

Presbytery of San Francisco

# Sexual Misconduct Prevention Policy and Procedures

Approved November 17, 2007

## **SEXUAL MISCONDUCT POLICY OF THE PRESBYTERY OF SAN FRANCISCO**

The Presbytery of San Francisco has zero tolerance for sexual misconduct. Sexual misconduct is always wrong.

The Presbytery of San Francisco believes that incidents of sexual misconduct cannot be glossed over, rationalized, or covered up “for the good of the church.” The Presbytery hereby proclaims that the good of the church can never be served by overlooking an abuse of power and betrayal of trust. Charges of misconduct must be dealt with swiftly, fairly and with compassion for all parties involved.

Responsibility for maintaining appropriate sexual boundaries and prohibiting sexual relationships belongs to the ordained minister, lay pastor, church staff or other leader, even if the parishioner, student, client or employee initiates or invites sexual activity. There is no such thing as presumed consent where there is disparity of power.

### **Definition of Sexual Misconduct**

Sexual Misconduct is the comprehensive term used in this policy to cover the following: sexual abuse of a minor or an adult who lacks mental or physical capacity; inappropriate sexual conduct; rape; sexual malfeasance; and sexual harassment. *The definitions of this term can be found in Appendix A that accompanies this policy.* The policy also applies to use of the telephone, internet, or any other means of communication as well as to in-person communication.

### **Theological Rationale**

Christian leadership requires trustworthy exercise of power on behalf of those in our care. Sexual misconduct is an abuse of this power and trust, and is, therefore, unjust. We believe and proclaim that all people are created by God. God values all life – men, women, and children – and intends that in all relationships everyone has dignity and worth. Further, we believe that God has shown love for all persons in Jesus Christ, and intends that all people should relate to one another with love, compassion, and justice. We believe, therefore, that sexual misconduct is an offense against God. Our faith in Christ leads us to decry any interactions where people are treated without love, compassion, and justice.

The church has grappled since its inception with the tension between judgment and grace. Though grace predominates, judgment and discipline are expected when individual behavior affects other persons and the church body as a whole. To dismiss an instance of sexual misconduct compounds the misconduct. Maintaining silence is unacceptable. In the words of Paul: “All things are lawful, but not all things are beneficial. All things are lawful, but not all things build up. Do not seek your own advantage, but that of the other.” (1 Corinthians 10:23-24).

At the same time, we must remember that as members of Christ’s body we are called to work toward healing and forgiveness. Again in the words of Paul: “All this is from God, who reconciled us to himself through Christ, and has given us the ministry of reconciliation.” (2 Corinthians 5:18). In instances of sexual misconduct, we must provide both support and confidential care, as appropriate, to the individuals involved, as well as to the congregation, if one is also involved. A Presbytery pastoral response team can provide such support and care. *The definition and responsibilities of the team can be found in Appendix B that accompanies this policy.*

### **Scope of the Policy**

This policy statement is binding on all ministers of the Word and Sacrament who are members of the Presbytery of San Francisco of the Presbyterian Church (USA) [hereafter called “the Presbytery”], all elders, deacons, candidates, inquirers and members of churches who are part of the Presbytery when they are engaged in any activity organized, sponsored, or conducted by the Presbytery and any of its entities (councils, committees, task forces, commissions), and/or any person who works or acts for the Presbytery in any capacity, whether he or she is a volunteer or paid employee or agent of the Presbytery. The policy does not regulate sexual conduct within the churches of the Presbytery; however, it is recommended that all church Sessions adopt a policy similar to

this one.

The policy is to be interpreted and applied consistently with the Book of Order of the Presbyterian Church (USA); all other applicable policies of the Presbytery of San Francisco; and state, federal, and local law.

### **REPORTING PROCEDURES FOR ALLEGATIONS OF SEXUAL MISCONDUCT**

The response of the Presbytery of San Francisco to allegations of sexual misconduct includes both pastoral and judicial responses to all parties who are impacted by these allegations: the accuser(s), the victim(s), the accused, the congregation, and the families of the individuals involved. The procedures outlined in this document delineate the process for how an allegation is made, the pastoral response those involved can expect from the Presbytery, and matters pertaining to the disciplinary procedures stated in the Book of Order. Judicial procedures are fully stated in the Book of Order, Rules of Discipline.

