

Responding to Allegations of Sexual Abuse of Children or Vulnerable Persons



OFFICE OF THE BISHOP

My dear brothers and sisters in Christ,

As part of our observance of the 60th anniversary of our diocese, last year on September 14th, the Feast of the Triumph of the Cross, we celebrated a special Mass of Penance and Healing. I repeat what I said at that Mass, that we needed to express repentance and sorrow for the sinful actions and abuse committed by some of the priests and religious who have represented God and our diocese over the years. We needed to pray for healing for all who have been harmed by the sinful actions of priests and religious, especially in our own diocese. The commemoration of our anniversary would have been lacking if we only focused on joyful celebration without acknowledging the pain that is also part of our history.

As Pope Francis wrote in his August 20, 2018 letter to the People of God, “The heart-wrenching pain of these victims, which cries out to heaven, was long ignored, kept quiet or silenced.” If you have been abused, do not remain silent. Please come forward and do not suffer alone. There are many who want to help you.

Restoring trust and accountability in the Church does not rest solely in the hands of Pope Francis and our Cardinals, Bishops and clergy. The laity are also called to do this important restorative work. As Christ’s disciples, we share a responsibility to be part of the solution as our Church navigates this long-standing crisis of faith and leadership.

Each of us must be alert and sensitive to the people and situations around us. To offer comfort and support to those who share their trials with us. To speak up and question things that do not seem authentic. To suggest ways to improve how we deliver the myriad ministries within our parishes and to make our churches safe and welcoming places for all who come to worship or seek help. We all share in the stewardship of our Church.

Yours sincerely in Christ.

Most Reverend Gerard Bergie, D.D.
Bishop of St. Catharines

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INTRODUCTION

The Roman Catholic Diocese of St. Catharines respects and upholds the dignity of every person as a child of God. We hold as a sacred responsibility the protection of every person within our sphere of influence, with particular concern for children and other vulnerable persons. Abuse of another person is always wrong. When abuse is perpetrated by Church representatives - clergy or laypersons, employees or volunteers, it is especially abhorrent since it violates not only the person but the sacred trust which the Church discharges.

This diocesan policy, along with our Responsible Faith Ministry protocol, is an integral part of the Diocese of St. Catharines' commitment to provide safe environments for the pastoral activities of our Christian community, where all persons can feel confident to live their faith.

The Diocese is committed to the United Nations Convention on the Rights of a Child (November 20, 1989, volume 1577, 3: Article 3: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration," and Article 19: "1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child. 2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have care of the child; as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate for judicial involvement."

The diocesan policy applies to priests and deacons, sisters and brothers in religious orders, employees and volunteers of the Diocese of St. Catharines serving and/or residing in the Diocese.

The policy and procedures set out in this document will help to ensure that we fulfill our responsibility to provide for the just and timely resolution of complaints of sexual misconduct, giving priority to the protection of children and vulnerable individuals, while maintaining the principle that a person is innocent until proven guilty.

Any person who comes forward with an allegation of misconduct will be treated with respect and compassion. The Diocese will offer meaningful assistance to those who have suffered abuse perpetrated by one of its representatives.

The Diocese will intervene promptly and investigate thoroughly when an allegation of sexual misconduct is made.

This Diocesan procedure does not replace, nor is it intended to eliminate, the legal obligation of the Diocese to report to civil authorities, where such a requirement exists. The Diocese recognizes its duty to cooperate fully with civil authorities when allegations of crimes are made. Where the law requires it (for example, when the abuse involves a person under the age of sixteen), an immediate report will be made to the appropriate children's aid society.

Adult complainants of abuse (past or present) sometimes wish to preserve their privacy and would not report abuse if it were to be disclosed to civil authorities. Since they have the right to privacy (can. 220) and because the Diocese wishes to encourage disclosure of abuse, the decision

to approach civil authorities will be left to the adult complainant. The Bishop's Delegate(s) will advise complainants of their right to approach the police or civil authorities and will offer assistance to facilitate contact.

