

## General Convention of The Episcopal Church 2022 Archives' Research Report

**Resolution No.:** 2022-D039  
**Title:** Amend Canon IV.6.7: Of Intake and Referral of Information Concerning Offenses [Impanelment and notice]  
**Proposer:** Dr. Elizabeth Barker  
**Topic:** Discipline

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**Directly Related:** (Attached)

2015-A130 Amend Canon IV.6.7 [Of Intake and Referral of Information]  
2012-A033 Amend Canons IV.2, 5, 6, 11 as follows:  
Canon IV.2 [Of Terminology Used in This Title]  
Canon IV.5.3(i) [Resource Sharing for Disciplinary Boards' Rules of Operation]  
Canon IV.6.7 [Impanelment to Consider an Offense]  
Canon IV.11.5 [Confidentiality of Investigations]

**Indirectly Related:** (Available in the [Acts of Convention](#) database, searchable by resolution number)

None

*In preparing this report, the Archives researched the resolutions in the Acts of Convention database for the period 1973 through 2018, selecting "direct" resolutions that have a substantive bearing on the proposed legislation. The "direct" resolutions are attached and "indirect" resolutions are available in the Acts of Convention database. Committee members who require other research assistance should contact the Archives through the [Research Request Form](#) or call 800-525-9329.*

# D039 - Amend Canon IV.6.7: Of Intake and Referral of Information Concerning Offenses [Impanelment and notice]

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**Final Status:** Not Yet Finalized

**Proposed by:** Dr. Elizabeth Barker

**Endorsed by:** The Rev. Jason Prati, The Rev. Lynn Carter-Edmands

**Requests New Interim Body:** No

**Amends C&C or Rules of Order:** Yes

**Has Budget Implications:** No

**Cost:**

**HiA:** HB

**Legislative Committee Currently Assigned:** 03 - Title IV Disciplinary Canons

**Completion Status:** Incomplete

**Latest House Action:** N/A

**Supporting Documents:** No

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## Resolution Text

*Resolved*, the House of \_\_\_\_\_ concurring,

That the 80th General Convention amend Canon IV.6.7 to read as follows:

**<Amended text as it would appear if adopted and concurred. Scroll below the line of asterisks (\*\*\*\*\*) to see the version showing all deleted and added text.>**

Sec. 7. If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The President of the Disciplinary Board shall promptly select from the Disciplinary Board, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. At the same time as forwarding the intake report to the Reference Panel, the Intake Officer shall send a notice to the subject Member of the Clergy informing him or her of the nature of the alleged Offense(s) with enough specificity that the Respondent may provide names and contact information of witnesses for investigation under Canon IV.11, the identity of any persons who have been designated as Complainants, and describing the next procedural steps that the Member of the Clergy can anticipate. The notice shall also remind the Member of the Clergy of his or her duty under Canon IV.3.1.b to cooperate in the subsequent proceedings.

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**<Proposed amended resolution text showing exact changes being made:>**

Sec. 7. If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The ~~president~~ *President of the Disciplinary Board* shall promptly select from the Disciplinary Board, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. At the same time as forwarding the intake report to the Reference Panel, the Intake Officer shall send a notice to the subject Member of the Clergy informing him or her of the nature of the alleged Offense(s) *with enough specificity that the Respondent may provide names and contact information of witnesses for investigation under Canon IV.11*, the identity of any persons who have been designated as Complainants, and describing the next procedural steps that the Member of the Clergy can anticipate. The notice shall also remind the Member of the Clergy of his or her duty under Canon IV.3.1.b to cooperate in the subsequent proceedings.

**Explanation**

This clarifies that the president referred to is the President of the Disciplinary Board.

Since the Intake Report has not been forwarded to the Respondent in order to protect the Complainant, at this point enough specificity is required, beyond a simple citation of the canonical offenses, to provide to the Respondent so that they may also provide witnesses for investigation. Otherwise, the next steps are based on one-sided information since the Respondent has no other opportunity to learn of or respond to the specific charges until the Conference Panel. Knowing the Respondent has provided witnesses can better inform the Reference Panel's determination of how to refer the report (Canon IV.6.8).





