

**COMPARISON OF THE WRITTEN CHILD PROTECTION POLICIES OF THE  
ARCHDIOCESE OF SAINT PAUL & MINNEAPOLIS TO THOSE OF OTHER U.S.  
ARCHDIOCESES WITH RECOMMENDATIONS FOR IMPROVEMENT**

**Final Report Submitted to**

**Ramsey County Attorney's Office, Saint Paul, Minnesota**

**March 25, 2020**

**CHILD USA**

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The opinions and interpretations expressed in this report are those of the authors and do not represent the official position or policies of the Ramsey County Attorney's Office.

Suggested citation: Dallam, S. J., Hamilton, M. A., & Glocker, S. (2020). *Comparison of the Written Child Protection Policies of The Archdiocese Of Saint Paul & Minneapolis to Those of Other U.S. Archdioceses With Recommendations For Improvement*. CHILD USA.

## Table of Contents

I. PURPOSE .....	1
II. BACKGROUND .....	1
III. REVIEW OF DOCUMENTS.....	3
IV. LIMITATIONS OF THE REVIEW.....	4
V. METHODOLOGY .....	4
VI. RESULTS.....	6
A. Child Abuse Prevention Domain.....	7
1. Background Screening Policy .....	7
2. Child Abuse Prevention Training Policy.....	10
3. Code of Conduct Policy.....	13
4. Sex Offenders .....	21
B. Child Abuse Detection and Reporting Domain .....	25
1. Policy on Reporting Abuse to Civil Authorities .....	25
2. Whistleblower Protection Policy.....	33
C. Response to Victims Domain .....	34
1. Victim Assistance Policy .....	34
2. Victims' Rights Policy.....	39
3. Public Transparency Policy.....	42
D. Domain of Investigational Process and Response to Allegations of Abuse.....	45
1. Review Board Policy.....	46
2. Policy on Investigations .....	49
3. Handling Evidence Policy.....	54
4. Policy on Response to Substantiated Allegations of Abuse.....	55
5. Policy on Response to Credible Allegations of Abuse that Cannot be Substantiated	58
VII. CONCLUSION.....	60
VIII. RECOMMENDATIONS.....	63
IX. APPENDICES.....	70
Appendix A. List of the 32 U.S. Archdioceses .....	71
Appendix B Comparison of Reporting Policy of the Archdiocese of St. Paul & Minneapolis with Recommended Policy.....	72
Appendix C San Antonio Victim's Rights Statement.....	76

## **List of Figures**

Figure 1. The Relationship between Domains and Policies .....	5
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# **COMPARISON OF THE WRITTEN CHILD PROTECTION POLICIES OF THE ARCHDIOCESE OF SAINT PAUL & MINNEAPOLIS TO THOSE OF OTHER U.S. ARCHDIOCESES WITH RECOMMENDATIONS FOR IMPROVEMENT**

This report was commissioned by the Ramsey County Attorney's Office, Saint Paul, Minnesota. The research was conducted by CHILD USA with Stephanie Dallam, PhD, (Lead Investigator) and Sabine Glocker, Esq. CHILD USA is a 501(c)(3) nonprofit think tank that conducts evidence-based legal, medical, and social science research to improve laws and policies affecting child protection led by Professor Marci Hamilton. It is the leading non-profit think tank working to end child abuse and neglect in the United States.

## **I. PURPOSE**

The purpose of this study was twofold: first, to assess the strengths and weaknesses of the child protection and safe environment policies of the Archdiocese of St. Paul & Minneapolis (“Archdiocese”) by comparing them to those of other U.S. archdioceses; and second, to make recommendations as to how the Archdiocese can strengthen its policies to better protect children in the future.

## **II. BACKGROUND**

On December 12, 2015, the Ramsey County Attorney's Office (RCAO) entered into a settlement agreement with the Archdiocese. The settlement was in response to a Civil Petition filed in Ramsey County District Court on June 17, 2015, against the Archdiocese concerning the welfare of three minors abused by a clergy member who served in the Archdiocese and was under its direct supervision at the time of the abuse.<sup>1</sup> The Parties reached the settlement to further their mutual interests in protecting minors from sexual abuse. The Parties agreed that the

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<sup>1</sup> *Settlement Agreement between The Archdiocese of St Paul and Minneapolis and Ramsey County Attorney*. (Dec. 17, 2015), File No. 62-JV-15-1674. Recital 1, pg.1. (hereafter *Settlement Agreement*)

Archdiocese would seek to create and foster an organizational culture in which everyone becomes and remains vigilant in achieving the goal that no child would ever again be the victim of clergy sexual abuse in the Archdiocese.<sup>2</sup> In the agreement, the Archdiocese agreed to improve its Safe Environment Program and create a comprehensive set of policies relating to the protection of minors. Since this agreement, the Archdiocese has revised many of its policies.

Faith-based institutions typically serve youth and thus offer many opportunities for adults who are sexually attracted to children to have close intimate relationships with children. Strong policies are needed by youth-serving institutions to provide a blueprint of appropriate behavior.<sup>3</sup> Policies and procedures also represent important risk-management tools for the prevention and early identification of sexual misconduct, and for protecting those vulnerable to being victimized by misconduct. Whenever a child is abused by someone in a youth-serving institution, there is an obligation to investigate for the purposes of identifying system failures and developing a remedial plan of action. Policies must be monitored and evaluated to ensure they are being followed and determine if adjustments are needed. Policies are best viewed as “continuous improvement documents.” Therefore, suggestions and recommendations should be encouraged and policies should be reviewed and revised regularly.

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<sup>2</sup> *Id.*

<sup>3</sup> In his 2019 address at the Vatican summit on *The Protection of Minors in the Church*, Cardinal Reinhard Marx noted: “The sexual abuse of children and youths is in no small measure due to the abuse of power in the area of administration.” A fully functioning church administration can be an important building block in the fight against abuse. The Cardinal argued, to function fully, the administration must have standardized procedures and processes as binding rules “ensure that decisions and judgments are not merely based on the whims of those carrying them out or of superiors.” O’Connell, G. (2019, Feb. 23). Cardinal Marx: the Catholic Church must be transparent in its handling of sexual abuse. *America: The Jesuit Review*. Retrieved from <https://www.americamagazine.org/faith/2019/02/23/cardinal-marx-catholic-church-must-be-transparent-its-handling-sexual-abuse>

### III. REVIEW OF DOCUMENTS

CHILD USA reviewed thousands of pages of information in making this report. These documents can be categorized as follows: (Note: this is not an exhaustive list)

#### **Archdiocese of Saint Paul and Minneapolis documents**

- All the child protection and safe environment policies
- The various codes of conduct for Archdiocesan personnel
- 2014 report of the Safe Environment and Ministerial Standards Task Force
- 2018 and 2019 audit reports of compliance with the *Settlement Agreement* by Stonebridge Business Partners;
- *Settlement Agreement* between the Archdiocese of St. Paul & Minneapolis and Ramsey County Attorney, December 12, 2015;
- Criminal Complaint; *State of Minnesota v. Archdiocese of St. Paul and Minneapolis*, June 5, 2015;
- Compliance Reports to the Court
- Various press releases and other policy and guidance documents by the Archdiocese.

#### **Policies and Procedures of all U.S. Archdioceses**

Reviewed child protection policies, safe environment policies, and codes of conduct for all 32 archdioceses in the U.S.

#### **Documents by United States Conference of Catholic Bishops (USCCB)**

- USCCB *Charter for the Protection of Children and Youth* (2002 and 2018)
- USCCB *Affirming Our Episcopal Commitments*
- USCCB Website
- Annual audit reports by USCCB
- Statements issued by the National Review Board for the Protection of Children and Young People.

#### **Expert Resources**

- Documents and Task Force Reports from other Archdioceses (including Boston, Oklahoma, San Antonio, and others)
- John Jay College of Criminal Justice, City University of New York, reports on clergy sexual abuse
- 2005 County Grand Jury Report (Philadelphia).
- Office of the Attorney General, Pennsylvania. Reports of the 37th Statewide Investigating Grand Jury and 40th Statewide Investigating Grand Jury looking into clergy sexual abuse.
- Pew Research Center. (June 11, 2019). *Americans See Catholic Clergy Sex Abuse as an Ongoing Problem*.
- U.S. Department of Justice. (2001). *Law Enforcement Response to Child Abuse*. NCJ 162425.

## **Laws**

- Minnesota Statutes

## **Media Reports**

- Numerous media reports about problems with clergy sex abuse both nationally and in the Archdiocese of St. Paul & Minneapolis.

## **IV. LIMITATIONS OF THE REVIEW**

This Report examines the written child protection policies of the Archdiocese of St. Paul & Minneapolis and compares them with those of the other 31 U.S. archdioceses; it does not evaluate informal policies and practices. We were not permitted to have access to evidence of the Archdiocese's practices beyond the written policies, other than the Archdiocese's responses to earlier drafts of this Report.<sup>4</sup> Because the review is of written material only, it may not provide a complete picture of how the Archdiocese handles issues related to child protection and sexual abuse. In addition, this Report does not compare the Archdiocese's policies against the best child protection policies possible. Therefore, the policies evaluated may not conform to best practices identified by empirical research.

## **V. METHODOLOGY**

The purpose of this study was to assess the safe environment and child protection policies of the Archdiocese of St. Paul & Minneapolis by comparing them with the 31 other American archdioceses<sup>5</sup> and make recommendations as to how the Archdiocese can strengthen its policies to better protect children in the future. (For a complete list of archdioceses evaluated see Appendix A.) Because there is no current standard by which to judge the content of a Catholic

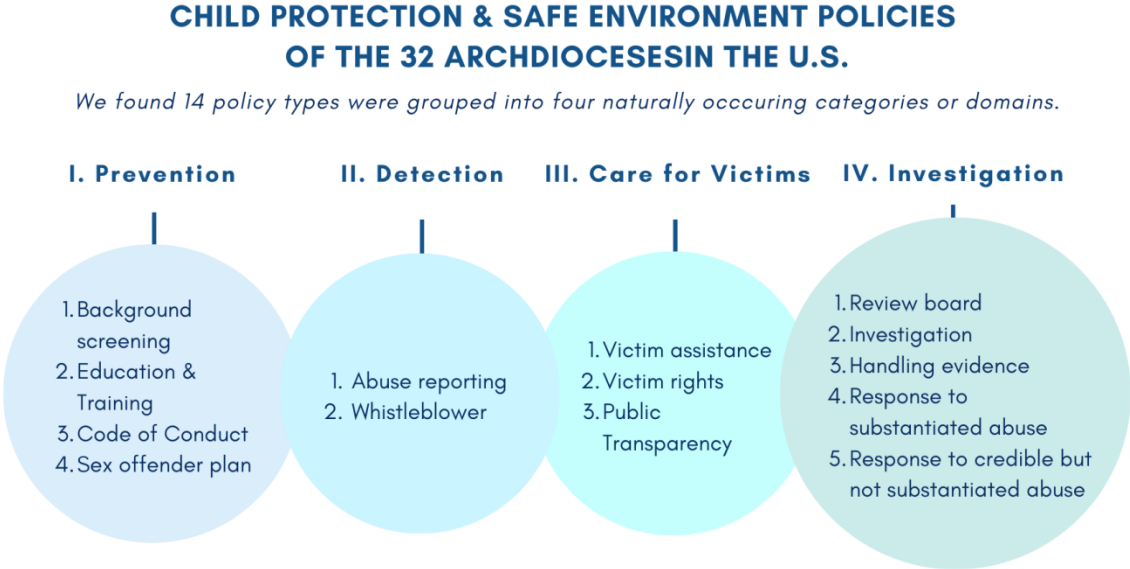
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<sup>4</sup> After reviewing our analysis, the St. Paul Archdiocese did provide some information about practices not included in their written policies. We acknowledge these in our commentary throughout the paper.

<sup>5</sup> We did not include the Archdiocese for the Military in our review as it does not actually have a child protection policy. Instead, the Archdiocese of the Military borrows priests from other archdioceses and requires that they follow the protection policies of the archdiocese in which they normally reside.

archdiocese's policies and procedures, we began by analyzing all the child protection and safe environment policies of every archdiocese in the U.S. We found 14 distinct types of policies focused on a specific issue related to protecting children from abuse. These 14 policies fit into four general categories or domains (see Figure 1).

**Figure 1. The Relationship between Domains and Policies**



Each domain includes the individual policies that address the focus of that category. For example, the domain of "Prevention" includes policies on background checks, education and training on child abuse prevention, Codes of Conduct for church personnel and volunteers, and the monitoring of sex offenders. In turn, each policy is composed of a number of individual practices and procedures that reflect specific actions directed by the policy. For instance, background screening policies include various ways that a candidate for employment may be screened for past arrests and misconduct.



To objectively evaluate the content of each policy, we read all the policies several times and diagrammed their components (i.e., practices, procedures and directives). As part of this iterative process, we looked at the stated goal(s) of each of the 14 policies and looked for the components most consistent with meeting these goals. We also looked at whether components were clearly articulated and likely to be effective when implemented. We then compared the policies of the Archdiocese of St. Paul & Minneapolis to this list of policy components to determine if the Archdiocese was missing any important practices focused on protecting children from abuse and helping victims heal.

## **VI. RESULTS**

All 32 archdioceses have written policies on child protection and/or maintaining a safe environment that are publicly retrievable on their websites. However, there is wide variation in the content and quality of these policies. There are no standardized child protection policies across archdioceses and not all archdioceses have policies in all areas. For example, many archdioceses do not have a policy on sex offenders or whistleblower protections; and, while most archdioceses have policies on background screening and child abuse prevention training, a few do not. In addition, while there were often generally agreed upon goals for most policies, many of the actual practices and procedures employed to meet these goals differed significantly across archdioceses.

Overall, the policies of the Archdiocese of St. Paul & Minneapolis are good in comparison to other archdioceses in the U.S. They were easy to find on the website, the policies were well organized and the overall focus was on helping victims. However, aside from the Code of Conduct, the Archdiocese does not require personnel to read and sign its child protection and safe environment policies making it less likely that they will be followed.

In the following sections, we examine the Archdiocese's individual policies in each of the Child Abuse Prevention Domains of Child Abuse Prevention, Child Abuse Detection and Reporting, Response to Victims, and Investigational Process and Response to Allegations of Abuse.

## **A. Child Abuse Prevention Domain**

Policies that are part of the child abuse prevention domain include: (1) background screening, (2) child abuse prevention training, (3) Code of Conduct, and (4) monitoring sex offenders.

### **1. Background Screening Policy**

According to Article 13 of the United States Conference of Catholic Bishops (USCCB)

*Dallas Charter* (2018 revision):

"Dioceses/eparchies are to evaluate the background of all incardinated and non-incardinated priests and deacons who are engaged in ecclesiastical ministry in the diocese/eparchy and of all diocesan/eparchial and parish/school or other paid personnel and volunteers whose duties include ongoing, unsupervised contact with minors. Specifically, they are to utilize the resources of law enforcement and other community agencies."<sup>6</sup>

The main goal of background screening is to select the best possible people for staff and volunteer positions and to screen out individuals who have sexually abused youth or are at risk to commit abuse. The written policy of the Archdiocese of St. Paul & Minneapolis on background screening<sup>7</sup> is not as thorough as those of most other U.S. archdioceses. The most thorough

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<sup>6</sup> U.S. Conference of Catholic Bishops. (2018). *Promise to Protect, Pledge to Heal: Charter for the Protection of Children and Young People: Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. Retrieved from <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/Charter-for-the-Protection-of-Children-and-Young-People-2018-final.pdf>

<sup>7</sup> St. Paul Archdiocese & Minneapolis. *Background Check Policy* (2016 Revision).

background screening policies were those of the archdioceses of Cincinnati, New York, Baltimore and Washington D.C.

The background check policy of Archdiocese of St. Paul & Minneapolis requires a background check before beginning employment which must be repeated every 5 years. Personnel are also required to report any arrests subsequent to the background check. At the same time, the Archdiocese's policy is missing a number of items that many archdioceses include in their written policies. For instance, the Archdiocese's screening policy does not mention utilizing standardized applications, interviewing applicants, or checking references. It also does not mention whether the sex offender registry is checked during the screening process.

