



Memo

Date: January 13, 2020
To: Parishes, schools and chancery staff
From: Deacon Dennis Dorner Sr., Chancellor/Director of the Permanent Diaconate
Re: REVISED—Notification of litigation hold—**CONFIDENTIAL**

On the advice of our diocesan attorneys, we have agreed upon a revised litigation hold that narrows the scope of records and information required to be preserved.

Per the revised litigation hold, only records and information in any way related to sexual conduct involving minors is to be preserved until notified otherwise. If the records or information in any way relate to sexual conduct involving minors, then all records, information, drafts, versions, etc. must be preserved. This includes but is not limited to electronic communications (emails, texts, voicemails, etc.), reports, memos, financial information, insurance policies, etc.

All other previously on hold records may now be kept according to their normal retention and disposition. As always, all records past retention require approval for destruction, regardless of format. Please see our website to find the Retention Schedule and Disposition Form at <https://archatl.com/offices/archives/records-management/>.

Please also read closely the updated Litigation Hold FAQs and the original preservation request from the USCCB attached with this Memo for further guidance. The original preservation request goes into much more detail of the categories of documents to be preserved.

At this time, we are not required to collect or produce information, only to preserve information. If you are unsure if your records are covered by the litigation hold or have any questions, please contact the Office of Archives and Records at records@archatl.com.

USCCB LITIGATION HOLD FAQs

Contact the Office of Archives and Records with questions:

records@archatl.com

1. How long will this litigation hold last?

A: We do not know. Litigation holds may last for weeks, months or years. We will keep everyone posted when we have updates. You will receive a memo as soon as the litigation hold is lifted with further instructions.

2. Who must follow the litigation hold? Is it only directors? Only full-time employees?

*A: The litigation hold must be followed by anyone working in the Archdiocese of Atlanta, in any capacity, who handles records or information. This includes but is not limited to full-time employees, part-time employees, volunteers, contractors, interns, women religious, priests, deacons and bishops. *Please note, if your volunteer does not actually deal with records or information relating to your parish/school/mission/archdiocese, then the litigation hold will not apply to them.*

3. Are independent schools, Catholic Charities, GRACE Scholars, or other AOA-related entities required to follow the litigation hold?

A: Technically, no they are not. However, our diocesan attorneys think it would be in the entity's best interest to follow the litigation hold, or at the very least consider implementing a similar one within their organization.

4. Can we destroy documents that we regularly shred, such as old invoices, collection envelopes and worksheets, payroll worksheets, etc.?

A: Yes, you may proceed with normal disposition of records as long as they do not pertain to sexual conduct involving minors. If you are unsure if your records fall under the hold, please contact records@archatl.com and we can assist you in determining that.

5. Can we destroy transitory information (scratch notes – either paper or digital, lists, project records, programmatic files, etc.), working files, or non-records (stock copies)?

A: Yes, you may proceed with normal disposition of records as long as they do not pertain to sexual conduct involving minors. Please contact records@archatl.com if you need assistance in determining this.

6. What about text messages or voicemails on my cell phone? Do they fall under the litigation hold?

A: Yes, voicemail and text messages on archdiocesan- or parish-/school-provided equipment fall under the litigation hold as well if they relate to sexual conduct involving minors. If you have your office phone forwarded to a personal cell phone, those relevant voicemails also fall under the hold. If the voicemails/text messages do not relate to personnel issues or to sexual conduct involving minors, then they do not fall under the litigation hold and may be purged through regular disposition.

7. If I work remotely and have files at home, either on a personal computer or printed in my home office, do those fall under the litigation hold?

A: Yes, any archdiocesan files, no matter their location, fall under the parameters of the litigation hold if they relate to sexual conduct involving minors. As a matter of practice, we do not recommend storing files, especially confidential files, related to AOA business in a home office or on a personal computer. Our recommendation is to arrange for remote access to your AOA work computer instead and do your work remotely that way, keeping your home printing to an absolute minimum. Printing to PDF or to a digital file and saving it on your work desktop is preferred.