**Resolution Number:** 2015-A130  
**Title:** Amend Canon IV.6.7 [Of Intake and Referral of Information]  
**Legislative Action Taken:** Concurred as Amended  
**Final Text:**

*Resolved, That Canon IV.6.7 is amended to read as follows:*

**Sec. 7. If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The president shall promptly select from the Disciplinary Board, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. *At the same time as forwarding the intake report to the Reference Panel, the Intake Officer shall send a notice to the subject Member of the Clergy informing him or her of the nature of the alleged Offense(s), the identity of any persons who have been designated as Complainants, and describing the next procedural steps that the Member of the Clergy can anticipate. The notice shall also remind the Member of the Clergy of his or her duty under Canon IV.3.1 (b) to cooperate in the subsequent proceedings.***

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Salt Lake City, 2015* (New York: General Convention, 2015), pp. 713-714.



**Resolution Number:** 2012-A033  
**Title:** Amend Canons IV.2, 5, 6, 11 as follows: Canon IV.2 [Of Terminology Used in This Title] Canon IV.5.3(i) [Resource Sharing for Disciplinary Boards' Rules of Operation] Canon IV.6.7 [Impanelment to Consider an Offense] Canon IV.11.5 [Confidentiality of Investigations]  
**Legislative Action Taken:** Concurred as Amended  
**Final Text:**

*Resolved, That the following sections of Canons IV.2, be amended to read as follows:*

**Advisor shall mean a person designated to support, assist, consult with, advise and, where expressly so authorized under this Title, speak for a Complainant or Respondent in any matter of discipline under this Title, as provided in Canon IV.19.10.**

**Complainant shall mean (a) ~~the~~any person or persons from whom the Intake Officer receives information concerning an *alleged* Offense and who, upon consent of that person(s), is designated a Complainant by the Intake Officer or (b) any Injured Person designated by the Bishop Diocesan who, in the Bishop Diocesan's discretion, should be afforded the status of a Complainant, provided, however, that any Injured Person so designated may decline such designation.**

**Conference Panel shall mean a panel of one, ~~two or three~~or more members of the Disciplinary Board selected by the president of the board, unless some other manner of selection is provided by Diocesan Canon, to serve as the body before which an informal conference is held as provided in Canon IV.12, provided, however, that no such member of the Conference Panel may serve as a member of the Hearing Panel in the same case. *The president of the Disciplinary Board shall be ineligible to serve on the Conference Panel. If the Conference Panel consists of more than one member, it shall include both clergy and lay members.***

**Hearing Panel shall mean a panel of three or more members of the Disciplinary Board and shall include both clergy and lay members selected by the president of the Board, unless some other manner of selection is provided by Diocesan Canon, to serve as the body before which a hearing is held as provided in Canon IV.13, provided, however, that no such member of the Hearing Panel may serve as a member of the Conference Panel in the same case. *The president of the Disciplinary Board shall be ineligible to serve on the Hearing Panel.*; and be it further**

*Resolved, that Canon IV.5.3 (i) be amended as follows:*

**(i) Any Diocese may agree *in writing* with one or more other Dioceses to develop and share resources necessary to implement this Title, including members of Disciplinary Boards, Church Attorneys, Intake Officers, Advisors, Investigators, Conciliators and administrative and financial support for proceedings under this Title.; and be it further**

*Resolved, that Canon IV.6.5, IV.6.7 and IV.6.8 be amended as follows:*

**Sec. 5. If the Intake Officer determines that the information, if true, would not constitute an Offense, the Intake Officer shall inform the Bishop Diocesan of an intention to dismiss the matter. If the Bishop Diocesan does not object, the Intake Officer shall dismiss the matter. The Intake Officer shall provide written notice to the Complainant and the Bishop Diocesan**

of the decision of dismissal, the reasons therefor, and the Complainant's right to appeal the decision within thirty days of the date of the notice and shall send a copy of that notice and the written intake report to the president of the Disciplinary Board. If the Complainant wishes to appeal the dismissal, the Intake Officer shall assist the Complainant in preparing and signing a written statement of the acts complained of, which statement shall be sent to the president of the Disciplinary Board, along with a statement that the Complainant appeals the dismissal. The intake report and any related information, in the case of a dismissal, ~~may~~ shall be retained by the Intake Officer and *may be* considered in connection with any additional information that may come to the Intake Officer thereafter concerning the subject Member of the Clergy.

