



GENERAL BOARD OF
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Living the Sacred Trust: Clergy Sexual Ethics

Section I: Practical

Division of Ordained Ministry
General Board of Higher Education and Ministry
The United Methodist Church
www.gbhem.org

Resource on Clergy Misconduct of a Sexual Nature

For Bishops, Cabinets, and Boards of Ordained Ministry of The United Methodist Church

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The General Board of Higher Education and Ministry leads and serves The United Methodist in recruitment, preparation, nurture, education, and support of Christian leaders – lay and clergy – for the work of making disciples of Jesus Christ for the transformation of the world. Its vision is that a new generation of Christian leaders will commit boldly to Jesus Christ and characterized by intellectual excellence, moral integrity, spiritual courage, and holiness of heart and life.

The General Board of Higher Education and Ministry of The United Methodist Church is the church's agency for educational, institutional, and ministerial leadership. It serves as an advocate for the intellectual life of the church. The Board's mission embodies the Wesleyan tradition of commitment to the education of laypersons and ordained persons by providing access to higher education for all persons.

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Introduction

Dear Friends in Christ,

This manual has been developed and revised as a tool and resource to assist bishops, cabinets, and boards of ordained ministry in The United Methodist Church in their work of maintaining order and trust within our denomination.

Our church, the body of Christ, exists for worship, for training of individuals in the faith, and as a launching point to bring the good news of Jesus Christ to a hurting world. It is therefore a place in which people are invited to open their hearts and souls to growth and vulnerability. All adults in our churches, and especially our clergy, are bound by a sacred trust to care for, respect, and protect all who come to be part of our holy work. How tragic it is when someone entrusted with such a holy privilege violates another human being and robs him or her of that trust. The tragedy is greater when the church and its leadership fail to protect the helpless, or to make a just and timely response to that offense. Without such a response those who have been so wounded cannot begin to heal.

This manual is meant to provide insights, recommendations, and other material that is both practical and theoretical. It is not meant to serve as a legal document, or as a legal interpretation of the law. Please refer to the General Counsel of the General Council on Finance and Administration for legal opinions and advice for our church.

This is the first time the manual is being offered as a Web-based document. It is our hope that by using this format, we may be able to create a more flexible document—much like a loose-leaf binder—in which future studies may be inserted and out-of-date material be replaced more quickly than is possible with a print production. As such, please accept this manual as a continual work-in-progress.

It will contain four sections:

- Section 1: Guidelines for conference policies, educational procedures, care for victims of clergy misconduct in particular, and sexual misconduct by any adult in general
- Section 2: Material about the theory concerning sexual theology, and ways to create a healthier “ethos” for the church surrounding sexuality
- Section 3: Material regarding experiential dimensions of clergy misconduct
- Section 4: Bibliography

Most annual conferences currently have guidelines concerning the sacred trust and the consequences and procedures surrounding response to sexual misconduct, particularly among the clergy. We encourage a continual review and revision of those guidelines so that the policy may be carried out in the most efficient, just, and caring manner possible.

As always, the General Board of Higher Education and Ministry is in the service of the church to provide these resources and all support and guidance possible to ensure that you as a church leader may be equipped to hold and protect the sacred trust offered to you. We also exist to provide the strongest and most comprehensive means possible in caring for the people of our church, to the glory of God.

The Reverend Randolph Cross
Assistant General Secretary
General Board of Higher Education and
Ministry

The Reverend Dr. HiRho Y. Park
Director, Continuing Formation for Ministry
General Board of Higher Education and
Ministry

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Section I: Practical

Chapter I: Policies and Procedures

POLICIES FUNCTION AS A POSITIVE self-definition for the annual conference. They set the standard, describe what behavior violates this standard, and declare such behavior to be unacceptable. The policy becomes the grounds for the adjudication process as well as the basis for individuals to understand appropriate boundaries for clergy conduct. The policy should refer to *The Book of Discipline*, 2008, but it should not restate or interpret it. **Policies should be stated in one or two pages.**

The policy should:

- state clearly and briefly the standard for clergy conduct: e.g., “Ordained [and licensed] persons exercise their ministry in covenant with all Christians, especially with those whom they lead and serve in ministry” (par. 303.3).
- describe clearly and briefly what behavior violates the standard: e.g., Clergy misconduct of a sexualized nature occurs when any person with a clergy role engages in sexual contact or sexualized behavior with a congregant, client, employee, student, or staff member (adult, youth, or child) in a professional or pastoral relationship.
- declare such behavior to be unacceptable: e.g., Such misconduct is a violation of the clergy relationship in which a person in a position of religious leadership takes advantage of, instead of protecting, another person.
- refer to *The Book of Discipline*: e.g., When clergy misconduct is experienced, complaints are to be brought forward and procedures followed as stipulated in *The Book of Discipline*, 2008 (par. 361).

The examples offered above may make the four parts of a conference policy seem quite simple. Yet, the statements regarding standards for clergy conduct and the subsequent descriptions of violation need to include terms that clarify the following areas of question:

- The nature of clergy authority (For instance, if clergy authority is functional only, then there are times when clergy members do not function as clergy and the standards would not apply. If licensing and/or ordination have a character or ontological dimension, then clergy are always clergy even while not officially functioning in a clerical role.)
- Concepts and precepts of celibacy and fidelity

- Clergy dating within the congregation and/or wider community of the parish
- Appropriate physical contact for clergy with those in the parish or appointment site (e.g., shaking hands, hugs, back rubs, passing the peace)
- Standards in different settings (e.g., recreational, liturgical, counseling, or meeting settings differ, but do the standards differ?)
- What constitutes clergy misconduct of a sexual nature (for instance, sexual harassment, sexual abuse, and child sexual abuse)?

As companion material to a brief policy statement, consider including:

- information on where *The Book of Discipline*, 2008 may be read and/or purchased
- a flow chart of the complaint process as contained in *The Book of Discipline*, 2008
- names, addresses, phone, and fax numbers of the bishop and superintendents
- a point of contact if advocates for aggrieved parties are in the conference
- supportive information, including the date of printing along with the date of the policy

Keep the policy and supportive information to two sheets of paper at most, so copies can be easily and widely distributed throughout the conference. Easy availability of the policy is a positive action on the part of the conference in support of its policy. Simply printing the policy in the conference journal does not suffice, because the journal is not easily available to church members and the public. Likewise, distribution only to clergy and lay members of the conference will not of itself encourage wide availability of the policy. Restriction of distribution undercuts the nature of the policy.

The supportive information that accompanies a brief policy can be updated as often as needed, so that all names, phone numbers, and other information are current.

GUIDELINES AND PROCEDURES FOR THE SUPERVISORY PROCESS

While policies set the standard for clergy conduct, guidelines and procedures indicate the course of actions when policies may have been violated. The supervisory process prescribed in par. 361 of *The Book of Discipline*, 2008, takes place prior to any judicial procedure. In its pastoral and administrative nature, the supervisory process is both flexible and adaptable to each situation. Unlike the judicial process, the supervisory process is informal. However, it is not casual. Care is needed in the supervisory process for the sake of all who are affected. Guidelines and procedures help the bishop and Cabinet proceed in the supervisory process.

The guidelines and procedures are not the property of the annual conference session, but belong to the bishop and cabinet. In all cases, the guidelines and procedures are to be flexible to allow for case-by-case differences.

The following questions are offered for consideration in formulating guidelines and procedures for bishops and cabinets to use in supervisory ministry in instances of possible clergy misconduct of a sexualized nature. These questions are neither exhaustive nor binding for the supervisory process.

- **Questions to answer before a complaint is filed:**

If an individual suspects or has been the victim of misconduct of a sexualized nature, what steps is he or she encouraged to take? Does the person contact a superintendent, the bishop, someone else? With initial contact, what steps will the superintendent or bishop take in support of the aggrieved person or persons and in support of the accused clergy? What level of confidentiality can an aggrieved individual and an accused pastor expect? Are there instances where the bishop or superintendent might call upon a trained advocate to counsel an aggrieved person? In these instances are names and phone numbers of such advocates made available for aggrieved parties?

- **Questions to answer when a complaint is filed:**

The bishop is responsible for the supervisory process following the receipt of a complaint. What are the guidelines a bishop or superintendent follows in responding to complaints? On what basis will just cause for the complaint be established? What are the criteria for resolution or reconciliation? Who is involved? Is the cabinet as a whole part of the supervisory response? In what circumstances does the bishop call upon others for assessment, intervention, or healing? When is a mediation person or group used? How are such individuals or groups engaged? What is their function, authority, role, accountability? Are the procedures consistent from one complaint to another? Who is informed of a complaint? What support systems are engaged at the complaint stage for the various parties affected? How are procedures of the bishop and the cabinet made public for general knowledge and in specific instances when the procedures are applied? What level of confidentiality can an aggrieved person and an accused pastor expect? Who needs to know of the complaint? On what basis is the Pastor-Parish Relations Committee (PPRC) involved? For clergy in extension ministries, what is the role of personnel committees?

- **Questions to answer when the supervisory process is complete:**

What constitutes resolution or reconciliation? If there has been resolution and/or reconciliation, what follow-up steps are expected? If a complaint is referred to the Committee on Investigation, what continuing responsibility and relationship do the superintendent and the bishop have with aggrieved persons?

