



K&L GATES

**RESPONSE OF THE ROMAN CATHOLIC DIOCESE OF ERIE
TO
GRAND JURY REPORT NUMBER 1 OF
THE 40TH STATEWIDE INVESTIGATING GRAND JURY**

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Statement from Bishop Persico to the Victims of Sexual Abuse that Occurred within the Diocese of Erie

On behalf of the Roman Catholic Diocese of Erie, I am sorry. I cannot know the depth of the pain you have experienced. However, I—along with the rest of the Diocese—want you to come forward. We admire your courage in doing so. We want to share in your pain—and in your healing process—because this abuse should have never happened. Not then. Not now. Not ever. And certainly not by criminals holding themselves out as men of God, teachers of children, or leaders in the community. I apologize to each and every victim who has been abused.

Apologies and policies, however, are not enough. The Diocese of Erie is taking action. We are committed to publishing the abuses of the past and to being transparent with our decisions going forward. I encourage any person who was sexually abused by a priest or layperson within the Diocese to report that abuse directly to law enforcement. Any person in this Diocese who knows of abuse should also report that knowledge to law enforcement. Victims also can report to our independent investigators who have assisted in creating a public list naming abusers. The Diocese will not shroud abusers in secrecy—no matter who they are or how long ago the abuse occurred. Counseling and other resources are also available. I personally pledge to meet with any victim who wishes to meet with me and offer any assistance that I can.

Your voices have led to the implementation of these changes. Your reports allow us to work with experts in the field to refine our policies, procedures, and training to protect children today in the way that you should have been protected in the past. This new policy that you helped create already led to a successful investigation by our independent investigators that resulted in the Attorney General charging a priest with crimes occurring as recently as 2010. We have much work to do to rebuild trust and assist in healing. We are fully committed to it.

- Bishop Lawrence T. Persico

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I. Introduction

In 2017, under the direction of Bishop Lawrence Persico, the Roman Catholic Diocese of Erie asked a team of experienced investigators and lawyers—led by a former federal prosecutor—from K&L Gates LLP (“K&L Gates”) to independently evaluate its historic child-protection policies, procedures, and known abuse reports, as well as to assist in updating/implementing these policies, managing these procedures, and investigating new abuse reports. Bishop Persico instructed all employees of the Diocese of Erie, as well as all organizations (including parishes, schools, and agencies) controlled by or receiving any funding from the Diocese of Erie, (collectively referred to as the “Erie Diocese” throughout this document) to fully cooperate with all requests from either the Grand Jury or K&L Gates. K&L Gates had complete access and full discretion to follow the evidence wherever it may lead and to report its findings and recommendations both to the Grand Jury and in this document.

After conducting 113 interviews and reviewing 109,409 documents, this team came to many of the same conclusions that the Grand Jury did. Horrific abuse occurred for decades, and concealment and ineptitude added to this tragedy. Yet, like the Grand Jury, the team “find[s] hope” (p. 305) in Bishop Persico who acknowledges past abuse, publicly un masks abusers, and seeks full accountability.

The Diocese of Erie acknowledges and apologizes for the abuse of children caused by priests, lay teachers, and other people who worked or volunteered in parishes, schools, or agencies within the Diocese of Erie. The Erie Diocese recognizes its responsibility and is committed to regaining the trust of not only its parishioners but of all people through full and timely cooperation with law enforcement, full transparency with the public, and continuous self-improvement. To that end, the Erie Diocese has implemented measures to protect children from predators to include ill-intentioned priests, lay teachers, coaches, staffers, parents, relatives, neighbors, or other third parties.

The Erie Diocese wants to thank the Grand Jurors for their service in shining a light on this issue and providing a forum for victims and witnesses to fully discuss the abuses they suffered and saw. This forum is not only important in the healing process but also to help ensure that the abuses of the past are not repeated and that meaningful reform through action—and not simple policies—occurs. The historical failures of the Erie Diocese, as outlined by the Grand Jury in its report, led to additional abuse, as well as the maintenance of an unholy wall of silence that the Erie Diocese is now fully committed to shattering. Indeed, the Erie Diocese has, as part of a new Policy for the Protection of Children (“Protection Policy”), published and will routinely update a list of known offenders and individuals unsuitable for employment on child-protection grounds in the Erie Diocese’s judgment. See <https://www.erieecd.org/childprotection/disclosure.html>. The Erie Diocese will continue in its efforts to:

- (1) stop abuse;
- (2) shine a light on abuse so all are put on notice;

- (3) fund all necessary counseling and treatment programs;
- (4) update and modify the actual implementation of its child-protection policies and procedures; and
- (5) work with law enforcement to ensure that justice is done.

II. The Erie Diocese is taking aggressive action to protect children.

Under Bishop Persico, the Erie Diocese has taken action. While this section is not an exhaustive list, it includes recent cases that have been investigated by the Erie Diocese and law enforcement. Indeed, additional cases exist and unfortunately continue to be created.

