

**PROTOCOL
FOR THE INVESTIGATION OF ALLEGATIONS OF ABUSE OF MINORS
IN ACTIVITIES OF APOSTOLATE AND CHRISTIAN FORMATION
CONDUCTED BY THE PRELATURE OF OPUS DEI**

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In keeping with the orientations of the Congregation for the Doctrine of the Faith, contained in the Circular Letter of 3 May 2011, Bishops and their equivalent should have clear and coordinated procedures when they have to deal with cases of accusations of abuse. The norms promulgated by the Personal Prelature of the Holy Cross and Opus Dei in the Philippines are now presented.

PRELIMINARIES

Art. 1

§1. The Catholic Church and, as a part of it, the circumscription of the Prelature of the Holy Cross and Opus Dei in the Philippines (henceforth, the Prelature) consider all abuse against minors a grave offense to God, because it violates his image in the most vulnerable persons, who are his predilected ones, and injure them with consequences that are difficult to repair, thus violating central aspects of the faith and Christian life. Crimes of this type are particularly reprehensible when they are committed by persons who have committed themselves to help others to follow Jesus Christ and his teachings more closely, and who should bear faithful testimony of the loving care of God for his little ones. For these reasons, the Church strives to prevent these behaviors and when they occur—despite everything—to act rigorously with penalties and other pastoral measures. “The effective protection of minors and the commitment to guarantee a human and spiritual development in keeping with the dignity of the human person form an integral part of the evangelical message, which the Church and all its members are called to spread in the world” (Chirograph for the establishment of the Pontifical Commission for the Protection of Minors, 22.III.2014).

§2. On 5 May 2015, a Protocol for the Protection of Minors was issued for this regional circumscription of the Prelature, in accord with the orientations from the Congregation for the Doctrine of the Faith, contained in the Circular of 3.V.2011, which established that the Bishops and their equivalents should establish clear and coordinated procedures to deal with allegations and other news of sexual abuse of minors attributed to clerics. On 22 February 2020, after the Motu Proprio *Vos estis lux mundi* (henceforth, VELM), the Prelate of Opus Dei established a set of norms as regards all kinds of abuse, applying to the Prelature the general orientations for the protection of minors and vulnerable persons established by Pope Francis for Vatican City in the Norms of 26.III.2019 (henceforth, Directives of the Prelate). In fulfillment of the mandate established in the aforementioned Directives, the Regional Vicar of the Prelature in the Philippines issued this Protocol, which is now updated in accordance with the orientations that had been subsequently given by the Catholic Bishops’ Conference of the Philippines (cf. CBCP, *Guidelines for Dealing with Cases of Sexual Abuse of Minors perpetrated by Members of the Clergy*, 14.II.2012)

TITLE I NATURE OF THESE NORMS AND EXTENT OF THEIR APPLICABILITY

Art. 2

Covered by this Protocol are all denunciations and other reports (cf. c.1717, §1 of the *Codex Iuris Canonici*, henceforth CIC) of possible abuse or maltreatment of minors, the investigation of which are within the competence of the Regional Vicar—i.e., when the possible abuses are attributed to persons, who, at the time when the denunciation was made or the news was reported, were under the jurisdiction of the aforementioned authority as faithful of the Prelature, whether clerics or lay persons.

§1. These norms are applicable to lay faithful of the Prelature in those cases where the accusation refer to actions committed while carrying out—under the authority of the Regional Vicar—an apostolic activity of the Prelature in which Christian formation or spiritual direction were imparted.

§2. In the case of possible delicts committed by clerics while carrying out tasks legitimately entrusted to them by the diocesan authority, close coordination shall be maintained with the latter.

Art. 3

On the other hand, if the accusation refers to sacred ministers incardinated to the Prelature or to members of an institute of consecrated life while they were involved in an apostolic activity or Christian formation entrusted to the Prelature or carried out by it, Art.33 of this Protocol shall be applied.

Art. 4

When in this Protocol reference is made to “abuse” or “abuse or maltreatment,” such concepts include those actions stipulated in the Directives of the Prelate, not limited to sexual abuse.

§1. In accord with Art.6 of the *Motu proprio Sacramentorum sanctitatis tutela* (henceforth, SST), in this Protocol considered as “sexual abuse” are delicts against the 6th Commandment of the Decalogue committed by a cleric with a minor less than 18 years old; included also are procuring, keeping and spreading—by a cleric and for prurient purposes—pornographic images of minors less than 14 years old, in whatever form or through whatever instrument. The M.P. VELM, Art. 1, §1 specifies that the established mode must be observed in the case of delicts of sexual abuse when the denunciations or news refer to conducts that are consistent with: a) obliging someone, with violence, threats or through abuse of authority, to carry out or be subjected to sexual acts; b) carrying out sexual acts with a minor or with a vulnerable person; c) producing, exhibiting, possessing or distributing (including through the internet) pornographic material of children, as also with detaining a minor or a vulnerable person to participate in pornographic exhibitions.

§2. By “*minor*” is understood any person less than 18 years old. Equivalent to a minor is any person who habitually has an imperfect use of reason (cf. SST, Art.6, §1, 1°).

§3. By “*vulnerable person*” is understood, as far as this Protocol is concerned, any person in a state of infirmity, of physical or psychological deficiency, or of a lack of personal freedom

that, in fact, limits—even if only occasionally—his or her capacity to understand or to will, or to resist the abuse in any way (cf. VELM, Art.1, §2 a-b).

Art. 5

In cases of denunciations or other news of abuses possibly committed by persons, whether lay faithful of the Prelature or not of the Prelature, who work as employees or volunteers in institutions or projects wherein the spiritual orientation is under the responsibility of the Prelature, but who were in positions or functions for which they had not been designated by the authorities of the Prelature, according to the agreements between these and the said institutions or projects, the Regional Vicar shall act according to Art. 31 of this Protocol and shall communicate the information received to the corresponding entity so that the Protocol for the Protection of Minors may be followed.

Art. 6

Just as in the previous case, in the case of denunciations or news of abuses committed by faithful of the Prelature while carrying out professional or particular work, the facts shall be investigated in order to adopt the disciplinary or other measures that correspond to the person concerned, when he/she is a faithful of the Prelature.

Art. 7

When the motive for action is news of specially serious infractions of the divine and ecclesiastical law but are not specifically typified as canonical delicts, and there is an urgent need to prevent or repair scandal, the Regional Vicar, in accord with c.1319 of the CIC, can make a precept so that the subject cease in his conduct, establishing a determined penalty, which he can incur—even *latae sententiae* when prudence dictates—in case he disobeys. Should the Regional Vicar consider that this preventive measure is too late or insufficient, he can, in accord with this Protocol, launch a prior investigation and, in its case, the posterior process or penal procedure in order to punish these conducts according to c.1399 of the CIC.

