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## POLICY AND PROTOCOL CONCERNING SEXUAL HARASSMENT AND ASSAULT

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# 1. POLICY

- a. *We affirm that every human being is created in the image of god who has made us for loving, covenantal relationships with our Creator, other and the world. We believe that our peace arises out of right relationships. Our personal dignity, freedom and bodily integrity are ensured by faithfulness to just covenants of mutual entrustment, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.*<sup>1</sup>
- b. We further acknowledge that children, adolescents, the infirm and elderly are particularly vulnerable to the tragic consequences of broken covenants and abusive treatment. Special care must be taken to protect their individual rights and personal integrity.
- c. There is universal agreement that respect, reverence and mutuality are necessary in all human relationships. This agreement about the fundamentals of human relations, including sexual relations, leads to a firm judgement and condemnation of sexual abuse and exploitation.
- d. *Sexual abuse is self-gratification by exploitation. It makes an impersonal object of the other person, abusing both the person and sexuality itself. Abuse occurs in a wide range of sexual activities.: always in rape and child molestation, usually in adultery and prostitution, and sometimes even in marriage. Sexual abuse also occurs in the socially subtle aspects of sexism and in sexual harassment of employees in the workplace. The Church must be clear about these violations of sexual intimacy. It must be explicit in its teaching about these particular aberrations of sexual intimacy, aggressively proactive about its social policy and action touching on these areas, and forthright in dealing with violations in its own community.*<sup>2</sup>
- e. The Diocese of Quebec undertakes to ensure that all activities, work and pronouncements with which it is engaged uphold the values of love, truth and justice and are demonstrably free from violence, coercion, and discrimination because of gender.
- f. It is our policy that sexual assault, sexual harassment, or sexual abuse of any kind, whether to an adult, adolescent or child, male or female, by or to any staff person, contract employee or volunteer, will not be tolerated.
- g. We will actively try to prevent such occurrences and deal with any accusations promptly, seriously and systematically, in cooperation with proper authorities where appropriate.
- h. In sharing the Gospel mission to bring reconciliation, healing, and wholeness, those who

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<sup>1</sup>Anglican Church of Canada, *Guidelines... applicable to National Staff and National Volunteers*

<sup>2</sup> Lambeth Conference Report, 1988

undertake as priest of laity to serve the Church (whether places as volunteer or on salary), will draw close to those to whom they minister. They need to recognize the dynamics of trust in these relationships and the consequent potential for harm and abuse. They therefore must, in living out their faith, adhere to Christian ethical principles in their sexual conduct. *The authority conferred by the Church on those who work in Christ's name must be rooted in the love of Christ* (Eph. 2:17). In their ministry, they must model God's trustworthiness. For any Christian, to betray trust by the grave ethical transgression of sexually abusing another, whether child or adult, is to deny Christian identity. Such a betrayal cannot be other than a gross injury to the one abused, and a violation of faithfulness to Christ.

- i. At all times, an ethic of mutual respect, responsibility and caring, as well as modeling wholeness and healthy sexuality in relationships, will be the goal. We will practice, advocate and educate to that end.

## 2. DEFINITIONS

### a. Sexual Harassment

- i. Several kinds of behaviors with a sexual connotation, if unsolicited and unwanted, and especially if repetitive, can be forms of sexual harassment. (Generally speaking, harassment has been defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome).
- ii. Examples are: suggestive looks or leers, obscene gestures, sexual remarks, comments, teasing or telling jokes with a sexual content, letters, calls or materials of a sexual nature, imposed touching, closeness, invitation to touch or view sexually explicit materials, pressure for dates or activities with a sexual overtone, or offer to use influence in return for sexual favor.
- iii. Unequal power in relationships may put someone at the mercy of another. Sexual harassment also includes discrimination on the basis of gender or sexual orientation, causing stress, intimidation or humiliation to the victim. It may happen in situations where dominance and abuse of power result in a lack of respect for and mistreatment of people as sexual objects, which demeans and destroys the dignity of the victim.<sup>3</sup>

