



Training and Support Materials for Safeguarding Children,
in the Catholic Church in Ireland.

NCMC Training



THE NATIONAL BOARD FOR
SAFEGUARDING CHILDREN
IN THE CATHOLIC CHURCH



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Welcome Prayer and Introductions

Colette Stevenson



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Aims for the Day

1. To update you on the work of reviewing the standards
2. To present information on recurring issues from cases around the church inquiry process for ordained clerics and religious
3. To present to you information on the consistency of advice from the NCMC
4. To discuss issues around monitoring and supervision



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Key Times

Break- 11.25

Lunch 13.00

Finish 15.30



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New Standards and overarching policy

Niall Moore



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Church Inquiry Process First Flowchart

Teresa Devlin



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Threshold for statutory authorities

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Republic of Ireland

Children First 2014 Part 3 (11), (1) the threshold for reporting is defined as ‘reasonable grounds to suspect on the basis of information that a child has been harmed, is being harmed, or is at risk of being harmed’.



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Threshold for statutory authorities

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Northern Ireland

Co Operating to Safeguard Children 2003, 2.3 and Children NI Order 2(2) and 50 (3), defines the threshold for reporting as ‘reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm’.



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Issues to Consider

- Information Sharing when is it appropriate?
Draft guidance on this has been produced as part of the new standards document 2.4A
- Good liaison with the statutory Authorities
Draft guidance on this has been produced as part of the new standards document 2.2A
- Support to a Parish where a priest is stepped aside. (Guidance 4.2D)



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Church Inquiry Process Second Flowchart Ordained

Fr. Michael Mullaney

4.3 A Guidance on the process
for ordained clerics following
the conclusion of any investigation by
the statutory authorities

The Preliminary Investigation

Conclusion of investigation by the statutory authorities

- The bishop follows all civil reporting laws when the allegation concerns the sexual abuse of minors.
- Church officials are also to cooperate with civil authorities in their own investigations.
- Moreover, the bishop exercises his power of governance in other ways to make sure no harm comes to children during the phase of the investigation by the statutory authorities.
 - Paramountcy-Principle, Precautionary, Presumption of Innocence, Appropriate Accommodation, Income, etc.

Preliminary Investigation (PI) Started / Restarted

- Canon 1717
- §1 Whenever the Ordinary (Bishop) receives information, which has the semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless the enquiry would be entirely superfluous.
- §2 Care is to be taken that this investigation does not call into question anyone's good name.
- §3 The one who performs this investigation has the same powers and obligations as an auditor in a process. If, later a judicial process is initiated, this process may not take part in it as a judge.

1. Whenever the Ordinary (Bishop) receives information

- Information – not certain that a crime has been committed; but the suspicion that a crime has been committed.
- Requires evaluation, assessment about its credibility, reliability, truthfulness
- Excludes anything that is manifestly false, absurd, no foundation – no PI
- **Semblance of truth requires / triggers PI, not goal of PI**
 - Minimum of credibility / reasonable suspicion / probability / believable / plausible
 - Some essential elements of fact - What, who, when, where, assess reliability of allegations
 - Characteristic of the information that it is ‘hypothetical’

- Semblance of truth – some other criteria
 - Credibility of the person making the allegation
 - Do the allegations reconcile with facts
 - Consistency / Contradictions in statements
 - Accuracy of details
 - Corroborating evidence
 - Fantasy
 - Vague / specific
- Preponderance of evidence – indicates a semblance of truth
- In general practice – unless an allegation is manifestly frivolous or false – there is a PI

- Information can be received from:
- Information can be from a direct concern of bishop
- Received through complaint, police, media, social media, internet evidence, etc.
- PI must begin (and conclude) with a decree to avoid indiscriminate, secret, 'carpet-bombing' investigations
- PI may not be necessary because it would be superfluous: in cases of public crimes or notorious.

