

DIOCESAN POLICY FOR PROTECTING THE FAITHFUL



DIOCESE OF FALL RIVER

47 Underwood Street

Fall River, MA 02720

July 2020



Diocese of Fall River
Office of the Bishop
Most Reverend Edgar M. da Cunha, S.D.V., D.D.

July, 2020

Dear friends in Christ,

Since my installation as Eighth Bishop of Fall River in September of 2014, I have made it my mission to protect our most vulnerable throughout the diocese.

I am pleased to report that we are continuing to make progress in the protection of children and vulnerable adults and in our pastoral outreach to victim/survivors. Today I am announcing important developments in furtherance of those goals.

We have created a new Ministerial Review Board (MRB) with an expanded mandate to replace the Diocesan Review Board. This board is composed of members of the laity and a member of the clergy. We have been blessed by the extraordinary people who have agreed to serve on the MRB, including a retired judge, a retired FBI agent, and a licensed psychologist, to name just three.

We have also created a new policy for the MRB that provides this Board with broad authority to advise me on all issues involving the protection of minors and vulnerable adults and, in particular, to advise me regarding allegations of all forms of misconduct by clergy, including sexual abuse.

I have adopted an updated policy outlining the protection of minors and vulnerable adults which clarifies that all who minister, work or volunteer in the Diocese will be required to agree to the "Essential Three": 1) Submit to a criminal background check; 2) Complete Safe Environment Training; and 3) Sign a Code of Conduct.

These policies were the work of many people including outside consultants and my Chancery Staff as well and, before I approved them, they were unanimously recommended to me by the MRB.

These are just the latest steps we've taken toward achieving the important goals I've set. Over the last year we have also enhanced our protection of minors and vulnerable adults and our outreach to victim/survivors of abuse by developing a number of initiatives, which include the following:

- On July 1, 2019, I established a new position of Director of Professional Standards and Oversight and hired Lorraine Levy, a retired Massachusetts State Trooper to fill that role. She now oversees the Office of Safe Environment as well as managing the requirements of the *Charter for the Protection of Children and Young People* and *The Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*.
- In July of 2019, we posted an opening for a licensed social worker to join the OSE as the Victim Assistance Coordinator to advocate and promote healing for victim/survivors. We have hired Carolyn Shipp to fill that role and she has gone to extraordinary lengths to work with our victim/survivors.
- We have hired a new CORI Coordinator for the Catholic School Office to ensure that all who minister, work and volunteer in our schools are compliant, including fingerprinting any clergy who are assigned to each Catholic school.

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I believe that our Diocese has never been in a better position to both protect children and vulnerable adults, and to effectively and pastorally address the needs of our victim/survivors. We still have much work to do. I acknowledge the need for continued self-examination to improve the way we safeguard the most vulnerable, as well as the way we address the needs and the suffering of those whom we, as a Church, have harmed over the decades.

I congratulate those who have worked so hard to bring us this far, and I thank you in advance for your work in protecting and serving God's people.

With my sincerest gratitude for your efforts in sharing in this vital ministry in the Church, I remain

A handwritten signature in black ink, appearing to read "Edgar M. da Cunha", with a cross symbol to the left of the first letter.

Most Reverend Edgar M. da Cunha, S.D.V.
Bishop of Fall River

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DIOCESAN POLICY FOR PROTECTING THE FAITHFUL

SECTION 1: PURPOSE

While sexual abuse of minors has been the focus of great attention, the Diocese of Fall River recognizes the seriousness of any form of sexual abuse or ministerial misconduct. Therefore, this policy governs all forms of sexual misconduct and ministerial misconduct by clergy or personnel, whether the person harmed is a minor or an adult. This policy is responsive to our concerns for minors and vulnerable adults and to the provisions of the revised *Charter for the Protection of Children and Young People* (“the Charter”) and *The Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, (“the Essential Norms”) as approved by the United States Conference of Catholic Bishops in 2002. While the specific provisions of the *Charter and Essential Norms* apply only to the abuse of a minor or vulnerable adult, many of those provisions proclaim foundational principles that are also applicable to situations of misconduct with adults. The goal of the Diocese is to provide a safe environment for minors, vulnerable adults and all the faithful in all Church ministries, to prevent misconduct, and to address complaints of abuse or misconduct compassionately, justly and as promptly as possible.

SECTION 2. DEFINITIONS

The following are definitions used for purposes of this policy.

2.1 Accused

A person charged with or alleged to have committed an act of abuse, a serious violation of these policies and procedures (or this “Policy”) or a crime.

2.2 Administrative Leave for Clergy and Religious

Pending a full investigation of an allegation of sexual abuse of a minor or vulnerable adult, and in some investigations of ministerial misconduct, clergy ministerial faculties are restricted. Such restrictions may include, but are not limited to, refraining from performing any public ministry, wearing clerical garb or residing on any diocesan properties.

2.3 Background Check

The verification of information provided by an applicant for ministry, employment or volunteering, including but not limited to, reference contacts, and a criminal background check, including SORI.