**Sec. 7.** If the Intake Officer determines that the information, if true, would constitute an Offense, the Intake Officer shall promptly forward the intake report to the Reference Panel. The president shall promptly select from the Disciplinary Board, by lot or by other random means, a Conference Panel and a Hearing Panel, and shall designate a president of each Panel. ~~A Conference Panel may consist of one or more person. A Hearing Panel shall consist of not less than three persons and shall include both clergy and lay members. The president shall be ineligible to serve on either Panel.~~

**Sec. 8.** The Reference Panel shall meet as soon as possible after receiving the intake report to determine how to refer the report. Referral options are (a) no action required other than appropriate pastoral response pursuant to Canon IV.8; (b) conciliation pursuant to Canon IV.10; (c) investigation pursuant to Canon IV.11; (d) *to the Conference Panel pursuant to Canon IV.12; or (e)* referral for possible agreement with the Bishop Diocesan regarding terms of discipline pursuant to Canon IV.9. Referral decisions shall require the approval of a majority of the Reference Panel.; and be it further

*Resolved, that Canon IV.7.11 be amended as follows:*

**Sec. 11.** If a request for review of restriction on ministry or Administrative Leave is made prior to referral to the Conference Panel, then the review shall be conducted by the Conference Panel. If a request for review of restriction on ministry or Administrative Leave is made subsequent to referral to the Conference Panel but prior to referral to the Hearing Panel, the review shall be conducted by the Conference Panel. If a request for review of restriction on ministry or Administrative Leave is made subsequent to referral to the Hearing Panel, the review shall be conducted by the Hearing Panel. The question before a Panel reviewing a restriction on ministry or Administrative Leave is whether, at the time of the review and based upon information then available to the Panel, the restrictions on ministry or Administrative Leave and the terms and conditions thereof are warranted. The review may be conducted either personally or telephonically. The Intake Officer, the Respondent, ~~or the Respondent's Advisor, the Respondent's counsel, if any, or both,~~ the Bishop Diocesan, the Chancellor and the Church Attorney shall each be afforded the opportunity to be present, either personally or telephonically, at the review, and any such person present shall be heard by the Panel if such person desires to be heard. The Panel may hear from other persons at the Panel's discretion.; and be it further

*Resolved, that Canon IV.8.2 and IV.8.3 be amended as follows:*

**Sec. 2.** In each pastoral response the Bishop Diocesan shall consider offering pastoral care to all those *who may be* affected by ~~the-an alleged~~ Offense ~~or allegations~~ thereof. Pastoral care shall be considered for the Complainant, the Complainant's family, the Respondent, the Respondent's family, Injured Persons, Injured Persons' families, any affected Community, witnesses, and the Disciplinary Board.

**Sec. 3.** In every case, and notwithstanding any other provision of this Title to the contrary, the Bishop Diocesan may disclose such information concerning any *alleged* Offense or ~~allegations thereof~~ or concerning any Accord or Order as the Bishop Diocesan deems pastorally appropriate.; and be it further

*Resolved*, that Canon IV.9 be amended by adding a new Section 4 as follows:

**Sec. 4.** *Accords under this Section shall be subject to all the provisions of Canon IV.14 regarding Accords, not inconsistent with this Section.*; and be it further

*Resolved*, that Canons IV.11.3 and IV.11.5 be amended as follows:

**Sec. 3.** The Investigator shall present the findings of the investigation in writing to the Reference Panel. The Reference Panel may meet with the Investigator and shall consider the report to determine whether to (a) take no action other than appropriate pastoral responses pursuant to Canon IV.8; (b) refer the matter to the Bishop Diocesan for consideration of proceedings under Canon IV.9; (c) refer the matter to conciliation pursuant to Canon IV.10; (d) require further investigation; or (e) refer the matter to the Conference Panel pursuant to Canon IV.12, *or to the Hearing Panel pursuant to Canon IV.13*. The determination shall be approved by a majority vote of the Reference Panel.

**Sec. 5.** All investigations shall be confidential ~~except until such time as information obtained may be utilized by the Church Attorney, the Bishop Diocesan or the Panels upon the consent of the person interviewed or as the Bishop Diocesan deems pastorally necessary, and all.~~ *All* ~~Persons, prior to being~~ interviewed by the investigator, shall be advised of the confidential nature of the investigation *and when such information may be shared during the course of the proceedings.*; and be it further

*Resolved*, that Canon IV.12.3, IV.12.4, IV.12.7, IV.12.8 and IV.12.12 be amended as follows:

**Sec. 3.** The Conference Panel shall issue a notice to the Respondent, the Respondent's Advisor, ~~the Respondent's counsel, if any,~~ the Complainant, the Complainant's Advisor, the Investigator and such other persons, if any, as the Conference Panel in its discretion may determine. The notice shall describe the nature and purpose of the proceeding, *shall* contain a copy of the written statement prepared by the Church Attorney, shall disclose the names of all persons to whom the notice is sent, and shall establish a date, time and place for conference at which the Respondent is to appear before the Conference Panel, *which date shall be not less than twenty days after service of the notice upon the Respondent.*

**Sec. 4.** The Respondent shall attend the conference *and may be accompanied by an Advisor or counsel, if any, or both.*

**Sec. 7.** The proceedings of the Conference Panel shall be informal and conversational. The Conference Panel shall describe the alleged Offense to the Respondent. The Conference Panel shall hear from the Complainant or the Complainant's Advisor or both, if either or both are present, and from the Respondent ~~or~~ *and* the Respondent's Advisor *or counsel, if any, or both.* At its discretion, the Conference Panel may hear from the Investigator or any other persons present, and may direct the Investigator to conduct additional investigation and suspend its proceedings to allow such investigation to be completed. At its discretion, the Conference Panel may confer with any participants outside the presence of the other participants.

**Sec. 8.** No witnesses shall be called to testify at the proceedings before the Conference Panel. No record of the proceedings of the Conference Panel shall be made. The conference shall be closed to all except the members of the Conference Panel and invited participants. Proceedings before the Conference Panel shall be confidential except as may be provided in

an Order or Accord or as provided elsewhere in this Title. *No statements made by any participant in such proceeding may be used as evidence before the Hearing Panel.*

**Sec. 12.** The Respondent or the Church Attorney may ~~refuse~~*object to* an Order issued by the Conference Panel by giving written notice of the ~~refusal~~*objection* to the president of the Conference Panel within fifteen days following the effective date of the Order as defined in Canon IV.14.10. Upon receipt of the notice of ~~refusal~~*objection*, the president of the Conference Panel shall notify the president of the Disciplinary Board of the ~~refusal~~*objection* and the matter will proceed as provided in Canon IV.14.11.; and be it further

*Resolved*, that Canon IV.13.2 and IV.13.5 (d) be amended as follows:

**Sec. 2.** Upon receipt of a referral for Hearing Panel proceedings, the Church Attorney shall review all information acquired as of the time of such referral and, if necessary, shall revise or update the statement of the *alleged* Offense and shall provide the same to the Hearing Panel. The Hearing Panel shall issue a notice to the Respondent, to the Respondent's Advisor, *to Respondent's counsel, if any*, and to the Church Attorney.

**Sec. 5.** The Church Attorney and the Respondent shall each be afforded reasonable time and opportunity to prepare evidence for the hearing as follows:

(d) Discovery procedures *as approved in the discovery plan filed pursuant to Canon IV.13.5(a)* may include *written interrogatories*, oral or written deposition testimony of any person having knowledge pertaining to the *alleged* Offense or any defenses, ~~thereto~~*requests for production of documents or tangible objects, and requests for admissions of fact.*; and be it further

*Resolved*, that Canon IV.14.4, IV.14.5, IV.14.11, and IV.14.12 be amended as follows:

**Sec. 4.** A copy of the Accord shall be sent to the Complainant, the Complainant's Advisor, the Respondent, the Respondent's Advisor, *the Respondent's counsel, if any*, the Church Attorney and the Bishop Diocesan by the Conciliator or the president of the Conference Panel or Hearing Panel (whichever the matter was before when the Accord was reached) on the date that the Conciliator or president of the Panel signs the Accord. *If the Accord was reached between the Bishop Diocesan and Respondent under Canon IV.9, the Bishop Diocesan shall send a copy of the Accord to the persons listed in this Section on the date the Accord becomes effective and irrevocable.*

**Sec. 5.** The Bishop Diocesan shall have thirty days from the date on which the Accord is sent to the Bishop Diocesan in which to advise in writing the Respondent, the Respondent's Advisor,*the Respondent's counsel, if any*, the Complainant, the Complainant's Advisor, the Church Attorney and the Conciliator or the president of the Conference Panel or Hearing Panel whether the Bishop Diocesan will pronounce the Sentence or accept the other terms of the Accord as recommended. The Bishop Diocesan shall advise that he or she will (a) pronounce the Sentence as recommended or (b) pronounce a lesser Sentence than that recommended and/or (c) reduce the burden on the Respondent of any of the other terms of the Accord. The Bishop Diocesan shall pronounce Sentence not sooner than forty days following the date on which the Accord is sent to the Bishop Diocesan and not later than sixty days following such date. The Bishop Diocesan's pronouncement of a lesser Sentence than that recommended or other modification shall not affect the validity or enforceability of the remainder of the Accord. *In the case of an Accord under Canon IV.9, the Bishop Diocesan shall pronounce Sentence not sooner than the day after the date the Accord became effective and irrevocable.*

**Sec. 11.** If the Order is issued by a Conference Panel, the Respondent may ~~refuse~~*object to* the Order as provided in Canon IV.12.12 and the matter shall be referred to a Hearing Panel for hearing as provided in Canon IV.13.