2. Subjects of a PI

- Ordinary
 - In this case a bishop
 - Can also mean VG, EV, but their power would be so dependant on bishop in such delicate matters; they would have to require his permission that better the bishop deal with it.
- Investigator
 - Task of an auditor (c. 1717, §3, 1428, §3)
 - be a 'suitable person' – same qualities required for any ecclesiastical office – integrity, prudent, prepared, qualified and other qualities determined by the nature of the circumstances of the concrete case
 - Appointed for specific or all investigations

- Alleged Offender / Accused
 - Right to his good name
 - Right to canonical advise – not strictly an advocate (as this is an administrative as distinct from penal process)
 - Does not have a right to participate in the PI
 - As a rule prudent to inform accused if not already done so before final determination on the probability of the alleged offence
 - Does not have a right to inspect acts or receive copies of a PI
- Alleged Victim / Injured party

3. Object and Function of the PI

- After establishing the semblance of truth
- The Ordinary / Bishop is to enquire carefully about the facts and circumstances, and about the imputability of the offence
- PI is not a trial but an administrative process – opens with a decree
- Are the facts and circumstances real evidence / proof?
 - No – real evidence must be gathered, submitted, presented, published in a real canonical penal process
 - Evidence / proofs are required by the judge to assess / evaluate / come to moral certainty / conviction / judgement
 - Necessarily require the exercise of the right of defence
 - That is beyond the scope of the PI

- The question of imputability?
 - The presumption of imputability (c. 1321, §1) forms part of a real canonical penal process and cannot form part of PI
 - During the investigation cannot presume or believe guilt of the accused or suspected person during a PI.
 - All an investigator can say is that this person *may* have committed this external action which violates a specific penal norm.
- However!!!
 - CIC 17 expressly foresaw that the auditor in these cases could include a votum / assessment / opinion / judgement.
 - The current Code does not state anything in this regard. However, c. 1718, §3 states that the Ordinary can, if he considers it prudent, consult two judges or other legal experts. This means that he could ask the investigator for an opinion about the probability of the offence having occurred – including rationale for conclusions.

4. Closing the PI

- Bishop has to decide whether the PI was sufficient to help him arrive at a determination about how to proceed
 - Supplementary investigation?
 - Sufficient elements have been gathered
 - Decree closing the PI
- Options
 - Allegations frivolous / accused Innocent because of reasons outlined in c. 1323
 - Insufficient evidence – not possible to proceed
 - If suspicion of something remains - Advisory Board / National Case Management Committee
 - Initiation of a Process

- The certainty that must support a bishop's decision with regard to the PI, is not the same as a judge would have to reach at the end of a canonical penal process to determine the guilt of the accused.
- From the facts gathered during a PI, the bishop has only to weigh if the necessary requirements contribute to the initiation of a process.
- In other words, the bishop has to decide on whether there are enough grounds to initiate the process not the guilt or not of the accused.

- What is required is that the Ordinary has to assess whether the allegation is credible, not whether the accused is guilty.
- A sense that the crime was committed or even a certainty that the crime was committed doesn't mean that the accused did it, or was responsible for it, or is imputable, therefore punishable for the crime.
- The PI is not a penal process. To begin a process you need indications that the crime was committed; to establish guilt you need to moral certainty.

- It is a matter of a complex assessment / evaluation of the weight / value concerning the sufficiency of the facts gathered for the purpose of initiating a process.
- The facts gathered must be juridically sufficient to justify and indeed sustain a juridical process.
- The bishop does not have to make this decision on his own, indeed, c. 1718 states that in making this decision the bishop is free, if he considers it prudent to consult two judges or other legal experts. Judges refers to those qualified in canon law, experts can mean civil lawyers, other experts.

- Having established that in cases of CSA where there is a case to answer or the allegation is credible, the bishop has to decide whether to initiate a canonical penal process or an administrative one.
- This is not completely arbitrary – c. 1342 expresses a preference for judicial process, stating that only whenever there are just reasons against the use of a judicial procedure, a penalty can be imposed or declared by means of an extra-judicial decree.
- However, in crimes reserved to the Holy See, in art 21, §2, the CDF has the freedom to decide which process to follow in each case. A just reason for asking for an administrative process is because the evidence is stronger, or because there is no suitable canonical structure, resources, personnel.

