

Safe Environment Policy Minors & Vulnerable Adults



Western Dominican Province

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Introduction

Sexual abuse is always wrong, and the Province will neither tolerate nor condone such misconduct by one of its friars¹. The Province is committed to safeguarding God's people, especially the most vulnerable and those served by its ministries. This commitment of the Province extends particularly to those who may have been victimized by a friar. Therefore the Province will work with such victims to offer whatever pastoral or clinical care may be necessary to help them in their recovery.

At the same time, the Province will treat fairly and compassionately any of its friars against whom an allegation of sexual abuse has been made, and will seek the spiritual, moral, and therapeutic rehabilitation of one who has engaged in such misconduct.

To protect the rights and dignity of both victim and those against whom allegations have been made, the Province will respond promptly to all allegations of sexual abuse brought against its friars, and will investigate them thoroughly.

Definition of Sexual Abuse

For the purpose of this document, *sexual abuse* is any deliberate and serious sexual or sexualized activity which is consensual or non-consensual, physical or verbal, in person or otherwise (e.g., in writing, over the internet, by telephone, etc.) with a minor, i.e., one who is under 18 years of age when the sexual abuse occurs, or with a vulnerable adult.²

I. Other Definitions and Explanations

A. Allegation

An *allegation* is a first-person accusation or a third-party accusation of sexual abuse of a minor or vulnerable adult brought against a current member of the Order, a former member, or a deceased member, which is reported to the Province through any form of communication, including those in which the accuser does not wish to reveal his or her identity.

B. Unfounded Allegation

An allegation is *unfounded* when it is judged to have no reasonable basis in fact by the Prior Provincial as the result of his *formal consultation* with the Sexual Misconduct Advisory Group (SMAG)³ and the Province Review Board (PRB).

C. Plausible Allegation

An allegation is *plausible* when the Prior Provincial, after *formal consultation* with the SMAG and after the *preliminary investigation*, judges that there is at least some reasonable basis in fact that the alleged behavior occurred.

¹ In this document, the reference of "friars" includes friars of the Western Dominican Province, friars from other provinces in the Order or other priests or male religious who serve in a formal Province commitment, or who reside in a Dominican community of the Province or who are assigned to one.

² In this document vulnerable adults are included in any reference made to minors. A *vulnerable adult* is a person who habitually lacks the use of reason; they are to be considered equivalent to a minor.

³ This group consists of the Prior Provincial, the Socius and the Vicar Provincial in charge of sexual misconduct, when one has been appointed by the Prior Provincial.

D. Established Allegation

After a thorough investigation of available facts and circumstances, and after the Prior Provincial's *formal consultation* with the SMAG and the PRB, an allegation is judged to be *established* by the Prior Provincial when there is an objective, moral certainty that the accusation is true and that an incident of sexual abuse of a minor or vulnerable adult has occurred.⁴

E. Formal Consultation

In *formal consultation* with either the SMAG or the PRB, the Prior Provincial must make available to them all of the relevant information concerning the allegation, respecting the canonical and civil rights of all parties, receive their advice either in person or in writing, and explain to them, either in person or in writing, his final decision and the reasons that led him to make such a decision. All *formal consultation* with the PRB will be in the context of formal meetings of the group (although the Prior Provincial need not be present at them, and normally would not be); consultation with the SMAG will also be in the context of a formal meeting (in person or by conference call), with the Prior Provincial always in attendance. Logs of all such meetings will be kept in the Prior Provincial's private files.

F. Cautionary Measures

Cautionary measures are the actions taken by the Prior Provincial in order to protect minors or vulnerable adults who may be at risk by a friar against whom an allegation has been made. An allegation does not have to be *established* in order for these measures to be enacted. In effect, if a Prior Provincial judges that there is a *semblance of truth*, that is, an allegation is "not manifestly false or frivolous," the friar cannot be allowed to be alone with minors nor have regular access to them. These measures may also include requirements for supervision of the friar either at home and/or at his ministry, a temporary safety plan, restrictions on the kind of ministry the friar may undertake as well as on his ability to travel, recommendations for psychological assessment, the removal of faculties, etc. In all cases the Prior Provincial is obligated to impose appropriate *cautionary measures* as a result of his ordinary powers of governance, which require that he act in the best interests of minors and vulnerable adults, the friar, those to whom the friar ministers and the Province. Such measures are not punitive.

G. Preliminary Investigation

1. The preliminary investigation will be conducted by members of the SMAG, or other competent persons, designated by the Prior Provincial; its purpose is to quickly gather enough information regarding the allegation (for example, the name, age, address of the alleged victim, date of the alleged offense, as well as its nature and location; the names of, and perhaps telephone interviews with, possible witnesses, whereabouts of the friar at the time the offenses were alleged to have taken place, history of the friar, etc.) to:
 - a. determine if there is a *semblance of truth*, that is, that the allegation is "not manifestly false or frivolous";
 - b. determine whether the accusation is *plausible*;
 - c. give the Prior Provincial, in *formal consultation* with the SMAG, the basis for deciding whether immediate *cautionary measures* need to be taken with regard to the friar in order to protect minors and vulnerable adults, pending the full disposition of the allegation; and

⁴ This is a definition which keeps it in line with the concept of moral certainty required by canon law. The judgment of a major superior must be objective, i.e., based upon the facts and circumstances discovered in the course of the investigation. It is not based upon a percentage of evidence, i.e. *most likely true or most likely occurred*, which implies 50 + 1% of the evidence. It allows for the canonical principle in moral certitude which states that the judgment of the major superior admits that the contrary (the falsity of the accusation) is indeed possible but highly unlikely or improbable, to the extent that the major superior has no fear that the contrary (the falsity of the accusation) may be true.