### b. Sexual Assault

- i. "Assault" means any intentional use of force or threat of use of force against another person without his or her consent. The law does not specifically define the term "sexual assault". It is, however, any form of assault involving some form of sexual activity. Kissing, sexual contacts, fondling, or sexual intercourse with another without his/her consent is simple sexual assault (The judge or jury decides whether in a particular case there was sexual assault).
- ii. There is also the category of "aggravated sexual assault" which includes bodily harm, assault with a weapon, threats, threats to a third party.
- iii. Other categories of sexual assault include incest, anal intercourse (buggery), bestiality and gross indecency.
- iv. Further sexual offences against children include: intercourse with a female under age 16, invitation to touching, sexual exploitation of a young person, parent or guardian procuring sexual activity of a child, exposing genitals to a child, vagrancy, juvenile prostitution, corrupting children, indecent acts.<sup>4</sup>

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<sup>3</sup>World Council of Churches, *When Christian Solidarity is Broken*, 1991

<sup>4</sup>*Canada's Law on Child Sexual Abuse - a Handbook*

NOTE: Consent is understood as non-coercive. If a victim agrees to any assault under threat, or if consent is obtained by fraud or by the influence of a person in authority over the victim (e.g. counselor, pastor, guardian), it will be deemed to be no consent. An accused may show "honest belief" of consent and may not be convicted. However, it is always no consent for children under age 12, with peers for children age 12 to 14, and with young persons age 14 to 18, consent is not valid if the accused was in a position of authority over them. Also, there are further provisions for mentally or otherwise incapacitated or vulnerable children, adolescents and adults.<sup>5</sup>

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<sup>5</sup>*Criminal Code of Canada*, Bill C-127, 1983, and Bill C-15, 1988

### **3. GUIDING PRINCIPLES**

- a. Confidentiality will be respected, except where the law demands otherwise, or where others are at risk.
- b. An accused person will be presumed innocent until proven guilty.
- c. All complaints will be taken seriously and will be investigated.
- d. Nothing must be done to interfere with a criminal investigation.
- e. The protection of children is a matter of fundamental concern and legal responsibility. A complaint of sexual assault or abuse of children shall be reported to civil authorities immediately and in accordance with the laws of the appropriate jurisdiction.
- f. Preserving the safety and well-being of a complainant, or others who might be affected, will be a priority.
- g. The Diocese of Quebec will do all it can to preserve the safety of the places of work for its staff and volunteers.

### **4. SUGGESTED MECHANISMS FOR RESPONSE**

- a. A diocesan Sexual Abuse Resource Team (SART) would be available to work closely with the diocesan Bishop to consult with persons who may have relevant information in order to determine the truth of the allegations and recommend action. The SART will be available to clergy, lay workers, and volunteers for information and support to those who have concerns or questions about suspected cases of sexual abuse.
- b. A Crisis Response Team (CRT), appointed by SART, should be available in each area of the diocese to go into a parish where there is an allegation of sexual abuse involving a volunteer or staff person in the parish.  
The CRT will include a lay person or priest skilled in facilitation and conflict mediation, and other skilled professionals as needed.  
While in the parish, the activities of the CRT may include contact with key people, consultation with the wardens and paid staff, maintaining clear communication with the Bishop, the SART, the priest or interim priest, and making recommendations to the Bishop about what is needed in the parish.  
The work of the CRT should be short term.  
The Bishop may take disciplinary action in accordance with the Canons.

## 5. SPECIFIC PROCEDURES

Any complaints regarding the suspected abuse of a child must be reported immediately to a local Centre de protection de l'enfance et de la jeunesse de Québec (CPEJ). Legislation identifies that there are five forms of child abuse: sexual abuse, physical abuse (injury), medical neglect, emotional abuse, and developmental neglect.

Any complaint on reasonable grounds or which has been reported to the CPEJ against clergy concerning sexual abuse must be brought to the attention of the diocesan Bishop. The Bishop should ordinarily meet with the wardens of the parish at an early date.

If the complaint is against a lay staff worker or volunteer, the incumbent or head of the agency involves should be informed first and **must** take it to the Bishop.