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STATEMENT OF POLICY

1. This policy has legal canonical effect for all those in the jurisdiction of the Diocese of St. Catharines. The policy is to be applied in accord with the provisions of the Code of Canon Law and with the civil laws of Ontario and Canada.
2. It is the responsibility of the Diocesan Bishop first and foremost to deal with allegations of sexual abuse of children or vulnerable persons by clerics, employees and volunteers of the Diocese. In the Diocese of St. Catharines, this responsibility is carried out through the Bishop's Delegate(s), with the assistance of an Advisory Committee.
3. Allegations will be addressed in a manner which reflects the Church's pastoral concern for
 - a) the victim against whom the offense is alleged to have taken place, and that individual's family;
 - b) the person against whom a complaint has been made ;
 - c) the church and/or parish community where the offense is reported to have occurred, and/or where the person against whom a complaint has been made is currently ministering;
 - d) fellow clerics and co-workers of the person against whom a complaint has been made, and any others who may be particularly affected by the allegations.
4. All steps taken in accordance with this procedure shall be documented by written and dated memoranda which shall be kept confidential to the extent possible. In view of privacy issues, access to diocesan records requires police to execute a search warrant.
5. All persons carrying out any responsibilities in this procedure will cooperate with civil authorities carrying out their statutory responsibilities, subject to the inviolability of the seal of sacramental confession.

PROCEDURE FOR CASES OF ALLEGED SEXUAL ABUSE

REPORTING

6. Any person may contact the Bishop's Delegate(s) by
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Phone: 905-684-0154

Mail: P.O. Box 875, St. Catharines, ON L2R 6Z4

to make a confidential report of sexual abuse by a cleric, employee or volunteer in the Diocese that is known or suspected. A person may also make a report through any cleric, employee or volunteer of the Diocese. Only the Bishop's Delegate(s) should interview the complainant. Anyone else receiving a complaint should limit him/herself to listening with compassion, without attempting to interview or offer comment, and without attempting to resolve the matter. The complainant should be encouraged to contact the Bishop's Delegate(s).

7. Unless an adult complainant does not wish to pursue an investigation, any cleric, employee or volunteer of the Diocese who receives or is made aware of an allegation shall promptly report to the Bishop's Delegate(s) the substance of the allegation, the identity of the complainant and any other information in his/her possession with respect to the allegation.
8. Anonymous complaints will be documented and investigated to the extent possible.
9. If the person against whom a complaint has been made is ministering in another Diocese, the Bishop or his Delegate(s) will inform the counterpart in that Diocese that an allegation has been made.
10. If the person against whom a complaint has been made is deceased or unable to speak in his/her own defense, an investigation will proceed as far as possible, with reasonable efforts being made to discover the truth of the matter.
11. When an allegation has been made against a non-incardinated cleric (that is, a priest or deacon ministering in our Diocese but belonging to another Diocese) or a member of a religious community, the Bishop's Delegate(s) will advise the competent Bishop or Superior immediately. That Bishop or Superior will promptly invoke their diocesan or religious community's procedures, or consent to this Diocesan procedure being undertaken.
12. In instances where a complaint has been reported to the police, the Bishop's Delegate(s) may defer, suspend or terminate an investigation.
- 13.

PRELIMINARY INVESTIGATION

14. From the time a report is made, or at any time following, in order to protect the interests of all concerned, the Diocesan Bishop may take any or all of the following actions:
 - a) The cleric or employee against whom a complaint of sexual abuse has been made may be placed on administrative leave. Volunteers may be suspended from ministry.
 - b) In the case of a cleric, an appropriate residence may be assigned pending the outcome of the investigation;
 - c) In the case of a cleric, the faculty to preach may be removed (Canon 764), and if he is a priest, the faculty to hear confessions may also be removed (Canon 974);
 - d) In the case of a cleric, he may be instructed to cease wearing clerical garb.