- d. establish a context for the *full investigation*, in cases where the allegation has been judged to be *plausible* by the Prior Provincial.
2. If an allegation is judged by the Prior Provincial to not be *plausible*, and thus a full investigation is not required, the Prior Provincial must still consult the Province Review Board. If there is a *semblance of truth*, the Prior Provincial must consult the Review Board as well. In the case where there is no *semblance of truth*, it is advisable for the Prior Provincial to consult the Province Review Board. Decisions and action steps in these matters must be documented.
3. The preliminary investigation is to be undertaken as soon as possible after the allegation comes to light, is completed as soon as possible and is kept as confidential as the nature of the investigation allows.

H. Full Investigation

The purpose of the *full investigation* is to gather all possible facts about the allegation, in order for the PRB to advise the Prior Provincial on whether or not he should make the judgment that the allegation is *established*. The full investigation will be conducted by a qualified, trained individual, appointed by the Prior Provincial. The investigation will include interviews with anyone who may have relevant information about the allegation, as well as any other steps that may shed light on its veracity; as far as possible, interviews should be conducted in person, with two interviewers. The written results of this investigation are given to the Prior Provincial, or his delegate, who will in turn make them available to the SMAG and the PRB. The investigation will be carried out with respect both for the accused friar, and for the alleged victim of the abuse. Confidentiality will be maintained to the degree compatible with the effectiveness of the investigation.

I. Canonical (Punitive) Measures

Upon determining that an allegation of sexual abuse falls under the definition of this Policy, that it has been subject to both a *preliminary* and a *full investigation*, that the SMAG and the PRB have been *formally consulted*, and that, as a result of this process, the allegation is determined to be *established*, the Prior Provincial may initiate a canonical process leading to the permanent removal of faculties for public ecclesiastical ministry and, if circumstances warrant, a canonical process of dismissal from the Order and laicization (if applicable). The friar subject to this process shall have the opportunity to retain canonical counsel according to the provisions of canon law, and shall be accorded his full canonical rights and protections.

II. Screening of New Candidates for Membership in the Order

- A. Candidates applying to enter the Order through the Western Dominican Province will be specifically screened for a history of sexually abusing minors or violating the boundaries of minors.
- B. Each candidate must have the following documentation:
 1. a completed background check, which includes each state/county that the candidate has resided in for the past seven years and a national sex offender registry check;
 2. a minimum of three documented personal references (including at least one from a family member) and two professional references, for a total of five references;
 3. face-to-face interviews with more than one representative of the Province;
 4. a psychological evaluation which was conducted by a licensed psychologist, and a psycho-sexual history which was conducted by either a licensed psychologist or a licensed mental health professional with skills in conducting psycho-sexual histories and in assessing psycho-sexual health in preparation for a life of celibate chastity; and

5. a review of publically accessible content on all social media, personal blog sites, and web sites associated with accounts controlled by the candidate.
- C. A candidate who has an established allegation of sexually abusing a minor in his past, or who has acquired/intentionally viewed child pornography, cannot be permitted to continue his application with the Order.
 - D. The Promoter of Vocations and formation directors must be able, by education, training or experience, to identify candidates who may be at risk to sexually abuse a minor.
 - E. Novices from other provinces and vicariates, who are accepted into our Novitiate, shall fulfill as much as possible the equivalent of the screening process for candidates to the WDP Novitiate. The Promoter of Vocations will ensure that these equivalent processes have been followed. When feasible, a background check will be obtained by the Promoter of Vocations from other countries.
 - F. It is recognized that psychological testing for some candidates from outside the United States may not have the same level of validity as the testing for United States candidates, increasing the importance of other methods of evaluation and screening that the Province must follow in order to properly screen foreign candidates.
 - G. All novices and student brothers from outside the United States require a letter of indemnity from their major superior, which would include the candidate's good standing and suitability, while student brothers who are sons of the other three Provinces within the United States require a letter of good standing and suitability from their major superior.
 - H. Novices and student brothers from other provinces are required to complete any courses necessary to fulfill the Province's accreditation regarding safe environment training for children and vulnerable adults.

III. Responses to Allegations of Sexual Abuse

A. Response of a Friar

A friar who learns of an allegation of sexual abuse by another friar shall immediately obey all obligations of civil law to report instances of abuse. After making a report to the civil authorities, the friar will immediately call and inform the Prior Provincial, or, in his absence, the Socius or the Vicar Provincial in charge of sexual abuse (Vicar) of the allegation, who will in turn inform the local superior of the friar against whom the allegation is made. If an allegation is revealed to a friar, the friar receiving the allegation shall:

1. if possible, have another friar present with him (the friar receiving the allegation) when he is informed of the allegation;
2. acknowledge the seriousness of the matter and the distress associated with the allegation;
3. give no opinion regarding the truth or falsity of the allegation, but rather assure the one making the allegation that it will be fully investigated;
4. encourage the person making the allegation to go to the appropriate civil authorities as well as to other appropriate ecclesiastical authorities;
5. obey all obligations of civil law to report instances of abuse, and;
6. make a detailed record of the allegation and forward the record to the Prior Provincial.

