

Instruction For Identifying, Reporting and Responding to Sexual Misconduct

Diocese of Winona

Dear Faithful of the Diocese of Winona,

In March of 2001, I implemented a new sexual abuse policy for this local church entitled: "Instruction for Identifying, Reporting and Responding to Sexual Misconduct." This Instruction was the third such policy for this diocese. It updated the 1993 document "Sexual Policy" in order to simplify and further clarify the expectations of the Church in the Diocese of Winona for handling allegations of sexual misconduct. It once again expressed our conviction that sexual abuse is contrary to the Gospel and our lives as disciples of Jesus and that the Church must always address issues of sexual misconduct appropriately and effectively.

In June of 2002, the United States Conference of Catholic Bishops approved the "Charter for the Protection of Children and our Young People. This Charter is a promise we have made to protect our young people. It is a pledge to help heal those hurt by sexual abuse by clergy. The Bishops also approved the "Essential Norms" establishing particular law, complementary to the universal law of the Church, which governs the procedures to be used in the Catholic Church in the United States for dealing with sexual abuse of minors by clerics. In December of 2002, the Holy See gave its approval to these norms and established their effective date as March 1, 2003.

I am pleased to present to you the *Revised* "Instruction for Identifying, Reporting and Responding to Sexual Misconduct." This revised document has incorporated the work of the Bishops in the "Charter for the Protection of Children and Young People" as well as the "Essential Norms" approved by the Holy See.

As the shepherd of this local church, I once again call upon all the faithful of Southern Minnesota to live the Gospel message fully, with deep love and respect for one another. As your shepherd, I am keenly aware of my own responsibility to love and guide the flock. With humility and trust in God, the Good Shepherd of all, I renew my own commitment to each one of you to protect the flock he has entrusted to me, in accord with this, our new *Revised* "Instruction for Identifying, Reporting and Responding to Sexual Misconduct."

Sincerely yours is Christ,

Most Rev. Bernard J. Harrington
Bishop of Winona

Given at Winona, October 1, 2003

FORWARD

There are two parts to this Instruction. The first part deals with clerical sexual misconduct, i.e., sexual misconduct by an ordained deacon or priest. It follows the universal law of the Church and the particular law for the Church in the United States as set forth in the "Essential Norms." The second part deals with sexual misconduct by other church employees or volunteers and how the particular parish or institution should respond to this situation.

This Instruction presumes that any sexual misconduct by clergy, employees or volunteers of the Diocese of Winona or any of the Catholic institutions subject to the authority of the bishop is contrary to the Gospel and the values we uphold. We are committed to investigate and appropriately address all complaints of sexual misconduct by Church personnel. This *Revised* Instruction provides direction as to how to respond to accusations of sexual misconduct involving other ministers of the church. These responses are largely managed at the parish or institution level.

The terms *ministry-related sexual misconduct* and *sexual misconduct*, as used throughout this *Revised* Instruction, are general terms which include sexual abuse, sexual exploitation and sexual harassment. This document is in accord with both civil and criminal law in the State of Minnesota, as well as with the law of the Church. Accordingly, at this moment, the following terms have these meanings:

1. *sexual abuse* - abusive sexual interaction between a Church leader and a minor or vulnerable adult. In the State of Minnesota, sexual abuse is subjection of a child or vulnerable adult, by any person responsible for their care, in a position of authority, or a person who has a significant relationship, to any sexual contact or act, which is a violation of the Minnesota Criminal Sexual Conduct code. In Church law, sexual misconduct with a minor includes sexual molestation or sexual exploitation and other behavior by which an adult uses a minor as an object of sexual gratification.

The transgressions in question relate to obligations arising from divine commands regarding human sexual interaction as conveyed to us by the sixth commandment. Thus, the norm to be considered in assessing an allegation of sexual abuse of a minor is whether conduct or interaction with a minor qualifies as an external, objectively grave violation of the sixth commandment. This need not be a complete act of intercourse. Nor does an act need to involve force, physical contact or a discernible harmful outcome. In the State of Minnesota, a minor is a person under 18 years of age. A vulnerable adult is a person 18 years of age or older who, because of impairment of mental or physical function or emotional status, is unable or unlikely to report abuse or neglect without assistance. In the Church, a minor is anyone who has not completed their 18th birthday. The date of the alleged offense is an important consideration when determining if the person is now considered a minor.