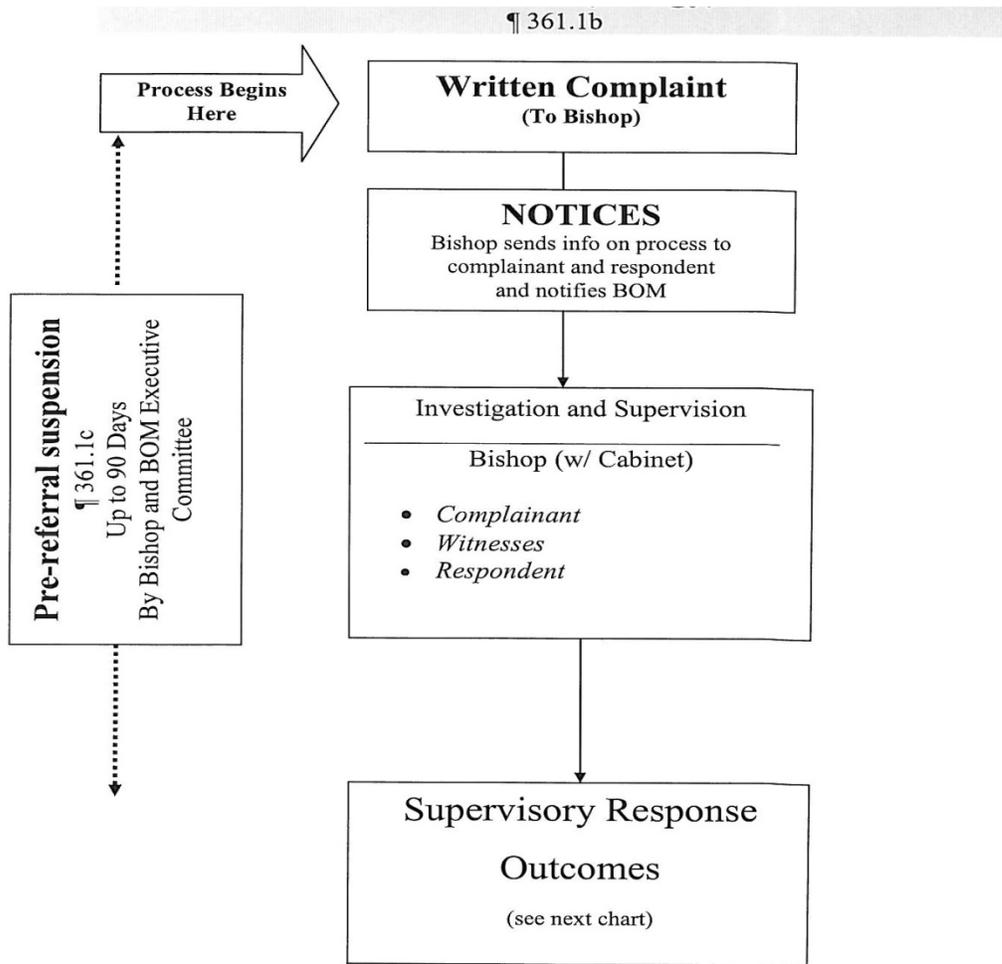
- **Questions to answer in addition to the complaint procedures:**

What do the bishop and the cabinet do in relation to individuals affected by the misconduct or complaint of misconduct? What procedures are engaged with clergy family members? With local congregations and PPRCs? With clergy colleagues? With family of aggrieved parties? What procedures exist for counseling funds for persons negatively impacted by clergy misconduct or the complaint of misconduct? What support systems are used to assure that the leadership of a bishop and superintendents in responding to complaints is centered in the gospel and grace, and not based on fear or anxiety?

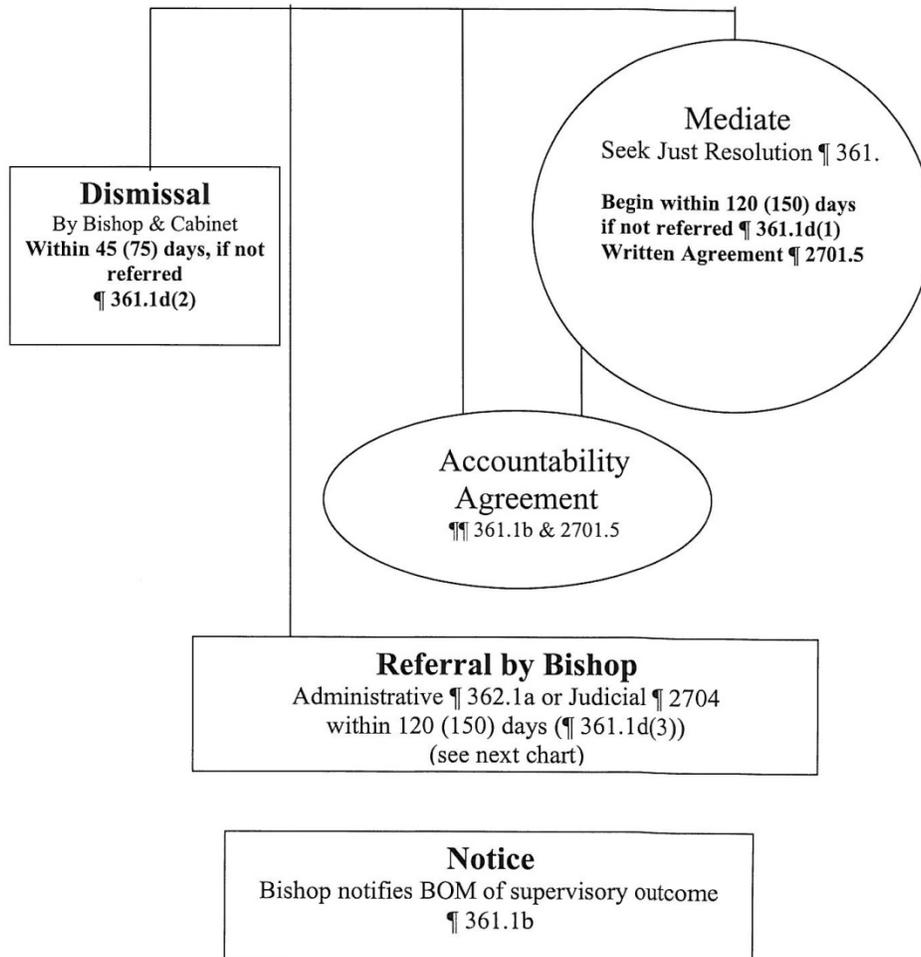
Guidelines and procedures function as a map to be followed in cases of possible and actual misconduct. They need to be specific enough to give consistency from instance to instance. Such consistency is part of a just and fair process for all individuals involved. Guidelines and procedures need to be broad enough to allow for the uniqueness of each complaint. Established guidelines and procedures can help reduce anxiety for all parties involved in the process.

COMPLAINT PROCESS CHARTS

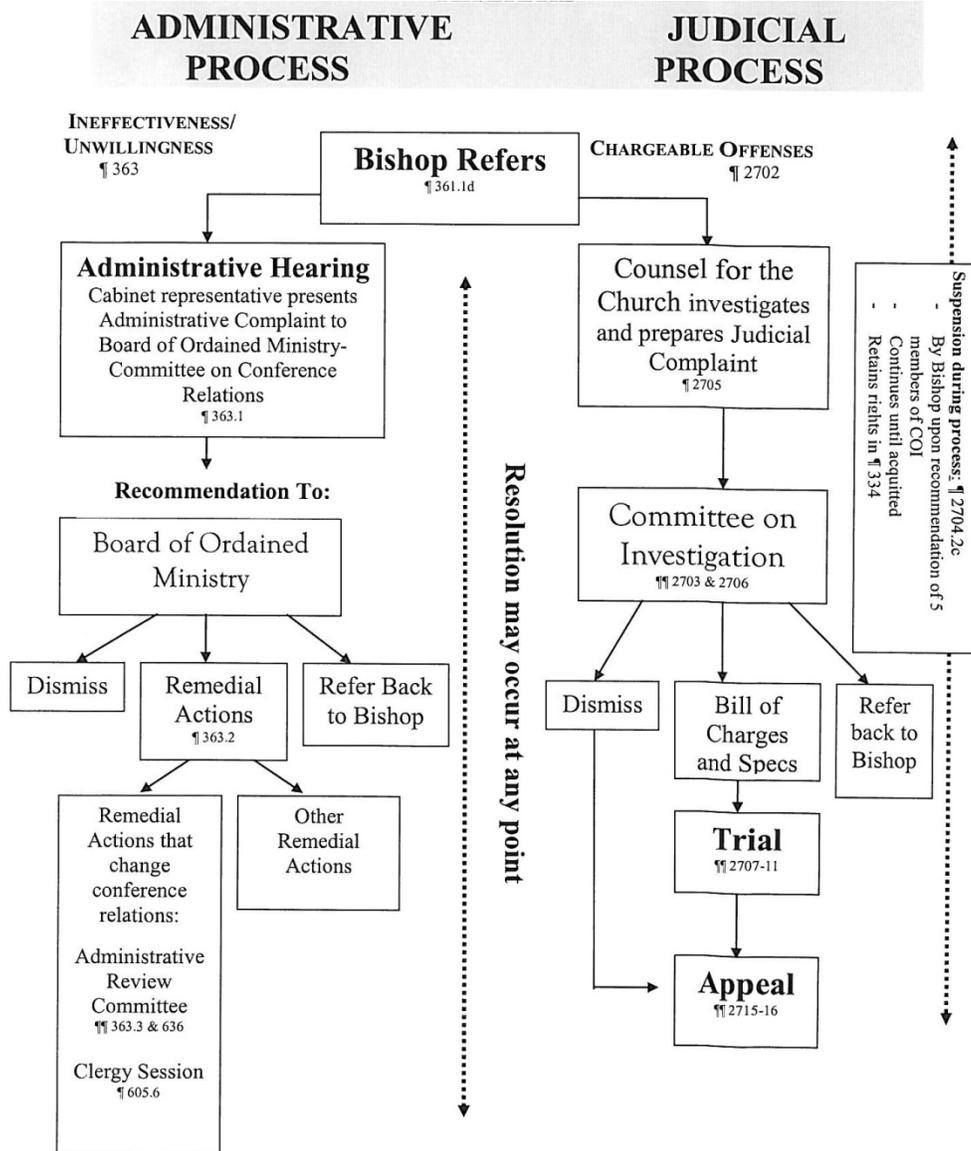
Supervisory Response Process (Clergy)