After reviewing an earlier draft of this Report, the Office of Ministerial Standards and Safe Environment provided documents to show that they do most of these as part of their hiring practices. For example, they utilize a standardized application, check references on employees (but not volunteers), and check the sex offender registry. This information should be contained in the written background screening policy, particularly in light of the fact that the *Settlement Agreement* specifies that the Archdiocese "shall create a comprehensive set of documents encompassing all the Policies relating to the protection of minors."<sup>8</sup> Moreover, the USCCB has issued guidance stating: "Dioceses should institutionalize policies and procedures rather than rely on historical knowledge of staff/employees alone."<sup>9</sup>

The Archdiocese's background screening policy also fails to direct background checks for adults attending overnight events with minors. This requirement is mentioned, however, in the

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<sup>8</sup> *Settlement Agreement*, section G.3.1(c).

<sup>9</sup> Secretariat of Child and Youth Protection and the National Review Board. (2016, May). *The 2015 Annual Report on the Implementation of the "Charter for the Protection of Children and Young People."* USCCB, p. 5. Retrieved from <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/2015-Annual-Report-Revised.pdf>

Archdiocese's *Code of Conduct for Adult Volunteers*<sup>10</sup> so there is reason to believe that the Archdiocese performs these checks. Nonetheless, a background screening policy should list all personnel who must obtain background checks. In comparison, the policy of the Archdiocese of New York states: "All personnel in every Archdiocesan institution whose duties include contact with minors must comply with the Safe Environment Requirements."<sup>11</sup> It goes on to state that this requirement should be interpreted broadly. "If there is any doubt about whether a person has duties that include contact with minors, the question should be resolved in favor of requiring them to comply with the Safe Environment requirements." In regard to overnight activities, the Archdiocese of New York's Policy states:

Any person who is involved in any overnight activity with a child in any Archdiocesan institution or program, even if only on one occasion, shall be deemed to have duties that include contact with minors. This includes parents who will be involved in the overnight activity with their own children, if the activity also involves any other children whose parents will not be present.<sup>12</sup>

The background check policy of the Archdiocese of St. Paul & Minneapolis also fails to mention background screening of third-party contractors who come into contact with minors and provided no documentation to show it engages in this practice. Many archdioceses recognize their responsibility to protect minors extends to those with whom they contract for services. For example, the child protection policy of the Archdiocese of Cincinnati states:

**Personnel Furnished by a Third Party Contractor**

When a responsible supervisor contracts with a third party contractor for personnel, if the personnel will have contact with children (for example, a gym teacher, a school custodian, construction personnel, etc.), the responsible supervisor must obtain proof of an acceptable background check through fingerprinting or otherwise, in a manner approved by the Chancellor, for any such personnel in accord with the current policies of

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<sup>10</sup> St. Paul Archdiocese and Minneapolis. *Code of Conduct –Adult Volunteers* (2016). §2.10.b.

<sup>11</sup> Archdiocese of New York. *Safe Environment Policies* (2018 Revision), §2.2.

<sup>12</sup> *Id.*

the Archdiocese.... Third party contractor personnel may not have contact with children until an acceptable background check is obtained. The background check must be completed annually or in accordance with applicable state laws and regulations.<sup>13</sup>

The failure of the Archdiocese of St. Paul & Minneapolis to require background screening of third-party contractors who come in contact with minors is a serious oversight that needs to be addressed.

In summary, the background screening policy of the Archdiocese of St. Paul & Minneapolis is not as thorough as those of a number of archdioceses and should be updated to include all persons who must be screened and all the practices that it currently uses to screen employees and volunteers. The policy should also to require screening of third-party contractors who come into contact with children.

## ***2. Child Abuse Prevention Training Policy***

According to the *Dallas Charter* (Article 12; 2018 revision)

Dioceses/eparchies are to maintain “safe environment” programs which the diocesan/eparchial bishop deems to be in accord with Catholic moral principles. They are to be conducted cooperatively with parents, civil authorities, educators, and community organizations to provide education and training for minors, parents, ministers, employees, volunteers, and others about ways to sustain and foster a safe environment for minors.

The goal of child abuse prevention training is to give people information and skills to help them prevent and respond to child sexual abuse. The Archdiocese of St. Paul & Minneapolis is above average in its written policy on specialized child abuse prevention training<sup>14</sup> in comparison to other archdioceses. However, the policies of seven archdioceses are more

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<sup>13</sup> Archdiocese of Cincinnati. *Decree on Child Protection: Policies, Procedures and Recommendations* (2018), p. 13.

<sup>14</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy*, §III. A. *Prevention of Sexual Abuse of Minors* (2016 Revision).

thorough, with the archdioceses of New York and New Orleans having the most comprehensive policies.

The Archdiocese's written policy requires VIRTUS<sup>15</sup> training within 30 days of being hired and repeated every three years. The policy does not indicate whether training must be completed before working with minors. The Archdiocese's training policy also fails to mention whether education is offered for children and parents. Nor is there any mention of whether there is a centralized database for tracking compliance with safe environment requirements for Archdiocesan personnel.

After completing our research, the Office of Ministerial Standards and Safe Environment provided documents to show that they follow most of these practices. Volunteers are required to complete training prior to engaging in any volunteer service. Archdiocesan employees have 30 days to complete the training but are not permitted to work with minors until the training requirement has been met. The Archdiocese provided a curriculum to show that they provide education each year to children. They also indicated that they have a database to monitor compliance with training and retraining. In addition to VIRTUS, the Archdiocese also requires completion of a training module on reporting suspected child abuse. We recommend the Archdiocese update its written policy to accurately reflect its practices in this area.

Regarding retraining, we found that many archdioceses have minimal or no formal policy on retraining so we could not determine if they required retraining and, if so, how often this is required. For those archdioceses that did specify retraining, time between training sessions ranged from 1 to 5 years with an average of 2.5 years. The St. Paul Archdiocese's written policy

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<sup>15</sup> VIRTUS is the brand name of a training program developed by the National Catholic Risk Retention Group, and is part of the Archdiocese's Safe Environment Program. It is a three-hour training session designed to teach participants to identify and respond to child sexual abuse.

requires VIRTUS retraining every 3 years. Several other archdioceses have more stringent guidelines. Anchorage, for example, requires VIRTUS training to be completed before starting employment or volunteering, and the training is to be repeated every 2 years.<sup>16</sup> The Baltimore Archdiocese also requires that all personnel be trained prior to beginning employment; clergy and employees must renew their training on preventing, identifying, reporting, and responding to child sexual abuse annually.<sup>17</sup>

An area needing attention in the Archdiocese's policy is continuing education. The training policy for the Archdiocese states that it will provide continuing education for personnel, yet provides no further information beyond this statement. In comparison, the Archdiocese of St. Louis requires all priests and deacons who are working in ministry to complete monthly online bulletins on child protection issues and accounts are monitored for compliance. Clergy who fail to comply with the continuing education requirement may have their faculties rescinded at the discretion of the Archbishop.<sup>18</sup>

In summary, the Archdiocese's training policy should be updated to include all of its current practices on training. For example, the policy should state that training is required before working with minors and that education is provided annually for children, parents, and other interested adults. Because VIRTUS training is only required every three years, it should be supplemented with continuing education programs annually. We also recommend more specificity regarding the Archdiocese's continuing education requirements for child abuse prevention. Information should be provided indicating who is offering the education, the topics

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<sup>16</sup> Archdiocese of Anchorage. *Archdiocese of Anchorage Pastoral Policies* (2018 Revision). p. 11.

<sup>17</sup> Archdiocese of Baltimore. *Statement of Policy for the Protection of Children and Youth*, p. 17, §4.2.1(1).

<sup>18</sup> Archdiocese of St. Louis. *Safe Environment Program*, §1.1.4.

planned, who it will be offered to, how frequently it will be offered, and how the education will be accessed or delivered.

### **3. Code of Conduct Policy**

According to the *Dallas Charter*: "There are to be clear and well publicized diocesan/eparchial standards of ministerial behavior and appropriate boundaries for clergy and for any other paid personnel and volunteers of the Church with regard to their contact with minors."<sup>19</sup> The purpose of a Code of Conduct is to keep youth safe in situations in which they are at increased risk for abuse. The Code does this by specifying acceptable and unacceptable behaviors in terms of adult-youth contact. An effective Code of Conduct requires all personnel to report violations which, in turn, may prevent future abuse.

We found that all U.S. archdioceses have some type of Code of Conduct, though these vary greatly in content and quality. The Code of Conduct for the Archdiocese of St. Paul & Minneapolis<sup>20</sup> is fairly comprehensive; though four archdioceses (New York, San Antonio, Santa Fe, and Washington, D.C) have more comprehensive Codes.

While the Archdiocese's Code of Conduct is better than most, there are some serious shortcomings. For instance, the Archdiocese of St. Paul & Minneapolis has three Codes of Conduct; one for clergy, one for employees and one for volunteers. All three codes are different. The Code of Conduct for volunteers includes important material on physical contact that is omitted in the codes for clergy and employees. The Codes of Conduct for both clergy and church

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<sup>19</sup> U.S. Conference of Catholic Bishops. (2018). *Promise to Protect, Pledge to Heal: Charter for the Protection of Children and Young People: Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. p. 11. Retrieved from <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/Charter-for-the-Protection-of-Children-and-Young-People-2018-final.pdf>

<sup>20</sup> see St. Paul Archdiocese & Minneapolis. *Code of Conduct --Clergy, Conduct with Minors; Code of Conduct -- Church Personnel, Conduct with Minors; Code of Conduct -- Adult Volunteers, Conduct with Minors*.



personnel state: "Physical contact with a minor must be nonsexual and appropriate."<sup>21</sup> No further guidance is provided. The Code of Conduct for volunteers, on the other hand, provides numerous examples of appropriate ways to touch or show affection to children along with examples of inappropriate forms of touch (see *Code of Conduct – Adult Volunteers, Conduct with Minors*, 2.5).

Most archdioceses have consistent descriptions of behavior that are banned across all personnel working with children. The Archdiocese of St. Paul & Minneapolis has not done so, but should have given the *Settlement Agreement* states: "Code of Conduct shall contain a provision for pastoral counselors and spiritual directors that addresses and defines proper boundaries and improper conduct, including physical contact."<sup>22</sup> In addition, the *Settlement Agreement* required the Archdiocese to communicate what constitutes appropriate and inappropriate physical contact, with examples of each, to Church personnel.<sup>23</sup> Although RCAO did not specify inclusion of this material in the Archdiocese's Code of Conduct, the Code of Conduct is a particularly effective means of communicating expectations given that Church personnel are required to read and sign the Code before beginning employment or volunteer service.

Other important items missing from the Archdiocese's various Codes of Conduct are proscriptions against developing special relationships with a child or asking a child to keep secrets. Since these are common grooming techniques among child sex offenders, it is important to ban them in the Code of Conduct. For example, the Archdiocese of Miami contains a section

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<sup>21</sup> see St. Paul Archdiocese & Minneapolis. *Code of Conduct -- Clergy, Conduct with Minors*, §2.4; and *Code of Conduct for Church Personnel, Conduct with Minors* §2.4).

<sup>22</sup> *Settlement Agreement*, § G.5.10.

<sup>23</sup> *Settlement Agreement*, § G.3.1(c).

in its *Standards of Conduct* listing eight behaviors that raise serious concerns with respect to maintaining a safe environment for children. These behaviors include: over-identification with children, keeping secrets with children, allowing children under supervision to break rules, and developing a special relationship with an individual child, among others.<sup>24</sup>

An area that requires updating in the Archdiocese's Code of Conduct is conduct related to electronic communication with minors. Currently, the Archdiocese's Code of Conduct for Clergy states that communications by Clergy with unrelated minors must be for professional reasons only. In addition, it states:

Clergy should make certain that the parents or guardians of an unrelated minor are aware of the content of private electronic or print communications sent to or received from that unrelated minor. In exceptional situations when a parent or guardian is not made aware of the content of a private communication, Clergy must share the communication with another safe-environment trained adult.<sup>25</sup>

The Code goes on to state that informing parents or guardians is not required for non-private communications. These statements require strengthening and mention of other forms of online contact, such as social media.<sup>26</sup> For example, Facebook is not private, so friending a child on Facebook and other social media platforms appears to be allowed.

A number of other archdioceses have taken a much firmer approach with regards to their policies on electronic communications between Church personnel and minors. Many ban personnel from communicating with an unrelated child via social media unless it is via a group set up specifically for use by the parish or school and monitored by more than one adult. For

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<sup>24</sup> Archdiocese of Miami. *Creating and Maintaining a Safe Environment for Children and Vulnerable Adults* (2012 Revision), p. 8.

<sup>25</sup> Archdiocese of Saint Paul & Minneapolis. *Code of Conduct – Clergy*. §2.9.

<sup>26</sup> The St. Paul Archdiocese's policy on electronics also fails to address communications with minors save for one statement prohibiting the violation of "any Archdiocesan Codes of Conduct." See St. Paul Archdiocese & Minneapolis. *201 – Acceptable Use and Responsibility Policy for Electronic Communications*. §4b.

example, the Archdiocese of San Antonio's Code of Conduct forbids Church personnel from using a personal social networking account to contact minors and directs personnel to ignore “friend requests” from minors that are addressed to the adult’s personal social media account.<sup>27</sup> Both the archdioceses of San Antonio and Mobile direct that all electronic interactions must be through archdiocesan accounts, never personal accounts.<sup>28</sup> The Mobile Archdiocese also forbids using chat apps with disappearing content to communicate with a minor.<sup>29</sup> The policies of the New York Archdiocese inform Church personnel what to do if a minor initiates private electronic communication with them: “[T]he adult shall advise the Minor that, under the policies of the Archdiocese, private direct communications are not permitted between an adult and a Minor, and then seek to establish contact with the Minor’s parent or guardian instead, or with the Minor through an official email account of an Archdiocesan institution.”<sup>30</sup>

We believe a personal online relationship with an unrelated child should be prohibited even if the adult has the permission of the child's parent. While it is important that parents are aware of the content of private messages, a personal online relationship could easily evolve into a situation in which at some point the parent is no longer copied on messages. Research into the causes and context of priest abuse by researchers at John Jay College of Criminal Justice found that priests would often build relationships with the families of the victims in order to gain their trust prior to abusing a child. In addition, most abuse took places in locations where the child had

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<sup>27</sup> Archdiocese of San Antonio. *Code of Conduct For Church Personnel*, p. 11.

<sup>28</sup> Archdiocese of Mobile. *Policy for Electronic Communication with Minors* (2016 Revision).

<sup>29</sup> Archdiocese of Mobile. *Policy for Electronic Communication with Minors* (2016 Revision).

<sup>30</sup> Archdiocese of New York. *Safe Environment Policies* (2018 Revision), §12.4(i).

parental permission to be, including the school, the parish, and the child's own home.<sup>31</sup> Thus parental permission is not a sufficient way to prevent such misconduct.

Another issue with the Archdiocese's various Codes of Conduct is that they do not provide a confidential way to report misconduct. Church and other personnel are instructed to report misconduct to their "supervisor or other appropriate church authority."<sup>32</sup> A growing trend among archdioceses with higher quality child protection policies is providing third-party hotlines that personnel and the laity can call to report ethical or professional misconduct. The Archdiocese of Washington, for example, has an Ethics and Compliance Hotline that allows reports to be made anonymously – 24 hours a day, 7 days a week:

Anyone who suspects that a church minister, a staff member, or a volunteer has violated the Archdiocese of Washington's Code of Conduct or other religious, moral, or ethical principles should report the violation on the Archdiocese of Washington's EthicsPoint reporting hotline. Reports may be made anonymously online...<sup>33</sup>

EthicsPoint is an independent, third-party contractor that provides a hotline service to organizations, companies, and dioceses around the country. The company does not share the identity of reporters who wish to remain anonymous. On its website, the Archdiocese of Washington states that the hotline helps to detect employee misconduct and also deters others from considering such violations. Complaints also help assess risk and identify areas where

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<sup>31</sup> John Jay College of Criminal Justice. (2004). *The Causes and Context of Sexual Abuse of Minors by Catholic Priests in the United States, 1950-2010*. United States Conference of Catholic Bishops, Washington, D.C. Retrieved from <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/the-nature-and-scope-of-sexual-abuse-of-minors-by-catholic-priests-and-deacons-in-the-united-states-1950-2002.pdf>

<sup>32</sup> e.g., Archdiocese of Saint Paul & Minneapolis. *Code of Conduct – Clergy*. §8.1.

