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**PROVINCIAL POLICY FOR
PROTECTING CHILDREN, YOUTH,
AND VULNERABLE ADULTS
AND ADDRESSING ANY
MISCONDUCT WITH ADULTS**

**SAFE ENVIRONMENTS IN OUR
MINISTRIES AND OUR
COMMUNITIES**

**Capuchin Province
of St. Conrad
(Mid-America)**

Accrediting Agency - Praesdium, Inc.

**First accreditation 2006
Audit & re-accreditation 2009
Audit & re-accreditation 2012-2013
Audit & re-accreditation 2017-2018**

I. Franciscan/Capuchin Sources

When taking on new forms of the apostolate, let the brothers show special care to those peoples who are deprived of ordinary pastoral care because of the conditions of their life: the young during decisive moments of their Christian life... (***Constitutions***, #147)

Chastity must be esteemed among the gospel counsels as an extraordinary gift of God that is willingly embraced for Christ and His Kingdom through an impulse of the Holy Spirit. The reason for leading our life in chastity is the preferential love of God and of all peoples; in a unique way, in fact, it confers a greater freedom of heart through which we are able to cling to God with an undivided love and to become all things to all peoples. By always guarding and cultivating this gift, our fraternity becomes a splendid sign of the mystery through which the Church is united to her only Spouse. The charism of celibacy, which not everyone is capable of grasping, is an option for the Kingdom of God, and prophetically proclaims that kingdom in our midst. It offers a witness to the future life in which those who have risen are brothers to one another before God Who will be all in all for them. (***Constitutions***, #168)

We should frequently reflect upon the words of Saint Francis in which he encourages his brothers that, after they have put aside all anxiety, they love and adore the Lord God in all creatures with a clean heart, a chaste body and a holy activity. Therefore let nothing hinder us, nothing separate us that the Spirit of the Lord may act and be manifested in us and in our fraternity. (***Constitutions***, #173)

“Wherever the brothers may be..., they can and should have recourse to their ministers. Let the ministers, moreover, receive them charitably and kindly and have such familiarity with them that these same brothers may speak and deal with them as masters with their servants, for so it must be that the ministers are the servants of all the brothers.” (***Rule***, Chapter 10)

“I wish to know...if you love the Lord and me, His servant and yours: not any brother in the world who has sinned – however much he could have sinned – who, after he has looked into your eyes, would ever depart without your mercy, if he is looking for mercy. And if he were not looking for mercy, you would ask him if he wants mercy. And if he would sin a thousand times before your eyes, love him more than me so that you may draw him to the Lord; and always be merciful with brothers such as these.” (Francis of Assisi, ***A Letter to a Minister***)

The General Minister of the Capuchin Friars Minor, Brother Mauro Johri, recognized the gravity of the need for guidelines to protect young people and vulnerable adults from any kind of abuse. In his report to the General Chapter in 2012, Brother Mauro stated: “The goal we are aiming for is a level of safety such that no child or minor feels threatened in his or her personal and psycho-sexual integrity in places where the brothers operate or have particular responsibilities” (“Report of the General Minister,” 84th General Chapter, #219-221).

II. Policy Orientation and Goals

This policy applies to all friars and employees of the friars or friaries – as well as to volunteers in our friaries and ministries – when someone is accused of child abuse, sexual misconduct involving a minor or other sexual misconduct. The following general guidelines are established:

- A. First and foremost, these procedures have as their primary goal, the welfare, the safety and the health of children and the good of their families. At the same time, the procedures are written for the well-being of the individual friar, the Capuchin Province of St. Conrad (Mid-America) and the Church. An allegation of child abuse, sexual misconduct involving a minor or other sexual misconduct puts the accused and the Capuchin Province of St. Conrad (Mid-America) into the legal arena with possibility of criminal charges and/or civil liability suits. Prudence, therefore, demands that once an allegation is made, a reasoned and careful response be given.
- B. The entire process of receiving information regarding allegations, consultation with an alleged victim, such person's family, fact gathering, and other actions regarding the allegations will be conducted in a spirit of fraternal charity and compassion, both for the alleged victim and for the person (friar, employee, volunteer) accused. The policy is to be modified according to 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.
- C. We have a tradition in the Province and in the Order of open, frank, and fraternal communication between the individual friar and his Provincial Minister. In the one narrow area concerning allegations of physical or sexual child abuse, however, both the friars and the ministers must not only be attuned and responsible to the pastoral needs of those involved (which is our natural inclination), but to certain legal realities as well.

III. Some Basic Legal Definitions and Presumptions

Although the statutes vary from State to State, a practical understanding of the law includes the following notions:

1. “Child” or “minor” is any person under 18 years of age. For the purposes of this policy, the term “minor” also includes any vulnerable adult who would be considered vulnerable to abuse because of physical, mental or emotional circumstances.
2. “Abuse” minimally includes any or all the following:
 - a. physical or mental injury inflicted on a child;
 - b. sexual contact or intercourse;
 - c. sexual exploitation. Sexual exploitation is considered to be sexual contact between two people, one of whom has a pastoral and/or professional relationship (see Section IX) with the other. The nature of the relationship is exploitation, regardless of who initiates the sexual contact.
3. “Physical injury” is that which is inflicted on a person by other than accidental means. It includes, but is not limited to, laceration, fractured bones, internal injuries, severe or frequent bruising or great bodily harm as defined by law.
4. “Sexual contact” means vaginal intercourse, anal intercourse, oral intercourse or any intentional touching of the intimate parts (primarily the genital area, groin, inner thigh, buttocks or breast) clothed or unclothed, if that intentional touching can reasonably be construed as being for the purpose of real or simulated overt sexual arousal or gratification of either party.
5. “Sexual intercourse” means penetration, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body. Emission of semen is not a criterion.
6. “Consent” refers to words or overt actions by the person who is competent to give informed consent indicating a freely-given agreement to have sexual contact or sexual intercourse. Note: If a child willingly engages in a sexual act, it does not mean that he/she consents to what is happening. Many states define by law who is and who is not capable of consenting to sexual contact. A child is not legally capable of consenting to any sexual contact or intercourse.

IV. Procedures for Reporting Abuse of Minors or Vulnerable Adults

1. Any individual who needs to report a case of abuse is encouraged to contact the Province at **303-477-5436** and speak to the Safe Environment Coordinator, the Response Coordinator, or the Provincial Minister who will receive the information with compassion and understanding for the needs of the victim and the gravity of the situation. The individual who receives the initial report of abuse or another one of the Safe Environment personnel will explain what the reporting process entails, which is fully outlined within the Province's *Policy on Sexual Misconduct*, in order to give assistance and guidance to the alleged victim.

2. Any friar with knowledge or suspicion of current abuse of a minor or vulnerable adult shall report it immediately (within 24 hours) to the Safe Environment Coordinator, the Response Coordinator, or to the Provincial Minister and then to appropriate government authorities, whether or not it has already been reported. The Provincial Minister or Safe Environment Coordinator will convey to the proper authorities what the protocol of the Capuchin Province of St. Conrad is as directed by this Policy. **(Standard 12)**

The local bishop, where the alleged abuse occurred and where the accused currently resides, if different, will be notified of the allegation. After consulting with his legal counsel, the Chairperson of the Independent Review Board and his Provincial Council, the Provincial Minister may inform the Capuchin Province of St. Conrad, the faith community in which the alleged abuse took place and, if advisable, the local public, in an appropriate manner. **(Standard 11)**

3. All Safe Environment personnel, following their particular responsibilities, will respond to all allegations of sexual misconduct in a pastoral and compassionate manner. **(Standard 10)**

4. In those cases in which the friar feels uncomfortable with reporting to the Provincial Minister, he has the option of reporting to the local Guardian (for purposes of this policy, the local Guardian is the superior of the friary) or any member of the Provincial Council, or any member of the Independent Review Board. The person receiving the report must notify the appropriate Safe Environment personnel immediately.

5. An anonymous, specific and verifiable letter of concern may be sent to any of the above. Anonymous concerns should be investigated to the extent that is feasible based on known information. **(Standard 15)**

6. The Provincial Minister, assisted by the Safe Environment Coordinator, shall consult with legal counsel to determine to whom new allegations of sexual abuse should be reported, utilizing the following guidelines when applicable:

- a. Allegations of current sexual abuse should be reported to appropriate governmental authorities regardless of whether the person making the accusation is a minor or a vulnerable adult at the time the allegation is received.

- b. Allegations of current sexual abuse should be reported to appropriate governmental authorities regardless of whether the accused friar is a current or former friar of the Province.
- c. Allegations of current sexual abuse should be reported to appropriate governmental authorities regardless of whether the allegations have “a semblance of truth”¹ at the time they are received.
- d. All reports of allegations with “a semblance of truth” involving an individual friar will be placed in the permanent record of the individual friar.

(Standards 13, 15, 16)

7. If, after a thorough investigation, the Provincial Minister determines that an allegation of sexual abuse against a minor is established,² appropriate governmental authorities shall be re-contacted and a follow-up report will be submitted, if requested. If further investigation indicates that the report of abuse is not an established allegation, appropriate governmental authorities will be contacted and provided this additional information.

