

**POLICY FOR RESPONDING TO ALLEGATIONS
OF SEXUAL AND CRIMINAL ABUSE OF MINORS**

PREAMBLE¹

The Capuchin Friars of The Province of St. Mary (“the Province”) know of the profound suffering and harm which incidents of sexual abuse of minors by some priests and members of religious orders have caused innocent people and the Church community at large. As brothers to all and as ministers within the Church, we must work to ensure the safety of all the people we serve, especially the safety of minors.

POLICY

In regards to the abuse of minors, both sexual and non-sexual, we know and affirm that:

- I. Abuse of a minor² by a friar is contrary to our vowed life and our profession to live the Gospel.**
 - A.** The Province will not tolerate or excuse the abuse, including sexual abuse, of a minor by a friar of the Province.
 - B.** For purposes of this policy, sexual abuse of a minor is any contact of a sexual nature that occurs between a minor and an adult.³ Abuse of a minor may take on many forms, including behavior that is sexual and non-sexual in nature. Abuse of a minor, for the purposes of this policy, includes as well any behavior defined as criminal by state or federal law that involves the abuse of children (“hereinafter criminal abuse of a minor”), including but not limited to the possession or distribution of child pornography. See Appendix 2 for Additional Admonitions regarding the abuse of minors.
 - C.** While the response to allegations of abuse, including sexual and criminal abuse, of a minor will vary from case to case depending on the nature and the severity of the allegations, intervention by the Provincial Minister is almost always warranted.
 - D.** The Province will also report any allegation of sexual or criminal abuse of a minor⁴, brought against a friar of our Province, to the proper civil authorities and cooperate with their investigation. The Province will cooperate with the proper civil authorities

¹This policy reflects and incorporates for the Province of St. Mary of the Order of Friars Minor Capuchin the Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests, Deacons, or Other Church Personnel. December 8, 2002.

² For purposes of this policy, a minor is a person less than eighteen years of age. If the law of the state in which the alleged sexual or criminal abuse occurred defines a minor as a person less than eighteen years of age, or defines the age of consent for sexual contact as less than eighteen years of age, then those definitions shall govern for the purposes of determining under this policy whether acts committed within that state constitute sexual or criminal abuse of a minor. This policy statement is designed to address the sexual abuse of persons who were minors at the time of the abuse. Such persons shall be referred to the Policy and Appendices as “victims or “complainants”.

³This includes any activity which is meant to arouse or gratify the sexual desires of the adult, such as vaginal intercourse, anal intercourse, oral intercourse, or the touching of an erogenous zone of another (including but not limited to the thighs, genitals, buttocks, pubic region or chest).

⁴ The Province must make such a report whenever the Review Board has concluded after its initial review that the complaint amounts to an allegation of sexual or criminal abuse. See Section V (B) and (C) below.

investigating an accusation of sexual abuse of a person who was a minor at the time of the alleged abuse, but who is no longer a minor, brought against a friar of our Province. Where the allegation involves the possession or distribution of child pornography, the Province will report the allegation to the proper civil authorities and cooperate with their investigation. The policy set forth in this section shall apply to allegations of sexual abuse of a minor, where the friar was a member of the Province at the time of the alleged abuse whether or not the accused friar is currently a member of the Province, and to allegations against a friar who is a member of the Province at the time of the allegation even if the friar was not a member of the Province at the time of the alleged abuse.

- E. The Province will remove from public ministry any friar accused of sexual abuse of a minor, or any friar accused of criminal abuse of a minor, pending resolution by civil authorities, and/or pending resolution by the Provincial Minister after consultation with the Review Board to be established by this Policy.

II. Sexual abuse or criminal abuse of a minor by a friar is a misuse of power and a violation of trust and excludes a friar from functioning as a public minister.

- A. The Province will cooperate fully with all dioceses and will disclose any allegation of sexual or criminal abuse of a minor, brought against a friar of our province, to the local dioceses in which that friar lives and works.⁵ When it is established that a friar is guilty of sexual or criminal abuse of a minor, the Province will not request permission from any bishop for this friar to function as a public minister, nor will the Province assign this friar to function as a public minister.
- B. In the event that an allegation of sexual or criminal abuse of a minor, brought against a friar, is resolved in favor of the friar by civil authorities, and, after consultation with the Review Board, the Provincial Minister believes that the resolution is just for all, the Province will give notice of this resolution to each diocese it has previously notified of the allegation.
- C. Consistent with our Franciscan heritage, the Province is committed to listening compassionately to all allegations made by a person who believes that he or she has been harmed by the sexual or criminal abuse of a minor committed by a friar or former friar of the Province. When an allegation of sexual or criminal abuse of a minor brought against a friar or former friar has been made, prior to and during any initial investigation by those charged with its review, the Province will offer as many as 10 counseling visits to any person injured by the alleged abuse. This offer will be made solely as a pastoral response, prior to and without regard to any subsequent finding that the allegation does or does not have a reasonable foundation. When an allegation of sexual or criminal abuse of a minor brought against a friar or former friar has been found by those charged with its review to have a reasonable foundation, the Province will offer pastoral care to the victim of the alleged abuse. The Province may also offer pastoral care to the friar's local community, and if appropriate, the people with whom the friar served in ministry.
- D. The Province will provide each friar accused of sexual or criminal abuse of a minor with full access to civil and canonical counsel. This section is mandatory only as to those who are friars at the time of the allegation.

⁵During the period when an allegation of sexual or criminal abuse of a minor is pending against a friar, but before that allegation has been resolved, the Province will disclose the allegation to the local diocese where the friar resides during the pendency of any investigation of the allegation. This requirement shall not apply where the friar is a patient at a treatment facility.

