cleric who is falsely accused. The Diocese will notify the public of the allegation when necessary to protect the common good. Any statement will refrain from premature judgment about the guilt or innocence of the accused.
- The accused is encouraged to retain both civil and canonical counsel.
- During the time the allegation is being investigated, the Bishop may prohibit the alleged offender from exercising public ministry and take precautionary measures pending the outcome of the investigation, including: withdrawal from any sacred ministry or church function/office; impose or prohibit residence in a given place or territory; prohibit public participation in the Most Holy Eucharist.
- Where applicable, the Diocese will provide compensation consistent with its policy during the investigation.

- After an allegation is made, no bishop or priest involved in the investigation may hear the sacramental confession of the accused.
- The accused will be referred to appropriate psychological evaluation and/or sex offender treatment.
- Clergy permanently removed from ministry for sexual abuse of a minor will be referred to appropriate sex offender treatment.

### **Services Provided To Victims**

The Diocese will provide counseling, advocacy, support services, and spiritual guidance for victims sexually abused by clergy, including their immediate family members.

Advocacy. The Diocese will assist with the process of filing a complaint by providing both information and a trained advocate for assistance and support. The advocate has been trained to promote the interests of victims and to direct them toward additional services.

Counseling. The Diocese will assist in finding competent therapeutic assistance and will try to ensure that financial constraints do not prevent the victim from receiving specialized counseling services. The Diocese can assist with insurance co-payments for counseling, or where insurance is lacking or insufficient, with therapy costs subject to a review of the victim's ongoing needs.

Support Groups. Support groups will be made available for people who have been through similar traumatic experiences to connect and share feelings leading to further healing.

Spiritual Guidance. Damage caused by clergy abuse is often spiritual as well as psychological, emotional, and physical. Sometimes the relationship with God and the faith community has been ruptured. When a victim wishes to address spiritual concerns arising from past sexual abuse, the Diocese will assist him/her in finding spiritual guidance.

Remaining Anonymous. Even if a victim wishes to remain anonymous, information and referrals for counseling and support services can be provided.

Former or Deceased Clergy. Information and referrals for counseling and support services can be provided to victims of former and deceased clergy.

Abuse Occurring in Other Dioceses. Some people were abused by clergy elsewhere before moving to the diocese. If a victim wishes to pursue a complaint in another diocese, the Diocese of Des Moines will assist in making the contact. If financial assistance is needed, the Diocese will assist in seeking support from the other diocese.

## **Conclusion**

Sexual abuse can be a traumatic and life-altering experience because the offender is usually someone the victim knows and trusts. When the offender is a person of authority, such as a member of the clergy, it is especially disturbing and harmful. Sexual abuse wounds the victim, distorts the image of a merciful and loving God, causes scandal, and diminishes trust and faith in the Church and her ministers. The Diocese of Des Moines mourns and has great remorse for instances of sexual abuse committed in the past and will enact and observe measures necessary to try to prevent abuse in the future. The Diocese will promptly respond to allegations of abuse and will protect and support the psychological and spiritual needs of victims and their families.

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