Supervisory Response Outcomes (Clergy)



Referral



Potential Outcomes

(other than Dismissal, Acquittal, or Just Resolution)

ADMINISTRATIVE PROCESS

Remedial Actions; Changes in Conference Relationship ¶ 363.2

Other resolutions (not paid):	C	A	M	X
Voluntary Leave of Absence	x	x	5	2/3
Voluntary Early Retirement	x			
Voluntary Honorable Location - (Not Itinerate)	x			
Voluntary Surrender of Office	x			
Involuntary Leave of Absence	x	x	3	
Involuntary Early Retirement (Involuntary)	x			
Administrative Location (Still Ordained, Not Itinerate)		x		

KEY:

C = Continuation Coverage-- up to 18 months
 A = Approved Annually
 M = Maximum Years
 X = Except

JUDICIAL PROCESS

¶ 2711.3

Any penalty up to:

- Remove from role of professing members
- Revoke ministerial credentials
- Terminate conference membership
- Lesser penalties (i.e., remedial actions listed in ¶ 363.2)

Complaint Process Charts may be found on pages 8–11 at:
www.gcfa.org/PDFs/A_JP_Handbook%20FINAL_with_111609_errata.pdf

CHECKLIST FOR PROCESSING COMPLAINTS AGAINST CLERGYPERSONS (2008-2012 QUADRENNIUM)

This checklist is not mandatory but may be a helpful tool for keeping track of complaints against clergy members as they are processed. It probably will be most useful overall to the bishop, the district superintendent, the counsel for the Church, and the Committee on Investigation's chair and presiding officer. It may be useful to supply the checklist to others who are involved in any given process. Attached are suggested notice forms.

Clergyperson: _____

Home Mailing Address: _____

Telephone Number: _____

Cell Phone Number: _____

E-mail Address: _____

Present Appointment: _____

District Superintendent: _____

Clergyperson's Representative: _____

Address of Clergyperson's Representative: _____

1. Complaint

A *complaint* is a written statement signed by the bishop, district superintendent, or other party claiming misconduct or unsatisfactory performance of ministerial duties by a clergyperson. (par. 361)

Date complaint received or initiated: _____

2. Notice of Complaint

The bishop or district superintendent shall inform both the individual filing the complaint and the accused clergyperson of the process for filing the complaint and its purpose. (par. 361.1a)

Date clergyperson informed of process and purpose: _____

Date person filing complaint informed: _____

3. Supervisory Response

The bishop or district superintendent shall initiate a supervisory response to the complaint, the purpose of which is a just resolution and/or reconciliation among all parties. (par. 361.1b)

Date of first supervisory meeting with clergyperson: _____

Date of meeting with complainant: _____

Dates of subsequent meetings and parties involved: _____

Proposed supervisory response by bishop or district superintendent: _____

Supervisory follow-up with local church congregation under par. 361: _____

4. Satisfactory Response

If the complaint has been satisfactorily responded to by supervisory response and/or actions of all concerned parties, and in the sole discretion of the bishop needs to go no further, then the matter may be closed. The clergyperson and the complainant should be notified in writing that the matter has been closed.

Resolution: _____

Date written notification sent to all parties: _____

5. Referral of Complaint – Judicial

If the bishop determines that the complaint is based on a chargeable offense (par. 2702.1), the bishop selects and then refers the complaint to counsel for the church (a clergyperson in full connection). Counsel for the church makes sure the complaint is written properly, makes any necessary revisions/additions, signs the complaint as a judicial complaint, and forwards it to the Committee on Investigation, along with any relevant material that supports the complaint (pars. 362.1b and 2704.2).

Name of counsel for the church: _____

Date judicial complaint mailed to the Committee on Investigation: _____

Date judicial complaint mailed to respondent: _____

6. Referral of Complaint – Administrative

If the bishop determines that the complaint is based on allegations of incompetence, ineffectiveness, or unwillingness or inability to perform ministerial duties, then he or she shall refer the complaint as an administrative complaint to the Board of Ordained Ministry for its consideration of remedial or other action (par. 362.1a).

Date administrative complaint mailed to chair of Board of Ordained Ministry

(BOOM): _____

7. Committee on Investigation – Judicial Complaints

The investigation procedure conducted by the Committee on Investigation is the first step in the judicial process. The Committee on Investigation is responsible for sending a copy of the complaint to the respondent (if counsel for the church has not already sent it), and the respondent has 30 days in which to file a response. The Committee on Investigation conducts the investigation and determines whether there is a reasonable ground for charges and, on a vote of five members, signs and certifies charges as proper for trial. The charges listed must be chargeable offenses as defined in the *Book of Discipline*, par. 2702.1, and should include as much detail as possible about the allegations (date, place, specifics of the alleged events).

Date judicial complaint mailed to the respondent: _____

Date respondent’s answer to complaint received: _____

Date Committee convened (60 days to convene after receipt of complaint by chair):

Date of interviews of witnesses (if any) (note: all parties are entitled to be present and have three (3) days' notice of such interviews): _____

Date of hearing: _____

Name, address, and phone number of counsel (not an attorney) for respondent (if any): _____

Decision of committee: _____

Date charges/specifications are mailed to all parties (Note: Must be within five (5) days of the date charges and specifications are adopted) (to the respondent, complainant, counsel for the church, presiding bishop, and secretary of the annual conference): _____

Bishop and Cabinet supervisory follow-up with local church congregation (par. 361.1e). _____

- 8. The bishop of the respondent names another bishop to be presiding officer. (par. 2713.2) Counsel for the Church continues. The respondent may select counsel, who would typically be the same person who served as respondent's counsel on the Committee of Investigation. If the respondent fails to select counsel, the presiding officer must appoint counsel for him/her (par. 2708.7).

Name of presiding officer: _____

Date notice of presiding officer name and address sent to respondent: _____

Name of counsel for respondent: _____

Date of any preliminary meeting/teleconferences between presiding officer, respondent and all counsel: _____

Date notice of trial sent to respondent by convener (par. 2708.2): _____

Date and place of trial: _____

Date of out-of-court testimony or depositions, if any (all parties are entitled to have three (3) days' notice of such testimony) (par. 2708.10) _____

Date of receipt of witness list from counsel: _____

Date request was sent to district superintendent to select clergypersons in full connection for the Trial Pool. Special consideration should be given so that the pool includes persons representative of racial, age, ethnic, and gender diversity (par. 2709.2): _____

Date of receipt of district superintendent's appointments: _____

Date notices sent to witnesses by presiding officer (par. 2708.8): _____

Disposition of charges by trial court: _____

Date Notice of Disposition sent to respondent: _____

Date trial court sends records to secretary of Annual Conference: _____

Bishop and Cabinet supervisory follow-up with local church congregation: _____

9. Remedial Action – Administrative (par. 363.2)

Date complaint received or initiated: _____

Date of notice of meeting with Board of Ordained Ministry sent to clergyperson:

Date of meeting with clergyperson and Board of Ordained Ministry:

Board of Ordained Ministry response:

Date Board of Ordained Ministry response sent to clergyperson, bishop, Cabinet, and complainant: _____

Date(s) of any scheduled follow-up meeting(s): _____

Other Action: _____

Administrative Review Committee contacted (administrative location, involuntary leave of absence, involuntary retirement) (par. 636): _____

10. Withdrawal Under Complaints or Charges (par. 360.3)

Date withdrawal request received: _____

Date withdrawal request reported to Board of Ordained Ministry: _____

Date of Annual Conference approval of withdrawal: _____

Date credentials surrendered to bishop or district superintendent: _____

Date credentials deposited with secretary of Annual Conference: _____

SUGGESTED NOTICE AND CERTIFICATE FORMS

When hearings are held, par. 362.2b and par. 2701.1b require that there be at least twenty (20) days' notice given. The following are suggested ways to provide a Notice of Hearing and a Certificate of Service, which gives "proof" that the notice was actually sent.

Whenever written notice is given, it is strongly suggested that it be sent by **certified mail, return receipt requested, as well as regular mail**. Hand delivery is also acceptable. When the return receipt card is returned, it should be attached as part of the written Certificate of Service to show both that the service was made and that there was actual delivery. By having a verbal notification certificate, there is also proof that the party had actual knowledge of that matter. *This is not to suggest that a verbal notification is the proper way, by itself, to provide notice.* The verbal telephone notice should only be used to supplement the written notice. E-mail notification is discouraged because of security and to protect the individual's privacy.

Suggested Notice of Hearing Form

Notice of Hearing

To: Name: _____

Address: _____

You are hereby notified on _____, 20__ at _____ o'clock at
(location) _____ the (Committee, Board etc.) ____
_____ will meet for (purpose and description
of hearing) _____

If you have any questions, you may contact me at:

Address: _____

Telephone: _____

E-mail Address: _____

** This notice must give the reason for the hearing, with sufficient detail to allow the respondent the right to prepare a response, and must be given no less than twenty (20) days prior to the hearing (par. 2701.1b).*

SUGGESTED PROOF OF SERVICE FORMS

The following are examples of possible proof of certificates of service that may be used when a Notice of Hearing is given. The certificate of service should then be attached to a copy of the Notice of Hearing Form.

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Hearing has been furnished by the United States Postal Service on _____, 20 _____

To: _____

Address: _____

Signature of person certifying the mailing

Certificate of Personal Service

I hereby certify that a copy of the foregoing Notice of Hearing has been personally delivered to _____ (or if appropriate, a copy left at _____
 _____'s residence at [address] _____
 _____) on _____, 20 _____ at _____
 o'clock.

