

Sexual Misconduct with Adults

(Approved: 05/25/17)

Sexual misconduct: Sexual misconduct is defined as sexual activity, whether consensual or not, regardless of who initiates such an activity, between an adult (i.e., a person 18 years of age or older) of either sex, and a friar of or in the province who is providing pastoral care or having power or influence over such an adult. It includes any practice that constitutes a breach of professional trust having as its intent sexual activity involving a priest, deacon, religious, seminarian, employee or volunteer of the province that adversely affects the spiritual and psychological health of the adult, or the reputation of the province. When adults are involved, sexual misconduct includes sexual abuse, sexual exploitation, sexual harassment, and sexual assault.

Sexual Abuse : Sexual abuse with an adult, as defined in these guidelines, occurs when a minister of the province intentionally engages in sexual contact, intercourse, fondling or touching with an adult, incapable of giving informed consent, in any context. (this may constitute making a report to civil authorities if the abuse if such abuse meets state statute of a vulnerable adult)

Sexual Exploitation : Sexual exploitation is defined as any kind of sexual interaction between a minister when the adult is receiving pastoral care or counseling from a minister or when the minister is in a relationship of power or influence over such an adult. (Such *misconduct could occur in person or over the internet.*)

Sexual Harassment: Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature on the part of the minister. Sexual harassment in the workplace is governed by human resources policies adopted by the Province of St. Joseph.

Sexual Assault: Sexual assault upon an adult is defined as the use of force upon a person for the purpose of sexual contact or gratification by the assailant.

I. Reporting to law enforcement

A. The primary responsibility for reporting to law enforcement and to the director of any allegation of a sexual offense by a friar of the province rests with the adult victim. Adults who report being victims of a crime of sexual assault by a friar of the Province shall be strongly encouraged to make a report to law enforcement.

B. State laws do not mandate reporting of a sexual offense when the victim is an adult

when the crime is committed (unless the adult falls into the category of vulnerable adult” which requires mandatory reporting). Law enforcement ordinarily will act upon such complaints only if the adult person who reports them is the victim. Notwithstanding the previous sentence, these guidelines strongly encourage any party aware of a sexual offense against an adult person to report the alleged violation to the local law enforcement.

C. Paramount in cases of sexual abuse is to give due consideration to the desires, emotional and spiritual needs and wishes of the victim while still being responsive to and acting upon the allegations. For example, if the accused is still at large, reporting to law enforcement may be appropriate in order to prevent sexual offenses with others, especially to prevent child abuse and sexual offenses with children or adolescents.

II. Reporting to the OPCC director

A. Adults who have experienced sexual misconduct by a friar of the province are strongly encouraged to make a report to the director.

B. Anyone who has observed or has evidence of or information about any friar, of the province having engaged in sexual misconduct with an adult as defined under these guidelines, will report such an allegation to the director and or the provincial minister.

III. Follow-up

A. The director along with the provincial minister will notify all appropriate parties, including the accused, of any report made under these guidelines. A minister may be put on administrative leave pending any criminal or provincial investigation.

B. The provincial or his delegate will arrange and conduct a meeting as soon as possible with the accused for the purpose of informing him/her of the allegations. This meeting maybe held in the presence of counsel, civil or canonical. The accused will be given an opportunity to respond in writing to the allegation.

C. If the misconduct is alleged to have occurred within a diocesan parish, school or other diocesan affiliated ministry, the provincial will notify the bishop of that diocese or the person designated in that diocese to handle such matter.

D. In his discretion as may seem warranted by the circumstances, the provincial may request that the accused minister submit to any appropriate professional testing, evaluation and/or assessment, all of which actions may be requested by the provincial and consented to by the accused minister without any imputation of guilt and without prejudice to the accused minister’s presumption of innocence.

E. Any allegation of sexual misconduct may be submitted to the Review Board for their consideration and recommendations. Such recommendations shall be submitted in writing to the provincial to assist in making a decision as to fitness for ministry.

G. The provincial shall notify the accused friar to have no contact with the

complainant or with any person alleged to be involved in the misconduct.

IV. Records and Communications of Allegations of Abuse

- A. The Province will maintain adequate records of all reports of sexual abuse or other misconduct involving adults and their disposition.
- B. The outgoing Provincial will thoroughly brief the incoming Provincial about reports of friars' sexual abuse or other misconduct involving adults and their disposition to ensure continuity of monitoring, intervention, and care.

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