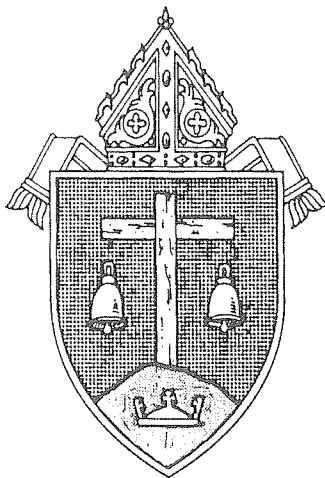


DIOCESE OF MONTEREY



POLICY AGAINST SEXUAL MISCONDUCT

October 2004

Introduction

The Diocese of Monterey commits itself to addressing the problems of sexual misconduct by clergy, lay employees and volunteers and seeks to implement fully the *Charter for the Protection of Children and Young People* and *The Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests and Deacons*. Under this policy, when an allegation of sexual misconduct is raised, the Diocese of Monterey will conduct a prompt and objective investigation and if the investigation reveals sufficient evidence of sexual misconduct involving a minor, appropriate remedial action will be taken as outlined in the *Charter* and *Essential Norms*.

A. *The Charter*

The United States Conference of Catholic Bishops adopted the *Charter for Protection of Children and Young People* [hereinafter “*The Charter*”] in June of 2002 and amended the *Charter* in November 2002. The Bishops stated that the Church in the United States is experiencing a crisis without precedent in our times. The sexual abuse of children and young people by some priests and bishops, and the way in which the bishops addressed these crimes and sins, have caused enormous pain, anger, and confusion. Innocent victims and their families have suffered terribly. The Bishops have committed themselves to take responsibility for dealing with this problem strongly, consistently, and effectively in the future.

The loss of trust becomes even more tragic when its consequence is a loss of the faith that we have a sacred duty to foster. The Bishops made their own, the words of our Holy Father: that sexual abuse of young people is “by every standard wrong and rightly considered a crime by society; it is an appalling sin in the eyes of God.” (Address to the Cardinals of the United States and Conference Officers, April 23, 2002. As stated in the *Charter for Protection of Children and Young People* that was adopted by the Bishops.)

In the *Charter*, the United States Bishops pledged themselves to act in a way that manifests their accountability to God, to the people, and to one another in this grave matter. They committed themselves to do all they can to heal the trauma that victims/survivors and their families are suffering and the wound that the whole Church is experiencing. They acknowledged their need to be in dialogue with all Catholics, especially victims and parents, around this issue.

The Diocese of Monterey recognizes that sexual abuse constitutes one of the most serious breaches of trust in human relationships and that it can have devastating consequences for the victim and his/her family, for the church community at large, and for the individuals involved.

B. *The Essential Norms*

In December 2002, the United States Bishops promulgated a set of procedures for the investigation of claims of sexual abuse entitled *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse or Minors by Priests or Deacons* [hereinafter “*Essential Norms*”]. This policy implements the *Essential Norms* and other Diocesan policies regarding investigation of claims of sexual misconduct.

This policy supersedes all written and oral representations that are in any way inconsistent with it and replaces all previous policies and guidelines. Therefore the Diocese of Monterey sets forth this revised policy:

Article 1: Purpose and Policy Statement of the Diocese of Monterey

The primary purpose of this policy is the safety of children, the well being of the community and the integrity of the church. It also serves:

- ◆ To heighten awareness of the reality of sexual misconduct, thereby preventing such misconduct and the resulting harm to others by diocesan personnel (religious, lay employees, priests, deacons and regularly utilized volunteers); and
- ◆ To provide guidance in the manner in which to respond to allegations of sexual misconduct.

It is the policy of the diocese that sexual abuse is a most serious abuse of trust and will not be tolerated. This policy is based on the following:

- ◆ The right of God's people to effective ministry that reflects commitment to the Christian way of life;
- ◆ The responsibility of the Diocese of Monterey to investigate claims of abuse and to take appropriate action to protect God's people;
- ◆ The responsibility of the Diocese of Monterey to provide avenues of healing for victims and their families;
- ◆ The right of diocesan personnel to fair treatment under the law of the Church and civil law;
- ◆ The responsibility of the Diocese of Monterey to observe the requirements of civil law regarding prompt reporting of suspected child abuse.