Signature of person making personal service

Certificate of Verbal Notice

I hereby certify that I personally telephoned _____
at telephone number _____ on _____, 20 _____ at
_____ o'clock.

I personally informed _____ of the
hearing/meeting on _____

Date, time, place, and purpose of hearing

Signature of person making telephone call

Chapter 2: Education

WITH THE FIRST GENERATION OF conference policies on clergy misconduct, some conferences had educational or training events for clergy. Some conferences included specified laypersons in the educational process. In many of these instances, the educational process was undertaken as a onetime event to acquaint people with and engage them in discussion of the power and authority of the clergy. One of the weaknesses of first-generation policies was that education, training, and policy distribution were frequently not included. After an initial exposure to the policy, people were expected to know where and how to find it in the conference journal.

Now, with the second generation of policies comes an understanding of the long-term educational need for prevention, sensitization, and remediation. At least a two-quadrannia process can be projected. In this educational process affirmation of positive clergy conduct is emphasized. Misconduct is defined and described as violation of the clerical office and authority. This education involves clergy and laypersons.

CLERGY TRAINING

For clergy, the educational process is part of a wider process of affirming and undergirding the clergy covenant, which is the heart of membership in the conference and in the clergy orders and the fellowship. Education includes sensitization regarding clergy roles, authority, and boundaries. This involves a wide variety of specific topics, including sexualized behavior. Therefore, in the educational and formation processes during candidacy, probation, and throughout clergy careers, the subjects related to misconduct of a sexualized behavior are included.

LAY TRAINING

For laity, the training as part of the first generation of policies was not extensive. Therefore, special training events for church officers and pastor-parish relation members can be important. The subject is not simply sexual harassment or abuse. The context is affirmation of the clergy office and the identification of sexualized behaviors, which violate the covenantal relationships clergy are entrusted to build and sustain. Training for laity can acquaint them with the conference policy and the procedures of the bishop and Cabinet.

Education for laity can be routine and included in a variety of training settings over a quadrennium. It is to be assumed that turnover in lay and clergy leadership in a local church mandates repeated offerings of training on the topic of clergy conduct and misconduct.

WHO IS RESPONSIBLE FOR THIS?

It is imperative that responsibility for education be clearly designated. Does the board of ordained ministry carry responsibility? Does the Cabinet? Is responsibility shared among various conference agencies? Has a long-term strategy for education been developed? By whom?

Chapter 3: Follow-up Care: A Web of Caring

NOTHING HAPPENS IN A VACUUM. When ministerial misconduct of a sexual nature occurs, when someone has been notified of allegations or complaint, a web of caring needs to be implemented. We in the church live in a system—a “web” of interwoven relationships expressed in a variety of ways. Persons/groups require a response based on their individual wounds and needs.

When viewing the interweaving—the connectional system affected by clergy conduct—a variety of models may be used: family and organizational systems, including literature regarding dysfunctional systems, are helpful.

This chapter identifies the various parties involved (families of clergy perpetrators, families of victims, clergy colleagues in the conference, congregations or ministry settings in which the clergyperson is appointed, and the afterpastors) and the web of caring and professional conduct that needs to be present for healing and justice to be experienced. If these issues are not addressed, the long-term negative effects for individuals and for the congregation or ministry setting can be subtle yet tragic.

When working with any of the following parties, the important thing is “to acknowledge and validate feelings, yet hold people accountable and keep them on track with facing into the issues. It is necessary to tolerate a more intense, reactive atmosphere, with the knowledge that this is expected and normal.”¹

An important dimension of working within the system of individuals affected by ministerial misconduct is truth-telling. It is essential for healing, yet there needs to be confidentiality.

FAMILIES OF CLERGY PERPETRATORS

Family members of the accused, most often a spouse, may be highly defensive and frightened. The stage of denial may last longer than necessary if the spouse is not told the full truth. And if the spouse and family remain in the community of church or city, secrecy will backfire over time; “shame’s partner is secrecy.”² It is best if the truth is fully disclosed by the accused spouse.

¹ Nancy Myer Hopkins, *The Congregation Is Also a Victim: Sexual Abuse and Violation of Pastoral Trust* (Washington, D.C.: The Alban Institute, 1993).

² Donald Hand, “Toward Liberation from Shamed Sexuality,” *Action Information*, May/June 1991.

The district superintendent carries the responsibility for seeing that such information is shared and that the clergy person's spouse and family are kept current on supervisory and judicial processes. This needs to be done without jeopardizing the supervisory or judicial processes. Due to parsonage living and the appointment system, the fear of insecurity in home and economics is primary for the perpetrator's family. The district superintendent and bishop should offer care and provide a supportive network for the family. The district superintendent is also responsible to the church community for extending means of support to the spouse and family (that is, counseling funds, pastoral presence, and so forth).

FAMILIES OF VICTIMS

Families of victims are caught in a cycle of anger, blame, and healing as they stand in support of the person who has been abused. Frequently, along with the victim, the victim's family is stigmatized. Spouses bear a silent or secondary victimization to the immediate victim. Spouse and family oftentimes do not receive attention and may lose community in the process.

When the victim receives care and support from the community, likewise the family feels supported. If justice is pursued, if open communication and fair process are practiced, if people are attentive to the victim's story, then families of victims are more likely to find healing.

If the victim's close relationships were strained before the misconduct occurred, the clergy misconduct then will magnify some of the issues that were present previously. Placement of blame and claiming of responsibility often shift in these cases.

CLERGY COLLEAGUES

The United Methodist Church is a connectional church, and clergy have membership in the annual conference. The Order of Elders, the Order of Deacons, and the Fellowship of Local Pastors and Associate Pastors, within each annual conference, is composed by membership and ordination. What is the accountability and relationship to one another? If one is hurting, does the whole order have the right and responsibility to know and to offer the richness of community for healing? If one has violated the sacred trust of the office of clergy and submits his or her credentials, what is the response of the covenant community of clergy? What is our responsibility for maintaining clergy covenant? What is the role of clergy friends of the accused? And how does covenant community of clergy respond to these

friends who are the carriers of grief and of covenant with the accused? How does the covenant community of clergy respond?

If mutual accountability and sacred trust are to be experienced among the clergy, then disclosure of ministerial misconduct of a sexual nature must be offered to the gathered Order or the Fellowship. The bishop—the chairperson of the Order or the Fellowship and the spiritual leader of the conference—needs to share the information, either in written form or verbally in a gathered setting of the Order or Fellowship. Information may be shared about the nature of the complaint without disclosing facts that might compromise the judicial process.

CONGREGATION/MINISTRY SETTING

Without disclosure to the congregation, healing will not fully occur. To hold ministerial misconduct of a sexual nature in secrecy is to deny congregations the opportunity to live out the Christian gospel, to deny victims the possibility of true community, and to deny the reality that churches exist for the ministry of Jesus Christ and have survived and been faithful through time to this purpose. The secrecy, which often breeds shame, mistrust, and breach of community, will be expressed in subtle and hurtful ways. Historically, it is known that secrecy in allegations/complaints has caused congregations to experience stagnation (an inability to move forward) and a lack of community. “The organization itself, if told the truth and assisted in processing its pain, can emerge with greater integrity, justice and self-respect.”³

So how can congregations be told of misconduct and move through to full healing? **It is the responsibility of the district superintendent, as an extension of the bishop’s office, to inform the congregation.** Again, information may be shared about the nature of the complaint without disclosing facts that might compromise the judicial process (pars. 361 and 2612). It is best to share the information first with the Staff/Pastor-Parish Relations Committee, and then with the full congregation. Both settings should offer opportunity for discussion, dialogue, and questions. The nature and scope of the information shared should be determined on a case-by-case basis but should include at least the following: the nature of the complaint; the administrative decision regarding the appointment of the perpetrator; a timeline of events forthcoming; an understanding of the consequence of this action on the congregation; the near future ministry of the congregation; and judicial and administrative

³ David R. Brubaker, “In Cases of Clergy Sexual Abuse or Misconduct,” in Nancy Myer Hopkins, *Clergy Sexual Misconduct: A Systems Approach* (Washington, D.C.: The Albin Institute, 1993), 33.

procedures. All should be done in a spirit of care for the congregation, the victims, the families, the accused clergy person, and the healing process that is needed.

It is recommended that two people (one being the district superintendent) be present for disclosure to the congregation. It is possible that the congregation, in their surprise and anger, may try to “shoot the messenger.” The presence and support of two individuals and the opportunity to move back and forth in presentation and discussion among two people will lessen any hostility the congregation may be inclined to direct toward only one speaker. A male-female team will model wholeness in leadership. A male-female team also provides an opportunity to hear both male and female perspectives, which can be valuable since the nature of the disclosure will include gender dynamics.

However, it is important to note that the district superintendent’s presence and care and concern for the ministry setting will not necessarily reduce anger within the congregation.

The most frequently perceived repository of congregational anger was that of the bishop or district superintendent. . . . It seems impossible to do enough for congregations in the throes of their anger. Even . . . where everything has been done to provide support, discontent remains. . . . There may be a parallel to the family dynamic which is so common in abuse, where children who are victims are unable to feel anger at the parent who abused them, but are angry instead at the parent who failed to protect them.⁴

Chilton Knudsen outlines the stages of congregational healing and gives examples specific to these situations. Her chart (Addendum A) is a helpful tool in understanding the process of potential healing for a ministry setting.

Healing processes take time and involve many dimensions. Questions to be answered include: What process of aftercare should the district superintendent or the bishop put in place? What are the short-term and the long-term needs of this congregation for pastoral leadership? If the allegations prove to be false (which is rare according to studies), how does the aftercare differ for the congregation and for the relationship between pastor and parish?

⁴ Hopkins, *The Congregation Is Also a Victim*.