<sup>33</sup> Archdiocese of Washington. *Pastoral Code of Conduct Archdiocese of Washington*. (2016). §IV 6.3., p. 8.

change may be needed to policy or procedures.<sup>34</sup> The Archdioceses of Indianapolis and Baltimore also have misconduct hotlines provided by EthicsPoint.<sup>35</sup>

We recommend that the Archdiocese of St. Paul & Minneapolis establish an anonymous third-party hotline where concerns regarding misconduct or suspected misconduct can be reported with the option to make an anonymous report. The hotline should be available 24/7 and allow for reports to be made either by phone or through a confidential web-based reporting mechanism. Having reports handled by a third party assures anonymity which may overcome the natural reluctance of personnel and the laity to report priests or co-workers who engage in misconduct. For example, according to the complaint brought by the Ramsey County Attorney in *State of Minnesota v. The Archdiocese of Saint Paul and Minneapolis*,<sup>36</sup> during the 2009-2010 school year, J.T., a staff member at St. Thomas the Apostle, observed Father Curtis Wehmeyer invite a fourth-grade boy to tour the rectory. J.T. reported being concerned, because priests are not supposed to be alone with children and are not supposed to take them into the rectory. At the time, J.T. did not report the behavior. Shortly thereafter, Fr. Wehmeyer abused three young boys. It is not clear why J.T. did not report Fr. Wehmeyer for breaking Archdiocesan rules. It is possible that J.T. would have reported this incident if he or she could have done so anonymously. Such a report, if investigated and taken seriously, could have raised red flags and may have prevented three young boys from being molested.

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<sup>34</sup> FAQ: Ethics and Compliance Hotline. Retrieved from <https://adw.org/wp-content/uploads/sites/2/2018/06/17Ethics-Hotline-FAQ.pdf>

<sup>35</sup> <https://secure.ethicspoint.com/domain/media/en/gui/23224/index.html>;  
<https://secure.ethicspoint.com/domain/media/en/gui/16066/report.html>

<sup>36</sup> *State of Minnesota v. The Archdiocese of Saint Paul and Minneapolis*, (June 5, 2015), CA File No. 2139124-1 at 20.

An anonymous third-party misconduct reporting mechanism was also a recommendation of the Safe Environment and Ministerial Standards (SEMS) Task Force when it submitted its report to the Archdiocese in 2014. This independent group of lay professionals was convened by the Archdiocese in 2013 after the 2012 arrest of a priest for abusing three minors. The Task Force was charged with reviewing issues related to clergy sexual misconduct and asked to make specific recommendations regarding actions to be taken and policies and procedures to be implemented.”<sup>37</sup> The Task Force recommended that the Archdiocese should establish an anonymous third party hotline where concerns regarding misconduct or suspected misconduct can be reported. According to the Task Force's report:

The hotline should be available 24/7 and allow for reports to be made by phone or through a confidential web-based reporting mechanism. The hotline vendor should be chosen based on its expertise in call intake and incident management capabilities. All reports related to clerical sexual misconduct involving minors should be transmitted by the hotline vendor directly to the Delegate for Safe Environment; all other reports from the hotline should go to a responsible Archdiocesan official according to a framework to be developed by Archdiocesan staff and approved by the Clergy Review Board.<sup>38</sup>

According to the Task Force: "Anonymous reporting hotlines have become standard best practice in many organizations and have proven to be very effective in encouraging reporting of concerns and suspicions of misconduct."<sup>39</sup> In addition, the *Settlement Agreement* states: "The Archdiocese shall continue to maintain an independent mechanism where concerns regarding misconduct or suspected misconduct can be reported."<sup>40</sup> The mechanism should provide for 24/7

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<sup>37</sup> Frawley Desmond, J. (2013, Oct. 25). St. Paul Archdiocese and Minneapolis confronts scandal. *National Catholic Register*. Retrieved from <http://www.ncregister.com/daily-news/archdiocese-of-st.-paul-and-minneapolis-confronts-scandal>

<sup>38</sup> Safe Environment and Ministerial Standards Task Force. (2014, Mar. 31). *Report and Recommendations to Protect Children from Clergy Sexual Abuse*. Submitted to the Episcopal Vicar For Ministerial Standards of the Archdiocese of Saint Paul and Minneapolis, p. 25.

<sup>39</sup> *Id.*

<sup>40</sup> Canvas Health provides a 24 hour hotline but this is only for victims seeking professional help.

access and allow reports to be made by phone or through a confidential web-based reporting mechanism."<sup>41</sup> The *Settlement Agreement* also required that the St. Paul Archdiocese work toward implementing the SEMS Task Force's recommendations.<sup>42</sup> While many of the Task Force's recommendations have been implemented, the recommendation for a hotline has not.

Another area missing from the Archdiocese's Code of Conduct is guidance on what to do if a person is uncertain about whether conduct violates the code. Fifteen (47%) of the U.S. archdioceses include this in their Code of Conduct. For example, the Archdiocese of Washington, D.C. directs personnel to go to their immediate supervisor, "who in turn should seek assistance from offices with the Central Pastoral Administration as appropriate."<sup>43</sup> The Code of Conduct for the Anchorage Archdiocese states that if an uncertainty exists about whether a situation or course of conduct violates the Archdiocese's Pastoral Policies, personnel should consult with either their immediate supervisor or the Office of Safe Environment.<sup>44</sup> These directives encourage personnel to take action even if they are unsure about whether the behavior of a co-worker is improper.

In summary, a strong Code of Conduct is a front-line defense against the types of conduct violations that may culminate in a child being abused. Thus, the examples of appropriate and inappropriate ways to touch or show affection to children currently included in the volunteers' Code of Conduct should also be included in the Codes of Conduct for clerics and employees. We also recommend that the Codes of Conduct for all church personnel expressly prohibit grooming

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<sup>41</sup> *Settlement Agreement*, §G.13.4.

<sup>42</sup> *Settlement Agreement*, §G.1.2.

<sup>43</sup> Archdiocese of Washington. *Pastoral Code of Conduct Archdiocese of Washington*. (2016). p. 8, §IV 6.2. Emphasis added.

<sup>44</sup> Archdiocese of Anchorage. *Archdiocese of Anchorage Pastoral Policies* (2018 Revision). p. 21.

techniques such as singling out a child for special privileges and asking children to keep secrets. The Codes of Conduct should also include stronger and more comprehensive prohibitions against inappropriate electronic communications and interactions on social media. We also recommend that the Archdiocese establish an anonymous, third-party hotline where violations of the Code of Conduct or suspected misconduct can be reported. In addition, the Codes of Conduct should offer guidance on where to go with questions if a person is uncertain about whether conduct violates the Code.

#### ***4. Sex Offenders***

##### **a. Monitoring Clergy Who Have Committed Misconduct Related to Minors**

The *Dallas Charter* includes a "zero-tolerance" clause stating that a priest shall be removed from ministry if the abuse is found to be substantiated. In these cases the Norm requires the archbishop to refer the offender to the Vatican for laicization. Defrocking a priest is a process that typically takes many years and, under canon law, dioceses have an obligation to these individuals as long as they remain priests. The one exception is set forth in Norm 8B which indicates that laicization is not required for aged or infirm priests. Norm 8B dictates, however, that such a priest "ought to lead a life of prayer and penance" and is not to present himself publicly as a priest, though he will still be one. As a result, many archdioceses provide residences to clerics who have substantiated abuse claims against them.

The Archdiocese of St. Paul & Minneapolis does not appear to have any formal policy on protecting children from priests who have committed misconduct related to minors. This is surprising given that one of the reasons for the 2015 *Settlement Agreement* with RCAO was the failure of the Archdiocese's "Promoter of Ministerial Standards" (POMS) program to properly



monitor a priest who had committed misconduct.<sup>45</sup> In addition, several of the provisions of the *Settlement Agreement* involve instituting better oversight of the POMS program and the clerics being monitored.<sup>46</sup>

The Archdiocese has been repeatedly advised that it has a problem in this area. As early as 2003 in the Archdiocese's first audit for compliance with the *Dallas Charter*, the auditing firm advised implementation of stronger monitoring of confirmed offenders who have retired or left the ministry.<sup>47</sup> In 2005, the Archdiocese developed and implemented the "Promoter of Ministerial Standards" (POMS) Program to monitor and supervise priests who violated one of the following: the civil law, an Archdiocesan policy, or the USCCB's *Dallas Charter*. No official policy was created, and participation by offending priests was voluntary.<sup>48</sup> An archdiocesan official would meet a few times a year with offenders. He would ask for the offender's account of his compliance with therapy, restrictions on ministry, and contact with children. The infrequent visits and reliance on self-reports made it an ineffective tool to prevent abuse.<sup>49</sup>

In 2014, the SEMS Task Force, convened by the Archdiocese to advise it on improving its child protection policies, strongly recommended developing a policy to deal with priest misconduct. In its report, the Task Force wrote:

The POMS program needs written policies and procedures, including consequences for lack of compliance, that are effective and efficient....The policies of the POMS program

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<sup>45</sup> According to RCAO, the overarching reason was an institutional failure on all levels to protect children.

<sup>46</sup> See *Settlement Agreement*, §11.

<sup>47</sup> Press Release: *St. Paul Archdiocese and Minneapolis reports child protection update, statistics*. (2003, Dec. 11), p. 2.

<sup>48</sup> Petition in Support of Order to Show Cause, *supra* at 15.

<sup>49</sup> *Id.* Tim Rourke acted as the first POMS monitor. In a later interview with the St. Paul Police Department, Tim Rourke described the POMS monitoring program as "window dressing."

should also establish criteria for the removal of clergy from the program. The policies should be developed by the Delegate for Safe Environment and the Promoter, subject to the review and approval of the Clergy Review Board.<sup>50</sup>

Currently, the POMS program is still listed on the Archdiocese's website.<sup>51</sup> The web page states:

"The POMS program utilizes a case management model of supervision in which a lay professional – the Promoter of Ministerial Standards – supervises the clerics to ensure that they comply with their individualized supervision plans." In response to questions about the POMS program, the Archdiocese sent us a copy of a letter dated October 18, 2017 addressed to the County Attorney, Mr. John Choi. In the letter the Archdiocese states that all Priests on POMS have been transitioned to a new "individualized assistance and accountability" plan under the Office of Ministerial Standards and Safe Environment. The letter states that each individualized plan incorporates recommendations from the Archdiocese's review board. Updates on the implementation of the plan were provided in the Archdiocese's compliance reports to the Court as part of the *Settlement Agreement*. According to the Archdiocese's sixth report to the Court, the priests on what is now called "the Clergy Support Initiative" are contacted regularly "in accord with their particular histories and present circumstances." In addition to being contacted by the Assistant Director of the Office of Ministerial Standards and Safe Environment, "other Archdiocesan and private sector individuals" are involved. These "measured contacts" are made "so as to provide an informed understanding of the priest's activities and environment."<sup>52</sup> We

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<sup>50</sup> Safe Environment and Ministerial Standards Task Force. (2014, Mar. 31). *Report and Recommendations to Protect Children from Clergy Sexual Abuse*. Submitted to the Episcopal Vicar For Ministerial Standards of the Archdiocese of Saint Paul and Minneapolis, p. 19.

<sup>51</sup> See: <https://safe-environment.archspm.org/accountability/promotion-of-ministerial-standards/> Retrieved Jan. 15, 2020.

<sup>52</sup> The Archdiocese of St. Paul & Minneapolis. (2019, Jan. 8). *Sixth Report by the Archdiocese on its Status and Progress of Implementation of the Settlement Agreement*, p. 10. Retrieved from <https://safe-environment.archspm.org/download/sixth-report-archdiocese-status-progress-implementation-settlement-agreement/>

inquired several times as to whether there are any written policies for the Clergy Support Initiative and were told to read the compliance reports. Since no written protocols or policies are mentioned in the compliance reports, it appears at this time, no written policies have been developed regarding the monitoring of priests who have committed misconduct with minors. We believe developing a written policy should be a high priority.

**b. Safety Plan for Sex Offenders Attending Church or School Activities**

Another necessary policy missing from the Archdiocese's child protection policies is a safety plan for registered sex offenders, or persons otherwise known to be sex offenders, attending church or school activities. Currently, eight (25%) of U.S. archdioceses have policies on sex offenders attending parish and school activities. Many of these policies require an offender to sign a safety plan in order to be on parish property.

The St. Louis Archdiocese has a safety plan for registered sex offenders attending mass and church events. It also has a safety plan for sex offenders who have a close relative who is a student attending school activities. The decision of whether to allow a sex offender to enter parish or school property is made by the Pastor or chief school administrator. The *Archdiocesan High School Safety Plan for the Protection of Students* requires that the sex offender must stay away from minors and always be accompanied by one or more adults who must be identified to and approved by the chief school administrator. Violation of the safety plan may result in the individual being restricted from attending future activities.<sup>53</sup> The Omaha Archdiocese's policy

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<sup>53</sup> The Archdiocese of St. Louis. *Policy: Registered Sex Offender: Participation and Accountability*. Retrieved from [https://www.archstl.org/Portals/0/Documents/Child\\_Youth\\_Protection/RegSexOffenderParticipation2018.pdf?ver=2018-10-08-153122-070](https://www.archstl.org/Portals/0/Documents/Child_Youth_Protection/RegSexOffenderParticipation2018.pdf?ver=2018-10-08-153122-070)

does not offer a safety plan. Instead, it prohibits registered sex offenders from being on school premises when children are present even if the offender has a child attending classes.<sup>54</sup>

In summary, we recommend a written policy be developed that specifies how the Archdiocese will monitor priests who have committed misconduct with minors. The policy must provide detailed procedures for how the priests will be monitored and outline potential repercussions for failure to adhere to the program. The Archdiocese should also develop a policy that includes a safety plan for sex offenders who plan to attend church and/or school events, which only permits such attendance with permission and under direct supervision.

## **B. Child Abuse Detection and Reporting Domain**

Policies that are part of the Detection and Reporting domain include: (1) reporting abuse to civil authorities, and (2) whistleblower protection.

### **1. *Policy on Reporting Abuse to Civil Authorities***

The purpose of reporting policies is to respond quickly and appropriately to evidence or allegations of child sexual abuse. The Archdiocese's written policy on reporting abuse<sup>55</sup> is about average in relation to other U.S. archdioceses, with 50% of archdioceses having stronger reporting policies than the Archdiocese of St. Paul & Minneapolis. The Archdioceses of Cincinnati and New Orleans have the strongest reporting policies.

The Archdiocese's reporting policy appropriately directs all personnel to report abuse to civil authorities immediately. Personnel are to document the call in writing and to encourage victims to file their own report with civil authorities. The policy also states that reporting to a superior does not replace the duty to report to civil authorities. In addition, the Archdiocese's

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<sup>54</sup> Archdiocese of Omaha. *Safe Environment Policies* (2017), p. 60.

<sup>55</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse of Minors Policy*, (2016 Revision), §III.B.

policy has a provision for alternative reporting when an allegation involves a bishop. The policy states, "If there is an allegation of Sexual Abuse of a Minor involving the Archbishop or any Auxiliary Bishop, in addition to the applicable notifications set forth above, the Director shall within a reasonable time notify the Archdiocese Board of Directors."<sup>56</sup> This is a provision that many archdiocesan reporting policies are missing and was added as a requirement of the *Settlement Agreement* with RCAO.<sup>57</sup>

At the same time, the reporting policy of the Archdiocese of St. Paul & Minneapolis is missing some important practices that other archdioceses employ. Currently, the Archdiocese's policy states: "All allegations of Sexual Abuse of a Minor shall be reported to law enforcement in accordance with state statutes."<sup>58</sup> The Archdiocese's reporting policy also states: "Any employee or Adult Volunteer serving the Archdiocese, a Parish or a School, even if not a mandatory reporter under State Statutes, who has reason to suspect Sexual Abuse of a Minor that would be subject to mandatory reporting under State Statutes must report that suspicion to law enforcement or child protective services." Neither statement mentions or footnotes the statutes being referenced. Nor is there any mention of who is considered a legally mandated reporter in Minnesota or their duties under the law, and no information is provided on phone numbers to call or websites to review. The Archdiocese's failure to include this material is particularly concerning as many of its personnel are legally mandated reporters including clergy and parish teachers and administrators. Moreover, this is material that most other U.S. archdioceses include

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<sup>56</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse of Minors Policy*, (2016 Revision), §III.B(9).

<sup>57</sup> *Settlement Agreement*, §6.10.

<sup>58</sup> The independent auditor's report by Stonebridge Business Partners dated January 3, 2018 inexplicably finds the Archdiocese in compliance of this provision of the *Settlement Agreement* but fails to provide any documentation to support this conclusion.

in their policies and something the Archdiocese agreed to do in the *Settlement Agreement* with RCAO. Specifically, the Archdiocese agreed to put a policy in place with a section dedicated to civil mandatory reporting requirements, including guidance on who must report, what must be reported, and to whom the report must be made.<sup>59</sup> Appendix B provides a comparison of the Archdiocese's current language on reporting abuse with a model of what a policy that appropriately addresses civil mandated reporting requirements should include.

