

Addressing the Risk of Sexual Misconduct in Youth and Children's Ministries

by Richard Hammar
Legal Counsel, The General Council of the Assemblies of God

In February the *Houston Chronicle* published the dramatic results of an investigative report documenting 380 credible incidents of sexual misconduct by ministers and volunteers in Baptist churches since 1998. Many involved incidents of sexual abuse of a minor. The report demonstrates that sexual misconduct is not restricted to Catholic priests, but affects all religious groups.

The public revulsion at accounts of sexual misconduct by clergy and lay volunteers has reached a new and increasingly palpable level. The public is increasingly intolerant of the inadequate response by churches to incidents of sexual abuse. Church leaders need to review current policies and be prepared to take additional steps to protect minors.

There are many steps that churches can take to reduce the risk of child abuse on church premises and during church programs and activities. Here are 13 of them based on a comprehensive examination of all relevant court rulings. Note that these address the risk of child abuse. The sexual abuse of adults by clergy involve different considerations.

1. **Interview.** Interview all applicants for youth. This applies to both paid employee and unpaid volunteer positions. Interviews provide the church with an opportunity to inquire into each applicant's background and make a determination as to each person's suitability for the position under consideration.
2. **A written application.** Every applicant for youth ministry (volunteer or compensated) should complete an application. At a minimum, the application should ask for the applicant's name and address, the names of other youth-serving organizations in which the applicant has worked as an employee or volunteer, a full explanation of any prior criminal convictions, and the names of two or more personal references.
3. **"Institutional references."** The best reference is an *institutional reference*. This is a reference from another institution or organization in which the applicant has worked with minors either as a paid employee or an unpaid volunteer. The key question to ask is whether the institution is aware of any information indicating that the applicant poses a risk of harm to minors or is in any other respect not suitable for youth or children's ministry. Obviously, obtaining a positive reference from one or more other institutions that have actually observed the applicant interact with minors is the gold standard in screening prospective youth and children's workers. Some applicants have not worked with other youth-serving institutions in the past, and so no institutional reference is available. In such cases, a church's only option is to obtain personal references. However, risk can be reduced by limiting personal references to members of the church.

For pastoral applicants, the best reference will be from a denominational office with which the church is affiliated. If the church is not affiliated with a denomination, then the best reference will be from board members in other churches in which the applicant has served.

For nonminister employees and volunteers, the best references will be from other churches or charities in which the applicant has worked with minors. Examples include Boy/Girl Scouts, Big Brothers/Sisters, Boys/Girls Clubs, YMCA, Little League, Catholic Charities, public or private schools, youth sports, or other churches or religious organizations. Seek a reference from every such organization in which the applicant has served. Your application form should ask applicants to list all such organizations, including contact information.

Having current or prospective employees and volunteers complete an application form does not significantly reduce a church's risk of negligent selection. Significant risk reduction occurs only if the church contacts each person and organization listed as a reference in the application, and requests a written reference. If you do not receive back the written reference forms, then contact the references by telephone and prepare a written memorandum noting the questions asked and the reference's responses. Show the date and method of the contact, the person making the contact, the reference's identity, and a summary of the reference's remarks. Such forms, when completed, should be kept with an applicant's original application. They should be kept permanently.

Caution. Be sure you are aware of any additional legal requirements that apply in your state. For example, a number of states have passed laws requiring church-operated child-care facilities to check with the state before hiring any applicant for employment to ensure that each applicant does not have a criminal record involving certain types of crimes. You will need to check with an attorney for guidance.

4. **A six-month rule.** Churches can reduce the risk of sexual molestation of minors by adopting a policy restricting eligibility for any volunteer position involving the custody or supervision of minors to those persons who have been members in good standing of the church for a minimum period of time, such as six months. Such a policy gives the church an additional opportunity to evaluate applicants, and will help to repel persons seeking immediate access to potential victims.
5. **"Benchmark" church policies by comparing them with the policies of other charities and the public schools.** Check with other churches and youth-serving charities (i.e., YMCA, Boy/Girl Scouts, Big Brothers/Sisters) to see how your procedures compare. Most importantly, check with your public school district. Public schools are agencies of the state, and therefore by aligning your procedures to those of public schools you are going a long way in demonstrating that your procedures are reasonable and not negligent.
6. **Periodic review of your policies by legal counsel.** Like benchmarking, having an attorney periodically review your worker selection procedures will help to establish the exercise of reasonable care which will reduce the risk of both harm and a finding of negligence.
7. **Adopt a two-adult policy prohibiting a child from being alone with an unrelated adult.** Consider adopting a "two-adult" policy. Such a policy simply says that no minor is ever allowed to be alone with an adult during any church activity. This rule reduces the risk of child molestation, and also reduces the risk of false accusations of molestation.

Example. A church has a policy requiring two adults to work in the nursery. However, the policy does not prohibit children from being in the custody of less than two adults. On a Sunday morning during worship services, one adult temporarily leaves the nursery for ten minutes to speak with another church member. A few days later the parents of one of the infants in the nursery suspect that their child has been molested. Suspicion is focused on the church nursery. Since the two nursery workers cannot prove that they both were present with the child throughout the entire worship service, they cannot “prove their innocence.” The worker who was present in the nursery while the other worker was temporarily absent is suspected of wrongdoing, even though she is completely innocent.