TITLE II

RESPONSIBLE ECCLESIASTICAL AUTHORITY AND AUXILIARY ORGANISMS

Chapter 1 Regional Vicar

Art. 8

The ecclesiastical authority responsible for the investigations that are the subject matter of these norms is the Regional Vicar (henceforth, the Vicar), as Ordinary of this circumscription of the Prelature (cf. Statutes of the Prelature of Opus Dei—henceforth, *Statuta*—n.151, §1).

Art. 9

Although other persons may help in the investigations and give their opinion according to these norms, they cannot replace the discernment of the Vicar.

Art. 10

In accord with Art.2, §3 of the M.P. VELM, the Ordinary of the Prelature, who receives news of a possible commission of any of these crimes by a cleric of the Prelature, shall transmit it without delay to the diocesan Ordinary of the place where the acts were supposed to have taken place and shall agree with him on how to proceed with the case.

Art. 11

Sexual abuse crimes perpetrated by clerics are reserved to the Congregation for the Doctrine of the Faith (cf. SST, Art.6, §1); hence, once the prior investigation has been done, the acts must be remitted to said dicastery, also in it is decided that the case be archived.

Chapter 2 Advisory Committee

Art. 12

There should be an Advisory Committee, which shall be a consultative body to the Vicar in what refers to the prior investigation of denunciations and other news of abuse or maltreatment of minors against faithful of the Prelature. The competence of this Committee shall be:

§1. Review these norms and propose updates.

§2. Advise the Vicar in the evaluation of denunciations or other news, when there are doubts as to their veracity, and in the determination of the opportuneness of applying in each case some of the provisional means as indicated in Art.35, §4 of this Protocol.

§3. The members of the Advisory Committee are bound by the norms of silence of office and should act according to what is established in c.1455, §3 of the CIC. Always keeping due reserve and safeguarding personal intimacy, the Vicar may ask their opinion on possible forms of assistance and pastoral and professional accompaniment for the persons affected in specific cases, without excluding the one being investigated or accused: ways of extending medical and social help; informing them of their rights and how to exercise them; facilitating their recourse to the corresponding authorities; protecting their image and privacy, etc. All of these will be carried out, always taking into consideration the opinions and the needs of the persons concerned.

§4. The Committee orients the Vicar or the investigator, when they deem it necessary, on questions regarding matters of their competence that may arise during the investigation. In these cases, the consultations shall be made without revealing the identities of persons and unnecessary personal information.

§5. If information or denunciations against faithful of the Prelature come to light—regarding possible abuses—these should be brought immediately to the attention of the Coordinator (cf. Chapter 3 below).

Art. 13

The Advisory Committee is composed of at least five members. They should be persons of exemplary conduct and good judgement. The majority should be lay faithful of the Prelature, men and women. The President of the Committee shall be a priest of the Prelature with several years of pastoral experience and good judgement, and at least one member should have experience in dealing with cases of abuse or maltreatment of minors.

§1. Among the members of the Committee should be professionals of the following disciplines: Canon Law (cf. Art.50 of this Protocol and c.1718, §3 of the CIC), Criminal or Civil Law, Psychology, Moral Theology or Ethics.

§2. The Vicar shall appoint the members of the Committee for a term of five years, which may be renewed. There is no objection to the Vicar asking a member of his Council to attend the meetings of the Advisory Committee.

§3. The Committee, following the organization established by its President, shall meet with the frequency necessary for the fulfillment of its functions, aside from those times that the Vicar calls for a meeting.

Chapter 3 **Coordinator for the Protection of Minors**

Art. 14

As a way to apply Art.2, §1 of VELM, according to Art. 8 of the Directives of the Prelate, the Vicar shall appoint a Coordinator of the Protection of Minors (henceforth, Coordinator), who shall be responsible for receiving denunciations or information of abuse of minors. There is no objection for the Coordinator to be one of the members of the Advisory Committee, and neither is this necessary. In any case, the faithful designated should be not less than 10 years in the Prelature and should be noteworthy for his qualities of rectitude of Christian life, prudence, empathy, doctrine and other characteristics mentioned in the Directive of the Prelate (cf. Art. 9-10). It would be good for the Coordinator to have some knowledge of psychology.

Art. 15

The Coordinator will receive the denunciations or information with respect, understanding and compassion; he should know how to listen, to be receptive to the needs of whoever presents denunciations or information, and to act with tact and sensitivity.

Art. 16

In order to facilitate recourse to the Coordinator, a telephone number and e-mail address will be made visible in the Opus Dei internet website (www.opusdei.ph) through which people can contact him rapidly. This same contact information shall be available in every Center of the Prelature. Moreover, anybody who so desires will be able to send information regarding these matters - updating the data whenever necessary - through the Opus Dei website.

Art. 17

The Vicar shall designate an associate Coordinator, with the same conditions, who shall help the Coordinator in his functions and shall substitute him whenever necessary. Concretely, in conformity with Art.8 of the Directives of the Prelate, the Coordinator has the following functions and obligations:

1st Receive whatever type of denunciation or information—directly from the alleged victim or from third parties—related to conduct referred to by the Directive of the Prelate. He should acknowledge receipt of all items from the denouncer and—in its case—from the alleged victim.

2nd Gather whatever data are necessary towards the identification of the accused and the possible victims, as well as whatever posterior data may arise regarding the alleged acts and the affected persons.

3rd Orient the denouncer and, in its case, the alleged victim as regards procedural matters, in both the canonical and civil paths.

4th Initially help the alleged victim/s with attentive personal accompaniment.

5th In case of an oral denunciation, he will put all allegations in writing, which he shall read to the denouncer or informant so that the latter—if in agreement—may sign it or otherwise indicate what corrections have to be made prior to signing it. If the person verbally expresses his conformity but does not wish to sign, the Coordinator shall so indicate in the document, annotating this fact, in which case the presence of a Notary would be needed.

6th Transmit to the Regional Vicar the deposition of the denouncer and the actions that have been taken, all these with speed and discretion, documenting such transmittal and the date of the same, of which the denouncer shall be informed.

7th Keep the norms of silence of office and confidentiality in accordance with c.1455, §3 of the CIC.

8th Regularly update the Regional Vicar of the activity being done.

Art. 18

The Coordinator shall facilitate interviews of the alleged victim/s with the Vicar or whoever is in charge of the investigation, whenever these are deemed opportune, in order to provide possible pastoral or medical help, which the alleged victims might need.