In regards to the sexual or criminal abuse of minors, we establish the following:

III. Review Board

A. Composition and Purpose

1. The Province will establish and maintain a Review Board for the purpose of providing consultation for the Provincial Minister concerning his management of all allegations of the sexual or criminal abuse of a minor by a current or former member of the Province. The Review Board shall exist solely to advise the Provincial Minister on such matters and shall have no independent power or authority.
2. The Review Board shall consist of five to nine members. The participation of a minimum of four members is required for any official act of the Review Board.
3. The Review Board shall include at least one member with professional experience in one of the social sciences (e.g. psychology, counseling, victims' advocacy or social work) and at least one member with a background in law, law enforcement or child protective services. The Review Board may include no more than two members who are clerics or members of a religious institute, but it need not have any clergy or religious members. It is preferable that at least one or two members of the Review Board be parents.
4. The Provincial Minister, having consulted the Provincial Council, shall appoint the members of the Review Board with a signed letter of appointment. A member of the Review Board may be removed at the discretion of the Provincial Minister in consultation with the Provincial Council. A member may be removed with a letter signed by the Provincial Minister.
5. Review Board Members shall normally serve for a term of three years, once renewable. The terms shall be staggered from the inception of the Review Board. It is preferable that the terms of no more than three members expire in any one year.
6. Vacancies on the Review Board shall be filled by the appointment of a new member by the Provincial Minister after consultation with the Provincial Council and, if possible, in consultation with the Chair of the Review Board. Review Board members appointed to fill a vacancy shall serve for the remainder of the unfinished term and may then be reappointed for one or two full terms at the discretion of the Provincial Minister.
7. The Review Board shall elect one of its members as Chair who shall serve for a term of one year, renewable at the will of the Review Board members.
8. In instances where the votes, recommendations or advice of the Review Board are not unanimous, the number of members who support and the number of members who dissent should be recorded. Opposing views should be summarized for the record. The names of the majority and minority members need not be recorded.
9. The Chair shall convene and conduct meetings of the Review Board, ensure that the work of the Review Board is properly documented and communicated, and appoint ad-hoc officers and assistants from among the members as may be required. At the beginning of each meeting, the Chair shall appoint a Recording Secretary for that session to record the decisions and other relevant actions of the Review Board.

10. The Provincial Minister or his delegate will supply each Review Board member with basic orientation materials and, when warranted, with needed updating.

B. Operating Procedures

1. The Review Board shall convene at least once a year or as often as necessary. At the annual meeting, the Review Board shall (a) review the Province's policy and procedures in dealing with allegations of the sexual or criminal abuse of a minor by a member or former member of the Province and shall recommend any needed changes; (b) review the Province's compliance with the current standards of Praesidium, Inc.'s program, "Instruments of Healing and Hope"; (c) review and make recommendations about any safety plans currently in effect in the Province; and (d) document all reviews and recommendations made.
2. The Review Board may establish its own operating procedures subject to approval by the Provincial Minister.
3. Each member of the Review Board shall sign a confidentiality agreement and shall undergo a criminal background check.
4. Review Board members shall serve as pro bono volunteers. The Province will reimburse members of the Review Board for any reasonable expenses incurred in the course of performing their duties as members.
5. The Review Board may meet in person, by conference call, or by other secure electronic means.
6. If an allegation of the sexual or criminal abuse of a minor is brought against a member or former member of the Province, the Provincial Minister shall notify the Chair, who shall promptly notify all members of the Review Board and convene a meeting of at least five members of the Review Board as soon as it is practical to do so.
7. When the Review Board meets to consider a particular case, the Provincial Minister and/or his delegate and, if appropriate, another friar of the Province shall present the case to the Review Board and may take part in the discussion, but not in any vote or decision of the Review Board. After a case has been presented, the Review Board has the right to discuss and vote on it privately.
8. The files of the Review Board are the property of the Province and are confidential, subject to the requirements of law and the policies of the Province. For each case it considers, the Review Board shall create a file. Each file shall contain a written description of the matter presented, a written copy of any advice given by the Review Board to the Provincial Minister, and copies of all correspondence of the Provincial Minister and/or his delegate with the Review Board concerning actions taken in light of the advice given by the Review Board (or written summaries of such actions). The file should contain documentation of the final disposition of the case. In addition, the file should contain any other information the Review Board determines to be relevant for any future consideration of the case either by the Review Board or by the Province.
9. When considering an allegation of the sexual or criminal abuse of a minor by a member or former member of the Province, the Review Board must be given the following: (a) a copy of the original report or allegation as it was submitted to the Province; (b) the final

report of any investigation of the allegation; (c) all other allegations of sexual or criminal abuse brought against the accused friar or former friar; (d) any relevant disciplinary actions taken in the past with regard to the accused friar or former friar and the reasons for them.

10. When considering an allegation of the sexual or criminal abuse of a minor by a member or former member of the Province, the Review Board shall (a) advise the Provincial Minister in his assessment of the allegation; (b) insure that the Provincial Minister has complied with all legal and canonical notifications; (c) review the Provincial Minister's pastoral response to the individual making the allegation and, if appropriate, to his or her family or others as well; (d) advise the Provincial Minister regarding his determination of the suitability of the accused friar for ministry; (e) offer advice to the Provincial Minister on all aspects of any allegation, whether retrospectively or prospectively; and (f) assist the Provincial Minister in the development or modification of a safety plan for any at-risk friar.
11. Any Review Board member who determines that he or she has a conflict of interest or the appearance of a conflict of interest with the work of the Review Board shall promptly so inform the Chair of the Review Board. If the conflict concerns a particular case (e.g., if the Review Board member is related by blood or marriage to, or is or has been in an employment, financial or business relationship with, or is or has been in any kind of professional or spiritual counseling relationship with one of the parties to the case), the Review Board member should excuse himself or herself from all deliberations concerning that case. If the conflict concerns the Province or Review Board itself, the member should submit a letter of resignation from the Review Board.

C. Disposition of Cases

1. After carefully reviewing all available information, the Review Board makes a recommendation to the Provincial Minister regarding (a) the assessment of the allegation of sexual or criminal abuse of a minor committed by a member or former member of the Province, (b) the suitability for ministry of the accused friar and (c) the observance of the requirements of law, provincial policy and current safe environment standards.
2. Based on the facts and circumstances, an allegation of the sexual or criminal abuse of a minor can be established only when there is objective certainty that the accusation is true and that an incident of sexual or criminal abuse of a minor has occurred.
3. After receiving the recommendations of the Review Board, the Provincial Minister alone judges whether an allegation of sexual or criminal abuse of a minor by a friar or former friar has (or has not) been established.
4. After receiving the recommendations of the Review Board, the Provincial Minister alone determines the appropriate investigatory and disciplinary steps to be taken in accord with law, provincial policy, and relevant safe environment standards.
5. All written recommendations of the Review Board and a written summary of actions taken by the Provincial Minister shall be retained with other pertinent documentation in a confidential file accessible to the Provincial Minister and his successors in office.