5. Referral to the CDF

- A bishop is required to report all cases to the CDF once he has sufficient evidence that the sexual abuse of a minor may have occurred.
- If he is in doubt about the semblance of truth, he may seek the assistance of the Congregation to assist him in coming to a decision.
- The CDF will review the material and make a decision on what the next steps might be. The decision is based on the material gathered during the investigation and on the observations and recommendations of the bishop regarding the allegation and what might be a suitable way to address it.



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Church Inquiry Process Third Flowchart Religious

Fr. William Richardson



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LUNCH



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Consistency of Advice

Peter Kieran



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Review of the Consistency of Advice Provided by the NCMRG (now the NCMC)



National Case Management Reference Group of the NBSCCCI

- Established on a trial basis in 2011
- First meeting in January 2012
- Evaluated after a year of operation – *The National Case Management Reference Group – A Review of the first year of operations* (February 2013)
- Briefing paper by Ian Elliott - *The Future Development of the NCMRG* (March 2013)
- Facilitation Meeting with National Case Management Reference Group (March 2013)

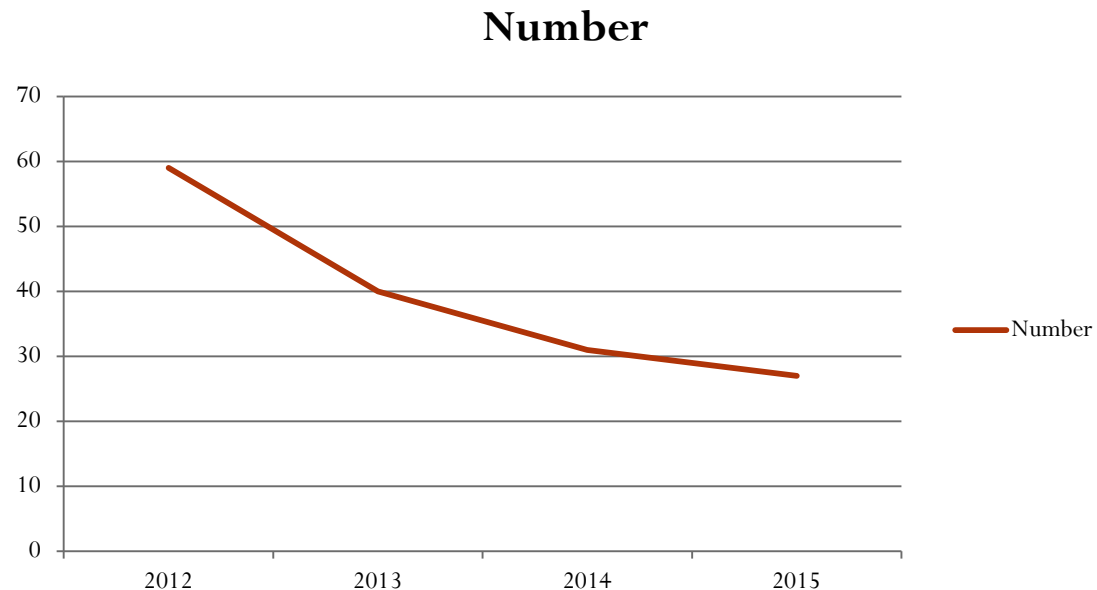
Numbers of Cases Considered since January 2012

- 2012 - 59

- 2013 - 40

- 2014 - 31

- 2015 - 27



157 cases considered to date*

*These figures include individual cases that have been discussed more than once

Review Cases

- All cases considered by the NCMRG between September 2013 and September 2014 = **39**
(25% of all cases considered in the lifetime of the group)
- A data collection form was developed onto which details of each case was transferred – copy distributed
- All data was then examined to extract the criteria on which advice was based
- Any cases where *an issue of interest* was identified, this was flagged. There were 5 such cases
(13% of the 39 examined)