AFTERPASTORS

An afterpastor is a clergyperson who is appointed to a congregation that has experienced an instance of sexual misconduct by the previous clergy member.

Although in previous years clergy were sometimes appointed to churches without knowing that their predecessor had been removed from the appointment because of ministerial misconduct of a sexual nature, now many pastors are given that knowledge. One annual conference has even created a caring, supportive ministry where afterpastors gather once a month for discussion and sharing of concerns. This healthy turn of events leads to questions, such as: What are the characteristics needed in an afterpastor? What are some elements of ministry for which the afterpastor should be prepared?

The afterpastor needs to be a person of high integrity, with skills to work within conflictual situations. It is often a “survival” form of ministry and, therefore, the pastor needs to know that experiences within the church will “unleash forces which are dangerous to our well being.”⁵

In a 1991 conference of afterpastors, participants cited the difficulties they had experienced: “mood swings, exhaustion, temptation to abuse power, over-responsibility, and the pull of strong emotions regarding the perpetrator and/or victims.”⁶ In *Generation to Generation*, Edwin Friedman proposes that a “non-anxious presence” is the desired stance of the afterpastor in order for healing to be possible.

The afterpastor needs not only a strong sense of self, high integrity, and conflict management skills, but also good information from the district superintendent regarding the misconduct and well-supported networks. Information is power. It is crucial for the afterpastor to know the history of the community, the facts and the status of the case, and the emotional status of the congregation. Some questions the afterpastor should ask before beginning the appointment or in the first few months are included in Addendum B.

CLOSING

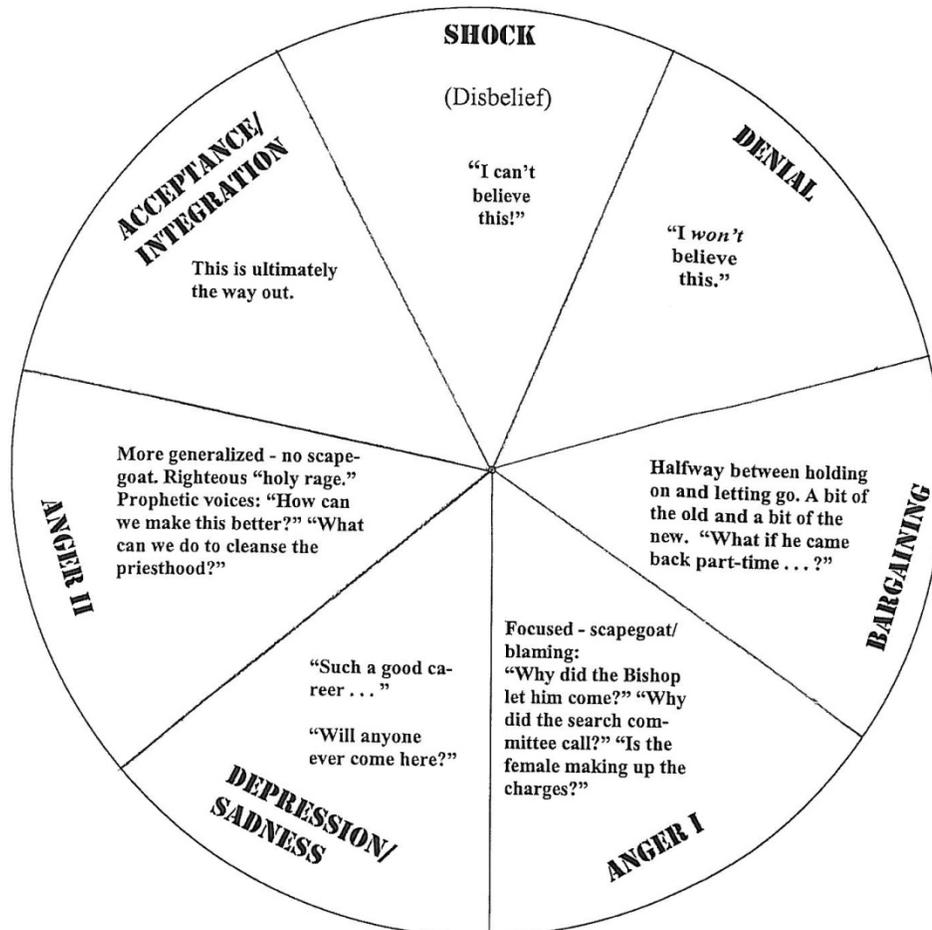
Facing the knowledge that a clergy member of the church has been involved in misconduct of a sexualized nature makes us face the limitations of our ministries. We are confronted with the reality of the “not-yet” realm of God. But at the same time we see the possibility of opening new forms of healing, care, and God’s presence. To back away from

⁵ Nils C. Friberg, “A Denominational Survival Kit for Afterpastors,” in Hopkins, *Clergy Sexual Misconduct*, 36.

⁶ Ibid.

this reality is to lose our faith in God and the grace that undergirds us. A web of caring by the community is essential for healing and for justice.

ADDENDUM A: DIMENSIONS OF CONGREGATIONAL HEALING



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3 RULES:

1. People can enter at any point.
2. People can go clockwise, counterclockwise or jump across, again and again.
3. This circle tells people that no matter how different they look and feel, they are a unity.

ADDENDUM B: QUESTIONS AFTER PASTORS SHOULD ASK

- What actually happened?
- What is not yet known?
- What are the feelings and attitudes present on the scene?
- What types of grief over loss of the perpetrating pastor are present?
- What grief is there over the possible loss of the victim's presence? How did the congregation learn of the "events"?
- How much do they know?
- Who knows what?
- What reactions to both the perpetrator and the victim are evident?
- What theological formulations are being brought up by congregational members?
- What issues can be sensed around worship, liturgy, and sacred spaces, as well as around the symbolism of clergypersons/roles? Is there a need for "recertifying" those sacred places, roles, and symbols? How should this be done?
- Are people attempting to deal with the issues, or do they push them away?
- Are there victims and families who still need attention?
- Are factions forming?
- What past attempts to help have succeeded or failed? Why?
- What past problems in the church lie under the surface or have mixed with the dynamics of this event?

Other information should be obtained by reading current books and periodicals on the psychological, spiritual, and social dynamics of congregations that have experienced ministerial misconduct of a sexual nature.

ADDENDUM C: TRUTH-TELLING AND HEALING

The importance of a process that allows truth to surface—or at least provides a forum for alternative views to be heard genuinely—cannot be overstressed.

Above all, truth-telling is a necessary condition for healing for everyone involved. Sexual exploitation of parishioners carries with it many of the same dynamics as those experienced by families in situations of incest. Frequently there is denial on the part of some members of the congregation who cannot believe any wrongdoing on the part of the pastor. These people will justify prevailing patterns of secrecy because they want to protect the congregation from shame. As a consequence of this pattern, many ministers have been moved quietly from parish to parish.

When this happens, healing is thwarted. Typically the pastor not only carries the secret of past behavior but also carries the pattern into present and future behavior. Thus, the pastor receives no healing, because he or she is not forced to seek help or to confront and acknowledge patterns of behavior.

The victims receive no healing, because their hurt remains unacknowledged and therefore untreated. Unless truth is told, no one will ever say, “We are sorry” to the victims. Nor, as Marie Fortune points out, “will they be thanked for the risks they take in exposing wrongdoing.”⁷ Their sense of shame or guilt goes untreated. Their anger gets repressed. They are not offered the grace and love that are due them, and they may carry emotional and spiritual wounds that fester for years. The church is no longer a safe place for them. Sanctuary is now unavailable to people who desperately need it. Their experience tells them that clergy can no longer be trusted. Typically, no professional person of the same gender as the perpetrator will ever again be trusted. They carry a deep anger toward the church for not being believed and for not having their hurts honored.

Truth also needs to be spoken for the sake of those individuals who may not see themselves as victims. No doubt some feel more victimized by the church’s reaction. But it is also important that the issues get aired, so they can consider their own situation of relative powerlessness and can ask themselves whether they trust the dynamics that are operating. Sadly, all too often a victim does not protest when a relationship with a pastor begins, but later may feel used (especially when the victim learns that there have been other affairs, or if the anticipated marriage does not come about). Because they did not protest at the outset,

⁷ Marie M. Fortune, *Is Nothing Sacred? When Sex Invades the Pastoral Relationship* (San Francisco: Harper & Row, 1989).

they may feel that they have no right to protest later. While this is not true, it is a dynamic that operates for many people and one that blocks their healing.

Among the victims who need truth we might also count the pastor's spouse and family. When ministers are simply moved to a new setting without an honest airing of issues, the minister's family members are unable to explain why the move has come about or to get their own pains honored. The spouse carries a particular burden. If a spouse has been wronged, that needs to be acknowledged. If a spouse has participated in name-calling or in hurting another, the spouse needs an opportunity for reparation and reconciliation.

Without truth, the congregation also receives no healing. Carrying a deep secret fosters the habit of keeping secrets and of leaving hurts untreated. Honesty is buried, and the church becomes a dysfunctional community. Truth, one of the most cherished notions of the faith, is abandoned in favor of appearances. The power of grace in repentance and forgiveness is lost to the very community that proclaims this power as its reason for being. A paralyzing layer of fear blankets the people and prevents them from living with the confidence that "love conquers all." Without truth, distrust will live and fester in the community. Some will find it hard to trust another pastor, and a new pastor walking into that congregation may not understand the complicated dynamics behind problems that arise.

Chapter 4: Mediation, Advocates, Support Person

MOVING TOWARD HEALING, JUSTICE, AND reconciliation for clergy misconduct of a sexual nature is a complex experience. Many individuals are involved, feelings are broad and deep, interactions happen on a variety of levels, and procedures must be followed for fair process. There are people and processes that are helpful in moving toward healing and justice. One of the processes is that of *mediation*; two of the individuals involved are the *advocate* and the *support person*.