During an investigation, the Clergy or staff person who is the subject of the allegation may be placed on leave of absence with pay. A volunteer who is the subject of an allegation may be asked to relinquish his/her responsibility until the matter is resolved. Any such leave is without prejudice and does not imply the guilt or innocence of the person under investigation,

### Responses

**a.** Any complaint of sexual abuse of a child by any person

Whoever receives the information must contact the Centre de protection de l'enfance et de la jeunesse de Québec (See appendix 3). **This is the law.**

Article 38(g) of the Québec Youth Protection Act, RSQ, C. p-34.1 (the Youth Act), reads:

*38. For the purpose of this Act, the security or development of a child is considered to be endangered where:*

*he is a victim of sexual abuse or he is subject to physical ill treatment through violence or neglect.*

Article 39 of the Youth Act reads:

*39. Every person, even one having privileged information, who has reasonable cause to believe that the security or development of a child is in danger within the meaning of paragraph (g) of Section 38 is bound to bring the situation to the attention of the Director without delay. (Emphasis added)*

The SART may serve as a source of information and support to leaders in the Church who have questions or concerns about abuse, or who have suspicions about certain cases of sexual abuse.

Once the Centre de Protection de l'enfance et de la jeunesse is contacted, their staff will begin the investigation of the case and contact the individuals as they see fit. Under the regulations, only the Centre de protection de l'enfance et de la jeunesse of the police may question the victim/alleged offender so that the investigation may proceed unhindered. However, pastoral support is still appropriate.

b. Any complaint of sexual abuse of a child by clergy, lay staff worker of volunteer  
The Bishop will assist the CPEJ and the police.

The Bishop will normally consult with the SART about future action . (See Appendix 2)  
When the investigation is complete, the Bishop is strongly encouraged to meet with the  
congregation at the earliest possible opportunity.

If the investigation is inconclusive, or the accused is not charged or convicted, the Bishop may  
consult with the SART about any further action to be taken.

c. Complaint of sexual abuse of an adult by clergy, lay staff worker of volunteer where  
criminal investigation is required

The Bishop will assist the police.

The Bishop will normally consult with the SART about future action. (See Appendix 2)

d. Complaint of sexual abuse of an adult by clergy, lay staff worker of volunteer where  
criminal investigation is not pursued

In dealing with the complaint, the Bishop will ordinarily involve the SART from the beginning.  
Ordinarily, the Bishop will call in the SART and provide the initial information about the  
allegations.

Ordinarily, the SART will meet with he complainant and see that the complaint is put in writing.  
The SART will ask for written permission from the complaint to the accused.

The accused will be personally presented with the written complaint by the Bishop in the  
presence of representation from the SART in the course of an interview.

## **6. DISCIPLINARY PROCEDURES IN THE CASE OF CLERGY OF DIOCESAN LAY STAFF WORKER**

The Bishop, in consultation with the SART, in his/her discretion may exonerate publicly or privately the person accused, or continue to investigate the situation.

If the allegation is substantiated, the Bishop can take one or more of several options:

- Caution        In a case where conduct has been unwise but not necessarily unethical, the Bishop may give a verbal caution to the person.
- Warning        In a case of clearly inappropriate behaviour, and possibly unethical behaviour, the bishop may give a warning in writing.
- Reprimand     In a case involving unethical behaviour, the person will appear before the diocesan bishop and will be given a reprimand in writing.
- Censure        A record of the action will be put in the offender's file. Rehabilitation may be provided as needed, with ongoing (for at least one year) accountability to the diocesan Bishop).
- Inhibition     The Bishop may order the offender not to perform any or certain of the duties of his or her office until the inhibition is withdrawn. The inhibition will continue until there is clear evidence to the diocesan Bishop of rehabilitation and restoration.
- Suspension    At any time the Bishop may suspend the offender.

## **7. DISCIPLINARY PROCEDURES IN THE CASE OF PARISH LAY STAFF OR VOLUNTEERS**

The incumbent, following discussion with the Bishop and in consultation with the SART, in his/her discretion may exonerate publicly or privately the person accused, or continue to investigate the situation.

If the allegation is substantiated, the incumbent can pursue one of the options listed above in 2, but the range of options is limited when dealing with lay persons. All options require pastoral sensitivity in their implementation.

