



POLICY ON
SEXUAL MISCONDUCT
AND/OR ABUSE

Diocese of Gallup

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August 1, 1993

Dear Friends in Christ,

While the beauty and the goodness of God's gift of human sexuality are well recognized and appreciated by all of us, today we are faced with the reality of a dark side of human sexuality in society: sexual abuse and misconduct.

While percentage wise relatively few in society might be afflicted with these tendencies, passions, or even illnesses in human sexuality, the possibility of even one or two instances of abuse or misconduct demands firm and positive action and policies throughout our communities.

We would wish the Church's experiences might be different, because of its rootedness in Christ's gospel and the spiritual motivation for moral and healthy living. Yet, evidence points to the reality that the Church itself has also had the experience of sexual misconduct and abuse by some priests and personnel and thus needs to set forth proper policies and procedures for the benefit of all concerned now and in the future.

The heart of the Church necessarily goes out to the little ones of the world, for the Church must always stand with and support those vulnerable individuals who have no one else on their side. Children today are among the most defenseless and vulnerable of all people.

Of course, the Church also stands beside its ministers and employees, particularly its priests. Sexual misconduct or abuse by Church personnel, especially by priests, strikes the heart of the Church's commitment to the defenseless and its credibility and trust level with the people. Our priests and employees are ordained or employed for service, not dominance.

The vast, overwhelming majority of priests and people who work for the Church are deeply, fervently, and **chastely** committed in their personal lives. They are examples of integrated healthy and holy living, sexually and in every other way. Of them we need have little fear.

These policies are set forth formally in our diocese in the event they are needed. They will be enforced for the welfare of all persons involved in any situation of sexual misconduct/abuse in the Diocese of Gallup so that justice, healing, and reconciliation can eventually result in these situations.

The Church will do its level best to face these difficult situations forthrightly. It is our hope to provide

an example of justice and compassion and to teach how important and essential healthy, moral, well adjusted living is for us individually, as families, and throughout our society.

May Christ fulfill this good work in us. With kind personal regards, I remain,

Fraternally in Christ,

+ *Donald E. Pelotte*
S.S.S.

Most Rev. Donald E. Pelotte, SSS
Bishop of Gallup





PURPOSE OF THE POLICY

The Diocese of Gallup, as an employer of paid personnel and as a provider of services by unpaid volunteers, has a responsibility to exercise due care in its engagement, use, and retention of employees and volunteers. This responsibility includes a duty to make reasonable efforts to engage and retain employees and volunteers who will not cause harm to others while performing the work of the diocese by committing acts of sexual misconduct/abuse as defined below. While it is impossible for the diocese to prevent acts of sexual misconduct/abuse by its employees or volunteers which it cannot foresee, it is the purpose of this policy to establish certain measures which may assist in preventing harm to persons as a result of sexual misconduct/abuse.

POLICY

It is the policy of the diocese that sexual misconduct/abuse by personnel of the diocese while performing the work of the diocese is contrary to Christian principles and is outside the scope of the duties and employment of all personnel of the diocese. All personnel

of the diocese must comply with applicable state laws regarding incidents of actual or suspected sexual misconduct, and with the following requirements. This policy does not address sexual misconduct/abuse in general, but only in the special circumstances described herein. It is intended to establish requirements and procedures in an effort to prevent sexual misconduct/abuse by personnel of the diocese and the resulting harm to others while the work of the diocese is being performed and to provide guidance to the personnel of the diocese on how to respond to allegations of sexual misconduct/abuse if any do occur.

DEFINITIONS

For purposes of this policy only:

a. Sexual misconduct/abuse means any sexual conduct of diocesan personnel while performing the work of the diocese which is:

1. unlawful; or

2. contrary to the moral instructions, doctrines, and canon law of the Catholic Church or causes injury to another as recognized by civil and criminal law of each state.

b. Personnel includes all personnel of the diocese and other Church related entities, including officers, employees,

lay volunteers, diocesan seminarians, clerics, and religious personnel.

DISTRIBUTION OF POLICY

A copy of this policy shall be distributed as follows:

a. every employee of the diocese and its parishes (including, but not limited to clergy, seminarians, religious employees, and lay employees)

b. every employee of each separately incorporated Catholic Church entity located within the Diocese of Gallup

c. volunteers in a supervisory capacity who are providing services to the above listed entities.

STATE LAWS REGARDING REPORTING OF SEXUAL ABUSE OF CHILDREN

In all states, child abuse or neglect is a crime. The states also have a specific statute which requires that child abuse or neglect be reported to the authorities and provides that failure to report child abuse or neglect is itself a criminal offense. Sexual abuse of a child, of course, falls within the definition of child abuse. Thus, it must be reported in accordance with the requirements of the statute.

A "child" is defined as any person

under the age of eighteen (18) years.

