



MINISTER GENERALIS
ORDINIS FRATRUM MINORUM CONVENTUALIUM

Prot. 0410/2023

I, Friar Carlos Alberto TROVARELLI, OFM Conv.,

Minister General of the Order of Friars Minor Conventual,

- in conformity with the provisions of the Holy Father Francis in the Apostolic Constitution *Praedicate Evangelium*, art. 78, §§1-2;
- wishing to provide greater protection for minors and those equated with them, within the structures and environments entrusted to the care of our Order, in accordance with the provisions of the Constitutions, art. 26;
- wishing to form the friars in respect and prudence in their relations with everyone, and in particular with the aforementioned categories of persons;
- having instructed the office of the General Procurator of the Order to draft a suitable text for this purpose;
- having obtained the consent of the General Definitory at its meeting on May 17, 2023, held in the General Curia;
- by the authority vested in me by Canon Law ex can. 622;

do hereby

DECREEE

that the following

Guidelines for Protecting Minors and Vulnerable Persons from Sexual Abuse and Procedures to Be Followed in Case of a Complaint

shall hereafter be studied and observed by all the friars of the Order and be made public.

Furthermore, I order the Ministers Provincial and Custodes to apply them to specific cases and to disseminate them in the fraternities entrusted to them, implementing what is provided therein.

*Given in Rome, at the General Curia of the Twelve Holy Apostles,
May 26, 2023, Memorial of St. Phillip Neri.*

f. Carlos A. Trovarelli

Friar Carlos Alberto TROVARELLI, OFM Conv.
Minister General

Friar Tomasz Szymczak
Friar Tomasz SZYMCZAK, OFM Conv.
Secretary General





CURIA GENERALIS

ORDINIS FRATRUM MINORUM CONVENTUALIUM

Prot. N. 0410/2023

Guidelines for Protecting Minors and Vulnerable Persons from Sexual Abuse and Procedures to Be Followed in Case of an Allegation

(May 17, 2023)

Background

The Order of Friars Minor Conventual has always promoted the care of the least and the little ones through educational and charitable works. In the context of the fight against abuse, from the outset, the Order has been committed to promoting appropriate procedures. With these guidelines, the Order wishes to comply with what the Holy Father has requested, to ensure the highest degree of protection for minors and vulnerable persons.

The Apostolic Constitution *Praedicate Evangelium*, explains that the “Pontifical Commission for the Protection of Minors” has the task to assist “in developing guidelines that propose suitable strategies and procedures for protecting minors and vulnerable persons from sexual abuse and provide an appropriate response to such conduct on the part of the clergy and members of Institutes of Consecrated Life and Societies of Apostolic Life, in accordance with canonical norms and in due consideration of the requirements of civil law” (Pope Francis, Apostolic Constitution *Praedicate Evangelium*, art. 78 §§ 1-2).

The Constitutions of our Order establish that: “The friars are to maintain a demeanor of great respect in their relationships with others. They also are to endeavor to create healthy and safe environments.” Moreover: “In cases of abuse, especially those regarding minors by age or vulnerable adults, the Ministers, Custodes, and all the friars are to observe the norms of Church law” (Const. art. 26).

In accord with the Holy Father’s instructions, and in keeping with the love that St. Francis always had for each brother and sister, and for every creature, the friars shall observe the following guidelines, which have been established in order to protect minors and vulnerable adults, and to prevent all forms of abuse toward these fragile persons.

These norms were drafted by the General Procuration Office in accord with the Code of Canon Law and the directives of the *Dicastery for the Doctrine of the Faith*, in particular: *Norms Regarding Delicts Reserved to the Congregation for the Doctrine of the Faith*, (Rome, October 11, 2021); the *Vademecum on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics* (Version 2.0, June 5, 2022) and the *Motu Proprio, Vos estis lux mundi*, issued by Pope Francis on March 25, 2023. The norms were then revised and approved by the Minister General and his Definitory.

These norms do not replace the existing law in the canonical and civil spheres, but supplement it, providing useful guidelines for Superiors and all the friars of the Order.

In this sense, it is necessary for all the friars, especially the Ministers Provincial and Custodes, to stay constantly up to date on the development of the norms which concern the delicate subject matter covered in these guidelines—developments at the level of the Apostolic See, the Episcopal Conferences, and in civil law.

Given the content of these norms and the importance of the issues they deal with, I ask all Ministers Provincial and Custodes to make them known to their confreres and to make sure that they are scrupulously observed.

