Genesee Valley Toolbox for Session Sexual Misconduct Policies

Presbytery of Genesee Valley   *#3 in a series (2016, June)*

The Big HOW: Best Ways to Develop an Initial Sexual Misconduct Policy, or Update an Existing One

3 Temptations to Resist	3 Antidotes to Temptations	Getting Started on a Policy	The Last Word
Cookie Cutters, Lone Rangers, & Re-invented Wheels	God's Call, Selective Sources, & Best Practices	Factors, Core Sections, Glossary	Acknowledgments; Wise Words
pages 2-4	*page 5-8*	*pages 9-15*	*page 16*

from the Resource Center

This edition of *Genesee Valley Toolbox* continues our series of providing resources to support Sessions in the Presbytery of Genesee Valley as they develop, adopt, implement, and update their sexual misconduct policies. The series offers practical information, recommends best practices, and identifies reliable sources on a variety of topics. The intent is to deepen knowledge, encourage behaviors, and achieve important outcomes.

This third edition focuses on the challenge of how to write the Session's first policy. This exploration of methods, or process, applies equally to how to review and revise an existing policy, which may be out-of-date or was tested by an incident and found wanting.

We start with the temptations too frequently ignored by pastors and Sessions. Examples from PGV congregations underscore the vexing results when people succumb. All this naturally transitions into constructive and productive ways to go about developing and refining policies. Again, examples from PGV congregations emphasize there is a proven, realistic basis for encouraging these best practices.

We draw upon material used PGV training events in 2005, 2007, 2010, 2011, and 2016's *Church Leadership Development Day* and *Sexual Ethics and Boundaries Training*. Many people from a wide number of perspectives and a broad range of congregations have helped shape what is presented here.

> *…to equip the saints for the work of ministry,*
> *for building up the body of Christ…*
> Ephesians 4:12

As disciples of Jesus Christ, we care about congregations. This means that when we think about Sessions adopting and implementing their sexual misconduct policies, we are thinking about more than documents, procedures, and forms. We are thinking of people. Our sisters and brothers in Jesus Christ.
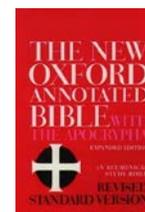
3 Temptations to Resist When Writing Your Sexual Misconduct Policy

1. *Cookie Cutter* Temptation

When a Session starts to develop its first policy, one pattern we see is people starting to reach for their "cookie cutters."

They have a friend or colleague at another church, the hold the church's mission and ministry in high regard, they ask for a copy of that's Session's sexual misconduct policy, and decide it looks good. They bring the policy to the Session and folks are impressed. All that's needed, they conclude, is to put their church's name on the policy.

A variation occurs when a couple of conscientious ruling elders perform a diligent on-line search, find a Session policy in a church halfway across the country, like the attractive format and clear language, download it, and bring it back, recommending adoption with one change – the name of the church on the title page.

Despite how misguided those efforts are, they do represent good-intentions – save time, save effort, get this task done. Good intentions, however, do not justify the outcome. It makes no difference whether the copied policy is an outstanding one from an inspiring church, or whether it is that of the Presbytery (which is, by definition, not a policy for a Session). This process for achieving the end-product of a policy is neither effective nor wise.

No, New York State apples were not the fruit offered to Adam and Eve in the Garden of Eden to tempt them. In fact, Genesis 3 does not specify which fruit was used as temptation. The point, of course – we're all tempted, including sessions.

What are the problems with a *Cookie Cutter* approach?

- It does not involve the people of your congregation in the process of developing the policy. Yes, there is an end-product, but no one in the congregation has had a voice or hand in shaping it. People in the pews have no ownership of the contents. The session thinks it has done its work, but the document is not a living, breathing part of the culture of the congregation.

- It can unknowingly perpetuate errors. One PGV pastor of a suburban church wrote language for a policy regarding the required format of a report of an incident of a sexual boundary violation, and how it must be submitted, before leadership would take any action. The session accepted and added it to its policy. The problem was that the language defining the threshold before leadership would take action <u>far</u> exceeded the threshold of that in New York State law for mandated reporters of child sexual abuse, who include physicians, nurses, police, teachers, and therapists, to

name a few. Another suburban session, when putting together its policy, took that exact language and adopted it. Like a computer virus spreading among linked users, this language was now infecting two policies.

- A ruling elder volunteered to write his suburban church's policy. Employed in human resources for a large corporation, he just copied numerous sections out of corporate manuals. The session deferred to his expertise, adopting pages of corporate-speak. No one used it.