The diocese reaffirms these principles and sets forth the following Policy against Sexual Misconduct. This policy applies to all parishes, schools, departments, programs and ministries operating under the authority of the Diocese of Monterey or the Diocese of Monterey Education and Welfare Corporation.

In dealing with issues of sexual abuse, the Diocese of Monterey will:

- ◆ Treat all allegations of sexual abuse seriously and investigate all credible claims of sexual abuse fully and objectively. If the sexual allegation involves a priest or deacon, the Diocese pledges to never deal with a problem of sexual abuse on the part of a priest or deacon by simply moving him to another ministerial assignment;
- ◆ To take appropriate action against an employee, volunteer, priest or deacon who is found to have sexually abused a minor.
- ◆ Provide education about the problem of abuse;
- ◆ Comply fully with civil reporting procedures governing sexual abuse of minors.

The Diocese of Monterey acts in the belief that a true solution to a situation involving sexual abuse can proceed only from finding healing for victims of abuse and their families and ensuring that individuals in ministry will not be a danger to minors or adults.

Article 2: The Diocese is Committed To Promoting Healing and Reconciliation with Victims/ Survivors of Sexual Abuse of Minors and to Protect the Faithful in the Future.

A. Pastoral Response Coordinator

The Diocese shall appoint a Pastoral Response Coordinator. The Pastoral Response Coordinator shall report to the Bishop or his designee and shall serve as staff to the Diocesan Independent Review Board (hereinafter referred to as the Review Board) for purposes of assisting the Review Board with its responsibility to advise and audit established and proposed Diocesan policies, procedures, and programs designed to prevent and respond to the sexual abuse of minors. The Pastoral Response Coordinator also acts as staff to the Pastoral Response Team (described below) in its charge to investigate claims of sexual misconduct. The responsibilities of the Pastoral Response Coordinator shall include:

1. Facilitate outreach to every person who alleges that he or she has been the victim of sexual abuse as a minor by anyone acting in the name of the church, whether the abuse was recent or occurred many years in the past. The outreach will include arranging an individualized plan of spiritual direction and counseling services agreed upon by the victim and the Diocese. In cooperation with social service agencies and other churches, the Coordinator will foster and encourage support groups for victims/survivors and others affected by abuse at the Diocesan level and in local parish communities. The Coordinator shall also foster outreach to victims by offering a personal meeting with the Bishop and facilitate such a meeting with victims and their families so that he can listen with patience and compassion to their experiences and concerns, and to share the “profound sense of solidarity and concern” expressed by the Holy Father in his address to the Cardinals of the United States and Bishops Conference Officers.
2. Act as a resource to the Pastoral Response Team (described below) in its investigation of allegations of sexual misconduct.
3. Act as a resource to the Independent Review Board.
4. Coordinate assistance to Parish communities affected by the sexual misconduct of ordained or lay personnel of the Diocese.
5. Serve as a resource to the Diocesan Safe Environment program and to the Department of Protection of Children and Young People, which will involve cooperation with parents, civil authorities, diocesan personnel, and community organizations in providing education and training for children, youth, parents, pastoral ministers, educators, administrators, and others at the Diocesan and parish/school levels about ways to make and maintain a safe environment for children.

B. Diocesan Independent Review Board

The Diocese will maintain an Independent Review Board (the Review Board). The name of the chair of the board will be made available to the public. The remainder of the individuals will not be disclosed in order to respect the privacy of the team members.

