

Metropolitan Archbishop of Baltimore

Protocols for the Investigation of Reports Concerning Bishops

Effective Date: March 16, 2020

Introduction

These protocols implement the provisions of Pope Francis's *Vos estis lux mundi*¹ (hereafter referred to as *Vos estis*) and the related Directives² (hereby referred to as "Directives") adopted by the United States Conference of Catholic Bishops **regarding the obligations of the Metropolitan Archbishop of Baltimore relating to the investigation of bishops (or their equivalents)**³ under *Vos estis*.

¹ POPE FRANCIS, apostolic letter *motu proprio Vos estis lux mundi*, 7 May 2019, <http://press.vatican.va/content/salastampa/it/bollettino/pubblico/2019/05/09/0390/00804.html#ita> (Plurilingual texts).

² Directives refers to the USCCB Directives entitled "Directives for the Implementation of the Provisions of *Vos Estis lux mundi* Concerning Bishops and their Equivalents" that were approved by that body in June 2019.

³ See *Vos estis* Article 6. Among the persons identified as the equivalents of bishops are men and women supreme moderators of Institutes of Consecrated Life, with respect to acts committed while holding that office.

These protocols apply to investigations that a bishop committed an act described in *Vos estis*, Article 1. Specifically, that he:

- A. Forced someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;⁴
- B. Performed sexual acts with a minor or a vulnerable person, or recruited or induced a minor or a vulnerable person to participate in pornographic exhibitions;⁵
- C. Produced, exhibited, possessed, or distributed, including by electronic means, child pornography;
- D. Took actions or made omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against a cleric or religious regarding the conduct in items A-C.

Terms Used

The “Metropolitan” for the Province of Baltimore is the Archbishop of Baltimore, Archbishop William Lori and his successors.

The “Province of Baltimore” means the Archdiocese of Baltimore (MD) and the Dioceses of Arlington (VA), Richmond (VA), Wheeling-Charleston (WV), and Wilmington (DE).

⁴ *Vos estis* does not define the term “sexual acts.”

⁵ *Vos estis* Article 1 § 2 defines “vulnerable person” as “any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offense.”

Protocols for the Investigation of Bishops under *Vos estis*

The Metropolitan shall:

- I. Maintain a list of expert individuals to assist with investigations, with expertise in relevant fields such as law enforcement, criminal investigation, civil law, canon law, psychology and social work. Directives § 6.
- II. Help the Province of Baltimore determine how it will allocate costs for the investigation of reports received and for the pastoral care of those who might have been harmed. Directives § 8.
- III. Receive and comply with instructions from the Holy See to investigate. *Vos estis* Art. 10 § 2.
 - A. N.B., If the Holy See informs the Metropolitan that someone other than the Metropolitan has been assigned to carry out the investigation, the Metropolitan delivers all relevant information and documents to the person appointed by the Holy See. *Vos estis* Art. 11 § 1.
- IV. Appoint the investigative team
 - A. The Metropolitan shall appoint an investigator from among the lay persons previously identified by the Province of Baltimore. Directives § 5; *see also Vos estis* Art. 13 § 1.
 - B. In consultation with the lay investigator, the Metropolitan should also make use of other qualified experts (likewise appointed by the Metropolitan), chosen predominantly from among lay persons who are called upon in view of the nature of the report and the expertise needed to examine it. Directives § 5; *see also Vos estis* Art. 13 § 1.
 - C. The Metropolitan shall appoint by decree a canonical notary. *Vos estis* Art. 12 § 5.
 - D. The persons assisting the Metropolitan in the investigation shall take an oath to fulfill their charge properly. *Vos estis* Art. 13 § 4. The Oath shall state: “I promise to fulfill the charge entrusted to me properly, without bias or conflict of interest, and always in just pursuit of the truth.”

V. Oversee the investigation

A. Generally, the Metropolitan, either personally or through one or more suitable persons, including the lay investigator, collects relevant information, accesses documents, obtains cooperation of other bishops, and requests information from individuals and institutions. *Vos estis* Art. 12 § 1. Even when making use of others, the Metropolitan remains responsible for the direction and conduct of the investigation, as well as for the timely execution of the Holy See's instructions. *Vos estis* Art. 12 § 3.

B. If at any time the Metropolitan receives a request from civil authorities to suspend his investigation in deference to an investigation being conducted by civil authorities, he will do so and immediately notify the Holy See through the Apostolic Nuncio. Directives § 2.

C. If it is necessary to hear from a minor or a vulnerable person, the Metropolitan shall adopt appropriate procedures, which take into account their status. *Vos estis* Art. 12 § 2.