Art. 19

When the Coordinator transmits to the Vicar information or the denunciation, he shall accompany them with a summary of his assessment of aspects of the case that he may deem fit to evaluate, and a proposal of the possible measures of accompaniment and pastoral and psychological help for the informants or denouncers and the alleged victims.

Art. 20

The Coordinator shall not keep documentation of the denunciations and information received after he has fulfilled his function of gathering them and remitting them to the Vicar. The Vicar, without prejudice to the duty of giving them their due course, will handle them, insofar as their archival and conservation are concerned, in accordance with what is foreseen in the canonical norms (cf. CIC, cc.489-490).

Art. 21

The Coordinator shall collaborate with the Vicar in the observance, coordination and verification of the preventive norms established in the Directives of the Prelate. Likewise, in the sphere of the Prelature he shall foster activities of prevention and capacitation for the proper dealings with minors and vulnerable persons.

TITLE III GOODS THAT SHOULD BE PROTECTED

Art. 22

When receiving denunciations and investigating them, the implicated goods must be protected, carefully applying the canonical and civil norms in force.

§1. In what refers to the alleged victims:

- a) They must be protected and helped to find support and reconciliation.
- b) They must be offered spiritual and psychological assistance.
- c) The person who denounces should be listened to and treated with respect (cf. Art.15 of this Protocol). In the cases of sexual abuse related to a crime against the dignity of the sacrament of Penance (SST, Art.4), the denouncer should be informed that his name shall not be revealed to the accused and to his patron, unless the former has expressly given his consent.

§2. In what refers to the accused or the one being investigated:

- a) Anything than can posteriorly harm his fundamental right to self-defense must be avoided (cf. Art.37 of this Protocol).
- b) In every stage of the process, the cleric must be assured of a just and dignified sustenance.
- c) Such cleric must not be readmitted to the public exercise of his ministry if this poses a danger to minors or a risk of scandal to the community.

TITLE IV MANNER OF MAKING AND RECEIVING DENUNCIATIONS OR INFORMATION

Chapter 1

Way of Making and Receiving Denunciations or Information

Art. 23

Without detriment to what is established in Art.3, §1 of VELM, any faithful of the Prelature who has knowledge of acts of abuse or maltreatment (cf. Art.4 of this Protocol) committed by another faithful of the Prelature, or who sees reasonable cause for suspecting the existence of such conduct, should immediately inform, with the utmost accuracy possible, the Coordinator or any of the Ordinaries indicated in Art.3, §1 of VELM, unless this would violate the confidentiality of spiritual direction or the seal of the sacrament of Reconciliation, or fall into any of the cases contemplated in c.1548, §2 of the CIC.

Art. 24

The Coordinator shall interview without delay the person who desires to denounce or inform, if possible within 24 hours from the moment he receives the latter's communication, assuring him that the results of the interview shall be transmitted to the Vicar as soon as possible.

Art. 25

The Coordinator shall interview the parents or representatives of the alleged victims, if it is not the latter who are making the denunciation.

Art. 26

The Coordinator shall also interview the alleged victim, unless he/she was the one who has made the denunciation himself/herself. Before that, the Coordinator should consider if such an interview would be opportune and should obtain the consent of the parents or representatives. The latter or the persons they may designate shall be present in the interview. These precautions will not be necessary if the alleged victim has attained the age of majority as time may have elapsed since the events being denounced took place.

Art. 27

The Coordinator shall ask the persons who are presenting a denunciation or giving information to send him a written report. He shall make the same request to the parents or representatives of the alleged victim, unless the latter has attained the age of majority. He shall furnish them a copy of the questionnaire attached to these norms (Appendix IV) as a help in redacting the information. If, taking into consideration the age and educational level of the accuser, the Coordinator foresees that it would not be easy for the accuser to redact the information, he can take care of writing it himself. Afterwards, he can read it to the person concerned for the latter to verify that what had been written corresponds to his account and for him to sign it. The Coordinator will also sign it.

Art. 28

The Coordinator shall keep a registry of all the conversations he carries out with alleged victims, their parents or representatives and other persons who present denunciations and information, and of the written information about them.

In doing this, and in general in dealing with data of persons involved in whatever type of news of abuse, he should keep the due reserve and act according to the current legislation regarding the protection of minors (cf. CIC, c.471, 2°; VELM, art.2 §2). After fulfilling his function, the Coordinator shall proceed with this register according to what is established in art. 20 of this Protocol.

Art. 29

Upon receipt of anonymous denunciations or information, the Coordinator shall inform the Vicar so that the latter, through a decree, may decide whether to take it into consideration or otherwise.

Art. 30

Upon receiving credible denunciations or other news of abuses or maltreatment perpetrated by faithful of the Prelature (cf. art. 4 of this Protocol), the Coordinator, in agreement with the Vicar, shall immediately communicate with the parents or representatives of the alleged victim and shall immediately coordinate providing immediate pastoral attention for him/her and his/her family. Also, in agreement with the Vicar, he can advise them to seek psychological help.

Chapter 2 Informing the Civil Authorities

Art. 31

If Philippine legislation changes such that it becomes obligatory to inform the civil authorities of denunciations and other notices of sexual abuse of minors, the Coordinator should take this into account and inform whoever is making the accusation. In any case, he shall inform the alleged victim and or his/her parents or guardians in the case of a minor, regarding this right and obligation, and encourage them to act accordingly.

TITLE V THE PRIOR INVESTIGATION

Chapter 1 Opening of the Prior Investigation

Art. 32

Upon receiving a denunciation or notice of any matter dealt with in this Protocol, the Coordinator shall immediately inform the Vicar and hand him the written information(s) regarding conversations that he might have had with the informant and the alleged victim or his/her parents or representatives. The Coordinator can make whatever recommendations he may deem fit based on the impressions obtained from such conversations (cf. Art.19 of this Protocol).

Art. 33

If the denunciation or notice refers to persons indicated in Art.3 of the Protocol, the Vicar shall inform the Ordinary of the place where such actions were supposed to have taken place, as well as the proper Ordinary or Superior of the subject to which the denunciation or notice refers (cf. VELM, Art.3, §1).

Art. 34

If the Vicar has doubts as to the verisimilitude of the denunciation or notice received, he shall pass the information to the Advisory Committee and shall ask their opinion on whether an investigation should be opened or not. Having heard the opinion of the Committee, the Vicar shall decide accordingly.

§1. In making the decision, he shall consider that an investigation must always be made whenever, through whatever means regardless of whether a denunciation was made or not, he receives any notice that is not incredible and provided that a prior investigation is not superfluous, e.g., when the accused confirms the truthfulness of the denunciation and admits responsibility (cf. CIC, c.1717). Even in this case, a prior investigation may be indicated in order to clarify the reach and circumstances of the allegations.