IV. Pastoral Response to Allegations of Sexual or Criminal Abuse of a Minor

In addition to the Review Board, the Province has also established the following policies to guide our response to all allegations of sexual or criminal abuse of a minor brought against a friar or former friar of the Province.

- A.** As Capuchin Friars, our first step in formulating a pastoral response to allegations of sexual or criminal abuse of a minor begins with the foundational Franciscan principle contained in the Rule of St. Francis that friars are called to be "brothers" to all people.
- B.** From this fraternal perspective, the Province, as a community of brothers, has the responsibility to:
 - 1.** protect and safeguard people in a ministerial setting, especially minors, who are served by the friars of our Province from any form of sexual or criminal abuse; and
 - 2.** listen compassionately to all allegations of sexual or criminal abuse brought against a friar or former friar of the Province.
- C.** All members of this Province will also educate themselves about the pain, the harm, and the life-long suffering that occur when people, and in particular minors, are the victims of sexual or criminal abuse.
- D.** Further, the Province will work to prevent the sexual or criminal abuse of minors by applying appropriate screening procedures during our application process designed to identify any person with the propensity to abuse a minor and to remove any such person from the application process. We also commit to training new members during our Initial Formation Program regarding the life-long harm suffered by victims of sexual or criminal abuse, and regarding our firm policy that sexual or criminal abuse of a minor by any friar will not be tolerated.
- E.** In addition, we maintain that each friar of the Province has the responsibility to:
 - 1.** report to the Provincial Minister⁶ any allegation of sexual or criminal abuse of a minor that is brought against another friar or former friar of the Province, even if the friar is deceased; and
 - 2.** assist any person bringing an allegation of sexual or criminal abuse of a minor against another friar or former friar of the Province to contact the Provincial Minister and/or the Review Board.
- F.** Further, we hold that our Provincial Minister has the responsibility to:
 - 1.** promptly report any allegation of sexual or criminal abuse of a person who is a minor, brought against (1) a friar where the friar was a member of the Province at the time of the alleged abuse, whether or not the accused friar is currently a member of the Province, and (2) a friar who is a member of the Province at the time of the allegation even if the friar was not a member of the Province at the time of the alleged abuse;

⁶In the event that the Provincial Minister is the accused, the report shall be made to the Vicar Provincial Minister.

2. cooperate with the proper civil authorities investigating an allegation of sexual or criminal abuse of a person who was a minor at the time of the alleged abuse, but who is no longer a minor, brought against a friar or former friar of our province, whether or not the friar was a member of the Province at the time of the alleged abuse; and
3. make full disclosure to the Review Board of all allegations of sexual or criminal abuse of a minor, brought against a friar, former friar or deceased friar.

G. Our Provincial Minister will also:

1. assist and support a friar⁷ who has had an allegation of sexual or criminal abuse brought against him by providing fraternal and spiritual support and independent legal, canonical, and psychological counsel;
2. remove from public ministry a friar who is under investigation by civil authorities for an allegation of sexual or criminal abuse of a minor;
3. remove from public ministry a friar accused of sexual or criminal abuse of a minor, where that accusation is under consideration by the Review Board and by the Provincial Minister;
4. ensure that proper documentation of an allegation of sexual or criminal abuse of a minor by a friar is recorded and maintained with the accused friar's personnel file, including any resolution of that allegation.

H. Once either the civil authorities, or the Provincial Minister upon the recommendation of the Review Board, establishes that a friar is guilty of sexual or criminal abuse of a minor, the Provincial Minister will not request permission from any bishop for this friar to function as public minister, nor will the Province assign this friar to function as a public minister, and if the situation warrants, the Provincial Minister will proceed with the laicization process according to canon law.

I. The Province will participate in appropriate programs for abuse risk management.

V. Pastoral Response by the Review Board

- A.** The first priority of the Review Board is to ensure the safety and protection of minors.
- B.** Once an allegation of sexual or criminal abuse of a minor by a friar or a former friar has been brought to the attention of the Review Board, they will meet and review the allegation as soon as possible after receiving this information. The purpose of this review will be to determine as an initial matter whether the complaint indeed amounts to an assertion of sexual or criminal abuse. This initial review will consist of, whenever possible and appropriate, an interview of the complainant by a qualified person. A record will be made of this interview. This interview should take place, where appropriate, in the presence of a parent or guardian. In cases where an interview of the minor complainant is impossible or inappropriate, a

⁷This section is mandatory only as to those who are friars at the time of the allegation.

qualified person will interview a parent or guardian of the minor, where possible and appropriate.⁸

- C.** In keeping with the priority set forth in paragraph A above, the Review Board shall make the following determinations upon receiving notice of an allegation of sexual or criminal abuse of a minor by a friar or former friar of the Province:
- 1.** that the Provincial Minister has been notified, in cases where this has not already occurred;
 - 2.** in cases where the complainant is a minor and the Review Board has determined after its initial review that an allegation of sexual or criminal abuse of a minor has occurred:
 - a.** that the appropriate civil authorities have been contacted;
 - b.** that the accused friar has been removed from public ministry for the duration of any investigation by civil authorities;
 - c.** that the accused friar has been provided with independent legal, canonical, psychological and spiritual counsel;⁹
 - d.** that the local dioceses in which the friar lives and works are notified of the allegation of sexual or criminal abuse of a minor;
 - e.** that the Provincial Minister has provided the Board with assurances that his obligations under the directives of this policy have been implemented.
- D.** In cases where an allegation of sexual or criminal abuse of a minor, brought against a friar or former friar, is being investigated by civil authorities, pending the investigation, the Review Board will refrain from making any determinations regarding the matter, beyond the initial review referred to in paragraph V (B).
- E.** In keeping with the priority set forth in paragraph A above, in a case where civil authorities determine that a friar is guilty of sexual or criminal abuse of a minor, the Review Board will determine that the local dioceses previously notified, in which the friar lived and worked at the time of the accusation, are notified of the disposition of the case.
- F.** In keeping with the priority set forth in paragraph A above, in a case where civil authorities do not bring a prosecution against a friar accused of sexual or criminal abuse of a minor, or where a friar is acquitted after trial on charges of sexual or criminal abuse of a minor, the Review Board may in the exercise of its judgment recommend to the Provincial Minister whether to conduct a full investigation of the matter. In the event that the Minister Provincial is the accused, all reports referred to in this policy shall be made to the Vicar Provincial Minister rather than the Provincial Minister.
- G.** The Provincial Minister, if he determines that an allegation of sexual abuse of a minor at least seems true, after consultation with the attorney for the Province, will appoint an investigator to conduct the full investigation. At the conclusion of the investigation, the investigator shall

⁸The interview may be conducted in person or on the telephone. The interview will consist of questions designed to elicit the date, place and nature of the sexual or criminal abuse; the number of incidents of sexual or criminal abuse; and the age of the complainant at the time of the abuse.