1. Composition of the Independent Review Board: The Review Board, established by the Bishop, will be composed of at least five persons of outstanding integrity and good judgment in full communion with the Church. The majority of the Review Board members shall be laypersons who are not in the employ of the Diocese. At least one member will be a priest who is an experienced and respected pastor and at least one member will have expertise in the treatment of the sexual abuse of minors.
2. Functions of the Independent Review Board: The Review Board will function as a confidential consultative body to the bishop and will advise the bishop in his assessment of allegations of sexual abuse of minors by clerics and in his determinations of suitability for ministry. It will regularly review diocesan policies and procedures for dealing with sexual abuse of minors by way of an effective annual audit program and written report. The Review Board may review these matters both retrospectively and prospectively and give advice on all aspects of responses required in connection with these cases.

C. Pastoral Response Team

The Diocese will maintain a Pastoral Response Team whose function is to investigate allegations of sexual abuse by clergy.

1. The Pastoral Response Team is comprised of the Vicar General, the Chancellor, the General Counsel and a non-Diocesan employee.
2. The Vicar General in consultation with the other members of the Pastoral Response Team coordinates the investigation and determines how the investigation proceeds.
3. The Vicar General and the Diocesan Chancellor are mandated reporters of child abuse. If he or she reasonably suspects that child abuse has occurred or is occurring, he or she will immediately report to law enforcement or Child Protective Services and shall make a written report within thirty-six hours of making the telephonic report as required by California law.

D. Safe Environment Program

The Diocese of Monterey has established a Safe Environment Program. Its purpose is to cooperate with parents, civil authorities, educators, and community organizations to provide education and training for diocesan personnel, children, youth, parents, pastoral ministers, educators, and others, about ways to make and maintain a safe environment for children. For more information regarding the Safe Environment Program, please call (831) 373-4345 or visit the Diocese of Monterey Website at <http://www.dioceseofmonterey.org>.

Article 3: Procedures Regarding Reporting, Investigating and Handling of Sexual Misconduct Complaints.

A. Reporting to the Civil Authorities

1. Mandated Reporters

All clergy and paid childcare custodians, such as teachers, religious education/youth ministry personnel, coaches, and school administrators, employed by the Diocese of Monterey or by the Diocese of Monterey Education and Welfare Corporation are considered mandated reporters of suspected child abuse under California law and are required to report suspected child abuse to a child protective agency or law enforcement agency by telephone immediately upon knowing or reasonably suspecting that child abuse has occurred. This verbal report must be followed up with a written report within thirty-six (36) hours on a form provided by the Department of Justice. Failure to do so may result in criminal penalties for the individual failing to report.

The Diocese encourages mandated reporters to satisfy their reporting obligations before contacting the Diocese to make an internal diocesan report. If a report is made to the Diocese first, the Diocese will direct the individual to report the matter to a child protective agency or law enforcement immediately. The Diocese of Monterey also recommends that if a mandated reporter is in doubt as to whether a report should be filed, to report the matter to the authorities in order to be certain that children are being safeguarded.

2. Discretionary Reporters

In the interests of protecting our children, the diocese also strongly encourages those individuals who are not mandated reporters under California law to report instances of suspected child abuse.

3. Making a Report

Complaints regarding alleged child abuse, including sexual abuse, can and should be made by victims and/or their advocates and mandated reporters directly to the appropriate County child protective services agency or local police department. The phone numbers for the protective agencies in each County are as follows:

| | | |
|--------------------------|---------------------------|--------------------------------|
| Monterey County | Child Protective Services | (831) 755-4661 |
| | Monterey Police | (831) 646-3800 |
| | Sheriff | (831) 755-5111-Salinas Office |
| | | (831) 647-7911-Monterey Office |
| San Benito County | Child Protective Services | (831) 636-4190 |
| | Sheriff | (831) 636-4080 |
| Santa Cruz County | Child Protective Services | (831) 454-4222 |
| | Sheriff | (831) 471-1121 |

San Luis Obispo Child Protective Services (805) 781-1700
County Sheriff (805) 781- KIDS (5437)
Or 1-800-834-5437

For additional information or consultation, you may call:

Monterey County Child Abuse Council (831) 755-4737
San Benito Child Welfare Commission (831) 637-5542
San Luis Obispo Child Abuse Council (805) 543-6216
Santa Cruz Child Abuse Council (831) 479-5477

In all its procedures, the Diocese of Monterey is committed to careful observances of civil law as well as The Code of Canon Law. The Diocese of Monterey will fully cooperate and assist the civil authorities in their investigations. The Diocese will also cooperate with civil law with regard to reporting on cases when the individual is no longer a minor.