§2. If he decides not to investigate, because he considers that there are clear reasons that make the denunciation incredible, the Vicar should formalize this decision in a decree (cf. CIC, c.51) that specifies the reasons for the incredibility. This decree shall be safeguarded in the confidential archives; however, if the news came through specific information or advertence of specific persons, they should be previously informed of such decision in the way provided by c. 55 of the CIC, indicating their right to interpose a recourse to the Prelate against the aforementioned decree, according to cc.1732-1739 of the CIC.

§3. Whenever the news comes from a formal denunciation, it should always be investigated, even if doubts exist as to its verisimilitude or even to its veracity, in order to adequately clarify the facts in the way provided by the Law. The decision not to investigate in such cases can only be taken if the falsehood of the denunciation is patently clear. In such a case, the Vicar shall also take into consideration the dispositions of c.1390 of the CIC.

Art. 35

If an investigation is to be opened, the Regional Vicar shall issue a decree adopting this decision according to c.1717 of the CIC, indicating the following:

§1. The Regional Vicar, with utmost diligence, shall charge the Promoter of Justice of his circumscription, or a delegate, to carry out the investigation under his authority, keeping him permanently informed of the progress of this mission.

§2. Whoever carries out the investigation, and in general whoever will advise the Vicar in each case, shall have exclusively the auxiliary and consultative functions that the Law gives them (cf. CIC, cc. 1717 §§1 & 3; 1428; 1718 §3). The decisions to be made during and at the end of the investigation, as the Law provides, are not collegial, but are of the personal competence of the Vicar.

§3. A notary must be appointed in the same decree.

§4. The decree must also establish the provisional measures that the Ordinary considers opportune to adopt while the investigation is taking place, especially but not only when there is a danger of re-incidence or scandal. Said measures shall fall within the ordinary attributes of his office, even those which require just or serious cause—e.g., removing the accused from functions that imply dealings with minors, a temporary substitution, or other measure relative to the investigation that do not imply prejudice or endangering his good name (cf. CIC, c.1717 §2).

§5. The Vicar can ask the Advisory Committee its opinion on the convenience of adopting these measures in order to limit by way of caution the ministry of the priest under investigation. By his own initiative, the Committee can also make recommendations of this type to the Regional Vicar.

§6. In those cases reserved to the Congregation for the Doctrine of the Faith, the Vicar shall inform the Ordinary of the place where the alleged acts took place of the investigation being undertaken (cf. VELM, Art.3 §1; Art.10 of this Protocol).

Art. 36

Taking to account the circumstances of the case (number and condition of the persons who should be interviewed, nature of the alleged acts, etc.), the Vicar may consider it opportune to appoint in the Decree opening the Prior Investigation, aside from the Promoter of Justice or his Delegate, two Examiners—choosing them from professionals who are well qualified for this type of work, e.g., a lawyer, a psychologist or a social worker.

Art. 37

Once the Decree is given, barring the concurrence of the reasons enumerated in §1 of this article, normally the Vicar shall inform the person who has been denounced, not later than 48 hours, of the investigation that has been opened, furnishing him a copy of the Decree.

§1. Since he has not yet been formally charged with any delict, if there are proportionately serious reasons, a decision can be legitimately adopted of not informing the person under investigation, reflecting this in the Decree. In the same way, the Vicar can prudently decide up to what point the person under investigation is to be informed regarding the investigation opened, its details and its progress.

§2. Upon being informed, the person under investigation shall be advised that, if he desires, he may be accompanied by a lawyer or counsel of his trust in the acts where he may intervene.

Art. 38

The Vicar shall remind the person under investigation of the principle according to which any person is presumed innocent while his culpability is not proven, explaining to him the nature of the prior investigation and the possible penal process or procedure, adverting to him that he should not in any way communicate with the person or persons who have denounced or given information about him, or with the alleged victim or his/her family.

Art. 39

The object of the prior investigation is to determine the facts and the circumstances thereof, i.e., what the alleged conduct consisted in and the personal circumstances, time, place, etc., that can be obtained, as well as imputability (cf. CIC, c.1717 and Appendix I of these Norms).

Chapter 2
Conduct of the Prior Investigation

Art. 40

With due observance of canonical and civil legality, whoever carries out the prior investigation can employ whatever means he may consider useful in order to gather relevant information regarding what he is investigating (cf. CIC, c.1717, §3). In the case of interviews, he shall remind the persons deposing of the obligation to keep confidential the existence of the investigation and whatever information they may learn in the course of their participation in it. No obligation to secrecy may be imposed on them regarding personal knowledge they may have had prior to the investigation (cf. VELM, art.4, §3). In this latter case, they are only obliged by the general criteria of Christian morality.

Art. 41

Those who will be interviewed by whoever is carrying out the prior investigation shall be informed of their right to be accompanied by another person of their choice. Such person can be a canon lawyer or an attorney. If the person to be interviewed is a minor or a vulnerable person, arrangements should be made such that at least one of the persons—relatives or professionals—who habitually take care of them is present; other means should be adopted in favor of the adequate conduct of such interview.

Art. 42

Whoever carries out the investigation shall provide the canon lawyer, attorney or another person whom the accused or the alleged victim may have chosen as assessor whatever information is deemed appropriate in each case (cf. Art. 22 § 2-a and 37 § 1 of this Protocol). In any case, should the accused or the alleged victim prefer to do away with counsel, information regarding the progress of the investigation should be given to them directly.

Art. 43

Whoever carries out the investigation shall interview the person or persons who have presented the information or denunciation, the alleged victim (if this had not made the denunciation personally), with the accused and with whoever other person may help in clarifying the facts referred to in the information or denunciation.

Art. 44

If the alleged victim is a minor, whoever carries out the investigation shall decide whether it would be appropriate to interview him/her or not. In the affirmative case, the expressed consent of his/her parents or their representatives and the interview shall take place in their presence.

Art. 45

Before interviewing the accused, he should be informed of the denunciation or information presented against him (cf. Art. 22 § 2a & 37 § 1 of this Protocol), giving him the possibility of responding. If he so wishes, such response may be through a written personal note or by his canon lawyer or advocate. If he prefers, he may respond verbally in a deposition before whoever is carrying out the investigation.

Art. 46

In interviewing the accused, it must be kept in mind that neither in this interview nor in the penal procedure or process that may be opened after the current investigation does he have the obligation of confessing to the crime or be asked to take an oath (cf. c.1728, § 2).

Art. 47

Whoever carries out the investigation and those who are interviewed shall sign a written acta of each interview, after confirming that this adequately reflects what had transpired in it. With this end in mind, there is no inconvenience in having the interviews recorded. Whoever has the task of transcribing these recordings should commit himself to observe silence of office. The acta must be signed by the Notary.