**Sec. 12.** *If there has been no objection by the Respondent*, notice of Accords and Orders which ~~shall have become effective and are not subject to refusal by the Respondent~~ shall be given without delay as follows:

(a) In the case of any Accord or Order pertaining to a Priest or Deacon, the Bishop Diocesan shall give notice of the Accord or Order to every Member of the Clergy in the Diocese, each Vestry in the Diocese, the Secretary of Convention, and the Standing Committee of the Diocese, which shall be added to the official records of the Diocese; to the Presiding Bishop, to all other Bishops of the Church, and where there is no Bishop, to the Ecclesiastical Authority of each Diocese of the Church; to the Recorder of ordinations; to the ~~Church Deployment Office~~*Office of Transition Ministry; the Archives*; and to the Secretary of the House of Bishops and the Secretary of the House of Deputies.; and be it further

*Resolved*, that Canon IV.14 be amended by adding a new section IV.14.13 as follows:

**Sec. 13.** *In every case, notwithstanding any other provision of this Title to the contrary, the Bishop Diocesan may disclose such information concerning any Offense or allegations thereof or concerning any Accord or Order as the Bishop Diocesan deems appropriate.*; and be it further

*Resolved*, that Canon IV.19 be amended as follows:

**Sec. 10.** Each Diocese shall make provision for Advisors to be available to Respondents and Complainants as provided in this Canon for the purposes of support, assistance, consultation and advice regarding the process provided in this Title and the rights, responsibilities, consequences and alternatives pertaining thereto.

(a) The Bishop Diocesan shall make an Advisor available to the Respondent not later than the earliest of (1) reference for conciliation, to the Conference Panel or to the Hearing Panel, (2) the imposition of restriction on ministry or placement on Administrative Leave, ~~or~~ (3)*the Respondent or Bishop Diocesan proposing terms of discipline to the other under Canon IV.9, or* (4) any interrogation or request for a statement or other information from the Respondent.

(b) The Bishop Diocesan shall make an Advisor available to the Complainant not later than the earliest of (1) the forwarding of the intake report to the Reference Panel, (2) the Complainant's appeal of a dismissal under Canon IV.6.5, ~~or~~ (3)*the Respondent or Bishop Diocesan proposing terms of discipline to the other under Canon IV.9, or* (4) the Bishop's designation of an Injured Person as a Complainant.;and be it further

*Resolved*, that Canon IV.19.22 be amended as follows:

**Sec. 22.** ~~A Hearing Panel~~*Disciplinary Board* or Court of Review may in its discretion obtain legal counsel to give it ~~or the President of the Board or one of its Panels~~ opinions on any questions of law, procedure or evidence. Such legal counsel, if any, shall have no vote in any proceeding before the ~~Hearing Panel~~*Disciplinary Board, one of its Panels, or Court of Review*.; and be it further

*Resolved*, that Canon I.9.8 be amended as follows:

**Sec. 8.** The Provincial Synod shall have power: (a) to enact Ordinances for its own regulation and government; (b) ~~to elect judges of the Provincial Court of Review~~; (e)(b) to perform such duties as many be committed to it by the General Convention; ~~(d)~~(c) to deal with all matters

**within the Province; *Provided, however,* that no Provincial Synod shall have power to regulate or control the internal policy or affairs of any constituent Diocese; and *Provided, further,* that all actions and proceedings of the Synod shall be subject to and in conformity with the provisions of the Constitution and the Canons for the government of this Church; (e)(d)to adopt a budget for the maintenance of any Provincial work undertaken by the Synod, such budget to be raised in such manner as the Synod may determine; (f)(e) to create by Ordinance a provincial Council with power to administer and carry on such work as may be committed to it by the General Convention, or by the Presiding Bishop and the Executive Council, or by the Synod of the Province.**

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Indianapolis, 2012* (New York: General Convention, 2012), pp. 293-298.