Office of the General Counsel

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3300 • FAX 202-541-3337

By Electronic and First-Class Mail

To: All USCCB Members and U.S. Bishops Emeriti

From: Anthony R. Picarello, Jr. *ARP*
Associate General Secretary & General Counsel

Cc: All Diocesan Attorneys

Date: October 23, 2018

Re: **Request of U.S. Attorney to Preserve Documents**

Your Eminences and Your Excellencies,

The Conference has received the attached letter from the United States Attorney for the Eastern District of Pennsylvania. The letter requests that the Conference and all dioceses, archdioceses, eparchies, archeparchies, and personal ordinariates preserve all documents on a broad range of subjects relating to sexual conduct involving minors.

The Conference, through its attorneys, has advised the U.S. Attorney that the Conference lacks the authority, and so cannot assume responsibility, to make sure that documents of the numerous dioceses, archdioceses, eparchies, archeparchies and personal ordinariates are preserved. At the request of the U.S. Attorney, however, and in a spirit of cooperation with law enforcement, I am transmitting his Request to Preserve Documents to you.

The Conference has taken appropriate steps to preserve its own documents, and it encourages you to take immediate steps to preserve your documents as well. Please read the Request carefully—it is very broad. You will undoubtedly have questions concerning its scope. As this is not USCCB's Request, neither I nor anyone at USCCB is in a position to address those questions. Instead, all such questions and requests for clarification or limitation of the Request should be directed to Assistant United States Attorney Michelle Morgan at (215) 861-8458 or michelle.morgan2@usdoj.gov.

Please also note that the U.S. Attorney has asked for confirmation as soon as possible that you have received this Request and are undertaking to preserve documents in accordance with it. You should, therefore, contact Ms. Morgan as soon as possible.

Thank you for your prompt attention to this matter.

Attachment



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

*615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4476
(215) 861-8200*

*WILLIAM M. McSWAIN
Email Address: william.mcswain@usdoj.gov*

October 9, 2018

Via Federal Express

Daniel Cardinal DiNardo, President
United States Conference of Catholic Bishops
3211 Fourth St., N.E.
Washington, D.C. 20017

Re: Request to Preserve Documents

Dear Cardinal DiNardo:

This Office is investigating possible violations of federal law.

The United States Conference of Catholic Bishops (including its officers, directors, employees, agents, and representatives) is requested to preserve the documents described in the enclosure to this letter. I request that these documents be preserved in their current form and condition, and not be destroyed, discarded, disposed of, deleted, or altered in any way.

You (or your counsel) should contact this Office as soon as possible to confirm that the preservation requested through this letter is being undertaken.

Further, I trust that this letter is sufficient notice for your member or affiliate archdioceses, dioceses, archeparchies, eparchies, and personal ordinariate to preserve such documents in their respective possession, custody, or control. You should immediately transmit copies of this preservation request to them, confirm that they are preserving evidence as requested herein, and have them contact my Office, as soon as possible, to confirm that the preservation is being undertaken.

Presently, there is no need for you, the Conference, or anyone else to produce any documents solely on account of this letter. It is only requested that you, the Conference, and your member or affiliate archdioceses, dioceses, archeparchies, eparchies, and personal ordinariate not destroy, discard, dispose of, delete, or alter any of the described documents. Rather, they should be preserved in their current format and condition.

Daniel Cardinal DiNardo, President
United States Conference of Catholic Bishops
October 9, 2018
Page Two

When contacting my Office to confirm that the requests in this letter are being carried out – or if you have any questions – please contact Assistant United States Attorney Michelle Morgan at (215) 861-8458 or michelle.morgan2@usdoj.gov.

I look forward to your cooperation.