8. If the alleged victim of current sexual abuse is a minor at the time the allegation is received, his or her identity will be provided to the appropriate governmental authorities. If the alleged victim of current sexual abuse is an adult at the time the allegation is received and consents to the revealing of his or her identity, then his or her identity will be provided to the appropriate authorities. If the alleged victim of current sexual abuse is an adult at the time the allegation is received and does not consent to having his or her identity revealed, the alleged victim’s identity will not be disclosed, unless otherwise required by appropriate law in the state in which the alleged abuse occurred or is reported.

9. Files of current allegations of sexual abuse will be created at the time the allegation is received and will contain information about how the allegation was handled. These files will be kept in the Provincial Office. **(Standard 16)**

10. The Province will cooperate fully with investigations by appropriate governmental authorities. **(Standard 14)**

Note:

The following directive was given by the Independent Review Board, and approved by the Provincial Council on 08/16/06. The directive has been placed in the Provincial Council Handbook.

In the event that the Provincial Minister is aware of any allegation or instance of nonconsensual sexual misconduct, including any instance of sexual misconduct involving a minor or other person under any incapacity, by any member of the Province and such member is high on the list of balloting for a Provincial leadership office, in such event the Provincial Minister must provide that information to the President of the Chapter prior to the election for appropriate action by the President of the Chapter. The accused friar should be informed prior to the informing of the President.

¹ “Semblance of truth” is defined as indicating “the possibility that there could be truth in the facts and circumstances” and not being “manifestly false or frivolous.” *A Resource for Canonical Processes for the Resolution of Complaints of Clerical Sexual Abuse of Minors* (USCCB, November 2003).

² See Section VII for a full definition of “Established Allegation”

V. Responding to Incidents and Allegations of Sexual Abuse

(Standards for Accreditation 8-18)

A. Response to the one accused of abuse:

1. The friar who has been accused of sex abuse of a child or of a vulnerable adult should notify the Safe Environment personnel or the Provincial Minister and tell him “I have been accused of sex abuse and I need legal representation.” No further statement is required to be made without legal counsel.

If the Safe Environment personnel or the Provincial Minister receive an allegation, they will consider the report seriously and begin the process of responding to the allegation. The Response Coordinator will coordinate with the Provincial Minister to inform the friar of the specific allegations which have been made against him.

Note: In civil law, the communication between a friar and his minister is not privileged unless it is within the Sacrament of Reconciliation. Therefore, it is important to keep in mind that a prosecutor or counsel representing an alleged victim could subpoena the Provincial Minister and/or local minister or any other friar (other than one’s confessor) to testify, under oath, to what he has been told by an accused about what happened. Statements volunteered to one’s superior or fellow friar are generally not privileged.

2. The Safe Environment personnel will respond in the following manner:

a. When an allegation of sexual abuse is first received, the Safe Environment Coordinator shall make arrangements to gather sufficient information to complete a thorough report. The information will include, at a minimum, the following: name of the alleged victim; age of alleged victim; address and phone number of alleged victim; name of alleged perpetrator; approximate dates of alleged abuse; nature, type and location of alleged abuse; any additional relevant details.

b. The Provincial Minister, if necessary assisted by the Safe Environment Coordinator, will contact legal counsel to represent the interest of the Province.

c. If there is a current case of sexual abuse, the Provincial Minister, if necessary assisted by the Safe Environment Coordinator, will assist the accused friar in identifying and retaining an attorney experienced in representing a person accused of sexual abuse. The attorney will advise the friar on how to deal with other lawyers, appropriate authorities, the media, etc. If it is not a current case of sexual abuse, the accused friar will be assisted in identifying and retaining a canon lawyer (i.e. an Advocate for the Accused) to help advise the friar during any internal investigation.

d. Following the advice of legal counsel, the Safe Environment personnel and the Provincial Minister will comply with all pertinent laws concerning the reporting of the allegation as contained in this Policy.

e. The Provincial Minister, if necessary assisted by the Safe Environment Coordinator, will notify the local Ordinary and any Ordinary who may be affected by an allegation of sexual abuse against a friar.

f. During the investigations by the appropriate governmental authorities or during an internal investigation, the friar or person who is the subject of the investigation will be suspended from performing any public ministry and from any other responsibilities and duties, excepting, of course, the prayer schedule of the friary and other religious life and vowed obligations.

B. Response to the Victim

1. The Response Coordinator and, if necessary, the Provincial Minister, recognizing the gravity and injury that the abuse can cause, will contact the victim and convey the concern of the Province; explain the victim's right to contact law enforcement; obtain any additional information about the alleged abuse from the victim; and offer them options for Victim's Advocates who will assist them with the reporting process and help convey their needs and/or questions to the Province. (**Standards 8, 10**)
2. When the Victim's Advocate meets with the alleged victim, if the victim so desires, he/she will discuss ways in which the Province may offer help to the victim. When appropriate, help may include assisting the victim in finding a competent psychological or spiritual counselor.
3. The Victim's Advocate will follow up with the alleged victim by writing a letter to him/her that recounts the meeting and explains once more the policies and procedures of the Capuchin Province.
4. A meeting should be held, no later than one month from when the initial allegation was received, between the Safe Environment Coordinator, the Response Coordinator, the Victim's Advocate, and the Chairperson of the Independent Review Board, where an initial assessment should be done to make sure the needs of the victim are known and recognized.

C. Report to the Independent Review Board

1. The Safe Environment Coordinator should notify the Chairperson of the Independent Review Board concerning the allegation within 2-3 calendar days. (Note: All allegations must be reported to the Independent Review Board.) The Safe Environment Coordinator and the Chairperson of the Independent Review Board shall establish a schedule for a meeting of the Independent Review Board.
2. All Safe Environment personnel and the Provincial Minister and his Council will document in writing any of the meetings and correspondence that he may have with the alleged victim and the accused friar. The documentation is shared with the Independent Review Board and kept on file in the Provincial Office.

a. All Safe Environment personnel and the Provincial Minister and his Council will keep confidential all information received, except as otherwise provided in this policy statement or disclosures required by law.

b. At all times, all Safe Environment personnel and the Provincial Minister and his Council will attempt to respect the rights of the alleged victim and the accused friar. **(Standards 8, 14)**

VI. The Independent Review Board

(Standard for Accreditation 17)

1. **The Independent Review Board** is an independent body of at least five and no more than nine persons of outstanding integrity and good judgment, who are appointed by the Provincial Council, which may include representation from the following groups: a vowed religious from outside the Province and/or a diocesan clergyman; professionals from the social sciences (psychologists, counselors, victims' advocates and/or social workers); professionals from medical care; representatives from the legal or law enforcement profession or state protective services, and laity, preferably parents. Also, the Provincial Minister's friar representative and the legal counsel for the Province are considered non-voting members of the Board. The majority of the Board must be Catholic laypersons active in the practice of their faith.
2. The Provincial Council will select and appoint each member of the Independent Review Board for a term of three years, and the Provincial Minister will appoint the Chairperson of the Review Board. The Provincial Council may fill any vacancies or reappoint a member to one or more terms of service. It is preferable for the Independent Review Board to have no more than two new Independent Review Board Members in one year. When possible, terms should be staggered to provide continuity for the Board. The Chairperson may appoint a recording secretary.
3. Members of the Independent Review Board may not be members or employees of the Province, nor may they be relatives of friars or affiliates of the Province.
4. Members of the Independent Review Board will consult, be knowledgeable about and review the Provincial policies and procedures involving sexual abuse of minors and vulnerable adults and undertake independent administrative reviews of allegations of sexual abuse of minors or vulnerable adults. Upon receipt of a case file alleging sexual abuse of a minor, the Independent Review Board shall:
 - a. Review the case, including any independent investigator's report;
 - b. If necessary, request that the Response Coordinator meet with the Board to answer questions and/or obtain additional information for the Board's consideration;
 - c. Conduct its review in, and maintain at all times, strict confidence, and execute any non-disclosure agreement that may be required governing its deliberations and recommendations; and
 - d. Following completion of its review of the case, the Board shall forward to the Provincial Minister the case file and the Board's findings and recommendations with respect to all aspects of the case.
5. At the conclusion of its review of any alleged case of sexual abuse of a minor and/or boundary violations, or at any other time, the Independent Review Board shall provide recommendations and advice to the Provincial Minister concerning these policies and procedures as well as the suggested Province response to any claim of sexual abuse of a minor, whether retrospectively or prospectively.

The Independent Review Board will also receive reports from the Provincial Minister regarding the implementation of any recommendations made by it.

6. The Independent Review Board also annually reviews the Safety Plans made for any friar (unless a need arises sooner due to a change in a friar's status or residence).

7. The Independent Review Board is not a court of law and exists only as an advisory board. The Board assists the Provincial Minister and the Provincial Council in an administrative capacity by making recommendations, offering consultation and advice, and is not intended to function as a legal or canonical proceeding.