2. *sexual exploitation* - as it applies to any formal helper/helped relationship, is any kind of sexual interaction between counselor and client whether initiated by either counselor or client, and regardless of the consent of the client.

3. *sexual harassment*, unwanted sexual advances, including conduct or language, between co-workers in the Church work setting, which create an intimidating, hostile or offensive working environment or which are made as a condition for continued employment or advancement.

All three forms of misconduct are addressed together here because they usually involve an abuse of power or authority. The Diocese of Winona is committed to continually refining its response to all forms of sexual misconduct.

EDUCATION AND PREVENTION

The publication of this Revised Instruction is intended to create public awareness of our desire to care for victims, provide intervention and heal communities. It also signals our willingness to encourage responses and discussion in our parishes and other Catholic communities. Educational materials aimed at specific groups, such as clergy or lay ministers, sometimes apply to more general audiences as well. Our aim is to design materials that have broad applications. We encourage their use in parishes, schools and with other Catholic entities. We recognize that our Church is accountable to God and must be faithful to the teachings of our Church. We have the responsibility to educate the broader society in these teachings. We plan to continue and enhance this cooperative effort.

Our understanding of sexual misconduct has grown considerably over the last two decades. We not only gain insight from advancement in human psychology and understanding of human sexuality, we also learn from experience in our practical response to people who have come forward with their concerns.

In the Diocese of Winona, the clergy are periodically updated by means of seminars and related workshops addressing prevention and appropriate responses to those harmed by sexual misconduct. Every priest and deacon is encouraged to have a personal spiritual director and take advantage of fraternal support. We believe that the prevention of sexual misconduct lies in the promotion of a healthy human sexuality and a good system of support fostered by family, friends, and professional relationships. Clergy in the Diocese of Winona have professional conferences, annual retreats, deanery meetings, and continuing education.

Lay employees of the Church are offered similar opportunities for growth and ministry support.

Clergy formation programs (seminaries and diaconate preparation) include psychological screening and background checks of prospective candidates. In recent years we have placed an even greater emphasis on this screening and now conduct criminal background checks on all candidates for orders. Although no perfect screening method exists, we use the currently accepted methods and work with competent professionals to strengthen screening.

Newly ordained priests and deacons, as well as those seeking incardination, will be expected to attend a workshop which addresses sexual misconduct and boundaries issues. Whenever appropriate, these same opportunities will be made available to other Church personnel.

We hope this Revised Instruction will provide information and support for others and make it clear that sexual misconduct will not be tolerated or condoned in the Church.

We advocate a prompt, compassionate, and appropriate response to reporters of sexual misconduct and respect the canonical and civil rights of the parties involved. Confidential procedures are designed to gather relevant facts that respect the privacy of the reporter and the

accused. This Revised Instruction provides a process, which seeks to restore trust and define the actions to be taken when a complaint of sexual misconduct is received.

The parishes, schools and other Catholic entities of the Diocese of Winona remain free to establish their own criteria for engaging and supervising paid staff, independent contractors and volunteers. All parishes and institutions are required to perform background checks on personnel before engaging them in service as required by law. The Diocese of Winona will continue to make guidelines and revisions available to the parishes for their adoption or adaptation.

REPORTING PROCEDURES

The following describes how the Diocese of Winona will respond to those priests and deacons who are accused of engaging in sexual abuse, sexual exploitation, or sexual harassment.

Allegations of misconduct

The diocese considers any allegation of sexual misconduct toward a cleric to be a very serious matter. Such allegations may be received through phone reports, correspondence, or face to face meetings. The Diocese of Winona is committed to help the alleged victim obtain whatever assistance may be required.

The diocese will work with the proper civil authorities such as police and child protection agencies in its investigation of sexual misconduct allegations involving minors and legally protected adults. Minnesota Law states that certain categories of persons such as teachers, clergy and counselors are to report to civil authorities if they know or have reasons to believe that a minor or vulnerable adult is being abused. In addition to compliance with this law, the bishop directs all paid personnel and volunteers, even those who are not mandated reporters, to report their knowledge or belief of the abuse of minors or vulnerable adults, if such knowledge or belief is obtained while engaging in the ministry of the Diocese of Winona.