Art. 48

Cognizant of the fact that an investigation of this kind supposes a time of serious test both for the alleged victim and the accused, the Vicar and the members of the Advisory Committee shall aim at finishing the investigation in the shortest time possible and shall be vigilant so that there be no delays in the interviews and other diligence proper to the investigation, or in the redaction and presentation of their conclusions. Ordinarily, the investigation should not last more than 90 days (cf. CIC, c.201, §1 and VELM, Art. 14, §1), but the Vicar can extend it for a short and determinate period should he prudently consider that an ongoing diligence may be completed in such a time and may yield relevant elements.

Chapter 3

Conclusion of the Prior Investigation

Art. 49

Whoever carries out the investigation shall present to the Vicar a write-up, with his conclusions regarding the object of the investigation (cf. CIC, c.1717, §1 and **Art. 39 of this Protocol**). To this write-up he can add opportune suggestions and consequences. This dossier should be accompanied by the actae of all interviews carried out (cf. Art. 47 of this Protocol) as well as any other relevant document (letter, etc.) as well as any other document (letters, etc.) of interest that should have been presented during the investigation.

Art. 50

The Vicar shall transmit the dossier to the Advisory Committee, which shall meet without delay to consider and evaluate whether the investigation was complete and without

irregularities. If they consider it necessary, the Committee can ask the Vicar to complete the information sent. Then, they shall present to the Vicar all the documents of the investigation, adding their *votum* indicating their agreement or disagreement with the conclusions of the investigation, adding their own recommendations to the Vicar should they so desire. This *votum* completes the recommendations mentioned in c.1718, §3 of the CIC.

Art. 51

The Vicar shall examine closely the information and conclusions that have been remitted to him.

§1. Should he consider it necessary, he can return the case to the Advisory Committee and to whoever had carried out the investigation for clarification and ulterior inquiries.

§2. Before closing the investigation, he should consider if he himself or the investigator will determine the question of damages, according to c.1718, §4 of the CIC, always with the consent of the parties (cf. Title V, Chapter 4 of this Protocol).

§3. If he is satisfied with the results presented to him, he shall close the prior investigation through a Decree of Conclusion of the Investigation (cf. CIC, cc.48 sq; 1718, §1).

Art. 52

In the Decree of Conclusion of the Investigation (cf. Art. 31, §3 of this Protocol), the Regional Vicar shall consider the following:

§1. If the investigation of a possible crime reserved to the Congregation for the Doctrine of the Faith (CDF) does not present elements corroborating that the alleged crime had been committed, he shall cause the dossier to be remitted to the Prelate so that latter may—aside from informing the CDF about the investigation and its findings—may order the archival of the dossier in the secret archive (cf. CIC, cc.1719, 489-490), unless the CDF disposes otherwise. Likewise, he shall send a copy of the decree to the person investigated, to the alleged victim or his/her representatives, and to the Advisory Committee.

§2. If he considers it possible that a crime reserved to the CDF has been committed:

- a) the accused cleric shall be prohibited from participating in any activity of the Prelature involving minors, as well as from exercising any pastoral activity; he may exercise his ministry within the Center of the Prelature in which he resides;
- b) the dossier of the investigation, with the personal *votum* of the Regional Vicar, shall be remitted without delay to the Prelate, for him to present it to the CDF (cf. SST, Art.16 & 21).
- c) it must be assured that what is stipulated in Art 31 of this Protocol as regards the civil authorities is followed, and that the decision adopted is communicated in writing to the cleric investigated (indicating the prohibitions mentioned in a) above), to the alleged victim or his/her representatives, to the Advisory Committee, to the Bishop of the Diocese in which the alleged abuse took place and to the Bishop of the Diocese where the accused resides.

§3. Outside the case of a delict reserved to the CDF, the Vicar shall proceed adopting the decisions that are left to his discretion by the legislator (cf. CIC, c.1718, §1, Appendix II & III, nn.1-3 of this Protocol):

- a) The accused shall be prohibited from participating in any activity of the Prelature that involves minors, as well as carrying out any other pastoral activity, and may exercise his ministry within the Centers of the Prelature where he resides.
- b) In case he opts to follow the judicial way, he shall order that the dossier of the investigation be remitted to the Promoter of Justice of the Prelature, in what refers to c.1721 of the CIC, and shall notify the accused of the decree according to c.55 of the CIC.
- c) In like manner, the Vicar shall make sure that the acts under investigation that may constitute crimes in civil law be communicated to the corresponding authorities according to Art. 31 of this Protocol, and that the same decree be communicated: to the alleged victim, to the Assessor Committee, to the Bishop of the Diocese where the acts being denounced supposedly took place, and to the Bishop the Diocese where the accused resides, indicating that the accused is prohibited from participating in any activity of the Prelature in which minors take part.

§4. In the absence of a crime, if the results of the investigation point at the probability that abuses or other behavior, which are improper of a priest or a layman who desires to live his Christian vocation integrally, the Vicar shall give the Decree of Conclusion along the tenor of c.1718, §1, 1º of the CIC. To this shall be added the application of penal remedies or penances which he may deem adequate (cf. Title VII of this Protocol).

Art. 53

If there is no reserved crime and the denunciation or information are proven unfounded, the Vicar should give the Decree of Conclusion of the Investigation (cf. CIC, c.1718, §1, 1º), in which he shall order the archival of the dossier in the confidential archives (cf. CIC, cc.1719, 489-490). In the same way, he shall send a copy of the Decree to the accused, to the alleged victim or his/her representatives, and to the Advisory Committee.

Chapter 4 Compensation of Damages

Art. 54

The abuses or maltreatments, aside from their penal consequences, may give rise to the obligation of repairing or compensating the damages caused by the actuation of the culpable subject (cf. CIC, c.128). The contentious action to claim compensation of these damages within the penal process shall follow what is established in cc.1729-1731 of the CIC.

Art. 55

As an extrajudicial alternative to this action, in accordance with c.1718 of the CIC, before the Decree that concludes the investigation (cf. Art.52 of this Protocol), it should be considered whether it may be convenient to ask the consent of the convening parties—which would be good to be given in writing—to arrive at an equitable resolution of the damages, thus avoiding unnecessary judicial processes.

Art. 56

The proposal for an equitable solution should be reflected in a document to be signed by the Vicar or his Delegate and the parties or their legal representatives. In this document, aside from accepting the proposed solution, the parties should promise (cf. CIC, cc.1713-1716) not to exercise in the future the action mentioned in Art.54 of this Protocol. This document

should be formalized in a way that it is recognized by civil law and without any confidentiality clauses.