#### **1. Jurisdiction over the accused is determined (D-30000).**

When a person believes or hears that sexual misconduct has been committed by a member, employee, or volunteer of the Presbytery, or if a person self-reports sexual misconduct, or if a member, employee or volunteer is accused by another person of sexual misconduct, allegations must be immediately submitted in writing to the appropriate governing body, as follows:

- A. All employees of the Presbytery are accountable to the personnel policies and procedures of the Presbytery. Allegations shall be filed with the person's supervisor, head of staff, Personnel Committee Chairperson, or the Stated Clerk.
- B. All members of the Presbyterian Church (USA) are under the jurisdiction of the church Session where they hold membership. Allegations shall be filed with that congregation's Clerk of Session. Allegations will be dealt with by that Session which is bound by the Rules of Discipline in the Book of Order as well as any supplemental policies and procedures adopted by that Session.

When a member is also an employee of the Presbytery, allegations shall be filed with both the person's supervisor and the Clerk of Session.

- C. All ministers of Word and Sacrament are under the jurisdiction of the Presbytery where they hold membership. They do not hold membership in a local congregation. Allegations of sexual misconduct by a minister member of the Presbytery shall be filed with the Stated Clerk of the Presbytery. Allegations will be dealt with by the Presbytery, which is bound by the Rules of Discipline in the Book of Order as well the policies and procedures outlined in this document.

When a minister member is also an employee of the Presbytery, allegations shall be filed with both the person's supervisor and the Stated Clerk of the Presbytery.

- D. If the person accused does not fall under the categories of A, B, or C above but is acting on behalf of the Presbytery or one of its entities, the person is subject to the discipline of the particular church and denomination where he/she holds membership. Allegations shall be filed with the Stated Clerk of the Presbytery who shall notify the appropriate person in the church in which the person holds membership. The Stated Clerk shall request from that church a report on the disposition of the case.
- E. The procedures outlined below apply only to those in category C, ministers of Word and Sacrament who are members of the Presbytery.

#### **2. Sexual Misconduct allegation(s) are filed against a Minister member of the Presbytery.**

- A. The alleged incident shall be immediately reported in writing to the Stated Clerk of the Presbytery. Should the allegation be against the Stated Clerk, then the allegation shall be submitted to the Chair of the Committee on Ministry who shall consult the Stated Clerk of the Synod as to how to conduct the

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investigation.

- B. The written statement shall include a statement of the alleged offense, together with any supporting information. The statement shall give a clear narrative and allege facts that, if proven true, would likely result in disciplinary action (D-10.0100).
- C. The Stated Clerk will initiate the judicial process outlined in the Rules of Discipline in the Book of Order as cited below, using the following procedures:

- 1) An Investigating Committee will be formed to investigate the allegations.

- a) The Investigating Committee will contact the accuser and/or the victim (if these are different) and advise them of the process, both pastoral and judicial, that is available to them (D-10.0202b). They will be provided copies of the Presbytery's Sexual Misconduct Policy and Procedures and the Rules of Discipline.
- b) The Investigating Committee will contact the accused. The accused will be provided with a copy of the statement of the alleged offense (D-10.0202a), and copies of the Presbytery's Sexual Misconduct Policy and Procedures, the Presbytery's Administrative Leave Policy, and the Rules of Discipline. The accused will be informed of the process, both pastoral and judicial, that is available to him/her.

The Investigating Committee shall inform the accused about any limits to having contact with the accuser and/or alleged victim(s) and their families and witnesses.

- c) The right to an advocate and counsel exists.
  - i) The victim, accuser, and accused each have the right to have an advocate, e.g. colleague, friend, family member, counselor, or any other person present at all interviews and meetings during the investigative and judicial process. The role of the advocate is a supportive one (D-10.0203a).
  - ii) The victim, accuser, and accused each have the right to have an attorney/counsel present at all interviews and meetings during the investigative and judicial process (D-10.0203c, D-11.0301, 2).

- 2) The Stated Clerk will inform the Presbytery at its next meeting that an Investigating Committee has been formed, without naming any of the individuals involved or the nature of the alleged offense (D-10.0103).

- D. The Stated Clerk will inform the Executive Presbyter and the Chair of the Committee on Ministry of the allegation. The Executive Presbyter and Chair of the Committee on Ministry will assess the immediate needs of the congregation.

- 1) The accused may be placed on administrative leave during the judicial process according to the policy and procedures outlined in the Presbytery's Administrative Leave Policy and the Rules of Discipline (D-10.0106).
- 2) Acknowledging that every situation is unique and that the rights of the accuser, victim and the accused will be honored, appropriate next steps may include immediate notification of the church leadership, including the Session, and the congregation; and the assignment of a Pastoral Response Team to the congregation.

