

Our presbytery is a not-for-profit corporation under NYS law. This training honors our collective fiduciary responsibility to be wise stewards of what is entrusted to us.

We exercise our corporate responsibility through risk management practices, including the legal requirement to carry insurance. (*Book of Order*, G-3.0112 mandates a presbytery carry property and liability insurance.) Coverage is based not on *probability* of an adverse event or catastrophic outcome, but on *possibility*. Training is an act of risk management.

Core Facts

1. New York State Religious Corporations Law, Sections 5, 12 & 17, states the “General Powers and Duties of Religious Corporations.”¹
2. The Board of Trustees of the Presbytery is assigned the following responsibility: “Oversee the Master Insurance Program of the Presbytery of Genesee Valley.”²
3. 59 churches participate in the Master Insurance Program.³
4. “The Master Insurance Policy has been in place with the Presbytery for 30+ years. It is designed to provide the Presbyterian churches with a comprehensive policy that covers their property exposures/general liability exposures/crime exposures and management liability exposures (Directors and Officers coverage, Sexual Misconduct coverage, Pastoral Professional Liability coverage).”⁴
5. The carrier for the Master Insurance Program is the Philadelphia Insurance Companies. In its *Religious Organization Risk Management Guidebook*, the first three topics addressed are:
 - a. **counseling safety** (which includes sexual battery and inappropriate physical contact),
 - b. **volunteer risk management** (which includes harm caused by a volunteer),
 - c. **sexual abuse and molestation of children and youth**.⁵

¹ Presbytery of Genesee Valley. (2011, January). *Board of Trustees Handbook*, Section II: New York State Religious Corporations Law, pp. 14-20. <http://worshiptimesmedia.s3.amazonaws.com/gvalley/files/2013/01/Part-II-NY-State-Religious-Corporations-Law.pdf> (Link accessed 02/11/16.)

² Presbytery of Genesee Valley. (2010, April 15). *Manual of Organization*, Part 1, Vision, Strategies, Entities: Board of Trustees, p. 17, line 787 [Print version]. <http://pbygenval.org/wp-content/uploads/sites/47/2013/01/Manual-of-Organization.pdf> (Link accessed 02/11/16.)

³ Christopher T. Williams, Licensed Insurance Broker, Christopher Williams Agency, Inc. P.O. Box 469. Pittsford, NY 14534-0499. 585-586-3060. www.christopherwilliamsagency.com (Email communication, 06/26/15.)

⁴ Ibid.

⁵ Philadelphia Insurance Companies. (no date). *Religious Organization Risk Management Guidebook*, pp. 1-6. (Sent by Christopher T. Williams, email communication, 06/26/15). <http://pbygenval.org/wp-content/uploads/sites/47/2016/02/PGV-Master-Insurance-Policy-Carrier-Guide.pdf>

Risk Management and Role Responsibilities in Congregations / Corporations



Figure 1. The *Book of Order* establishes a direct relationship between a local church as a community of faith and a church as a corporation under the law. The spiritual and legal dimensions of a church are intimately connected.

- ❖ G-4.0101: “Where permitted by civil law, each congregation shall cause a corporation to be formed and maintained... The corporation so formed, or the individual trustees, shall have the following powers: to receive, hold, encumber, manage, and transfer property, real or personal, for the congregation...”
- ❖ G-4.0102: “...The ruling elders on the session of a congregation, who are eligible under the civil law, shall be the trustees of the corporation, unless the corporation shall determine another method for electing its trustees.”
- ❖ G-3.0112: “Each [session] shall obtain property and liability coverage to protect its facilities, programs, staff, and elected and appointed officers.”



Figure 2. It follows that the roles and responsibilities of pastor and session are intimately connected to the role of trustees of the corporation. The session, including pastor, provides spiritual leadership for the faith community. And trustees have a legal, fiduciary duty to act in the interests of the church as a corporation.

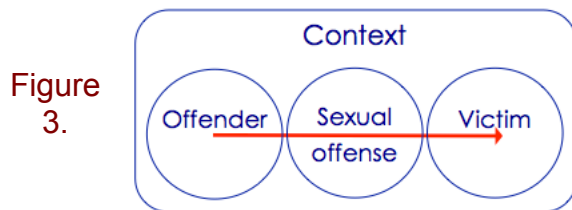


Figure 3.

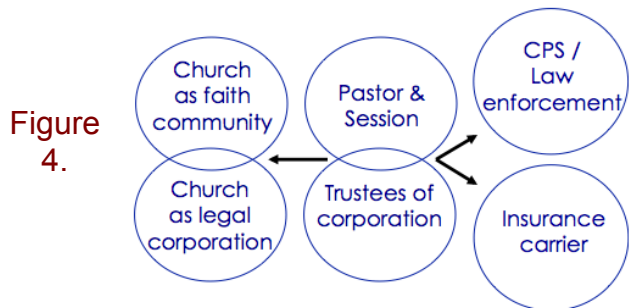


Figure 4.

Figure 3. Discovery of a sexual boundary violation is stressful and challenging for leaders of a congregation. Intense initial reactions, including shock, denial, and outrage, add to the difficulty of processing information and making wise decisions. From both pastoral and risk management points of view, the **Context** is critical. A whole series of questions are raised. Where did the offense occur – in our ministry or mission? What are the specific behaviors being reported? How directly are the principal parties – **Offender** and **Victim** – involved in our congregation? Were others harmed? Who is at risk? Is the person harmed a minor or an adult without capacity to consent? Are there people who can corroborate that the offense was committed? What will make for justice? The list is long.

Figure 4. Because the roles of pastor and session are intimately connected to the role of trustees, decisions in response to discovery will have significant spiritual and legal consequences.

- ❖ Disclosing the truth best serves the outcomes of justice, healing, restoration of trust, and risk management.
- ❖ Withholding information from secular authorities (Child Protective Services, law enforcement), even in the name of pastoral care or confidentiality, may expose others to harm, invalidate the church’s insurance coverage, or commit an act of negligence that opens the church to a civil suit.

Document reviewed by Mel Olver, attorney for Presbytery of Genesee Valley.