Priests are not required to report information that is otherwise privileged (e.g. - disclosing a confession).

Our Church law also protects the rights of those accused of misconduct. We recognize that it is important to respond quickly to allegations of ministry related sexual misconduct and we will do so. Still, our willingness to make a rapid response is not a "conviction" of the accused priest or deacon. A determination of guilt or innocence will be made by an appropriate canonical or civil process.

When civil authorities are involved with criminal investigation, the Diocese of Winona will defer to their investigative processes. We will, how, ever, use every reasonable means to investigate any allegation of sexual misconduct. The first source of information for any investigation is the person making the allegation. When an allegation is brought forward, the individual will be asked to use the appropriate process to file a complaint.

HOW TO BRING A COMPLAINT FORWARD

Contact the Pastoral Care Assistance Coordinator

If you have a complaint about a cleric, call and ask to speak to the Pastoral Care Assistance Coordinator at the Diocese of Winona Pastoral Center, 507 ~454-4643. The

Coordinator is a competent person designated by the bishop to assist in the immediate pastoral care of persons who claim to have been sexually abused by priests or deacons. The Coordinator is ready to receive any such complaint, to assist in caring for the one making it, and to see that guidance and pastoral care are provided while dealing with the accusation.

If you are unsure about whether or not you wish to bring a complaint forward, it is appropriate, without giving your name or the name of the clergyman in question, to give a general description of your concern. The Pastoral Care Assistance Coordinator will describe to you how the Diocese of Winona would be able to respond. You can then decide whether to make a formal complaint.

Write to the Diocese of Winona.

Please mark your letter "Personal and Confidential" and address it to the Bishop of Winona. Please indicate how you would like a response (e.g.: telephone, letter, meeting).

We will respond to every complaint of sexual misconduct by clergy, insofar as we are able. Since it is often impossible to follow through on anonymous complaints, we will ask if you are willing and able to reveal your identity to diocesan officials to assist our investigation. If you do not reveal your identity, or ask us to withhold your identity from the accused clergyman, this can severely limit the steps we can take. Please understand that we are open to and respect your complaint.

We ask you to understand that our immediate willingness to respond to your complaint and provide you assistance is not a conviction or judgment of the accused. A complete investigation will take place through the process outlined in this Instruction.

**PROCESSING ALLEGATIONS OF SEXUAL
MISCONDUCT BY CLERGY**

The steps for processing an allegation of sexual misconduct are clearly outlined in the Church's universal law, the "Charter" and the "Essential Norms." The Diocese of Winona will clearly follow these steps in processing such allegations. When an allegation of sexual misconduct by a priest or deacon is received, a preliminary investigation in harmony with canon law will be initiated and conducted promptly and objectively.

The diocesan bishop has the responsibility to determine whether there is sufficient evidence to indicate that the allegation is credible. In the case of an allegation of sexual abuse of a minor by a cleric, the bishop has the Diocesan Review Board to help him make this determination. The Diocesan Review Board is a confidential consultative body available to review the facts that are gathered and advise the bishop in his assessment of the allegation.

When there is sufficient evidence to indicate that the offense may have in fact been committed, he will determine whether the case will be dealt with by an administrative process or by a judicial process, according to canon law. If the case is one of sexual abuse of a minor by a cleric, the Congregation for the Doctrine of the Faith will be notified and the bishop will proceed as the Congregation directs.

Care is always taken to protect the rights of the parties involved in a case. If desired, each party has the right to appeal the decision upon notification of the outcome of the process. An appeal may be lodged by notifying the bishop. When an accusation has proved to be

unfounded, every step possible will be taken to restore the good name of the person falsely accused. Upon the death of the cleric, unsubstantiated documentation is destroyed.

SERVICES TO INDIVIDUALS HARMED BY SEXUAL MISCONDUCT BY CLERGY

Catholic priests and deacons occupy important places of service in our Church. We are proud that most do so with extraordinary generosity and care. We have learned more about the misuse of position and power by some clergy over the past several years. The Diocese of Winona is committed to reach out to victims of clergy who have misused their position and power by sexual abuse. The Pastoral Care Assistance Coordinator is designated by the bishop to help those who look for healing and reconciliation and is ready to be of service to all victims of sexual abuse by clergy.