## **8. PASTORAL CARE to any victim of abuse (child or adult)**

- a.
  - i. If the victim is a child, ensure that a verbal report (followed by a written report) has been made to the Centre de protection de l'enfance et de la jeunesse de Québec (CPEJ). Contact the CPEJ and request that they advise you when the investigation is completed. As the police are involved in the initial interview between the CPEJ and victim, criminal charges may be laid. The CPEJ will request that you do not discuss the complaint with the victim until the initial investigation is completed. It will be necessary to follow up by phone with the CPEJ.
  - ii. Whether child or adult, contact the victim and the family of the victim to offer support as appropriate. Although there must be no interference with the investigation (see Appendix 3), help in obtaining therapeutic treatment, as well as other forms of pastoral care, may be offered as needed. Personal communication with a child is especially important, but care must be taken not to inadvertently impede or influence the investigation.
- b. When a complaint of sexual abuse is alleged against clergy, lay staff or other Church worker, the following suggestions may be considered helpful according to circumstances.
  - i. In addition to the pastoral response outlines above, the Bishop shall try to respond to the victim(s) of abuse by naming an appropriate person for advocacy and support during the process. A list of qualified therapists shall be provided, and the Diocese may offer financial support for this purpose.
  - ii. Confronting a priest or lay person with disciplinary action should be understood as a pastoral and caring act, providing for the common good of the Church and also offering the possibility for restoration and healing.
  - iii. Confession and acknowledgment of responsibility should be regarded as an important first step in the possible restoration of an offending Church worker. But the confession and absolution should be conducted with care, and cannot be considered the sole basis for restoration to ministry. Therapeutic evaluation and treatment is recommended and should be required.
  - iv. Special care should be offered to the family of the alleged offender.
  - v. The Bishop and a representative of SART may meet with the congregation and communicate the final results of the process, with special attention to the disciplinary action taken and its implications. The Diocese may continue to make available a trained resource person who can assist the congregation in whatever ways are necessary to address their concerns and bring healing.

# APPENDIX 1

## UNDERSTANDING "REASONABLE GROUNDS"

Every report of child abuse should be taken seriously. Current research indicates that the incidence of false allegations of abuse made by children is relatively low. Therefore, if any child discloses that he or she has been abused, the adult should always consider this as "reasonable grounds" to suspect abuse and should forthwith make a report to the Centre de protection de l'enfance et de la jeunesse de Québec. Other allegations (by adults, for example) may merit further consideration. It is suggested, however, that it is better to err on the side of protecting a child and allow the professionals at the Centre de protection de l'enfance et de la jeunesse to conduct any necessary investigation.

### REASONABLE GROUNDS

"Reasonable grounds" are those grounds which have a rational foundation. Any of the following would be helpful in establishing them:

A complaint from the child;

Circumstantial evidence such as cries for help, unexplained physical injury etc.;

A statement of a credible eyewitness of a credible witness to a recent complaint;

A statement of another which is buttressed with credible detail from the surrounding circumstances;

A credible witness who corroborates the statement of another.

However, the following would always be excluded as providing reasonable grounds:

Gossip;

Unsubstantiated conclusions.

In short, "reasonable grounds" have a rational basis. They are not based on intuition, feelings, emotion, or the uncritical acceptance of another's views if they are unsupported by other facts. In most cases, reasonable grounds will be made up of a number of pieces of rational evidence which together combine to cause the individual to believe a child is or may be in need of protection.

### CONFIDENTIALITY

It should be noted that the laws of the Province of Québec are understood to override the privilege of confidentiality (including that of doctors and clergy). This law indicated that the positive requirements of the obligation to report supersede the confessional seal.

## **APPENDIX 2**

### **DIOCESAN SEXUAL ABUSE RESOURCE TEAM**

The Diocesan Sexual Abuse Resource Team (SART) is responsible on an ongoing basis for matters relating to sexual abuse including child sexual abuse. These persons would serve as a resource group for the diocesan Bishop and would:

Receive or have training in the area of sexual abuse intervention and care;

Be skilled in counseling, conflict mediation, health care, the law, communications or pastoral care;

Serve as a source of information and support to those in the Church who have questions or concerns about abuse or who have suspicions about certain cases of sexual abuse;

Serve as a liaison for information between the Diocese and investigating officials, when necessary;

Keep individuals who report cases of abuse and/or bishops informed with regard to action taken on reported cases;

Be available for community-based events and provide liaison with community organizations as appropriate;

Be aware of community-based educational programs;

Develop diocesan or area-based training programs on sexual abuse;