I - General Principles

1. The measures and procedures contained in these guidelines aim to establish and maintain an environment that is respectful and mindful of the rights and needs of minors and vulnerable adults (cf. *Vos estis lux mundi*, art. 1 §1, a), one that avoids any risk of exploitation, sexual abuse and mistreatment in the activities carried out within the Order and in the apostolic and pastoral works entrusted to the individual Jurisdictions and to each friar.

2. These guidelines are directed to the brothers constituted in the service of authority, and in general to all the friars of the Order.

3. These guidelines concern the relationship of the friars with all persons requiring special protection and respect, namely:

- a) “*minors*,” meaning any persons under eighteen years of age;
- b) “*persons who habitually have imperfect use of reason*,” whether this is confirmed by a specific psychiatric report or the person is legally subject to a guardian (cf. *Motu Proprio Sacramentorum sanctitatis tutela*, art. 6, §1);
- c) “*vulnerable adults*,” which these guidelines define as persons in a state of infirmity or physical or psychological deficiency, or deprivation of personal freedom which, in fact, limits, even if occasionally, their capacity to understand, to express their will or otherwise to resist an offense (cf. *Motu Proprio Vos estis lux mundi*, art. 1 §2 a, b).

4. The following are the goals and principles that these guidelines shall pursue, within the Order and with reference to its members, in combating the abuse against minors, persons who habitually have imperfect use of reason and vulnerable adults.

a) Goals:

- to promote awareness of, and respect for, the rights and needs of minors, persons who habitually have imperfect use of reason and vulnerable adults; and also to ensure adequate training for their protection;

- to prevent all forms of violence; physical, mental or spiritual abuse; neglect; abandonment; mistreatment; or exploitation;
- to raise awareness of the obligation to inform the competent authorities about abuse and to cooperate with these authorities in activities that are aimed at preventing and combatting abuse;
- to prosecute any abuse or mistreatment of minors, persons who habitually have imperfect use of reason, or vulnerable adults;
- to offer victims and their families adequate pastoral care, and, to the extent necessary, suitable medical, psychological, and legal assistance.

b) General Regulatory Principles:

- to recognize the right of alleged victims and their families to be welcomed, listened to and supported; and the right that their reports or allegations be followed up according to the norms of the Church and the State;
- to guarantee that the persons involved have a procedure that complies with due process of law (CIC can. 221 §3) and respects the principle of the presumption of innocence and the principles of criminal legality and proportionate penalties;
- to immediately remove from pastoral activities the religious who, after legitimate criminal proceedings, has been convicted of abusing a minor, a person who habitually has imperfect use of reason or a vulnerable adult;
- to ensure the good reputation of all persons involved at each stage of the proceedings (CIC can. 220; 1390).

5. Ministers Provincial and Custodes shall ensure that the alleged victims are treated with dignity and respect. In particular, to the extent possible, the victims are to be: a) welcomed, listened to and supported, including in some cases by means of specific services; b) offered spiritual care; and c) provided medical, therapeutic and psychological assistance as may be needed.

6. The privacy of the persons involved and the confidentiality of their personal information and images must be protected.

II Norms for Preventing Abuse

7. §1 In the pastoral and missionary activities of the communities, in whose programs persons protected by this document participate, the Ministers Provincial and Custodes are to guarantee that the friars “*maintain a demeanor of great respect in their relationships with others. They also are to endeavor to create healthy and safe environments*” (Const. art. 26 §1), possibly adopting specific regulations, depending on local tradition and state law.

§2. For a more conscious prevention program, the Superiors themselves shall arrange suitable initial and continuing formation initiatives for all the friars, especially for those who carry out activities in contact with minors and other persons protected by this document.

8. In accord with Motu Proprio *Vos estis lux mundi*, art. 2, each Major Superior (Minister Provincial or Custos) shall delegate a friar or lay person, suitable in terms of prudence, competence and human sensitivity, to be a **Delegate for the protection of minors, persons who habitually have imperfect use of reason, or vulnerable adults**, with the following functions and obligations:

- a. to receive any type of allegation or information—whether directly from the alleged victim or from third parties—related to the conduct dealt with in these guidelines. Acknowledgment of the receipt of the information shall be given to the person presenting the allegation and, when appropriate, to the alleged victim;
- b. to gather whatever information is needed to identify the accused and the possible victims, as well as any further information relevant to the facts reported and the persons involved;
- c. to provide guidance to the person presenting the allegation and, when appropriate, to the alleged victim on canonical and civil procedure;
- d. to help alleged victims from the outset with attentive personal support;
- e. in the case of a verbal allegation, to make a record of all that has been stated, noting at the same time the steps that have been taken. The document should be signed by the person presenting the allegation, in the presence of a canonical notary;
- f. to immediately send the Major Superior a written report of the allegation and the steps being taken. A written record shall be made showing that the report was sent and the date it was sent. The person making the allegation shall be informed that the report was sent;
- g. to maintain secrecy of office in accordance with CIC can. 1455 § 3 and not keep copies of documents;
- h. to periodically inform the Major Superior of the activities carried out.