Criteria identified for advice provided

- Requirements of **Natural Justice** and **Due Process**

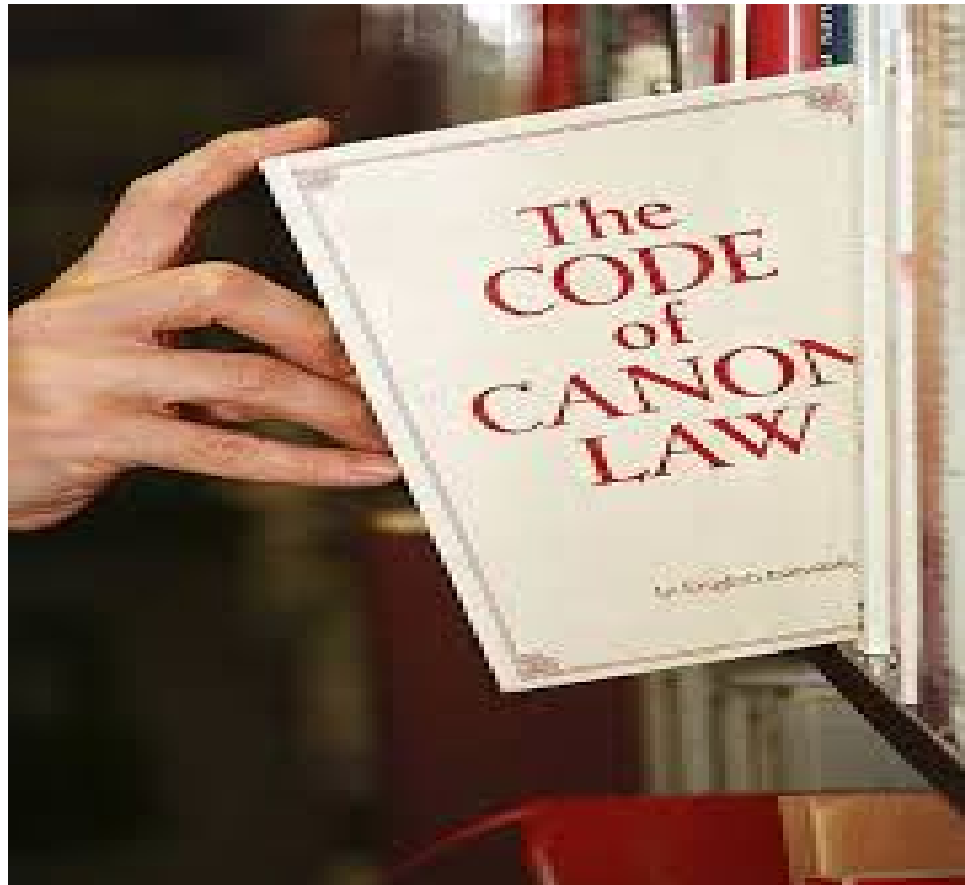


Principles of Natural Justice



Criteria identified for advice provided

- Requirements of **Canon Law**



Criteria identified for advice provided

- Requirements of **Criminal Law** and **Civil Law**



Criteria identified for advice provided

- Requirements of good **Child Safeguarding**, including the **assessment and management of risk**