- In the case of a policy copied directly from another church, the hazards are multiple: if the source is not a New York church, it is subject to a different set of laws than one in New York; if the source church does not use the same insurance carrier as yours, it is subject to different risk management requirements and contractual obligations; if the source church's programs of mission and ministry differ from yours, especially in regard to minors, then you're cutting oatmeal cookies with raisins, although you intended to make sugar cookies with sprinkles.

2. *Lone Ranger* Temptation

He rides a fast, white stallion. He wears a white hat because he is on the side of goodness. Unlike other cowboys, he uses proper grammar and eschews slang. He's unbothered by fashion or the need for a wardrobe change. He's so earnest he even is accompanied on television by an overture from classical music. How could session members in need of a sexual misconduct policy resist the allure of the person in the church who, as the Lone Ranger, would rescue them in their hour of need by writing the document for them on his own? It's another temptation to which sessions succumb.

Yes, one person writing the policy is a way to create a document, a way to check the box to ensure the session has a policy. More importantly from a process point of view, this method overlooks core precepts of who we are as disciples of Jesus Christ.

What are the problems with a *Long Ranger* approach?

- Like the *Cookie Cutter* Temptation, this excludes the people of your congregation in the process of developing the policy. Where in the writing process did Sunday school teachers have a chance to contribute? If you church has a board of trustees in addition to a session, how was the trustees' perspective taken into account? (They are, remember, the trustees of the church as a not-for-profit corporation under NY law.) When the youth have the chance to be consulted and heard? Lone Rangers exclude others.

- The quality of the content will be poorer. No session would delegate one person to purchase a new hymnal without checking with the choir. No session would assign one person to buy a new Vacation Bible School curriculum without consulting the volunteers. Those directly affected by a sexual misconduct policy will have valuable insights and questions that need to be taken into account. Proverbs 27:17 says it well: iron sharpens iron, and one person sharpens another. I Corinthians 12 affirms the truth that God's Holy Spirit moves in every believer, and that we as the body of Christ are whole when we value every part of who we are.

Decision-making in the Reformed tradition is a co-governance model. When sessions and pastors ignore the spiritual and relational dimensions of our life together, the contents of the *Lone Ranger*'s policy always will be poorer for it.

- Three suburban sessions each appointed one person to write their sexual misconduct policy. Two consisted of 5 pages, including the cover page. The documents were so short because they were so broad and so vague. They were too simple to be of any relevance in difficult or urgent situations. The third policy was over 40 pages in length. It was too long because it was too detailed. It was too complex to be of relevance in difficult or urgent situations. All three sessions had to start over, and each chose to involve more people the next time around.

- *Lone Rangers* tend not to consult the church insurance company's requirements. They tend to overlook important aspects of a congregation's life which a relevant policy should address. They don't encourage the session to present the draft policy to the congregation for feedback. Relying on a *Lone Ranger* undercuts the process by which a policy is developed, which negatively affects the quality of the contents.

"[Jesus] called the 12 and began to send them out two by two..."

Mark 6:7

3. *Re-Invent the Wheel* Temptation

The General Assembly of the Presbyterian Church (U.S.A.) has had a continuous sexual misconduct policy for those within its scope since the early 1990s. The Presbytery of Genesee Valley has had a continuous sexual misconduct policy for those within our scope since 1994. And a number of PGV sessions have had continuous sexual misconduct policies for their congregations since the mid-1990s. The point is: we have real experience.

Nevertheless, there are always a few sessions that yield to the temptation to try to work out their policy by ignoring the collective knowledge. The result: a lot of time and energy goes into re-inventing the policy wheel. It's poor stewardship of a precious human resource. And it does not ensure that the end-product will be relevant or of a high quality.

What are the problems with a *Re-Invent the Wheel* approach?

- Yes, some of these temptations feel repetitious because of how results, and how they effect the end-product. The focus on this temptation is its mindset, its internal motivation, the underlying dynamic that propels people to keep trying to re-inventing the policy wheel. Sessions who embrace this temptation are strong-willed, certain they know what's best, and determined to demonstrate their superior knowledge. They ignore the recommendations or advice from those outside themselves. It's an insular attitude, and is also naive.

- The practical implications of this approach are a shunning of available resources from people and entities who have worked with and/or studied faith communities in relation to sexual boundary violations. E.g., the PGV Office subscribes to the extraordinary bi-monthly publication, *Church Law & Tax Report*. Journal staff track and report on civil and criminal cases in both state and federal court systems.