Another problem with the Archdiocese's reporting policy is it fails to provide guidance on the information that should be provided when reporting abuse. This is information that many archdioceses provide in their reporting policy.<sup>60</sup> We recommend including this material and appending the statute<sup>61</sup> to the policy along with phone numbers to reach the appropriate civil authorities for each county in the Archdiocese. The policy should also include the legal ramifications of failing to report abuse while noting civil immunity for good faith reporting. While the Archdiocese does provide the appropriate numbers to call on its website along with instructions on how to make a report, the instructions are from a scanned pamphlet and difficult to

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<sup>59</sup> *Settlement Agreement*, at 11, §6.1.

<sup>60</sup> For example, the reporting policy of the Archdiocese of Santa Fe, states: "The person making a report should provide as much information as possible. He/she should not conduct an investigation in order to obtain more information than is readily available. It is the responsibility of the civil authority to ascertain whether an investigation is warranted.

The following information should be reported to the extent it is known:

- a. Name, address and age of the child.
- b. Name and address of the child's parent, guardian or caretaker.
- c. Whereabouts of the child.
- d. Nature and extent of the alleged maltreatment and any past history of injury possibly occurring from abuse or neglect.
- e. Name, address and whereabouts of the person or persons suspected of perpetrating the abuse or neglect, if known.
- f. Any other information which might help to determine the cause of the suspected abuse or the identity of the person responsible." Archdiocese of Santa Fe. *Policy of the Archdiocese of Santa Fe: Abuse Awareness Training for Adults Relating to Sexual Misconduct and Sexual Harassment* (2014 Revision), p. 4.

<sup>61</sup> Ann. Stat. § 626.556.

read even on a large computer screen.<sup>62</sup> In addition to adding this information to the written policy, the material on the website should be made accessible in a format that is readable on smaller screens as some may be accessing the site with a cell phone.<sup>63</sup>

The Archdiocese's reporting policy also fails to mention reporting sex abuse not required by law, such as adults victimized as children. As noted previously, the Archdiocese's reporting policy states: "All allegations of Sexual Abuse of a Minor shall be reported to law enforcement in accordance with state statutes."<sup>64</sup> We reviewed the Minnesota statute and found that, for a single incident of suspected abuse, the statute only requires reporting incidents that happened in the preceding three years. Consistent with the *Dallas Charter*,<sup>65</sup> we believe all abuse should be reported. For example, the Boston Archdiocese's child protection policy states:

Any suspected physical abuse, sexual abuse, sexual assault or neglect of a child or young person shall be reported as soon as possible, regardless of where the incident occurred or by whom it was committed. Past incidents of sexual abuse that are alleged to have occurred when the victim was a minor, even if the victim is now an adult, also must be reported.<sup>66</sup>

Similarly, the child protection policy of the Louisville Archdiocese states:

While the laws of the Commonwealth of Kentucky do not require the reporting of instances where adults come forward about their own childhood sexual abuse, it will be the policy of the Archdiocese of Louisville to report all such cases to the police.<sup>67</sup>

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<sup>62</sup> "How to Report Suspected Child Abuse" pamphlet Retrieved from [www.SafeEnvironmentSPM.org](http://www.SafeEnvironmentSPM.org);

<sup>63</sup> Current estimates suggest that 51% of people currently access the internet via only their smartphone and this is expected to grow to 75% by 2025. See Handley, L. (2019, Jan. 24). Nearly three quarters of the world will use just their smartphones to access the internet by 2025. *CNBC*. Retrieved from <https://www.cnn.com/2019/01/24/smartphones-72percent-of-people-will-use-only-mobile-for-internet-by-2025.html>

<sup>64</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse of Minors Policy*, (2016 Revision), §III.B(1).

<sup>65</sup> Article 4 of the *Dallas Charter* requires reports to the authorities about "allegations[s] of sexual abuse of a person who is a minor" even if the reporter is no longer a minor, also requires compliance "with all applicable civil laws with respect to the reporting of allegations of sexual abuse of minors...and cooperat[ion] in their investigation."

<sup>66</sup> Archdiocese of Boston. *Child Protection Policy* (2018), Section 5: Civil Reporting Requirements, p. 17.

<sup>67</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. p. 11.

We believe that law enforcement should be made aware of any potential sexual offenders in the community even if the abuse being reported is from years past. Child sex abusers may seek out children to abuse well into their elderly years. These alleged offenders may have committed more recent crimes and thus the civil authorities should be informed.

Another area where the Archdiocese's reporting policy falls short is guidance on what a suspicion of abuse entails. The Archdiocese's reporting policy requires any Church personnel "who ha[ve] reason to suspect" child sexual abuse to report it to the appropriate authorities. However, many nonprofessionals have difficulty determining whether or not they have a valid reason to suspect abuse. As a result, some archdioceses include strong statements in their reporting policies to encourage reporting despite having doubts. This is important, because most people have difficulty believing that someone they know and respect would ever abuse a child.

One of the public's most dangerous assumptions is the belief that a person who both appears and acts normal could be a child molester. In truth, child perpetrators are more often than not trusted adults in the child's life. Because people generally cannot imagine a "normal" person doing such a heinous act, they assume that child molesters must be monsters. If the accused does not fit this stereotype (in other words, if he or she appears normal), many people will discount even clear evidence of abuse. This principle is even more pronounced when the perpetrator is someone who is revered and loved.

Offenders are well aware of our propensity for making assumptions about private behavior from one's public presentation. According to Anna Salter, Ph.D., a foremost expert in sex offenders, "a double life is prevalent among all types of sex offenders . . . . The front that offenders typically offer to the outside world is usually a 'good person,' someone who the



community believes has a good character and would never do such a thing.”<sup>68</sup> Dr. Salter notes two common tactics that sex offenders use to hide their activities. First, they frequently seek positions which give them access to children and then adopt a pattern of socially responsible behavior in public. This causes parents, coworkers and others to drop their guard and allow them easy access to children. Their second weapon is an ability to charm, to be likeable, and to radiate sincerity and truthfulness. This too is crucial to their goal of gaining access to children. In fact, Dr. Salter has found that the life a child molester leads in public may be exemplary, almost surreal in its righteousness.

Another reason that people fail to report suspected abuse is that they doubt their own perceptions. If they do not have incontrovertible evidence of the abuse, which is rare, they worry that they are overreacting. There is also a tendency to be more concerned about one adult’s reputation than the potential that multiple children could be at risk. In addition, many people worry about negative repercussions from others including retaliation by the accused, his or her friends and supporters, and the organization.

Because people have difficulty believing an otherwise "good" person would molest a child and worry about retribution for sharing their concerns, it is important that archdioceses make strong statements that encourage people to follow through on their suspicions even if they have doubts. For example, the Anchorage Archdiocese’s reporting policy states: "Doubt does not remove obligation to report."<sup>69</sup> Similarly, the Omaha Archdiocese's policy obliges its personnel to report reasonable suspicions of child abuse "even if there are differences of opinion" about

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<sup>68</sup> Salter, A. C. (2003). *Predators: Pedophiles, rapists and other sex offenders: Who they are, how they operate, and how we can protect ourselves and our children*. New York: Basic Books. p. 34; *See also*, Lanning, K. (2010). *Child molesters: A behavioral analysis* (5<sup>th</sup> ed). National Center for Missing & Exploited Children. Retrieved from <https://www.ncjrs.gov/pdffiles1/Digitization/149252NCJRS.pdf>

<sup>69</sup> Archdiocese of Anchorage. *Pastoral Policies* (2018 Revision). p. 21.

doing so.<sup>70</sup> The Archdiocese of Atlanta directs: "Your Role is to Report. There is to be no investigation by you or anyone else at the parish, mission, school, or diocesan level."<sup>71</sup> The Galveston-Houston Archdiocese emphasizes: "PERMISSION TO MAKE A REPORT IS NOT REQUIRED OR EXPECTED. ERR ON THE SIDE OF MAKING A GOOD FAITH REPORT RATHER THAN FAILING TO DO SO."<sup>72</sup> The Mobile Archdiocese notes that all archdiocesan personnel have an obligation to report "a reasonable suspicion of child abuse, regardless of any adverse consequences of such disclosure."<sup>73</sup>

In addition to stronger encouragement to report suspected abuse, we also recommend the reporting policy of the Archdiocese of St. Paul & Minneapolis reference disciplinary consequences for failing to report a reasonable suspicion of abuse. For example, the reporting policy of the Louisville Archdiocese states:

Failure to report suspected child abuse to the civil authorities is a Class B misdemeanor punishable by law and is *grounds for the termination of employment and/or the termination of a volunteer relationship* with a diocesan entity. The only exceptions to this requirement involve information learned within the Sacrament of Reconciliation or within an attorney-client relationship.<sup>74</sup>

Another area that needs to be addressed by the Archdiocese of St. Paul & Minneapolis is that of confidential communications. The Portland Archdiocese's policy on mandated reporting encourages clergy "not to accept confidential communications concerning child abuse outside of a sacramental confession."<sup>75</sup> The Hartford Archdiocese's Code of Conduct notes that, although

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<sup>70</sup> Archdiocese of Omaha. *Safe Environment Policies* (2017), p. 33.

<sup>71</sup> Archdiocese of Atlanta. *Procedures for Processing Allegations*. (2014). p. 2.

<sup>72</sup> Archdiocese of Galveston-Houston. *Safe Environment Policy*.

<sup>73</sup> Archdiocese of Mobile. *Child Protection Policy* (2009), p. 8.

<sup>74</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. p. 10. (Emphasis added)

<sup>75</sup> Archdiocese of Portland. *Child Protection Policy* (2015 Revision), p. 4.

the sacramental seal of confession is inviolable, "any priest who hears the confession of someone who reveals information about past or present abuse of a Minor or Vulnerable Adult shall strongly urge the penitent to report the abuse to proper civil and Church authorities."<sup>76</sup>

The seal of confession has been a major barrier to reporting child sex abuse in the Catholic Church. It is CHILD USA's position that the compelling interest in stopping child predators should outweigh the interest in secrecy even in confession. Given the deceptive tactics of perpetrators and the extreme vulnerability of children, any and all delay in reporting may endanger a child, and likely more than one child. So long as the Church continues to permit information to be suppressed because it came through the confessional, it has a heightened obligation to clearly and strongly mandate reporting, above and beyond state law requirements.

In summary, we recommend the reporting policy of the Archdiocese add information explaining who is a mandated reporter and outlining their duties under the law, and stating this is the minimum that is required. It should include applicable state law in the policy (or an attached appendix) along with phone numbers for the appropriate civil authorities. The legal ramifications of failing to report and civil immunity for good faith reporting should also be noted. We also recommend the Archdiocese add material to its reporting policy directing that all abuse be reported regardless of how long ago it is alleged to have occurred. To overcome people's natural reluctance to report their colleagues, stronger language should be included to encourage reporting of suspected abuse despite having doubts. We also recommend the Archdiocese include disciplinary consequences for failing to report suspected or known abuse. In addition, the

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<sup>76</sup> Archdiocese of Hartford. *Policies and Procedures for the Protection of Minors and Vulnerable Adults and the Code of Ministerial Behavior For Personnel of the Archdiocese of Hartford* (2016 Revision). §IV(4).

reporting policy should include guidance on how to handle knowledge of child abuse gained through confidential communications.

## **2. Whistleblower Protection Policy**

Whistleblower protection policies prohibit retaliation against any cleric, employee, volunteer, parishioner or other individual who acts in good faith. The purpose of whistleblower protection policies is to encourage Church personnel to report suspicions of sexual misconduct or other illegal or inappropriate behavior so the Archdiocese can address and correct the problem. The *Settlement Agreement* with RCAO required the Archdiocese of St. Paul & Minneapolis to develop a whistleblower protection policy and, as a result, the Archdiocese now has one of the strongest whistleblower protection policies among U.S. archdioceses. Only three other archdioceses have whistleblower policies (Boston, Galveston-Houston, and Philadelphia) with the St. Paul and the Boston Archdioceses having the strongest protections. Table 1 displays the practices to protect whistleblowers present in the Archdiocese's policy.<sup>77</sup>

**Table 1. Practices Included in the Whistleblower Protection Policy of the Archdiocese of St. Paul & Minneapolis**

<b>Whistleblower Protection Policy</b>
1. Encourages all personnel to report concerns about violations of Code of Conduct, abuse or inappropriate behavior
2. Provides reporting procedure
3. Denotes who is responsible for investigation
4. Acknowledges receipt of the reported violation or suspected violation.
5. Confidentiality assured
6. Assures no retaliation
7. Penalty for retaliation

<sup>77</sup> Archdiocese of St. Paul & Minneapolis. *Reporting Wrongdoing – "Whistleblower" Protection Policy* (2016).

We recommend that the Archdiocese maintain and enforce its Whistleblower Protection policy.<sup>78</sup>

### **C. Response to Victims Domain**

The Response to Victims domain includes policies to address the Church's responsibility to assist all those affected by sexual abuse of minors by Church personnel including the victim, the victim's family, and the community. Policies that are part of this domain include: (1) victim assistance, (2) victim rights, and (3) public transparency.

#### **1. *Victim Assistance Policy***

The purpose of Victim Assistance Policies is to provide assistance to victims and communities affected by sexual abuse in order to promote their healing. Outreach to victims and survivors is addressed in Article 2 of the *Dallas Charter*:

Dioceses/eparchies are to reach out to victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being. The first obligation of the Church with regard to the victims is for healing and reconciliation. Each diocese/eparchy is to continue its outreach to every person who has been the victim of sexual abuse as a minor by anyone in church service, whether the abuse was recent or occurred many years in the past. This outreach may include provision of counseling, spiritual assistance, support groups, and other social services agreed upon by the victim and the diocese/eparchy.

The victim assistance policy<sup>79</sup> of the Archdiocese of St. Paul & Minneapolis is above average in comparison with most U.S. archdioceses; although four archdioceses (Hartford, Kansas City, Portland and San Francisco) have more comprehensive policies.

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<sup>78</sup> Although whistleblower protection policies are rare in U.S. archdioceses, there appears to be a trend in this direction. In his recent *Motu Proprio* directive, Pope Francis stated: "...prejudice, retaliation, or discrimination as a consequence of having submitted a report is prohibited." See: Pope Francis. (2019, May 7). *Motu Proprio, Vos Estis Lux Mundi*. Retrieved from [http://w2.vatican.va/content/francesco/en/motu\\_proprio/index.html#motu\\_proprio](http://w2.vatican.va/content/francesco/en/motu_proprio/index.html#motu_proprio)

<sup>79</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy* (2016 Revision), §III.H. *Assistance/Pastoral Care of Persons Who Have Been Sexually Abused by Clergy*.

A unique feature of the Archdiocese's victim assistance practice is the Archdiocese's partnership with a third-party provider. Canvas Health is a community-based mental health service provider that provides independent 24/7 reporting and victim assistance services. This assistance includes crisis response, mental health assessments and referrals, and additional support for counseling or therapy. Another unique aspect of the Archdiocese's response to victims is an ombudsperson. This was a requirement of the *Settlement Agreement*<sup>80</sup> and the role is not yet mentioned in the Archdiocese's policies. According to the Archdiocese's website, it is an unpaid position that is entirely independent of the Archdiocese.<sup>81</sup> In an interview, the new ombudsperson, former Hennepin County attorney Tom Johnson, said he will act as a contact for survivors of clergy abuse who may not feel comfortable turning to archdiocesan staff or the police for help.<sup>82</sup>

An item missing from the Archdiocese's victim's assistance policy is a statement noting whether the Archdiocese assumes that a report is credible and offers immediate help to those reporting abuse. A number of the other policies we reviewed direct the Victim Assistance Coordinator to focus on the needs of the alleged victim without first attempting to investigate the claim. The Archdiocese of Louisville has a strong victim assistance policy in this regard. Its policy states:

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<sup>80</sup> *Settlement Agreement*, §G.13.8. The Archdiocese agrees to have in place at a point no later than expiration of this Agreement an ombudsperson to provide an outside resource for victims of sexual abuse.

