

## **POLICY TO BE FOLLOWED WHEN THE EPARCHY RECEIVES AN ALLEGATION**

It is the policy of the Eparchy of Phoenix that reports of inappropriate behavior or sexual abuse of a minor or vulnerable adults by a priest, deacon or any eparchial personnel, while in the work of the Eparchy, will be carefully investigated by the Bishop or his delegate. The requirements of local civil law will be observed. The eparchial bishop will provide for the pastoral care of the victim(s). He may seek the advice of the Eparchial Review Board. He will issue a decree initiating the Preliminary Investigation to determine if the allegation constitutes at least the semblance of truth about an offence. He is to inquire carefully about the facts and circumstances surrounding the offense. He approves the canonical counsel for the accused cleric or any Church personnel. He reports to the civil authorities if required by law when the person involved is a minor or vulnerable adults notifies civil counsel and insurer.

The person(s) making the allegations will be interviewed in an atmosphere that will insure justice and fairness to all concerned. The accused will also be interviewed. Confidentiality will be maintained, and only those necessary will be involved in the process. The policy does not address sexual misconduct 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 by personnel of the Eparchy involving minors or vulnerable adults and the resulting harm to others while the work of the Eparchy is being performed. Furthermore, it is intended to provide guidance to the personnel of the Eparchy on how to respond to allegations of sexual misconduct if such does occur.

### **OBLIGATION TO REPORT**

Any individual adult of the Eparchy who has actual knowledge of any or who has reasonable cause to suspect an incident of sexual misconduct, as defined in this policy, by any personnel of the Eparchy, shall comply with any applicable reporting or other requirements of State and local laws (unless to do so would violate the priest-penitent relationship of the Mystery of Reconciliation). Most states require that any incident of actual, alleged or suspected abuse of minors or vulnerable adults be reported to law enforcement, Department of Child Safety (Child Protective Services) and shall report to the Eparchy as follows:

A verbal report of the incident shall be made immediately to the pastor of the parish and a written report shall be prepared (See page 19). In the event this report cannot be made to the pastor, then it shall be made to the proto-presbyter of the area or the syncellus.

### **NOTIFICATIONS**

Notifications shall immediately be made to the eparchial bishop, safe environment eparchial coordinator and legal counsel to the Eparchy. The pastor or the head of the institution where the incident is alleged to have taken place is responsible for making this notification.

### **INVESTIGATION OF REPORTS**

Investigation shall be made in accordance with canon law and shall be conducted by a person properly qualified for this type of investigation. The investigation shall be conducted with care taken not to interfere with any criminal investigation, and 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. Care is to be taken that any investigation does not call into question any person's good name.

## **INVESTIGATION OF NON-CLERGY PERSONNEL**

For accusations against all non-clergy personnel, a preliminary investigation shall be conducted by a person designated by the eparchial bishop and the results shall be immediately made known to the eparchial coordinator and legal counsel for the Eparchy. In such a case it is deemed to be in the best interest of the Eparchy or the alleged victim or perpetrator, and in the sole judgment of the eparchial bishop, that the alleged perpetrator be relieved of all responsibilities to the Eparchy and placed on administrative leave pending the outcome of any internal or external investigation. The eparchial bishop will determine if the leave is to be with or without pay. The accused shall be instructed to retain his or her own legal counsel. Any non-clergy personnel who admits to, does not contest, or is found guilty of sexual misconduct shall be immediately terminated from any employment or position within the Eparchy or parish.

## **INVESTIGATION OF CLERGY**

Investigations shall be made in accordance with canon law and shall be conducted promptly. If possible, the cleric shall be interviewed by a person designated by the eparchial bishop. Precautionary measures, in accord with canon law, shall be taken to assure that the alleged perpetrator not be a risk to minors or vulnerable adults.

When allegations are admitted by a priest or deacon and it is deemed appropriate by the Bishop, taking into consideration the demands of justice and the good of all involved the accused:

- a) Will have his assignment terminated. Activities involving contact with parishioners, minors or vulnerable adults, and other persons are to be forbidden except as is necessary under appropriate safeguards.
- b) May be *requested* to seek and urged to *voluntarily* comply with an appropriate medical and psychological evaluation. (*Essential Norms*, Norm 7)
- c) Will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants when even a single act of sexual abuse is admitted or is established after an appropriate process in accord with canon law. (*Essential Norms*, Norm 8, CCEC, c.1453)
- d) Notification of the incident shall be given to insurers in accordance with the terms of applicable policies. If there is admission to the allegation, legal counsel becomes the responsibility of the person accused.
- e) When allegations are made of sexual misconduct involving eparchial or parish personnel, contact with the alleged victim and family should be promptly initiated by the eparchial bishop or person(s) designated by him for the purpose of pastoral care, having first obtained legal counsel. No comment is to be made as to the truth of any accusation.

- f) Any media contact or inquiries regarding any incident of sexual misconduct by personnel of the Eparchy must be directed by the director of communications in consultation with legal counsel.

When allegations are denied by the priest/deacon, the accused is to be informed of the investigation which the Bishop is bound to conduct in accord with the prescriptions of Canons 1468-1470. At the same time the priest/deacon is to be informed of his right to canonical advice, as well as his right to a trial conducted in accordance with Canons 1104, 2, 1185 ff. The priest/deacon also shall be reminded of his right to counsel from a civil and/or criminal attorney. If the accused remains firm in his denial of the allegations presented, the Bishop will conduct an investigation in accord with the procedure outlined in Canons 1468-1470, unless the accused chooses to have a canonical trial.

### **ANONYMOUS ACCUSATIONS**

No accusations should be made anonymously, since anonymous accusations do not allow for proper investigation.

### **FALSE ACCUSATIONS**

Civil, criminal and canon law each provide penalties for falsehood in which individuals become victims of false denunciation, perjury and slander. The Eparchy and the falsely accused retain the right to pursue such civil and canonical penalties against all those involved in false accusations.

### **PROTECTION OF RIGHTS AND UNFOUNDED ALLEGATIONS**

Care shall be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and the person against whom the charge has been made. When the accusation has proved to be unfounded, every step possible shall be taken to restore the good name of the person falsely accused. (see *USCCB Charter and Norms, Essential Norms #13*).

If after conducting a thorough and proper investigation and review the Eparchial Bishop and *Eparchial Review Board*, find the accusation unfounded (i.e. they determine there are no credible substantiated allegations of abuse or minors or vulnerable adults, nor violations of the Eparchial safe environment policies), the Bishop will issue a written statement to this effect. This document will be sent to the accused, and if the accused requests, to the parish of the accused and if judged appropriate by the Eparchial Bishop – to the media. If necessary to restore the good name of the person falsely accused, the Eparchial bishop will personally address his/her parish.

### **REVIEW**

This policy shall be reviewed periodically by the Review Board of the Eparchy.

*Revised: April 24, 2016 by the Byzantine Catholic Eparchy of Phoenix*