8. The files of the Independent Review Board are the property of the Province. The Provincial Minister, Response Coordinator, Safe Environment Coordinator and all current Independent Review Board members shall have access to the Independent Review Board's files, provided however the Review Board's files may be redacted to eliminate the names of witnesses that have requested that their names be kept confidential and not disclosed, except otherwise required by law. The Independent Review Board's files, including copies of the minutes of the meeting, shall be stored at a place designated by the Provincial Minister. The Chairperson of the Independent Review Board and the Province's legal counsel will also keep the minutes of the meetings in a safe and confidential place.

9. The Safe Environment Coordinator will provide the facts alleged on each and every allegation to the Independent Review Board, including the results of the investigation. This includes allegations against former members as well as those friars who may be deceased. A written summary of the advice given by the Independent Review Board and a written summary of the action ultimately taken by the Provincial Minister in view of the Independent Review Board's advice will be placed in the permanent file of the friar. Also any other information that the Independent Review Board determines to be appropriate will be placed in the accused friar's, employee's, or volunteer's file.

10. Independent Review Board members shall agree to confidentiality for all the meetings and for conversations among the members outside of meetings if this is needed.

11. The records and other information received by the Independent Review Board shall be treated as confidential, subject to the requirements of law and the policies of the Province, including this policy statement.

12. The Independent Review Board's advice to the Provincial Minister regarding particular cases shall be confidential; however, the Provincial Minister may, at his discretion, disclose the advice he received from the Independent Review Board to appropriate people. The advice or positions taken by individual Independent Review Board members shall not be disclosed and will not be recorded in the Independent Review Board minutes or files.

13. The Province shall reimburse all Independent Review Board members for reasonable expenses incurred in attending meetings of the Independent Review Board or in otherwise performing their duties as members of the Independent Review Board.

14. The Province shall indemnify and hold harmless all Independent Review Board members for any and all claims, lawsuits, damages, judgments or other actions, including but not limited to reasonable costs of defense, which may arise directly or indirectly from their service on the Independent Review Board.

15. Depending on the circumstances of the case and the advice of legal counsel, the Provincial Minister and his Council may request the services and advice of the Independent Review Board for a friar who has been accused of sexual abuse of an adult.

VII. Decision-Making

1. The Provincial Minister, in consultation with the Provincial Council and the Independent Review Board, will decide on the course of events after an allegation of abuse has been received, an Advocate for the Accused appointed, and an investigation conducted. If the allegation is determined to be established, restrictions will be placed on the friar's ability to minister, possibly including being relieved of his public ministry permanently. It may be recommended that the friar be sent for an evaluation that includes a risk assessment and psychological counseling by a competent professional. Assessment and treatment can help determine the mental health status of the friar and provide support dealing with the crisis as well as direction regarding future placement in a friary or residence. The friar may also receive canonical penalties, up to including dismissal from the Capuchin Order and, where applicable, the clerical state.

An “**Established Allegation**” is defined as follows:

Based upon the facts and the circumstances, there is objective certainty that the accusation is true and that an incident of sexual abuse of a minor has occurred.

[The judgment of the major superior must be based upon facts and circumstances discovered [during] the course of the investigation, not on simple opinion. **Established Allegation** is not based upon a “preponderance of the evidence,” i.e. more likely to be true than not, which may be established by 51% or more of the evidence. **Established Allegation** is in keeping with the canonical standard of “moral certitude” which states that [the] major superior recognizes that the contrary (that the allegation is false) may be possible, but is highly unlikely or so improbable that the major superior has no substantive fear that the allegation is false.]³

Concerning the alleged victim, the Capuchin Province of Mid-America will offer the assistance of a Victim’s Advocate, who will encourage and make available appropriate pastoral care to both the alleged victim and his/her family. The Provincial Minister will personally visit with the alleged victim and/or family if the family requests it. The Victim’s Advocate should accompany the Provincial Minister on such a visit. If the victim is currently a minor, a parent or guardian must accompany him/her.

Once the evaluation has been made, the friar will be stationed in a friary in accordance with the direction given by the professional evaluation and after consultation with the local Ordinary of the Diocese in which the friary is located. In cases where an allegation of sexual abuse of a minor is determined to be established, the friar may not return to public ministry. (See Section XIV - Provincial Safety Plans).

The Provincial Council adopted the following as a policy regarding the assignment of a friar against whom an allegation of sexual abuse to a minor was found to be established: That friar should be assigned to reside only at a facility suitable to protect the public, given the risk of possible future

³ Conference of Major Superiors of Men (CMSM) *Instruments of Hope and Healing - 2016 Standards for Accreditation*

harm. That residence/facility should never be less than 1000 feet from a grade school, secondary school, children's playground, or child care center.

2. In general, the Provincial Minister will keep the local Ordinary informed of everything that is transpiring with the investigation. In cases where an allegation of sexual abuse of a minor committed by a friar has been determined to be established, the Provincial Minister will inform the leadership of all organizations with which the friar has been involved that the friar has admitted to or has been determined that, he has sexually abused a minor. **(Standard 18)**

3. Every established allegation, along with the name of the perpetrator and a description of the abuse, will be sent to the General Minister in Rome. The General Minister will then report that information to the Holy See.

4. If a report of sexual abuse is determined not to be an established allegation, the Provincial Minister will coordinate communication with all appropriate parties so that reconciliation can take place where possible and repair of damage to reputations can be undertaken. **(Standard 15)**

5. In all instances, the final disposition of the matter rests with the Provincial Minister and his Council, always recognizing the friar's right to appeal to the General Minister. It is the Provincial Minister's responsibility to communicate his decision to the person who made the complaint, to the friar involved, and to other parties, including the General Minister, as necessary and appropriate.

6. If at any time during the course of implementing these procedures, civil or criminal proceedings are initiated against the accused friar or the Capuchin Province of St. Conrad, the procedures outlined here may, in whole or in part, be suspended immediately, to be resumed, if deemed necessary, only after the completion of the civil or criminal proceedings. **(Standard 14)**

7. If allegations are made against an employee or volunteer of the Capuchin Province of St. Conrad who is not a friar, the accused employee/volunteer will be placed on a temporary leave of absence, with or without pay at the discretion of the Provincial Minister, until sufficient information has been obtained to determine if the allegations are established. A Victim's Advocate will be appointed. If the allegations are established, counseling services may be offered to the alleged victim and his/her family at the expense of the Capuchin Province of St. Conrad, and the employee will be dismissed.

8. If an allegation of child abuse or other sexual misconduct is made to a friar from a second or third party (not the victim him/herself), concerning another friar, volunteer or employee, the friar receiving such information must immediately report the same to the Safe Environment Coordinator, Response Coordinator, or the Provincial Minister. The friar is not to investigate the matter, nor is he to assess the truthfulness of the allegations before reporting it.

9. When there is evidence of inappropriate behavior which does not constitute child abuse, or when there is corroborating evidence of abuse or sexual misconduct with someone other than a minor, even though it may not be sufficient to lead to an actual conviction in a court of law, actions should be taken regarding the accused friar or the accused volunteer or employee, not excluding termination of employment for the employee and dismissal of the volunteer. Such action will be taken by the

Provincial Minister and his Council with the advice of legal counsel and always in consultation with the Independent Review Board.

10. All investigations will be documented. Documentation of these investigations will be stored in the archives of the Province. A summary of the investigation findings will be stored in the personnel file of the friar who is the subject of the investigation. **(Standard 16)**

11. The Advocate for the Accused and, if necessary, the Provincial Minister, will maintain contact with the accused friar throughout the process of investigation.

12. When he has received the completed investigation report, the Provincial Minister will present the results of the investigation to the accused friar and the Advocate for the Accused for a response. A copy of the response, in written form, will be given to the Independent Review Board as part of the overall case file.

VIII. Policies for Maintaining Ethical Ministry with Minors

Abuse of minors is contrary to the teachings of the Church and is prohibited. Friars have a responsibility to protect minors from all forms of abuse.

1. Prohibited Behaviors in all circumstances

- a. Using, possessing, or being under the influence of illegal drugs.
- b. Providing or allowing minors to consume alcohol or illegal drugs.
- c. Swearing or using foul language in the presence of minors.
- d. Speaking to minors in a way that is or could be construed by any observer as harsh, threatening, intimidating, shaming, derogatory, demeaning, or humiliating.
- e. Discussing sexual activities with minors unless it is a part of a specific assignment made by the friar's superiors (e.g., teaching a high school class on morality).
- f. Engaging in any sexually oriented conversations with minors unless the conversations are part of a legitimate lesson and discussion for teenagers regarding human sexuality issues. On such occasions, the lessons will convey to youth the Church's teachings on these topics. If youth have further questions not answered or addressed by their individual teachers they should be referred to their parents or guardians for clarification or counseling.
- g. Being nude in the presence of minors.
- h. Possessing sexually oriented or morally inappropriate materials (magazines, cards, videos, films, electronic mail, other electronic images, clothing, etc.).
- i. Sleeping in the same beds, sleeping bags or small tents with minors.
- j. Engaging in sexual contact with minors.

2. Off-site events

- a. Friars are prohibited from transporting minors alone. When transporting several minors, written permission must be obtained from their parents or guardians.
- b. Friars are prohibited from unnecessary and/or inappropriate physical contact with minors while in vehicles.
- c. When the necessary permission has been received, minors should be transported directly to their destination, that is, there should be no unplanned stops.
- d. Friars are prohibited from having minors stay at their residence.
- e. Changing and showering facilities or arrangements for friars must be separate from facilities or arrangements for minors.