Example. A church sponsors a campout for young boys. Some of the boys are accompanied by their fathers, but several are not. One tent is occupied by an adult volunteer worker and one boy. This arrangement violates the two-adult rule.

Example. A youth pastor takes home a group of five teenagers following an activity at church. After taking four of the teenagers to their homes, he is left in his car with a 15-year-old female. This arrangement violates the two-adult rule.

8. **A criminal background check consisting of a nationwide search of sex offender registries, and a national criminal file search.** Criminal records checks are inexpensive and convenient, and they are an essential component of risk management. Preferential pricing often is available from your insurance company, or a denominational office. Never hire anyone in a youth or children’s ministry position, as either an employee or volunteer, who was or is on a sex offender registry in any state. Other crimes are disqualifying as well if they suggest that a person poses a risk of harm to minors. If in doubt about the relevance of a particular crime, a good practice is to bar persons from youth or children’s ministry who would not be eligible to work as a public school employee. Your local public school district offices should be able to answer this question.

The need to conduct criminal records checks is underscored by a recent ruling by a California court finding that a youth-serving charity (Youth Soccer) had a legal duty to perform criminal background checks on employees and volunteers, and could be liable for the sexual molestation of minors by unscreened workers. The court’s ruling is historic because it represents the first reported case in which a court unequivocally reached this conclusion in a case involving a youth-serving organization. The court concluded that “defendants had a duty to require and conduct criminal background checks of their employees and volunteers who had contact with children in their programs.”

9. **Prompt reporting of child abuse (known and suspected).** It is imperative for church leaders to comply with their state’s child abuse reporting law. Promptly report all known and reasonably suspected cases of child sexual abuse to the designated state agency. In some states a report must be filed within 24 hours. Know the reporting requirement in your state. Be sure to make a telephone memorandum of your call, and ideally have a second person listening in on the conversation who can sign the

memorandum as a witness. Resolve any and all doubts in favor of reporting. Prompt reporting has several advantages:

- It is required by law (for mandatory reporters).
- You avoid misdemeanor liability for failure to report.
- You avoid civil liability in many states for not reporting.
- Reporters are given immunity from liability in every state (except for malicious behavior).
- You protect the current victim from further harm.
- You are placing the abuser's identity in the criminal justice system, making it more likely that this will be flagged to other churches and youth-serving charities seeking a reference.
- You minimize the risk of public outrage that can be unleashed if your church failed to report the abuse to the state.

10. **Promptly address and halt high-risk behaviors.** Often, those who molest minors in churches or church activities have openly engaged in high-risk behaviors, including:

- Minors spending the night in a leader's home.
- An adult leader drives a vehicle with one or more unrelated minors on board, and no other adults.
- An adult goes on day trips with an unrelated minor.
- An adult goes on overnight trips with an unrelated minor.
- A leader spends the night in a hotel with one or more unrelated minors.
- A leader meets one or more minors in malls or other places where minors congregate.
- An adult leader sleeps in a tent with an unrelated minor during a campout.

These, and similar, "grooming" behaviors are associated with many incidents of sexual abuse involving youth and children's ministry leaders in churches. It is imperative that they be promptly confronted and stopped.

11. **Social media.** As a "best practice," churches should prohibit any direct or private messaging on any social media platform by a youth pastor or lay volunteer with minors in the youth group. For support, contact your local public school district and find out what if any restrictions they place on communications between teachers and students.

12. **Training.** Churches should conduct periodic training of employees and volunteers on recognizing and reporting child abuse, the identification of abused minors, and the importance of familiarity with the 13 recommendations summarized above.

13. **Negligent supervision.** Churches can use reasonable care in selecting workers, but still be liable for injuries sustained during church activities on the basis of *negligent supervision*. The term *negligence* means carelessness or a failure to exercise reasonable care. *Negligent supervision*, then, refers to a failure to exercise reasonable care in the supervision of church workers and church activities. Churches have been sued on the basis of negligent supervision in a variety of contexts, but most often in child abuse cases. Adequate supervision involves a number of safeguards, including:

- Lock rooms and hallways that are not being used;
- Use video technology (see above);
- Have an adequate number of adults present during youth and children's activities to monitor workers and activities;
- Enforce a two-adult policy prohibiting one adult worker from being alone with one minor;
- No "early releases" of minors;
- Only release minors to the parent or other adult who brought them;
- Be especially vigilant with off-site activities such as field trips and camping since they present potential opportunities for sexual abuse due to the difficulty of adequate supervision.
- Exclude known or registered sex offenders from any youth or children's activity;
- In formulating policies, "benchmark" by examining the policies of other charities and the public schools.

Key point. Look at these 13 steps as ways to protect minors rather than as a risk management tool. If your goal is risk reduction, compliance is likely to suffer. Compliance is higher and of longer duration when leaders are motivated primarily by a desire to protect minors.