A. Case #1 - Victim Report Received; Priest Investigated and Publicly Suspended within Three Weeks

In January 2018, the Erie Diocese received a report alleging that a priest committed sexual abuse against the victim from 2003 (when he was eight years old) until 2010. The Erie Diocese immediately informed the Pennsylvania Attorney General and the District Attorney of Crawford County, where abuse reportedly occurred and where the priest then resided. In a cooperative effort, the Erie Diocese had K&L Gates independently and promptly investigate the priest by both collecting evidence and interviewing him while law enforcement quickly was put in direct contact with the victim. This process resulted in a thorough and accurate investigation leading to the public resignation of the priest for clearly stated child-protection reasons within three weeks of the first report. Numerous inculpatory images and text messages from iPhones, iPads, and computers were collected by K&L Gates and provided to law enforcement. Additionally, the names of several other potential victims were identified and provided to law enforcement. The priest resigned shortly after the interview and vacated the rectory. These developments were publicized by the Erie Diocese to the media, with the hope that additional information would be brought forward to law enforcement. At least two additional victims did come forward to K&L Gates, who the Erie Diocese immediately put into contact with law enforcement.

The Erie Diocese, under Bishop Persico, has embraced the chance to build a bridge to law enforcement. Crawford County District Attorney Francis Schultz publicly said, "The Diocese has been cooperative and the Bishop provided me with the initial information about the complaint."¹ The Pennsylvania Attorney General's Office stated that the report was handled "exactly as we would have hoped" by the Diocese; indeed, Attorney General Josh Shapiro himself "commend[ed]" the actions of Bishop Persico in "announcing steps to prevent these horrors from happening again."²

B. Case #2 - Referral Made; Awaiting Law Enforcement Response

The Erie Diocese recently had cause to exercise its Protection Policy against a priest who failed to comply with Diocesan clearance and training requirements and who later was the subject of an allegation of sexual abuse of a child. After failing to submit documentation necessary to complete child-abuse clearances and failing to complete the Diocesan child-protection in-

service training, the Erie Diocese suspended the priest's faculties in September 2016. In March 2017, an allegation was made that the priest had abused a fifth-grade boy in the late 1980s or early 1990s. The allegation came from a third-party source who remembered the boy telling her about the abuse during religious-education classes. The priest was already suspended for non-compliance with the Protection Policy, so he did not have access to children through the Erie Diocese at the time of the allegation. However, the Erie Diocese immediately notified the District Attorney for the county in which the abuse was alleged to have taken place and where the priest also currently resided, as well as the Pennsylvania Attorney General. The Erie Diocese also reviewed all of the priest's personnel files, created a chronological summary of all relevant documents, and sent this summary—along with the source documents—directly to the District Attorney and the Attorney General.

After providing the District Attorney and the Attorney General with all relevant information in its possession, the Erie Diocese forged ahead with its own internal investigation of the allegation. It attempted to interview the third-party source of the allegation, but it was met with refusal—and lacked any subpoena power to compel testimony. K&L Gates was successful in contacting the alleged victim, who adamantly denied ever being sexually abused, ever telling anyone that he had been sexually abused, or even knowing the accused priest beyond a brief meeting once or twice in the presence of others. Nonetheless, the priest will remain suspended until the conclusion of the government's investigation.

Notably, this priest is not named in the Grand Jury Report (or the Erie Diocese's website) despite the third party, the alleged victim, and the priest all being subpoenaed to testify before the Grand Jury. The Erie Diocese continues to await written confirmation from law enforcement that the allegations were deemed unfounded. Of course, any reinstatement of the suspended priest will still require him to update his child-protection clearances and training.

This case (and a few other cases known to exist) offers an opportunity for the Erie Diocese and law enforcement to work together to implement specific criteria for when a suspension should be publicized, when the existence of an investigation may be announced by the Erie Diocese, when a resolution by law enforcement should be communicated in writing, and how these processes can complement each other without creating undue secrecy, confusion, or alarm.

III. Overview of the Protection Policy

The Erie Diocese has been developing procedures for effective implementation of policies and training programs specifically designed to protect the most vulnerable people in our society from people that would do them harm. The Erie Diocese is working with law enforcement, medical experts, survivor support groups, compliance auditors, and academia to ensure that its efforts are the gold standard when it comes to ensuring a safe environment for our children and other vulnerable populations. Everyone from the community—including the Grand Jurors, abuse survivors, and any commenter from the general public—is encouraged to provide input and ideas for improvement by e-mailing ErieRCD@klgates.com. This document explains several improvements already made by the Erie Diocese and further proposes more improvements that can occur with support from law enforcement and the public.

A. Background Checks and Public Disclosure Lists

All employees (including clergy members) and volunteers in the Erie Diocese are required to submit background checks, complete a mandatory child-abuse detection and prevention training program, and verify their understanding of the Protection Policy and related procedures. For background checks to work, all dioceses (and secular entities) must fully and promptly report offenders to the government. The Erie Diocese also has a public disclosure list. Additionally, the government should reconsider its purges of names from sex-offender registries and its use of plea bargains designed to allow abusers to avoid or minimize registration requirements. The media should continue to facilitate the publication of accurate information on historical cases and abuser names. The Erie Diocese hopes to continue its work with the community and law enforcement to provide training and reporting resources.

B. Addressing and Referring an Allegation Promptly and Thoroughly

When an allegation of abuse is made, the Erie Diocese promptly (1) notifies secular authorities, (2) restricts the alleged abuser's access to children, and (3) fully cooperates with governmental investigations. Often, the Erie Diocese conducts its own investigation as well, particularly in the cases where the government is unable to take action because a statute of limitations has expired. Indeed, the Erie Diocese has disciplined and removed clergy and laity for acts that could not be prosecuted at secular law. The Erie Diocese also has used its ability to mandate its clergy and employees to sit for interviews and to allow forensic collection of digital evidence as well as searches of offices and homes. These efforts are designed to prevent children from being endangered by people morally guilty of abuse or abusive tendencies but nonetheless able to pass all legally required background checks and evade prosecution. The Erie Diocese has assisted over 10 successful criminal prosecutions, and its website publicly names other people that could not be prosecuted but who nonetheless were determined to pose a risk to children.