3. Friary

- a. No minor may spend the night in any friary or rectory of the Capuchin Province.
- b. Minors may be in a friary to visit or to accompany an adult when the religious superior (guardian) deems it necessary and when the minor is at all times supervised by a non-friar adult.

4. Physical contact

a. Friars are prohibited from using physical discipline in any way for behavior management of minors. No form of physical discipline is acceptable. This prohibition includes spanking, slapping, pinching, hitting, or any other physical force as retaliation or correction for inappropriate behaviors by minors.

b. Appropriate affection between friars and minors constitutes a positive part of Church life and ministry. The following forms of affection are regarded as appropriate examples for friars in ministry roles with minors:

- hugs, but only if initiated by the other person;
- hand-shakes;
- “high-fives” and hand slapping;
- verbal praise;
- touching hands, faces, shoulders and arms of minors;
- holding hands while walking with small children;
- sitting beside small children;
- kneeling or bending down for hugs with small children;
- holding hands during prayer
- pats on the head when culturally appropriate.

c. Some forms of physical affection have been used by adults to initiate inappropriate contact with minors. In order to maintain the safest possible environment for minors, the following are examples of affection that are **not** to be used by friars in ministry roles with minors:

- inappropriate or lengthy embraces;
- kissing on the mouth;
- holding minors over four years old on the lap;
- touching buttocks, chests or genital areas;
- showing affection in isolated or private areas such as offices, bedrooms, confessionals, sacristies, staff areas, etc.
- being in bed with a minor;
- touching knees or legs of minors;
- wrestling with minors;
- swimming alone with minors;
- tickling minors;
- piggyback rides;
- any type of massage given by minor to adult;
- any type of massage given by adult to minor;
- any form of unwanted affection;
- compliments that relate to physique or body development.

5. Training for Members who Work with Minors

a. Friars shall review these Ethics in Ministry Policies and agree in writing to comply with the Province Code of Ethics.

b. Friars, employees and volunteers who work with minors must participate in training that addresses their role in protecting minors. These trainings are made available through diocesan programs. Friars are required to participate in the programs offered by dioceses in which they serve. Certificates that confirm their participation shall be kept in their personnel file.

c. Capuchin Friars from other provinces, whether from the United States or from another country, who are accepted to live, work, or study in the Capuchin Province of St. Conrad, are required to acquaint themselves with this policy and agree in writing to follow it in their life and ministry.

d. Friars who are returning from a time of ministry in the Missions or who are returning from some other assignment that has resulted in their living outside the Province for more than a year are required to review this policy upon their return and agree in writing to comply with this policy.

e. Capuchin friars who are returning to the Province after ministry outside the Province as well as international friars are required to participate in safe environment trainings that are provided by the Province or by the diocese in which their friary of residence is located. A certificate noting their completion of the training shall be kept in their personnel file in the Provincial Office.

6. Supervision of Programs that Involve Minors

a. Programs for minors in which friars, employees or volunteers are involved, must be supervised by at least two adults.

b. Friars in leadership roles shall be aware of all programs for minors that are sponsored by their diocese, parish, school or agency. A list of these programs shall be maintained in the central office and include activities, purpose, sponsors or coordinators of the programs, meeting times and locations. Leaders shall examine these programs and consider whether there is adequate supervision.

7. Identifying the Warning Signs of Abuse by “Preferential Offenders” (those whose tendencies or inclinations are toward minors) and “Situational Offenders” (those whose defenses are compromised by particular situations):

a. Warning Signs of Preferential Offenders:

- finds reasons to spend time alone with minors;
- prefers time with minors to time with peers;
- gives gifts to minors, especially without permission of the Provincial Minister;
- goes overboard with physical contact with minors;
- always wants to wrestle or tickle minors;
- shows favoritism toward certain minors;
- treats minors like equals or adults;
- keeps secrets with minors;
- ignores policies about interacting with minors;
- breaks the rules with minors;
- uses inappropriate language with minors;
- tells “off-color” jokes to minors.

b. Warning Signs of Situational Offenders

- excessively using alcohol;
- use of drugs;
- experiencing anxiety or depression;
- having trouble coping with loneliness;
- facing rejection or disappointment;
- coping with personal loss;
- feels unappreciated and unrewarded for hard work;
- becoming increasingly dependent on a “convenient” relationship with a minor.

IX. Policies for Maintaining Ethical Ministry with Adults

In general, friars of the Province of St. Conrad are governed by the guidelines set forth in this document for minors and vulnerable adults, but also for all people with whom they come into contact. Consequently, if a friar is accused of a sexual abuse of an adult, the Provincial Minister and his Council along with the Independent Review Board will react according to the guidelines presented in this document.

A. Standards of Conduct for Ministry with Adults

1. Sexual Exploitation, Pastoral Relationships, Sexual Harassment

Friars must recognize that there is power in ministry by the very fact of the friars' role in today's society. Such power must never be used to exploit another sexually. **Sexual exploitation** is defined as developing, or attempting to develop, a sexual relationship between a person serving in ministry and an individual with whom he or she has a pastoral relationship, whether or not there is apparent consent from the individual. A **pastoral relationship** is defined as a relationship between a person in ministry and any person to whom he or she provides counseling, pastoral care, spiritual direction or spiritual guidance or from whom the person in ministry has received privileged information.

Further, friars must not be involved in any sexual harassment. **Sexual harassment** is defined as the use of authority or power, explicitly or implicitly, to coerce another into unwanted sexual relations or to punish another for his or her refusal. Friars must not be involved in creating an intimidating, hostile or offensive working environment through conduct (verbal or physical) of a sexual nature. Sexual harassment includes but is not limited to:

- sexual or sexually oriented jokes or comments
- questions or comments about sexual behavior or sexual preference
- un-welcomed or un-desired physical contact
- inappropriate comments about clothing, body parts or physical appearance
- repeated requests for social engagements
- showing or exhibiting suggestive or pornographic materials in the workplace
- sending inappropriate jokes or messages via e-mail or instant messaging
- offensive, insulting, or hurtful behavior or comments may be considered harassment regardless of the intention of the perpetrator, and, even if the receiver seems to be "going along" with the behavior.

2. Boundaries in Ministry

a. Friars must never engage in sexual contact with the persons with whom they have a pastoral relationship. This includes consensual contact, forced physical contact, and sexually explicit conversations not related to counseling issues.

b. Friars assume the full burden for setting and maintaining clear, appropriate boundaries in all pastoral relationships.

c. Physical contact in pastoral relationships should be respectful and consistent with the intent to provide a safe and comfortable environment.

d. Ministry should be conducted in appropriate settings at appropriate times and should not be held at places or times that would tend to cause confusion about the nature of the relationship for the person being counseled.

e. Ministry should not be conducted in private living quarters or bedrooms.

f. There are some warning signs of “pushing sexual boundaries” with another that a friar should know:

- wearing special clothes when you know you are going to see a certain person.
- spending extra time grooming yourself when you know you are going to see a certain person.
- finding ways or reasons to be alone with a certain person.
- keeping aspects of your relationship with a person secret from others (such as how often you talk on the phone or see each other alone).
- giving and receiving special gifts from a certain person.
- neglecting to spend time with others because you want to spend more time with a certain person.
- sharing personal information about others with a certain person.
- sharing personal information or seeking help with personal problems from a certain person.
- excessively looking forward to seeing a certain person.
- fantasizing or daydreaming about a certain person.

3. Intimate Relationships

Formation programs in the Province of Mid-America will include a section on “understanding intimate relationships.” The section should consider intimate communication, interpersonal attraction, and the psychology of falling in love. The course and method of instruction must be approved by both the Formation and Provincial Council.

4. Factors Associated with Sexual Exploitation

Friars should be familiar with the factors associated with greater risk for sexual exploitation. Such factors include, but are not limited to:

- loneliness
- lack of social skills to form relationships
- lack of opportunity for peer support with others who are having a similar experience
- few prior intimate relationships
- poor boundaries
- professional inexperience
- lack of information about human sexuality and attraction
- lack of clarity about ethics
- personal stress
- lack of skills to cope with others who push boundaries
- working with particularly vulnerable clients
- working in a secluded area
- believing one is invulnerable to temptation

5. Supervision

a. Every friar should have a spiritual director in addition to his confessor. Friars who provide pastoral care are even more strongly encouraged to have a spiritual director with whom they can discuss interactions with their directees.

b. At the time of visitation, the Provincial Minister will ask the individual friar about his ministries, including spiritual direction and pastoral care.

c. Friars in pastoral relationships are responsible for seeking the counsel and pastoral guidance of a person of spiritual wisdom in the event they find themselves at risk of acting on sexual or romantic attraction to a parishioner, client or counselee.

d. Only friars who are trained and licensed in counseling may provide counseling services. These trained friars who provide counseling shall maintain a log of the times and places of sessions with each person being counseled. A calendar or date book can suffice for this requirement.