2.4 Child Abuse

2.4.1. Sexual Abuse of a child is sexual molestation or sexual exploitation of a child and other behavior by which an adult uses a child as an object of sexual gratification, this includes any act or interaction whether it involves genital or physical contact, with or without consent, even if initiated by the child, which involves sexual contact, molestation or sexual exploitation of a child by an adult, whether physical injuries are sustained or not, to include:

- a. The intentional touching of the genitals or intimate parts including the female breast, the genital area, groin, inner thigh and buttocks of a child, or of a perpetrator by a child, for purposes of sexual arousal or gratification;
- b. Rape, sexual intercourse (vaginal or anal), oral/genital, oral/anal contact; including any definition as defined by Massachusetts General Laws, Chapter 265;
- c. The intentional touching and/or displaying of one's own genitals or intimate parts including the female breast, the genital area, groin, inner thigh and buttocks in the presence and view of a child for purposes of sexual arousal or gratification;
- d. Permitting, causing, encouraging, or assisting in the depiction of or posing for viewing by any person, either in person or by way of graphic means including digital or photographic image of the partially or fully unclothed body of a child, displaying intimate parts, in motion or not in motion, alone or with other persons, or the depiction of a child in apparent observation of sex acts by others in the child's presence;
- e. Displaying or distributing to a child any picture, photograph, book, pamphlet, digital image, movie or magazine cover or content of which is principally made up of descriptions or depictions of sexual acts or contact, or which consists of pictures of nude or partially nude figures posed or presented in a manner which the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest;
- f. Sexual exploitation of any kind, which includes those instances in which there is no physical contact with a child but the child is encouraged, enticed, invited, solicited, or asked about sexual situations or information for the prurient interest of the adult;
- g. The knowing purchase, possession, dissemination of child pornography as described in M.G. L.A. c. 272, sec 29B or C. or in *Sacramentorum Sanctitatus Tutela* (SST), Article 6 or elsewhere.

2.4.2 Physical abuse includes any act which:

- a. Willfully causes or inflicts physical injury on a child, or
- b. Willfully causes mental injury or psychological injury to a child by intentionally engendering fear of physical injury to that child.

It is the policy of the Diocese of Fall River that corporal punishment of a child is prohibited in all entities under the auspices of the Diocese. Physical abuse does not include the appropriate physical restraint of a child who is attempting to injure another person or him/herself, or the appropriate physical direction of a child away from danger or the minimum restraint necessary to place a child in "time out" or other appropriate limitation of movement to promote the child's regaining of safety and emotional control.

2.4.3 Neglect includes:

- a. Abandonment of a child by a parent, custodian, or guardian;
- b. Lack of care by not providing appropriate and necessary food, shelter, clothing, and education;
- c. Not providing care or control with respect to physical or emotional health; the refusal or inability to discharge parental or custodial obligations; and expressions of intention by parent, guardian, or institution to discontinue care.

2.5 Core Advisory Group

A group made up of the Vicar General, the Moderator of the Curia, the Chancellor, the Director of Professional Standards and Oversight (the Director) and the General Counsel. The Core Advisory Group will conduct a preliminary investigation into certain claims against clergy or religious, seminarians or candidates for the diaconate program and will recommend a course of action to the Bishop, as set forth in Section 5.

2.6 Criminal History Record Check

The submission of a criminal background check to the applicable state and/or federal authorities, (i.e. in Massachusetts, (CORI and SORI) in order to provide information on a criminal history. In some instances, those ministering, working or volunteering in the Diocese may be required to submit fingerprints to the state and FBI to provide information on the existence and content of a National Criminal History Record Information (CHRI) listing.

2.7 Diocesan Personnel

- a. All clergy and religious who are subject to the administration, authority and/or governance of the Diocese;
- b. All seminarians and candidates for the diaconate program who are sponsored by the Diocese of Fall River;
- c. All persons directly employed by the Diocese, or by any parish, mission or other Catholic institutions and organizations which are subject under civil law to the administration, authority and/or governance of the Diocese (hereinafter referred to as “Diocesan employees”);
- d. All persons who provide any volunteer services to/for the Diocese, or to/for any parish, mission or other Catholic institutions and organizations which are subject under civil law to the administration, authority and/or governance of the Diocese (hereinafter sometimes referred to as “Diocesan volunteers”);
- e. Contract workers who have contact with minors who are subject to oversight by the Diocese.

2.8 Ministerial Review Board

A local board that functions as a confidential consultative body to the Bishop. The Ministerial Review Board (MRB) is to offer advice to the Bishop in his assessment of allegations of sexual

abuse and other forms of ministerial misconduct and in his determination of the suitability for ministry of a member of the clergy.

2.9 Mandated Reporters

The term, as used in M.G.L. Chapter 119, Section 51A, includes, but is not limited to:

- a. Nurse;
- b. Public or private school teacher, including religious education teacher and teacher aide;
- c. Educational administrator or principal;
- d. Guidance or family counselor;
- e. Daycare worker;
- f. Office for Children licensor;
- g. Social workers;
- h. Clergy member;
- i. A person employed by a Church to supervise, educate, coach, train, or counsel a child.

2.10 Ministerial Misconduct

Ministerial misconduct includes but is not limited to instances related to inappropriate sexual behavior, willful or negligent financial mismanagement, harassment, substance abuse, pastoral neglect or violations of a diocesan code of conduct or other violations of canon law.

2.11 Minor

Anyone under the age of eighteen (18) or a person who is at least 18 years old and a student who is in high school and has not reached their 19th birthday will be treated as a minor when participating in parish or diocesan activities. Per the *Charter for the Protection of Children and Young People* (2018), “a person who habitually lacks the use of reason is to be considered equivalent to a minor.” For purposes of this policy, minor is synonymous with child.

2.12 Religious

A member of a religious order or congregation, i.e., a monk, friar, or nun.

2.13 Sexual Assault

For the purposes of this policy, sexual assault will include any listed sex abuse acts committed by an adult as well as any of the delineated sexual crimes under Massachusetts General Laws, Chapter 265.

2.14 Sexual Misconduct

Any sexual conduct which is unlawful, as defined by criminal statutes of the Commonwealth of Massachusetts for conduct inside the Commonwealth of Massachusetts, and the criminal statutes of the applicable jurisdiction for conduct outside the Commonwealth of Massachusetts, and/or the Code of Canon Law.

2.15 Volunteer

A person who provides without compensation an ongoing service or activity that is officially sanctioned by the Diocese of Fall River and/or Diocesan personnel.

2.16 Vulnerable Adult

Any individual eighteen (18) years of age or over is also covered by this policy when the person is in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, or temporarily limits his/her ability to consent to or resist an act.