The Erie Diocese continues to review, update, and implement its policy and procedures to most fully safeguard the welfare of its children. Likewise, the Erie Diocese continues to cooperate with government authorities that seek to identify and punish child abusers. Since the publication of its website, at least 42 individuals contacted the Erie Diocese, resulting in an additional 29 interviews by K&L Gates and the publication of six additional names—along with referrals to law enforcement and the potential for additional investigations and prosecutions. Several abuse survivors and witnesses that never previously came forward stated that the Erie Diocese's website served important purposes and motivated them to speak. While the Erie Diocese will not take any action that could impede a law-enforcement investigation or injure the privacy rights of victims/survivors, it will publish information about new reports and ongoing investigations to keep the community informed of evolving situations.

C. Building a Better Bridge with Law Enforcement

The Erie Diocese recognizes that the work of child protection is never complete. The Erie Diocese is exploring ways in which it can collaborate with law enforcement and other government agencies to take advantage of all the skills and tools available to continue to build

the most comprehensive child-protection program. Specifically, the Erie Diocese is seeking to collaborate with government authorities in the areas of child abuse training, investigation coordination, information sharing, and victim services.

The Erie Diocese expresses sincere gratitude to the Grand Jurors for their time and careful attention given to these serious matters. Additionally, the Erie Diocese appreciates the efforts of the Attorney General of Pennsylvania and his career prosecutors and agents, with whom the Erie Diocese has maintained a productive working relationship.^a Several District Attorneys and local investigators also deserve recognition for working to investigate and prosecute cases that were referred by the Erie Diocese over the past two decades. Finally, the Erie Diocese thanks the courageous survivors and witnesses who came forward with reports of abuse that allow both investigation of those instances as well as a refinement of Diocesan policy and procedures to ensure that future similar cases will not go undetected.

The Erie Diocese devotes significant amounts of time and money to meeting with and providing assistance to victims/survivors that have come forward, whether the abuse occurred recently or decades ago. Similarly, child-protection training throughout parishes and schools in the Erie Diocese has shown measurable improvement in a variety of ways over the years. Finally, many priests and employees in the Erie Diocese are now part of the solution, having personally identified, reported, prevented, or otherwise properly handled child abuse, even when it meant making tough calls or going against higher authorities. These people deserve recognition, particularly in light of the systemic corruption and complacency the Grand Jurors found within both the government and the Church.

IV. The Status of the Erie Diocese's Current Child Protection Program

A. Diocesan Child Protection Policies

The Erie Diocese takes seriously the emotional accounts of child sexual abuse that have tragically occurred in this Diocese and elsewhere. As a result, Bishop Persico has undertaken great efforts to cultivate a safe and accountable Diocesan culture. The Erie Diocese maintains comprehensive policies and practices focused on creating a safe, productive learning environment for children. As described in detail below, the Erie Diocese has worked to construct and implement monitoring and reporting procedures that prioritize the protection of children.

The core of the Erie Diocese's commitment to safeguarding children in its schools and parishes is grounded in its comprehensive, continually-evolving Protection Policy.³ In 1986, the Erie

^a In October 2017, Senior Deputy Attorney General ("SDAG") Daniel Dye wrote the following regarding the Erie Diocese: "[W]e have found the [Erie Diocese] to be cooperative. While it cannot be said of every diocese, since [K&L Gates's] involvement, [K&L Gates] has not taken any action adverse to the investigation and have provided responsive materials. Thank you for keeping the lines of communication open." In May 2018, SDAG Dye commended the Erie Diocese for handling a January 2018 complaint that resulted in pending criminal charges against a now-suspended priest, writing, "No question you guys (and [Bishop] Persico) handled the new complaint exactly as we would have hoped."

Diocese first introduced a written child-protection policy, applied to all Catholic entities in the Erie Diocese. The Erie Diocese redoubled its child-protection efforts in conjunction with the release of the Charter for the Protection of Children and Young People (the "Dallas Charter") by the United States Conference of Catholic Bishops ("USCCB") in 2002.⁴

The Protection Policy was developed with specific consideration given to the Dallas Charter and Pennsylvania's amended child-protection laws. Since 2002, the Protection Policy has been updated ten times, most recently in March 2018. The Protection Policy seeks to remain current as secular child-protection laws are separately improved and as best practices in child protection are refined by experts in the field. The most recent revisions to the Protection Policy (and related training materials):

- Expand the scope of abuse sought to be prevented to include sexual, physical, emotional, and neglectful abuse;
- Include numerous detailed examples and red flags to educate people on how to recognize abuse or unsafe situations;
- Require direct reporting to government-run child-protective agencies and law enforcement in all abuse cases;
- Implement an independent investigative process that may be triggered confidentially and that results in communication back to the reporter while also preserving evidence and respecting the rights of all concerned parties during the course of the investigation, which is guided by clear but case-specific standards and mandatory expectations of cooperation; and
- Create a transparent and centralized system to encourage abuse reporting, screen personnel, document investigative findings, and inform the community about abuse-related decisions.