<sup>81</sup> *Thomas L. Johnson Named Ombudsperson*. (2018, Jan. 5). Retrieved from <https://www.archspm.org/thomas-l-johnson-named-ombudsperson/>

<sup>82</sup> Horner, S. (2018, April 21). As Hennepin County attorney, Tom Johnson went after perpetrators of child sexual abuse. Now he's helping victims. *Pioneer Press*. Retrieved from <https://www.twincities.com/2018/04/21/as-hennepin-county-attorney-tom-johnson-went-after-perpetrators-of-child-sexual-abuse-now-hes-helping-victims/>

Several principles guide the victim assistance policies and procedures of the Archdiocese: The Archdiocese presumes that victims/survivors who come to the Church about sexual abuse, exploitation, or harassment are being truthful.<sup>83</sup>

Similarly, the Atlanta Archdiocese's child protection policy notes that the role of the Victim Assistance Coordinator is "strictly pastoral in nature without regard to the truth of any allegation or to the circumstances surrounding any alleged incident."<sup>84</sup>

Another area that requires clarification in the Archdiocese's victim assistance policy is whether or not the the victim is allowed to choose a therapist who is not a part of the Canvas Health system. This is important for victims of clergy abuse as they may feel distrustful of seeing a therapist recommended to them by the Church. Just as important, therapy is more effective when the victim has good rapport with the therapist, which is easier to achieve when the victim selects the therapist themselves. After pursuing other approaches, the Philadelphia Archdiocese now has a stronger victim assistance policy in this regard. It allows victims to seek treatment from a licensed therapist of their choice. It also reimburses victims for medications related to mental health treatment, along with transportation and childcare expenses related to attending therapy sessions.<sup>85</sup>

An important area not mentioned in the St. Paul Archdiocese's written policy is assistance to pastoral communities affected by sexual misconduct. Research into the impact of child sexual abuse on affected parish communities suggests that they experience "deep hurt in response to perceived betrayal by church leaders."<sup>86</sup> To recover, the parish must undergo its own process of

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<sup>83</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. p. 22.

<sup>84</sup> Archdiocese of Atlanta. *Updated Policy of the Archdiocese of Atlanta Concerning the Protection of Children and Vulnerable Individuals from Sexual Abuse by Church Personnel*. (2014). §7.8.

<sup>85</sup> Archdiocese of Philadelphia. *Policies for the Protection of Children and Young People* (2015), Appendix A.

<sup>86</sup> Kline, P. M., McMackin, R., & Lezotte, E. (2008). The impact of the clergy abuse scandal on parish communities. *Journal of Child Sexual Abuse*.17(3-4), 290-300.

healing.<sup>87</sup> An example of how Archdioceses can offer assistance can be found in the Victim's Assistance policy of the Hartford Archdiocese. The policy states:

**Outreach to Affected Parishes/Schools** The Victim Assistance Coordinator will be responsible for causing immediate steps to be taken to assist and support parish and/or school communities directly affected by Sexual Misconduct involving Minors or Vulnerable Adults by Personnel of the Archdiocese. This outreach may be accomplished by competent counselors or social workers employed or designated by Catholic Charities of the Archdiocese or other competent professionals under the direction of the Victim Assistance Coordinator. The outreach may consist of a parish and/or school meeting at the affected parish/school, an offer of counseling to members of the affected community, explanation of the response process and informing the affected community of the action taken in response to the allegation.<sup>88</sup>

Although not mentioned in its policies, the Archdiocese has created a new position Archdiocesan Liaison for Restorative Justice and Healing currently held by Father Dan Griffith. In his role as liaison, Father Griffith works closely with Paula Kaempffer, a survivor of clergy sexual abuse hired by the archdiocese as Outreach Coordinator for Restorative Justice and Abuse Prevention.<sup>89</sup> Restorative justice involves the Church taking responsibility for the harm done by clergy sexual abuse. It is a process that seeks to acknowledge those harmed, identify the nature of the harm and begin the healing process. A number of restorative justice sessions are currently being offered to parishes in the Archdiocese.<sup>90</sup> We recommend that these roles and practices be added to the Archdiocese's written policies.

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<sup>87</sup> Canadian Conference of Catholic Bishops. (2018). Protecting minors from sexual abuse: A call to the Catholic faithful in Canada for healing, reconciliation, and transformation, p. 59. Retrieved from [http://www.cccb.ca/site/images/stories/pdf/Protecting\\_Minors\\_2018.pdf](http://www.cccb.ca/site/images/stories/pdf/Protecting_Minors_2018.pdf)

<sup>88</sup> Archdiocese of Hartford. *Safe Environment Handbook* (2016 Revision). §14.

<sup>89</sup> Ruff, J. (2020, Jan. 22). Restorative justice heals at the heart of hurt. *The Catholic Spirit*. Retrieved from <https://thecatholicspirit.com/news/local-news/restorative-justice-heals-at-the-heart-of-hurt/>

<sup>90</sup> [https://safe-environment.archspm.org/wp-content/uploads/2020/01/2019\\_OMSSE\\_Offerings-for-Parishes-Brochure3.pdf](https://safe-environment.archspm.org/wp-content/uploads/2020/01/2019_OMSSE_Offerings-for-Parishes-Brochure3.pdf)



It is also important that the Archdiocese recognize the difficulty that adult victims of clergy abuse may have when dealing with Church institutions. The policy of the Archdiocese of Louisville recognizes the need to mitigate retraumatizing abuse survivors. Its policy states:

The Victim Assistance Coordinator will encourage victims to bring an advisor or advocate with them when they are making a complaint. The prospect of bringing this information to the Church can be frightening and intimidating, and the support of a knowledgeable companion is invaluable.<sup>91</sup>

This is a simple thing that can help victims feel more comfortable, and we encourage the Archdiocese of St. Paul & Minneapolis to consider adding this to their policy.<sup>92</sup>

In summary, the Archdiocese has a strong victim assistance policy. However, its policy could be improved by clarifying that it assumes a report is credible and offers immediate help to those reporting abuse. The policy should also support a victim's right to choose their own therapist as long as the therapist is appropriately licensed. In addition, the policy should provide for immediate outreach to parishes affected by clergy sexual abuse or misconduct and note the types of assistance that will be offered. We recommend that practices related to restorative justice also be added to the Archdiocese's written policies. The policy should also recognize that after being abused by an authority figure in the Church, meetings with Church officials can be traumatic. Strategies to mitigate this trauma should be instituted such as encouraging victims to bring a support person with them to any meeting with a Church official.

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<sup>91</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. (2013 Revision). p. 22.

<sup>92</sup> It is not clear whether support persons are encouraged. The Sex Abuse Policy does not mention them except in one instance. The policy states: "In instances where a claim of Sexual Abuse of a Minor is substantiated, Archdiocese leadership shall meet, if requested, with the victim/survivor or his or her support person(s) as may be reasonably arranged, with due respect for the needs of the victim/survivor." St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy* (2016 Revision), §III.H.3 (emphasis added).

## 2. *Victims' Rights Policy*

Basic rights and protections for victims are important and offer acknowledgment by the Church of the of the personal nature of the crime and of the harm suffered. For years, victims have had few rights during canonical proceedings looking into allegations of abuse. As a recent article noted:

Over and over, one hears complaints from abuse survivors of being kept in the dark about what's happening with their canonical complaints, of being refused access to files compiled as part of the process, and of having no say in whatever canonical sanction is imposed.<sup>93</sup>

Failure to assign any rights to victims remains a major problem with many of the child protection policies of U.S. archdioceses. Almost every archdiocese has a policy that lists the rights of accused clerics and that requires clerics be advised of these rights. These policies emphasize that the accused has the right to be presumed innocent, to be informed of the accusations against him, to defend himself, and the right to be represented by counsel (usually paid for by the archdiocese). At the same time, only five archdioceses (Hartford, New York, San Antonio, Santa Fe, and St. Paul & Minneapolis) have a formal policy that includes rights for victims. The archdioceses of San Antonio St. Paul & Minneapolis and have the most complete victims' rights policies.

Items included in the Archdiocese's victims' rights policy include the right to: privacy; make a report to civil authorities; make a report to or seek a response from the Archdiocese; a timely response to inquiries and periodic updates as to the status or resolution of the allegation; request assistance in preparing a report; know the status of the investigation; not be bound to a

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<sup>93</sup> Allen Jr., J. L. (2019, Dec. 22). Is a Catholic 'victims' rights' movement the next frontier in abuse reform? *Crux*. Retrieved from <https://cruxnow.com/news-analysis/2019/12/is-a-catholic-victims-rights-movement-the-next-frontier-in-abuse-reform/>

confidential settlement; request spiritual and emotional support; and protection against retaliation. Victims also have a right to an explanation of the Archdiocese's overall process and procedures for dealing with allegations of child sexual abuse, including its policy on reporting to civil authorities. Many of these rights were a requirement of the Archdiocese's *Settlement Agreement* with RCAO.<sup>94</sup>

Although the Archdiocese of St. Paul & Minneapolis has a strong victims' rights policy, it is missing some important rights addressed in policies of other archdioceses. Ironically, despite all archdioceses having a safe environment policy, a key right that most archdioceses (including St. Paul) fail to clearly articulate is the right for victims of clergy abuse to feel safe attending church services and events. An exception is the Archdiocese of Washington, D.C. In its introduction to its safe environment policies, it states that all people--children and adults--have the right to be safe and protected from harm in any and all environments including religious institutions.<sup>95</sup> The Washington Archdiocese goes on to say that it is dedicated to promoting and ensuring the protection of all children entrusted to its care.

Another key right missing from almost every archdiocese's child protection policies is the right of the accuser to contact an attorney. For example, the sexual abuse policy of the Archdiocese of St. Paul & Minneapolis states the accused cleric has the right to be represented by an advocate or counsel.<sup>96</sup> It would seem that the same right to counsel should be extended to victims, whether the victim is navigating the archdiocese's assistance program or the victim is expected to participate as a witness in a canonical trial.

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<sup>94</sup> See *Settlement Agreement*, §G.6.5 and 6.7.

<sup>95</sup> Archdiocese of Washington. *Pastoral Code of Conduct Archdiocese of Washington*. (2016). p. 3.

<sup>96</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy* (2016 Revision). §III.F.8(a).

The New York Archdiocese is one of the few archdioceses that clearly states the right of victims to be represented by counsel. Its *Policy on Sexual Misconduct* states that both the complainant and the accused person have: "the right to have assistance of counsel, both civil and canonical."<sup>97</sup> The San Antonio Archdiocese also recognizes this right. Its reporting policy states: "For cases involving clergy, OVASE [Office of Victim Assistance & Safe Environment] will inform the reporting individual(s) of his/her rights to legal counsel, to contact local law enforcement, and to meet with the Archbishop or his designee."<sup>98</sup> In addition, on its website in a one-page summary entitled *Procedures for Reporting Abuse*, the San Antonio Archdiocese emphasizes: "The victim has the right to contact a lawyer at any time during this process."<sup>99</sup>

Another area neglected by the Archdiocese of St. Paul & Minneapolis are the rights of the alleged victim during the investigatory process. So while the Archdiocese's policy notes that the accused has the right to review evidence and proofs of the case,<sup>100</sup> the victim is not afforded the same right. In contrast, the child sexual abuse policy of the St. Louis Archdiocese states that the victim has the right to meet with the investigative team and to review a summary of the case for errors.<sup>101</sup> The Archdiocese of San Antonio has an exceptionally strong victims' rights policy.<sup>102</sup> It lists ten rights the archdiocese pledges to safeguard, including the right to: "seek and retain counsel"; "reply to any response from the accused"; "provide evidence in support of the

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<sup>97</sup> The Archdiocese of New York. *Policy on Sexual Misconduct* (2016), p. 8.

<sup>98</sup> Archdiocese of San Antonio. *Code of Conduct For Church Personnel*, p. 14.

<sup>99</sup> Archdiocese of San Antonio. *Procedures for Reporting Abuse*. Retrieved from [https://www.archsa.org/images/uploads/Reporting\\_Procedures\\_2016.pdf](https://www.archsa.org/images/uploads/Reporting_Procedures_2016.pdf)

<sup>100</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy* (2016 Revision). §III.F.8.d.

<sup>101</sup> Archdiocese of St. Louis. *Policies and Procedures Regarding Cases of Sexual Abuse of Minors by Clergy or Other Church Personnel*. (2017), p. 8.

<sup>102</sup> Archdiocese of San Antonio. *Right's of a Victim*. Retrieved from <https://www.archsa.org/child-protection/victim-assistance>

complaint"; and to "be free of intimidation by the Catholic Church, the accused, and the faith community" (see Appendix C). By placing these rights prominently on its website and providing phone numbers to call for further assistance, the San Antonio Archdiocese is helping overcome the sense of betrayal that can make victims fear coming forward with a complaint.

In summary, while the Archdiocese has a comparatively good victims' rights policy, the policy could be strengthened by recognizing a victims' right to feel safe while attending church, to contact a lawyer, to review a summary of the case for errors, and to reply to any response to the allegations by the accused.

### **3. *Public Transparency Policy***

According to the *Dallas Charter* (Article 7; 2018 revision):

Dioceses/eparchies are to be open and transparent in communicating with the public about sexual abuse of minors by clergy within the confines of respect for the 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.

A lack of public transparency regarding child sex abuse has been an issue plaguing the Catholic Church for many years. Catholics and others have been scandalized not just by child abuse but the concealment of the crimes. Cardinal Reinhard Marx called for increased transparency when he addressed the Vatican summit on the protection of minors. He declared, "It is not transparency which damages the church, but rather the acts of abuse committed, the lack of transparency, or the ensuing cover-up." He further argued that transparency is "a decisive factor in the trustworthiness and credibility of the church."<sup>103</sup> Transparency also empowers other victims to come forward when they see their abuser exposed. Moreover, publicizing the names of

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<sup>103</sup> O'Connell, G. (2019, Feb. 23). Cardinal Marx: the Catholic Church must be transparent in its handling of sexual abuse. *America: The Jesuit Review*. Retrieved from <https://www.americamagazine.org/faith/2019/02/23/cardinal-marx-catholic-church-must-be-transparent-its-handling-sexual-abuse>

abusive priests notifies the public that these men should not be allowed near children; thus, possibly preventing further occurrences of abuse.

While most archdioceses in the U.S. have some sort of policy on public transparency, most are extremely vague. For example, the Detroit Archdiocese's policy simply states it "will deal as openly as possible with the media and those parishes and institutions involved" without any further guidance except to list its media contact and spokesperson.<sup>104</sup> The Indianapolis Archdiocese has a similarly ambiguous policy. Its policy states that the archdiocese "will reflect a commitment to transparency and openness with regard to sexual misconduct....However, this commitment will be carried out with due regard to the respect owed to the privacy and reputations of all persons involved—accused, alleged victims, and others—and with respect to Church law."<sup>105</sup> In comparison, the Archdiocese of St. Paul & Minneapolis has a robust policy on public transparency which includes: notifying the public of credible allegations; disclosure of substantiated claims of abuse on the website; and provides a time frame for making the notification (within 45 days of the determination).<sup>106</sup>

The Archdiocese's written policy on transparency is one of the top three among U.S. archdioceses, although it is missing the directive by the USCCB (Article 7) on informing parish and other church communities affected by an offender's sexual abuse of a minor. In explaining Article 7 of the *Charter*, the USCCB states:

To restore that trust, the faithful must know that their bishop and pastor are being truthful with them involving cases of abuse at their parish. The parish community should hear the facts of the abuse from their Church leaders while respecting the privacy of the

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<sup>104</sup> Archdiocese of Detroit. *Sexual Abuse of Minors Policy* (2007 Revision), p. 6.

<sup>105</sup> Archdiocese of Indianapolis. *To be Safe and Secure: Policies and Procedures, Standards of Behavior For the Protection of Minors and Others from Sexual Misconduct by Those Ministering on Behalf of the Archdiocese of Indianapolis*. (2015). Article 7: Communications policy.

<sup>106</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy* (2016 Revision). §III.E.

individuals involved....Dioceses/eparchies have a variety of ways of notifying the faithful of past and current abuse allegations. Most elect to visit the affected parish and directly inform the congregation about the circumstances.<sup>107</sup>

After reviewing an earlier draft of this Report, the Archdiocese's Office of Ministerial Standards and Safe Environment provided a checklist<sup>108</sup> that mentions notifying parishioners when a priest is removed from his parish. So while it is not written in the policy, it does appear to be the practice of the Archdiocese to inform parish communities affected by sexual abuse of a minor.