6. Confidentiality

a. Information disclosed to a friar during the course of counseling, advising, or spiritual direction shall be held in confidence whenever possible.

b. A breach of confidentiality occurs when a friar discloses confidential or privileged information in the absence of compelling professional or legal reasons.

c. A friar should discuss the nature of confidentiality and its limitations with each person in counseling.

d. Information obtained in the course of sessions shall be confidential, except for compelling professional reasons or as required by law. If there is clear and imminent danger to the client or to others, the friar is to disclose the information necessary to protect the parties involved and to prevent harm. Before disclosure is made, if feasible, the friar should inform the person being counseled about the disclosure and the potential consequences.

e. The friar providing pastoral counseling services or spiritual direction should keep records of sessions. These records are to be kept in his possession for at least five years.

f. With the exception of knowledge gained in the Sacrament of Penance, knowledge that arises from professional contact may be used in teaching or other public presentations. Measures should be taken to absolutely safeguard both the individual's identity and the confidentiality of the disclosures.

g. If a friar discovers that there is a serious threat to the welfare of a minor and that communication of confidential information to a parent or legal guardian is essential to the child's health and well-being, the pastoral counselor or spiritual director should disclose only the information necessary to protect the health and well-being of the minor.

7. Conflicts of Interest

a. Conflicts of interest exist when a friar takes advantage of a pastoral relationship in order to further his own personal, religious, political, or business interests.

b. A friar should avoid situations that might present a conflict of interest between a counselor and a person being counseled. Even the appearance of a conflict of interest can call integrity and professional conduct into question.

c. If a conflict of interest exists or arises, the friar should inform all parties. Resolution of the issues must protect the person being counseled.

d. The friar must establish clear, appropriate boundaries with anyone with whom there is a business, professional, or social relationship.

e. Friars shall not step beyond their competence in counseling situations and shall refer to other professionals when appropriate.

B. Reporting Misconduct with Adults

1. Friars are responsible for insuring that the ethics of ministry in the Province are followed. Communication regarding misconduct by friars in ministry with adults is essential for continuing the integrity of these ministries.

2. Friars shall report misconduct with adults. Reports of suspected or known misconduct may be made confidentially (unless otherwise required to be disclosed by canon law) to any of the following:

- a. The local Guardian;
- b. The Provincial Minister;
- c. Any member of the Provincial Council;
- d. Any member of the Independent Review Board;
- e. Any member of the Safe Environment personnel.

3. An anonymous, specific and verifiable letter of concern may be sent to any of the above. Anonymous concerns should be investigated to the extent that is feasible based on known information.

X. Cyber-sex

Recent developments have led the Congregation for the Doctrine of the Faith (CDF) to include illegal involvement with child pornography as a grave offense to be included under the *delicta graviora* of the CDF's document *Sacramentorum Sanctitatis Tutela (SST)*. It is considered a grave offense because creating a market for such pornography directly contributes to child abuse and exploitation.

Pornography of children is an injury to the broader community's value of human life. There is no specific canonical standard establishing which child pornography cases should be sent, but where a civil legal case has been pursued, such facts would warrant review by CDF as outlined in *SST*.

In the United States it is a federal crime to possess any type of child pornography whether on a computer or in any other form. Any persons knowing of a violation of this law are obliged to report it to the proper authorities. Cyber-sex, including internet pornography, sexual chat-rooms, relationship chat-rooms, internet dating and relationships, "sexting" and sexual e-mails, and instant messaging must be avoided at all times by the friars of the Province of St. Conrad.

All friars should be judicious and cautious when using Facebook or twitter. "Friending" a minor is never a good idea. Restrictions regarding the use of Facebook, twitter, texting, etc., will be placed on friars who have abused on a case by case basis. These restrictions will be listed in that friar's Safety Plan.

Overuse of internet, even for non-sexual activity, can be indicative of a problem. There must be a balance in the use of social media.

If a friar finds that he struggles with inappropriate use of social media:

- His spiritual director would be the first person with whom to discuss the issue and seek help.
- If this is unsuccessful, he should speak with his guardian or provincial if the behavior continues.

If a friar discovers that another friar is misusing the internet:

- He should first offer fraternal correction to the friar;
- He should then speak with the guardian or Provincial Minister if the inappropriate behavior continues.

Treatment for cyber-sex difficulties may include:

- Spiritual direction and/or counseling.
- Public use of internet only (using common computers in common areas in the friary).
- Blocks placed on internet sites.
- Supervision by an appointed friar.
- Prohibition to access social media.

If a friar discovers that another friar is engaging in cyber-sex activities:

- He should immediately report this to the guardian and/or Provincial Minister.

XI. Supervision and Care of Friars Who Have Abused Minors or Vulnerable Adults

These procedures describe the elements of a pastoral care framework that will be developed for each friar of the Province about whom an established accusation of sexual abuse has been made. Most of these procedures address cases where the accusation is that of abuse of a minor or vulnerable person.

The purpose of this framework is to:

- assure the Church and the public, especially children and minors, of all reasonable measures to prevent any future occurrence;
- provide a structure within which the friar can continue his life in the Order as a vowed friar of a religious community;
- provide appropriate care for the friar and the opportunity for such personal conversion and rehabilitation as may be needed;
- guide the Provincial Minister, the friar, and others in determining work, place of residence, and other activities;
- encourage friar communities in welcoming and supporting the friar in his desire to continue his life as a friar within this framework; and
- assure the friar's own communities of both proper care and appropriate limits with respect to their brothers in the Order.

It is intended that all of the elements below be adapted in a Safety Plan for each friar about whom an established allegation of sexual abuse has been made, depending on such factors as severity and number of instances of the abuse, age and health of the friar, and the recommendations of the Independent Review Board. The framework, however, sets out the elements to be developed in writing for each friar, reviewed by the Independent Review Board, and shared with the friar and his supervisor, the Provincial Minister and his Council, and as appropriate, members of his local community. The Safety Plan shall be signed by the friar and the Provincial Minister as well as the designated supervisor.

A. Evaluation and Therapy

1. A friar about whom an established accusation has been made will be asked to submit to a professional evaluation as to his psychological condition and proclivity to harmful behavior in the future.

2. If requested, the friar will undergo further evaluations, arranged for by the Provincial Minister or his delegate.

3. Subsequent to that evaluation, the friar may be asked to participate in such inpatient and/or out-patient treatment as recommended by the evaluation professionals, as well as such other physical, psychological, and spiritual rehabilitation as may be determined appropriate by the

Provincial Minister or recommended by such professionals or the Independent Review Board, as well as the terms of the Safety Plan.

4. The friar may be required to report to the Provincial Minister in writing periodically (e.g., monthly, quarterly or annually, as appropriate to the situation), describing his progress in terms of work, therapy, spiritual direction, community life, and such other matters as may be appropriate.

5. Through the friar's signing of a release, the information resulting from such evaluation, treatment and correspondence shall be provided to the Provincial Minister. Information necessary to implement the Safety Plan shall be provided to the friar's supervisor and the Independent Review Board.

6. Any information about a friar who has been accused of abuse shall be kept confidential by those receiving it, except as required by law to be revealed.

B. Public Ministry as a Friar

1. In accord with the requirements set down by the Dallas Charter and the *Standards for Accreditation*, an ordained friar found to have abused a minor or vulnerable person will not be allowed to function publicly as a priest or deacon. This includes any public celebration of the sacraments, use of the title "Father" or "Reverend" in public communications, and, if so determined by the Provincial Minister and the Independent Review Board, the wearing of clerical attire or religious habit in public.

2. In the case of a non-ordained friar, he may not be allowed to function publicly in external ministry associated with a religious congregation (e.g., school teaching, coaching, parish staff work) or use of the title "Brother" in public.

3. A friar or brother who has abused a minor may not be allowed to wear clerical or distinctive religious attire in public.

4. The Provincial Minister and his Council will determine removal from, or restrictions on, public ministry for a friar who has been credibly accused of sexual abuse of or sexual misconduct with an adult. The determination is made after appropriate psychological testing and advice is received from the psychologist. If it is determined that the friar can do ministry, the local ordinary must be consulted and his approval given.

C. Appropriate Work

1. If physically and mentally able, the friar who has been removed from public ministry should engage in appropriate work in support of the ministries of the Province or in other service to people in need.

Such employment might include the following:

- internal service in a community of the Province, such as a place of retirement;
- administrative work for the Province;

- remunerative non-ministerial work to support the ministries of the Province;
- service to people in need such as writing to prisoners, taping books for the sight-impaired; telephone reassurance programs for shut-ins, or some other form of supervised service.

2. Where appropriate, friars restricted or removed from public ministry may need vocation assessment and/or occupational counseling to assist in determining meaningful and useful work. The Provincial Minister should consult with the friar involved to determine his interests and capacities and to promote his initiative in developing work opportunities.

3. In all cases, the service of prayer for the Order and the Church on the part of the restricted friar is a valuable contribution to the Order.

D. Place of Residence

1. Any restricted friar will be allowed to live only in a friary or other appropriate supervised place of residence, as determined by the Provincial Minister and his Council with permission of the local Ordinary.