The Erie Diocese invests significant time and substantial resources to implement the tenets of its Protection Policy. Perhaps the most significant step in modernizing its protection program was the establishment of the Erie Diocese's Office for the Protection of Children and Youth ("OPCY" or "Office") in December 2003. Neither the Dallas Charter nor Pennsylvania law mandates that a Diocese establish an office strictly and solely committed to the critical ministry of child protection. However, the Erie Diocese has long believed that this Office was necessary to fully implement the Dallas Charter's goals and to prioritize the safety of children.

The OPCY's foremost mission is to create a safe and productive environment for children and youth, as well as to promote the healing of victim-survivors. The Office also provides age- and role-appropriate compliance training and resources to staff, educators, parents, and students across the Erie Diocese. The OPCY's full-time staff members and personnel from the Catholic

Schools Office work to implement the OPCY's mission around the Erie Diocese. These employees run background checks, ensure that clearances are current, and conduct on-site reviews for any local issues that were not properly reported to the Diocese in addition to confirming that all required federal, state, and Diocesan clearances and training certificates are obtained and filed. Moreover, each of the 33 schools in the Erie Diocese organize child-protection training/in-servicing of children and parents.

The Victim Assistance Coordinator, a licensed psychologist, also works with the OPCY to provide professional assistance to victims of abuse. In addition, many individuals, including the Bishop; Director of Media Resources; Clergy Personnel Office personnel; Catholic School Office personnel; religious education leaders; parish secretaries; school principals; and school secretaries, spend significant time (estimated at over 5,000 hours per year) ensuring that the Protection Policy is implemented in full force.

B. Partnering with the Government and Law Enforcement

Independent auditors, trainers, and Investigators used by the Diocese over the years to assess compliance, provide enhanced training, and investigate reports of abuse also worked countless hours each year and cost millions of dollars. The Erie Diocese would welcome partnering with the government, policymakers, law enforcement, or public schools in developing efficiencies while ensuring quality in the paperwork/clearance process, developing and reviewing training materials, conducting joint trainings, investigating reports of abuse, or otherwise ensuring that resources devoted to child-protection issues within the Erie Diocese are used efficiently and in the manner that the Grand Jurors envision.

C. Prevention of Child Abuse Through Due Diligence, Training, and Cooperation with Law Enforcement

The Protection Policy establishes specific standards for the hiring, training, supervision, and retention of personnel, which emphasize the Erie Diocese's foremost priority of creating a safe and productive learning environment for children. In addition to passing required background checks, each employee and volunteer must also take part in an hour-long "Creating a Safe Environment" in-service training and must pass a test at the conclusion of the training. The Erie Diocese produced this video in-house in 2015. This training must be repeated once every five years. The Erie Diocese also purchases age-appropriate videos to teach children in schools and parishes how to identify abuse and what to do in the event of abuse. Additionally, all parents in schools and parishes are provided with educational materials each year, and each parish runs a monthly bulletin announcement on creating a safe environment.

The Erie Diocese has invested heavily in creating and upholding these standards. Within the Diocese between 2010 and June 2017, 5,961 educators, 6,453 employees, and 17,753 volunteers fulfilled these rigorous requirements. Additionally, between 2010 and 2016, over 122,000 student trainings (and nearly 7,500 pre-school student trainings) were completed on abuse recognition and reporting.

The Erie Diocese is not done finding new ways to enhance its child-protection training. The Erie Diocese believes law enforcement brings a unique perspective to child-abuse prevention and could provide added insight into the importance of reporting procedures, cooperation with investigations, and the behaviors of child abuse perpetrators. The Erie Diocese is exploring ways to better collaborate with law enforcement on the prevention of child abuse, which could take a number of forms:

- Law-enforcement-led training;
 - Participation in joint training by an expert third-party;
 - Develop online training course with an expert third-party; or
 - Provide written resources for use in training and as a quick-reference guide.
1. **Implementing the Protection Policy in Schools**

The expectations of clearance and training completion for teachers are outlined in the Protection Policy. Notably, schools in the Erie Diocese maintain more rigorous reporting and compliance standards than schools run by the Commonwealth of Pennsylvania. Under state law, all school employees (whether public or private) who have direct contact with children must:

- Submit a report of their criminal history record information at hiring and every five years thereafter (Act 34);
- Submit a child abuse clearance at hiring and every five years thereafter (Act 151);
- Submit FBI clearance and fingerprints for background check at hiring and every five years thereafter (Act 114);^b
- Complete three hours of training on child abuse recognition and reporting every five years (Act 126);
- Submit to an employment history review regarding abuse and/or sexual misconduct at hiring (Act 168); and
- Complete an arrest/conviction report and certification form (Acts 24 and 82).⁵

Consistent with its focus on creating a safe, productive educational environment for children, the Erie Diocese goes beyond Pennsylvania's requirements. Indeed, the Erie Diocese mandates that all school employees *and volunteers* in the Diocese having direct contact with children must—in addition to the Commonwealth's mandates described above—also:

^b Pennsylvania law provides that school *volunteers* having direct contact with children must only complete these first three requirements.

- Complete the Erie Diocese's online in-service program on child protection and abuse prevention (titled "Creating a Safe Environment") at the time of hire and every five years thereafter;
- Complete an annual mandatory-reporter compliance certification, verifying that the employee or volunteer understands when his or her duty to report is triggered and the process by which such a report is made;
- Complete an Intent for Compliance Statement, affirming that the employee or volunteer has received, read, and agrees to uphold the Protection Policy; and
- Assist as needed in the *annual training of students* in child-protection standards and creating a safe environment.