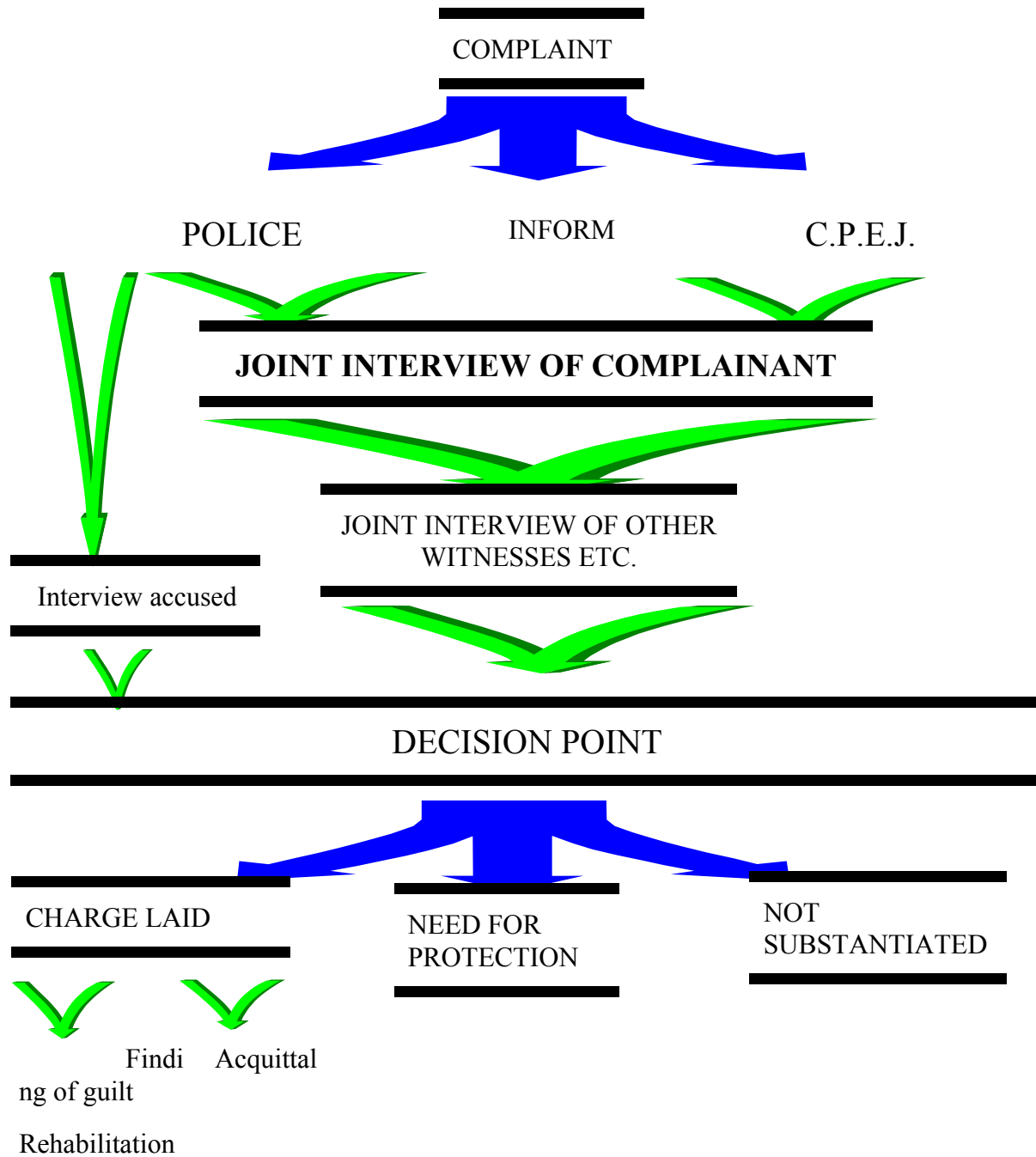
Assist and advise in the task of liaison with local media and community;

provide personnel for a Crisis Response Team;