Each of these offers great gifts to the life of the church during a time of working through clergy misconduct. Each can also be a barrier and create trouble spots. This chapter looks at mediation, the role of the advocate, and the role of the support person, and how to make each the gift of grace that it has the opportunity to be. A new entity in the judicial process, “counsel for the Church,” will also be discussed, as this person has a unique role in relation to the victim/survivor.

For the purpose of this chapter, “mediation” refers to a process used in supervisory response whereby the two parties work together to reach resolution/reconciliation. “Advocate” refers to the person in the role of counsel for the victim or aggrieved. “Support” refers to the person in the role of counsel to the respondent or accused.

MEDIATION, ADVOCATES, SUPPORT PERSON

Mediation

The supervisory process is the first process when a complaint is received or initiated about the performance or character of a clergyperson. The *Book of Discipline*, 2008, states that resolution/reconciliation is the purpose of the supervisory response. These beginning stages are not part of the judicial process.

[The purpose is a just] resolution of any violations of this sacred trust, in the hope that God’s work of justice, reconciliation and healing may be realized in the body of Christ. (par. 361.1)

The supervisory response is pastoral and administrative and shall be directed toward a just resolution and/or reconciliation among all parties. It is not part of any judicial process. (par. 361.1b)

During this supervisory time, mediation is an option that the bishop or district superintendent may initiate.

The supervisory response may include a process that seeks a just resolution in which the parties are assisted by a trained, impartial third party facilitator(s) or mediator(s), in reaching an agreement satisfactory to all parties. (par. 361.1b)

Yet, this area needs to be approached carefully, for mediation can sidestep justice. Mediation usually includes the pastor (the accused), with the power of the office, and the aggrieved person (victim), without the power of an office. Such an uneven mediation setting becomes an opportunity for victimization.

Mediation does involve a third party in the meeting and, therefore, it would not be a meeting of the accused and the aggrieved alone. It is not acceptable to place two people in dialogue without a third-party mediator. If this becomes a casual process, then it fails to look at just cause. The need for an advocate for the aggrieved person and a support person for the accused clergy also becomes crucial (see sections below).

The person against whom the complaint was made may choose another person to accompany him or her with the right to voice; the person making the complaint shall have the right to choose a person to accompany him/her, with right to voice. (par. 361.1b)

Though mediation is only a possible action during the supervisory response, once the complaint moves to a judicial process, resolution/reconciliation may still occur at any stage. For example, during the investigation procedures for the judicial process:

If possible, the respondent and the person(s) bringing the initial complaint shall be brought face to face, but the inability to do this shall not invalidate an investigation. Notice of the hearings shall be given to all parties and the person(s) bringing the original complaint shall be permitted to be present during testimony but not during deliberations. (par. 2706.4a)

Again, if the two parties agree to come together in a face-to-face meeting, this should not be done without an advocate for the victim and a support person for the accused.

Advocates

“An advocate is one who actively assists and supports a victim of clergy misconduct/sexual abuse through the denominational complaint process, to the end that the individual is empowered to reclaim her/his own voice and that the church may once again be a place of sanctuary.”⁸

The advocate may be present with the aggrieved person in a variety of settings, including the supervisory meetings, the investigation procedures when the complaint becomes a part of the judicial process, and the trial.

The person making the complaint shall have the right to choose a person to accompany him/her, with right to voice. (par. 361.1b)

The parties may be represented by counsel, who shall not be an attorney, at any investigation. (par. 2706.c)

Objections of any party to the proceedings shall be entered on the record. (par. 2710.6)

The trial may be opened by the presiding officer upon written request of either the counsel for the Church or the counsel for the person charged, to family of the person charged, or family of the person making the original complaint and/or to other personally significant people. This does not include, however, the deliberations of the Trial Court, which shall be closed. At all times, however, in the hearing portion of the trial, the presiding officer, the members of the Trial Court, the person representing the Church as well as counsel for the Church, the person charged, and counsel for the person charged shall have a right to be present. (par. 2708.12)

WHAT IS AN ADVOCATE?

An advocate is one who actively assists and supports a victim of clergy misconduct/sexual abuse through the denominational complaint process, to the end that the

⁸ UM Sexual Ethics Definitions, www.umsexualethics.org/Education/Definitions.aspx (accessed August 25, 2010).

individual is empowered to reclaim his or her own voice and that the church may once again be a place of sanctuary. Being an advocate requires neither ordination nor psychological or legal training. It is a ministry that is appropriate for any believer. It is a solemn responsibility, and should not be entered into lightly. It may require an extensive commitment of time and energy.

The role of advocate has both pastoral and prophetic dimensions. These include:

- Supporting the victim by believing the story, affirming that she/he has a right to be heard and taken seriously, and being present with the victim through the often grueling process of pursuing a complaint through the *Discipline* and annual conference procedures.
- Providing resources and referrals that help the victim understand the dynamics of what has occurred and link her/him with needed helpers in the community. This requires that the advocate be familiar with the basic literature on abuse, and know how to access centers, networks and individual resource persons (therapists, pastoral counselors, medical and legal practitioners, etc.).
- Facilitating necessary group processes, particularly the coming together of multiple victims of the same offending clergyperson.
- Representing the victim when that appears necessary and is desired by the victim. The advocate may need to “test the waters” with the district superintendent, bishop, or other leaders before the victim will feel safe in contacting or speaking with them. There may be occasions, such as disclosure of the complaint to the congregation, where the advocate would speak on behalf of the victim(s), thus protesting confidentiality and vulnerability.
- Protecting the victim from revictimization wherever possible. This requires being alert at every step of the process to its effect on the victim, insisting on protective steps that are potentially being accidentally or intentionally omitted, and stepping between (symbolically or literally) the victim and other parties when the climate is hostile, vindictive, or insensitive.
- Assisting the victim, at her/his request, in the writing of the complaint and other tasks required by the grievance process.

- Accompanying the victim to meetings with church leaders, review and/or investigative committee meetings, and any other occasion where the victim feels support is needed.
- Intervening on the victim's behalf, if necessary. There may be times when the *Discipline* or annual conference procedures are not being properly followed, and leaders need to be called to account.
- Modeling for the victim a relationship with healthy boundaries. Experiencing a relationship with clear and appropriate boundaries can be redemptive and healing. This will require setting clear, agreed-upon limits (in terms of time, etc.), which are then adhered to. The advocate will not unnecessarily disclose her/his own experiences or problems.
- Listening and listening and listening and listening.

RESPONSIBILITIES OF AN ADVOCATE

As an advocate, you should do the following:

- Believe the victim's account of what happened.
- Frequently reassure the victim that you will not abandon her/him.
- Expect the victim to exhibit rage and anguish, and refrain from being judgmental or impatient. Know that at times the anger may be turned on you, but try not to be defensive or hurt.
- Respect the victim's decisions about what is best for her/him, even if they run counter to what you think she/he should do. Be very clear that the victim is the final decision maker.
- Respect the victim's feelings about the offender. Help her/him to see the offender's actions clearly, and constantly remind her/him that responsibility lies with the pastor/professional, but do not be surprised if she/he still cares for the offender and has ambivalent feelings.
- Understand that lack of trust is one of the products of the abuse, so do not expect the victim to trust you quickly or completely.
- Set clear boundaries. (Examples: "Do not call me after 10 p.m. unless it is an extreme emergency; and do not come to my home unannounced.")
- Refer the victim to other resources, such as therapist, pastoral counselor, lawyer, etc.
- Check on the victim periodically, since there may be long periods of waiting between various steps. The victim may feel especially alone or discouraged then, but also may be reluctant to "bother" you. Take initiative and make contact.
- Help the victim see all the options. Many believe they must either do nothing or sue.
- Prepare the victim for what may happen at each stage of the process. Go over possibilities ;rehearse responses; decide on a "plan B." Be realistic about what may happened, but also remain optimistic.
- **KEEP CONFIDENCE.** Do not discuss the victim's identity or story with anyone, including your spouse. If you feel there is a valid reason why something should be shared with a third party, get the victim's specific

permission. (This applies only to adult victims; where the victim is a minor, you must report to appropriate secular authorities.)

- Expect to hear the same story over and over; try not to exhibit boredom or impatience. Conversely, expect some elements of the story to emerge slowly; never assume you've heard everything.
- Take care of yourself. Maintain your own boundaries; provide for your own spiritual, physical, and emotional needs. You may want to arrange for supervision for yourself.

An advocate should not:

- Offer interpretations of what the victim's experience means, or in any way deny its significance for the victim. What is experienced as abusive will differ from person to person. Never use the frequently heard, "Well, at least he didn't rape her," or any variation thereof.
- Force solutions on the victim, as if you know what is best for her/him.
- Try to play a dual role. You are the victim's advocate; that is more than enough. Do not try to be advocate for members of her/his family, the congregation, etc. They may need advocates, and you may want to help them find advocates, but you should not try to fill the other roles.⁹

Support Person

The clergyperson to whom the complaint has been brought has the right of support from the supervisory process through the judicial process. This person is to be supportive by presence, providing resources and referrals and assisting the aggrieved in the process. This person will have right to voice in certain settings, yet he or she should not force solutions or take the role of the aggrieved in settings.

During the supervisory process, . . . the person against whom the complaint was made may choose another person to accompany him/her with the right to voice. (par. 361.1b)

⁹ *Training Event for Victim/Survivor Advocates*, co-sponsored by The General Commission on the Status and Role of Women and The National Program Division of the General Board of Global Ministries 1994.