2. Implementing the Protection Policy at Parishes

At parishes, the religious-education leader typically oversees the training of all employees and volunteers and ensures that all clearances are up-to-date. Every year, all parishes must submit an annual compliance report for the Diocesan audit. The parish compliance reports verify, among other items, that all employees know when, how, and to whom to report an allegation of sexual abuse. The reports also verify that (1) the pastor knows how to obtain assistance for adult victims/survivors who were abused as children, (2) the Diocesan Code of Conduct is made available to all paid personnel and volunteers, and (3) clearances and compliance documents are maintained for each employee and volunteer who has unsupervised contact with children. The Diocesan OPCY then reviews all reports—checking to ensure that there are no gaps in clearances, trainings, or other compliance requirements—and assembles a Diocesan-wide audit report. The same procedure is followed in the Erie Diocese's schools.

3. The Erie Diocese Employs External Auditors to Monitor Compliance in Schools and Parishes

Every three years, in accordance with the USCCB's mandate, the OPCY completes an on-site audit of each of the Erie Diocese's 85 parish religious-education programs to verify compliance with the Protection Policy. On-site audits of parishes and schools involve reviewing on-site personnel files for complete and current forms and trainings discussed above. Employees and volunteers who refuse to complete background checks or trainings are not permitted to continue in their positions until they are in compliance.

Beginning in 2003, the Erie Diocese hired ex-FBI agents to assess how the Erie Diocese handled sexual-abuse cases and otherwise implemented the mandates of the Dallas Charter. These agents had full access to all files (as did the Erie County District Attorney in 2002 and in 2016). The Gavin Group of Boston performed full audits in 2003, 2004, 2005, and 2007, and Stonebridge Business Partners performed full audits in 2009, 2012, and 2015. In the years

where a full audit was not performed, the external auditors collected data, and the Erie Diocese performed its own internal audit. The Erie Diocese passed all such audits. Despite these efforts, predators continued to abuse victims, an issue that highlights the need for transparency among dioceses, secular entities, the government, and the media.

D. Victim Assistance

The Erie Diocese is committed to ensuring that each victim who comes forward is met with compassion and the Erie Diocese's sincere effort to help in the healing process. The Erie Diocese—including its Bishops, Vicars General, and Chancellors—does not hesitate to meet with victims to listen to their reports, apologize for pain they endured, offer spiritual guidance, provide reimbursement, and make the Erie Diocese available to help in any way that it can.

Some victims want only to be heard (particularly when the accused has long since passed), while other victims seek counseling or other assistance from the Erie Diocese. As a matter of policy—regardless of whether any viable legal claim or time-bar exists—the Erie Diocese offers to pay for counseling of abuse victims, whether within the Erie Diocese or otherwise, as well as reimbursement for the costs associated with the counseling, such as medication, hospital stays, missed-work/business costs, and parking expenses. From 1987 to 2016, the Erie Diocese contributed approximately \$750,000 to victims through monetary payments, reimbursements, and victim-assistance services—in addition to the free counseling services provided by its Victim Assistance Coordinator and other trained personnel.

The Erie Diocese views victim assistance as an area that could be enhanced by collaboration with government authorities. Both the Erie Diocese's Victim Assistance Coordinator and county children/youth service agencies are tasked with coordinating care for victims. The Erie Diocese already coordinates with many of these agencies and welcomes additional ways to coordinate on the development, monitoring, and updating of treatment plans for victims, using the specialized knowledge and skills each brings to the process.

E. Information Sharing with the Government Beyond what is Required by Law

The Protection Policy requires all suspected child abuse to be reported to state and Diocesan authorities. It goes further by requiring all information regarding violations of the Protection Policy and other inappropriate behavior that is not suspected child abuse to be reported to the OPCY, analyzed, and kept on file. While this information is not required to be reported to state authorities by law, child protection within the Diocese and beyond would be enhanced if state authorities had an opportunity to assess the information. Law enforcement may have additional information or specialized skill, which may give greater context to the report and lead to further investigation.

If specific officials at the local and state government-run child-protection or law-enforcement agencies would be receptive, the Diocese's OPCY would generate a quarterly report of new instances of Protection Policy violations and reports of inappropriate behavior that did not give rise to a reasonable suspicion of child abuse and host those officials for a quarterly discussion.

F. Mandatory Cooperation: Use of Trained Independent Investigators

The Protection Policy requires that the Erie Diocese fully cooperate with government investigators in instances of child abuse. It further requires cooperation of all employees as a condition of employment.

The Diocese believes that further collaboration with government authorities will streamline investigations and enhance child protection. Child abuse investigations take a variety of forms and may involve several government agencies. Given the variable nature of the investigations, the Erie Diocese is developing a list of specific points of contact to communicate with regarding investigation cooperation and transfer of information. The Erie Diocese intends the list to include the following:

- The District Attorney's sexual assault prosecutor for each county in the Erie Diocese;
- An investigative case worker at each county child/youth service agency in the Erie Diocese;
- A contact trained in sexual assault cases at each sheriff's office and police department in the Erie Diocese; and
- A contact at the state attorney general's office that will continue to oversee and investigate abuse cases related to a religious organization.

