TRAUMA-INFORMED GUIDE FOR SESSIONS AND PRESBYTERIES RESPONDING TO ALLEGATIONS OF SEXUAL MISCONDUCT AND ABUSE

The Judicial and Pastoral Response to Allegations:

I. The submission of an allegation of sexual misconduct triggers various responses within the church's disciplinary structure. A trauma-informed response should include the initiation of both a judicial process and a pastoral care process. The judicial process is initiated by the Stated Clerk or Clerk of Session according to the Book of Order. The pastoral process may be initiated by the Stated Clerk and/or Presbytery Executive leader.

II. The responsibilities and procedures for responding to allegations of sexual misconduct are mandated, in part, by the Book of Order. Due to the nature of cases involving sexual misconduct and abuse, how they affect local congregations, and the trauma-informed training required of those investigating such allegations, Sessions are encouraged to seek reference to the Presbytery when allegations of sexual misconduct or abuse are received against members of the congregation. Therefore, the following will outline the judicial and pastoral response that may occur at the Presbytery level.

III. Initiating the Judicial and Pastoral Processes

1. The judicial and pastoral processes begin with a written allegation reported to the Stated Clerk of the Presbytery, or a request for reference to the Stated Clerk of the Presbytery from a Session.
2. Sexual acts involving minors (under age 18), allegations of rape, sexual assault, or other misconduct that violates criminal law shall be immediately reported to the civil authorities and to the Stated Clerk.
3. There is no time limitation for filing sexual abuse allegations (D-7.0201).
4. In accordance with the Book of Order, the Stated Clerk shall promptly refer a written complaint of sexual abuse to an investigating committee.
5. If an accuser is unable or chooses not to submit a written allegation, the Stated Clerk and/or Executive leader may direct a Sexual Misconduct and Abuse Response Team (SMART) to offer pastoral support. Note, offers of pastoral support may be refused by persons alleged to have been harmed for a number of reasons. Nevertheless, offers of pastoral support should be made throughout the process.
6. The Stated Clerk may inform the Presbytery Executive leader when a complaint has been received. The Stated Clerk or Presbytery Executive leader should notify the moderator(s) of COM in order that the pastoral care process may be initiated through a Sexual Misconduct and Abuse Response Team (SMART).
7. If the Presbytery Executive leader and/or Stated Clerk determines the complaint is the subject of civil or criminal litigation, they shall consult legal counsel for the Presbytery. This could put a pause in the ecclesial process until civil/criminal litigation is resolved.
8. Concerns about the provision of any Minister's service related to a complaint should be directed to the Stated Clerk. The Stated Clerk will notify the Presbytery Executive leader or other appropriate person(s) of all concerns received so they may make good faith efforts to address all concerns quickly and sensitively.
9. All inquiries from the media regarding any alleged incident of sexual misconduct or abuse shall be referred to the Presbytery Executive leader, Stated Clerk, and/or designee, who shall confer with legal counsel prior to responding to the media.

IV. The Judicial Process: A Trauma-Informed Guide

1. Either through SMART or some other qualified process, the Presbytery should provide trauma-informed training for all persons assigned to participate in the judicial process to function appropriately in their assigned tasks. Particularly, Investigating Committees (IC's) empaneled to investigate sexual misconduct and/or abuse should be trained on how to conduct trauma-informed investigations.
2. An IC shall have no more than five members but no fewer than three, and should have at least two members present when meeting with those alleged to have been harmed, the accused, accuser(s), or witnesses. Such meetings shall include at least one person who is of the same gender as the person being interviewed. IC's may employ the services of independent trauma-informed sexual abuse investigators to assist with interviewing individuals in the investigative process. In any case, the IC should consider the following trauma-informed guidelines:
    a. Minimize Trauma: Limit the number of times those alleged to have been harmed need to recount their experience(s), as this can be re-traumatizing. Listen without interrupting, questioning their motives, or expressing disbelief.
    b. Document carefully: Record all details accurately and respectfully, using the person's own words where possible, and do not include any personal commentary or statements of judgment.
    c. Transparency: Clearly explain the investigative process to all parties, including their rights and what to expect.
    d. Avoid bias: Ensure the investigative committee is impartial and, to the extent possible, free from any real or perceived conflicts of interest.
    e. Evidence-based approach: Gather evidence systematically, respecting both those alleged to have been harmed and those who are accused.
    f. Regular updates: Keep those alleged to have been harmed informed of the investigation's progress, outcomes, and any relevant information.
    g. Empathy and respect: Use compassionate and affirming language in all communications.
    h. Fairness: Ensure the accused is treated fairly while maintaining a survivor-centered focus.
    i. Restorative practices: Only when those alleged to have been harmed are willing, consider restorative justice approaches where appropriate, allowing those harmed to participate in shaping resolutions.
3. Administrative leave shall be determined and administered in accordance with the Book of Order.
4. Those alleged to have been harmed and/or the person(s) who made the accusation have the right to an advocate as described in D-7.0802, D-7.1001b, and D-7.1002b. The Presbytery extends the same right to the accused. The accused also has the rights as described in D-7.1003, including the right to counsel.
5. At any time during the investigation, the person being accused may petition the PJC to review the procedures of the IC.
6. The Stated Clerk shall treat the names of the accuser(s) and those alleged to have been harmed with strict confidentiality, and they shall not be listed in the public decision of the PJC to the Presbytery. A trauma-informed process dictates that records will not be sealed, but will be available on a need to know basis at the discretion of the Stated Clerk, respecting the needs of those alleged to have been harmed.
7. When a determination of guilt has been made by the PJC or a plea of guilty has been received, the Stated Clerk shall read the decision and any censure at the next stated meeting of the Presbytery, or a meeting of the Presbytery called for that purpose (D-9.0102b). When a pastoral relationship is dissolved as the result of a finding of guilt, the calling organization should not provide severance beyond the date of dissolution.