D. In the event that there are well-founded motives to conclude that information or documents concerning the investigation are at risk of being removed or destroyed, the Metropolitan shall take the necessary measures for their preservation. *Vos estis* Art. 12 § 3.

E. Assess conflicts of interest

1. The Metropolitan shall inform all persons involved in the investigation of:

a) the process by which they may notify the Metropolitan of a claim that he, or any person who is assisting him in the investigation, may have a conflict of interest; and

b) that an unsuccessful claim of conflict of interest will not result in prejudice, retaliation, or discrimination against the claimant.

Directives § 7.

2. If at any time during the investigation any member of the investigative team perceives that she/he has a conflict of interest or lacks the impartiality necessary to guarantee the integrity of the investigation, she/he shall recuse herself/himself and immediately report the circumstances of her/his recusal to

the Chancellor of the Archdiocese of Baltimore either by phone (410-547-5303) or by email (dbarr@archbalt.org). *Vos estis* Art. 13 § 3. The Chancellor will immediately inform the Archbishop of the reported conflict. Directives § 7.

3. If at any time during the investigation, anyone (whether part of the investigative team or not) perceives that any other member of the investigative team, including the Metropolitan, has a conflict of interest or lacks the impartiality necessary to guarantee the integrity of the investigation, she/he shall immediately report her/his concern to the Chancellor of the Archdiocese of Baltimore either by phone (410-547-5303) or by email (dbarr@archbalt.org). *Vos estis* Art. 12 § 6, Art. 13 § 3. The Chancellor will immediately inform the Archbishop of the reported conflict. Directives § 7. Any claim of a conflict of interest that is made in good faith, even if unsuccessful, will not result in prejudice, retaliation, or discrimination against the claimant. Directives § 7.

4. If at any time during the investigation the Metropolitan considers himself to be in a conflict of interest or unable to maintain the necessary impartiality to guarantee the integrity of the investigation, he shall recuse himself and report the circumstance to the Holy See through the Apostolic Nuncio. *Vos estis* Art. 12 § 6. If the Metropolitan receives a report that he has a conflict of interest or lacks impartiality, he should promptly inform the Apostolic Nuncio of the report, along with his response. Directives § 7.

F. Consider the person under investigation

1. The person under investigation enjoys the presumption of innocence. *Vos estis* Art. 12 § 7. All appropriate steps are to be taken to protect the reputation of the person under investigation, to assure the exercise of other rights afforded him under canon law, and to restore his good name if it has been illegitimately harmed. Directives § 11.

2. If requested by the Holy See, the Metropolitan shall inform the person under investigation of the investigation concerning him, hear his account of the facts, and invite him to present a brief in defense. In such cases, the investigated person may be assisted by legal counsel. *Vos estis* Art. 12 § 8.

3. Should the facts or circumstances require it at any point during the investigation, the Metropolitan shall propose to the Holy See through the Apostolic Nuncio the adoption of provisions or appropriate precautionary measures with regard to the person under investigation. *Vos estis* Art. 15.

G. The Metropolitan shall send a status report on the state of the investigation to the Holy See through the Apostolic Nuncio **every 30 days**. *Vos estis* Art. 12 § 9.

H. The Metropolitan, in consultation with the lay investigator, will also use the Archdiocese of Baltimore Independent Review Board to assist the Metropolitan in assessing the results of the investigation when an investigation involves a bishop or equivalent and an allegation of child sexual abuse, child pornography, or interference with an investigation of child sexual abuse or child pornography. Directives § 6.

VI. Conclude the investigation

A. The investigation is to be completed within the term of **90 days** or within a term otherwise provided in the instructions from the Holy See. *Vos estis* Art. 14 § 1. Where there are just reasons, the Metropolitan may request that the Holy See extend the term. *Vos estis* Art. 14 § 2.

B. At the conclusion of the investigation, the Metropolitan shall transmit to the Apostolic Nuncio his *votum* and the acts of the investigation, including the names and titles of the individuals from the expert list who were chosen to assist in the process, as well as any other documents he deems pertinent. Directives § 9; *see also Vos estis* Art. 17 § 1.

C. Unless there are further instructions from the Holy See, the faculties of the Metropolitan cease once the investigation is completed. *Vos estis* Art. 17 § 2.

D. The Metropolitan will inquire of the Holy See through the Apostolic Nuncio whether and how the person who made the report and whether the public can be informed of the outcome of the investigation. Directives § 10; *see also Vos estis* Art. 17 § 3.