B. Reporting To The Diocese Of Monterey

1. A person wishing to register a complaint of sexual abuse with the diocese should contact any of the following individuals.
 - a. Carol Kaplan, Pastoral Response Coordinator, at 1-800-321-5220
 - b. Fr. Peter Crivello, Vicar General, at (831) 373-4345
 - c. Susan Mayer, General Counsel, at (831) 373-4345
 - d. Sr. Patricia Murtagh, Chancellor, at (831) 373-4345
 - e. Dr. Kim Pryzbylski, Superintendent of Schools, at (831) 373-1608or write to any of the above at:

The Diocese of Monterey
PO Box 2048
Monterey CA 93942

2. The Diocese is committed to promptly and objectively investigating the claim and carefully listening and providing a sensitive response to any individual alleging abuse. It will advise the individual of his/her right to make a report to the public authorities and will support that right. The Diocese is further committed to cooperating with the civil authorities in any investigation they may undertake.
3. The applicable diocesan official will gather the basic information and then inform the complaining party as follows:
 - a. Pursuant to the *Charter* and this policy, the matter will be referred to the chair of the Pastoral Response Team who will oversee a prompt investigation. If the accused is a cleric, a preliminary investigation will be conducted in harmony with canon law.

- b. Appropriate psychological/spiritual counseling for persons seeking assistance in coping with abuse is available for victims through the Pastoral Response Coordinator who may be reached at 1-800-321-5220.
4. When the initial information gathered by the applicable official and/or any supplemental information obtained by the Pastoral Response Team so indicates, the alleged offender shall be relieved of any active employment or ministerial duties (i.e., be placed on “administrative leave”) pending the conclusion of the investigation. Certain circumstances may warrant the immediate and permanent termination of an employee or volunteer. If a clergyman wishes to suspend his participation in the preliminary investigation and/or subsequent canonical tribunal process until after the conclusion of any pending investigation/trial by the civil authorities, he may do so subject to an immediate written acknowledgment that in the interim he will remain on administrative leave and will not be permitted to publicly exercise the ministry of the priesthood.
5. The Bishop of the Diocese of Monterey will share his determination concerning the preliminary investigation and any further action (e.g. pursuit of a canonical trial, declaration of a psychological impediment to ministry, etc.) that will be taken, with the alleged victim and perpetrator. If an accusation has proved to be unfounded, every step possible will be taken to restore the good name of the accused.

Article 4: Appropriate Action as Result of Investigation

A. The Victim

The first obligation with regard to victims is for healing and reconciliation. The Diocese will provide outreach to every person who alleges that he or she has been the victim of sexual abuse as a minor by anyone acting in the name of the Church, whether the abuse was recent or occurred many years in the past. This outreach includes the provision of counseling, spiritual assistance, support groups, and other social services agreed upon by the victim and the Diocese as well as the offer of a personal meeting with the Bishop, if desired by the victim.

The Diocese will provide immediate care and assistance to the victims and their families as well as to members of the affected community. The diocese will contact any known victims, or appropriate family members in the case of minors, and offer pastoral assistance and appropriate counseling. In cases involving minors, appropriate reporting laws will be followed as well.

The Diocese will not enter into confidentiality agreements relating to the settlement of child sex abuse claims except for substantial reasons indicated by the victim and noted in the text of the agreement.

B. The Accused

1. When the Accused is a Cleric
 - a. As soon as a report alleging sexual misconduct is received, the Chair of the Independent Review Board is informed. He or she then determines whether a special

meeting of the Independent Review Board should be held to advise the Bishop on whether the cleric should be removed from ministry pending the outcome of the investigation.