Upon learning of an abuse report, the OPCY will use the list to notify the appropriate points of contact for that report. The OPCY, the Victim Assistance Coordinator, and other Diocese personnel will then coordinate with the investigators to ensure that they have all necessary information, duplicity is avoided, victim trauma is minimized, and information is relayed back to the Diocese allowing up-to-date files to be maintained.

Specifically, the OPCY should coordinate on the following:

- Transfer of information to the investigators, including the accused's record on file with the OPCY;
- Preservation of any evidence in the possession or control of the Erie Diocese;
- Coordination of interviews with the accuser, the accused, the victim, witnesses, and other individuals suspecting abuse or possessing information about the abuse. This process will help ensure the victim and his or her family is not further traumatized by repeatedly recounting the abuse for multiple investigative teams; and
- Process of information flowing back to the Erie Diocese so that its records may remain up-to-date.

V. The Erie Diocese suspended and assisted in the monitoring of past abusers and has recently updated that practice.

Beginning in 1990, the Erie Diocese undertook efforts to implement discipline in sexual-abuse cases, focusing on restricting or dismissing known abusers from the priesthood, rather than just focusing on mental-health treatment for abusers. Laicization (returning a priest to the lay state) can take several years to finalize through the Vatican, so the suspension powers held by a bishop are used in an effort to protect the children of the Erie Diocese from known threats of abuse.

Suspension is one of the strongest canonical actions a bishop can take against a priest, and its goal is to remove the priest from public ministry by prohibiting the priest from running a parish, teaching at a school, dressing as a priest, celebrating Mass, or otherwise representing himself as a priest. Of course, a suspended priest—like any other person—is still entitled to privately worship, access physical and mental health care, receive disability entitlements, and otherwise benefit from the charitable services provided by the Catholic Church. Additionally, accused individuals that are “under investigation” or “awaiting trial” are indeed innocent until proven guilty under Pennsylvania law. The Erie Diocese looks forward to working with the government to find ways to inform the public and limit the Erie Diocese’s involvement with abusers while still respecting due-process rights, laws requiring access to health care, and similar issues.

Both the Grand Jury and K&L Gates found that monitoring of accused priests in the past was ineffective. Modern policy updates require the publication of a credibly accused priest’s (or employee/volunteer’s) name and require strict adherence to detailed monitoring and counseling conditions if the individual intends to reside on Diocesan property during the course of an investigation. See Exhibit 1 (Anonymized Monitoring Agreement). Some individuals simply leave their employment or the Erie Diocese, impeding further investigation or monitoring (though this conduct immediately warrants the placing of their names on the public-disclosure website). Indeed, the Erie Diocese goes to great lengths to remove an accused from its programs and facilities. Yet, the Erie Diocese is concerned that a cut-them-loose approach may lead to no one having any monitoring responsibility over an accused. For instance, several priests named in the Grand Jury Report and on the Erie website are still alive. The Erie Diocese alone has attempted to provide an accurate city and state of residence for each name to alert the relevant community to the risks. Particularly given that many of these accused will never be prosecuted, the Erie Diocese stands ready to have a discussion with the government and the community regarding how to move forward.

VI. Under Bishop Persico, the Erie Diocese has proactively and transparently addressed abuse allegations throughout the Diocese

Under the leadership of Bishop Persico—who was installed in 2012—the Erie Diocese has emphasized transparency and accountability in dealing with abuse allegations. Indeed, he was the *only* bishop to testify before the Grand Jury—and he did so voluntarily. It will take years to undo decades of harm, but he—and other top officials in the Erie Diocese—are committed to

doing so. External investigators and auditors found that the Erie Diocese now has a culture of compliance, from the top down, which is supported both on paper policy and in real-world acts.

While there may be no way for the Erie Diocese to fully repair the emotional, mental, and physical damage to past victims, the Erie Diocese is completely committed to ensuring that victims/survivors are cared for through Diocesan-funded counseling. Moreover, the Erie Diocese is devoted to ensuring that perpetrators of child abuse are addressed swiftly and justly by reporting the abuse to the proper authorities at the earliest possible opportunity. Additionally, Bishop Persico has undertaken concerted efforts to maintain transparency and inform the community in dealing with allegations of child abuse. He has maintained an open discourse by offering numerous reporting mechanisms and authorizing the publication of the names of accused individuals who are prohibited from employment or volunteering within the Diocese because of misconduct—including where the misconduct was not hands-on abuse but rather consisted of failures to report or non-cooperation with Diocesan child-protection procedures.

In addition to implementing transparency measures that take effect after an individual has been found to have engaged in misconduct, Bishop Persico and the Erie Diocese take proactive steps to separate an alleged abuser from Diocesan youth at the earliest stages of investigation. For example, a teacher in a Diocesan school was recently accused of sexual abuse. Pursuant to protocol, the teacher was immediately placed on paid administrative leave until an investigation could take place to determine the truth of the allegations. The Commonwealth was unable to collect sufficient evidence to prosecute a case, and ChildLine investigators deemed the allegations unfounded in accordance with its standards. Likewise, after receiving the results of a thorough investigation, the Erie Diocese similarly concluded that the allegations were not supported by Threshold Evidence. As such, this teacher was not automatically ineligible for employment and placed on the Erie Diocese's public-disclosure website. Nevertheless, out of an abundance of caution, the Erie Diocese declined to renew the teacher's contract for the next school year. The Erie Diocese's approach demonstrates its commitment to protecting the children in its schools.