Very truly yours,



WILLIAM M. MCSWAIN
United States Attorney

Enclosure
WMM/nmd

ENCLOSURE TO LETTER OF OCTOBER 9, 2018

It is requested that the following documents be preserved:

1. All documents related to sexual conduct involving a minor—or reported, alleged, suspected, or suggested sexual conduct involving a minor—by any of your current or former officers, directors, employees, contractors, representatives, or agents, as well as any bishop, priest, deacon, other clergyman, member of a religious order, or seminarian currently or formerly assigned to, reporting to, or stationed at the United States Conference of Catholic Bishops or any of its predecessors or affiliates.
2. All documents related to sexual conduct involving a minor—or reported, alleged, suspected, or suggested sexual conduct involving a minor—by any bishop, priest, deacon, other clergyman, member of a religious order, diocesan or parish school or seminary administrator, faculty member, or staff member, or seminarian currently or formerly affiliated with any of the archdioceses, dioceses, archeparchies, eparchies, or personal ordinariate in the United States.
3. All personnel files and other records, communications, and documents related to any of your current or former officers, directors, employees, contractors, representatives, or agents, as well as any bishop, priest, deacon, other clergyman, member of a religious order, diocesan or parish school or seminary administrator, faculty member, or staff member, or seminarian currently or formerly assigned to, reporting to, or stationed at the United States Conference of Catholic Bishops or any of its predecessors or affiliates or currently or formerly affiliated with any of the archdioceses, dioceses, archeparchies, eparchies, or personal ordinariate in the United States, who committed—or who reportedly or allegedly committed or was suspected or suggested of having committed—sexual conduct involving a minor.
4. All documents related to sexual conduct involving a minor—or any report, allegation, suspicion, or suggestion of the foregoing—held or formerly held in the “secret archives,” the “confidential files,” the “historical archives,” any secured or secret record-keeping location or system, any record-keeping location or system accessible only by the diocesan bishop and chancellor, or any archive, place, location, or system created or maintained pursuant to Canons 486, 487, 489, or 491 of the Code of Canon Law (1983), or any analogous provision of any prior codification of the Code of Canon Law.
5. All reports made to any law enforcement agency, insurance company, investigator, Catholic church-related entity, or any other person or entity concerning any actual, reported, alleged, suspected, or suggested sexual conduct involving a minor, and all documents related to any such reports.
6. All reports made to you concerning any actual, reported, alleged, suspected, or suggested sexual conduct involving a minor, and all documents related to any such reports.
7. All documents produced to any federal, state, county, municipal, or other law

enforcement agency, or any court, prosecutor, or grand jury, related to any actual, reported, alleged, suspected, or suggested sexual conduct involving a minor or in connection with any investigation of the foregoing.

8. All investigative summaries or reports, and all other documents related to any inquiry or investigation, of actual, reported, alleged, suspected, or suggested sexual conduct involving a minor.
9. With respect to any person identified in any document preserved in response to Requests 1 through 8 as having committed—or who reportedly or allegedly committed or was suspected or suggested of having committed—sexual conduct involving a minor, all documents related to such person producing, transporting, shipping, receiving, distributing, or possessing a photograph or other visual depiction of a minor or transporting any minor across any state or international border or persuading, inducing, enticing, or coercing any minor to cross any state or international border.
10. All documents related to any transfer of any bishop, priest, deacon, other clergyman, member of a religious order, or seminarian who committed—or who reportedly or allegedly committed or was suspected or suggested of having committed—sexual conduct involving a minor from one archdiocese, diocese, archeparchy, eparchy, or personal ordinariate to another, or from any one place or position to another, and your role in approving such transfers, or advising, consulting, or being informed of such transfers or anticipated or proposed transfers.
11. All documents approving, directing, discussing, or otherwise relating to the enrollment or placement of any bishop, priest, deacon, other clergyman, member of a religious order, or seminarian into any treatment facility for sexual or other misconduct or disorders, and all documents concerning related costs and financial transactions.
12. All applications for insurance coverage for policies that covered, or were intended to cover, sexual conduct involving a minor, or any failure to supervise, including any documents in which representations are made about the occurrence or non-occurrence of any sexual conduct involving a minor or claims or anticipated claims related thereto, as well as all documents relating to claims or notices you made to any of your insurance carriers.
13. All of your press releases, statements, and other communications relating to actual, reported, alleged, suspected, or suggested sexual conduct involving a minor, or relating to any press reporting, law enforcement activity, litigation, or other reporting or interest concerning the foregoing, and all documents related to any such communications.
14. All communications advising, counseling, requesting, or suggesting that any person or entity not report, in whole or in part, actual, reported, alleged, suspected, or suggested sexual conduct involving a minor to any law enforcement agency or to any other person or entity, and all documents evidencing or otherwise relating to such communications.