⁹This section is mandatory only as to those who are friars at the time of the allegation.

present to the Provincial Minister a report with his/her findings. The Provincial Minister will present the report to the Review Board.

During the pendency of this investigation, the accused friar will remain removed from public ministry. Additionally:

1. If necessary, a qualified person may re-interview the complainant in a manner consistent with that set forth in paragraph V (B) set forth above.
2. Any additional witnesses may be interviewed by at least one member of the Review Board, where possible.
3. In cases where the civil authorities do not bring a prosecution against a friar accused of sexual or criminal abuse of a minor, at least one member of the Review Board may contact the civil authorities that previously conducted an investigation of the matter, to clarify reasons why the civil authorities did not choose to prosecute.
4. The accused friar will be given an opportunity to address the Review Board, after having the opportunity to consult with legal and canonical counsel, and in the presence of legal and canonical counsel if he so chooses.

The Review Board will provide the Provincial Minister and his Council with its written recommendation regarding whether the accused friar sexually or criminally abused a minor. In the event that the Review Board's recommendation is not unanimous, their written recommendation will state the number of Review Board members who supported the recommendation and the number that opposed the recommendation, and will also give a summary of the different viewpoints. The Provincial Minister, in consultation with his Council, will then determine whether there is sufficient evidence that sexual abuse of a minor has occurred. If they make such a determination, the Provincial Minister will forward the evidence to the General Minister and his Council who will ensure its delivery to the Congregation for the Doctrine of the Faith. Should the Congregation of the Doctrine of the Faith determine that no penal process is required; the Review Board will make a recommendation to the Provincial Minister and his Council regarding the friar's suitability for ministry.

VI. Pastoral Response to Allegations of Abuse of a Minor

The Province also establishes the following policies to guide our response to all allegations of abuse of a minor brought against a friar or former friar of the Province, where the abuse does not meet the definition of sexual or criminal abuse. We incorporate here the provisions of Appendix 2 to this policy, which sets forth a non-exclusive list of behaviors which are inappropriate and which may constitute abuse. While we recognize that these additional behaviors may or may not amount to sexual or criminal abuse as we have defined it in this policy, and may or may not violate criminal statutes, we reaffirm that these behaviors are to be avoided because they could cause confusion to a minor about the nature of the relationship between the minor and a friar and, at worst, could lead to sexual or criminal abuse of a minor by a friar.

- A. We also incorporate into this section the provisions of section IV (A), (B), (C) and (D) of this policy, adapting these sections to apply to the abuse of minors, whether or not the abuse is sexual or criminal in nature.
- B. We maintain that each friar of the Province has the responsibility to:

1. report to the Provincial Minister any allegation of abuse of a minor that is brought against another friar or former friar of the Province, even if the friar is deceased; and
 2. report to the Provincial Minister any violation by another friar of the Additional Admonitions contained in Appendix 2 to this policy.¹⁰
- C. When an allegation of abuse of a minor, that does not amount to sexual or criminal abuse as defined in this policy, is made to the Provincial Minister, or in the event that a report is made to the Provincial Minister of any violation by a friar of the Additional Admonitions contained in Appendix 2 to this policy where the violation does not amount to sexual or criminal abuse as defined in this policy, the Provincial Minister has the responsibility to investigate the allegation or report. The Provincial Minister may conduct his investigation with or without the input of the Review Board. In the event that the friar involved admits the allegation of abuse or admits that he has violated the Additional Admonitions contained in Appendix 2 to this policy, or in the event that the Provincial Minister determines that the allegation or report is credible or has been substantiated, the Provincial Minister's response could include any of the following:
1. psychological and medical assessment and intervention;
 2. restrictions on community life and personal activities; and/or
 3. limitations imposed on ministerial activities, including total removal from public ministry.
- D. In the event that the Provincial Minister imposes a restriction on the ministerial activities of a friar, as set forth in section VI(C) (3) above, the Provincial Minister will contact the appropriate diocesan offices to communicate the nature of the allegation or report and to inform the diocese of the procedure followed and the response of the Provincial Minister to the allegation or report.

VII. Supervision and Care of Friars Who Have Abused Minors

These procedures describe the elements of a pastoral care framework which will be developed for each friar of the Province about whom a credible accusation of abuse of a minor, sexual or criminal, has been made. This section applies when civil authorities have determined that a friar is guilty of sexual or criminal abuse of a minor, or when the Provincial Minister has determined that a friar has sexually or criminally abused a minor. It may also apply when the Provincial Minister has determined that a friar has abused a minor in a manner that does not qualify as sexual or criminal abuse as defined in this policy, or when the Provincial Minister has determined that a friar has violated any of the Additional Admonitions contained in Appendix 2 to this policy.

- A. The purpose of this framework is to:
1. assure the Church and the public, especially children and minors, of all reasonable measures to prevent any future occurrence;

¹⁰In the event that the Provincial Minister is the accused, the report shall be made to the Vicar Provincial Minister.

2. provide a structure within which the friar can continue his life in the Order as a vowed member of a religious community;
 3. provide appropriate care for the friar and the opportunity for such personal conversion and rehabilitation as may be needed.
 4. guide superiors, the friar and others in determining work, place of residence, and other activities;
 5. encourage the Province in welcoming and supporting the friar in his desire to continue his life as a friar within this framework;
 6. assure the Province of both proper care and appropriate limits with respect to the friar.
- B.** It is intended that all the elements below be adapted in a Safety Plan for each friar about whom a credible accusation of sexual or criminal abuse of a minor has been made, depending on such factors as the severity of the accusation(s) or report, the age and health of the friar, and the recommendations of the Review Board. It is also intended that the Provincial Minister may adapt the elements below in a Safety Plan for any friar who the Provincial Minister has determined has abused a minor in a manner that does not qualify as sexual or criminal abuse as defined in this policy, or who the Provincial Minister has determined has violated any of the Additional Admonitions contained in Appendix 2 to this policy. If the Provincial Minister has determined that the friar will be subject to a Safety Plan, the framework sets out the elements to be developed in writing for each friar, and shared with the friar, his superiors, and, as appropriate, other friars in his local community. The Safety Plan shall be signed by the friar and the Provincial Minister.

