



From: Steve Wilcox, Office of the Chancellor

To: The Roman Catholic Diocese of Oakland: pastors, principals, Chancery employees, executive directors of Catholic Charities, Catholic Cemeteries, Catholic Scouting, and Diocesan Youth Retreat Center.

Date: July 1, 2019

Re: Document Hold Notice – Notice Not to Destroy or Delete Records (“Notice”)

As we communicated in The Weekly bulletins, California Attorney General Xavier Becerra issued a letter to the twelve dioceses and archdioceses in California relating to *Preservation of Documents Related to Allegations of Sexual Misconduct and Failure to Comply with Mandatory Reporting Obligations* (the “AG Letter”).

Generally, the AG Letter seeks to have us preserve records from 1996 to the present related to *any* allegations of sexual abuse of minors, whether or not such allegations were credible or were formally reported to anyone, such as law enforcement, the Diocese, child protective services, etc. By way of example, the AG Letter requires preservation of all records of sexual abuse related to and including clergy, church employees, teachers and volunteers. This preservation includes complaints, reports to law enforcement, policy statements and directives, trainings and certificates. These examples are not exhaustive and, for that reason, we have attached the AG Letter for a complete description of what should be preserved.

This Notice should be shared broadly with everyone at any Diocesan location who might have or oversee this information. Steps must be taken immediately to protect and preserve all information of any kind and in any form that may possibly be related to issues in the AG Letter. It is critical nothing is done that may destroy or alter any information, including digital information.

Adverse consequences may occur if relevant information is destroyed or deleted. Therefore, this is a matter of the highest priority. You may have questions regarding what to do and we have given some guidance below. Conference calls will be scheduled with parishes, schools and other entities to answer your specific questions about this process. Please look for the follow-up email with a call-in number and instructions.

WHAT YOU NEED TO DO.

Everyone is responsible to make sure the records and information identified in the AG Letter do not get destroyed or deleted and are preserved. At this point, the Attorney General has asked we merely preserve the information—although we fully expect at some time in the future we will need to review and may need to produce to the Attorney General the records identified. Everyone at each location who is involved in preparing or retaining any documents needs to be advised not to remove, alter or destroy any relevant information. If there is any doubt as to the possible relevance of any information, hold on to it and take steps to make sure it does not get destroyed. Below are some more specific instructions.

A. Paper Records

All relevant, physical information, documents and records must be preserved and maintained as is, regardless of where they are located. Additionally, the definition of a document/information is broad and extends to any form of recorded information including, but not limited to: notes, documents, working papers, post-its, handwritten materials, final and draft correspondence (including hard copies of e-mails), reports, memoranda, charts, graphs, maps, presentations, photographs, calendars, spreadsheets, databases, etc.

B. Electronic Records

If you do not have electronic records, this request does not apply to you. Electronic information and documents are particularly susceptible to alteration or destruction, so take special care not to delete or modify any such records in any way. Stated more specifically, do not delete any potentially relevant or “covered” e-mails or other electronically stored documents.

C. Information Technology Systems

The following measures are for any information technology specialists or generalists who assume primary responsibility for information technology. We will schedule a separate call with anyone who is responsible for or handles this type of information to assist you in this task.

- Remove from further service and archive any portable or removable information storage devices, such as flash drives and hard drives.
- Keep historical storage media, such as CD-ROMs, floppy disks, diskettes, etc.
- Identify, preserve and archive all networked information or information stored on non-networked folders or devices.
- Isolate, preserve and archive all information which may be stored in online or internet-based server spaces or data caches.
- Isolate, preserve and archive all information stored on backup equipment or devices, and until further notice, suspend overwriting of such backup equipment or devices.

- Until further notice, preserve the “Deleted Items” folders intact and do not permanently delete any item from that folder.
- Individuals at your location should be advised not to purchase, utilize or run file deletion programs.
- To the extent your location has record deletion policies (for example, an email retention policy that automatically deletes emails after a certain time period), such policies should be suspended until further notice.

Any question regarding the information and issues referenced in this memorandum should be IMMEDIATELY and directly communicated to the Chancellor’s Office at (510) 267-8334 or via email at chancellor@oakdiocese.org.