We will help you obtain counseling support

Misconduct by a member of the clergy can cause deep hurt. This can be addressed through the assistance of skilled and reputable professional therapists.

We will try to ensure that financial restraints do not prevent you from receiving competent and specialized therapeutic assistance.

We will try to help you with insurance co-payments for counseling or, where insurance is lacking or insufficient, with your therapy costs. From time to time, we will review with you the ongoing necessity or appropriateness of continuing assistance from the Diocese of Winona.

We will help you obtain spiritual direction

The damage caused by clergy misconduct is most often spiritual as well as psychological. We have learned from those who have been harmed that sometimes their relationship with God and with their faith community has been ruptured. You may wish to address such a spiritual rupture. When you are ready to do so, we can help you find competent spiritual help. Once again, we will try to ensure that financial constraints do not close this avenue for you. There are several resource centers available that are staffed by trained spiritual directors who understand the impact of sexual abuse on spiritual growth. The staff members include women, men, lay people, religious and priests. Please speak with us if you need such help.

We will help you bring your concern to the proper Church officials outside the Diocese of Winona

Some people may have been hurt elsewhere before moving to a community within the Diocese of Winona. You may wish to pursue a complaint in another place, but do not know how to do so. We will aid you in contacting the leadership of other dioceses, religious orders, or denominations.

If you were harmed by clergy elsewhere, we are unable to provide you with financial assistance for counseling or spiritual direction. However, we will help you seek such support from the diocese, religious community or denomination of the accused clergy.

RESPONSE TO PARISHES EXPERIENCING THE PAIN OF CLERGY SEXUAL MISCONDUCT

When members of the clergy engage in sexual misconduct, many people may be harmed or affected. This is true not only of those directly involved in the misconduct, but also of parish members where the clergyman currently serves or served in the past. We outline here the key elements of the responses we take to help heal this pain.

First, we acknowledge that parishes undergo a complex process of grieving. When people learn that a respected leader has been accused, there is often a reluctance to believe that the report could be true. Denial may be followed by other well-known steps in grieving a loss, including depression and significant anger against the accused, the accuser(s), the diocese, and the whole Catholic Church. Only after time passes and the appropriate steps are taken can a parish truly move on in the continuation of its mission.

Second, we acknowledge that one of the most important elements in healing is providing the parish appropriate and accurate information about what happened. Information helps dispel the atmosphere of distrust that may be fed by rumor, by the sudden departure of a clergyman assigned to the parish, and by the feeling that a "cover-up" is being imposed. Information also assists other victims, if there are any, to come forward and assures that appropriate steps are taken so that a parish can truly move ahead.

While committed to disclosure where possible, we acknowledge that significant communication limitations may exist. These limitations can include the victim's and his/her family's concern for privacy as well as the need to protect the rights of the accused, especially when lawsuits or criminal action may be jeopardized. The fact that investigations often yield confusing, contradictory, or unsubstantiated conclusions, especially in their early stages, further limits disclosure.

Third, we acknowledge that the healing of a parish is a multi-faceted challenge. Our experience has taught us that neither diocesan officials nor a new pastor alone can respond to all the concerns and problems that arise in the aftermath of clergy misconduct. As a result, we may involve teachers, therapists, lawyers, communication experts and other professionals in a team approach to specific parishes.

We are committed to help develop models or approaches that will foster healing in our affected parishes.

When the clergyman is removed...

Credible accusations may result in removing the accused clergyman from the parish:

a.If the clergyman is the pastor, a temporary administrator will be appointed. The administrator is informed of the accusation and of the follow-up steps.

Key parish personnel will be informed as soon as possible. Depending on the organization of the particular parish, this may include lay trustees, professional staff, and the president of the parish council.

aDue to confidentiality and the right to privacy, people may not have the right to know all the reasons for a priest's removal. The pastor or administrator, after consulting with diocesan staff

and with the parish leadership, will notify parishioners about the absence of the priest. This announcement can happen in several ways and may include pulpit announcements, bulletin notices, or a parish mailing.