SECTION 3. THE ESSENTIAL THREE

All diocesan personnel (including subcontractors) will complete the “Essential Three”:

1. Criminal Background Check
2. Safe Environment Training
3. Code of Conduct

It is the responsibility of each pastor, principal or lay person in a supervisory role to ensure that those working under their direction/supervision have met these requirements. If the Diocese receives any clergy member on temporary or permanent assignment from another Diocese or religious order, it is the responsibility of the Bishop or his designee to ensure that they all have met the requirements of The Essential Three before diocesan faculties are given to the clergy member.

3.1 Criminal Background Check

All diocesan personnel must undergo a criminal background check. The Office of Safe Environment (OSE) may grant provisional status to employees or volunteers awaiting the result of a criminal background check. OSE may grant a waiver of this requirement to contractors working within diocesan locations, but said contractors cannot work unsupervised by diocesan personnel and will not be left unattended in the presence of minors and vulnerable adults.

- 3.1.1 The Office of Safe Environment will review all adverse background check results. In the event of an adverse decision based on the results of a criminal history background check, the applicant will be notified in accordance with Department of Criminal Justice Information Services (DCJIS) regulations. The subject shall be provided with a copy of the Diocesan’s CORI policy and a copy of the criminal history (unless a copy was provided previously). The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS’ Information Concerning the Process for Correcting a Criminal Record.
- 3.1.2 Criminal background checks must be renewed every three years for clergy, religious and lay employees and every year for seasonal employees and volunteers.
- 3.1.3 The Diocese of Fall River will maintain a list of all diocesan personnel who have been refused to minister, work or volunteer based on a background check.

3.2 Safe Environment Training

The Office of Safe Environment (OSE) shall provide educational program(s) on methods of preventing, recognizing, and reporting child abuse and sexual misconduct involving minors and vulnerable adults and others. Educational online or in person safe environment training on the prevention of child sexual abuse will be required of all who minister, work or volunteer in the Diocese of Fall River. The online or in person training will include information concerning: signs and symptoms, dynamics of sexual abuse, the impact of sexual abuse, intervention strategies, reporting requirements, and community resources. In certain instances, and under the direction and approval of the Office of Safe Environment, other forms of training may be accepted to fulfill this requirement.

Training shall be completed prior to any ministering, volunteering or any contact with minors or vulnerable adults. Until completed, all diocesan personnel will be restricted and shall not have access to minors and vulnerable adults. Training must be renewed every six years or whenever outlined through the Office of Safe Environment.

- 3.2.1 In order to assist its clergy, who as pastoral ministers must help the Church and the people of God to identify and to care for victims of sexual misconduct and child abuse within the Church, the Diocese will provide regular opportunities for its priests to be advised of new developments in the fields of scientific knowledge, church policy, and canon law, moral theology, professional ethics, the theology of sexuality, and the pastoral care of victims.

3.3 Code of Conduct

All diocesan personnel will be provided with the appropriate Code of Conduct for review and acknowledgement. The signed acknowledgement of the Code of Conduct will be kept on file during the duration of the individual ministering, employed and/or volunteering in the diocese. All diocesan personnel are subject to the obligations of their respective Code of Conduct and the Code of Conduct shall not expire.

All diocesan personnel who are in a supervisory position, including pastors, are responsible for the overseeing of mandated compliancy of all who are assigned under their supervision. This includes all clergy (assigned or visiting) within a specific parish or diocesan property.

SECTION 4: CIVIL REPORTING REQUIREMENTS OF ALLEGED CHILD ABUSE

The Diocese of Fall River recognizes that the protection of minors and vulnerable adults is a responsibility shared by the entire community, including the Church, parents, teachers, healthcare professionals, public safety officials, public and private social services agencies, and the general public. The Diocese is committed to working with civil authorities to protect minors and vulnerable adults by preventing child abuse and neglect, reporting alleged incidents of abuse or neglect, cooperating in investigations of allegations and any resultant judicial proceedings, as well as advising victims of their right to report independently and supporting their exercise of that right, as specified in *the Charter and Essential Norms*. The Diocese shall act in accordance with standards that will at all times comply with those of civil law, in particular **Massachusetts**

General Laws, Chapter 119, Section 51A. In addition, this policy will be reviewed periodically by the Office of Safe Environment to ensure consistency with changes in civil law. See attached Mandated Reporter's Guide for a summary of reporting laws and provisions of the Commonwealth of Massachusetts.

(Also visit <https://www.mass.gov/service-details/departments-of-children-and-families-dcf>)

4.1 Who Must Report Sexual, Physical Abuse or Neglect of a Minor

Any diocesan personnel, who have reason to suspect that any minor has been the victim of physical abuse, sexual abuse, sexual assault or neglect shall report that information immediately to their designated mandated supervisor. The mandated reporter is required to report the abuse, assault or neglect to the Department of Children and Families. See attached Mandated Reporter's Guide for specific details. In addition, the Director must be notified.

4.2 What Must Be Reported

Any suspected physical abuse, sexual abuse, sexual assault or neglect of a minor shall be reported as soon as possible, regardless of where the incident occurred or by whom it was committed. See attached Mandated Reporter's Guide for specific requirements for filing a 51A mandated report.

4.3 When Must the Report Be Made

As outlined in attached Mandated Reporter's Guide, a report must be made immediately by phone to the Department of Children and Families (DCF) and followed up with a written report to DCF within 48 hours. A copy of the 51A must be forwarded to the Director.

4.4 Cooperation with Investigation

Upon request of any civil authority, diocesan personnel shall cooperate fully in any investigation of child abuse and/or neglect, and shall notify Diocesan General Counsel of all such requests.

4.5 Protection for Those Reporting

Under statute, the Commonwealth of Massachusetts provides civil and criminal immunity to those who are mandated to report suspected child abuse and do so in good faith and not frivolously. This immunity extends to investigations and judicial proceedings arising from the reports.