8. If a minister renounces jurisdiction, remuneration or severance is not required or provided past the effective date of the renunciation.
9. Any records and files, regardless of medium, pertaining to a complaint, investigation, trial, or settlement discussion, shall be kept confidential. At the conclusion of a case, all related records and files shall be delivered to the Stated Clerk. No committee or its members shall keep copies of related documents. As indicated above, a trauma-informed process dictates that records will not be permanently sealed, but will be available on a need to know basis at the discretion of the Stated Clerk, respecting the needs of those alleged to have been harmed.
10. The Stated Clerk's annual report to the Presbytery shall include statistics on the number of sexual misconduct complaints and a summary of the disposition of each.
11. Restoration to Ordered Ministry:
    a. Anyone who has been removed from the exercise of office due to sexual abuse may apply for restoration to office by writing the Stated Clerk. A minister desiring restoration may apply to the governing body that imposed censure by submitting a written request for restoration to the Stated Clerk. (D-9.02)
    b. The Presbytery Executive leader and/or Stated Clerk, and the moderator(s) of COM should select three to five persons from the SMART pool (outlined in the Pastoral Process below), to serve as the Restoration Committee (RC) to consider the request and make a recommendation to the Presbytery. The members of the RC should, when possible, include persons who were involved in the judicial and/or pastoral care processes of the case.
    c. The RC should give written notice of the individual's application for restoration to the known victim(s) and councils affected by the misconduct or abuse. Parties who have been a part of the judicial process should be given opportunity to speak to the RC. The RC may be consulted by councils affected by the misconduct. It would also be wise to consult an attorney on the legal risks of restoration of membership or restoration to ordered ministry.
    d. When considering restoration, the RC should take into account the following:
        1) Unequivocal acknowledgement of responsibility for harm done.
        2) Providing written apology and offer of restitution to the victim(s).
        3) Genuine remorse and repentance demonstrated by a fundamental change in behavior and understanding.
        4) Psychological assessment of the minister's readiness to return to office by outside professionals trained in assessing the rehabilitation of sexual misbehavior and/or relational violence as chosen by the Presbytery. The cost of such assessment shall be incurred by the individual seeking restoration.
        5) Active participation in a PC(USA) congregation for a least one year, and the support of the session of that church.
    e. When the RC recommends, in consultation with the psychological assessment as referenced in 4) above, restoration to office for a minister seeking it, the Presbytery shall consider fundamental the affirmative answer to the question, "Can you be assured with reasonable certainty that this person will not again violate the boundaries of a ministerial relationship through sexual misconduct or abuse?" (After the above has been met, the RC will make a recommendation to the appropriate entities of the Presbytery.)
12. For more in-depth details on the judicial process, please refer to the section on Church Discipline in the most recent Book of Order.

V. The Pastoral Process: A Trauma-Informed Guide

1. The pastoral care response should be carried out by a trauma-informed Sexual Misconduct and Abuse Response Team (SMART). SMART will work in parallel with the judicial process, but will not investigate an allegation or in any way usurp the roles of Presbytery officials or committees. It will begin its work upon the reception of a written or oral request by the Presbytery Executive leader and/or the Stated Clerk.
2. The work of SMART will be pastoral and/or consultative in nature and its responsibilities include, but are not limited too:
    i. Coordinating a process of care that addresses the needs of the accuser(s), those alleged to have been harmed and their families, those accused and their families, and any affected congregation(s) throughout the judicial and healing processes.
    ii. Offering trauma-informed advocates to accusers, those alleged to be harmed, and the accused.
    iii. Providing trauma-informed pastoral support for all impacted by allegations including families, congregations, and those involved in the judicial process.
    iv. Providing ongoing information and support to help accusers, those alleged to have been harmed, and the accused understand the disciplinary process.
    v. Maintaining confidentiality, reporting to the Stated Clerk, Presbytery Executive leader, and COM the status and/or conclusion of coordinated care surrounding each incident of response.
3. Membership in the SMART Pool
    i. A Presbytery may desire to maintain a pool of individuals who are trained in trauma-informed responses to sexual misconduct and abuse. Individuals in the SMART pool may be nominated by a Committee on Nominations (CON), in consultation with the COM, and approved by the Presbytery. There should be no requirement that they be a Ruling or Teaching Elder. However, they shall be a member of a congregation within the bounds of the Presbytery. The SMART Pool should normally consist of six to nine members on staggered 6-year terms. There should normally be no term limits, however, after each term, they should be renominated and approved by the Presbytery. The SMART Pool should consist of individuals with aggregate expertise, as far as possible, in the following areas:
        1) The dynamics of sexual misconduct/abuse and trauma-informed care
        2) Psychological counseling
        3) Child advocacy
        4) Legal
        5) Conflict management
        6) Insurance
        7) Personnel management
        8) Pastoral practices
        9) Church governance and policies
        10) Public relations
4. When a Sexual Misconduct and Abuse Response Team (SMART) is empaneled to provide pastoral care and/or trauma-informed consultation for an incident, it should be composed of at least three members from the SMART Pool. One member shall be designated the moderator. The moderator and members of SMART should be appointed by the COM in consultation with the Presbytery Executive leader and Stated Clerk. At least one member of SMART shall be of the same gender as those alleged to have been harmed.
5. All members of the SMART Pool should sign a pledge of confidentiality which shall be submitted to the Presbytery Executive leader and/or Stated Clerk prior to their service (see Appendix A).