During judicial hearings, . . . the respondent shall have a right to be accompanied by a clergyperson in full connection to any hearing, in accordance with the appropriate disciplinary provisions. The clergyperson accompanying the respondent shall have the right to voice. (pars. 362.2c and 2701.2c)

When the complaint enters the investigative stage, the support person for the accused cannot be an attorney. An assistant counsel may be invited, and this person may be an attorney. Since it is best if the support person remains the same through the entire process, it is recommended that the support person not be an attorney from the very beginning. In fact, the 2008 *Discipline* makes the invitation open to a clergyperson in full connection to serve as the support person (the respondent's counsel) (par. 2706.2).

Counsel for the Church shall be appointed as provided in par. 2708.7.

Counsel for the Church shall be entitled to choose one assistant counsel without voice who may be an attorney. (par. 2706.2a)

A respondent who is a bishop, a clergyperson, or a diaconal minister shall be entitled to select a clergyperson in full connection to serve as respondent's counsel. A respondent shall be entitled to choose one assistant counsel without voice who may be an attorney. (par. 2706.2c)

Basic procedural decisions shall be made in a preliminary meeting. During this meeting, the respondent and the respondent's counsel, the person making the original complaint, and the counsel for the Church shall have the right to argue procedural points before a decision is made by the chair. (par. 2706.3)

When a complaint reaches trial, the support person has the right to voice in oral and/or written argument, and she or he may be present for the entire hearing portion of the trial. If a support person (counsel) has not been chosen by the aggrieved, the presiding officer of the trial may appoint a person to fulfill this role. And again, an assistant counsel (who can be an attorney) may be invited by the aggrieved.

In all cases a respondent shall be entitled to appear and to select and be represented by counsel, an elder of The United Methodist Church if the respondent is a bishop, a clergy person, or a diaconal minister.

A respondent shall be entitled to have counsel heard in oral or written argument or both. Counsel for the Church shall be an elder in full connection selected by the bishop to represent the interests of the church in pressing the claims of the person making the complaint. In all cases of trial where counsel has not been chosen by the respondent, counsel shall be appointed by the presiding officer. The counsel for the Church and for the respondent each shall be entitled to choose one assistant counsel who may be an attorney without voice. (par. 2708.7)

Objections of any party to the proceedings shall be entered on the record. (par. 2710.6)

The deliberations of the trial court shall be closed. All other sessions of the trial shall be closed, except upon the written request to the presiding officer of counsel for the respondent, the trial shall be open. Also, the trial may be opened by the presiding officer, upon written request of either the counsel of the Church or the counsel for the person charged, to family of the person charged, or family of the person making the original complaint, and/or to other personally significant people. . . . At all times, however, in the hearing portion of the trial, the presiding officer, the members of the trial court, the person(s) making the original complaint, the person representing the Church as well as counsel for the Church, the respondent, and counsel for the respondent shall have a right to be present. (par. 2708.12)

COUNSEL FOR THE CHURCH

The counsel for the Church cannot be a person who has been involved in this particular complaint by being a member of the Cabinet, Board of Ordained Ministry, or Committee on Investigation.

If the bishop determines that the complaint is based on allegations of one or more offenses listed in par. 2702.1, the bishop shall refer the complaint to counsel for the Church, in accordance with the provisions of par. 2704.2. (par. 362.1b)

Regarding referral of complaint:

The counsel for the church shall be a clergyperson in full connection and shall have the right to choose one assistant counsel without voice who may be an attorney. (par. 2704.2a)

If a written complaint is made against a clergyperson for any of the offenses in par. 2702.1, the bishop shall appoint a clergyperson in full connection as counsel for the Church (see par. 361.1d[1]) Counsel for the Church shall prepare, sign, and refer the judicial complaint, with all relevant material, to the chairperson of the conference committee on investigation and represent the interests of the Church in pressing the claims of the person making the original complaint in any proceedings before the committee. (par. 2704.2b)

No person who was a member of the cabinet, Board of Ordained Ministry, or committee on investigation who earlier considered the case now before the trial court shall be appointed counsel for the Church or serve as counsel for the respondent or any persons bringing complaints in the case. (par. 2708.7)

The counsel for the church is present at the trial and may choose an assistant counsel, who may be an attorney. He or she may also request that the trial be opened in the hearing portion (not the deliberations of the trial court).

Objections of any party to the proceedings shall be entered on the record. (par. 2710.6)

The deliberations of the trial court shall be closed. All other sessions of the trial shall be closed, except upon the written request to the presiding officer of counsel for the respondent, the trial shall be open. Also, the trial may be opened by the presiding officer, upon written request of either the counsel of the Church or the counsel for the person charged, to family of the person charged, or family of the person making the original complaint, and/or to other personally significant people. . . . At all times, however, in the hearing portion of the trial, the presiding officer, the members of the trial court, the person(s) making the original complaint, the person representing the Church as well as counsel for the Church, the respondent, and counsel for the respondent shall have a right to be present. (par. 2708.12)

The counsel for the Church is assigned by the bishop and has the interest of the church in pressing the claims of the person making the complaint. A benefit to the victim/survivor is that the story does not need retelling by the victim in many different settings, but the written complaint is carried by a clergyperson in full connection in the church. A word of warning comes to the victim in making sure that the complaint is well articulated and the issues are known, for the counsel of the Church will be the one who will carry the complaint forward.

Mediation, although tenuous in a power-differential relationship, reminds us of the possibilities of repentance, forgiveness, healing, and justice. It should be entered into carefully, not casually. Claiming that advocate and support persons are needed within the complaint and judicial processes remind us of the need for community in the midst of misconduct and accountability. High vulnerability is possible during these processes, and stability and care are needed in this ministry of presence. No person—in a connectional system and in a church entity—should travel alone.¹⁰

¹⁰ Ibid.

Chapter 5: Ministry and Law

CLERGY ARE TRAINED IN RELIGIOUS systems with emphasis on faith, love, reconciliation, sin, repentance, and forgiveness. Even for those who become bishops and superintendents, leaders with excellent administrative skills, the basic orientation is the religious perspective. Establishment and maintenance of role boundaries and procedures within the church are in the context of an abundant grace.

When clergy are put in the position of overseeing legal processes, there can be difficulty. Pastoral relationships with people involved in the legal processes may no longer be possible, as the paradigm shifts and clergy (including bishops and superintendents) find themselves in a different environment. The letter of the law, an absence of the assumption of grace, and need for legal justification and defense combine to create pressures for clergy.

One response is for clergy to seek to resist or deny the legal environment through pastoral presence. Another response is for lawyers and courts to forget or ignore the important fact that they are dealing with a church and that they, too, must shift their paradigms and adjust their focus to fit into a church environment. Both responses can cause confusion of boundaries and systems, further jeopardizing legal clarity, justice, and healing.

A more helpful response is for clergy to respect the legal processes, applying theological skills for interpretation and understanding, and for lawyers and courts to respect the church and adjust to its uniqueness. Such understanding will include appreciating the power and integrity of judicial procedures for addressing times of human grievance. The understanding also includes knowing the place and limitations of legal processes.

Appreciation of legal processes affects how clergy (including superintendents and bishops) communicate in oral and written forms. Record keeping and file maintenance become important, not simply in one's own defense, but for the clarity of intention in the various relationships of administration, supervision, and oversight. Proper record keeping is important as a routine office procedure, not simply in response to a judicial process.

Legal wisdom includes knowing state law as well as church law. What does state law mandate regarding crimes of a sexualized nature? Some states have laws regarding sexual misconduct. What is the impact of such laws on church policies and procedures? What are recent court rulings regarding supervision and liability of church leaders? In most states there is a mandated reporting of suspected child abuse. What can be expected as follow-up by state authorities to such reporting when clergy are accused?

The formality and intentionality required for legal procedures place demands on clergy which can be new and unsettling. In giving depositions or testimony in civil or criminal

court, clergy can find that their words and records are used toward ends that were not their intention. They also may discover that they have lost control over the interpretation of their actions and language. In such settings the proving of guilt or the defense against such proof renders traditional clergy training inadequate.

For clergy, especially superintendents and bishops, adequate training in legal systems becomes imperative. Care with communication and record keeping is essential. Support systems for those involved with judicial processes can be important. In addition to legal help in such times, personal and pastoral support is crucial. Role-playing the giving of depositions and testimony in a courtroom can bring helpful experience prior to the actual occasions of testifying. Support in preparation and debriefing not only around the content of issues, but also around personal faith issues is important. One superintendent in the midst of a civil proceeding wondered to a colleague whether grace really exists. Clear vocational and personal identity for clergy leaders is crucial for personal and organizational health. This is true especially in times of high stress due to judicial processes and human conflict. All of these support efforts can diminish the tendency of church leaders to fear legal processes, abandoning the faith foundation of their leadership.

ACCOUNTABILITY

United Methodist polity defines accountability systems for all clergy. All individuals who are under a bishop's appointment and a superintendent's assignment, have clergy membership in an annual conference, and/or have ordination credentials are part of the accountability system. Persons who feel aggrieved will attempt to hold annual conferences and church leaders responsible for the improper behavior of clergy.

In former years compromise was often sought in times of clergy misconduct by asking clergy to retire, take leaves of absence, or relocate. Each of these was seen as an exit. Now it is clear that none of these is an exit, except from appointment. The conference, bishop, superintendent, and pastor in charge of a local church where membership is held carry responsibility for the appropriate disciplinary supervision of the conference member and/or ordained person. The new ordering of ministry extends the conference accountability to clergy who are commissioned ministers as probationary members and to deacons who are full members.

Routine and consistent supervisory procedures are essential for the health of the accountability systems and the ministry of the church. Each bishop, superintendent, and

pastor in charge must be clear about such supervisory procedures in day-to-day operation of the organization.

These procedures will include the methods of hearing from and about clergy, providing feedback, and making assessments of clergy. Methods of gathering and receiving information, criteria and standards for making assessments, and processes for giving feedback must be clearly stated. The importance of this may be obvious for bishops and superintendents. Pastors in charge should include such routine and consistent procedures in relating to clergy members of the charge conference, especially located clergy.