4.6 Receiving an Allegation of Sexual Abuse of a Minor, but the Minor is Now an Adult

Any diocesan personnel who receive information regarding an accusation of sexual abuse when the victim was a minor at the time of the abuse but is now an adult, must immediately report this information to the Director.

- 4.6.1 Upon receipt of this information, the Director will notify the Vicar General and the Victim Assistance Coordinator ("VAC"). The VAC will reach out to the victim and arrange an initial meeting.

- 4.6.2 In accordance with any Memorandum of Understanding, the VAC, Director or the Diocesan General Counsel will send a Form D report to the appropriate District Attorney's office. The victim (or, where appropriate, the person reporting the abuse) will be given a copy of the Form D.

4.7 Receiving an Allegation of Abuse or Misconduct when the Victim is an Adult

If any diocesan personnel observe or receive information regarding abuse or misconduct where the victim is not a minor or vulnerable adult, that information should first be reported to the pastor, principal, or minister in charge, who in turn shall contact the Director and/or the VAC. If warranted, the diocesan personnel may report the abuse or misconduct directly to the Director. Diocesan personnel shall inform the adult alleged victim of his/her independent right to report to the appropriate civil authority. They shall support victims in their exercise of this right. In these situations, if a victim declines to report to law enforcement, the Diocese will respect the victim's right to privacy, except in cases where there is the possibility of imminent harm. All information received by the Diocese, however, will be documented accordingly.

SECTION 5: DIOCESAN REQUIREMENTS UPON RECEIPT OF AN ALLEGATION OF CHILD ABUSE

When allegations of suspected child abuse are made against any party, the Diocese will consider the rights and interests of all parties and adhere to procedures that: (1) minimize the potential for further injury, (2) maximize the potential for a speedy and just resolution, and (3) remain responsive to the tenets of canon and civil laws. The Director shall be notified of any and all allegations of child abuse. The requirements of this Section 5 are in addition to, and subject to, the requirements set forth in Section 4.

5.1 Clergy/Religious

When an allegation is against a member of the clergy or religious, regardless of when that alleged child abuse occurred, the Core Advisory Group will conduct a preliminary investigation in the accordance with canon law. This will be conducted promptly and objectively (CIC, c. 1717; CCEO, c. 1468). During the preliminary investigation, and any subsequent full investigation, the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation. After the Core Advisory Group completes its preliminary investigation, they shall advise the Bishop who may, unless such allegation is manifestly false, direct that the clergy or religious be:

- a. Called for an immediate meeting with the Bishop or Vicar General or the Bishop's Designee within the Chancery, who will inform him or her of the nature of the allegation(s), unless the civil authorities deem otherwise. (It is important to note that civil authorities should be offered first contact with the accused, except when such procedure would put the alleged victim and/or others at risk of harm.);
- b. Placed on administrative leave;
- c. Immediately directed to remain away from the school, agency, parish church (except with the permission of the Pastor), or other location(s) and have no contact with any

minors or vulnerable adults in any manner until a resolution of the complaint is concluded;

- d. Directed not to contact or attempt to contact the alleged victim or the victim's family in any manner or through a third party;
- e. Directed to not celebrate public Mass or to celebrate any other sacraments or to preach. (The exception is if there is an urgent necessity, any confessor is obligated to hear the confessions of the Christian faithful in danger of death);
- f. Directed to not present himself as a priest nor to wear clerical clothing;
- g. Directed to not participate in meetings of priests (e.g. Deanery Meetings, Convocations);
- h. Informed of the investigative process and the expectations for his/her cooperation and participation in said process;
- i. Advised of his/her right to obtain civil and canonical counsel;
- j. At the discretion of the Bishop or Vicar General, requested to seek and voluntarily comply with a comprehensive psychological evaluation;
- k. If after an evaluation has been conducted, shall adhere to all plans that are established;

5.2 When a clergy or religious member are placed on administrative leave, the Bishop may appoint an investigator to thoroughly collect the facts and identify the circumstances surrounding the allegation. When the full investigation is complete, the appointed investigator will deliver his/her findings and evidence to the Bishop or his designee.

5.3 At the direction of the Bishop, his Delegate will present to the MRB a complete written record of the allegations and results of the investigations, and the MRB will assess such evidence and allegations, all in accordance with the Ministerial Review Board Policy.

5.4 When even a single act of sexual abuse by clergy or religious is admitted or is established after an appropriate process in accord with canon Law, the offending person will be removed permanently from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warrants (*Sacramentorum Sanctitatus Tutela* (SST), Art. 6; CIC, c. 1395 §2; CCEO, c. 1453 §1). Even if an act of sexual abuse is not admitted or established, a member of the clergy or religious may be removed from ministry if the Bishop deems such person to be a danger to children.

5.5 No clergy or religious who has allegedly committed an act of sexual abuse of a minor or vulnerable adult may be transferred for a ministerial assignment in another diocese. Every Bishop who receives a priest or deacon from outside his jurisdiction will obtain the necessary information regarding any possible past act of sexual abuse of a minor or vulnerable adult by the clergy or religious in question.

5.6 The Bishop will forward all credible allegations to the Congregation for the Doctrine of the Faith, which will either refer cases to a church tribunal or retain the case and determine the future of the accused.

5.7 If an allegation of sexual abuse is made against the Bishop, it is referred to the Metropolitan Archbishop according to the *Moto Proprio* of Pope Francis *Vos estis lux Mundi*.

5.8 Seminarians/Candidates of the Diaconate Program

When the allegation is against a seminarian or candidate for the diaconate program, the Director will notify the Vicar General and General Counsel. The Core Advisory Group will then conduct a preliminary investigation. After the Core Advisory Group completes its preliminary investigation, they shall advise the Bishop who may direct that the seminarian or candidate be:

- a. Called for an immediate meeting with the Vicar General, the Director of Vocation or Director for the diaconate program or the Bishop's Designee within the Chancery, who will inform him of the nature of the allegation(s), unless the civil authorities deem otherwise. (It is important to note that civil authorities should be offered first contact with the accused, except when such procedure would put the alleged victim and/or others at risk of harm);
- b. Suspended from the sponsorship/program pending the outcome of the full investigation;
- c. Directed to not present themselves as a seminarian or candidate, including the wearing of clerical clothing.