2. In accord with a policy recommended by the Independent Review Board and affirmed by the Provincial Council, any friar who has had an accusation of abuse of a minor found to be established should only be assigned to friaries that are more than 1000 feet from a grade school, secondary school, playground, or child care center. Exceptions to this can be made only on the basis of a "low" risk assessment and the special needs of the friar or the fraternity. In case of exceptions, the Safety Plan must note the reasons and the endorsement of the Independent Review Board.

3. No separate apartment, private home, or other domicile will be allowed as a permanent residence for a friar who has had an established accusation.

E. Community Support and Community Roles

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

2. After a friar has submitted to evaluation and appropriate treatment, the local communities should welcome the restricted friar as a brother.

3. It may also be appropriate for a mentor to be appointed for the friar who would assist and support him in his efforts to maintain his program of care and treatment.

4. A restricted friar, as allowed by Canon Law, will be permitted to celebrate the Eucharist with only friars present, lead community prayer, hear confessions of friars only, and perform community jobs and other responsibilities.

5. A restricted friar will not be allowed to serve as Provincial Minister or hold any other office of jurisdiction in the Province or Order. He may be elected to the House Council in his friary only with permission of the Provincial Minister and his Council.

6. Upon the recommendation of the Provincial Minister, the local Guardian shall, as appropriate, inform all or part of the community in which such a friar shall live of the fact that a friar is so restricted and the appropriate specific terms of his Safety Plan, so that the community can assist him in achieving its goals.

7. Communities may need the advice and consultation of appropriate professionals to assist the community in readying itself to receive the restricted friar and to provide him the necessary care and support.

F. Contact with Others

1. Under no circumstances will a friar with an established accusation of abuse of a minor be allowed contact with minors without the ongoing supervision of other adults present at all times when minors are present.

2. This prohibition includes meals in restaurants, going to the movies, riding in automobiles, or private conferences in parish or community offices, community parlors, bedrooms of friars, etc.

3. Similar prohibitions may be applied to a friar with an established accusation of abuse of an adult, depending on circumstances and as determined by the Provincial Minister and his council.

4. Ordinarily, a friar who has had an established allegation of sexual abuse, whether of an adult, minor, or other vulnerable person, should not be assigned to a formation fraternity. Likewise, that friar should maintain a suitable distance from men in initial formation.

G. Travel, Vacation, Retreat

1. Vacations alone or with minors, even supervised, are not permitted for a friar with an established accusation of sexual abuse. Individual friar's Safety Plans will indicate restrictions for travel, vacation, and retreat.

2. Retreats made alone in solitary locations are not permitted for medium or high risk friars. Normally, retreats made by restricted friars should be made in Capuchin retreat facilities. Permission can be given for restricted friars to make retreats in other Catholic facilities as long as the retreat director of the facility is made aware of the friar's restrictions.

3. Other travel may be restricted to that related to assigned work or family visits; if appropriate, a friar companion for travel also may be required. The supervision of travel is decided on a case by case basis.

4. Additional specific permissions for travel may be required from the Provincial Minister.

5. Doubts about specific travel should be referred by the local Guardian to the Provincial Minister.

6. Again, similar prohibitions may be applied to a friar with an established accusation of abuse of an adult.

H. Driving

1. Restrictions may be placed on driving alone or having use of a personal vehicle.

2. Some restricted friars may be required to request specific permissions for use of house cars from the local Guardian, to keep a driving log or to only drive with other friars.

I. Publication and Publicity

1. Restrictions on a restricted friar for publications, letters to the editor, web-pages, radio and television appearances, and email may be appropriate. If permitted, the friar may not identify himself as a religious or priest in any of these writings and appearances.

2. Sensitivity for victims would dictate caution with regard to photographs of restricted friars displayed in friar publications and institutions, especially those in service to minors.

3. In some cases a restricted friar's use of mail and phone may need to be regulated.

J. Internet Use for Friars with Established Allegations

1. The friar in consultation with the Provincial Minister and with positive recommendations from the Independent Review Board and personal counselor may have the use of the Internet.

2. The Provincial Minister and the Independent Review Board will require appropriate "blocks" and other supervisory measures which will be stated in the Safety Plan.

K. Information for Friars and Others

1. The Provincial Minister, in consultation with his Council and the Independent Review Board, will determine whether and/or how to inform the Province membership – in general terms – of those friars who have been restricted.

2. The Provincial Minister, in consultation with his Council and the Independent Review Board, will determine whether and/or how to inform others who may have a need to know – in general terms – of those friars who have been restricted.

XII. Miscellaneous Notes

1. In many states, the law requires certain professional persons (this varies from state to state, but generally includes pastoral administrators, teachers, nurses, drug and alcohol counselors, principals, and related professionals, etc.) who, in the course of professional duty have reasonable cause (evidence which would cause a reasonably prudent person to conclude that abuse or neglect has occurred or will occur) to suspect child abuse or neglect, or who have reason to believe that a child has been threatened with abuse and that the abuse will occur, to report that case immediately (usually within 24 hours) by telephone or personal visit to the pertinent county or city agency or law enforcement officials. Failure on the part of those professional persons to report makes them liable to a fine and/or prison term. Generally, the law grants immunity from all civil and criminal actions to the person (and institutions) who report a suspected case of child abuse whatever the outcome of the investigation.
2. The Capuchin Province of St. Conrad will not enter into confidentiality agreements in settlements of civil lawsuits over child abuse without the advice of legal counsel.
3. Background checks are required for all who enter the Postulancy of the Capuchin Province of St. Conrad. If there is a history of committing sexual abuse against a minor or vulnerable adult, the man will not be admitted to any program of the Capuchin Province. **(Standard 1)**
4. All friars and employees in the Capuchin Province of St. Conrad undergo background checks. The results of these background checks are placed in the friar's personnel file and renewed every ten years.
5. The Capuchin Province of St. Conrad holds every person associated with the Capuchin Province of St. Conrad in an official capacity accountable for maintaining the integrity in all ministerial and professional relationships. Any time the Capuchin Province of St. Conrad employees, while exercising their duties, engage in the harassment of parishioners, clients, employees, co-workers, students or volunteers, they involve themselves in unethical and potentially unlawful acts. The Capuchin Province of St. Conrad will not tolerate abuse, whether it be child abuse or any other abuse based on sex, race, gender orientation, religious beliefs or national origin.
6. Although this document contains many suggestions concerning behavior, a comprehensive list of specific acts constituting child abuse and sexual misconduct is impossible. All personnel of the Province must follow common sense in these matters. In their work, Capuchin Province of St. Conrad personnel should seek to develop appropriate and healthy relationships and good rapport with minors. However, they must be alert to avoid any type of contact with minors or vulnerable people that might lead to misunderstandings, or be misconstrued by reasonable people. Personnel must remember that the issue is not the intention, but rather how their words and actions might be interpreted by those vulnerable or less aware.
7. **Procedure for Reporting and Responding to Boundary Violations (Standard 6)**

- a. A situation may arise where a friar either observes or becomes aware of inappropriate behaviors or boundary violations by another friar. The behavior would not be classified as sexual abuse of a minor or a vulnerable adult, and so, does not require the necessary mandatory reporting to civil authorities. However, the behavior must still be addressed, as boundary violations are contrary to the ethical and spiritual care with which friars are entrusted. If not properly addressed, boundary violations may evolve into a situation in which the friar may find himself being accused of more serious misconduct or even sexual abuse itself.
- b. Any friar who becomes aware of a boundary violation by another friar must report it to the Guardian of the friary where the friar engaged in the behavior lives. The Guardian will confer with the Provincial Minister to determine the best course of action and whether the behavior warrants intervention from the Guardian solely or from the Provincial Minister himself.
- c. The Provincial Minister shall document all reports, interventions, plans for remedial actions, and any restrictions or conditions placed on the friar.
- d. The Provincial Minister will inform the Safe Environment Coordinator of the reported boundary violation and the outcome of the intervention. The Safe Environment Coordinator will maintain a file with the relevant documentation mentioned above.
- e. The Safe Environment Coordinator will inform the Independent Review Board of the boundary violation and the Province's adherence to required policies and standards for safe environments in its ministries and communities.