- b. The Pastoral Response Team conducts an investigation, which proceeds as follows, and the requirements of Code of Canon Law canons 1717-1719 are followed:
 1. The Bishop has delegated authority to the Pastoral Response Team to investigate allegations of sexual misconduct by a cleric in the Diocese of Monterey.
 2. The Vicar General coordinates the investigation. The Vicar General shall determine how the investigation should proceed and will assign to the other members of the Pastoral Response Team, the investigative tasks that in his discretion will assure that the investigation is carried out fairly and that canon law is followed. If the situation warrants it, such as when the accused is an active priest or deacon, the Vicar General, in his discretion, may engage the services of a professional investigator.
 3. The Vicar General shall inform the accused cleric that he has the right to be represented by a canon lawyer and/or a civil lawyer during the investigation and that the canon or civil lawyer may be present during any interview with members of the Pastoral Response Team.
 4. The Vicar General and the Pastoral Response Team will take all reasonable steps to protect the reputation of the accused during the investigation.
 5. If it is necessary to interview a minor, the minor's parent must consent to the interview. The Pastoral Response Coordinator will be available to assist at the interview of a minor.
- c. If it is found that there is sufficient evidence to believe that the cleric committed an act of sexual misconduct, the report shall be filed in the cleric's personnel file and an appropriate discipline procedure will be initiated. The following considerations are in place:
 1. In accordance with the *Essential Norms*, the Congregation for the Doctrine of the Faith shall be notified.
 2. If the Pastoral Response Team has made a finding that there is sufficient evidence that sexual abuse of a minor has occurred, the Bishop will consult the Review Board for its assessment of the allegation and its recommendation of the cleric's suitability for ministry.
 3. The Bishop may impose restrictions on the cleric in accordance with canon law.
 4. If the Bishop determines that an act of sexual abuse by a cleric has occurred, the offending priest or deacon will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants it. *Essential Norms*, Norm 8.

5. Throughout the investigation, the members of the Pastoral Response Team will be careful to maintain the highest level of confidentiality as reasonably possible and to speak only to witnesses who are likely to have information necessary to the investigation.
 6. Once the investigation is completed, the accused and the alleged victim will be informed of the outcome of the investigation.
 7. The Pastoral Response Team shall keep a record of its investigation.
 8. If the cleric is a member of a religious order, the Bishop will communicate with the Provincial by telephone and letter as to the outcome of the investigation. If the cleric is returned to the Provincial, a written statement from the Bishop to the Provincial shall state the reasons for the dismissal. The same rule shall apply to extern priests. The Bishop will communicate in the same manner to the externs' diocesan Bishops.
2. When the Accused is a Lay Employee or Volunteer

The Director of Human Resources will undertake an investigation into the merits of the allegation of sexual misconduct and make a determination as to whether there is sufficient evidence to believe that the sexual misconduct occurred. Whenever such a determination is made, the employee or volunteer will be disciplined in accordance with Diocesan Personnel Guidelines which may include termination of employment or declination of the volunteer's services, if the case so warrants it.

C. The Parish

Appropriate notification, as determined by the Bishop or his designee, will be provided to the parish served by the accused. In any case such notification will be sensitive to and respect the privacy of the victim, his/her family and the accused. The Pastoral Response Coordinator will provide outreach to the parish affected by the sexual misconduct.

Article 5: Retaliation Against One Who Reports Misconduct

An individual who reports an incident of misconduct is entitled to immunity. Retaliation and/or discrimination against any person who complains of or who reports any misconduct is unlawful and strictly prohibited and will not be tolerated. Proven cases of retaliation will result in disciplinary action.

Article 6: Training and Education

In service training and educational programs in the areas of sexual misconduct, standards of ministerial behavior, reporting obligations and appropriate boundaries are offered regularly for diocesan personnel in the Diocese of Monterey.

The Diocese of Monterey will develop a systematic ongoing formation program in keeping with the National Charter entitled, *Basic Plan for Ongoing Formation of Priests*, so as to assist priests in living out their vocations.

Article 7: Screening of Clergy, Employees and Volunteers

A. Employees and Volunteers with Supervisory or Disciplinary Authority over Children and Young People are Subject to a Background Check.