5.9 When a seminarian or candidate for the diaconate program is placed on administrative leave, the Bishop may appoint an investigator to thoroughly collect the facts and identify the circumstances surrounding the allegation. When the full investigation is complete, the appointed investigator will deliver his/her findings and evidence to the Bishop or his designee and the Bishop shall determine the status of the seminarian or candidate for the diaconate.

5.10 When even a single act of sexual abuse by seminarian or candidate for the diaconate program is admitted or is established after an appropriate process, the offending person will be permanently dismissed from the seminary or removed permanently from the diaconate program. Even if an act of sexual abuse is not admitted or established, a seminarian or candidate for the diaconate program may be removed from ministry if the Bishop deems such person to be a danger to children.

5.11 No seminarian or candidate for the diaconate who has allegedly committed an act of sexual abuse of a minor or vulnerable adult may be transferred to another diocese.

5.12 Lay Employees/Volunteers

When an allegation is against a lay employee or volunteer, the Director will be notified. When appropriate, the Director will notify the Director of Human Resources, Pastor or other appropriate supervisor of the employee/volunteer (the "Manager") who will take appropriate steps. Unless such allegation is manifestly false, the lay employee or volunteer shall be:

- a. Called for an immediate meeting with the Manager or his/her Designee, and placed on administrative leave or terminated, according to the judgment of the Manager; and,
- b. Informed of the nature of the allegations(s), unless the civil authorities deem otherwise. (It is important to note that civil authorities should be offered first contact with the accused, except when such procedure would put the alleged victim and/or others at risk of harm).

5.13 The Manager shall take such other and further steps as are appropriate under the circumstances, in accordance with relevant policies and Massachusetts law, and in consultation with the Director.

5.14 Care will always be taken to protect the rights of all parties involved, particularly those of the person claiming to have been sexually abused and of the person against whom the charge has been made. When an accusation has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused.

5.15 Record Keeping

Accurate records of reports 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. For the protection of both the involved individuals and institutions, records shall be kept indefinitely. Continuity of information is essential and shall be assured.

SECTION 6: DIOCESAN REQUIREMENTS UPON RECEIPT OF AN ALLEGATION OF MINISTERIAL MISCONDUCT

The Diocese recognizes that sexual abuse is not the only behavior which can break trust and cause harm to the faithful. Therefore, the Diocese takes seriously other forms of misconduct including, but not limited to: inappropriate sexual behavior, willful neglect or financial mismanagement, harassment, substance abuse or pastoral neglect. Any allegations of misconduct by a lay employee or volunteer, shall be addressed in accordance with the appropriate Diocesan policies. Allegation of Ministerial Misconduct shall be addressed in accordance with this policy.

6.1 If any Diocesan personnel receive reports or have knowledge of other misconduct, they shall notify the Director. If the misconduct involves clergy, religious, seminarians or candidates for the diaconate program, the Director will notify the Vicar General.

The Director and/or the Vicar General, in consultation with the Bishop, will conduct an initial investigation to determine the relevant facts and information regarding the allegation. If the allegation involves the potential violation of criminal law, the Vicar General or Director must ensure that the proper civil or criminal authorities are notified. The exception to this is outlined in section 4.7. The Director and/or the Vicar General will also notify the Diocesan General Counsel and VAC, if appropriate.

6.2 If an allegation of misconduct is against the Bishop, it is referred to the Metropolitan Archbishop according to the *Moto Proprio* of Pope Francis *Vos estis lux Mundi*.

6.3 The Vicar General or Director, or his/her designee, will interview as appropriate, any diocesan personnel, the victim(s), those reporting the information and any other relevant parties. If civil authorities are investigating, the Diocese will refrain from further action until their investigation is complete.

6.4 If the misconduct involves a member of the clergy or religious, the Bishop will determine if the individual should be placed on administrative leave pending a full investigation. If the misconduct involves a seminarian or candidate for the diaconate program within the Diocese of Fall River, the Bishop will determine the status of their sponsorship pending the investigation.

6.5 When appropriate, in cases involving clergy, the Director will notify the Ministerial Review Board of any investigation and convene the Board when the investigation is complete.

6.6 In some situations, mental health care professionals, the MRB or others may propose a plan for the member of the clergy to address behavioral, emotional, psychological or other issues. The Bishop may consult with the Vicar General, the Director and Diocesan General Counsel to establish guidelines in the implementation of such a plan.

6.6.1 The Vicar General has the responsibility to ensure the cleric adheres to the plan in its totality. The Vicar General may request the assistance of the Ministerial Care Team toward this end.

6.6.2 If the cleric who has been removed from ministry requests reinstatement after participating in the respective plan, the Vicar General will present the request to the Bishop. The Bishop may also consult with the Director and the General Counsel regarding reinstatement.

6.7 Care will be taken to protect all parties involved, particularly victims of misconduct. If, after an investigation, the allegation is deemed unfounded, every effort will be made to restore the good name of the member of the clergy or religious.

SECTION 7: ROLE OF THE MINISTERIAL REVIEW BOARD

As outlined in its Policy, the Ministerial Review Board (MRB) shall serve as a confidential and consultative body to advise the Bishop and his staff regarding clergy abuse and other forms of misconduct, including misconduct not related to minors or vulnerable adults. The MRB shall provide its expertise and assist as requested with developing policies and appropriate mechanisms to further ensure the protection of minors and all the faithful. The composition and membership of the MRB is detailed in its MRB Policy.