8. Every year during the annual Visitation, the Provincial Minister will specifically address the possibility of situations out of which the friar may be falsely accused of sexual abuse. The Provincial Minister may suggest precautions that the friar should take. **(Standard 3)**

9. The Provincial Minister will give an annual report to the members of the Province communicating the current status of the Province's accreditation and its expiration date, any new allegation reports received or significant changes to previous allegations reports, and any actions or initiatives the Province has taken that show a continued commitment to safe environment standards. **(Standard 7)**

10. All friars and employees of the Capuchin Province of St. Conrad will receive a copy of this document and will sign a document agreeing to the terms of these guidelines. Such signatures will be kept on file in the Provincial Office. **A review of this document by every friar and a new signature verifying that the document has been read is required in each triennium.**

XIII. Recommendations from the 84th General Chapter to the General Administration of the Order of Friars Minor Capuchin for the Protection of Minors and Vulnerable Adults

1. The 84th General Chapter of the Order of Friars Minor Capuchin, in communion with the Holy Father and the Congregation of the Doctrine of Faith, affirms the leadership and the work that has been done in many parts of the Church to prevent and better respond to sexual abuse, exploitation, and other forms of misconduct involving minors and vulnerable adults. As brothers to all, we want to ensure a safe environment for everyone in the Church and society.
2. The Capuchin Order has long recognized that the abuse of children and vulnerable adults is a crime against justice and a sin against chastity (cf. PCO VII, 22). It is found throughout the world, within the Church and even in our own Capuchin fraternity. We also acknowledge the severe and lifelong effects that this abuse can have on many people and communities, especially the victims.
3. With due regard to the concerns expressed by the General Minister in his Report (214-221) as well as the varying levels of awareness among the friars, cultural norms, civil and legal regimes, institutional structures, and other factors the 84th General Chapter endorses the following norms or principles for the Order:
 - a. We shall employ suitable screening and background checks for candidates, friars, church personnel, and volunteers operating in facilities and ministries under our responsibility.
 - b. We shall provide or participate in training programs for church personnel, clergy, religious and laity operating in facilities and ministries under our responsibility, to ensure the greatest possible safety for minors and vulnerable adults.
 - c. We shall adopt a rigorous program of human formation at all stages of our formation and implement codes of professional conduct and ministry for all members of the Order and church personnel and volunteers operating in facilities and ministries under our responsibility.
 - d. We shall report allegations of sexual abuse of minors and vulnerable adults to the proper civil and ecclesiastical authorities, in accordance with the laws and regulations in force in each country or location. We shall also fully cooperate with civil and ecclesiastical authorities in any investigations of such allegations.
 - e. We shall offer pastoral outreach and support to victims and their family members.

- f. For the sake of the common good, a friar who is the subject of a credible allegation of sexual abuse of a minor or vulnerable adult shall be temporarily removed from public ministry pending the completion of an investigation. A friar who has sexually abused a minor or vulnerable adult shall be held accountable for his actions and shall be subject to consequences. These may include his permanent removal from public ministry, prohibition from publicly presenting himself as a religious or cleric, additional supervision, or even dismissal from the Order.
- 4. The 84th General Chapter entrusts to the Minister General and his Definitory the tasks of encouraging and assisting all the circumscriptions of the Order toward achieving these norms during the next sexennium (2012-2018), taking into account the different circumstances in each circumscription. The Minister General and Definitory shall provide additional suggestions for the implementation of these norms (e.g. in the *Ratio Formationis Ordinis*, the creation of a model framework or *vademecum* for circumscriptions to use in developing their own protocols, etc.) so that we may achieve a level of safety so that no minor or vulnerable adult “feels threatened in his or her personal and psycho-sexual integrity in places where the brothers operate or have a particular responsibility” (Gen. Min. Rep. 221).

XIV. PROVINCIAL SAFETY PLANS

PROVINCIAL SAFETY PLANS

(Standards 19-25)

Friars who have an established accusation of sexual abuse of a minor will fall into the category of “high risk”, “medium risk”, or “low risk” for reoffending. The determination of this “risk” is done according to the following procedure:

- (1) A risk assessment will be a part of the initial psychological assessment protocol for someone accused of abusing a minor.
- (2) A friar who refuses to undergo a professional risk assessment may be given the category of “provisional high risk” for reoffending.

The Provincial Minister and his Council will monitor compliance with the individual Safety Plans annually. Also, the Independent Review Board will review the individual Safety Plans annually. An individual Safety Plan may be modified by the Provincial Minister and his Council, if necessary. Any modifications that are made should have the endorsement of the Independent Review Board.

Individual Safety Plans will be comprised of the appropriate directions from this document and any other directions that the Provincial Minister and his Council will make.

The rules for behavior are as follows:

A. For Every Safety Plan

1. The friar who has abused is to have a supervisor in the friary who will be physically and emotionally capable and adequately trained in supervision regarding people who have been accused of sexual abuse; the supervisor will ordinarily be the Guardian of the friary. He will have access to all pertinent information that is not otherwise privileged about the friar who has abused.

2. If deemed necessary, a supervisory team may be set up for an individual friar. This team will ordinarily consist of: the designated supervisor, Guardian (if he is not the supervisor), Vicar, and a friar of the accused friar’s choosing (should he desire), subject to the approval of the Provincial Minister. This supervisory team will meet at least quarterly to discuss the progress of the friar who has abused.

3. The friar who has abused is required to have spiritual direction regularly as determined by the Provincial Minister in consultation with the supervisor. His Safety Plan must be shared with the spiritual director.

4. The friar who has abused must participate in therapy as determined by the initial assessment.

5. At the advice of therapist, the friar who has abused must attend a support group program.

6. At the advice of and pursuant to the direction of a therapist authorized to do so, the friar who has abused may seek medication from a psychiatrist as part of the treatment program.

7. With the advice of spiritual director, the friar who has abused may be required to keep a journal to be reviewed by the spiritual director.

8. The friar who has abused will meet with a supervisor as identified in the individual Safety Plan; after the meeting there will be documentation placed in the friar's permanent file.

9. The friar who has abused may not have his picture in any major publication.

10. The friar who has abused will authorize the sharing of confidential information with his supervisor.

11. If the friar who has abused does not cooperate with the Safety Plan, the Provincial Minister and the supervisory team will determine an appropriate plan of action. The Independent Review Board will also be consulted for recommendations.

B. For Friars of High Risk for Reoffending Living in the Friary

1. It is understood that the friar will be visited by outside auditors on an unannounced basis at least once a year.

2. The friar who has abused is prohibited from any one-on-one contact with minors -- face-to-face, telephone, letters, and email. This prohibition includes holding any position which allows access to minors, including any position within a parish or school; nor, in accordance with *Charter for the Protection of Children and Young People*, may he be a part of any ecclesiastical ministry.

3. The friar who has abused may not participate in external pastoral ministry.

4. The priest friar who has abused may preside or concelebrate at a Mass that is celebrated with only friars present.

5. The friar who has abused will meet with the Provincial Minister or his representative at least once a year; after the meeting there will be documentation placed in the friar's permanent file.

6. The friar who has abused may leave the friary only with another friar.

7. The friar who has abused should always communicate with his supervisor regarding visitors prior to those visitors' arrival. When this is not possible, the restricted friar should inform his supervisor of the visit and the visitors as soon as it is reasonably possible.

8. The friar who has abused may have a vacation, but according to the guidelines previously set forth in this document and with the permission of the Provincial Minister.

9. The use of money shall be monitored by the bursar of the friary or a qualified designee.

10. If the friar who has abused attends funerals, weddings, baptisms, etc., in his immediate family, he may not wear the habit and if he is a priest, he cannot concelebrate at any liturgy. Any exceptions to this must be cleared through the Provincial Minister and must conform to the standards of the diocese in which the funeral takes place.

C. For Friars of High Risk for Reoffending Living In A Certified Treatment Center

The Provincial Minister and his Council in consultation with the friar's psychological team may choose a treatment center for the friar. In this case, the friar will follow the rules of supervision of the treatment center and the rules for every Safety Plan (section A).

D. For Friars of Medium Risk for Reoffending

1. The friar who has abused is prohibited from one-on-one, unsupervised contact with minors. This includes any unsupervised face-to-face contact, telephone conversations, personal letters, and email. This prohibition also includes holding any position which allows access to minors, including any position within a parish or school.

2. The friar who has abused may not participate in external ministry. **In most dioceses, once an ordained minister has abused a minor, no permissions are given to participate in any public ministry which includes administration of all sacraments.**

3. The priest friar who has abused may preside at Mass only in a friary or in the faith community that is under the jurisdiction of the Provincial. Permission of the Provincial is still required.

4. The friar who has abused will meet with the Provincial Minister or his representative at least once a year; after the meeting there will be documentation placed in the friar's permanent file.

5. The friar who has abused may leave the friary only with the knowledge and permission of the supervisor.

6. The friar who has abused may have a vacation, but according to the guidelines of section of this policy, and with the permission of the Provincial Minister.

7. If the friar who has abused attends funerals, weddings, etc. in his immediate family, he may wear the habit but cannot concelebrate or take any ministerial role in the liturgy.

E. For Friars of Low Risk for Reoffending

1. The friar who has abused is prohibited from unsupervised contact with minors -face-to-face, telephone, letters, and email. This prohibition includes any position which allows access to minors, including any position within a parish or school, nor, in accordance with *Charter for the*

Protection of Children and Young People, in any ecclesiastical ministry, unless specifically allowed by the local Ordinary, Provincial Minister and the Independent Review Board. Such permission is to be documented in the friar's individual Safety Plan.

2. The friar who has abused must participate in a course of therapy after the abuse has occurred. The friar may be asked to continue in therapy if the supervisor or supervisory team considers it necessary.

3. The friar who has abused may not participate in public ministry. **Note: In most dioceses, including those in which the Province of St. Conrad serves, once an ordained minister has abused a minor, no permissions are given to participate in any public ministry. This includes administration of all sacraments.**

4. The priest friar who has abused may not preside at any public Mass. **Note: In most dioceses, including those the Province of St. Conrad serves, once an ordained minister has abused a minor, no permissions are given to participate in any public ministry which includes administration of all sacraments.**

5. The friar who has abused will meet with his supervisor twice a year; after the meeting there will be documentation placed in the friar's permanent file.