While the supervising principles remain, different procedures are involved in times when complaints against clergy may be in process or filed in fact. The supervisory process in these times involves a potential judicial procedure, includes human grievance, and has the potential of wide negative and/or positive impact on the church.

Chapter 1 of this resource manual on policies and procedures raises a number of questions that can help in the formulation of guidelines to use during times of possible or actual complaints over clergy misconduct.

Guidelines for Disclosure for Cabinets in Appointive, Judicial, and Administrative Processes

A major concern for people in supervisory authority has to do with procedures of disclosure and confidentiality. As in any organization, knowledge about a person and a church is a matter of power over and/or power with. As in other organizations, such knowledge in the church has been used positively and negatively. Collegial ministry calls for the widest possible sharing of information. Careful process and need for providing a safe environment for all persons require restraint in the sharing of information casually or improperly.

Guidelines for information sharing at the time of appointment changes help build the relationship among the cabinet, pastors, and local churches. What is told to the prospective pastor (and family) about the church? What is the source of the information? Are there profiles and other materials from the PPRC that the superintendent shares with the prospective pastor? Is such information shared through cooperation with the local church? What is the role of the former pastor in sharing information with the next pastor?

What is shared with the PPRC regarding the pastor? What are the leadership qualities that make this pastor suited to this appointment? Are there physical, behavioral, fiscal, or family realities that impact the appointment and the pastor's leadership? Are there particular needs

of the pastor or family members that are important to communicate? Is such information shared in cooperation with the pastor?

When a pastor is the subject of a complaint or charge, the cabinet has an obligation to share this fact with the PPRC. Cabinet guidelines need to be in place regarding what is shared with the PPRC and with the wider church. (Sometimes PPRC members do not maintain confidentiality. In such cases, sharing with the committee can be a form of congregational communication.) The nature of the complaint or charge, the process by which the complaint or charge is handled, the policy of the annual conference and *The Book of Discipline*, and the meaning of all this for the pastor's appointment are minimal levels of information. In some instances the cabinet may have constraints on how a pastor may function due to the nature of a complaint or charge. Such constraints need to be communicated clearly.

After a complaint or judicial process against a clergy person has been completed it is still necessary to inform subsequent PPRCs about the complaint or charge. The information that is shared and the context of the sharing become important. Bishops and superintendents may be held accountable in instances where a clergy person is appointed and misconduct reoccurs similar to that in previous appointment settings and the local church was not informed of the previous behaviors. For how many years and appointments is such information of former complaints shared? If the clergy has been found innocent of misconduct or there is no just cause for a chargeable offense, what is to be shared with a PPRC?

Judicial processes require both disclosure and confidentiality. This is true even when the clergy person continues in the same appointment. There must be communication with the current PPRC, and in some instances with a former PPRC. Paragraph 361.1b includes the option for the bishop to consult with the Pastor-Parish Relations Committee. Communication with the PPRC promotes healing within the congregation. When a clergy person is appointed to extension ministries the communication is with the personnel committee and/or supervisor in the appointment setting.

At what points in a complaint process is it appropriate to provide information to the entire congregation? Who has authority in shaping and providing information at such times? The Bishop and Cabinet shall provide a process for healing within the congregation if there has been significant disruption to congregational life by the complaint. This may include a mediation process for unresolved conflicts, support for victims and reconciliation for parties involved (par. 361.1e).

Other people within the annual conference are involved in clergy misconduct complaints. In some conferences advocates support the aggrieved persons. Some conferences identify mediators. Counselors and other individuals may be part of a process toward healing and resolution in the supervisory phase. What information is to be disclosed to any of these people? What are these individuals to disclose to others, including bishop and superintendents?

In cases of clergy misconduct complaints, the clergy family is particularly impacted. Guidelines must address sharing information with members of the clergy family, with attention to how and what to disclose to children, depending upon their age.

The aggrieved persons who are formulating a complaint or have submitted a complaint are to be kept informed about the procedures. They and their families are at a time of great risk. Guidelines can help clarify what information may be shared and what information is not appropriate for sharing.

At some point in the complaint procedures the clergy and laity of the annual conference need accurate and clear information about the complaint and the processes that have been and/or are being used. Guidelines can help to determine timing and substance of such communication.

COUNSELING FUNDS AND RESOURCES

As part of routine and consistent procedures, clarity about the use of counseling is important. Experiences have varied from conference to conference regarding counseling resources and funding in times of clergy misconduct. Designation of providers varies with conferences and insurance carriers. Clarity in a given conference about who is authorized for such counseling becomes important. Does the health insurance cover such counseling for clergy and their families? Does the liability carrier provide counseling funds for aggrieved persons and family members? Does the board of ordained ministry or other agency administer a fund at times of clergy misconduct?

Counseling for clergy who are guilty of misconduct is widely available. However, the counseling comes with significant limitations. Therapists are not in a position to certify any particular result or recovery because of a therapeutic process. There are no guarantees to cabinets, bishops, or local churches that a particular behavioral pattern is forever changed. Some behavioral patterns, particularly predatory sexualized patterns, are given little hope for significant change. Even in instances where significant change seems evident, the proper

language is similar to other recovery programs. The person continues in a “recovering” mode and enlists the aid of church authorities, PPRC, and other significant persons. In such healthy recovery the person takes full responsibility, building and utilizing a rigorous accountability and support system.

Counseling funds made quickly and easily available for aggrieved individuals become an important pastoral declaration of caring on the part of an annual conference. Such funds need to be available on a no-questions-asked basis so that provision of funds is completely unrelated to processes of establishing just cause for any particular complaint. In some conferences the liability carrier makes funds available for use at early stages of possible misconduct. Some conferences establish special funds for this purpose. In each of these instances, a procedure must be in place for the routine and consistent use of such funds so that there is not an implication or admission of guilt prior to due and fair process.

In some instances the clergyperson who has been found responsible for misconduct is directed and agrees to help with counseling costs for the aggrieved individuals.

In instances of clergy misconduct or accusation of misconduct, people in addition to the clergy and the aggrieved person are involved and are helped through counseling. Spouse and children of clergy are significantly affected by the stress of the situation. Congregations have been helped not only by the skill of an afterpastor, but also by the presence of counselors at times of maximum stress for the congregation as a whole.

CONFIDENTIALITY

There has been much discussion—including speculation—about what is and what is not required by the confidentiality provisions in paragraphs 361 and 2607. Paragraph 361.1b provides that the supervisory response of the bishop is to be carried out in a timely and confidential manner, with attention to communication to all parties regarding the complaint and process. Paragraph 2607 provides that trial records are to be maintained in a confidential manner.

The underlying purpose of these paragraphs is to protect the privacy interests of the clergy member and the person bringing the complaint, as well as to maintain the integrity of the church's internal disciplinary process without jeopardizing the outcome of that process. The purpose is not, however, to require absolute silence.

Other paragraphs in the *Book of Discipline* reflect the importance of a balance between respecting the privacy interests of the parties and disclosure of information to protect the interests of the church (as a whole or one or more of its entities or representatives) or the safety or well-being of the members of the local church. Paragraph 361.1b states that the bishop may consult with the Committee on Pastor Parish Relations or other appropriate persons or entities in forming the supervisory response. Paragraph 361.1e states that the bishop and the cabinet shall provide for a process for healing within the congregation if there has been significant disruption to congregational life by the complaint. It further provides that this process may include sharing information by the bishop or cabinet about the nature of the complaint without disclosing alleged facts that may compromise any administrative or judicial process. Paragraph 2607 includes a similar provision.

In other words, in each instance, an important role for the bishop and cabinet is to balance the privacy interests of the parties with the need for disclosure and decide whether and to what extent the need for disclosure outweighs the privacy interest.

For example, if several complaints have been filed by different people in a congregation against a clergy person for ineffective ministry, it may be important for the district superintendent to have a meeting with the Pastor-Parish Relations Committee and the pastor to discuss the best way to help the pastor overcome the particular difficulties. This is an important disclosure, and the confidentiality provisions in the *Discipline* would not prohibit this type of discussion.

Likewise, if a complaint is filed against a clergy person for child molestation, it is important that the congregation of the local church be informed that a complaint of this nature has been filed, in order to protect the local church and its members from potential

harm and minimize the risk of liability exposure for the clergy person's alleged wrongdoing. The church can be informed that a complaint of child molestation has been filed without disclosing who filed the complaint or the specifics of the allegations. This protects the privacy interests of the complainant as well as the integrity of the church's internal disciplinary process.

On the other hand, if an isolated complaint is filed against a clergy person for making an insensitive remark to a member of the local church, then there is likely no need for disclosure to anyone (other than for the district superintendent and the clergy person to have a discussion about the substance of the complaint) in order to protect the interest of the church or the safety or well-being of its members.

In summary, the *Book of Discipline* calls for confidentiality in the supervisory response and for trial records. While it is important for all who are involved in a disciplinary process to respect such confidentiality, it does not override the importance of disclosure when, in the discretion of the bishop and the cabinet, the local congregation or others have a legitimate need to know about the complaint. When disclosure is deemed important to protect the interests of the church, the clergy, or the safety or well-being of the members of the local church, then enough information should be disclosed to meet these interests without disclosing details that would compromise the integrity of the disciplinary process.

[Local Church Policy Statement on Sexual/Gender Misconduct](#)

[Sexual Harassment Investigation Checklist](#)

[Sample: Local UMC Basic Policy Statement](#)

[GCFA Insurance Worksheet](#)

[Frequently asked Legal Questions and Answers for new DS's \(Sexual Misconduct\)](#)

[Do & Don'ts: When a Lawsuit is Filed](#) (See page 23.)

[Personnel Policies: Harassment](#) (See page III-43.)