Art. 57

The Vicar should make sure that the parties correctly understand that, neither his proposal for an equitable extrajudicial agreement regarding damages nor the equitable solution arrived at propose or suppose in any way an extrajudicial arrangement to avoid the penal process or procedure, which will follow its course according to Law in any case.

TITLE VI

PASTORAL RESPONSE UPON CONCLUSION OF PRIOR INVESTIGATION

Chapter 1

Pastoral Response as regards the Alleged Victim

Art. 58

The Vicar or someone designated by him shall meet the alleged victim and his/her parents or guardians (if the alleged victim is a minor), to inform them of the result of the investigation. Both the Vicar or his representative and the alleged victim shall be accompanied by another person.

Art. 59

If the accusation is not demonstrated with foundation, and the CDF—if ever—has confirmed such finding, such shall be communicated to the alleged victim. He/she shall be dealt with compassionately and shall be offered the help that is deemed necessary and reasonable.

Art. 60

Upon informing him/her of the Decree mentioned in Art.52 of this Protocol, the alleged victim and—if deemed necessary—his/her family shall be offered pastoral attention in the form that appears most appropriate to the circumstances.

Chapter 2

Pastoral Response with respect to the Accused

Art. 61

As regards the accused, if the denunciation or notice has been demonstrated to be unfounded at the end of the prior investigation—and therefore was not processed through canonical judgment and neither by civil law, or was absolved by the latter, the Vicar shall take all the necessary means to restore the good name of the person accused. These means can be, among others:

§1 a public declaration that the person has been found innocent and, in the case of a cleric, has been returned to the exercise of his ministry;

§2 a visit by the Vicar to the apostolic project where the accused works to give the same information to the persons who work or participate in that place;

§3 offer to whoever was falsely accused that spiritual and psychological help to recover from the inevitable trauma.

Art. 62

In the cases mentioned in Art. 52, §§2-4 of this Protocol, aside from making the necessary notifications, the Vicar may urge the accused to voluntarily submit himself to medical and psychological evaluation with professionals who are deemed adequate for such a job by the Vicar and the accused. The Vicar shall also take care that the accused is offered pastoral care according to his circumstances.

Chapter 3

Pastoral Response with respect to Other Affected Persons

Art. 63

The alleged victim of abuse may have to deal with rejection in his/her social environment and his/her parents may blame themselves for not having taken sufficient care of their children. The Vicar shall seek a way to help them recover from the possible psychological and spiritual trauma.

Art. 64

It may happen that the perpetrator of the abuse is a person who is very popular in the place where the events took place. The reactions of other persons who know him may be one of anger, deception, disappointment, feeling betrayed, resistance to believe what they hear, sorrow and compassion for the alleged victim, etc. The Vicar, with the help of the Advisory Committee, if he deems it opportune, should closely consider the most adequate means to address these emotional states with the opportune pastoral and psychological remedies.

Title VII

PENAL REMEDIES AND PENANCES UPON CONCLUSION OF THE PRIOR INVESTIGATION

Art. 65

If at the end of the prior investigation it is determined that there has been imprudent, inadequate or reproachable conduct, which are incompatible with the exemplarity proper of a priest or of a layman who wants to live with integrity his Christian vocation, but that a penal process is not called for (cf. CIC, c.1718, §1) because—for example—the facts are not constitutive of a canonical crime, the Vicar shall evaluate with the Advisory Committee the opportunity of proceeding according to either c.1339 of the CIC or c.1319 and *Statuta*, n.30.

Art. 66

§1 In the cases of Art. 65 of this Protocol, if the Vicar deems it proper to formally admonish or rebuke the faithful concerned, according to c.1339 of the CIC, or even formally warn him/her of being expelled from the Prelature if he/she does not change attitude according to what is established in *Statuta*, n.32. He shall establish this in the Decree Concluding the Prior Investigation and shall document the substantial content of the formal admonition or rebuke in an *acta*, which should be signed by the Vicar or whoever acts by his charge, a notary and the person concerned after reading it in his presence.

§2 If the person refuses to sign, the notary shall take note of such refusal in the same *acta*. This document shall be kept in the confidential archive (cf. CIC, cc.1339 §3, 489).

Art. 67

§1 If the admonitions and rebukes have been ineffective, or it may be reasonably expected that they would be, the Vicar can give a penal precept (cf. CIC, cc.1319 §1, 49), in which he commands the person concerned exactly what should be done or avoided, establishing at the same time the specific penalty (cf. CIC, c.1315, §2) that he would incur in case he disobeys.

§2 The penalty established in the penal precept should be a censure or an expiatory penalty that is not perpetual (cf. CIC, c.1312), without excluding the dismissal from the Prelature (cf. *Statuta*, n.30).

§3 In case the person disobeys the precept, the administrative process of c.1720 of the CIC should be followed, in order to impose the established penalty (see Appendix II).

APPENDIX I

In this Appendix are included various legislative texts of special importance for the prior investigation of accusations of sexual abuse, with some brief commentaries.

A. NOTION OF THE CRIME OF SEXUAL ABUSE OF MINORS: IN CANON LAW AND IN CIVIL LAW.

A.1. *MOTU PROPRIO SACRAMENTORUM SANCTITATIS TUTELA* of 30 April 2001, updated on 21 May 2010.

Art. 6, §1. The most serious crimes against morality, reserved to the judgment of the Congregation for the Doctrine of the Faith, are:

1° The crime against the 6th Commandment of the Decalogue committed by a cleric with a minor of 18 years of age or less. In this number, to a minor is equivalent a person who habitually has imperfect use of reason.

2° The acquisition, retention or distribution by a cleric of pornographic pictures, in whatever form and with whatever instrument, of minors less than 14 years old for a libidinous end.

A.2. *THE PROCEDURE AND PRAXIS OF THE CONGREGATION FOR THE DOCTRINE OF THE FAITH REGARDING GRAVIORA DELICTA, B. Delicta contra mores.*

With respect to this crime, some considerations regarding the praxis of the Congregation for the Doctrine of the Faith are relevant:

- a) The *motu proprio* speaks of a “*delictum cum minore.*” This is not limited to physical contact or direct abuse, but also includes indirect abuse (e.g., showing pornography to minors, indecent self-exposure in front of them).
- b) Can. 1395, §2 of the CIC speaks of a crime with a minor of 16 years: “*cum minore infra aetatem sedecim annorum.*” The *motu proprio*, on the other hand, speaks of a crime with a minor of 18 years: “*delictum ... cum minore infra aetatem duodeviginti annorum.*” Hence, the classification of the crime is rendered more complex. In effect, some experts speak not only of *pedophilia* (attraction to prepubescent children) but also of *ephebophilia* (attraction towards adolescents), *homosexuality* (attraction towards adults of the same sex) and *heterosexuality* (attraction towards adults of the opposite sex). Between 16 and 18 years old, some “minors” can certainly be objects of homosexual as well as heterosexual attraction. The laws of some countries consider a person of 16 years of age as capable of consenting to sexual acts (whether heterosexual or homosexual). However, the *motu proprio* considers as a crime all violation of the 6th Commandment with a minor of 18 years of age, be it a case of pedophilia, ephebophilia, homosexuality or heterosexuality. Nevertheless, the aforementioned differentiation is not without importance from the psychological, pastoral and juridic viewpoint. Without doubt, it helps the Ordinary and the judge to appreciate the gravity of the crime and to choose the needed way for the reform of the culpable cleric, the repair of the scandal and the restoration of justice (cf. c.1341).