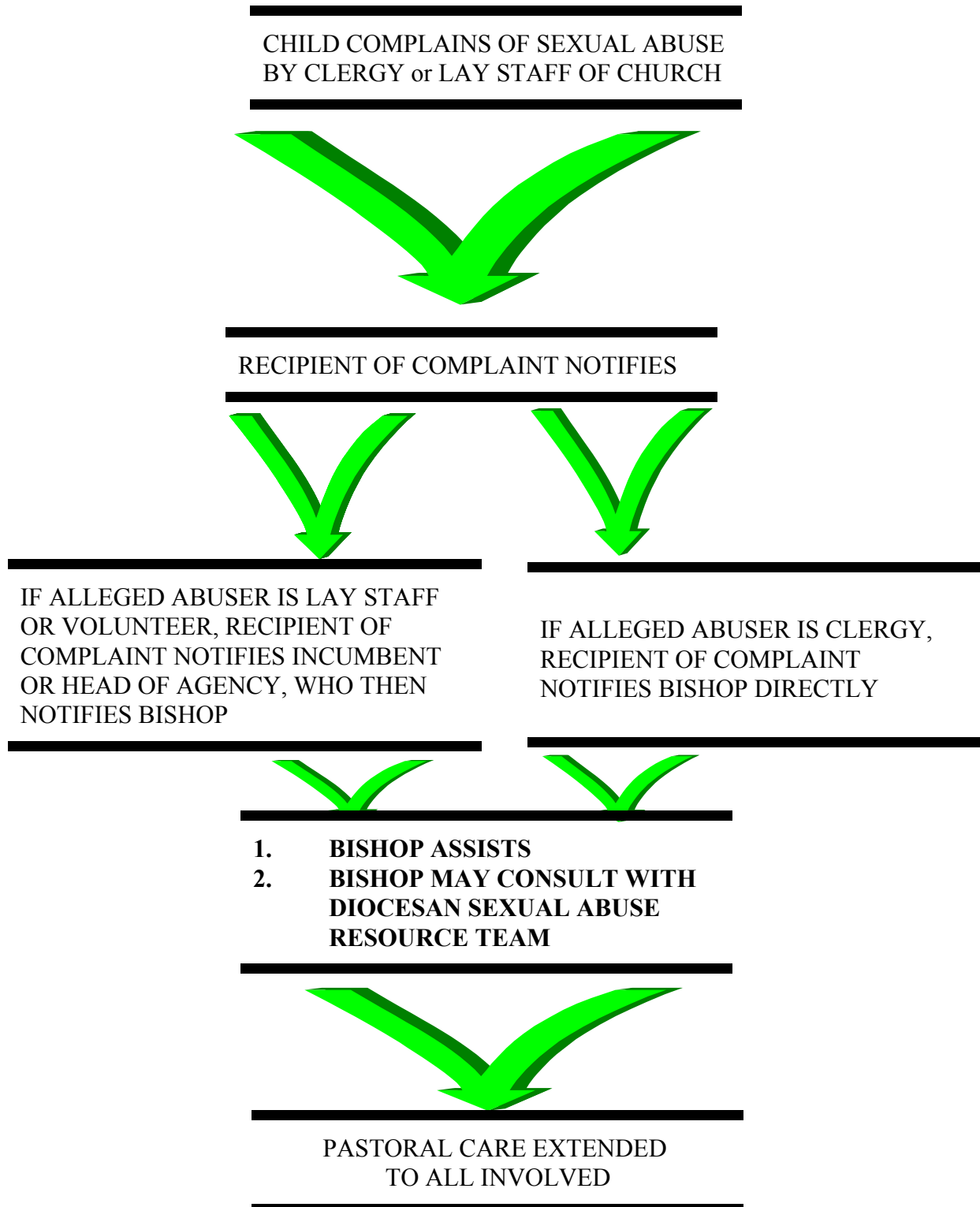
Develop a policy on the appropriateness of future work within the Church of rehabilitated clergy, lay workers and volunteers.