All inquiries addressed to any friar of the Province regarding allegations of sexual abuse by a friar (from any source, including the media or law enforcement) shall be immediately referred without comment to the Prior Provincial (or, in his absence, the Socius or Vicar).

The Province expects any friar who has *reasonable concern* that he or any other particular friar may have an inclination toward sexual activity with a minor or a vulnerable adult will promptly bring such

concern to the attention of the Prior Provincial. A *reasonable concern* means a belief that sexual abuse is or may be occurring as a result of observations of such behavior including, but not limited to, the following:

1. any violation of the prohibitions in Section VIII below;
2. a friar spending an inordinate amount of unsupervised time with a minor or vulnerable adult;
3. suspicions voiced by others who have observed the friar engaging in potentially inappropriate behavior with a minor or vulnerable adult; and
4. any other behavior that may create a suspicion in the mind of the observer that the particular friar may have an inclination toward sexual activity with a minor or vulnerable adult.

Appropriate counseling will be provided with compassion and respect.

B. Response of the Prior Provincial, Local Superior, and Observer of Sexual Abuse

Allegations of sexual abuse may come from a variety of sources, including alleged victims or their family members, diocesan offices, friars of the Province, a co-worker in ministry or from an alleged perpetrator. Because every case is in some sense unique, the following is to be understood as only a general outline of the response system to be followed in allegations or observations of sexual abuse, one that will admit appropriate variation in the particular case, given the nature of the allegation, the needs of the alleged victim and the circumstances of the accused friar. In every case, the Province commits itself to dealing pastorally with, and protecting the rights of, all those involved.

1. If a friar witnesses sexual abuse in progress, the friar shall take reasonable measures immediately to stop the abuse and prevent its continuance, such as by telling the abuser to stop, and if necessary, by obtaining assistance from other friars to tell the abuser to stop.
2. If a friar witnesses sexual abuse or receives an allegation of sexual abuse, the friar shall *immediately* notify local civil authorities. The friar shall then notify the Prior Provincial.
3. The Prior Provincial or his delegate shall receive allegations of sexual abuse and coordinate assistance for the alleged victim of abuse. Such assistance does not imply a judgment about the veracity of the allegation.
4. When an allegation is received, the Prior Provincial, or his delegate, will offer to meet in person with the alleged victim whenever appropriate. If the alleged victim is still a minor at the time or a vulnerable adult, the meeting will occur with the appropriate parent or guardian of the minor or vulnerable adult present. The Prior Provincial and/or his delegate will maintain a compassionate and pastoral manner regardless of the demeanor of the alleged victim. If possible, at least two friars representing the Province shall be present during these meetings.
5. The Socius, the Vicar or another friar of the Province may be assigned to assist with pastoral outreach to individuals who have experienced abuse, and to their families, if applicable.
6. All assistance or pastoral outreach to alleged victims, their families, or those reporting abuse, shall be documented.
7. Whenever the Prior Provincial learns of an allegation of sexual abuse by a friar, he will inform the SMAG as soon as possible. If he judges that there is a *semblance of truth* to the allegation, he will take immediate *cautionary measures*.
8. The Prior Provincial will inform the accused friar of the allegation and its substantial details in a timely manner. Likewise, the Prior Provincial, or his Socius or Vicar, will inform the accused friar of his right to seek canonical and/or civil counsel. If the accused friar wishes, the Provincial

or his Socius or Vicar will assist him in seeking such counsel, and if any canonical and/or civil counsel is retained, it is subject to the approval of the Prior Provincial as Ordinary of the Province.

9. The Prior Provincial may give a formal precept to a friar against whom an allegation of sexual abuse, that has been judged to have a *semblance of truth* or is deemed *plausible*, has been made to the effect that the friar may not contact in any manner whatsoever, directly or indirectly, the individual making the allegation or the alleged victim without the explicit documented permission of the Prior Provincial. Furthermore, the formal precept may include a judgment by the Prior Provincial that others should not be informed by the accused friar of the allegation or its details without the Prior Provincial's explicit documented permission. These actions do not imply that the allegation is *established*, but are taken in view of protecting those who have come forward from possible harassment, and with sensitivity toward the confidential nature of the allegation, its investigation, and in order to protect the reputation of the friar.
10. The Prior Provincial will take steps to ensure that the accused friar receives the support and assistance he needs while the allegation is being investigated.
11. The friar's right to privacy and confidentiality shall be respected. The Prior Provincial will maintain contact with him and keep him informed appropriately throughout the entire process.
12. The Prior Provincial will follow all Province reporting procedures and cooperate with any investigation by civil authorities (See Section IV). He, or his delegate, will also notify appropriate ecclesiastical authorities of all allegations subject to a full investigation, and their eventual dispositions.