1. Employees with supervisory or disciplinary authority over children receive a package of material outlining their duties with respect to children and young people informing them of the Safe Environment Program as well as their duties under California law to report suspected child abuse.
2. The Diocese of Monterey uses a fingerprint background check. More information on this policy can be found in the Personnel Guidelines and Best Practices for Safe Operations Handbook.
3. In accordance with California law, fingerprint reports containing criminal history will be reviewed by the General Counsel. If the General Counsel determines that the employee or volunteer's criminal history precludes the person from employment or ministry, he or she will inform the pastor, or principal of the decision. This information will not be disclosed to others who do not have a need to know the information.
4. All volunteers must complete a volunteer application form;
5. The final decision whether or not the employee or volunteer will be accepted to work with children and young people will be based on information from the criminal background history and application process.
6. Employees and/or volunteers may change positions within the Diocese of Monterey. When this takes place, a repeat of the criminal background check is not required unless the employee or volunteer is moving between a school and a non-school ministry. The new supervisor requests a check through the appropriate Diocesan Department (e.g. Superintendent of Schools or Director of Human Resources.)

B. Clergy

Diocesan applicants for the priesthood, permanent diaconate, priests seeking incardination in the Diocese of Monterey, priests or religious seeking ministry or residence in the diocese are screened for their fitness to work with children and young people. As part of the screening process all clergy members are fingerprinted in compliance with diocesan policy. No priest or deacon who has committed an act of sexual abuse of a minor will be transferred for ministerial assignment to another diocese or religious province. Before a priest or deacon can be transferred for residence to another diocese or religious province, his bishop/eparch and religious ordinary shall forward to the local bishop/eparch and religious ordinary (if applicable) of the proposed place of residence any and all information concerning any act of sexual abuse of a minor and any other information that he has been or may be a danger to children or young people.

C. Visiting Clergy

All visiting clergy – even clergy requesting to serve for just one Mass, must be screened through the Pastoral Office. A reference form is sent to the cleric's superior requesting information on the cleric's fitness for active ministry.

Article 8: Response to Media Inquiries

The Diocese adheres to a communications policy that reflects a commitment to transparency and openness. Within the confines of respect for the privacy and the reputation of the individuals involved, the diocese will deal as openly as possible with members of the community. This is especially so with regard to assisting and supporting parish communities directly affected by ministerial misconduct involving minors.

Any news or other media inquiries regarding specific allegations of child abuse or sexual misconduct by Church personnel are to be directed to the Diocesan Director of Communications or other spokesperson as designated by the Bishop.

Decisions regarding any public statement must be made on a case-by-case basis. In any case, the designated spokesperson and/or Director of Communications will adhere to the diocesan commitment to dealing with alleged incidents of child abuse and/or other forms of sexual misconduct in a responsibly open manner, still respecting the sensitivity, privacy and confidentiality of the alleged victim and the accused party.

The Diocese of Monterey Policy Against Sexual Misconduct

Acknowledgment of Receipt And Understanding

I hereby acknowledge that I have received a copy of the Diocese of Monterey's *Policy Against Sexual Misconduct* and have read, and understand the policy. I have had the opportunity to ask questions about the policy, and I agree to follow the policies and procedures outlined herein during my employment/ministry with the Diocese of Monterey.

I acknowledge and understand that as a "child care custodian" or a "member of the clergy," I am required by California Penal Code Section 11166 to report instances of suspected child abuse to a child protective agency immediately, or as soon as practically possible by telephone, and send a written report of the same within 36 hours of reporting the incident.

No one, except the Bishop, has authority to make any oral or written representations inconsistent with the policies, practices and regulations contained in this Policy. The statements in this policy supersede all written and oral representations that are in any way inconsistent with them.

(Date)

(Signature)

(Location: Parish/School/Department)

(Name Printed)

NOTE TO SITE SUPERVISOR

If the person signing the Acknowledgment form is a lay employee or volunteer then the signed form should be retained in the individual's personnel file at your location.

If the person signing the Acknowledgment form is a priest or deacon then the signed form should be sent to the Chancellor at the Diocesan Pastoral Office.