SECTION 8: PASTORAL OUTREACH

Recognizing the damage done when clergy or Diocesan personnel abuse the faithful or engage in misconduct, the Diocese has established resources to aid in the pastoral outreach to victims. These resources may be accessed regardless of the status of an investigation.

8.1 Victim Assistance Coordinator

The Diocese shall employ a Victim Assistance Coordinator (VAC) who has qualifications as a licensed social worker or other licensed mental health professional. The VAC will be notified of all allegations of abuse or misconduct where a victim has been identified. The VAC is often the first point of contact for allegations of abuse, and will follow all reporting procedures previously outlined. The VAC will provide outreach to victim/survivors which may include, but is not limited to:

- a. Open discourse about abuse and education when appropriate;
- b. Affirmation of victim's rights and information regarding the investigative process;
- c. Expressions of compassion and acknowledgement of the range of emotions the victim may be experiencing;
- d. Assistance in accessing therapy;
- e. Pastoral support and education for an affected faith community;
- f. Coordination of victims meeting with the Bishop, if so requested;
- g. Serving as a non-voting consultant on the Ministerial Review Board.

8.2 The Victim Assistance Coordinator will regularly consult with the Bishop to ensure that the Diocese is adequately addressing the rights and pastoral needs of any victims.

8.3 Confidentiality for Pastoral Outreach Services

The VAC will notify the Director, General Counsel, and Vicar General when an allegation is made and ensure civil reporting requirements are met. The role of the VAC is not investigatory in nature and the VAC will maintain the confidentiality of contacts with victims/survivors once a report has been made. Records regarding ongoing outreach, assistance with therapy, or other pastoral support will be maintained by the VAC and not subject to review as part of the civil or canonical investigation. The victim/survivor's name will be redacted in any bills, audit reports or other documents related to pastoral outreach and victim assistance.

Approved and Adopted on this 21st day of July in the year 2020.


Most Reverend Edgar M. da Cunha, S.D.V., D.D.
Bishop of the Diocese of Fall River

SAFE ENVIRONMENT CONTACT

Carolyn Shipp, LICSW
Victim Assistance Coordinator
Diocese of Fall River
Office of Safe Environment
450 Highland Avenue
Fall River, MA 02720
W: 508-985-6508
C: 508-232-5578
Email: cshipp@dioc-fr.org

LAW ENFORCEMENT AGENCIES

Fall River Police Department, 685 Pleasant Street, Fall River, MA 02721
Telephone Number to Report a Crime: 508-676-8511

Barnstable County District Attorney's Office	508-362-8110
Bristol County District Attorney's Office	508-997-0711
Plymouth County District Attorney's Office	508-584-8120

RESOURCES

CHILD AT RISK HOTLINE (DCF) 1-800-792-5200

www.mass.gov/service-details/departments-of-children-and-families-dcf

Children's Advocacy Center of Bristol County, Inc.: 508-674-6111

Diocese of Fall River Website: www.fallriverdiocese.org

United States Catholic Conference of Bishops Child Protection:
www.usccb.org/issues-and-action/child-and-youth-protection/index.cfm

INTRODUCTION



Child Abuse and Neglect Reporting

Under Massachusetts law, the Department of Children and Families (DCF) is the state agency that receives all reports of suspected abuse and/or neglect of children under the age of 18. State law requires professionals whose work brings them in contact with children to notify DCF if they suspect that a child is being abused and/or neglected. DCF depends on reports from professionals and other concerned individuals to learn about children who may need protection, more than 75,000 reports are received on behalf of children each year.

The Department is responsible for protecting children from abuse and/or neglect. DCF seeks to ensure that each child has a safe, nurturing, permanent home. The Department also provides a range of services to support and strengthen families with children at risk of abuse and/or neglect.

Who is a mandated reporter?

- Massachusetts law defines the following professionals as mandated reporters:
-
- Physicians, medical interns, hospital personnel engaged in the examination, care or treatment of persons, medical examiners;
- Emergency medical technicians, dentists, nurses, chiropractors, podiatrists, optometrists, osteopaths;
- Public or private school teachers, educational administrators, guidance or family counselors;
- Early education, preschool, child care or after school program staff, including any person paid to care for, or work with, a child in any public or private facility, home or program funded or licensed by the Commonwealth, which provides child care or residential services. This includes child care resource and referral agencies, as well as voucher management agencies, family child care providers and child care food programs;
- Child care licensors, such as staff from the Department of Early Education and Care;
- Social workers, foster parents, probation officers, clerks magistrate of the district courts parole officers;
- Firefighters and police officers;
- School attendance officers, allied mental health and licensed human services professionals;
- Psychiatrists, psychologists, clinical social workers, drug and alcoholism counselors;
- Persons in charge of a medical or other public or private institution, school or facility or their agents;
- Clergy members, including ordained or licensed leaders of any church or religious body, persons performing official duties on behalf of a church or

- religious body, or persons employed by a religious body to supervise, educate, coach, train or counsel a child on a regular basis; and
- The Child Advocate.

As a mandated reporter, what are my responsibilities?

Massachusetts law requires mandated reporters to immediately make an oral report to DCF when, in their professional capacity, they have reasonable cause to believe that a child under the age of 18 years is suffering from abuse and/or neglect. A written report is to be submitted within 48 hours.

In addition to filing with the Department, a mandated reporter may notify local law enforcement or the Office of the Child Advocate of any suspected abuse and/or neglect. You are required to report any physical or emotional injury resulting from abuse; any indication of neglect, including malnutrition; any instance in which a child is determined to be physically dependent upon an addictive drug at birth; any suspicion of child sexual exploitation or human trafficking; or death as a result of abuse and/or neglect. In addition, you must report a death as a result of abuse and/or neglect to the local District Attorney and to the Office of the Chief Medical Examiner.