Along with these announcements, parish members may be invited to a parish meeting. The meeting is a key step in the parish healing process. It allows the opportunity for more parish members to be involved in a discussion of what has happened to help them adjust and heal. The meeting should include participation of some or all of the following: a diocesan official (usually the vicar general), the pastor or administrator and parochial vicar, a facilitator, a therapist, an attorney, and a communications expert. Because it is a pastoral gathering of the parish, nonmembers are generally excluded.

Following this meeting, parish leadership is invited to assess the immediate results of the meeting and to address other healing issues that may arise in the parish. Parish leadership should consult with the vicar general at least quarterly during the first year following the parish meeting. In consultation with the vicar general, parish leadership should arrange for whatever further healing measures are needed in the parish. These may include additional general meetings, a small group process of reflection, a reconciliation service, and/or a request for communication from the removed clergyman.

Response in former parishes where the removed cleric served...

Two reasons may cause the diocese to inform members of former parishes that a priest or deacon has been removed for sexual misconduct. The first and more pressing reason is so persons who may have been victims of misconduct will know that they may come forward for assistance. The second is to encourage healing of the hurt and betrayal that can result from sexual misconduct. Diocesan officials will assess what is needed in each case. The present pastor or parish director may be consulted as a decision is reached. If disclosure is called for, then the following steps will be taken:

1. Parish leadership will be informed of the case, the follow-up steps that are planned, and the potential impact of the news on their parish. They will work with a diocesan official to plan the best way to inform parish members.

1. The pastor, after consultation with diocesan officials and parish leadership, will inform the parish about the clergyman who has been removed. He will explain the process that is available for follow-up. This is generally done at a parish meeting. Other options might include opportunities for individuals to meet with counselors.

Parish leadership will assess the ongoing impact of the disclosure to the parish. Leadership should consult at least once a week with the vicar general after the initial disclosure. More meetings can be scheduled if needed.

When the Church process does not result in removal of the clergyman from his assignment...

In dealing with accusations of sexual misconduct by clergymen, care is always taken to protect the rights and good name of the one bringing an accusation forward and of the clergyman accused. When an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the person falsely accused. An assessment will be made by diocesan officials, in consultation with the clergyman falsely accused, as to what steps should be taken to assure the stability and peace of parish life. This assessment may be made in consultation with parish leadership. Appropriate steps will be taken to help the clergyman and the parish to move forward.

RESPONSE TO RELIGIOUS AND LAY PROFESSIONAL EMPLOYEES, INDEPENDENT CONTRACTORS AND VOLUNTEERS ACCUSED OF SEXUAL MISCONDUCT

The problem of ministry related sexual misconduct can involve Church personnel other than clergy. When an accusation of ministry related sexual misconduct is brought against a religious or lay professional employee, independent contractor, or volunteer serving in a diocesan parish or institution, the Diocese of Winona stands ready to act as a resource to the parish or institution in responding to the matter. However, since our parishes and institutions function independently, they are responsible for establishing adequate guidelines and procedures to address these accusations.

Parishes and institutions should see that those in supervisory positions are sufficiently trained to understand complaints of sexual misconduct and their investigation. Professional counseling should be offered, if possible, to persons who believe they have been victimized.

This section provides an outline of essential components that parishes and other institutions in the diocese should consider in responding to an allegation of sexual misconduct. The Diocese of Winona will provide consultation to assist parishes that face instances of sexual misconduct.

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Allegations of misconduct:

The person responsible for investigation of an allegation should be:

1. the pastor in the case of a parish, or
1. the person who is in a major supervisory position in institutions where the accused is employed, contracted, or volunteering.

Each parish or institution should designate and make known the person responsible for conducting an investigation if it is necessary. In addition, this individual should take great care to see allegations of sexual abuse of children or legally protected adults are referred to the proper civil authorities, as required by law.

Investigation steps:

Every allegation is to be taken seriously. Upon receiving a complaint, the pastor or supervisor should conduct an investigation as soon as possible.