- E. The Executive Presbyter and/or the Chair of the Committee on Ministry will contact the Chair of the Pastoral Response Team and inform him/her of the allegation and the assessment of the preliminary needs of the congregation.

- 1) Generally, the chair of the Pastoral Response Team will assign:
  - a) two members of the team to the accuser and the victim (if these are different)
  - b) two members of the team to the accused
  - c) two members of the team to the congregation as necessary

**3. The Pastoral Response Team provides support.**

- A. The Pastoral Response Team is composed of church members and ministers who represent the gender, age, and ethnic diversity of the Presbytery. The team is specially trained in the area of sexual misconduct and will provide confidential care, support and prayer for those impacted by the allegations of sexual misconduct, including the victim, the accuser, the accused, their families and their congregations. The team will serve as long as the team and the parties involved see it as beneficial.
- B. In working with those impacted by allegations of sexual misconduct, the Pastoral Response Team will readily acknowledge the need for justice, the appropriate demand for consequences, and the Christian Gospel invitation to grace, healing and forgiveness for all parties involved. Pastoral care in these types of situations assumes that there will be a variety of issues and emotions that will need to be addressed. Reputations of those involved may be damaged. The Pastoral Response Team acknowledges that congregations may need similar pastoral care.
- C. Where possible and as appropriate, at least one of the members of the Pastoral Response Team will be of the same gender and ethnicity of the person receiving support. Generally, all meetings with those impacted by the allegations will take place with at least two team members present.
- D. The Pastoral Response Team will consider all their conversations with the accused and accuser/victim to be confidential. The only circumstances where confidentiality will be revoked is when someone expresses a threat to do harm to themselves or another person, when child abuse has been disclosed, or when such conversations are legally required to be divulged.
- E. The needs of the congregation will be held with utmost care with a commitment to appropriate disclosure, transparency about the judicial process, and understanding of the larger Christian context of justice and grace. Conversations with the congregation are considered public conversations and will not be treated as confidential.
- F. The Pastoral Response Team will make available a list of professional mental health referrals and resources specializing in the area of sexual misconduct. Limited financial assistance for counseling may be provided by the Presbytery.
- G. The Pastoral Response Team provides pastoral support and has no role in the investigating or judicial process. Pastoral Response Team members may not serve as advocates in the judicial process.

**4. The Investigating Committee determines whether charges should be filed.**

- A. If the Investigating Committee determines that there are probable grounds for the allegation and that the allegation can reasonably be proved (D-10.0202g), the Investigating Committee will prosecute the case before the Presbytery Permanent Judicial Commission (D-10.0202j).
- B. The Investigating Committee notifies the Stated Clerk, the accuser and/or victim of its determination as to whether or not charges will be filed (D-10.0302, 3).
- C. The Stated Clerk informs the Executive Presbyter and the Chair of the Committee on Ministry of the Investigating Committee's determination.
- D. The Executive Presbyter and/or Chair of the Committee on Ministry will notify the Chair of the Pastoral Response Team who will consult with them about appropriate communication and support needed for the congregation.

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- E. If allegations are found to have been submitted maliciously or in bad faith without grounds, the accuser may be subject to subsequent disciplinary action. The Investigating Committee may encourage the accused to file a 'request for vindication' under D-9.000. The Investigating Committee may also file charges against the accuser.

**5. Disposition of the results of the Investigating Committee.**

- A. If charges are filed, the Permanent Judicial Commission conducts a trial and determines whether the allegations are proven beyond a reasonable doubt (D-11.0403a).
- B. If no charges are filed, the judicial process is concluded.

## APPENDIX A: DEFINITIONS

### 1. Sexual Misconduct Definitions

Sexual misconduct is the comprehensive term used in the Sexual Misconduct Policy to cover the following:

- A. Sexual Abuse** is any contact or interaction with a child under the age of 18 or with an adult who lacks mental capacity or is physically incapacitated, when that person is being used for the sexual stimulation of another person. The behavior may or may not involve touching. Sexual behavior between an adult and a minor is always considered sexual abuse whether or not there is perceived consent.
- B. Inappropriate Sexual Conduct** is language, visual contact, touching or other behavior judged by a person to be injurious to his or her physical or emotional health. It involves crossing a reasonable boundary the allegedly injured person was attempting to set.
- C. Rape** is genital contact by force, threat, intimidation, or coercion.
- D. Sexual Malfeasance** is sexual conduct within a ministerial or professional relationship (e.g., minister with a parishioner, counselor with a client, church employee with a church member, Presbytery staff person with a volunteer). It includes sexual advances, requests for sexual favors, behavior of a sexual nature, and romantic relationships whether or not there is consent.
- E. Sexual Harassment** is a sexual advance, request for sexual favors, or other verbal, visual or physical conduct of a sexual nature that is unwelcome and is sufficiently severe or pervasive to make it difficult to work or serve as a volunteer, employee or employer or under certain conditions specified by law.
- F. Presumed Consent** is the assertion that a particular act is between consenting adults. Presumed Consent does not apply in relationships where there is a disparity of power, such as those between a minister and a parishioner.

### 2. Presbytery Entities Involved In Sexual Misconduct Cases

The following are terms used by the Presbytery in the Sexual Misconduct Policy and Procedures:

- A. An Advocate** is a person who provides emotional support and physical presence to the victim and the accused during the judicial process. An advocate cannot be a witness and cannot testify in judicial cases but serves solely in a supportive role.
- B. The Book of Order** is the constitution of the Presbyterian Church (USA). **The Rules of Discipline**, contained in the **Book of Order**, outline the principles and procedures for the judicial process.
- C. Committee on Ministry (COM)** is the Presbytery committee that oversees the relationships between congregations and its ministers. The COM oversees the Pastoral Response Team. The chair of the COM assists in the preliminary assessment of the pastoral care needed by the congregation, including issues of administrative leave for the accused and assignment of interim leadership.
- D. The Executive Presbyter** is the Presbytery staff person who serves as a resource to the COM. He/she assists in the preliminary assessment of the pastoral care needed by the congregation, including issues of administrative leave for the accused and assignment of interim leadership.
- E. The Pastoral Response Team** is a group of specially trained ministers and church members assigned to provide confidential pastoral care for the accuser, the victim, the accused, and the congregation. The Pastoral Response Team has no judicial function.
- F. The Investigating Committee** is a committee of the Presbytery formed to investigate allegations of sexual misconduct. The Investigating Committee conducts the investigation, determines whether or not charges are to be filed, and, if charges are filed, prosecutes the case.
- G. The Permanent Judicial Commission** is the continuing body elected by the Presbytery to conduct trials when the Investigating Committee files charges.

- H.** The **Stated Clerk** is the Presbytery staff person who receives the written allegation of sexual misconduct. The Stated Clerk oversees the judicial process.

## **APPENDIX B: Pastoral Response Team**

### **1. Definition of the Pastoral Response Team (PRT)**

The Pastoral Response Team is a group of specially trained ministers and church members assigned to provide confidential pastoral care for the accuser, the victim, the accused, and the congregation. The Pastoral Response Team has no judicial function.

### **2. Recruitment of Pastoral Response Team Members**

**A.** How long should they serve?

There is no time limit on how long a PRT member can serve. As long as they are living or serving in the area of San Francisco Presbytery and are available and willing to serve in this capacity, they will be on a list of Pastoral Response Team Members ready to provide care when a situation arises.

**B.** How are PRT members chosen?

PRT members are selected through referral and volunteerism. The list of PRT members will represent the diverse social make-up of the Presbytery – racial ethnicity, gender, sexual orientation, and lay/minister. The list will also include those that have special qualifications in pastoral counseling/therapy, chaplaincy, interim ministry, conflict resolution, personnel management and training, and child advocacy experience.

### **3. Training of Pastoral Response Team Members**

**A.** Who will train PRT members?

Kyros Ministry already provides education and training for clergy and faith communities. It has the experience and resources to provide training on a variety of topics related to sexual misconduct.

**B.** What is the content of training?

The content of training may include any of the following topics: child abuse, clergy misconduct, elder abuse, sexual addiction, sexual harassment, effective response to allegations of clergy misconduct, legal mandates for child and adult abuse reporting, responding to allegations of abuse by clergy or within the congregation, appropriate forgiveness of former offenders, and de-escalating congregational conflict. The emphasis will be on how to respond and provide pastoral care in sexual misconduct situations.

### **4. Supervision and Support of PRT Members**

The Committee on Ministry (COM) will supervise PRT members. The COM will also provide necessary emotional and spiritual support of PRT members. Support may include debriefing sessions, occasional gatherings, and further training if necessary.