1. Evaluation and Therapy

- a. A friar about whom a credible accusation has been made may be asked to submit to a professional evaluation as to his psychological, spiritual, and physical condition and proclivity to harmful behavior in the future.
- b. Subsequent to that evaluation, the friar may be asked to participate in such inpatient and/or outpatient treatment as recommended by the evaluating professionals, as well as such other physical, psychological, and spiritual rehabilitation as may be recommended by such professionals, as well as the terms of his Safety Plan.
- c. Any information about a friar who has been accused of abuse shall be kept confidential by those friars receiving it, except as necessary to comply with the terms of this policy or as required by law.

2. Public Ministry as a Friar

- a. An ordained friar found to have sexually or criminally abused a minor would not be allowed to function publicly as a priest or deacon. This includes public celebration of the sacraments, use of the title “Father” or “Reverend” in public communications, and publicly wearing clerical or distinctive religious attire. For the purposes of this section, the term “public” refers to events or situations when any person outside the Province is present or involved.

- b.** In the case of a Brother, he would not be allowed to function publicly in external ministry associated with a religious congregation (e.g., school teaching, coaching, parish staff work) or use the title “Brother” in public.
- c.** In cases where either civil authorities or the Provincial Minister has concluded that a friar has sexually or criminally abused a minor, the Provincial Minister must restrict the public ministry of a friar in a manner consistent with this section. The Provincial Minister may restrict the public ministry of a friar in cases where the Provincial Minister has concluded that the friar has abused a minor in an manner that does not qualify as sexual or criminal abuse as defined in this policy, or in cases where the Provincial Minister has determined that the friar has violated any of the Additional Admonitions contained in Appendix 2 to this policy.

3. Appropriate Work

- a.** If physically and mentally able, the friar who has been removed from public ministry should engage in appropriate work in support of the ministries of the Province or in other service to people in need. Such employment might include the following:
 - i.** Internal work in a community of the Province, such as a place of retirement;
 - ii.** administrative work for the Province;
 - iii.** remunerative non-ministerial work to support the ministries of the Province;
 - iv.** service to people in need such as writing to prisoners, taping books for the sight-impaired;
 - v.** telephone reassurance programs for shut-ins, working in a food bank or soup kitchen, or some other form of supervised social services.
- b.** Where appropriate, a friar restricted or removed from public ministry may need vocational assessment and/or occupational counseling to assist in determining meaningful and useful work. The Provincial Minister should consult with the friar involved to determine his interests and capacities and to promote his initiative in developing work opportunities, where appropriate.
- c.** In all cases, the service of prayer for the Province and the Church would be a valuable contribution to the Province.

4. Place of Residence

- a.** Any restricted friar would be allowed to live only in a community of friars or other appropriate supervised place of residence, as determined by the Provincial Minister.
- b.** No separate apartment, private home, or other domicile would be allowed as a permanent residence for the friar.

5. Community Support and Community Roles

- a.** The local community can and should play an important part in helping a friar who has been restricted and who wishes to continue his life as a friar.

- b.** After a friar has submitted to evaluation and appropriate treatment, the friar's local community should welcome him as a brother.
- c.** It may also be appropriate for a mentor to be appointed for the friar who would assist and support him in his efforts to maintain his program of care and treatment.
- d.** A restricted friar within the community, as allowed by Canon Law, would be permitted to celebrate the Eucharist with only other friars present, lead community prayer, hear confessions of friars only, and perform community jobs and other responsibilities.
- e.** Upon the recommendation of the Provincial Minister, the local superior shall, as appropriate, inform all or part of the community in which such a friar shall live of the fact that a friar is so restricted and the appropriate specific terms of his Safety Plan, so that the community can assist him in achieving its goals.
- f.** Communities may need the advice and consultation of appropriate professionals to assist the community in readying itself to receive the restricted friar and to provide him the necessary care and support.

6. Contact with Others

- a.** Under no circumstances would a friar credibly accused of sexual or criminal abuse of a minor be allowed contact with minors without the ongoing supervision of another friar present at the time, or of a lay adult present at the time who the Provincial Minister or his designate has deemed to be a responsible adult capable of supervising the restricted friar. The Provincial Minister may also apply this restriction when the Provincial Minister has determined that a friar has abused a minor in a manner that does not qualify as sexual or criminal abuse as defined in this policy, or when the Provincial Minister has determined that a friar has violated any of the Additional Admonitions contained in Appendix 2 to this policy.
- b.** Unless the Provincial Minister determines otherwise, this prohibition does not apply to the friar's occasional presence alone at public places, such as restaurants, movie theaters, or shopping malls, where minors may be present, as long as the friar avoids personal contact with the minors present.

7. Travel, Vacation, Retreat

- a.** The restrictions in this section apply to a friar credibly accused of sexually or criminally abusing a minor. The Provincial Minister may also apply this restriction when the Provincial Minister has determined that a friar has abused a minor in a manner that does not qualify as sexual or criminal abuse as defined in this policy, or when the Provincial Minister has determined that a friar has violated any of the Additional Admonitions contained in Appendix 2 to this policy.
- b.** Vacations alone or with minors, even supervised, are not permitted. Vacations should be restricted to friar communities or travel with other friars.
- c.** Retreats in locations alone are not permitted, and retreats are restricted to Catholic retreat facilities or friar communities.