The Bishop's Delegate(s) shall

15. as a matter of urgent priority, carry out or direct a discreet investigation of a reported allegation. Discretion is called for to safeguard the privacy of the alleged victim and to protect the presumed innocence and good name of the person against whom a complaint has been made.
16. meet personally or correspond directly with the individual making the allegation to inquire about the facts and circumstances of the alleged incident. The Bishop's Delegate(s) shall commit to providing a timely response to the alleged victim and/or the complainant.
17. meet or correspond directly with the person against whom a complaint has been made. This person will be instructed not to contact the complainant or any family member or possible witnesses.
18. meet or correspond directly with any other persons deemed necessary for clarification of the matter. Archival material and other sources of information may be sought.
19. After obtaining information from the parties concerned and from any other sources, the Bishop's Delegate(s) may call upon the Advisory Committee to discuss the facts of the preliminary investigation, and to ask for their recommendations. If it is deemed useful in a particular case, the Bishop's Delegate(s) may make use of professional consultants.
20. During the course of the investigation, as outlined above, the Bishop's Delegate(s) shall take one of the following actions:
 - a) Report when the allegation involves a minor and requires that such a report be made under the Child, Youth and Family Services Act of the Province of Ontario.
 - b) If the alleged victim is a vulnerable person, notify that person's caregiver.
 - c) If the alleged victim is an adult, advise that he/she may be within their rights to report the incident to the police. The Bishop's Delegate(s) will not volunteer to report the incident to the police; however, would consider reporting on a case by case basis, if requested by the victim or when it concerns serious crimes.

PRELIMINARY FINDINGS

21. The Bishop's Delegate(s) will report to the Bishop the findings of the preliminary investigation, and make recommendations.
22. If the Bishop concurs with his Delegate(s) that an allegation is without substance, and unless the Bishop directs some further inquiry:
 - a) the complainant and the person against whom a complaint has been made will be advised that the investigation is closed; the complainant retains the right to pursue the matter civilly;
 - b) the person who was falsely accused will be returned to ministry or employment;
 - c) if the allegation has become public, appropriate steps must be taken to repair damage done to the reputation of the person falsely accused.

23. If the Bishop concurs with his Delegate(s) that an allegation appears to be supported by the facts:
- a) the needs of the alleged victim and/or family will be attended to at the direction of the Bishop's Delegate(s) who will:
 - i) meet personally or correspond directly with the alleged victim;
 - ii) convey to the alleged victim and/or family the Church's compassion and concern for them;
 - iii) consult with the alleged victim and possibly his/her family about appropriate professional, certified counselling services which the Diocese may fund, on a "without prejudice" basis.
 - b) the person against whom a complaint has been made:
 - i) if a cleric, he will be placed on administrative leave immediately until the matter is resolved; if a lay employee, may be dismissed for cause, according to the terms of the diocesan Personnel Policy;
 - ii) be encouraged to consult with a lawyer and to cooperate with any police investigation;
 - iii) if a cleric, he may be assigned to an appropriate residence. He will continue to receive his salary and benefits pending a resolution of the matter;
 - iv) if a cleric, he may be afforded the opportunity for counselling or be referred to a treatment facility.
23. When requested, or when he believes it would be beneficial, the Bishop and/or his delegated representative may meet personally with an abuse victim. Such a meeting will be deferred if civil and/or criminal proceedings are underway or are anticipated.
24. When requested, or when he believes it would be beneficial, the Bishop or his delegated representative may make a pastoral visit to a parish to offer encouragement and assistance to those affected by an allegation of sexual abuse. It may not be possible to provide information if this could interfere with present or future civil and/or criminal proceedings.
25. The Bishop and/or the Diocesan spokesperson at the Bishop's direction will make a public statement when this is deemed necessary. Such a statement will not interfere with, nor offer comment on any civil or criminal proceedings.

FINAL DISPOSITION

26. When there is a credible allegation against a cleric of sexual misconduct/abuse involving a person under the age of eighteen the local Bishop is obligated to refer the matter to the Congregation for the Doctrine of the Faith. The CDF will indicate the further steps to be taken locally and offer direction to the Bishop on how to proceed. Canonical penalties (e.g., removal of faculties) may be applied.
27. In cases pertaining to clerics, the CDF will make the definitive canonical judgment on the innocence/guilt of the cleric and his suitability/unsuitability for ministry, as well as the

consequent imposition of canonical penalties, the most grave being dismissal from the clerical state.

28. In cases pertaining to a layperson, employee or volunteer of the Diocese, the Bishop may decide to pursue a formal canonical inquiry. Canonical proceedings should not be pursued at the same time as the secular proceedings (criminal and civil).
29. When it has been determined that sexual abuse has occurred there will be no re-entry to ministry. If there is doubt about whether such misconduct has occurred, re-entry to ministry may be possible. It is for the Bishop to determine any eventual return to ministry of a cleric or volunteer. The Diocese's firm commitment to ensuring safe environments is the overriding consideration and no one will be permitted to return to public ministry if such ministry is a potential danger for children or vulnerable persons, or a cause of scandal for the community.