9. Each Major Superior shall, if the situation so requires, and he deems it appropriate, appoint an Assistant Delegate for the Protection of Minors and Vulnerable Adults, who shall assist the Delegate in implementing these guidelines and will perform his functions if necessary. The Delegate shall promote prevention and training activities for those dealing with minors and vulnerable adults.

10. Before appointing a friar or lay person to work with minors or vulnerable adults, the Ministers Provincial and Custodes must:

- a) verify the candidate's suitability for interacting with these persons by means of an adequate, in-depth investigation and also verify that the candidate has no criminal record according to current legislation;
- b) guarantee, personally or through the Delegate, that the candidate is given the training needed for identifying and preventing the risk of spiritual or sexual abuse by those in authority.

III Norms of Conduct

11. In the apostolic undertakings that involve the persons protected by this document, priority must be given to their safety. Therefore, during the activities of these undertakings, the friars and their collaborators (e.g. formators, catechists, teachers, etc.) should:

- be prudent and respectful in their relationships with these persons;
- serve as positive and morally impeccable role models for these persons;
- always remain in view of other people whenever in the presence of these persons, avoiding seclusion with them, especially in one's own room, or in other bedrooms;
- inform the Superiors or the Delegate of any potentially dangerous behavior detected;
- respect the confidentiality of these persons, avoiding prying questions about intimate matters;
- inform parents or guardians of the activities that are planned and how they will be carried out;
- use the utmost prudence in communicating with them, including by telephone and through social media, avoiding inappropriate messages and photos, sharing pornographic images; or sending messages at late hours;
- avoid any improper or unnecessary physical or verbal contact that could give rise to ambiguities (caresses, kisses or hugs that are imprudent, unjustified or that could be misinterpreted).

12. Within the context of the apostolic works in which the persons protected by this document participate, the friars and their collaborators are absolutely forbidden to:

- inflict corporal punishment of any kind upon these persons and/or address them in an offensive manner;
- establish a preferential relationship with any of the persons who are covered by these guidelines;
- leave any of these persons in a situation that is potentially dangerous for his or her physical or mental safety;
- engage in or participate in inappropriate or sexually suggestive behavior;
- discriminate against a person, or persons, covered by these guidelines;
- ask any such persons to keep a secret about their relationship with adults;
- give exclusive gifts, alcoholic beverages, or drugs to any person covered by these guidelines;
- drive alone in a vehicle with any of these persons;
- photograph or film persons covered by these guidelines. If necessary, the written consent of the parents or guardians should be obtained;
- publish or share, through the Internet or social media, images in which the persons covered by these guidelines can be recognized. If necessary, the written consent of the parents or guardians should be obtained.

13. Any inappropriate or harassing conduct toward persons who are subject to these norms, even if it does not amount to abuse, must be reported to the Superior or Delegate, and evaluated by them in a balanced, prudent, and tactful manner, informing those who may be concerned.

IV Reports and Allegations

14. Those who declare, in writing or verbally, that they have been victims of sexual abuse, have the right, as do their families, to be welcomed and listened to. The Delegate shall listen to them, and assure them that the situation will be handled in the manner prescribed by the Church in Canon Law, protecting their good reputation and the confidentiality of their personal information.

15. The Minister Provincial or Custos, having consulted with the Delegate, may entrust the spiritual counseling of the alleged victims to a qualified person, and if necessary, offer them medical and psychological assistance, as well as information about the canonical procedures.

16. While respecting the sacramental seal, any friars, simply or solemnly professed, and their collaborators, who know or have a well-founded suspicion that a person covered by these guidelines may be the victim of abuse shall inform the Delegate or the competent Superior.

17. The Major Superior, after evaluating the validity of an allegation of abuse of a minor, shall take the appropriate precautionary measures prescribed in CIC can. 1722 and remove the alleged abuser from pastoral activity until the conclusion of the proceedings.

18. It is absolutely forbidden to dissuade the alleged victim, or his or her family, from lodging a complaint with the civil authorities. The Delegate shall inform the alleged victim, or his parents or guardians, about this right and duty, and urge them to exercise it, making sure that this is evidenced by a written document signed by the interested parties. In this matter the Major Superiors shall follow the provisions of the local legislation in force.

V - Investigation of Allegations

19. Independently of the investigations carried out by the civil authorities, the Minister Provincial or Custos, in cases within his competence, and in accord with CIC can. 1717, is required to conduct the preliminary investigation, through a Delegate, or if this is not possible, he shall carry it out personally.