C. The Investigative Process

1. If at any time civil or criminal proceedings are initiated against the accused friar or the Province, the Province's procedures shall be suspended as soon as possible by the Prior Provincial, to be resumed, after the completion of the civil or criminal proceedings. In such a case, the Prior Provincial shall consult the appropriate counsel to help him discern the appropriate course of action with respect to the accused friar, in keeping with the intention of these procedures and in the interests of justice.
2. As an investigation begins, the friar is informed that he may seek canonical and/or civil counsel (either of whom must be approved by the Prior Provincial).
3. Every allegation of sexual abuse made against a friar, which is denied by the friar, must be the subject of a *preliminary investigation* by the SMAG. The purpose of this investigation is to quickly gather enough information regarding the allegation to:
 - a. determine whether there is a *semblance of truth* to the allegation and whether it is *plausible*;
 - b. give the Prior Provincial, in *formal consultation* with the SMAG, the basis for deciding the type of *cautionary measures* that will be taken with regard to the friar in order to protect minors and vulnerable adults, pending the full disposition of the allegation; and
 - c. establish a context for the *full investigation*, in cases where the allegation will be determined to be *plausible*.

The investigation is made as confidentially as possible, is kept within the context of the SMAG and the friar himself and is normally finished as soon as possible.

4. At every step of the process, the Prior Provincial shall determine, based on the current state of the

- evidence and the advice he receives from the SMAG and/or the PRB, the type of *cautionary measures* that shall be taken with regard to the accused friar in order to assure the protection of minors and vulnerable adults. Such measures are only cautionary, never punitive.
5. During the investigative process, two friars who are delegates of the Prior Provincial, or one friar and another person who is approved by the Prior Provincial, e.g., a member of the PRB, are to offer pastoral care on behalf of the Province to the alleged victim, or members of the immediate family, if deemed appropriate by the Prior Provincial. Pastoral care may also be offered to those reporting abuse. All pastoral care that is either offered or given is to be documented.
 6. If, as a result of the preliminary investigation, the Prior Provincial has determined, in *formal consultation* with the SMAG, that the allegation is *plausible*, there is to be a *full investigation*. The Prior Provincial shall never conduct a full investigation; it will be conducted by a qualified, trained individual, appointed by the Prior Provincial. The investigation will be carried out with respect both for the accused friar and for the alleged victim of the abuse. Confidentiality will be maintained to the degree compatible with the effectiveness of the investigation.
 7. When he has received the written report of the *full investigation*, the Prior Provincial will share the results of the investigation with the friar for his response. The friar may make a formal response in writing to this report, and the Prior Provincial will forward it to the PRB along with the results of the investigation.
 8. After receiving the written results of the *full investigation* and any formal written response by the accused friar, the PRB shall review the case and advise the Prior Provincial on whether or not they believe that he should judge that the allegation has been *established*. The Board shall also advise the Prior Provincial on any further *cautionary measures* that it deems necessary for the protection of minors or vulnerable adults.
 9. The Prior Provincial shall make his own, final judgment, based upon this *formal consultation* with the PRB. If he finds that the allegation has been *established*, or a friar admits to an act of sexual abuse, the Prior Provincial must take decisive measures as soon as possible to assure the present and future safety of minors and vulnerable adults with regard to the friar, which will include permanent removal from ministry (in compliance with the *Essential Norms* of the U.S. Bishops) and, if circumstances warrant, the initiation of a process of dismissal from the Order and laicization (if applicable). In the case of such measures, the accused friar will be assured of his canonical rights and protections.
 10. In such a case, the Province (the office of the Prior Provincial) will
 - a. provide for the pastoral care of the victim and the victim's family;
 - b. provide for the pastoral care and treatment of the friar, offering him fraternal support in whatever penalties are imposed upon him by civil or canon law or restrictions placed upon him by the Prior Provincial;
 - c. conduct an investigation to identify any other potential victims; and
 - d. obtain information useful to the on-going supervision of the friar who has abused.
 11. If the Prior Provincial's judgment, after *formal consultation* with the PRB, is that an allegation is *unfounded*, the Prior Provincial will reinstate the accused friar to ministry. He will work toward the restitution of the friar's good name, including a written explanatory letter to that effect, which will be appended to the written accusation and shall be placed in the Prior Provincial's private files. Further, the Prior Provincial will coordinate communication with all appropriate parties so that reconciliation can take place where possible.

12. In cases in which a determination is made after a *full investigation* and a review by the PRB, that an allegation does not meet the “standard of an *established* allegation,” yet remains *plausible*, the Prior Provincial may still take any measures that he deems necessary in light of the evidence to protect minors and vulnerable adults that the accused friar may come into contact with. Such measures are not punitive, but are the result of the Prior Provincial's ordinary power of governance to act in the best interest of the friar, those to whom he ministers, and the Province.
13. Province investigations of allegations shall be documented (for instance, logs are to be kept for every meeting of the SMAG and the PRB regarding an allegation of sexual abuse, as well as of any interviews undertaken during either the preliminary or full investigation). This documentation is the property of the Prior Provincial and shall be kept in his private files.

D. The Decision-Making Process

1. Upon the conclusion of the *full investigation*, and after he has *formally consulted* the SMAG and received the advice of the PRB, the Prior Provincial will exercise his judgment in determining whether or not the allegation is *established*.
2. In every case, save those of a) his obligation to undertake a *preliminary investigation* of every allegation of sexual abuse in consultation with SMAG, b) his obligation to undertake a *full investigation* when he judges an allegation to be *plausible*, c) his obligation to bring the written results of every *preliminary investigation* and *full investigation* to the PRB, and d) his responsibility to remove a friar from all public ministry after he has formally judged that an allegation has been *established*, the Prior Provincial, in accord with his constitutional power of governance, makes the final decision regarding the nature, disposition, and response to an allegation, always recognizing:
 - a. the friar’s canonical rights and protections; and
 - b. the friar’s right to appeal to the Prior Provincial, and, if this appeal is denied after 30 days, the friar’s right to appeal to the Master of the Order.
3. After he has made his final judgment about the establishment of an allegation, the Prior Provincial, or his delegate, will contact the appropriate parties and inform them of his decision. These include:
 - a. the person who made the complaint;
 - b. the friar involved;
 - c. the PRB, to whom he communicates the rationale for his decisions;
 - d. the appropriate ecclesiastical authorities, to whom he communicates the nature of the allegation, the procedure followed and the response of the Province; and
 - e. any other parties, including the Master of the Order, as necessary and appropriate.