Keeping
Children
Safe



Criteria identified for advice provided

- Appropriate support for the complainant



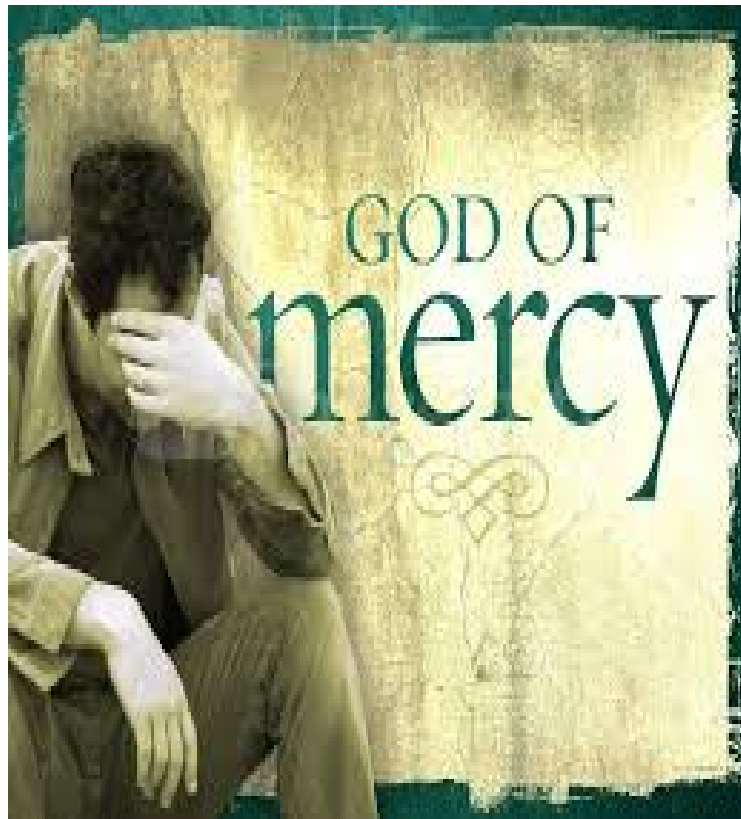
Criteria identified for advice provided

- Appropriate support for the respondent



Criteria identified for advice provided

- **Mercy and compassion**



Criteria identified for advice provided

- The specifics of the **advices being sought** by the Church Authority



Criteria identified for advice provided

- **Prudent action** – not making things worse

**"NO MATTER HOW BAD THINGS ARE, YOU
CAN ALWAYS MAKE THINGS WORSE."
– RANDY PAUSCH**

Criteria identified for advice provided

- Whether the Church Authority has **followed advice** provided by the NCMRG previously