A.3. CORRESPONDING PHILIPPINE LAW: See Appendix III.

B. CREDIBLE ACCUSATIONS

CIC, c.1717, §1: *Whenever the Ordinary receives information about an offense, which has at least the semblance of truth, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.*

The accusations that should be investigated are those which appear credible—i.e., those which have an appearance of truth. “The positive condition for the initiation of the investigation is that, from the information obtained, there be deduced such clues as would make the commission of an offense probable.” [Josemaría Sanchís, Commentary to Can.1717, in *Exegetical Commentary on the Code of Canon Law, Vol. IV/2*, Wilson&Lafleur (Canada), Midwest Theological Forum (US). 2004.]

The object of the prior investigation is to determine if the appearance of truth is confirmed in the acts being alleged. However, it will be in the judicial or administrative process that may follow the prior investigation where the moral certainty necessary for the imposition of a punishment is obtained. For this reason, at the end of the prior investigation, the accused shall not be considered culpable unless he has admitted committing the crime.

C. IMPUTABILITY

(**CIC, c. 1717, §1:** *Whenever the Ordinary receives information about an offense, which has at least the semblance of truth, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.*) repeat??

Imputability is the quality of an action or omission, which makes it attributable to its author insofar as the latter has violated the law either intentionally or out of neglect. In the terminology proper of Penal Law—also Canonical Penal Law—the term malicious act is used to refer to an intentional violation of the law, while culpable act is used to refer to the violation of a law due to neglect. These are the two forms of imputability described in the Code of Canon Law.

CIC, c.1321, §1: *No one can be punished for the commission of an external violation of a law or precept unless it is gravely imputable by reason of malice or of culpability.*

— **§2:** *A person who deliberately violated a law or precept is bound by the penalty prescribed in that law or precept. If, however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise.*

— **§3:** *Where there has been an external violation, imputability is presumed, unless it appears otherwise.*

D. PRESCRIPTION OF THE CRIME OF SEXUAL ABUSE IN THE LAW OF THE CHURCH

“Any person may report a crime, the term “report” understood in its wide sense—i.e., an act through which the authority is made aware of the commission of a crime. The reporting of crimes should be considered not only as a faculty but also as an obligation—moral or juridical according to the case. (...) However, the presentation of the report does not take for granted that a criminal action took place—this faculty belongs solely to the promoter of justice by order of the Ordinary (cf. cc.1430 and 1721, §1) and never by the injured—nor does it bring with it the obligation of demonstrating the culpability of the accused.”
[Josemaría Sanchís, Commentary to c.1717, in *op.cit.*].

The criminal action has for its object the opening of a process to declare a crime or the imposition of a penalty. The possibility of exercising it is extinguished with the passage of time. This is what is known as prescription, which the Law regulates. In the penal process, which is opened as a consequence of the criminal action exercised by the promoter of justice, the injured party can exercise a contentious or penal action in order to obtain the reparation of any damage he may have suffered as a result of the crime (cf. CIC, cc.1596 & 1729, §1).

D.1. MOTU PROPRIO *SACRAMENTORUM SANCTITATIS TUTELA* OF 30.IV.2001, UPDATED 21.V.2010.

Art.7, §1. Without prejudice to the right of the Congregation for the Doctrine of the Faith of derogating the prescription for particular cases, a criminal action relative to crimes reserved to the Congregation for the Doctrine of the Faith is extinguished by prescription in 20 years.

§2. This prescription starts on the day the offense was committed or on the day it ceased if the offense was continuous or habitual, according to the tenor of c.1362 of the Code of Canon Law and of c.1152, §3 of the Code of Canons of the Oriental Churches. However, in the case of the crime dealt with in Art.6, §1, n.1 (crimes against the 6th Commandment of the Decalogue committed by a cleric against a minor of 18 years old), the prescription starts from the day on which the minor completes 18 years of age.

D.2. CORRESPONDING PHILIPPINE LAW: See Appendix III.

APPENDIX II

INFORMATION REGARDING AN ALLEGED SEXUAL ABUSE OF A MINOR ATTRIBUTED TO A FAITHFUL OF THE PRELATURE OF OPUS DEI IN THE PHILIPPINES

1) This information is presented by:

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____

2) Alleged perpetrator of the abuse:

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____
Age _____ Sex: Male _____ Female _____

3) Alleged victim:

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____
Age _____ Sex: Male _____ Female _____ Age when alleged abuse took place _____

4) Address and telephone of parents or representatives, if the alleged victim is a minor.

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____

5) Name, address & telephone of ocular witnesses of the alleged abuse (use another sheet if Needed):

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____

Name and Family Name: _____
Street Address _____ City _____
Province _____ Postal Code _____ Telephone _____

6) Name and telephone of other witnesses with information regarding the alleged abuse (use another sheet if necessary).

Name and Family Name _____
Telephone _____

Name and Family Name _____

Telephone _____

Name and Family Name _____

Telephone _____

7) On another sheet, please describe—by word processor or intelligible manuscript—the alleged abuse, including the following information:

- Nature of the alleged act (s) (type of sin against the 6th Commandment).
- Date (s) and time (s) of the alleged acts.
- Place (s) and address where the acts allegedly took place.
- Any other information which might be considered important (e.g., whether violence, threats, favors or gifts were used; scandal, abuse of authority.)

Signature of the person writing this information: _____

Date _____

Please sign the other sheet (cf. 7 above) and staple it to this one.

APPENDIX III

PERTINENT REPUBLIC OF THE PHILIPPINES LAWS ON SEXUAL ABUSE OF MINORS AND THE DUTY TO REPORT

R.A. 7610 (ANTI-CHILD ABUSE LAW) itself does not contain any provision that mandates private individuals to report cases of child abuse. On the other hand, the attached Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (10-00-1993) stipulates that a person who learns of facts or circumstances that give rise to the belief that a child has suffered abuse *may* report the same, either orally or in writing, to the Department of Social Welfare and Development, the police or other law enforcement agency or the Barangay Council for Protection of Children.