20. During this investigation, the credibility of the allegation being investigated and the circumstances surrounding it must be ascertained, as well as the personal information and age of the persons who were involved at the time of the offence, the harm that has been caused, and any involvement of the sacramental and non-sacramental internal forum. Testimonies, documents, and other forms of evidence can be gathered from the various places where the religious under investigation has been active.

21. The person who carries out the investigation can also use declarations, testimonies, documents, and reports from experts collected in the civil sphere to which they may have access, as well as any ruling or decision of the judicial bodies of the State in relation to the facts under investigation. To this end, the Minister Provincial, authorized by the Minister General, may suspend the canonical investigations until the conclusion of any civil investigation, if circumstances so require.

22. During the preliminary investigation, care shall be taken to:

- a) continually update the alleged victim on the progress of the procedure, and provide spiritual counseling;
- b) obtain, in writing, the statement of the alleged victim, or his/her parents/guardians, if he/she is a minor or equivalent;
- c) Make the alleged victim, or her parents/guardians, aware of his/her rights and how they can be enforced, including the possibility of lodging a complaint with the civil authorities;
- f) protect the alleged victim and his/her family from any intimidation or retaliation;
- g) protect the privacy of the parties involved and maintain the confidentiality of their personal information and images, as prescribed in CIC can. 220).

23. The presumption of innocence of the friar under investigation must always be guaranteed, and his good reputation should not be endangered. Unless there are serious reasons to the contrary, the Minister Provincial or Custos must charitably and tactfully inform him of the allegations and that an investigation has been opened. He should also encourage the friar to obtain canonical counsel, or consult civil lawyers if the case is brought before civil authorities.

24. When the Minister Provincial or Custos recognizes a danger that the crimes could be repeated, or that evidence could be tampered with in order to avoid scandal, shall without delay and with a specific decree, impose the **precautionary measures** prescribed in CIC can. 1722, temporarily transferring the religious, temporarily excluding him from some office and ecclesiastical function and/or from the public exercise of the Sacred Ministry and from the administration of the Sacraments—if he is a priest—impose or forbid residence in some location, forbid public participation in sacred functions, and forbid the use of the means of communication and access to social networks.

25. § 1. If the investigation confirms the credibility of one or more crimes, the Minister Provincial or Custos shall promptly inform the Minister General and the General Procuration Office, and, if necessary, inform the competent civil authorities. If the accusation proves unfounded or insufficiently proven, the same Major Superior shall issue a decree, which includes reasons for his decision in order to close the investigation and the case, keeping all the collected documentation in the secret archive of the Curia.

§ 2. In the case of accusations of crimes reserved to the Dicastery for the Doctrine of the Faith, the Minister Provincial or Custos, if the case has been ordered archived, shall send a copy of the

documents of the investigation, together with a statement of his personal judgement, to the Minister General, who will notify the Dicastery (cf. *Norms Regarding Delicts Reserved to the Congregation for the Doctrine of the Faith 2021*, articles 6 and 10).

§ 3. If the case requires it, the Major Superior shall inform, in writing, the Ordinary of the place where the religious under investigation resides or the Ordinary of the place where the alleged victim lives, about the investigation that has been opened. However, this shall be done with the utmost discretion. In cases where the friar has a diocesan office or performs a pastoral ministry, reporting to the local Ordinary is obligatory.

26. §1. The Minister General, having taken note of the outcome of the preliminary investigation, on the orders of the Dicastery for the Doctrine of the Faith, may initiate criminal proceedings, possibly involving the Major Superior of the accused religious.

§2. Once the criminal proceedings are concluded, the religious who is found guilty of having committed a crime of abuse against minors or persons who habitually have imperfect use of reason must be punished according to the gravity of what has been ascertained, seeking to, “*repair the scandal, restore justice, reform the offender*” (CIC can. 1341).

§ 3. The Minister Provincial shall in every case ensure that the parties concerned are made aware of the outcome of the criminal proceedings, announcing the operative part of the judgment or decree, while safeguarding the confidentiality and good reputation of the individuals involved. This notification must result from a written document to be forwarded to the Minister General.

27. If the accused friar is already deceased, or dies during the preliminary phases, a historical investigation should still be conducted, the results of which must be sent to the Minister General.

28. Each Minister Provincial or Custos is to make these guidelines known to all the members of his Jurisdiction. Moreover, by special Decree, he shall make the adjustments necessary to bring them into line with the civil law in force in the countries where he is located, and into conformity with the provisions of the respective national Episcopal Conferences. A certified copy is to be sent to the Minister General.

Rome, May 17, 2023