In contrast, the Cincinnati Archdiocese's policy provides clear instructions on what to do after receiving a credible allegation: "The responsible supervisor, or another person designated by the Archbishop or the Chancellor, will notify the local church community that an allegation has been made."<sup>109</sup> The Baltimore Archdiocese's policy provides even more detail on communicating with affected Church communities, including those where the accused previously served:<sup>110</sup>

Recognizing the importance of supporting a community directly affected by Abuse allegations, the director of Department of Communications will coordinate with the director of the Office of Child and Youth Protection; relevant Archdiocesan offices; and, as appropriate, a Covered Entity's Responsible Administrator or his/her designee to ensure the affected community receives timely, factual, and pastorally appropriate communication from the Archdiocese.

The Archdiocese may communicate with other parishes, particularly those where an accused person previously served; with school principals; and /or with a Covered Entity's Responsible Administrator or his/her designee in order to assist in reaching out pastorally to the appropriate communities.

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<sup>107</sup> Secretariat of Child and Youth Protection. (2012, April). *The 2011 Annual Report on the Implementation of the "Charter for the Protection of Children and Young People*. USCCB. p. 15.

<sup>108</sup> Trustee/Staff Meeting Checklist for Pastor Transitions

<sup>109</sup> Archdiocese of Cincinnati. *Decree on Child Protection: Policies, Procedures and Recommendations* (2018), Section 2: Response, A.4. Immediate Action Regarding an Accused Person Where the Accusation of Child Abuse Has the Semblance of Truth, p. 26.

<sup>110</sup> Archdiocese of Baltimore. *Statement of Policy for the Protection of Children and Youth* (2018 Revision), pp. 23-24, §9).

In summary, we recommend the Archdiocese amend their policy on disclosure to ensure a community affected by clergy abuse receives timely, factual, and pastorally appropriate communication from the Archdiocese. Communities where the accused has previously served should also be notified.

#### **D. Domain of Investigational Process and Response to Allegations of Abuse**

The domain of Investigational Process and Response to Allegations of Abuse includes the following policies: (1) review board; (2) investigations, (3) handling evidence, (4) response to substantiated allegations of abuse, and (5) response to credible allegations of abuse that cannot be substantiated. Policies in this domain involve conducting credible investigations untainted by conflicts of interest and internal pressures to avoid scandal. It also involves being responsive to the rights and needs of victims and lay oversight of the investigation with the goal rendering justice and protecting children from future harm.

It should be noted that the Dallas *Charter* does not provide any guidance on how to conduct an investigation. It simply states: (1) that the diocese conduct an investigation, in accordance with canon law, upon the receipt of an allegation of abuse; (2) that a diocesan lay review board functions as a confidential consultative body to the bishop; and (3) that the accused "is to be accorded the presumption of innocence during the investigation of the allegation and all appropriate steps are to be taken to protect his reputation."<sup>111</sup> Thus, there is no guidance on who should conduct the investigation, on whether the accused should be placed on administrative leave during the investigation, and no requirement that the archbishop even notify the review board of an allegation of abuse. The only other guidance provided in the *Dallas Charter* is the

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<sup>111</sup> U.S. Conference of Catholic Bishops. (2018). *Promise to Protect, Pledge to Heal: Charter for the Protection of Children and Young People: Essential Norms for Diocesan/ Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*. p. 11.



"zero-tolerance" clause stating that a priest shall be removed from ministry if the abuse is found to be substantiated. However, there is no standard for determining who each diocese considers credibly accused or how they determine whether an allegation is substantiated. Because of the lack of detailed guidance in the nuances of conducting an investigation and dealing with priest misconduct, many of the policies in this domain were underdeveloped.

### **1. Review Board Policy**

Having a Review Board to advise archbishops on clergy sex abuse was mandated in 2003 by the *Dallas Charter*. According to the *Charter*, the majority of the board members must be lay persons in full communion<sup>112</sup> with the Church but not in the employ of the archdiocese. The Board is to assist the archbishop in assessing abuse allegations and fitness for ministry, and is charged with regularly reviewing the archdiocese's policies and procedures for dealing with sexual abuse of minors.

The number and composition of members on the Review Board vary greatly between the different archdioceses. Most archdioceses comply with the directives of the *Charter*<sup>113</sup> and have at least five members, one being a priest and another having expertise in the treatment of sexual abuse. Some archdioceses have larger Review Boards and a few, in addition to the priest and professional with child abuse expertise, mandate the inclusion of other types of professionals. For example, the Philadelphia Archdiocese's policy directs that the Board be composed of 7 to

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<sup>112</sup> Being "in full communion" with the Catholic Church" means being allowed to partake of the Eucharist. To partake of the Eucharist, a specific profession of the faith of the Catholic Church is required. A person must firmly accept its teaching on faith and morals with the "submission of will and intellect to the teachings" of the Church's governance. See, Ratzinger, J., & Bertone, T. (1998). *Doctrinal commentary on the concluding formula of the professio fidei*. Vatican. Available at [https://web.archive.org/web/20131202223910/http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_1998\\_professio-fidei\\_en.html](https://web.archive.org/web/20131202223910/http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_1998_professio-fidei_en.html)

<sup>113</sup> *USCCB Charter*, art. 2, and *USCCB Essential Norms*, #5.

12 members. It notes that members "shall include a licensed psychiatrist, a psychologist or social worker, an attorney, and a parent."<sup>114</sup> The Chicago Archdiocese's policy mandates the inclusion of a parent and a survivor of sexual abuse (or the parent of a survivor) in the membership of its Review Board.<sup>115</sup>

The Archdiocese of St. Paul & Minneapolis's Ministerial Review Board (MRB) policy directs that the Board have at least seven members with one being a priest and another having expertise in the treatment of sexual abuse. The Archdiocese's MRB policy describes the duties of the Board, provides for regularly scheduled meetings, and directs that notes be taken during the meetings. It also provides for the orientation of new Board members and charges the Board with the responsibility of reviewing and offering revisions to the Archdiocese's policies. In addition, it reviews cases of clergy misconduct and makes confidential recommendations to the Archbishop.

The Archdiocese's MRB policy<sup>116</sup> is one of the better policies in relation to other U.S. archdioceses, though Chicago and Philadelphia include some practices missing from the Archdiocese's policy. As noted previously, the Chicago Archdiocese has instituted a policy of including either a survivor of clergy abuse on the board or a parent whose child was abused. Including someone personally affected by priest abuse may help other board members better understand the needs of abuse victims. Although we are aware that the Archdiocese's current MRB membership includes an abuse survivor, we recommend adding this as a requirement in the MRB policy so that this practice is continued.

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<sup>114</sup> Archdiocese of Philadelphia. *Policies for the Protection of Children and Young People* (2015 Revision), §1103.8.1.

<sup>115</sup> Archdiocese of Chicago. *Book II: The people of God*. §1104.4.1.

<sup>116</sup> St. Paul Archdiocese & Minneapolis. *Ministerial Review Board (MRB)* (2016 Revision).

The second item missing from the Archdiocese's policy is a provision for the continuing education of Board members on child abuse issues. This was a recommendation of the SEMS Task Force:

The members of the Clergy Review Board should receive continuing training and education on issues likely to be presented to the Board in programs administered by the Delegate for Safe Environment.<sup>117</sup>

These recommendations are similar to those offered to the San Antonio Archdiocese by a commission empaneled to improve its handling of child sexual abuse. The commission recommended that the San Antonio Archdiocese allocate a budget for Board members' continuing education on best practices in their areas of responsibility.<sup>118</sup> While few Archdiocesan policies include this practice, we recommend that the Archdiocese of St. Paul & Minneapolis implement the recommendation of the SEMS Task Force and amend its written policy to include education to support Board members in their important role.

Another concern we have is that the Archdiocese's MRB policy fails to include a provision of the *Settlement Agreement* with RCAO. The *Settlement Agreement* states:

Before a recommendation is made to discharge a cleric from the POMS Program, the Ministerial Review Board shall undertake a full review of the cleric's file.

- a. The Ministerial Review Board shall document its recommendation regarding discharge from the POMS Program, and that recommendation shall be placed in the cleric's file.<sup>119</sup>

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<sup>117</sup> Safe Environment and Ministerial Standards Task Force. (March 31, 2014). *Report and Recommendations to Protect Children from Clergy Sexual Abuse*. Submitted to the Episcopal Vicar For Ministerial Standards of the Archdiocese of Saint Paul and Minneapolis. p. 13.

<sup>118</sup> The Lay Commission on Clergy Sexual Abuse of Minors in the Archdiocese of San Antonio. (Jan. 31, 2019). *Report of the Lay Commission*.

<sup>119</sup> *Settlement Agreement*, p. 16, §11.3. (Note: The Archdiocese has replaced the POMS program with a individualized clergy support initiative. No matter what the program is called, we recommend the MRB continue to provide oversight on the monitoring of clerics who have committed misconduct.)

Although the *Settlement Agreement* did not explicitly state that the Archdiocese had to include this practice in its MRB Policy, it did assign the function to the MRB. Since policies should reflect practices and procedures, we believe the Archdiocese's written MRB Policy should be updated to include this important practice.

In summary, in comparison with other archdioceses, the Archdiocese has a good Review Board policy. Requiring that one of the Board members be a survivor of clergy abuse or a parent whose child was abused would help future board members better understand the difficulties these victims face. We also recommend that all Board members be offered continuing education on best practices in their areas of responsibility.

## ***2. Policy on Investigations***

Many archdioceses have minimal policies on investigating and responding to abuse allegations. Some have no meaningful investigatory policy in place and offer little guidance on how to deal with the alleged offender during the investigatory process. Archdioceses that do have investigatory policies have developed widely disparate approaches on how to conduct an investigation. In some cases, policies were so vague that we were unable to determine who was even responsible for conducting the investigation.

In contrast, the Archdiocese of St. Paul & Minneapolis has a fairly well developed policy on conducting investigations.<sup>120</sup> The policy states that it will inform law enforcement of any allegations of child sexual abuse and cooperate fully with civil authorities in any investigation. It also states that the Archdiocese will defer its internal investigation during any criminal investigation. The accused will be placed on administrative leave during the investigation and the

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<sup>120</sup> St. Paul Archdiocese & Minneapolis. *Sexual Abuse Policy*, III.C.

Archdiocese will not allow transfers or offer employment recommendations for clerics with pending claims of abuse. It will also notify any diocese that the accused cleric might move to with a pending claim.

While care is taken to protect the victim's identity and privacy, the Archdiocese's investigatory policy is lacking some important safeguards for victims and minors. Approximately a third of other U.S. archdioceses include provisions in their policies to protect the alleged victim during the investigation. These include provisions such as prohibiting the accused from attending church events during suspension, directing him to not contact the alleged victim, not to have anyone else contact the victim on his behalf, and/or not to retaliate against the victim in any way.<sup>121</sup> After completing our research, the Office of Ministerial Standards and Safe Environment provided a document<sup>122</sup> to show that priests who have been removed from parishes need permission to be on parish premises. So while it is not written in the policy, it does appear to be the practice of the Archdiocese to require a priest to get permission before attending his former parish. However, it does not appear that the alleged offender is counseled with regard to refraining from contacting the victim. The policy also fails to enact safeguard children from the alleged abuser during the investigation. In contrast, the Archdiocese of Louisville's sexual abuse policy notes that in addition to being placed on a leave of absence, the accused is to "refrain from

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<sup>121</sup> See e.g., Archdiocese of New Orleans. *Policy Concerning Abuse or Neglect of Minors* (2011), p. 5 holding that during the preliminary investigation: "The accused cleric is to be counseled that he is not to confront or challenge the accuser, nor is he to arrange for any confrontation or challenge in any way by another person, nor is he to retaliate against his accuser or the reporter in any way"; see also, The Archdiocese of Milwaukee. *Promise to Protect - Pledge to Heal: The Policies, Procedures, and Protocols for Clergy Sexual Abuse of Minors: Prevention and Response* (2017 Revision), p. 8. holding that: "The Vicar for Clergy will direct the accused to have no contact with the accuser or family and the accused will sign a document to that effect."

<sup>122</sup> St. Paul Archdiocese & Minneapolis. "Trustee/Staff Meeting Checklist for Pastor Transitions."

all public ministries and all unsupervised contact with children, pending the outcome of the internal or criminal investigation."<sup>123</sup>

Another area neglected in the Archdiocese's policy is informing the alleged offender's coworkers to report any inappropriate behavior they may have observed. The Louisville Archdiocese's policy states:

The Archdiocese will inform selected coworkers or others with whom the accused lives or works that an accusation has been made and that the accused has been placed on administrative leave. These individuals will be directed to report inappropriate behavior or violations of ministerial restrictions to a designated archdiocesan official.<sup>124</sup>

A particularly important point missing from the Archdiocese's investigatory policy is the use of an independent, outside investigator. In evaluating the 32 U.S. archdioceses we found that there is little uniformity when it comes to who conducts the investigation (see Table 2).

**Table 2. Officials Charged with Conducting the Investigation**

<b>Officials Charged with Conducting the Investigation in Each US Archdioceses</b>	<b>Number of Archdioceses Who Use</b>
Chancellor	1 (3%)
Archbishop or designee	6 (19%)
Legal Counsel for Archdiocese	4 (13%)
Vicar General for Clergy	3 (9%)
Director of Investigations	3 (9%)
Director of Office of Child and Youth Protection or Safe Environment	3 (9%)
The Victim Assistance Coordinator	1 (3%)
The Review Board	1 (3%)
Independent Investigator	5 (16%)
Not specified	5 (16%)

Many of the personnel designated by archdioceses as investigators have obvious conflicts of interest, such as the Archbishop, the Vicar General for Clergy, and the legal counsel for the

<sup>123</sup> Archdiocese of Louisville. *Restoring trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. (2013 Revision). p. 12.

<sup>124</sup> *Id.*

archdiocese. A recent decree by Pope Francis holds that, "Any person assisting the Metropolitan in the investigation is required to act impartially and must be free of conflicts of interest."<sup>125</sup> A conflict of interest arises when a person has competing interests or loyalties that either are, or potentially could be, at odds with each other. Since employees and members of the church hierarchy are hired to represent the interests of the archdiocese, they cannot be considered impartial in investigations potentially implicating the Church in wrongdoing.<sup>126</sup>

The person charged with investigating child abuse allegations by the Archdiocese of St. Paul & Minneapolis appears to be the Director of the Office of Ministerial Standards and Safe Environment. While this is better than having the Vicar or legal counsel conduct the investigation, the Director is still an employee of the Archdiocese. To ensure a credible, impartial investigation, the investigator should be completely independent of the archdiocese. In addition, the investigator needs special expertise as crimes involving child abuse, particularly child sexual abuse, are among the most difficult investigated by law enforcement. The U.S. Department of Justice has laid out some of the reasons that investigations of child abuse can be difficult:<sup>127</sup>

- Children are usually unable to protect themselves because of their level of physical and mental development; frequently they do not like to talk about the abuse. They may delay disclosure or tell only part of the story.
- An emotional bond often exists between the child and the offender; children may want the abuse to stop, but they may not want the offender to be punished.

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<sup>125</sup> Pope Francis. *Motu Proprio Vos Estis Lux Mundi*. (May 7, 2019) Retrieved from [http://w2.vatican.va/content/francesco/en/motu\\_proprio.index.html#motu\\_proprio](http://w2.vatican.va/content/francesco/en/motu_proprio.index.html#motu_proprio)

<sup>126</sup> One of the worst policies on investigations was found in the Child Protection Policy of the Archdiocese of Kansas City. The policy states that the Vicar General for Priests or another priest designated by the Archbishop is to lead the investigation. It further states: "In the spirit of charity, a religious order shall be invited to participate in and to cooperate with any investigation of one of its members." The policy also directs the religious order "to attend to the spiritual, psychological and physical well-being of an accused member during the investigation." Thus the religious order is charged both with supporting the alleged offender while also investigating him. See, Archdiocese of Kansas City in Kansas. *Child Protection Policy* (2007), pp. 9-10.

<sup>127</sup> U.S. Department of Justice. (2001). *Law enforcement response to child abuse*. NCJ 162425. Retrieved from <https://www.ncjrs.gov/pdffiles/162425.pdf>

- Crimes of abuse are not usually isolated incidents; instead, they take place over a period of time, often with increasing severity.
- In most sexual abuse cases, there is no conclusive medical evidence that sexual abuse occurred. Moreover, it occurs in a private place with no witnesses to the event.
- Interviews of children require special handling; legal issues governing child testimony are complicated and ever changing, and children—whether victims or witnesses—are often viewed as less credible or competent than the accused.
- Child abuse cases often involve concurrent civil, criminal, and sometimes administrative investigations; they often cross jurisdictional lines.
- The criminal justice system was not designed to handle the special needs of children.