- d. Other travel may be restricted to that related to assigned work or family visits; if appropriate, a friar companion for travel may also be required.
 - e. Additional specific permissions for travel may be required from the Provincial Minister.
 - f. Doubts about specific travel should be referred by the local superior to the Provincial Minister.
- 8. Driving**
- a. Restrictions may be placed on driving alone or having use of a personal vehicle.
 - b. Some restricted friars may be required to request specific permissions for use of house cars from the local superior, to keep a driving log or to only drive with other friars.
- 9. Publications and Publicity**
- a. Restrictions on publications, letters to the editor, web-pages, radio and television appearances, and email may be appropriate.
 - b. Sensitivity for victims would dictate caution with regard to photographs of restricted friars displayed in friar publications and institutions, especially those in service to minors.
 - c. In some cases, a friar's use of mail and phone may need to be regulated.
- 10. Information for Members and Others**
- a. The Provincial Minister will determine whether and/or how to inform the Province Membership, in general terms, of those friars who have been restricted.
 - b. The Provincial Minister will determine whether and/or how to inform others who may have a need to know, in general terms, of those friars who have been restricted.

APPENDICES

Appendix 1 – Additional Possibilities

- A.** The Review Board may be presented with other possibilities:
- 1.** in cases where the complainant is no longer a minor and the Review Board has determined after its initial review that an allegation of sexual or criminal abuse of a minor has occurred, and where civil authorities are investigating the accusation, the Review Board shall make the following determinations:
 - a.** that the Province cooperates with civil authorities investigating the accusation;

- b. that the accused friar has been removed from public ministry for the duration of any investigation by civil authorities;
- c. that the accused friar has been provided with independent legal, canonical psychological, and spiritual counsel;¹¹
- d. that the local dioceses in which the friar lives and works are notified of the allegation of sexual or criminal abuse of a minor;
- e. that the Provincial Minister has provided the Board with assurances that his obligations under the directives of this policy have been implemented.

The provisions of V (D), (E) and (F), as fully set forth above, shall apply here.

2. In cases where the complainant is no longer a minor and the Review Board has determined after its initial review that an allegation of sexual or criminal abuse of a minor has occurred, and where civil authorities are not investigating the accusation, the Review Board will conduct a full investigation in the manner set forth in paragraph V (F). The Review Board shall make the following determinations:

- a. that the accused friar has been provided with independent canonical counsel, and psychological counsel;¹²
- b. that the accused friar has been removed from public ministry for the duration of any investigation by the Review Board;
- c. that the local dioceses in which the friar lives and works are notified of the allegation of sexual or criminal abuse of a minor;
- d. that the Provincial Minister has provided the Board with assurances stating that his obligations under the directives of this policy have been implemented.

At the conclusion of its investigation, the Review Board will provide the Provincial Minister with its recommendation regarding whether there is sufficient evidence that the accused friar sexually abused a minor. The Provincial Minister, in consultation with his Council, will then determine whether there is sufficient evidence that the accused friar sexually abused a minor. If such a determination is made, the Provincial Minister will forward the evidence to the General Minister and his Council who will ensure its delivery to the Congregation for the Doctrine of the Faith. Should the Congregation of the Doctrine of the Faith determine that no penal process is required; the Review Board will make a recommendation to the Provincial Minister and his Council regarding the friar's suitability for ministry.

Appendix 2 – Additional Admonitions Regarding Abuse of a Minor

- A. For purposes of this policy, abuse of a minor also includes:
 - 1. communication which contains sexual innuendo, including sexual comments or jokes; discussion of sexual activities;
 - 2. being nude in the presence of a minor;

¹¹This section is mandatory only as to those who are friars at the time of the allegation.

¹²This section is mandatory only as to those who are friars at the time of the allegation.

3. inappropriate conversation, including the use of vulgar language or cursing;
 4. playing any music, movie or television program of a vulgar or sexual nature in the presence of a minor; or
 5. the display of any pornographic or sexually explicit material in the presence of a minor.
- B.** In addition to the above, and in order to observe the spirit of this policy, certain behavior should be avoided that would cause a minor confusion about the nature of the relationship between the minor and a friar. For example,
1. A friar should never be alone with a minor in an isolated place. While our ministry at times calls for meetings between a friar and a minor, such meetings should be held in appropriate settings at appropriate times and should not be held at places or times that would cause the minor confusion about the nature of the relationship. Such meetings should never be held in private living or sleeping quarters.
 2. A friar should never be alone with a minor in a vehicle, except in emergencies or when there is no other practical alternative.
 3. A friar should refrain from giving gifts to a minor without the prior approval of the minor's parent or guardian. This admonition includes, but is not limited to, gifts containing sexual material or age inappropriate material.
- C.** We also recognize that neglect of minors is contrary to the teachings of the Church and is prohibited. Friars have a responsibility to protect minors from all forms of neglect. Thus, for example, a friar should refrain from the following:
1. using, possessing, or being under the influence of illegal drugs while in the presence of minors;
 2. using, possessing, or being under the influence of alcohol while supervising minors;
 3. providing minors with or allowing minors to consume alcohol or illegal drugs; swearing in the presence of minors;
 4. speaking to minors in a way that is or could be construed by any observer as harsh, threatening, intimidating, shaming, derogatory, demeaning, or humiliating
- D.** While physical contact of a sexual nature must be avoided, certain types of physical contact between adults and minors is generally regarded as appropriate and constitutes a positive part of Church life and ministry.
1. For example, hugs; handshakes; holding hands during prayer; pats on the shoulder or upper back; pats on the head when culturally appropriate; arms around shoulders; and touching hands, shoulder and arms of a minor, are physical expressions of appropriate affection, **but they should always take place in public.**
 2. However, if a minor is uncomfortable with a hug or another listed appropriate expression of affection, then a friar must refrain from such expression and not ridicule the minor because of his or her discomfort.
 3. A friar must never satisfy his need for affection, intimacy, attraction, and affirmation with minors.

4. In order to maintain the safest possible environment for minors, a friar must not engage in the following:
 - a. inappropriate or lengthy embraces;
 - b. kissing on the mouth;
 - c. wrestling with a minor;
 - d. tickling a minor;
 - e. piggy back rides;
 - f. holding a minor over four years old on the lap;
 - g. touching knees or legs of a minor;
 - h. massages;
 - i. any form of unwanted affection;
 - j. compliments that relate to physique or body development;
 - k. any touch or communication with which a minor is uncomfortable.