The Erie Diocese is aware that, in addition to the survivors of the publicly-known accused, other survivors experience continued suffering as a result of abusive acts committed by priests and other personnel once employed by the Erie Diocese. Often, the Erie Diocese does not become aware of these allegations until years or even decades after the fact. The Erie Diocese will continue to do all that it can to assist survivors in their spiritual healing and recovery and to punish the guilty, where possible. Nonetheless, the Erie Diocese recognizes that it can never fully repair the damage that has been done. For this reason, the Erie Diocese is committed to using the sins of the past to improve the future by continually building on its child-protection policies and maintaining appropriate transparency in the process of addressing allegations of child abuse.

VII. Conclusion

The Erie Diocese is fully committed to the protection of children. As outlined above, the Erie Diocese strives to create and implement the gold standard for compliance and investigative

policies. The Erie Diocese devotes substantial time and resources to training its employees and volunteers on its policies, and it retains independent professional assistance to audit its overall compliance with them—as well as to investigate reports of misconduct. The Erie Diocese strives to provide a safe and productive environment for children to be educated in the classroom and in their faith. While the reprehensible actions of ill-intentioned individuals jeopardized these goals in the past, the Erie Diocese remains steadfast in its commitment to protecting its children and to appropriately punishing anyone who harms its children. The Erie Diocese recognizes that it cannot erase the harm caused by its priests and employees in the past, but it offers a sincere apology and a promise that it will continue to fully cooperate with law enforcement, medical experts, and the general public to lead child-protection advances in the future.

¹ Keith Gushard, http://www.meadvilletribune.com/news/full-story-two-priests-removed-by-diocese-of-erie/article_16693df6-1124-11e8-83dc-677fa8a2af0f.html.

² Christine Vendel, http://www.pennlive.com/news/2018/05/erie_bishop_meets_with_attorne.html.

³ See Policy for the Protection of Children, The Roman Catholic Diocese of Erie, <https://www.eriercd.org/images/sections/childprotection/pdf/CURRENTPolicy.pdf>.

⁴ See Charter for the Protection of Children and Young People, The Roman Catholic Diocese of Erie (June 2011), <http://www.usccb.org/issues-and-action/child-and-youth-protection/upload/Charter-for-the-Protection-of-Children-and-Young-People-revised-2011.pdf>.

⁵ Pennsylvania Department of Education, "Background Checks," 2016, available at <http://www.education.pa.gov/Teachers%20-%20Administrators/Background%20checks/Pages/default.aspx#tab-1>.

MONITORING AGREEMENT

THIS MONITORING AGREEMENT ("Agreement") is effective as of _____, 2018, by and between the Roman Catholic Diocese of Erie (the "Diocese") and the Reverend _____ ("Fr. _____"). The Diocese and Fr. _____ are each sometimes referred to herein as a "Party" and collectively as the "Parties."

THE PARTIES, INTENDING TO BE LEGALLY BOUND, AGREE AS FOLLOWS:

1. **Background.** ~~Provide overview of facts leading to the necessity of a monitoring agreement.~~

2. **Purpose.** Though the Diocese has fully briefed state and local law enforcement on all complaints and findings related to this matter, Fr. _____ has not been arrested, indicted, or charged in any matter. Fr. _____, by abiding by the restrictions set forth below ("Restrictions"), may remain in Diocesan housing in a manner that both protects children and his rights to due process, health care, and sustenance.

3. **Consideration.** Fr. _____ demands under Canon Law¹ that the Diocese provide a temporary residence. The Diocese for its part seeks to advance its mission of child protection by monitoring and counseling Fr. _____. In pursuit of these ends, the Parties expressly agree that each has provided and received adequate, reasonable consideration for the obligations imposed in this Agreement.

4. **Restrictions.** While this Agreement is in effect, Fr. _____ agrees to comply with the following Restrictions: ~~Add, edit, or remove the clauses below (or new clauses) as appropriate based on each case's specific allegations, risks, procedural posture, and circumstances.~~

4.1. Fr. _____ is prohibited from any and all public ministry.

4.2. Fr. _____ is prohibited from presenting himself publicly as a priest.

4.3. Fr. _____ is prohibited from consuming illegal drugs, legal drugs in an illegal manner, or alcohol, except during the Eucharistic celebration.

4.4. Fr. _____ is prohibited from physical, virtual, communicative, and any other type of contact with minors.

4.5. Fr. _____ is prohibited from contact with the victim(s) in question, with any victim's family, or with any witness or cooperator.

4.6. Fr. _____ is prohibited from retaliation or retribution, direct or indirect, against the victim(s) in question, against any victim's family, or against any witness or cooperator.

¹ "Provision must also be made so that they possess that social assistance which provides for their needs suitably if they suffer from illness, incapacity, or old age." See Code of Canon Law, canon 281 § 2. See also canon 1350 § 1: "Unless it concerns dismissal from the clerical state, when penalties are imposed on a cleric, provision must always be made so that he does not lack those things necessary for his decent support (sustenance)." Sustenance is generally limited to basic provision for food, clothing, shelter, and medical needs.

4.7. Fr. _____ is prohibited from physical presence on the grounds of Parish, School, Agency or at any event sponsored by or participated in by this entity.

4.8. Fr. _____ must notify the Diocese within 24 hours of any contact with law enforcement, including without limitation any arrest, charge, self-surrender arrangement, booking, plea offer, search warrant, subpoena, or any other request for information that is known or brought to his lawyer or him.