6. The friar who has abused will meet with the Provincial Minister or his representative once a year; after the meeting there will be documentation placed in the friar's permanent file.

7. The friar who has abused may have a vacation, but he must have permission of the Provincial Minister and there must be a written plan of activity.

8. If the friar who has abused attends funerals, weddings, etc. in his immediate family, he may wear the habit and can preside at any liturgy only with permission of the local Ordinary and Provincial Minister. **Note: In most dioceses, once an ordained minister has abused a minor, no permissions are given to participate in any public ministry which includes administration of all sacraments.**

F. Minimum Information to be in Safety Plan

The following information shall be included in every Safety Plan:

1. Name of accused friar.
2. Date reports(s) of abuse received and by whom.
3. Name of accuser(s).
4. Date reported to the Independent Review Board.
5. Short narrative history of friar and accusation.

6. Treatment history and outcomes
7. Process and outcome of risk assessment
8. Current living arrangement. (Include how time is spent including any internal responsibilities, volunteer work, social activities.)
9. Risk management strengths and challenges
10. Travel and leisure restrictions
11. Risk Reduction Strategies
 - Parole/Probation/Registry requirements (if applicable)
 - Electronic communications restrictions (also state if there are none)
 - Financial accountability (also state if there are none)
 - Limitations on access to minors during regular activities and how it will be supervised
 - Limitations on access to minors during social and family activities (and how it will be supervised)
 - Expectations regarding professional therapy: spiritual direction, etc.
12. Consequences for non-compliance with the Safety Plan.
13. Signatures: Individual friar, Provincial Minister, Supervisor, Chairperson of the Independent Review Board, and Safe Environment Coordinator.
14. Date last reviewed by the Independent Review Board.

Previous Revisions and Dates of Approval

Written in August 2005

Approved by Independent Review Board: August 2005

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Approved by the Provincial Council: September 2005

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Approved in Legal Counsel: May 2016.

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Approved by Independent Review Board: April 2018

Approved by Legal Counsel: April 2018

Approved by Provincial Council: June 2018

Revised in June 2019

Approved by Independent Review Board: April 2019

Approved by Legal Counsel: April 2019

Approved by Provincial Council: July 2019

SCHEDULE A

Safe Environment Positions

(Revised June 2019)

Safe Environment Coordinator – A part time employee who receives reports of alleged sexual misconduct by personnel, helps coordinate the response of the Province to such reports, and maintains appropriate records. His/her duties include:

1. Coordinate with the Provincial Minister when an allegation of sexual misconduct is received ensuring that the requirements of the *Standards for Accreditation* are fulfilled, including:
 - a. report to the local law enforcement authorities unless a report has already been made;
 - b. notify the accused of the specific allegations reported and of available assistance (i.e. an Advocate for the Accused)
 - c. notify the local bishop where the alleged abuse took place;
 - d. if the allegation has been established, notifying the leadership of the organization/ministry where the alleged abuse took place;
 - e. consult with the Province's legal counsel about the report;
 - f. notify the Chairperson of the Independent Review Board;
 - g. work with professionals to conduct a thorough independent investigation of the allegation (a Canonical Preliminary Investigation);
 - h. maintain an accurate and complete case file regarding the allegation;
 - i. give copies of the case file to the Independent Review Board and to the Province's attorney;
 - j. forward the case file, when determined to be an established allegation, to the General Minister in Rome.
2. Maintain all records for the accrediting agency, including documentation of background checks, safe environment training, and fulfillment of the *Standards for Accreditation* and other Safe Environment requirements;
3. Work with the supervisors of friars on Safety Plans to conduct reviews of compliance with each Safety Plan;
4. Provide to the Independent Review Board and Provincial Minister written compliance reports, which are kept in the records of each friar on a Safety Plan;
5. Maintain an accurate filing system with records related to all allegations, past and present;
6. Coordinate with the Chairperson of the Independent Review Board regarding meeting agendas;
7. Attend Independent Review Board meetings.

Response Coordinator – A designated friar who receives reports of any allegation from the Safe Environment Coordinator, Provincial Minister, or directly. His duties include:

1. Contact the victim and convey the concern of the Province; explain the victim's right to contact law enforcement; obtain any additional information about the alleged abuse from the

victim; and notify the victim that the Victim's Advocate will be contacting him/her if the alleged victim so desires;

2. If the assistance of a Victim's Advocate by the alleged victim is declined, help the victim, when appropriate, in finding a competent psychological or spiritual counselor.
3. Contact the Victim's Advocate;
4. Provide any necessary documents or records to the Safe Environment Coordinator as part of his/her responsibility to maintain an accurate case file of the allegation, including copies of relevant correspondence, a report from the Victim's Advocate, which describes all assistance provided to the victim to date; any evaluation report prepared by a professional consulted by the Province, except for the underlying health records;
5. Attend Independent Review Board meetings at the invitation of the Chairperson.

Victim's Advocate – A volunteer who assists persons that allege that they were sexually abused by a friar or Province employee. She/he shall treat the victim with respect, maintain a professional relationship with the alleged victim for as long as appropriate, and shall not serve as therapist, attorney, or spiritual director for the alleged victim. His or her duties include:

1. Upon receiving a report of suspected sexual abuse of a child, the Victim's Advocate shall contact the victim and make clear the concern of the Province;
2. Assure them that the report will be investigated promptly and thoroughly and that the province will deal appropriately with the accused;
3. State that they are not being requested to give up any legal rights against the accused or the Province; that sexual abuse is a crime and they may wish to pursue criminal proceedings without interference from the Province;
4. Inform them whether a report has been made to law enforcement authorities;
5. Help the victim, when appropriate, in finding a competent psychological or spiritual counselor.
6. Advise them of the Province's general policy of confidentiality unless they choose to address the alleged abuse publicly, in which case the province may, in the interest of justice and fairness, reveal information that might otherwise be held in confidence; and
7. Offer to be present during any meetings between the alleged victim and other Province representatives responding to the claim.
8. Advise the Response Coordinator of the victim's response to the Victim's Advocate's actions and any help requested by the victim in finding a competent psychological or spiritual counselor.
9. Submit recommendations to the Response Coordinator about support for the victim;
10. Assess, after consultation with the Response Coordinator, any special needs of affected entities and to recommend any actions or programs to help promote healing and understanding within those entities;
11. Perform other tasks that may be assigned by the Response Coordinator on a case by case basis.

The Independent Review Board is an independent body of at least five and no more than nine persons of outstanding integrity and good judgment, who are appointed by the Provincial Council to consult and review with them Province policies and procedures involving sexual abuse of minors and to undertake independent reviews of allegations of sexual abuse of minors. The Board assists the

Provincial Minister and the Provincial Council in an administrative capacity by making recommendations, offering consultation and advice, and is not intended to function as a legal or canonical proceeding. The Chairperson of the Board and a non-voting friar representative shall be appointed by the Provincial Minister. The Province's attorney will also attend Independent Review Board meetings as a non-voting member.

Upon receipt of a case file alleging sexual abuse of a child, the Independent Review Board shall:

1. Review the case, including any independent investigator's report;
2. If necessary, request that the Response Coordinator meet with the Board to answer questions and/or obtain additional information for the Board's consideration;
3. Conduct its review in, and maintain at all times, strict confidence, and execute any non-disclosure agreement that may be required governing its deliberations and recommendations; and
4. Following completion of its review of the case, the Board shall forward to the Provincial Minister the case file and the Board's findings and recommendations with respect to all aspects of the case.

At the conclusion of its review of any alleged case of sexual abuse of a minor or at any other time, the Independent Review Board shall provide advice to the Provincial Minister concerning these policies and procedures as well as the Province's response to any claim of sexual abuse of a minor, whether retrospectively or prospectively.

The Independent Review Board also annually reviews the Safety Plans made for any friar.

Independent Investigator – A contracted qualified professional who conducts a thorough investigation into any allegation of a friar or staff member, when there is no admission of guilt and civil authorities choose not to conduct their own investigation. The investigator will submit his/her report to the Safe Environment Coordinator, who forwards the report, along with the case file, to the Provincial Minister and Independent Review Board.

Advocate for the Accused – A canon lawyer who is contracted to represent the accused friar or staff member to ensure due process.

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge that on _____ I received a copy of the Capuchin Province of St. Conrad's (Mid-America) *Provincial Policy for Protecting Children, Youth, and Vulnerable Adults*, effective September 2005, and most recently revised in June 2019.

I further declare that I have read the Policy, that I understand its meaning, and that I agree to conduct myself in conformity with the Policy. I understand that this acknowledgement will be kept on file in the Provincial Office and will be renewed in each triennium. If the document must be amended significantly in the future (as determined by the Provincial Minister and his Council), I understand that I may have to agree to a new document.

Print Name

Signature

Date

*CAPUCHIN PROVINCE OF
ST. CONRAD (MID-AMERICA)
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Denver, CO 80211*