Appendix 3 – Reporting and Responding to Boundary Violations

- A. A situation may arise in which a Member observes inappropriate behaviors or boundary violations that are improper but which are not properly classified as abuse of a minor or vulnerable adult. While the action in and of itself does not warrant that civil authorities be notified, observing such behavior requires that appropriate notification be made and action be taken.
- B. Vigilance regarding the maintenance of proper boundaries must include a system of accountability based on the standards of conduct as explained in Appendix 2, D, above. It is essential that in our communities and the places where we work and minister, a transparent and effective system of monitoring and reporting is in place.
 1. On the local level, each Member and Guardian/Local Minister is responsible for identifying warning signs and responding to those signs.
 2. A Member has an obligation to disclose to the Guardian/Local Minister his observation that a Member has violated boundaries as established in these policies. The Member observing the situation is also free to contact a member of the Provincial Council or chairperson of the Review Board.
- C. If the Guardian/Local Minister confirms to his own satisfaction that boundaries have been violated by a Member, he will immediately inform the Provincial Minister. It is advisable that the Guardian/Local Minister personally notify the Member about whom there is concern.
- D. The Provincial Minister shall document all reports and subsequent interventions, remedial actions taken, plans for continued observation, and conditions, if any, placed on the Member.

- E. Such documentation shall be included in files maintained by the Province. In all cases the Member about whom there is cause for concern must be informed of the contents of permanent documentation.
- F. While these policies apply principally to the conduct of Members, a Member who observes inappropriate behavior or boundary violations committed by an employee, volunteer, guest, visitor, parishioner, teacher, student or client at a place where a Member lives, works or ministers must report this matter to the appropriate authority.

This Protocol was approved by the Provincial Council October 9, 2013, relative to Praesidium Revised Standard #6.

Appendix 4 – Friars from Provinces and Custodies outside the United States

1. Friars of the Community who come from another province to study, return for home leave, or stay temporarily in the Province for other reasons are under the Guardian/Local Minister’s authority of the community where he resides.
2. The Member’s own provincial must submit a testimonial clearly indicating that there is no history of sexual misconduct with minors before he is permitted to enter the Province.
3. The friar’s own provincial will provide information about the friar to the diocese in which the friar lives asking for faculties. The friar must meet all diocesan requirements of child protection. It is the dioceses’ decision to extend faculties.
4. For all Members returning to the Province from an assignment outside of the United States and any Member who is here for a period longer than three months, the training requirements for Province Members will apply.
5. Any non-Province Member with an acknowledged incident in sexual misconduct with minors is not to be allowed to engage in public ministry within the Province. A safety plan must be finalized and agreed to by both provincial ministers before his arrival in the Province. A supervisor friar with whom he resides must be named for that Member. The supervisor will have access to all files related to the abuse incident.
6. The Guardian/Local Minister, in dialogue with the Provincial Minister, will determine how non-Province Members with a safety plan will remain accountable to and supported by the Province depending upon their situation.

This Protocol was approved by the Provincial Council October 9, 2013, relative to Praesidium Revised Standard #5.

Appendix 5 - Protocol for Receiving an Accusation

The following clarifications of and additions to the **Policy for Responding to Allegations of Sexual and Criminal Abuse of Minors** of the Province of St. Mary of the Capuchin Order are appended here as guidelines for the Provincial Minister (or his delegate or other responsible person designated by the Provincial Minister) to use in assisting anyone who makes an allegation

of sexual or criminal abuse of a minor by a friar or former friar of the Province as defined in the Policy.

1. If necessary, the Provincial Minister will first make a determination if the accused friar is indeed a member or former member of the Province.
2. The Provincial Minister will offer to meet in person with and/or to interview the accuser unless civil law or an active criminal investigation suggests otherwise.
3. The Provincial Minister will treat the accuser in a compassionate and pastoral manner at all times. [cf. Policy, V, B.]
4. The Provincial Minister will document the accuser's response to the offer to meet or be interviewed or, in the event that a meeting or interview does not take place, he will document the reasons or circumstances that made such a meeting or interview impossible.
5. The Provincial Minister may invite other persons to be present for the meeting or interview, e.g., a parent if the accuser is a minor or another representative of the Province.
6. The Provincial Minister will attempt to gather sufficient information to complete a written preliminary account of the allegation including:
 - a. The name of the alleged victim.
 - b. The current age of the alleged victim.
 - c. The address and phone number of the alleged victim.
 - d. The name of the accused friar or former friar.
 - e. The nature, type and location of alleged abuse.
 - f. The approximate dates of the alleged abuse.
 - g. Any additional relevant details.
7. The Provincial Minister will notify the accuser of the Province's offer to pay for up to ten counseling sessions as provided for in the Policy. [cf. Policy, II, C.]
8. The Provincial Minister will establish, if possible, an appropriate line of communication with the accuser that may be used until the case is resolved according to the procedures set forth in the Policy.

This Protocol was approved by the Provincial Council July 24, 2009, relative to Praesidium Revised Standard #9.

Appendix 6- Victim's Assistance Coordinator

1. The *Charter for the Protection of Children and Young People (the Dallas Charter)* and the *Essential Norms* were revised on June 16, 2011. The Preamble of the 2011 Charter states "We continue to have a special care for a commitment to reaching out to the victims of sexual abuse and their families. The damage caused by sexual abuse of minors is devastating and long-lasting. We apologize to them for the grave harm that has been inflicted on them, and we offer our help for the future." (Charter Preamble)

2. The Province will reach out to victims/survivors and their families and demonstrate a sincere commitment to their spiritual and emotional well-being. The first obligation of the Province with regard to the victims is for healing and reconciliation. The Province will outreach to every person who has been the victim of sexual abuse as a minor by any Member of the Province or any employee of the Province, whether the abuse was recent or occurred many years in the past.
3. The Province will have a competent person (known as the Victim Assistance Coordinator) to coordinate assistance for the immediate pastoral care of persons who report having been sexually abused by Members or employees of the Province.
4. The Victim Assistance Coordinator is trained in the areas of: sexual abuse prevention, childhood sexual assault dynamics, and the healing process. He or she must maintain ethical practices and exhibit common sense.
5. The Victim Assistance Coordinator maintains a professional relationship with the alleged victim and/or family of the victim and does not act officially as a therapist, attorney, or spiritual director.
6. The Victim Assistance Coordinator:
 - a. Has experience in working with victims to develop trusting relationships;
 - b. Has experience in intervening in crisis situations;
 - c. Recognizes the consequences in adulthood of child sexual abuse:
 1. Depression
 2. Living in crisis
 3. Numbness, an inability to feel
 4. No memories of childhood abuse or repression of the memory of episodes of abuse.
 5. Eating problems
 6. Substance abuse
 7. Low self-esteem
 8. Flashbacks
 9. Dissociation (spacing out, or floating out of one's body)
 10. Being in control of one's environment, maintaining control by generating and/or resolving crises
 11. Developing alternate identities
 12. Minimizing what happened
 13. Fear, anxiety, and being 'always on guard'
 - d. Understands the legal issues of mandated reporting and professional confidentiality
7. The Victim Assistance Coordinator is to be a pastoral person who is to proceed slowly in winning a person's trust. He or she will be an active listener in assisting a victim.