Because of the difficulties involved, we recommend using an independent investigator who has proven expertise conducting child sexual abuse investigations. In addition, using the same individual for multiple investigations can create a de facto employer-employee relationship, and hence a conflict of interest. Thus, it is best to draw from a pool of potential investigators rather than using the same individual for all investigations.

This recommendation is consistent with recent directives by U.S. bishops. In June 2019, the U.S. bishops approved a document *Affirming Our Episcopal Commitments*, which embraced and pledged to implement the Pope's *Motu Proprio*.<sup>128</sup> The bishops stated that all code of conduct policies should be amended so they state unequivocally that they apply to bishops as well as other Church personnel. These directives include utilizing proven experts in the investigatory process chosen from among the laity such as law enforcement, criminal investigation, civil law, canon law, psychology, and social work. In addition, archbishops are

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<sup>128</sup> In this letter, the Pope Francis made bishops subject to the *Dallas Charter* and established a process by which abuse (or any cover-up of abuse) by a bishop can be reported in the institution. The Pope also encouraged the use of lay experts in Church investigations.



directed to report any "conflict of interest or lack of impartiality" to the Vatican, including that of an investigator.<sup>129</sup>

In summary, we recommend the Archdiocese amend its written policy on investigations to include more protections for children and victims. These include adding a prohibition against the accused attending church events during his suspension, and requiring the accused to refrain from all public ministries and all unsupervised contact with children pending the outcome of the internal or criminal investigation. The written policy should also state that the accused will be directed not to contact the alleged victim, not to have anyone contact the victim on his behalf, and not to retaliate against the victim in any way. In addition, the Archdiocese should specify in its written policy that during any internal investigation, it will inform selected coworkers, or others with whom the accused lives or works, that an accusation has been made and encourage them to report any inappropriate behaviors they may have observed or violations of ministerial restrictions. We also recommend that the Archdiocese's policy direct that any person assisting the Archdiocese in an investigation should act impartially and be free of conflicts of interest. The Archdiocese should create a pool of qualified investigators and experts to draw from and any investigation into allegations of child abuse should be conducted by an independent, outside professional with proven expertise in investigating allegations of child abuse.

### **3. *Handling Evidence Policy***

The *Settlement Agreement* with RCAO required the Archdiocese of St. Paul & Minneapolis to develop a policy on handling evidence.<sup>130</sup> Currently, the Archdiocese is the only

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<sup>129</sup> USCCB. (2019, June). *Affirming Our Episcopal Commitments*. Retrieved from <http://www.usccb.org/about/leadership/usccb-general-assembly/2019-june-meeting/upload/usccb-affirming-our-episcopal-commitments-2019-06.pdf>

<sup>130</sup> *Settlement Agreement*, §G.12.1(d).

archdiocese in the U.S. that has such a policy. The Archdiocese's policy directs that evidence will be seized in a timely fashion, described and documented in writing, stored securely, and the chain of custody will be recorded to preserve its integrity.

This is an important policy which more archdioceses should adopt. Directives by U.S. bishops issued on implementing the *Motu Proprio* reference safeguarding evidence. The Bishops stated: "In the event that there are well-founded motives to conclude that information or documents concerning the investigation are at risk of being removed or destroyed, the Metropolitan shall take the necessary measures for their preservation."<sup>131</sup>

#### **4. Policy on Response to Substantiated Allegations of Abuse**

Article 5 of the *Dallas Charter*, states that, "Diocesan/eparchial policy is to provide that for even a single act of sexual abuse of a minor—whenever it occurred—which is admitted or established after an appropriate process in accord with canon law, the offending priest or deacon is to be permanently removed from ministry and, if warranted, dismissed from the clerical state." This directive is included in all of the child protection policies of the 32 U.S. archdioceses. However, each archdiocese determines its own standard to deem a priest credibly accused and for some archdioceses, this Article is the only guidance contained in their policy for dealing with substantiated abuse allegations.

The Archdiocese's policy on responding to substantiated abuse<sup>132</sup> is well above average, although three archdioceses (Louisville, Philadelphia and Washington, D.C.) have more comprehensive policies. The Archdiocese's policy directs that if abuse by a cleric is determined

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<sup>131</sup> Pattison, M. (2019, June 11). Bishops OK plan to implement 'Motu Proprio' on addressing abuse. *Catholic News Service*. Available at <https://www.ncronline.org/news/accountability/bishops-ok-plan-implement-motu-proprio-addressing-abuse>

<sup>132</sup> St. Paul Archdiocese & Minneapolis. Sexual Abuse (2016 Revision), §III. D. *Resolution*.

to be substantiated the offender will be permanently removed from ministry, he will not be allowed to transfer for ministerial assignment, and if he moves to another diocese, information about the abuse will be disclosed to the leadership of the new diocese. In addition, the Archdiocese of St. Paul & Minneapolis is the only one of the 32 archdioceses we evaluated to instruct that pictures and visible honors be removed from display honors be removed from display after a priest is found to have abused a child.<sup>133</sup> This can be very meaningful to the victims and their families and friends.

While the Archdiocese does publicize substantiated claims of sexual abuse by clerics on its website, we recommend that the Archdiocese enact a protocol to ensure that members of parishes and schools where the offender has served in the past are informed of the substantiated claims. This is important as it may lead to more victims being discovered and helped. For example, the Louisville Archdiocese's policy on substantiated abuse allegations states:

Members of the parish/school or other agency in which the accused last served will be notified by the Archbishop's office. Parishioners will be informed about how to report child abuse, and parents will be advised on how to discuss child abuse with their children. Care will be taken at all times to protect the identity of the victim/survivor and his or her family. If the clergy or lay employee had previous assignments or employment, these parishes, schools, or agencies also will be notified.<sup>134</sup>

The Archdiocese's policy also fails to mention maintaining records of the investigation. Although retention of records of the investigation is mentioned in the Archdiocese's *Clergy Records Policy*, this is not part of the Archdiocese's child protection and safe environment policies and its presence is never mentioned therein. We recommend that instructions for

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<sup>133</sup> This procedure is a requirement of the *Settlement Agreement* with RCAO. *See*, §13.7.

<sup>134</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville*. (2013 Revision). pp. 15-16.

maintaining records of the investigation should be mentioned in the policy on investigations and provide a cross-reference to the *Clergy Records Policy*.

Several examples of appropriately placed record-keeping procedures can be found in the policies of the Archdioceses of Louisville and Washington, D.C. The sexual abuse policy of the Louisville Archdiocese states:

Maintain, whether the accusation is substantiated or not, accurate and complete reports of the accusation and investigation as well as all actions and notifications by the Archdiocese and/or other authorities. These records will be kept by the Chancellor in strict and secure confidence and will be maintained indefinitely.<sup>135</sup>

The *Child Protection and Safe Environment Policy* of the Washington, D.C. Archdiocese provides similar instructions:

#### 12.3 Record Keeping<sup>136</sup>

Accurate records of allegations received, whether supported or not, and all actions taken and notifications by the Archdiocese and/or other church authorities in response to such reports, and of evidence and relevant comment, shall be kept on file in strict and secure confidence. Copies of original statements provided to the police will be kept on file.

The responsibility for record keeping resides with the Moderator of the Curia and records should be retained in his office, the Office of Ministerial Leadership, Human Resources, or confidential Archives as appropriate. For the protection of both the involved individuals and institutions, records shall be kept in perpetuity. Continuity of information is essential and shall be assured.

We recommend that the location where all materials gathered during an investigation are kept should be stated in the Archdiocese's investigatory policy. The policy should also note who is responsible for maintaining these records. In addition, the policy should direct that these records be maintained securely and kept indefinitely. However, the requirement of “strict and

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<sup>135</sup> Archdiocese of Louisville. *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville* (2013 Revision), p. 21.

<sup>136</sup> Archdiocese of Washington. *Child Protection and Safe Environment Policy* (2019 Revision), p. 43.

secure confidence” should be qualified with a statement that victims have a right to the files and that they will be produced for the authorities or when ordered by a court.

In summary, we recommend that the Archdiocese enact a protocol to ensure that members of parishes and schools where the offender has served in the past are informed of the substantiated claims. We also recommend that the policy direct the retention of all records of the investigation and note where these will be kept and who is responsible for their security.

#### ***5. Policy on Response to Credible Allegations of Abuse that Cannot be Substantiated***

When judging allegations of abuse there are a number of possible outcomes. As the Archdiocese of Dubuque notes in its policies, the Review Board may determine:<sup>137</sup>

1. The best information available does not support a reasonable belief that the allegation is true.
2. The best information available is not sufficient for the Board to form a reasonable belief as to whether the allegation is true or not.
3. The best information available to the Board supports a reasonable belief that the allegation is true.
4. The best information available to Board supports the belief that an incident did occur, but it does not come under the definition of sexual abuse. (The Archdiocese of Chicago also has a similar category in which there is insufficient evidence of sexual abuse of a minor but the cleric's conduct was otherwise inappropriate.)

This is a good policy but would be improved if it were clarified that “best information available” includes the report, trauma-informed training, and the continuing education of the Board.

Unfortunately, most archdioceses treat abuse allegations as either substantiated or false and ignore the gray area in between. For response policies to be complete, each of the four potential judgments listed above must be addressed. When credible allegations are not substantiated, but not completely ruled out, returning an accused cleric to his position without restrictions potentially places minors at risk and can be traumatizing to the cleric's alleged victim(s).

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<sup>137</sup> Archdiocese of Dubuque. *Policy for the Protection of Minors* (2015), p. 6.

The Archdiocese's written policy on responding to credible, but unsubstantiated, allegations of child sexual abuse is arguably the best of any U.S. archdiocese in that it addresses the need to have the Review Board determine the cleric's fitness for ministry and determine whether any restrictions are warranted. The policy allows the Review Board to limit the accused cleric's contact with minors or even remove him from ministry if Review Board deems the abuse allegation credible. The second best policy on dealing with credible unsubstantiated allegations was that of the Louisville Archdiocese. Most other archdioceses, either did not have a policy, or had policies that returned clerics to ministry without any consideration of the archdiocese's responsibility to protect minors.

The Archdiocese's written policy on unsubstantiated allegations could be strengthened by including mention of several practices that it appears to be already doing. The first is to direct the permanent maintenance of all records of the investigation. While the Archdiocese has a procedure for the permanent retention of investigatory files (see *Response to Substantiated Allegations of Abuse* above), it is not mentioned in its investigatory policy on child sexual abuse.

The second procedure missing from the Archdiocese's written response policy is directing that the victim be told the results of the investigation and offered pastoral assistance as needed. While the Archdiocese's policy on victim assistance includes informing victims of the outcome of investigations, we feel it requires special mention in this policy. Coming forward with an allegation of abuse can be very traumatic for victims as they are forced to recount, and in many cases relive, their abuse. This trauma can be compounded by being told that their allegation could not be substantiated and may result in victims feeling revictimized by the Church. The *Associated Press* reported on the experience of one such victim:

In Philadelphia, grand jurors in 2011 cited the case of a former altar boy who described his molestation with precision, backed by the testimony of others, and whose complaint echoed one brought a year earlier. The review board, unconvinced, rejected the case as “unsubstantiated.”...Less than a year after the review board ruling, the former altar boy killed himself. His mother said that in a lifetime scarred with pain, the ruling stood out for her son.<sup>138</sup>

Consequently, this is a notification that should be handled with great care.

In summary, the Archdiocese should modify its policy on responding to abuse allegations by directing that accurate and complete reports of the accusation and the investigation be retained permanently and providing a cross reference to its *Clergy Records Policy*. We also recommend that the policy instruct that the alleged victim will be told the results of the investigation in a trauma-informed fashion and offered therapeutic and pastoral assistance as needed.

## VII. CONCLUSION

The purpose of this analysis was to assess the written policies of the Archdiocese of St. Paul & Minneapolis to determine whether they are adequate to safeguard the 32,824 children who attend its various parishes and schools.<sup>139</sup> Because there is no current standard by which to judge the quality of a Catholic archdiocese's policies, we compared the Archdiocese's written policies to those of all other U.S. archdioceses. We found the Archdiocese of St. Paul & Minneapolis has made much progress and overall its policies do well in these comparisons. However, it is important to note that because we used other archdioceses as the basis of our comparisons, our analysis only looked at practices currently employed by one or more Catholic archdioceses. There are child protection practices available that none of the archdioceses

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<sup>138</sup> Dunklin, R., Weiss, M., & Sedensky, M. (2019, Nov. 20). Catholic boards hailed as fix for sex abuse often fail. *Associated Press*. Retrieved from <https://apnews.com/66ffb032675b4e599eb77c0875718dd4>

<sup>139</sup> This number is based on information provided on the Archdiocese's website: <https://www.archspm.org/overview/>

included in their policies and thus, were omitted from analysis. Consequently, this analysis may provide an overestimate of the quality of the Archdiocese's policies since they were not compared to best practices identified by empirical research.

Overall, the Archdiocese does well in many of the areas other U.S. archdioceses show the greatest weakness: policies on responding to victims and investigating and responding to child abuse allegations. The Archdiocese's policies on victim assistance, victim's rights, and public transparency are among the best offered by U.S. archdioceses. The Archdiocese's Review Board policy and its policy on conducting investigations are also among the best we reviewed. Moreover, St. Paul is currently the only archdiocese in the U.S. with a policy on handling evidence. The Archdiocese's policy on responding to substantiated abuse is above average and its policy on responding to credible but unsubstantiated allegations of sexual abuse was the most complete among all U.S. archdioceses. The Archdiocese also has the strongest whistleblower protection policy of all the U.S. archdioceses. The quality of these policies are in large part due to additions by RCAO required under the *Settlement Agreement*.

The main area that needs attention is the Archdiocese's written policies in the domain of Prevention and the domain of Detection and Reporting of abuse. The Archdiocese ranks below average in its written policy on background screening compared to other U.S. archdioceses. The Archdiocese is slightly above average in its written policy on specialized child protection training. We were not permitted to study nor have access to evidence of the Archdiocese's practices beyond the written policies, other than the Archdiocese's responses to an earlier draft of this Report. Based on their response, it appears that the deficiencies in these policies are largely due to a failure to update the written policies to reflect current practices. In fact, there were many areas in which we identified gaps in various policies and received assurances from



the Archdiocese and/or RCAO that the Archdiocese is performing the missing practices. This is a concern and these policies need revising to reflect current practices.

The Archdiocese's written policy on reporting abuse is about average in relation to other U.S. archdioceses. The main area missing from the reporting policy is information on legally mandated reporting. While the policy does call for all abuse to be reported to law enforcement and the Archdiocese directs all personnel to report in accord with state statutes, the policy fails to reference the relevant statute or outline what the law requires. A section on legally mandated reporting is something that the majority of other archdioceses in the country include in their reporting policies.

Another area that caused concern was the fact that the Archdiocese currently has no written policy for monitoring priests who have committed misconduct and thus may be a risk to minors. The failure of the Archdiocese to create any written policies regarding how problem priests will be monitored is incongruous with the Archdiocese's child protection efforts and contrary to the recommendation of the 2014 SEMS Task Force that the Archdiocese convened specifically to recommend improvements to its policies on child protection. The Archdiocese is also in need of a policy on safeguarding children if a sex offender attends Church or parish school events.

Below, we offer recommendations in areas needing attention. By adopting the recommendations offered, the Archdiocese will have one of the strongest written child protection policies of any U.S. archdiocese and will have moved closer to achieving its shared goal with the RCAO that no child will ever again be the victim of clergy sexual abuse in the Archdiocese.

## VIII. RECOMMENDATIONS

### 1. Policies in General

- a. Applicants for positions in the Archdioceses should be required to sign a document describing the policies and procedures of the Archdiocese to demonstrate their general understanding of the child protection policies, where they can be located, and agreement to follow these policies.

### 2. Background Check Policy

- a. The background policy should be updated to include all screening procedures already being employed to ensure that Church personnel having nothing in their backgrounds that might place children at risk. This includes using a standardized application for the position sought, interviews, and reference checks. It also includes checking the national sex offender database for positions involving contact with minors and screening adults attending overnight events with minors (currently this is mentioned in Code of Conduct for Volunteers but not mentioned in the background check policy).
- b. The background policy should mandate the screening of third-party contractors who come into contact with children.