Under the same Rules, only the following persons are specifically *mandated* to report child abuse cases:

- 1) The head of any public or private hospital, clinic or similar institution, as well as the attending physician or nurse;
- 2) Teachers and administrators of public schools;
- 3) Probation officers;
- 4) Government Lawyers;
- 5) Law enforcement officers;
- 6) Barangay officials;
- 7) Correction Officers;
- 8) Other government officials and employees whose work involves dealing with children;

UNDER THE R.A. 7877 (ANTI-SEXUAL HARASSMENT ACT), there is likewise no explicit obligation to report acts of sexual harassment to the police. Under the said law, the express obligations of an Employer or Head of Office in a Work-related, Education or Training Environment are as follows:

Duty of the Employer or Head of Office in a Work-related, Education or Training Environment. - It shall be the duty of the employer or the head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment.

Towards this end, the employer or head of office shall:

- (a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

- (b) Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings, as the case may be, with officers and employees, teachers, instructors, professors, coaches, trainers, and

students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.

In the case of a work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees. In the case of the educational or training institution, the committee shall be composed of at least one (1) representative from the administration, the trainers, instructors, professors or coaches and students or trainees, as the case may be.

The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.

Although **R.A. 7877** provides that the Employer or Head of Office in a Work-related, Education or Training Environment will be solidarily liable for damages arising out of sexual harassment if they are informed of such acts by the offended party and no immediate action is taken, the said law does not specify what “immediate action” means. However, it may be argued that immediate action relates to the investigation on the complaint received from the victim of sexual harassment and not necessarily to the reporting of the case to the police. It should also be noted that R.A. 7877 only applies to acts of sexual harassment committed in a work or training or education environment.

Obstruction of Justice. Although there is no clear legal obligation to report the complaint received by the Ecclesiastical Authority, he should just be careful that his acts will not amount to obstruction of justice. Under Presidential Decree No. 1829, obstruction of justice is committed by any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

- 1) preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;
- 2) altering, destroying, suppressing or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;
- 3) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution and conviction;
- 4) publicly using a fictitious name for the purpose of concealing a crime, evading prosecution or the execution of a judgment, or concealing his true name and other personal circumstances for the same purpose or purposes;
- 5) delaying the prosecution of criminal cases by obstructing the service of process or court orders or disturbing proceedings in the fiscal's offices, in Tanodbayan, or in the courts;
- 6) making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;

- 7) soliciting, accepting, or agreeing to accept any benefit in consideration of abstaining from, discontinuing, or impeding the prosecution of a criminal offender;
- 8) threatening directly or indirectly another with the infliction of any wrong upon his person, honor or property or that of any immediate member or members of his family in order to prevent such person from appearing in the investigation of, or official proceedings in, criminal cases, or imposing a condition, whether lawful or unlawful, in order to prevent a person from appearing in the investigation of or in official proceedings in, criminal cases;
- 9) giving of false or fabricated information to mislead or prevent the law enforcement agencies from apprehending the offender or from protecting the life or property of the victim; or fabricating information from the data gathered in confidence by investigating authorities for purposes of background information and not for publication and publishing or disseminating the same to mislead the investigator,

REPUBLIC ACT NO. 7610

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES.

Section 3. Definition of Terms.

- (a) "Children" refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;
- (b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, *sexual abuse* and emotional maltreatment;
- (2) *Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;*
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

October 1993

RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES pursuant to Section 32 of Republic Act No. 7610 ("An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties For Its Violation And For Other Purposes")

SECTION 3. Reporting. — A person who learns of facts or circumstances that give rise to the belief that a child has suffered abuse *may* report the same, either orally or in writing, to the Department, to the police or other law enforcement agency or to a Barangay Council for the Protection of Children.

SECTION 4. Mandatory Reporting. — The head of any public or private hospital, medical clinic and similar institution, as well as the attending physician and nurse, shall report, either orally or in writing, to the Department the examination and/or treatment of a child who appears to have suffered abuse within forty-eight (48) hours from knowledge of the same.

SECTION 5. Duty of Government Workers to Report. — It shall be the duty of all teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, barangay officials, corrections officers and other government officials and employees whose work involves dealing with children to report all incidents of possible child abuse to the Department.

SECTION 6. Failure to Report. — Failure of the individuals mentioned in Section 4 above and the administrator or head of the hospital, clinic or similar institution concerned to report a possible case of child abuse shall be punishable with a fine of not more than two thousand pesos (P2,000.00).

SECTION 7. Immunity for Reporting. — A person who, acting in good faith, shall report a case of child abuse shall be free from any civil or administrative liability arising therefrom. There shall be a presumption that any such person acted in good faith.

SECTION 8. Investigation. — Not later than forty-eight (48) hours after receipt of a report on a possible incident of child abuse, the Department shall immediately proceed to the home or establishment where the alleged child victim is found and interview said child to determine whether an abuse was committed, the identity of the perpetrator and the need of removing the child from his home or the establishment where he may be found or placing him under protective custody pursuant to Section 9 of these Rules.

Whenever practicable, the Department shall conduct the interview jointly with the police and/or a barangay official.

To minimize the number of interviews of the child victim, his statement shall be transcribed or recorded on voice or video tape.

REPUBLIC ACT NO. 9775

AN ACT DEFINING AND PENALIZING THE CRIME OF CHILD PORNOGRAPHY, PRESCRIBING PENALTIES THEREOF AND FOR OTHER PURPOSES.

Section 3. Definition of Terms.

(a) "Child" refers to a person below eighteen (18) years of age or over, but is unable to fully take care of himself/herself or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

For the purpose of this Act, a child shall also refer to:

- (1) a person regardless of age who is presented, depicted or portrayed as a child as defined herein; and
- (2) computer-generated, digitally or manually crafted images or graphics of a person who is represented or who is made to appear to be a child as defined herein.

(b) “Child Pornography” refers to any representation, whether visual, audio or written combination thereof, by electronic, mechanical, digital, optical, magnetic or any other means, of a child engaged or involved in real or simulated explicit sexual activities.

(c) “Explicit Sexual Activity” includes actual or simulated —

- (1) sexual intercourse or lascivious act including, but not limited to, contact involving genital to genital, oral to genital, anal to genital, or oral to anal, whether between persons of the same or opposite sex;
- (2) bestiality;
- (3) masturbation;
- (4) sadistic or masochistic abuse;
- (5) lascivious exhibition of the genitals, buttocks, breasts, pubic area and/or anus; or
- (6) use of any object or instrument for lascivious acts.