RELATED MATTERS

30. Priests are reminded that the sacramental seal of confession is inviolable in any and all circumstances. What is revealed in confession is subject to the seal and cannot be revealed. What is revealed outside the confessional may be subject to the Ontario Child, Youth and Family Services Act.
31. At no time should the Bishop, or any priest involved in the investigation procedure hear the sacramental confession of the complainant or of the person against whom a complaint has been made.
32. The Diocese of St. Catharines does not support private settlement agreements with victims of misconduct and/or sexual abuse.
33. No diocesan or religious priest will be accepted for ministry or residence in a parish in the Diocese of St. Catharines without full disclosure by his Bishop or Superior of any allegation of misconduct in the cleric's past.
34. We encourage all people to share in the responsibility of curbing all forms of violence and in particular the sexual abuse and exploitation of children and vulnerable people.

APPENDIX 1

Reporting Child Abuse and Neglect: It's Your Duty

*** The following excerpts are from the Government of Ontario's Child, Youth and Family Services Act 2017. For the complete text go to: <http://www.children.gov.on.ca/>*

The Child, Youth and Family Services Act (CYFSA) recognizes that we all share a responsibility to protect children from harm. Members of the public, including professionals who work with children, must promptly report any suspicions that a child is or may be in need of protection to a children's aid society (CAS). The Act defines the phrase "child in need of protection" and explains what must be reported. It includes physical, sexual and emotional abuse, neglect, and risk of harm.

Who is a "child in need of protection"?

The Child, Youth and Family Services Act defines a child in need of protection as a child who is or may be suffering from abuse and/or neglect.

Who is responsible for reporting a child in need of protection?

Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to a CAS. If you think the matter is urgent and you cannot reach the CAS, call your local police.

What are "reasonable grounds" to suspect child abuse or neglect?

It is not necessary for you to be certain a child is or may be in need of protection to make a report to a CAS. "Reasonable grounds" refers to the information that an average person, using normal and honest judgment, would need in order to decide to report.

What is the age of the children to whom the "duty to report" applies?

The duty to report applies to any child who is, or appears to be, under the age of 16 years. On January 1, 2018, Ontario raised the age of protection from 16 to 18. A professional, or member of the public, who is concerned that a 16- or 17- year-old is or may be in need of protection may, but is not required to, make a report to a society and the society is required to assess the reported information.

What does an "ongoing duty to report" child abuse or neglect mean?

Even if you know a report has already been made about a child, you must make a further report to the CAS if there are additional reasonable grounds to suspect that the child is or may be in need of protection.

Can I rely on someone else to report to a CAS?

No. You have to report directly. You must not rely on anyone else to report on your behalf.

Do professionals and officials have any special responsibilities to report?

Professionals and officials have the same duty as the rest of the public to report their suspicion that a child is or may be in need of protection. The Act recognizes that people working closely with children have a special awareness of the signs of child abuse and neglect, and a particular

responsibility to report their suspicions. Any professional or official, including clergy and youth and recreation workers (not volunteers) who fails to report a suspicion is liable on conviction to a fine of up to \$5,000, if they obtained the information in the course of their professional or official duties. Reporting is not mandatory in the case of 16- and 17- year-olds and the offence/penalty provisions do not apply.

Family and Children's Services Niagara

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•82 Hannover Drive
St. Catharines, ON L2W 1A4

•7900 Canadian Drive
Niagara Falls, ON L2E 6S5

•654 South Pelham Road
Welland, ON L3C 3C8

The Children's Aid Society of Haldimand & Norfolk

Phone: 519-587-5437
Toll Free: 1-888-CAS-KIDS

(1-888-227-5437)

70 Town Centre Drive
Townsend, ON N0A 1S0

GLOSSARY

ABUSE – any physical, verbal, emotional, or sexual behaviour which a) causes a person to fear for his or her physical, psychological or emotional safety and well-being; b) the alleged perpetrator knew or ought to have reasonably known would cause that person to have concern or fear for his or her physical, psychological or emotional safety and well-being. Such behaviour may or may not be criminal in nature.