Mandated Reporters who are staff members of medical or other public or private institutions, schools or facilities, must either notify the Department directly or notify the person in charge of the institution, school or facility, or his/her designee, who then becomes responsible for filing the report. Should the person in charge/designee advise against filing, the staff member retains the right to contact DCF directly and to notify the local police or the Office of the Child Advocate. (Ch. 119, § 51A) Under the law, mandated reporters are protected from liability in any civil or criminal action and from any discriminatory or retaliatory actions by an employer. The written report must be submitted to DCF within 48 hours after the oral report has been made.

Any person defined by law as a mandated reporter is required to assist DCF in its response under Ch. 119, § 51B, even if they are not the filer of the 51A report. Mandated reporters who are licensed by the Commonwealth are required to complete training to recognize and report suspected child abuse and/or neglect.

What if I fail to report?

Any mandated reporter who fails to make required oral and written reports can be punished by a fine of up to \$1,000. Any mandated reporter who willfully fails to report child abuse and/or neglect that resulted in serious bodily injury or death can be punished by a fine of up to \$5,000 and up to 2½ years in jail, and be reported to the person's professional licensing authority.

All mandated reporters who knowingly and willfully file a frivolous report of child abuse and/or neglect can be punished by a fine of up to \$2,000 for the

first offense, up to 6 months in jail for a second offense, and up to 2½ years in jail for a third offense.

How do I make a report of suspected child abuse and/or neglect? When must I file?

When you suspect that a child is being abused and/or neglected, you should immediately telephone the DCF Area Office and ask for the screening unit. You will find a directory of the DCF Area Offices at the end of this guide and on the DCF web site. Offices are staffed between 9 am and 5 pm weekdays. To make a report at any other time, including after 5 pm and on weekends and holidays, please call the **Child-At-Risk Hotline at 800-792-5200**.

As a mandated reporter you are also required by law to submit a written report to the Department within 48 hours after making the oral report. Mandated reporters are encouraged to utilize the **online abuse/neglect report** option available at mass.gov/dcf to submit the written report; however, written reports may be mailed or faxed to the Department within 48 hours of the oral report. The form for faxing/mailing this report can also be obtained from the DCF website: mass.gov/dcf.

Your report should include:

- Your name, address, telephone number and relationship (if any) to the child(ren);
- All identifying information you have about the child and parent or other caregiver, if known, including emergency contacts and language(s) spoken;
- The nature and extent of the suspected abuse and/or neglect, including any evidence or knowledge of prior injury, abuse, maltreatment, or neglect;
- The identity of the person you believe is responsible for the abuse and/or neglect;
- The circumstances under which you first became aware of the child's injuries, abuse, maltreatment or neglect, including dates and/or timeframes;
- What action, if any, has been taken thus far to treat, shelter, or otherwise assist the child;
- Any other information you believe might be helpful in establishing the cause of the injury and/or person responsible;
- Any concerns about alcohol/drug use/misuse by the parent/caregiver;
- Any information that could be helpful to DCF staff in making safe contact with an adult victim in situations of domestic violence (e.g., work schedules, place of employment, daily routines);
- Any concerns you have for social worker safety; and
- Any other information about the family's strengths and capacities you believe would be helpful in ensuring the child's safety and/or supporting the family to address the abuse and/or neglect concerns.

Hospital personnel should take photographs of any trauma that is visible on the child. When submitting the written report online, the photographs can be uploaded along with the written report. Otherwise, please mail or deliver the photographs to DCF with the written report.

If you work in a hospital and collect physical evidence of abuse and/or neglect of a child, you must immediately notify the local District Attorney, local law enforcement authorities and the Department. We recommend that you inform the family that you have referred them to DCF for help, but do not do so if you think it would increase the risk to the child.

How does DCF define abuse and neglect?

Under the Department of Children and Families regulations (110 CMR, section 2.00):

Abuse means: The non-accidental commission of any act by a caregiver which causes, or creates a substantial risk of, physical or emotional injury or sexual abuse to a child; or the victimization of a child through sexual abuse or human trafficking, regardless if the person responsible is a caregiver. This definition is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting). DCF defines "sexual abuse" as any non-accidental act by a caregiver upon a child that constitutes a sexual offense under the laws of the Commonwealth or any sexual contact between a caregiver and a child for whom the caregiver is responsible.

Neglect means: Failure by a caregiver, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care, including malnutrition or failure to thrive; provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition.

Physical Injury means: Death; or fracture of a bone, a subdural hematoma, burns, impairment of any organ, and any other such nontrivial injury; or soft tissue swelling or skin bruising, depending upon such factors as the child's age, circumstances under which the injury occurred and the number and location of bruises.

Emotional Injury means: An impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

Who is a caregiver?

A "caregiver" can be a child's parent, step-parent, guardian, or any household member entrusted with the responsibility for a child's health or welfare. In addition, any other person entrusted with the responsibility for a child's health or welfare, both in and out of the child's home, regardless of age, is considered a caregiver. Examples may include: relatives from outside the home, teachers or staff in a school setting, workers at an early education, child care or afterschool program, a babysitter, foster parents,

staff at a group care facility, or persons charged with caring for children in any other comparable setting.

When should a report involving domestic violence be filed?

Domestic violence is defined as a pattern of coercive controlling behaviors that one person exercises over another in an intimate relationship. Not every situation involving domestic violence merits intervention by DCF. Mandated reporters are encouraged to carefully review each family's situation and to identify any specific impact on the child(ren) when considering whether or not to file a 51A report with DCF. In some situations a report may actually create additional risks for the victim and the children. If possible, discuss the filing of a report with the caregiver who is a victim first and address the potential need for safety planning. A report is more likely necessary if the following higher risk circumstances are current concerns:

- The alleged perpetrator threatened to kill the caregiver, children or self and the caregiver fears for their safety;
- The alleged perpetrator physically injured the child in an incident where the caregiver was the target;
- The alleged perpetrator coerced the child to participate in or witness the abuse of a caregiver;
- The alleged perpetrator used or threatened to use a weapon, and the caregiver believes that the perpetrator intended or has the ability to cause harm.