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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May 2, 2019

The Roman Catholic Bishop of Oakland
Attn: The Most Reverend Michael C. Barber, Bishop of Oakland
2121 Harrison Street, Suite 100
Oakland, CA 94612

RE: *Preservation of Documents Related to Allegations of Sexual Misconduct and Failure to Comply with Mandatory Reporting Obligations*

Dear Bishop Barber:

The California Department of Justice is conducting a review of your Diocese's handling of sexual misconduct allegations involving children, including whether your Diocese has adequately reported allegations of sexual misconduct, as required under California's Child Abuse and Neglect Reporting Act, Penal Code section 11164 et seq. ("CANRA"), and whether the assurances provided by your Diocese and the Catholic Church in the United States regarding steps to address sexual misconduct are accurate and adequate. As a result, our Department seeks to ensure the preservation of any and all documents in the custody, possession, and control of the Diocese of Oakland related to these issues ("Covered Documents"), as defined below, so that the California Department of Justice can determine whether the Diocese has adequately complied with California law. This preservation request encompasses all Covered Documents, and specifically requests that these Covered Documents not be destroyed, discarded, disposed of, deleted, or altered, regardless of any internal document retention or destruction guidelines.

"*Covered Documents*" refers to:

- A. Any and all documents and communications related to allegations of sexual molestation, sexual abuse, sexual assault, sexual exploitation, and commercial sexual exploitation, as defined in California Penal Code section 11165.1 (hereafter "*sexual misconduct*"), involving: (1) any individual who was under 18 years of age (hereafter "*minor*") at the time that any alleged incident(s) took place, and (2) any individual within the purview of the Diocese (this includes Priests, any lay personnel or volunteers of the Diocese, any member of a Religious Order, and any volunteers, employees or staff of Catholic schools within the Diocese); regardless of whether the alleged abuse took place inside or outside of the geographical location of the Diocese, including records of therapy or counseling offered to the victim and all related documentation, and investigations undertaken by the Diocese or anyone acting on its behalf;

- B. Any policies, procedures, documents, and communications regarding the Diocese's compliance with CANRA and efforts to address the issue of sexual misconduct involving minors, including but not limited to documents or direction received from the United States Conference of Catholic Bishops and/or the California Catholic Conference, and any audits or internal or external reviews – by any entity or organization, including independent consultants of the Diocese handling of and response to allegations of sexual misconduct, formal or informal investigations, and any personnel actions taken;
- C. Any and all documents and communications related to allegations of sexual misconduct contained in so-called “secret archives” or sub secreto files, confidential archives, personnel files, litigation files, victim or review board files, or similar files, including documents relating to any transfers of individuals following allegations of sexual misconduct towards a minor, the placement of such persons in treatment or health facilities (whether or not affiliated with a religious entity), termination of faculties, notices of appointment, or the retirement of such persons;
- D. For any individual accused of sexual molestation of a minor, any and all files maintained by the Diocese about the individual, including “secret archives” or sub secreto files, confidential archives, personnel files, litigation files, victim or review board files, or similar files; and
- E. All documents and communications relating to:
 - (i) complaints of sexual misconduct towards minors by members of Religious Orders, that were received by the Diocese, including complaints referred by Religious Orders and other Archdiocese/Diocese;
 - (ii) all referrals of sexual misconduct complaints by the Diocese to Religious Orders;
 - (iii) policies about responding to/investigating sexual misconduct complaints against Priests, other members of the Diocese, lay personnel, volunteers, or Brothers or other members of a Religious Order that are lodged with a Diocese;
 - (iv) allegations of any incidents of sexual misconduct involving minors at any of the Diocese's schools and Catholic schools located within the Diocese, even if the school is incorporated separately from the Diocese;
 - (v) policies regarding the termination of the faculties or employment of a Priest, any other individual under the purview of the Diocese, including lay personnel, or any Brother or member of a Religious Order accused of sexual misconduct involving minors;
 - (vi) recordkeeping policies about complaints of sexual misconduct involving minors received by the Diocese; and
 - (vii) policies regarding the transfer of persons who are the subject of any allegation of sexual misconduct involving minors, including the placement of such persons in treatment or health facilities, whether or not affiliated with a religious entity, or the retirement of such persons.

Please be advised that Covered Documents includes all allegations of sexual misconduct, as defined above, even if the allegations have not been determined to be credible or have not been the subject of an internal or external investigation by the Diocese, or the investigation of these allegations is not complete.

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The document preservation will enable the Attorney General, in his role as the chief law officer of the state, to ensure that the laws of the State are uniformly and adequately enforced. (Cal. Const. Art. V, § 13.). Should you have any questions with regard to anything contained within this correspondence, please do not hesitate to contact Supervising Deputy Attorney General Susan Slager at (916) 210-7811 or Susan.Slager@doj.ca.gov.

Thank you for your prompt attention to this matter.

Sincerely,



Michael Newman
Senior Assistant Attorney General

For XAVIER BECERRA
Attorney General

cc: Andrew Rivas, Executive Director, The California Catholic Conference, Inc.