VI. Definitions

ACCUSED: The person against whom a complaint of sexual misconduct is made.

ACCUSER: The person claiming knowledge of sexual misconduct by a person whose conduct is addressed by this outline. The accuser may or may not be the person aggrieved by the alleged sexual misconduct or abuse.

ADVOCATE: A person available to the accuser, those alleged to have been harmed, or the accused, that accompanies the same at any or all stages of the judicial process. In this policy, "advocate" does not denote legal representation. If the accuser, those alleged to have been harmed, or accused does not have an advocate readily available, one will be offered to them by SMART.

CONFIDENTIALITY: The assurance of and respect for the privacy, reputation, and records required on the part of all those dealing with any allegation of sexual misconduct. Information related to any accusation will only be available to those persons officially related to the ongoing process described in this policy.

INVESTIGATING COMMITTEE (IC): The IC is a body formed by the Stated Clerk for the purpose of investigating a complaint of sexual misconduct by one of the ministers* of the Presbytery. The Presbytery and Book of Order (D-7) outline the formation, responsibility, and conduct of the IC. The IC is charged to make determination of the sufficiency of evidence to bring charges against an accused.

MANDATED REPORTER: Under many states law and the Book of Order (G-4.0302), persons who, in the course of their employment, occupation, or practice of their profession, are required to report any and all suspected incidents of child or elder abuse. In the Book of Order, any person in ordered ministry is named a mandated reporter when confidential communication causes them reasonably believe that there is risk of imminent bodily harm to any person.

MINISTER: For the purpose of this outline, is a collective word that refers to all Ministers of Word and Sacrament, Commissioned Ruling Elders (CRE), Certified Christian Educators (CCE), Mid-Council staff, those serving on Commissions and Committees, ongoing volunteers serving on behalf of the Mid-Council, and those under care of a Presbytery.

PERMANENT JUDICIAL COMMISSION (PJC): The continuing body elected by the Presbytery to conduct trials when an IC files charges.

RESTORATION COMMITTEE (RC): The body formed by an Executive Leader and/or Stated Clerk and the Moderator(s) of the COM, to respond to a request of a minister to be restored to office after having been found guilty of sexual misconduct or abuse. The members of the Restoration Committee should be from the SMART Pool as outlined above.

SEXUAL MISCONDUCT & ABUSE RESPONSE TEAM (SMART): SMART is composed of at least three members from the SMART Pool who are empaneled to offer pastoral care for those alleged to have been harmed, the accused, and affected families and congregations and to resource and train those responsible for the judicial process.

SMART POOL: The body of six to nine Presbyterians elected by the Presbytery who are trained with the trauma-informed skills necessary to participate in SMART.

THOSE ALLEGED TO HAVE BEEN HARMED: A person alleged to have been harmed by an incident covered in this outline.

Appendix A

Name of Presbytery
SMART Pool
Pledge of Confidentiality

This is to certify that I, _____, a member of the Sexual Misconduct and Abuse Response Team Pool for the *Name of Presbytery*, understand that any information (written, verbal, or other form) obtained during the performance of my duties as a member of the "SMART Pool" must remain confidential. This, in particular, includes all information about any accuser(s), alleged victim(s) and their families, those accused and their families, and any affected congregation(s) throughout the process of accusation, review, and healing, as well as any other information otherwise marked or known to be confidential.

I understand that any unauthorized release or carelessness in the handling of this confidential information is considered a breach of the duty to maintain confidentiality and may be subject to disciplinary action in accordance with the Book of Order.

I understand that any breach of the duty to maintain confidentiality could be grounds for immediate dismissal from the "SMART Pool."

_____

Signature of Volunteer

_____

Date

_____

Signature of Stated Clerk/Presbytery Executive Leader