IV. Province Review Board

The Prior Provincial, with the consent of his Council, has established a Province Review Board as an integral part of this *Safe Environment Policy* for the purpose of advising the Prior Provincial on the veracity of allegations of sexual abuse against friars of the Province, on the care of friars permanently removed from public ministry, on safety plans, on this Policy, on the fulfillment of the CMSM Accreditation Standards, and on other matters in which the Prior Provincial wishes to consult the Board. The Board, which shall meet at least once a year, exists solely to provide such consultation and has no independent power or authority.

- A. The Province Review Board consists of at least five members: two friars and three lay persons, one of whom is a practicing psychologist or psychiatrist, and at least two of whom are women. The Chair is a friar of the Western Dominican Province, who is appointed by the Prior Provincial, with the consent of the Provincial Council. The Socius or Vicar is not a member of the Board, but submits items for the agenda to the Chair, and normally attends the initial, non-deliberative portion of the meetings of the Board in order to provide relevant context and background for the agenda, and to answer any questions that may arise. The Chair schedules the meeting and sets the agenda after consulting the Socius or Vicar.
- B. The members of the Board are appointed by the Prior Provincial, with the consent of the Provincial Council, and serve a five-year term, which may be renewed. They may be removed at the discretion of the Prior Provincial in consultation with the members of the Board and the Socius or Vicar.
- C. Criteria for the selection of members of the PRB include the following: a commitment to prevent sexual abuse and to protect victims and potential victims of sexual abuse; a commitment to deal justly and compassionately with friars against whom allegations have been made; respect for the Church and its ministry; the ability to keep confidences; prudent and incisive judgment with regard to people (which includes the ability not to rush to judgment); human and Christian maturity; and some expertise in minor abuse, youth (as a parent, minister, or educator), psychology, or the pertinent law.
- D. The Province will provide both initial and on-going training for members of the Review Board.
- E. Board members shall sign a confidentiality agreement.
- F. All proceedings of the Board regarding allegations of sexual abuse are strictly confidential; the decision whether or not to release any such information is the sole judgment of the Prior Provincial, and is determined primarily by his own obligation to consult during the course of his decision making process.
- G. The Socius or Vicar shall obtain the necessary consents to release confidential information to the Board necessary for its deliberations. No information relevant to the Board's deliberations will be withheld from it, except in those cases in which an accused friar refuses to waive his canonical or legal rights to confidentiality. In such cases, the Board will be informed of this refusal.
- H. Once an allegation has been received by the Review Board, normally, it will provide a response to the Prior Provincial within 30 days and at the latest 60 days.
- I. Before each meeting, the Chair will ensure that the proper information for the forthcoming meeting has been disseminated to the Board members in a timely manner.
- J. As a norm, Board meetings are conducted in person; however, as an exception, they may be conducted by conference call or webconferencing, with approval by the Prior Provincial.
- K. The Chair will ensure that minutes are recorded from each Board meeting, and the minutes are to include the Board's recommendations for each case it reviews. The minutes of the Board are the property of the Prior Provincial. Therefore, the Chair will ensure that the minutes are forwarded to the Prior Provincial, where they will be placed in his private files.
- L. Board members must be familiar with the following documents: a) *Charter for the Protection of Children and Young People*, b) the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons*, c) 2002 CMSM Statement of the Assembly, d) the CMSM Accreditation Standards, e) the *Safe Environment Policy* of the Western Dominican Province, f) the *File Retention Policy* of the Western Dominican Province and g) the *Code of Conduct Involving Interactions with Minors* of the Diocese of Oakland.

- M. Any Board member shall recuse himself or herself from consideration of any case involving a conflict of interest.
- N. If any Board member believes that any other Board member has a potential conflict of interest with respect to any particular case, any Board member without a potential conflict in that particular case shall make a motion to the Board to recuse the potentially conflicted Board member from consideration of the particular case. The Board member making the motion to recuse shall present his or her explanation for the potential conflict of interest to the Board. The member regarding whom the motion is made shall be afforded an opportunity to speak in response to the motion. After the member regarding whom the motion is made has addressed the potential conflict, the remaining Board members (not including the member making the motion or the member with the potential conflict) shall vote on the issue of whether the Board members believe that the potentially conflicted Board member has a potential conflict of interest. If a simple majority of the voting Board members vote that a potential conflict of interest exists, the Board member with the potential conflict of interest shall be recused from consideration of that particular case.
- O. Any Board member who determines that he or she has a conflict of interest or the appearance of a conflict of interest with the Province itself or with the work of the Board, shall inform the Prior Provincial and the Chair of the conflict and shall resign from the Board.
- P. The Western Dominican Province indemnifies and holds harmless all Board members for any and all claims, lawsuits, damages or other actions, including but not limited to reasonable costs of defense, which may arise from their service on the Province Review Board. However, the Province does not indemnify Board members for willful and malicious misconduct or criminal acts.
- Q. When the Prior Provincial brings various matters to the Board seeking their advice, the Board can consider various alternatives for the disposition of these matters as long as their considerations remain within the bounds of the CMSM Standards and the Province Policy.
- R. The Prior Provincial will avail himself of legal counsel in regard to the Board when he deems it necessary.