### 3. Child Protection Training Policy

- a. The Archdiocese should update its training policy to include procedures currently in use such as offering training for children, parents, and other interested adults.
- b. The training policy should be updated to include more detailed information on continuing education being offered on child protection issues, such as who will offer such education, planned topics, who it is offered to, and how it will be delivered.

#### 4. Code of Conduct

- a. We recommend that the examples of appropriate and inappropriate ways to touch or show affection to children currently included in the volunteers' Code of Conduct also be included in the Codes of Conduct for clerics and employees.
- b. We recommend that the Codes of Conduct for all church personnel expressly prohibit grooming techniques such as developing a special relationship with an individual child, singling out a child for special privileges, and/or asking children to keep secrets.
- c. The Codes of Conduct for all church personnel should be strengthened so that, in addition to prohibiting private electronic messages, it also prohibits inappropriate interactions on social media. In addition, a one-on-one online relationship between adults and unrelated minors should be prohibited *whether or not* the personnel have the permission of the child's parent or guardian.
- d. We recommend the Archdiocese establish a confidential third-party 24/7 Ethics and Misconduct hotline where Church personnel, laity and the public can report concerns regarding Code of Conduct violations or suspected misconduct. (While the Archdiocese currently has a hotline, it is for abuse victims seeking help and not for reporting other types of misconduct.) As well, we recommend the various Codes of Conduct provide information on who personnel should consult if they are unsure whether a conduct violation has occurred.

## **5. Policy for Monitoring of Sex Offenders and Priests with Histories of Misconduct with Minors**

- a. We recommend a written policy be developed that provides detailed procedures for how priests who have committed misconduct with minors will be monitored and which outlines repercussions for failure to adhere to the program.
- b. We recommend developing a separate policy requiring a safety plan for sex offenders who plan to attend church and/or parish school events so that they do not come into unsupervised contact with children, including specification that attendance is only permitted with permission and supervision and only for specific reasons. These are important areas that need immediate attention to prevent future child abuse.

## **6. The Child Abuse Reporting Policy**

- a. We recommend the Archdiocese's reporting policy include information explaining who is considered a mandated reporter in Minnesota and outlining their duties under law. This appears to be a requirement in the *Settlement Agreement* that has not yet been fully implemented.<sup>140</sup> We recommend the Archdiocese's reporting policy include information explaining who are considered mandated reporters under Minnesota law and outlining their legal duties. Civil immunity for good faith reports and legal repercussions for failing to report should be also noted. The policy should also include what information should be included in a report and provide phone numbers for the appropriate civil authorities. (See Appendix B for an example of what is missing from the Archdiocese's current policy.)

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<sup>140</sup> *Settlement Agreement*, §6.1(a). (This is not to say that the Archdiocese does not encourage reporting. The Archdiocese requires all personnel to immediately report allegations or suspicions of child sexual abuse to law enforcement "in accordance with state statutes." However, the policy fails to provide a reference to the relevant statute and does not mention what the statute requires.)

- b. Stronger language should be included in the reporting policy to encourage people to follow through on suspicions of abuse even if they have doubts. We recommend providing guidance on what a reasonable suspicion of abuse entails, as well as requiring that all abuse be reported to authorities even if not required by law, such as adults victimized as children and when the abuser is deceased.
- c. We recommend the reporting policy include the possibility of disciplinary action or termination of employment for failing to report reasonably suspected or known abuse.
- d. We recommend providing guidance on how to handle knowledge of abuse gained through confidential communications. Some archdioceses note that although the sacramental seal of confession is inviolable, any priest who hears the confession of someone who reveals information about past or present child sexual abuse should strongly urge the penitent to report the abuse to proper civil and Church authorities.

## **7. The Victim Assistance Policy**

- a. We recommend the victim assistance policy be amended to clarify that those providing assistance to victims assume that a report is credible and offer immediate help to those reporting abuse.
- b. We recommend that the policy support a victim's right to choose his or her own therapist as long as the therapist is appropriately licensed. The policy should also indicate the types of assistance Canvas Health currently provides and how claims are handled. As well, the policy should indicate what resources are offered to victims currently living outside the area Canvas Health serves.
- c. The policy should also recognize that after being abused by Church authority figure, meetings with Church officials can be traumatic. Strategies to mitigate this trauma should

be mentioned such as encouraging victims to bring a support person with them to any meeting with a Church official.

- d. The policy should address communities affected by sexual misconduct by clergy including who is responsible for providing assistance and what types of assistance will be offered.

## **8. The Victim's Rights Policy**

- a. The Archdiocese should acknowledge and establish a right to feel safe at church.
- b. The Archdiocese's policies mandate apprising those accused of child sexual abuse of their right to contact a lawyer. We recommend that the victim rights policy be amended to afford victims this same right.
- c. We recommend that victims who are cooperating with Archdiocesan internal investigations be given the right to review the evidence and a summary of their case for errors and to reply to any response by the accused to the allegation.

## **9. The Ministerial Review Board (MRB) Policy**

- a. The Archdiocese's policy needs to be updated to reflect the procedures regarding the monitoring of clergy who have committed misconduct agreed to in the *Settlement Agreement* with RCAO. The Archdiocese agreed that before a recommendation is made to discharge a cleric from the POMS Program, the Board must undertake a full review of the cleric's file. In addition, the Board must document its recommendation regarding discharge from the POMS Program, which must then be placed in the cleric's file.<sup>141</sup> To

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<sup>141</sup> *Settlement Agreement*, p. 63.

ensure this procedure continues past the Archdiocese's release from Court supervision, it should be memorialized in the Archdiocese's MRB Policy.<sup>142</sup>

- b. We recommend a requirement that a survivor of clergy abuse or a parent of an abuse victim be included on the Board going forward.
- c. We recommend that all Board members be offered continuing education in their areas of expertise as related to their role on the Board.

#### **10. The Investigation Policy**

- a. We recommend that the Archdiocese's policy direct that any person assisting the Archdiocese in an investigation should act impartially and be free of conflicts of interest. The policy should also mandate the use of a lay, independent, outside investigator with proven expertise in investigating allegations of child sexual abuse, selected from a pool of qualified investigators.
- b. We recommend the policy include more protections for victims. These include prohibiting the accused from attending church events during suspension and to refrain from all public ministries and all unsupervised contact with children pending the outcome of the internal or criminal investigation. The accused should also be directed to not contact the alleged victim, not have anyone else contact the victim on their behalf, and not retaliate against the victim in any way.
- c. We recommend the policy direct that once a credible allegation of sexual abuse of a minor is received, if law enforcement chooses not to investigate, selected coworkers, or

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<sup>142</sup> In its compliance reports to the Court, the Archdiocese indicated it has replaced the POMS program with a Clergy Support Initiative. No matter the name of the monitoring program, we recommend that oversight by the MRB continue.

others with whom the accused lives or works, should be encouraged to report any inappropriate behavior or violations of ministerial restrictions they may have observed.

## 11. The "Resolution" Policy<sup>143</sup>

- a. Although retention of records of the investigation is mentioned in the Archdiocese's *Clergy Records Policy*, this is not part of the child protection policies. We recommend that the *Resolution* section of the *Sexual Abuse Policy* also contain this information and provide a cross-reference to the *Clergy Records Policy*. The policy should direct the secure maintenance of all records pertaining to the investigation whether the accusation is substantiated or not. There should be permanent maintenance of complete reports of the accusation and the investigation, documentation for any evidence gathered, and all actions and notifications by the Archdiocese and other authorities. As well, the "strict and secure confidence" standard should be qualified to indicate the victim has rights to the file, and that it will be produced for authorities or under court order.
- b. While the Archdiocese does publicize substantiated claims of sexual abuse by clerics on its website, we recommend that the Archdiocese enact a protocol to ensure that members of all parishes and/or schools where the offender has served in the past are informed of the substantiated claims. This is important as it may lead to more victims being discovered and helped.
- c. We recommend that the resolution policy indicate that in the case of unsubstantiated allegations, the victim will be told the results of the investigation in a trauma-informed fashion and be offered therapeutic or pastoral assistance as needed.

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<sup>143</sup> "Resolution" is what the Archdiocese calls its policy on responding to credible allegations of child sexual abuse including both those that are substantiated and those that are not.



## **IX. APPENDICES**

## **Appendix A. List of the 32 U.S. Archdioceses**

Archdiocese of Anchorage  
Archdiocese of Atlanta  
Archdiocese of Baltimore  
Archdiocese of Boston  
Archdiocese of Chicago  
Archdiocese of Cincinnati  
Archdiocese of Denver  
Archdiocese of Detroit  
Archdiocese of Dubuque  
Archdiocese of Galveston-Houston  
Archdiocese of Hartford  
Archdiocese of Indianapolis  
Archdiocese of Kansas City  
Archdiocese of Los Angeles  
Archdiocese of Louisville  
Archdiocese of Miami  
Archdiocese of Milwaukee  
Archdiocese of Mobile  
Archdiocese of New Orleans  
Archdiocese of New York  
Archdiocese of Newark  
Archdiocese of Oklahoma City  
Archdiocese of Omaha  
Archdiocese of Philadelphia  
Archdiocese of Portland  
Archdiocese of St. Louis  
Archdiocese of St. Paul and Minneapolis  
Archdiocese of San Antonio  
Archdiocese of San Francisco  
Archdiocese of Santa Fe  
Archdiocese of Seattle  
Archdiocese of Washington

**Appendix B Comparison of Reporting Policy of the Archdiocese of St. Paul & Minneapolis with Recommended Policy**

<b>Comparison of Current Reporting Policy of the Archdiocese of St. Paul &amp; Minneapolis with Recommended Policy That Includes Minnesota's Mandated Reporting Requirements</b>	
<b>Current Policy</b>	<b>Policy With Mandated Reporting Requirements</b>
<p><b>Procedure for Responding to an Allegation of Sexual Abuse of a Minor by Clergy, Church Personnel or Volunteers</b></p> <p>1. All allegations of Sexual Abuse of a Minor shall be reported to law enforcement in accordance with state statutes.<sup>6</sup></p> <p><i>[Footnote: 6: See Agreement, section 6.1, 6.3.a.; Charter, Art. 4; Essential Norms, n. 11.; Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons, n. 11 (hereafter, "Essential Norms).]</i></p>	<p><b>Procedure for Responding to an Allegation of Sexual Abuse of a Minor by Clergy, Church Personnel or Volunteers</b></p> <p>1. All allegations of Abuse of a Minor shall be reported to law enforcement in accordance with state statutes. (See Ann. Stat. § 626.556 <a href="https://www.revisor.mn.gov/statutes/cite/626.556">https://www.revisor.mn.gov/statutes/cite/626.556</a>)</p> <p>Child abuse of any kind is criminal. Under Minnesota law, the term “child abuse” may refer to the physical abuse, neglect, sexual abuse or exploitation, mental injury, or threat of harm to a minor. Sexual abuse includes sexual contact, child sex trafficking, solicitation of children to engage in sexual conduct, and any activity related to child pornography, even viewing such material. (See Ann. Stat. § 626.556, Subd. 2)</p> <p><b>Mandatory Reporter.</b></p> <p>While all people are encouraged to report, some professionals are mandated to report by law (See Ann. Stat. § 626.556, Subd. 3) to immediately (within 24 hours) report child abuse.</p> <p>In Minnesota this includes professionals or professional's delegates who are:</p> <ul style="list-style-type: none"> <li>• Clergy*</li> <li>• Professionals</li> <li>• Social workers</li> <li>• Teachers, principals, and other school personnel</li> <li>• Physicians, nurses, and other health-care workers</li> <li>• Hospital administrators</li> <li>• Counselors, therapists, psychiatrists, and other mental health professionals</li> <li>• Childcare providers</li> <li>• Medical examiners or coroners</li> <li>• Law enforcement officers</li> </ul> <p>*A member of the Clergy is not required to report information received during confession (i.e. Sacrament of</p>

Reconciliation).

**Failure to report can result in prosecution**

(a) A mandated reporter who knows or has reason to believe that a child is neglected or physically or sexually abused, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A mandated reporter who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

Failure to report suspected child abuse to the civil authorities is also grounds for the termination of employment and/or the termination of a volunteer relationship with the Archdiocese. The only exceptions to this requirement involve information learned within the Sacrament of Reconciliation or within an attorney-client relationship.

**Immunity from liability**

A person reporting in Good Faith is immune from both civil and criminal liability. This immunity extends to investigations arising from the reports.

**No retaliation by an Employer is permitted**

An employer is not allowed to retaliate against an Employee for reporting in Good Faith. The employer of any mandated reporter who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

Retaliation is also forbidden under the Archdiocese's Whistleblower Policy.

**Malicious and reckless reports**

Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

**Incidents That Must be Reported**

The following must be reported to Civil Authorities:

1. Any suspected physical abuse, sexual abuse, sexual assault, or neglect of a child shall be reported as soon as possible, regardless of where the incident occurred or by whom it was committed.
2. Any other incident that is required to be reported under applicable law.

Clerics are not required to report information about child abuse learned during confession but should encourage the person to report the information to Civil Authorities.

**Information That Should be Included in the Report**

The person making a report should provide as much information as possible. If not all of this information is available, the person should report as much as they know.

He/she should not conduct an investigation in order to obtain more information than is readily available. It is the responsibility of the civil authority to ascertain whether an investigation is warranted. Both oral and a written follow-up submission are required to child welfare agencies.

The following information should be reported to the extent it is known:

- Name, address and age of the child;
- Name and address of the child’s parent, guardian or caretaker;
- Whereabouts of the child;
- Nature and extent of the alleged maltreatment and any past history of injury possibly occurring from abuse or neglect;
- Name, address and whereabouts of the person or persons suspected of perpetrating the abuse or neglect, if known; and
- Any other information which might help to determine the cause of the suspected abuse or neglect or the identity of the person responsible.

**Who to Report to**

Reports should be made to law enforcement or child protective services.

Call Child Protective Services or law enforcement within 24 hours and personally file a written report within 72 hours of the

	<p>verbal report (excluding weekends and holidays).</p> <p>These reports are in addition to internal Archdiocesan reporting requirements.</p>
<p>2. Any employee or Adult Volunteer serving the Archdiocese, a Parish or a School, even if not a mandatory reporter under State Statutes, who has reason to suspect Abuse of a Minor that would be subject to mandatory reporting under State Statutes must report that suspicion to law enforcement or child protective services.<sup>7</sup></p> <p><i>[Footnote 7: See Agreement, section 6.1., 6.3.a. 6.2.]</i></p>	<p><b>Voluntary Reporters</b></p> <p>Church personnel who are not mandatory reporters (i.e., those who serve as volunteers and who are not designated by statute as a “public or private official”) are required by the Archdiocese to report suspected child abuse when they have reasonable grounds to do so.</p> <p>Such reports should be made to law enforcement or child protective services. (Contact the county or reservation where the child lives during business hours. If the child is in immediate risk of harm, please contact your local law enforcement agency or dial 911. See Appendix for local telephone numbers for reporting child abuse.)</p> <p>Minnesota law protects those who report child abuse in good faith and with reasonable grounds for doing so from liability for making the report.</p> <p>Failure to report suspected child abuse to the civil authorities is grounds for the termination of employment and/or the termination of a volunteer relationship with a diocesan entity. The only exceptions to this requirement involve information learned within the Sacrament of Reconciliation or within an attorney-client relationship.</p>
<p>Archdiocese of St. Paul &amp; Minneapolis. <i>Sexual Abuse of Minors Policy</i>, (2016 Revision), §III.B.</p>	

## Appendix C San Antonio Victim's Rights Statement

Retrieved from <https://www.archsa.org/child-protection/victim-assistance>

### Office of Victim Assistance & Safe Environment

#### Right's of a Victim

Having suffered and survived sexual misconduct at the hands of a priest is one of the most harmful and long-lasting betrayals one can experience. It is possible that you tried to tell your story in the past, and it was not heard or believed. Even now, you may believe you are being judged and condemned. You may not trust or be comforted by expressions of confidentiality and concern. That is why we are making our commitment clear.

The Archdiocese of San Antonio wants you to know that we do hear you and we want to safeguard your rights.

You have the right to:

- Be heard
- Be treated with respect and consideration
- Meet with the Archbishop or his designee
- Report allegations to the appropriate civil authorities
- Seek and retain counsel
- Discretion during the investigation and the right to have your good name protected
- Reply to any response from the accused
- Provide evidence in support of the complaint
- Be told the results of the investigation
- Be free of intimidation by the Catholic Church, the accused, and the faith community

For further assistance please call: The Office of Victim Assistance & Safe Environment

210-734-7786 or 1-877-700-1888