**APPENDIX 3**  
INVESTIGATIVE PROCEDURES

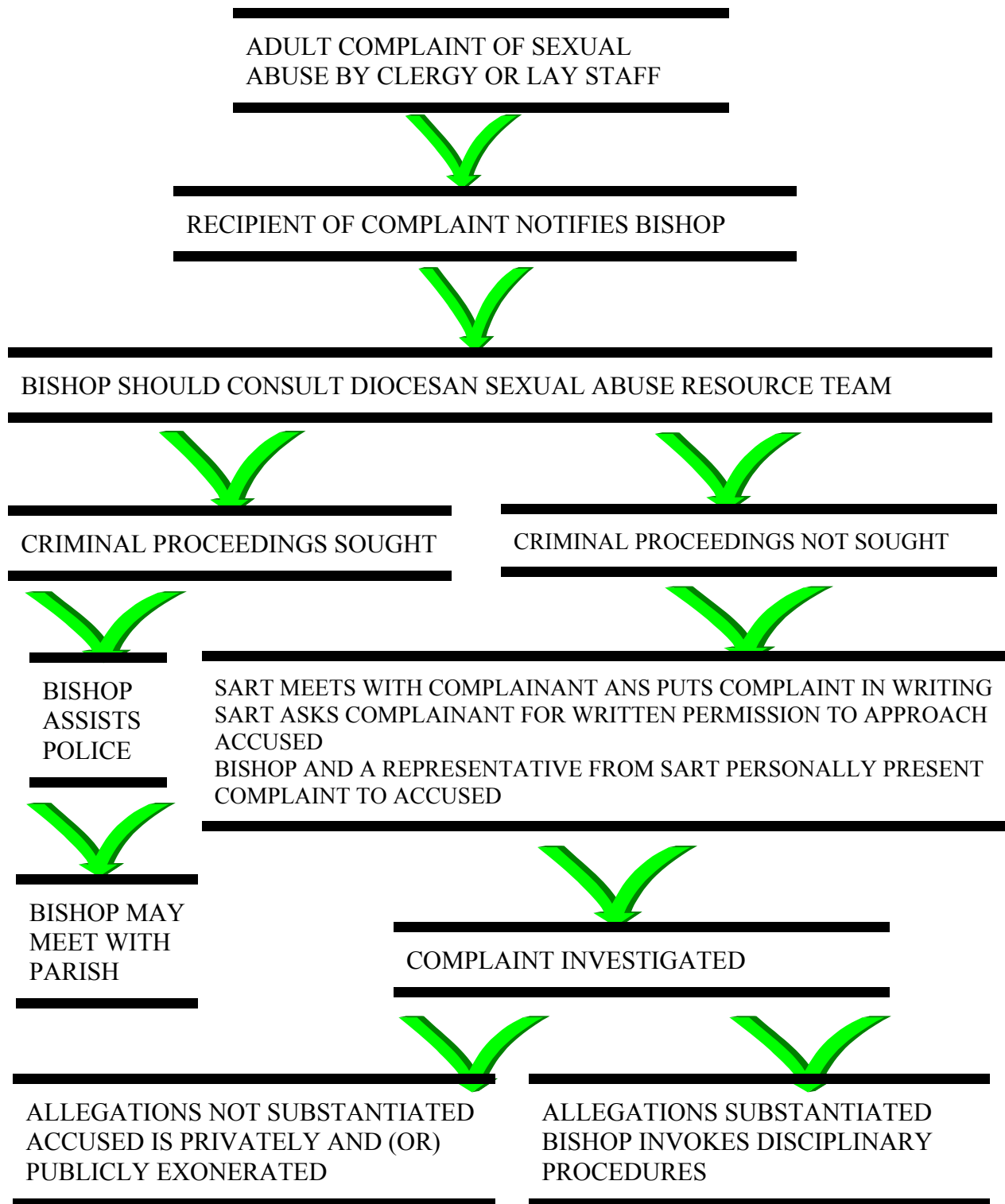
1. Criminal Justice / Child Welfare Investigative Procedures



## 2. Church Investigative Procedures - Child Complainant



### 3. Church Investigative Procedures - Adult Complainant



## acknowledgments

The following sources have been used in the development of this protocol:

- , Anglican Church of Canada, *Guidelines for the Implementation of the National Policy on Sexual Harassment and Sexual Assault applicable to National Staff and National Volunteers*
- , Anglican Church of Canada, *Checklist: Towards Developing National and diocesan Policies and Guidelines for the Church's Response to Sexual Assault and Harassment*, June 1992
- , Anglican Diocese of Toronto, *Diocesan Sexual Abuse Policy*, April 1992
- , Anglican Diocese of Montreal, *The Bishop's Commission on the Sexual Abuse of Children*
- , Anglican Diocese of Ontario, *Protocol on Sexual Misconduct*, May 1993
- , Anglican Diocese of Huron, *Sexual Abuse Task Force Policies*, November 1992
- , Episcopal Church of the USA, *Communicating in Crisis*, 1993
- , Evangelical Lutheran Church in America (Greater Milwaukee Synod), *Dealing with Allegations of Sexual Misconduct against members of the Clergy*
- , Context (World Vision of Canada), *Clergy Sexual Misconduct: An Abuse of Power*, May 1993 issue