V. Reporting Procedures for Sexual Abuse

- A. The Province and all of its friars shall report an allegation of sexual abuse of a minor or vulnerable adult to authorities according to civil law and cooperate with investigations by any civil protective agency.
- B. The superior of each local house of the Province will post the applicable child sexual abuse mandatory reporting laws for that jurisdiction. He will review it with the Dominican community annually, and inform them of any change to the laws from the previous year. Any new member to the community shall be briefed on the current law by the superior.
- C. Each friar is responsible for knowing the applicable laws and for acting in accord with them.
- D. When a new allegation of sexual abuse is reported, the Prior Provincial, or his delegate, will inform the respective diocesan bishop where the alleged abuse occurred and where the friar is presently residing, as appropriate, and will emphasize the strict confidentiality of this communication until the final determination has been made at the end of the investigative process. The Prior Provincial, or his delegate, will also inform the respective diocesan bishop if the allegation has been *established*.
 - 1. According to the requirements of *Essential Norm #12*, when a friar who has an established incident of sexual abuse against a minor is relocated to another diocese, the Prior Provincial shall inform the diocesan bishop of the presence of this friar in his diocese.
 - 2. The Prior Provincial, or his delegate, will also communicate with the following, as the Prior

Provincial deems necessary, to protect other possible victims of abuse: the employer of the place where the alleged abuse occurred, the employer where the member is currently employed, the Province, the faith community, or the public.

VI. Allegations which Fall Short of being Established

In cases in which an allegation is judged not to be *established*, the Prior Provincial may still request that a friar undergo a psychological and behavioral assessment if he judges it necessary to fully assure the protection of minors or vulnerable adults as the result of the friar's return to public ministry. If the friar chooses not to undergo such an evaluation, the Prior Provincial, taking into consideration the evidence that was revealed in the *preliminary* and *full investigations*, as well as the advice of the PRB, shall institute appropriate prudent measures as acts of his ordinary governance; these may include restrictions on community life and personal activities, and limitations imposed on ministerial activities—including removal from public ministry. If the friar agrees to undergo an evaluation, the Prior Provincial or his delegate will arrange for the evaluation.

Prudent judgment is required to determine the advisability of a friar's involvement in *restricted ministry* or *supervised ministry*⁵ after an accusation of sexual abuse has been judged to fall short of being established, but where the state of the evidence leaves open the possibility that some form of abuse may have occurred, or may occur in the future. In making such a determination, all relevant facts and circumstances will be taken into consideration, and the friar may be returned to *restricted ministry* or *supervised ministry* under the following conditions:

- A. he has undergone a comprehensive psychological and behavioral assessment and any residential treatment that was advised as a result of that assessment;
- B. the Prior Provincial has been advised by qualified professionals that there is not a risk of sexual abuse in the future;
- C. the friar agrees to continued participation in an appropriate aftercare program; and
- D. the friar will be adequately supervised and his contact with minors and vulnerable adults monitored to assure their safety.

In cases where these criteria are satisfied, the PRB may (but is not required to) recommend, and the Prior Provincial may (but is not required to) ratify, an involvement in some form of *restricted ministry* or *supervised ministry*.

VII. Release of Confidential Information

In order to protect the friar, ensure the integrity of the Province's ministry, and establish the appropriate aftercare program, the friar accused of sexual abuse will be asked to release pertinent information from an evaluation or assessment to the Prior Provincial, those brothers of sound judgment of the Province, or healthcare professionals with whom the Prior Provincial may judge it necessary to consult, and the PRB. Lacking this consent, the Prior Provincial is obligated to give the benefit of the doubt to the protection of minors or vulnerable adults, and to impose on the friar whatever *cautionary measures* will assure that protection based upon his own reading of the confidential materials.

⁵ *Internal ministry* involves pastoral, administrative or manual work within the Province that is not public ministry in the Church. *Supervised ministry* is ministry in which an oversight mechanism has been established to assure that a friar is not at risk for incidents of abuse. *Restricted ministry* is ministry in which a friar is only engaged in pastoral work with certain groups of people (e.g., adults, the elderly, religious women), or in certain contexts (e.g., Eucharistic celebration, celebration of reconciliation in a confessional, ministry in a particular parish, etc). *Unrestricted ministry* is ordinary ministry, without special restrictions or supervision.