Occasional large, topical articles summarize trends affecting churches. Knowing the facts – e.g., the most frequent reason as to why churches went to court 2010-2014 was for matters related to the sexual abuse of a minor – makes a difference in deciding what's important to address in a session sexual misconduct policy. And knowing the recommendations from the editor (a lawyer and a C.P.A.) on a specific topic gives us a clear, informed, and evidence-based starting point for a discussion. Ignoring such sources may leave us innocent as doves, but we are none the wiser.

- The PGV Office complies copies of polices submitted by sessions. It's another source to inform your session.

- By no means is all this to be understood as defending the sexual misconduct policy status quo. There are many ways sessions and the Presbytery can improve their respective policies. The point is there is a reliable base of knowledge, we have learned some important lessons, and those lessons are available. (See the following pages.)

"Isn't it obvious to people not to make these errors? This material is so basic."
Indeed, the fundamental errors of all these temptations are very simple, straightforward, and self-evident. And it does seem surprising that sessions persist in choosing to pursue these flawed approaches. It is precisely because people keep yielding to these temptations that we need to keep calling to attention to the resulting problems.

Resisting the Temptations

3 Temptations, 3 Antidotes

This section identifies remedies to the temptations described previously. None of these are remarkable, extraordinary, or beyond the capacity of session and congregation in our Presbytery. Each of these antidotes reflect healthy decision-making processes by leaders of congregations.

These constructive methods rely on common sense and the will to achieve constructive **outcomes**. One set of outcomes relates to the **contents** of a sexual misconduct policy. And the other set of outcomes relates to the **processes** used to create the contents.

Think of these **process** remedies and good **outcomes** as a Möbius strip – a two-sided piece with a single edge, running continuously so that the two sides are always connected.

Notice how these 3 antidotes reinforce each other, and, at some points, overlap each other. The examples cited from several of our congregations demonstrate the wisdom of these **processes**.

"Like a roaring lion your adversary the devil prowls around, looking for someone to devour. Resist him…"

1 Peter 5:8-9

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1. Listen to God's Call: Trusting Your Identity as Disciples Who Claim <u>Your</u> Mission and <u>Your</u> Ministry

Antidote to *Cookie Cutter* Temptation

A bright example: Byron Presbyterian Church

Rev. Jim Renfrew, pastor of the Byron congregation, led a breakout group on the topic of "Developing a Sexual Misconduct Policy in the Small Church Setting" at the *PGV Sexual Ethics & Boundaries Training* event on 02/27/16. Jim spoke about the Byron congregation's thoughtful, careful approach. Below are some of Jim's suggestions for how to get started. Note how these avoid the *Cookie Cutter* temptation!

- "Begin with a blank piece of newsprint and begin to identify 'weak' or vulnerable spots in your program, operations, staffing, volunteers, and building design." *Begin with an assessment of the needs in your congregation.*

- "You could begin by identifying classes of people who might be especially vulnerable to misconduct, such as children, the elderly, counselees, people with special needs." *Begin with an assessment of the needs of your people.*

- "You could begin by stating a philosophy or theology about safety in your congregation's ministry." *Begin with how God is calling your congregation on behalf of your vulnerable people.*

A bright example:
First Presbyterian Church, Batavia

What are some effective ways a session can go about developing or revising its sexual misconduct policy – without succumbing to the *Cookie Cutter* temptation and its false promise of saving time and effort? The experience of the people of First Presbyterian Church in Batavia offers us constructive insights!

David Blake, Teaching Elder, traced Batavia's recent history during a class at Presbytery's *Church Leadership Development Day* on 01/23/16. The following are taken from David's presentation. (David also shared the Batavia experience as a panelist in a breakout group at Presbytery's *Sexual Ethics and Boundaries Training* event, 02/27/16.)

- The session utilized its governance structure, assigning the task to its Personnel Committee.

- The Personnel folks were positioned to work both on a sexual misconduct policy and also to update the Batavia employee handbook in light of the new policy.

- They also worked on a child and youth protection policy at the same time.

> …iron sharpens iron, and one person sharpens the wits of another.
> Proverbs 27:17

- They gathered material at a workshop sponsored by the Presbytery.

- They gathered material from other churches.

- They gathered material from youth-serving organizations (the YMCA and Boy Scouts of America) to get a non-church perspective.

- They met with the church's Christian Education Committee and the Sunday School superintendent.

- They did a walk-through of the church facilities with a fire fighter and a police detective to get the perspective of people in roles outside those who are in the church.

> All these [spiritual gifts] are activated by one and the same Spirit, who allots to each one individually just as the Spirit chooses.
> I Corinthians 12:11

- They consulted with those designated by the Presbytery with expertise in these matters.