15. All communications and other documents relating to any direction, instruction, suggested course of action, or suggested approach you provided to any archdiocese, diocese, archeparchy, eparchy, personal ordinariate, parish, school, seminary, clergyman, or other person or entity concerning sexual conduct involving a minor or reporting of or prevention of the foregoing.
16. All documents relating to any impact—or anticipated or possible impact—on fundraising, charitable contributions, school tuition payments, or receipts of other funds due to any actual, reported, alleged, suspected, or suggested sexual conduct involving a minor, or any press reporting, law enforcement activity, litigation, or other reporting or interest in the foregoing.
17. All documents relating to the creation of entities, establishing of accounts, or transfer of funds, properties, or assets—or any plan or suggestion to undertake such actions—due to actual, reported, alleged, suspected, or suggested sexual conduct involving a minor, or any press reporting, law enforcement activity, litigation, or other reporting or interest in the foregoing.
18. All of your charters, articles of incorporation or organization, bylaws, and similar organizational and governance documents.
19. All of your organizational charts.
20. All directories (including directories of clergymen) created, maintained, or published by you.

DEFINITIONS AND INSTRUCTIONS

The following definitions and instructions apply to this Enclosure:

1. The term "documents" includes all forms of creation or storage, including any form of computer or electronic storage (such as hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); any electronic form (such as electronic files, text and other messages, or electronic mail); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).
2. "You" and "your" refer to, as the case may be, (i) the United States Conference of Catholic Bishops and any of its predecessors or affiliates, as well as any current or former officer, director, employee, agent, or representative of the United States Conference of Catholic Bishops or of any of its predecessors or affiliates; and (ii) an archdiocese, diocese, archeparchy, eparchy, or personal ordinariate and any of their respective predecessors or affiliates, as well as any current or former officer, director, employee, agent, or representative of the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate or of any of its predecessors or affiliates.
3. The term "sexual conduct involving a minor" is not limited to instances of physical contact with a minor but also includes the production, transportation, shipment, receipt, distribution, or possession of child pornography or any communication or contact with a child regarding actual, attempted, or contemplated sexual conduct through any means, including telephonic, computer, electronic, visual, audio, audio-visual, or remote means.
4. For purposes of this preservation request, a bishop, priest, deacon, other clergyman, member of a religious order, diocesan or parish school or seminary administrator, faculty member, or staff member, or seminarian is considered currently or formerly affiliated with an archdiocese, diocese, archeparchy, eparchy, or personal ordinariate if he: (i) resides or resided in the territory of the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate; (ii) is or was employed by or performs or performed work in the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate (iii) is or was assigned to or stationed at the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate; (iv) reports or reported to or is or was subject to the authority of, directly or indirectly, the archbishop, bishop, ordinary, or any of his predecessors; (v) appears or appeared in any directory created, maintained, or published by the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate; or (vi) otherwise is or was currently or formerly affiliated with the archdiocese, diocese, archeparchy, eparchy, or personal ordinariate.
5. Whenever a document or communication is referenced, you are requested to preserve any drafts and non-identical copies of the document or communication.

6. You are requested to preserve all identified documents or communications that are in your possession, custody, or control, whether held by you or your past or present agent, employee, or representative acting on your behalf.