VIII. Care and Supervision of Friars Removed from Public Ministry

- A. A Safety Plan will be implemented for each friar of the Province about whom an allegation of sexual abuse has been established.
- B. A friar will be appointed as the formal supervisor. In addition, a second friar may be appointed, or a social worker will be hired, to visit and support these friars on a regular basis.
- C. The Prior Provincial shall:
 - 1. ensure that the formal supervisor will receive all pertinent information in regard to those under his supervision;
 - 2. ensure that all reasonable measures to prevent any future occurrence are implemented, including the prohibition of all unsupervised contact with minors or vulnerable adults;
 - 3. ensure that any friar removed from public ministry will be allowed to live in a house of the Order or other appropriate supervised place of residence, as determined by the Prior Provincial;
 - 4. ensure that appropriate fraternal support is offered to the local superior, the supervisor, the friar, and his community;
 - 5. provide appropriate care for the friar and the opportunity for such personal conversion and rehabilitation as may be needed; and
 - 6. ensure that the friar will be encouraged and supported in living the vowed life of the Order, which includes (but is not limited to) common prayer, recreation, meals and meetings, daily Mass, private prayer, an annual retreat (if applicable), and if desired, regular confession and spiritual direction.
- D. If friars removed from public ministry reside in a house of formation, they shall:
 - a. be formally assigned to another house of the Province;
 - b. have no voting privileges in the house; this includes voting on brothers in formation;
 - c. have no position of authority in the house, such as treasurer, or supervisor of the brethren or of laity who are either paid employees or volunteers;
 - d. not serve as a confessor or spiritual director to brothers in formation unless given explicit, documented permission by the Prior Provincial, with notification of this permission being given to the appropriate formation director, the local superior and being documented in the Prior Provincial's private files.
- E. 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. The Prior Provincial will determine whether or not the friar will have an internal ministry in the Province, as well as the type of such ministry.
- F. A friar about whom an established allegation has been made may be asked to begin (or continue) with ongoing therapy with a healthcare professional. If the friar chooses not to undergo such therapy, the Prior Provincial may place him under further restrictions to assure the safety of minors or vulnerable adults, including restrictions concerning community life and his personal activities. If the friar agrees to undergo ongoing therapy, the Prior Provincial or his delegate will arrange for such therapy.
- G. In cases where a friar with an established allegation has become destructive to the life of the brethren, is no longer compliant with Province procedures, or cannot be prevented from committing possible further

abuse, a petition for dismissal from the Order and laicization (if applicable) may be initiated by the Province.

IX. Province Regulations Regarding Protection & Prevention with Minors & Vulnerable Adults

To protect the safety of minors and vulnerable adults, the Province requires each friar of the Province, friars from other provinces in the Order or other priests or male religious who serve in a formal Province commitment or who reside in a Dominican community of the Province or who are assigned to one, to follow Province norms conscientiously in order to avoid even the appearance of impropriety in his conduct with others. We must remember that even actions or gestures that are wholly innocent may be misinterpreted by others. Each friar must be attentive to his own reputation and those of all of the brethren, as these reputations are essential to the effective preaching of the Gospel.

Our relationships with minors and vulnerable adults are both professional and personal. For this reason, the following norms include ministerial relationships with minors and vulnerable adults and relationships with minors and vulnerable adults who are family members, recognizing that in certain family situations the application of the norms may require appropriate nuance. Though it is impossible to legislate for every individual situation, the norms require friars to conduct all relationships with minors and vulnerable adults, including relatives, in public with the full knowledge and consent of their parents. Cognizant of the high standard of conduct that our sacred office demands and that the people around us have the right to expect, friars are to exercise the utmost prudence in every situation of their relationships with minors and vulnerable adults.

The following norms govern all relationships with minors and vulnerable adults:

- A. While the Province's policies for boundaries with minors are intended to guide interactions in ministry and other relationships in which the friar is acting as a representative of the Province, it is also recognized that a friar is responsible for maintaining the standards of the Province even when interacting outside of formal ministry.
- B. Each friar of the Province, friar from another province in the Order, or any other priest or male religious who serves in a formal Province commitment or who resides in a Dominican community of the Province or who is assigned to one, shall read the *Safe Environment Policy* of the Province and shall sign a document that indicates that he has read and understands it. In addition, each of those described in this norm who, immediately prior to his arrival in or return to the Western Dominican Province, has lived outside the United States of America for a period of two years or more, shall meet to discuss his understanding of the *Policy* with the Prior Provincial or his delegate.
- C. Friars who serve in public ministry, even if it is only part-time, must participate in training that addresses their role in protecting minors and vulnerable adults. Friars from other provinces in the Order, or other priests or male religious who serve in a formal Province commitment or who reside in a Dominican community of the Province or who are assigned to one, are required to undergo the same education or its equivalent.
- D. Friars are prohibited from engaging in sexual contact with minors and vulnerable adults. *Sexual contact* is defined as intentionally touching another person's intimate body parts (including genitals) or the clothing covering the immediate area surrounding those body parts. It also includes intentionally touching the erogenous zone of another (this includes, but is not limited to the thighs, buttocks, pubic region, breasts or chest), or being touched by another person in any of these areas for the purpose of sexual arousal or gratification.
- E. No friar shall meet with a minor or vulnerable adult unless another adult is present in the building in which the meeting takes place, and the meeting is known to the adult, the door is unlocked, and the meeting room has a window that allows others to see inside the room (or the door to the meeting room is left ajar, if there is no window). The only occasion when a friar may meet with a minor or

vulnerable adult alone is during the celebration of the sacrament of reconciliation in the confessional in a church or in a dedicated reconciliation room in a church.