- Contact the legal counsel of the parish or institution

- Call the parish's or institution's insurer and notify the diocese

- Consider establishing an investigation team that is gender balanced

- Establish the relevant facts relating to the allegation

- Encourage the complainant to be accompanied by an advisor, friend, coworker, or family member

- Interview the person bringing the complaint

- Take careful notes of the interview

- Interview others who may have knowledge of the accusation

Note: If the accused is a member of a vowed~religious community, it is always appropriate to involve the provincial superior of the accused early in the process.

Intervention:

If the investigation finds substance to the allegation, the pastor or supervisor should meet with the accused employee, independent contractor, or volunteer. For this meeting, the accused person should be encouraged to have another person present. The purpose of this meeting is to formally present the allegation and to listen to the accused.

If the employee acknowledges that the allegation is true, then the supervisor should invoke the appropriate disciplinary procedures (including possible termination) as found in parish or institutional employment guidelines. If the employee denies the allegation, then the pastor or supervisor should consider suspending the employee with pay, or taking some similar action, until a better understanding of the allegation can be gained.

The parish or institution may choose to arrange a psychological assessment of the accused to help gain further understanding.

If a volunteer acknowledges the allegation is true, his or her voluntary service with the parish or institution is reviewed by the pastor or supervisor. This review may indicate that the person's volunteer service should end. If the volunteer denies the allegation, then the pastor or supervisor

should consider stopping the services he or she provides until a better understanding of the allegation can be obtained.

In the event that the accused denies the allegation, the pastor or supervisor should seek assistance with the investigation. Others who may be helpful at this stage include a trustee, fellow pastor or supervisor, or diocesan official. Additional detailed information is gathered by further interviewing the victim, the accused and others who might have direct knowledge of the allegation. At this stage, the person bringing the accusation and the accused should both be assisted by an advisor or friend.

Resolution:

After sufficient information has been gathered, the supervisor must resolve the matter. The supervisor must invoke the appropriate termination procedure found in the parish or institution guidelines for the suspended employee or volunteer, take intermediate disciplinary action, or reinstate the individual's employment or service.

In all cases, the procedure for discipline or termination of employment must follow the steps laid out by the parish or institution guidelines. In addition, full cooperation with civil authorities and adherence to reporting requirements, as determined by civil law, must always be exercised.

CONCLUSION

Our experience tells us it is possible for individuals and communities to heal from the effects of sexual misconduct. This is not easily or quickly accomplished. Effective counseling, support groups and spiritual direction are tools that are often required for this healing.

The Diocese of Winona is committed to doing all that it can to:

◆Promote safe, healthy communities of faith. Diocesan staff will continue to provide training sessions for clergy, parish personnel and volunteers and will continue their work in helping the faithful assure that all our environments are safe environments.

◆Intervene when there is misconduct. All accusations of sexual misconduct will continue to be taken most seriously and will be dealt with expeditiously in accord with civil law and church law. The Diocese of Winona and its bishop join with all the other local churches of the United States in supporting and implementing the "Charter for the Protection of Children and Young People" and the "Essential Norms." We are vigilant to do all that we can to prevent those who would exploit others from doing so.

◆Respond fairly and compassionately to those harmed by misconduct. Our first obligation to victims is for healing and reconciliation. The Diocese of Winona will continue its pastoral outreach to victims and their families as we share with them a profound sense of solidarity and concern.

We do all this because of our faith in Jesus Christ and His call to us as disciples and Church to act justly and live compassionately. We know He is with us and guides us in our efforts.

**THE REVISED INSTRUCTION FOR IDENTIFYING, REPORTING AND
RESPONDING
TO SEXUAL MISCONDUCT**

Acknowledgment of receipt

I hereby acknowledge that I have received a copy of the *Revised* "Instruction for Identifying, Reporting and Responding to Sexual Misconduct" for the Diocese of Winona. I have read this complete document, understand its meaning, and agree to conduct myself in accordance with its procedures. I further understand that this acknowledgment will be filed at the parish or institution in which I serve and that I am required to attend training annually.

Date: _____

Name: _____

Parish/Institution: _____

Pastor/Supervisor: _____

Your signature: _____

Signature of witness: _____

Note: *"Promise to Protect, Pledge to Heal"*

(The Charter for the Protection of Children and Young People, Essential Norms and Statement of Episcopal Commitment) can be found at www.usccb.org or can be ordered by calling USCCB at 800~235~8722.