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1st General Congregation
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**PRESENTATION OF THE REPORTS OF THE 10 WORKING GROUPS
ESTABLISHED BY POPE FRANCIS**

Subgroup 7
The Bishop – Father and Judge

The administration of justice is an integral part of the Bishop’s pastoral government.¹ As the canonical system emphasizes, “In each diocese and for all cases not expressly excepted by law, the judge of first instance is the diocesan Bishop, who can exercise judicial power personally or through others according to the following canons,”² usually through the judicial vicar. An exception is found in the cases indicated in the MP *Mitis Iudex Dominus Jesus*.³

In this respect, it is important to bear in mind that “the rapport between a Bishop and his *Presbyterium* needs to be inspired and nourished by charity and by a vision of faith, such that their juridical bonds, deriving from the divine constitution of the Church, appear as a natural consequence of the spiritual communion each one has with God (cf. Jn 13:35).”⁴

So, it does not seem possible to clearly separate the Bishop’s pastoral *munus* from his judicial power. This is also true if we consider that the bishop is not only a father to the priests, but also a father to all the faithful, including victims of abuse, who seek justice. However, one should keep in mind that the functions of a judge can be delegated. In the preliminary phase of the investigation, the Bishop could assign someone else to oversee the inquiry, leaving him responsible for drafting a final decision on the outcomes. In criminal, judicial or administrative proceedings, the Bishop may delegate the investigation and even the decision to others. In this case, the Bishop would retain the responsibility deriving from his office without becoming personally involved. However, as the priest’s Ordinary, it remains his duty to enforce sentences or decrees.

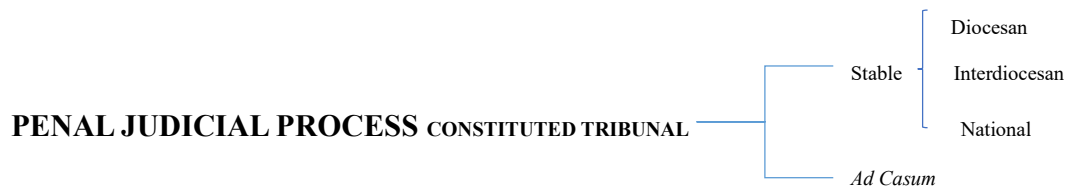
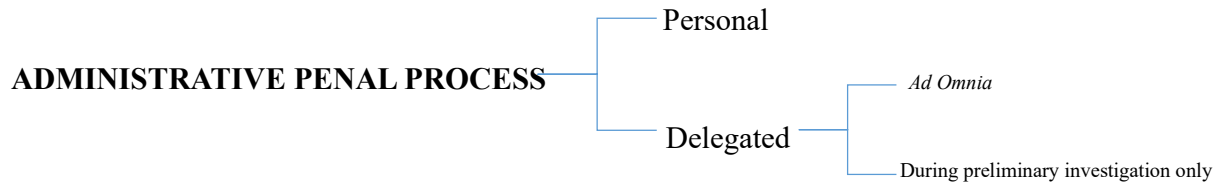
As for the current practice of the Dicastery for the Doctrine of the Faith, the law already provides for a broad possibility of delegation, and there is no obstacle to such delegation, both as regards the preliminary investigation and the eventual trial.

¹ Cf. Directory for the Pastoral Ministry of Bishops, Art. 158.

² Can. 1419 §1.

³ Cf. Preamble, criteria III.

⁴ Cf. Directory for the Pastoral Ministry of Bishops, Art. 76.



In the case of the administrative process, delegation *ad omnia* presupposes the Delegate's freedom to carry out the entire process (including the final decree), so that it is always he who will assess any *remonstratio* on the part of the offender, as author of the final Decree.

As far as the judicial process is concerned, the bishop may entrust the penal trial to a stable tribunal already constituted (diocesan, interdiocesan, national), or set one up *ad hoc*, always respecting the legal order. Once the collegiate tribunal has been set up, the bishop can no longer intervene in the proceedings.

Consequently, the current canonical system already offers the bishop various possibilities for delegating his judicial task, if he so wishes. This possibility can be exercised even more easily where regional or national penal courts exist, which could also guarantee greater impartiality in decisions. Where these structures are lacking, bishops can always ask the Holy See for help.