ABUSE WITHIN MINISTERIAL RELATIONSHIPS – any abuse of power, betrayal of trust, or exploitation of the imbalance of power inherent in a ministerial relationship between a Church representative and the person with whom a ministerial relationship exists.

The apparent consent of a possible victim does not in itself determine whether there has been an abuse of power, breach of trust, or exploitation. Abuse could also include abuses which transpire between one Church representative and another for whom there is an imbalance of power.

The Criminal Code of Canada sets the age of consent for sexual activity at sixteen years; however, when there is a relationship of trust, authority or dependency, the age of consent is eighteen years (R.S.C. 1985, c.C-46, s. 153).

ADMINISTRATIVE LEAVE – temporary suspension of faculties for the exercise of ministry. This may include restrictions in relation to residence, and a prohibition against any public exercise of ministry.

ADVISORY COMMITTEE – a committee appointed by the Bishop, under the authority of the Bishop's Delegate(s), comprised of at least three individuals with expertise in various disciplines, possibly including the fields of counselling and civil law, and any other persons whose personal qualities and qualifications the Bishop deem appropriate and useful.

The Advisory Committee shall advise the Bishop's Delegate(s) when requested on matters relating to the prevention of sexual abuse of minors, and in responding to allegations of sexual abuse, proposing informed decisions on the probability of the facts and the likelihood of an allegation. They are also to provide advice on updating the diocesan policy and procedures related to allegations of sexual abuse, as well as to their interpretation and proper application in compliance with the norms of the Holy See, the 2018 Guidelines of the Canadian Conference of Catholic Bishops, and relevant federal and provincial statutes, insurance requirements and best practices.

BISHOP'S DELEGATE(S) – a priest or lay person appointed by the Bishop, to act on his behalf, to receive and investigate reported allegations of sexual abuse against any cleric, employee or volunteer who is or was ministering or employed in the Diocese of St. Catharines. The Bishop may appoint another person, even someone from outside the Diocese to assume this role in a particular case.

CHILD – In the context of this Diocesan policy, a person under the age of sixteen (16).

CHILD PORNOGRAPHY – Any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

CLERGY/CLERIC – ordained priest or deacon. An incardinated cleric is ordained for a particular Diocese; a non-incardinated cleric may live or minister in this diocese, but officially belongs to, and is under the authority of the Diocese/religious community for which he was ordained.

GROOMING - is behaviour that usually precedes sexual abuse of children and vulnerable adults. The purpose of grooming is to manipulate the perceptions of other adults around the child/vulnerable adult and to manipulate the child/vulnerable adult into becoming a cooperating participant, reducing the likelihood of a disclosure and of detection. Grooming is often a pattern of observable behaviour that may signal possible future sexual or other abusive activity, and should be challenged and/or reported. Grooming behaviour might include: paying inordinate attention to an intended victim; spending time alone in unsupervised situations; providing gifts or favours; showing inappropriate interest in the person's friendships and relationships; physical contact that may at first be only casual or playful; encouragement to break rules and keep secrets; inappropriate discussion of sexual matters; access to pornography. Any one of these behaviors is a cause for concern. More than one would warrant reporting the behavior to the appropriate authorities.

MINOR – a person under the age of eighteen (18), as stipulated in the Ontario Child, Youth and Family Services Act, R.S.O. 1990, Chapter C-11.

MISCONDUCT – wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's actions; unacceptable and/or criminal behaviour; culpable neglect of duties.

SEXUAL ABUSE – is always an abuse of power. In this document, sexual abuse refers to actual or threatened physical intrusion of a sexual nature against [a minor or vulnerable person], whether by force or under unequal or coercive conditions. This is a broad term which includes a number of acts, including rape, sexual assault, sex with a minor, sexual activity with a minor. Mistaken belief in the age of the minor is not a defense. Sexual abuse can also be “non-contact abuse”, for example sexual exploitation, sexual harassment, indecent exposure and lascivious acts.

Sexual abuse (in this document) includes any misconduct or act deemed a sexual offence according to the Criminal Code of Canada, the laws of the province, and canon law.

VULNERABLE PERSON – anyone in a state of infirmity, of physical or mental deficiency, or of deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence.

ZERO TOLERANCE – is a term used to convey clearly that no one who has sexually abused a minor or vulnerable person shall remain in active ministry.