Other factors that have been taken into account

- If completed, the findings of the **Preliminary Investigation**

**DURING OUR
PRELIMINARY
INVESTIGATION WE
HAVE FOUND A FUEL
PROBLEM ON THE
ENGINE.**

Setyo Rahardjo

QUOTEHD.COM

Other factors that have been taken into account

- The attitude of the complainant



Other factors that have been taken into account

- The attitude of the respondent



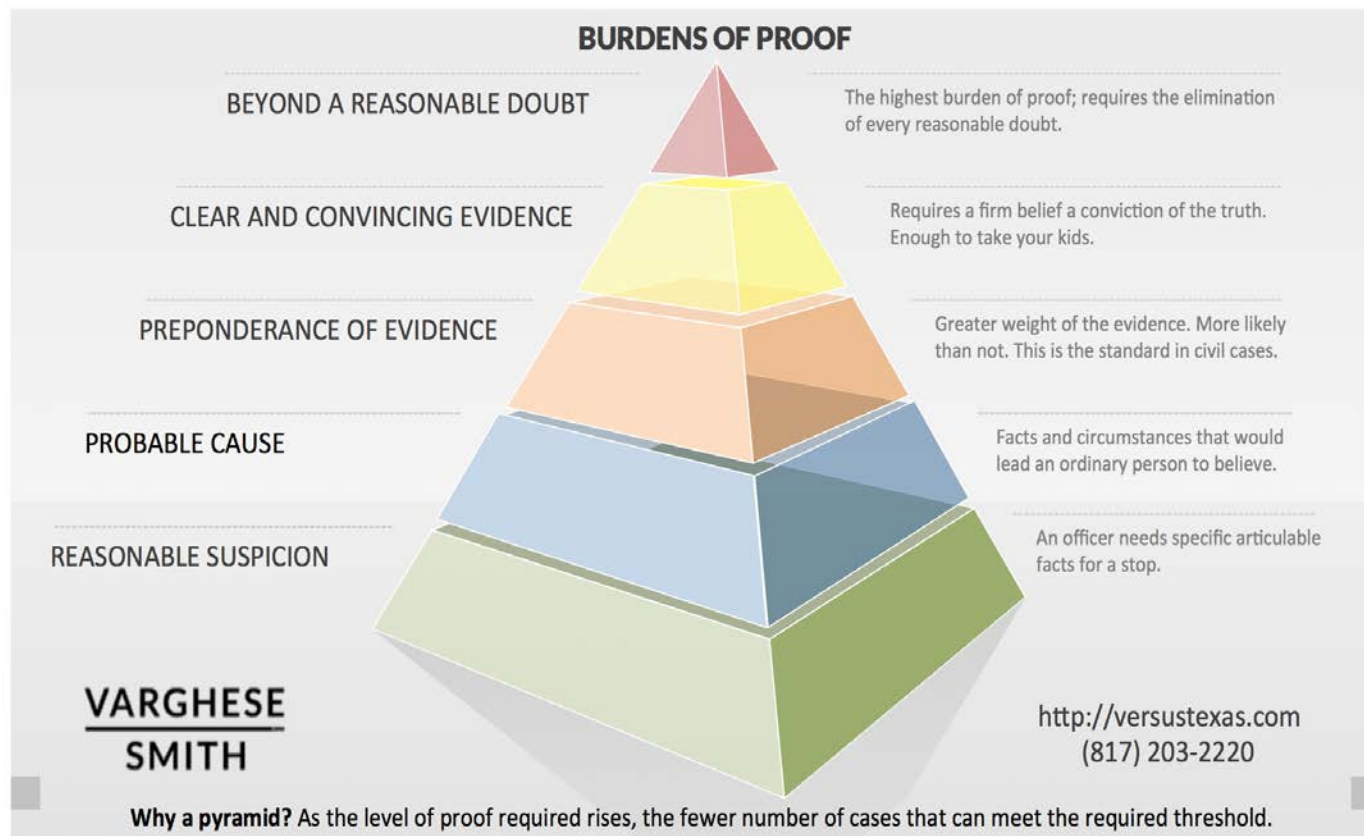
Other factors that have been taken into account

- Where it has been undertaken, the **recommendations of a professional assessment of the respondent**



Other factors that have been taken into account

- The existence of **evidence that meets the threshold** of semblance of truth



Other factors that have been taken into account

- Existence of **previous child safeguarding concerns** about the respondent



Other factors that have been taken into account

- The **health status** and **life circumstances** of the respondent

Health Status



☒ Poor



☐ Average



☐ Excellent



Other factors that have been taken into account

- Extent to which **information** has been **shared** with those who need this



Other factors that have been taken into account

- The **position of the statutory agencies** vis-à-vis the case



Other factors that have been taken into account

- The attitude of the Ordinary



Other factors that have been taken into account

- If they have been involved, the **position taken by CDF**



Advice given by NCMRG



- Leave the respondent in (limited) public ministry as there is no credible evidence against them – **17 cases**
- Do not allow the respondent public ministry – **9 cases**
- Defer a decision to return the respondent to public ministry pending the completion of an identified process – **12 cases**
- No advice provided, as the evidence shared did not relate to a child – **1 case**



Recommendations

- Procedure-led decision-making runs the risk of not allowing the use of discretion and professional judgement, as well as not being able to factor in human aspects such as compassion and mercy. It is also a consideration that no two cases are the same, and the NCMRG needs to have the freedom to differentiate between apparently similar circumstances or behaviours.
- The work of the NCMRG is now well established, and an important next step in its evolution will be the drawing up of written guidance for NCMRG members to refer to in more complex and challenging cases.



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Supervision and Monitoring

Teresa Devlin



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Using the case study discuss the following:

- The challenges within the scenario
- Their experiences of managing and supervision
- What action would they take



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Questions, Evaluation and Finish



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