8. The Victim Assistance Coordinator will avoid any judgmental comments or statements since those reinforce a person's shame or guilt. He or she will seek to encourage the individual to bring specific issues to a counselor.
9. The Victim Assistance Coordinator will explain to the alleged victim the Province's response to the allegations raised, and advise the victim with regard to communication with the Province throughout the process.
10. The Province will ensure that the Victim Assistance Coordinator:
 - a. understands his/her written job description;
 - b. maintains clear communication with the Provincial Minister or his delegate;
 - c. maintains records of all meetings and interventions with the victim, or if the victim is a minor, with his or her legal caregiver;
 - d. has knowledge of appropriate local community resources for referral;
 - e. will coordinate communications between the victim and/or family and the Province, keeping all parties apprised of developments in the case.

This Protocol was approved by the Provincial Council October 9, 2013, relative to Praesidium Revised Standard #9.

Appendix 7- Information to Be Given to One Making an Accusation of Abuse

The following clarifications of and additions to the **Policy for Responding to Allegations of Sexual and Criminal Abuse of Minors** of the Province of St. Mary of the Capuchin Order are appended here as guidelines for the Provincial Minister (or his delegate or other responsible person designated by the Provincial Minister) to use as information to be presented to anyone who makes an allegation of sexual or criminal abuse of a minor by a friar or former friar of the Province as defined in the Policy.

Guide to the Procedure the Province of St. Mary Will Follow in Your Case

Unless circumstances suggest that a different course of action will be more helpful to you or would be more likely to promote justice and healing, you may expect that the following actions will be taken.

1. The Provincial Minister [or his delegate or other duly authorized representative(s)] will offer to meet with you in person or interview you by phone in a pastoral and compassionate manner.
2. The Provincial Minister [or his delegate or duly authorized representative] will ask you if you have any objections to the Victim Assistance Coordinator of the Province being in contact with you.
3. The Provincial Minister [or his delegate or duly authorized representative] will respectfully gather from you the information needed to investigate or assess your case.
4. The Provincial Minister may then refer your allegation in a confidential way to a Review Board for an initial assessment on how to proceed.

5. If required by the terms of the policy, the Provincial Minister will remove the friar in question from all public ministry pending the outcome of an investigation or the resolution of the case. At the same time, the Province will provide the friar with access to legal, psychological and spiritual support.
6. If required by the terms of the policy, the Provincial Minister or his duly authorized representative will notify proper civil authorities, if that has not already been done, and/or cooperate with any investigation that results.
7. If you are an adult making allegations of a past instance or instances of abuse, you have the right to decide whether or not to report the matter to civil authorities. If you do, the Province will cooperate with any resulting investigation. If you do not, the Province will proceed with its own investigation and assessment of your allegation in consultation with a Review Board. The Province may conduct an internal investigation, hire an independent third party investigator, or propose a resolution of the case based on available data.
8. The Provincial Minister or his representative will attempt to keep you informed of the progress of your case and will inform you of the results of any internal investigation or other course of action undertaken to resolve your case.

This Protocol was approved by the Provincial Council September 15, 2009, relative to Praesidium Revised Standard #10 and revised on October 9, 2013 to be in conformity with Praesidium Revised Standard #9.

Appendix 8 - Guidelines for Communicating an Allegation of Abuse

The following clarifications of and additions to the **Policy for Responding to Allegations of Sexual and Criminal Abuse of Minors** of the Province of St. Mary of the Capuchin Order are appended here as guidelines for the Provincial Minister (or his delegate or other responsible person designated by the Provincial Minister) to use for communicating an allegation of sexual or criminal abuse of a minor by a friar or former friar of the Province as defined in the Policy.

1. The Provincial Minister will make full disclosure to the Review Board of all allegations of sexual or criminal abuse of a minor brought against a friar, former friar or deceased friar.
2. Upon recommendation of the Review Board and when the complainant is a minor, the Province will disclose any allegation of sexual or criminal abuse of a minor, brought against a friar of our Province, to the local diocese in which that friar lives and works in accordance with the terms of the policy. [cf. Policy, II, A; V. C, 2, e; VI, D.] Moreover, if the particular case warrants it and upon recommendation of the Review Board, the Province may notify affected parish communities of the allegation.
3. Upon recommendation of the Review Board, the Province will notify dioceses and parishes previously notified of the final disposition of the case. [cf. Policy V, E.]
4. The Provincial Minister is responsible for determining in each case the proper way and time of making known to the friars of the Province allegations of sexual or criminal abuse of minors brought against a member of the Province.

5. The Provincial Minister shall determine if the friars in a fraternity to which an accused friar belongs at the time of an allegation, or any other friars in a particular case, require special information, guidance and/or support in particular cases.
6. Upon the recommendation of the Provincial Minister, a guardian shall, as appropriate, inform all or part of the community in which a friar restricted by a safety plan will be living of the fact that the friar is so restricted and of any specific terms of his safety plan, so that the community can assist him in achieving his goals. [cf. Policy VII, 5, e.]
7. The Province may also offer pastoral care to an accused friar's local community and, if appropriate, the people with whom the friar served in ministry. [cf. Policy, II, C.]
8. The Provincial Minister is the sole responsible agent for making and coordinating public statements regarding any allegation of the sexual or criminal abuse of a minor by a member or former member of the Province. He may delegate all or part of this responsibility to others. All inquiries or requests for public comment about an allegation should be referred to the Provincial Minister or his designated spokespersons. No other member or employee of the Province is authorized to speak publicly on these matters.

This Protocol was approved by the Provincial Council September 15, 2009, relative to Praesidium Revised Standard #11.