- F. Friars shall conduct ministerial appointments with minors or vulnerable adults in the public areas of the rectory or priory, rather than in private areas of the Dominican residence.
- G. No friar shall have a minor or vulnerable adult, including relatives, stay at his residence without explicit documented permission from the Prior Provincial, unless the minor or vulnerable adult is accompanied by a parent or guardian.
- H. No friar shall ever share a bed with a minor or vulnerable adult; nor shall a friar have any minor or vulnerable adult, including relatives, in his bedroom under any circumstances without the explicit permission of his local superior and the presence of another adult.
- I. No friar shall show any type of affection to a minor or vulnerable adult in locations that are isolated from other adults.
- J. No friar shall sleep in the same room (this includes tents) with a minor or vulnerable adult without another adult present.
- K. No friar shall travel with a minor or vulnerable adult unless accompanied by another adult or transport minors or vulnerable adults without the written permission of their parent or guardian.
- L. No friar shall use, possess, or be under the influence of alcohol while supervising minors or vulnerable adults.
- M. No friar shall provide alcohol to anyone who is under legal drinking age, or allow anyone to consume alcohol in his presence that is under legal drinking age (including relatives).
- N. No friar shall provide drugs illegally to a minor or vulnerable adult; furthermore, no friar may allow a minor or vulnerable adult to use illegal drugs in his presence.
- O. No friar shall engage in any sexually oriented conversations with minors or vulnerable adults unless the conversations are in the context of the sacrament of reconciliation or in the context of appropriate ministerial teaching regarding human sexuality.
- P. Friars are prohibited from intentionally possessing, distributing, downloading or viewing real or virtual child pornography. *Child pornography* is a graphic sexually explicit depiction of a minor. It is considered sexual abuse of a minor.
- Q. Friars must report to appropriate civil authorities known or suspected intentional possession, distribution, downloading or viewing of real or virtual child pornography.
- R. Using contemporary modes of communication can be an effective tool in the work of preaching the Gospel. However, interacting with minors through electronic communication and social media can expose a friar to illegal activity or leave him vulnerable to a false allegation. *Electronic communication and social media* include (but are not limited to) the activities that take place through online tools and sites such as email, phone conversations, texting, instant messaging, blogging, FaceBook, Google+, Twitter, etc. Thus, the following guidelines are to be observed:
 - 1. Friars are prohibited from using electronic communication to interact with known minors or vulnerable adults except for family members and those who are under their professional or pastoral care; furthermore, friars are highly cautioned about using electronic communication to interact with these individuals.

2. Friars are highly cautioned about communicating with minors or vulnerable adults using social networking websites such as Facebook, Twitter or MySpace and blogs. In our effort at being both professional and transparent, the following are best practices for maintaining an online profile:
 - a. retain a current photo in your online profiles;
 - b. maintain a public profile that is as transparent as possible;
 - c. keep up-to-date profiles that provide sufficient personal identification information; and
 - d. maintain logs of electronic communication, when possible.
3. During interactions with minors through electronic communication and social media, friars shall not:
 - a. engage in online “chatting” with any known minor, including family members;
 - b. make comments that are harsh, coercive, threatening, intimidating, shaming, derogatory, demeaning or humiliating;
 - c. engage in sexually oriented conversations or discussions about sexual activities unless these are part of a pastoral situation; and
 - d. post sexually oriented or morally inappropriate pictures, photos or comments.
4. Friars that use electronic communication and social media shall educate themselves regarding the *Children’s Online Privacy Protection Act*.
5. Friars shall notify the parents and consult the local superior or the pastor (and consult the Socius, if appropriate) if messages received from a minor or vulnerable adult have improper content or are excessive in number. They shall also consult the provincial in a timely manner, before notifying civil authorities, if they have received an electronic communication from a minor or vulnerable adult that is egregious in nature and that may be a violation of civil law.
- S. No friar shall be naked in the presence of a minor or vulnerable adult (including relatives), nor allow such conduct by a minor or vulnerable adult in his presence, unless it is in an appropriate public place, such as the locker room in a public facility, with other adults present.
- T. Where there are changing and showering facilities for the friars that are owned and/or under the supervision of the Province, and/or are located in one of our ministries, friars will not use the same facility at the same time as a minor or vulnerable adult.
- U. Friars are to maintain the safest possible environment for minors or vulnerable adults by avoiding all inappropriate physical contact with minors or vulnerable adults. This may include (but is not limited to) lengthy embraces, kisses on the mouth, touching of genital or nearby areas, any type of massage given by a minor or vulnerable adult to an adult, any type of massage given by an adult to a minor or vulnerable adult, and any form of unwanted affection.
- V. Appropriate expressions of affection between friars and minors or vulnerable adults constitute a positive part of Church life and ministry. These may include (but are not limited to) hugs, verbal praise, touching hands, faces, and shoulders and arms of minors or vulnerable adults, sitting beside small children, and kneeling or bending down for hugs with small children.

X. Responsibility for Compliance

Each friar has the primary responsibility for assuring compliance with this Policy. To assist him in fulfilling this responsibility, the Prior Provincial or his delegate shall discuss this Policy with him at least once annually.

The Prior Provincial or his Socius or Vicar shall have a substantive discussion of this Policy with each community at least once during the Provincial's term in office.

It is the responsibility of each pastor, director, or friar in authority of any Province ministry or independent ministry to ensure that the laity in these ministries, including volunteers, are following diocesan policy in regard to safe environment training and child abuse protection and prevention.

XI. Revising the *Safe Environment Policy* of the Province

Revisions to the *Safe Environment Policy* shall be approved by the Prior Provincial after consulting the Province Review Board and obtaining the consent of the Provincial Council.

This Policy was approved on December 4, 2013 and revised on May 29, 2019.