"Neglect" and "abuse" are defined as abandonment, lack of proper care and control; failure to provide subsistence, education, medical, or other care or control necessary for the child's well-being; physical abuse, emotional abuse, psychological abuse, or sexual abuse.

A separate state statute provides that a person reporting an incident of alleged child abuse or neglect "is presumed to be acting in good faith and shall be immune from liability, civil or criminal ... unless the person acted in bad faith or with malicious purpose".

Thus, sexual abuse of a child by any personnel of the Diocese of Gallup (or, indeed, any abuse of a child as defined above) must be reported to a local law enforcement agency or the county social services agency where the child resides. The person making the report should not fear civil or criminal liability because of the immunity created by the statute mentioned above, as long as the reporting person is acting in good faith and not with a malicious purpose.

The definitions of "abuse" and "neglect" set forth above sometimes may not be helpful in doubtful or ambiguous cases. In any case where personnel of the diocese are involved and the reporting is uncertain about whether reports to the authorities should be made, the bishop's office should be contacted as indicated later in this policy under the heading

"Incident".

OBLIGATION TO REPORT AN ALLEGED INCIDENT
OF SEXUAL MISCONDUCT/ABUSE

Knowledge or suspicion of an alleged incident of sexual misconduct/abuse committed by personnel of the diocese may arise under different circumstances, such as learning of an incident which is alleged to have occurred many years earlier, learning of an incident which is alleged to have occurred recently, or making direct observations which lead to knowledge or suspicions.

Any personnel of the diocese who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct/abuse by any personnel of the diocese committed against a child under the age of eighteen shall comply with the provisions of state law set forth above in this policy (unless to do so would violate the priest/penitent relationship of the sacrament of reconciliation).

Any personnel of the diocese who has actual knowledge of or who has reasonable cause to suspect an incident of sexual misconduct/abuse (as defined earlier in this policy) by personnel of the diocese shall report to the diocese as follows (unless to do so would violate the priest/penitent relationship of the sacrament of reconciliation):

INCIDENT

A report of the incident shall be made immediately to the bishop's office at 711 South Puerco Drive, Gallup, New Mexico 87301, 505-863-4406.

NOTIFICATIONS

The bishop of the diocese shall immediately notify legal counsel, upon receiving notification of an incident of sexual misconduct/abuse.

INVESTIGATION OF INCIDENT REPORTS

Each reported incident will be immediately investigated with a high level of Christian care, concern, and confidentiality for the alleged victim, the family of the alleged victim, the person reporting the incident, and the alleged perpetrator. The diocese will cooperate fully with appropriate law enforcement and investigative authorities. The nature of the investigation may vary with the nature of the allegation; general principles of due process of law will be followed for the protection of all persons involved in the investigation. The diocese may engage persons with specialized expertise when appropriate.

LEGAL ADVICE

Legal advice, both civil and canonical, shall be immediately obtained

by the bishop; the investigation shall be conducted by the bishop and/or the bishop's designates.

INVESTIGATION OF A PRIEST

Investigation of a priest shall be made in accordance with Canon Law.

ADMINISTRATIVE LEAVE

In appropriate cases, the alleged perpetrator will be relieved of responsibilities to the diocese and placed on administrative leave pending the outcome of the internal and any outside investigation.

RECORDS OF INVESTIGATION

Appropriate records will be kept by the bishop of each incident reported and of the investigation and the results thereof. Such records shall be marked confidential and be securely kept at the diocesan office under lock with access thereto limited to only the following: the bishop and legal counsel.

CONTACT WITH ALLEGED VICTIM

When accusations are made of sexual misconduct/abuse involving personnel of the diocese, contact by the bishop with the alleged victim and family should be

promptly initiated. Contact should be by qualified pastoral counselors chosen by the bishop for the purpose of offering whatever concern or solace may be needed, with no comment as to the truth of the accusation. Medical, psychological, and spiritual assistance and, in appropriate instances, economic assistance may be offered in the spirit of Christian justice and charity, but legal advice must first be obtained by the bishop.

MEDIA CONTACT

Any media contact or inquiries regarding an incident of sexual misconduct/abuse by personnel of the diocese must be directed to the bishop. The diocesan attorney may be consulted for assistance in making response to the media.

ACTION WHERE CULPABILITY DETERMINED

Any non-clergy personnel of the diocese who admit to, do not contest, or are found culpable of any incident of sexual misconduct/abuse shall be immediately terminated from employment and/or any position of responsibility within the diocese. Any clergy or religious in similar circumstances will be suspended from the exercise of his or her ministerial duties according to the provisions of Canon Law.

APPROVAL

This policy was presented to and approved by the Presbyteral Council, the Sisters' Council, and the Diocesan Pastoral Council. This approved policy shall be distributed as outlined earlier in this policy.