For more information on this topic, please refer to the DCF Brochure, **[Promising Approaches: Working with Families, Child Welfare and Domestic Violence.](#)**

What happens when DCF receives a report of child abuse and/or neglect?

When DCF receives a report of abuse and/or neglect, called a "51A report," from either a mandated reporter or another concerned citizen, DCF is required to evaluate the allegations and determine the safety of the children. During DCF's response process, all mandated reporters are required to answer the Department's questions and provide information to assist in determining whether a child is being abused and/or neglected and in assessing the child's safety in the household.

Here are the steps in the Child Protective Services (CPS) process:

1. **The report is screened.** The purpose of the screening process is to gather sufficient information to determine whether the allegation meets the Department's criteria for suspected abuse and/or neglect, whether there is immediate danger to the safety of a child, whether DCF involvement is warranted and how best to target the Department's initial response. The Department begins its screening process immediately upon receipt of a report. During the screening process DCF obtains information from the person filing the report and also contacts professionals involved with the family, such as doctors or teachers who may be able to provide information about the child's condition. DCF may also contact the family if appropriate.

2. **If the report is "Screened-In", it is assigned for a Child Protective Services (CPS) Response** to determine whether there is reasonable cause to believe that a child has been abused and/or neglected. "Reasonable cause to believe" means a collection of facts, knowledge or observations which tend to support or are consistent with the allegations and when viewed in light of the surrounding circumstances and the credibility of the persons providing the information, would lead a reasonable person to conclude that a child has been abused or neglected. The response includes an investigation of the validity of the allegation(s) received, a determination of current danger and future risk to the child and an assessment of the capacity of the parent(s)/caregiver(s) to provide for the safety, permanency and well-being of their child.

3. A determination is made as to whether the report is:
 - **"Unsupported"** – There is not reasonable cause to believe that the child was abused and/or neglected, or that the child's safety or well-being was compromised; or
 - **"Supported"** – There is reasonable cause to believe the child was abused and/or neglected; the actions or inactions by the parent(s)/caregiver(s) place the child in danger or pose substantial risk to the child's safety or well-being, or the person was responsible for the child being a victim of sexual exploitation or human trafficking; or
 - **"Substantiated Concern"** – There is reasonable cause to believe that the child was neglected and the actions or inactions by the parent(s)/caregiver(s) create the potential for abuse and/or neglect, but there is not immediate danger to the child's safety or well-being.
 - DCF also determines whether Department intervention is needed to safeguard the safety and well-being of the children in the home. If DCF involvement continues, a Family Assessment and Action Plan are developed with the family.

Some families come to the attention of the Department outside the 51A process: Children Requiring Assistance (CRA) cases referred by the Juvenile Court, cases referred by the Probate and Family Court, babies surrendered

under the Safe Haven Act, and voluntary requests for services by a parent/family. These cases are generally referred directly for family assessment.

What are the timeframes for completing a Screening, and/or Response?

- **Screening:** Begins immediately for all reports. For an emergency response it is completed within two hours. For a non-emergency response, screening is completed in one business day and may be extended for one additional business day in limited circumstances..
- **Emergency Response:** Must begin within two hours and be completed within five business days of the report.
- **Non-Emergency Response:** Must begin within two business days and be completed within 15 business days of the report.
- **Family Assessment:** May take up to 60 business days.

Will I be informed about the DCF determination?

If you are the mandated reporter who filed the report, you will receive a copy of the decision letter that is sent to the parents or caregiver. In that letter you will be informed of the Department's response, the determination and whether DCF is opening a case for continued DCF involvement.

If you submitted your written report online, you will also be able to see the screening decision online.

Does DCF tell the family who made the 51A report?

DCF regulations do not allow the Department to disclose the name of a reporter unless ordered by a court or required by statute such as when the Department is required to provide the 51A report to the District Attorney or other law enforcement (CMR 12.00 et seq.).

Referrals to the District Attorney

If the Department determines that a child has been sexually abused or sexually exploited, has been a victim of human trafficking, has suffered serious physical abuse and/or injury, or has died as a result of abuse and/or neglect, DCF must notify local law enforcement as well as the District Attorney, who have the authority to file criminal charges.

DCF Area Office Directory

Western Region

- Greenfield 413-775-5000
- Holyoke 413-493-2600
- Pittsfield 413-236-1800
- Robert Van Wart Center/
East Springfield 413-205-0500
- Springfield 413-452-3200

Central Region

- Worcester East 508-793-8000
- Worcester West 508-929-2000
- Whitinsville 508-929-1000
- Leominster 978-353-3600

Boston Region

- Dimock Street, Roxbury 617-989-2800
- Hyde Park 617-363-5000
- Harbor, Chelsea 617-660-3400
- Park Street, Dorchester 617-822-4700

Northern Region

- Cambridge/Somerville 617-520-8700
- Cape Ann, Salem 978-825-3800
- Framingham 508-424-0100
- Haverhill 978-469-8800
- Lawrence 978-557-2500
- Lowell 978-275-6800
- Lynn 781-477-1600
- Malden 781-388-7100

Southern Region

- Arlington 781-641-8500
- Brockton 508-894-3700
- Cape Cod & Islands 508-760-0200
- Fall River 508-235-9800
- New Bedford 508-910-1000
- Plymouth 508-732-6200
- Braintree 781-794-4400
- Taunton/Attleboro 508-821-7000

Other Resources

- **Child Protection Information:** For more information about reporting child abuse and/or neglect: www.mass.gov/dcf for general information or to find a DCF Area Office.
- **Child-At-Risk-Hotline: 800-792-5200**
- **DCF Ombudsman: 617-748-2444** (9 am – 5 pm, weekdays) for inquiries about DCF programs, policies or service delivery.