4.9. Fr. _____ must cooperate promptly, truthfully, and fully with internal investigators or lawyers hired by the Diocese, including without limitation answering all questions during interviews, responding to all document requests, making all requested evidence available, and providing unrestricted access to electronically stored information or electronic devices.

4.10. Fr. _____ must provide a list of e-mail accounts that he uses or accesses. The list must provide username and login information for each e-mail account. If Fr. _____ changes the password or username for any of the e-mail accounts or gains access to or use of a new e-mail account, he must provide an updated list to the Diocese within 24 hours.

4.11. Fr. _____ must provide a list of electronic communication devices ("**Devices**") in his possession, including without limitation cell phones, tablets, and computers. The list must provide username and login information for each Device. If Fr. _____ changes the password or username for any of the Devices or possesses a new Device, he must provide an updated list to the Diocese within 24 hours.

4.12. Fr. _____ must allow a representative of the Diocese to search, at random intervals without notice, all of his belongings and to search the place where he will temporarily reside to determine whether Fr. _____ has provided a complete and accurate list of Devices.

4.13. The Diocese and its representatives have the right to search the Devices at any time without notice.

4.14. Fr. _____ is prohibited from using social media, including without limitation Facebook, Twitter, Snapchat, LinkedIn, Instagram, WhatsApp, Facebook Messenger, or Google+, as well as any new platform or social-networking tool that may be developed in the future.

4.15. Fr. _____ agrees to continuous and ongoing electronic monitoring by the Diocese, including without limitation:

4.15.1. Installing software or applications on the Devices that restrict access to social media, objectionable websites, and contact with certain people.

4.15.2. Installing software or applications on the Devices that block the use or installation of other software or applications.

4.15.3. Installing software or applications on the Devices that provides the Diocese real-time or on-demand access, without prior approval by Fr. _____, to the Devices.

4.15.4. Installing software or applications on the Devices that provides the Diocese with reporting regarding usage of the Devices and location of the Devices.

4.16. Fr. _____ agrees to fully cooperate with the Diocese or its representatives to install or troubleshoot the applications or software related to the electronic monitoring.

4.17. Fr. _____ agrees to continuous and ongoing in-person monitoring by a person employed or contracted by the Diocese, including without limitation:

4.17.1. Planned meetings to discuss the activities of Fr. _____.

4.17.2. Random searches, without notice, of the room and facilities in which Fr. _____ will temporarily reside.

4.17.3. Planned counseling sessions and periodic progress evaluations with a doctor, counselor, or professional as determined by the Diocese in its sole discretion.

4.18. Fr. _____ understands that a violation of any Restriction will result in automatic termination of this Agreement, including any housing on Diocesan property. Fr. _____ further understands that it is within the Diocese's sole discretion to determine a violation of any Restriction set forth above.

5. Selection of Temporary Residence. The Diocese, in its sole discretion, will select the temporary residence for Fr. _____.

6. Vacating Temporary Residence. The Diocese, in its sole discretion, can order Fr. _____ to vacate Diocesan property. Upon such order, Fr. _____ shall immediately vacate such property. Fr. _____ expressly waives all rights under any secular or canon law to object to his eviction in any manner or in any forum whatsoever.

7. Term of Agreement. This Agreement is effective upon the signing and shall remain in effect while the investigation by law enforcement of Fr. _____ is ongoing. If Fr. _____ wishes to terminate this Agreement because the investigation by law enforcement is no longer ongoing, it shall be his responsibility to demonstrate the same to the Diocese. At a minimum, he must ensure that written letters from a local District Attorney and a Deputy State Attorney General are sent directly to the Diocese noting that no charges will be filed against him for any of the conduct addressed in the Background section of this Agreement. The Diocese, in its sole discretion and through any necessary additional steps, will determine if the investigation by law enforcement is no longer ongoing.

If, at any time, Fr. _____ is arrested, indicted, or charged in any matter, this Agreement shall be terminated and Fr. _____'s ability to temporarily reside on Diocesan property shall be automatically revoked.

8. Choice of Law. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, without regard to its conflicts-of-laws statutes and jurisprudence.

9. Forum Selection. Any dispute regarding this agreement must be publicly filed and openly litigated in the Court of Common Pleas of Erie County, Pennsylvania.

10. Independent Legal Advice. Fr. _____ acknowledges that the Diocese has provided Fr. _____ with a reasonable opportunity to obtain independent secular and canonical legal advice with respect to this Agreement and that either:

10.1. Fr. _____ has had such independent secular and canonical legal advice before executing this Agreement; or

10.2. Fr. _____ has willingly chosen not to obtain such advice and to execute this Agreement without having obtained such advice.

11. No Waiver of Rights. No failure to enforce any provision of this Agreement by the Diocese of a right or remedy hereunder shall be deemed to be a waiver of any other right or remedy or of any subsequent right or remedy of the same kind.

12. Severability. The Parties agree that in the event any part of this Agreement is held to be unenforceable or invalid, then said part shall be struck and all remaining provisions shall remain in full force and effect.

13. Entire Agreement. This Agreement represents the sole and entire agreement of the Parties regarding the subject matter contained herein, and it supersedes all prior and contemporaneous understandings, agreements, rights, duties, representations, and warranties, both written or oral, at either secular or canon law.

AGREED AND ACCEPTED:

Reverend _____
(Fr. _____)

The Roman Catholic Diocese of
Erie (Diocese)
By: Bishop Lawrence T. Persico

Date: _____

Date: _____