- They invited the congregation to an open meeting to elicit people's feedback.

- They consulted the church's insurance carrier to discuss topics related to the church's mission and ministry. This led to polices for groups or individuals who rent or use the facilities and who are not affiliated with the church.

- They invited the congregation to an open meeting to elicit people's feedback.

- They re-contacted some of their earlier sources to review the latest drafts of their emerging policy and procedures.

- They surveyed what was available on the World Wide Web. *Note: This was not their first step!*

- They consulted with a lawyer in the church.

- They re-presented their newest draft material to the congregation for people's feedback.

- Then, and only then, did the material go to the session for its action.

How was the outcome of this process unique to First Presbyterian Batavia?

1. The *purposes* section of the policy, both in its contents and its language style, reflects the convictions and values of this congregation, these disciples of Jesus Christ. The policy is in the voice of First Presbyterian Batavia.

2. The policy's *Biblical Foundation* section, which is not always included in session policies, reflects this congregation's unique response to the call from Jesus Christ to act "as instrument's of Christ's justice and love," to quote the policy.

3. The policy's *Biblical Foundation* section, which is not always included in session policies, reflects this congregation's unique response to the call from Jesus Christ to act "as instrument's of Christ's justice and love," to quote the policy.

Consistent with the open and inclusive process of developing its sexual misconduct policy, First Presbyterian Church, Batavia, has posted the document on its website: under the "About Us" pull-down menu, take the "Safe Church" link. (Accessed 03/11/16.)

2. Reach Out:
Trusting the Wisdom of Selective Sources

A bright example, part 2:
Byron Presbyterian Church

Returning to Rev. Jim Renfrew's presentation on "Developing a Sexual Misconduct Policy in the Small Church Setting," we find more practical lessons from the Byron congregation's experience. Notice how, working together, they avoided the *Lone Ranger* temptation!

- "Getting started begins the session, ideally, but can begin with a committee bringing the matter to session's attention. In our case, we formed a team consisting of an elder, a deacon, a trustee, and a Sunday School teacher, along with the pastor." *From the outset, they used the gift of the Spirit moving in their midst.*

As an additional way of resisting the Lone Ranger, when Byron did seek expertise, it very wisely came from beyond the congregation. This gave them a perspective other than that of those who were part of their immediate, small church community. The outsider's perspective was informed by experiences in other contexts. This gave Byron's committee a wider range of options and a richer set of rationales from which to choose.

Going beyond the congregation also decreased the likelihood of personal ties or overlapping relationships. A direct benefit: it was a way to preserve the integrity of the Batavia committee and Session, and increase people's trust in the final

A bright example, part 2:
First Presbyterian Church, Batavia

Return to page 5 and re-read the David Blake's listing of actions by the Personnel Committee at First Presbyterian, Batavia. Note the select sources outside the congregation to which they turned for ideas and guidance:

> a Presbytery-sponsored workshop; other churches; youth-serving organizations with national sponsorship; 2 persons in local first-responder roles (fire fighter and police); Presbytery-designated resource person; church's insurance carrier. *They were careful to choose qualified people and experienced organizations.*

By going beyond themselves, they obtained objective and fresh perspectives to consider. By being selective, they obtained well-informed perspectives. (A quality, national youth-serving organization will have protocols that have been developed and refined in light of affiliates' experiences across the nation.) What were some outcomes of trusting the wisdom of selective sources?

- Batavia utilized materials from the YMCA to define the "appropriate touching" portion of its policy.

- With its insurance carrier, Batavia developed language that if a non-church affiliated individual or group is renting or using the facilities to serve minors, a copy of their sexual abuse prevention policies must be submitted to the church.

Rule-oriented vs. Relation-oriented approaches by Sessions

Policies and procedures, like a Session sexual misconduct policy, reflect, and reinforce, the reality of our rule-oriented culture.

- They are a necessity by our national denomination, the constitution of which consists of *Book of Order*, *Book of Confessions*, and Bible, and which defines a disciplinary offense as a violation of the constitution.

- They are a necessity in a secular society governed by criminal and civil law at state and federal levels.

- They are a necessity by civil law governing churches as not-for-profit corporations, which requires taking risk management steps, like carrying insurance coverage.

- They are necessary boundaries in a digital culture, which is always international and also accessible to minors.

Relying on a Lone Ranger only reinforces a rule-focused culture, and undermines the relational nature of congregations. Actively involving people and going beyond to well-qualified resource people and sources is a healthy invocation of the relational dimension.

3. Keep the Covenant: Honoring Best Practices

What Is a "Best Practice"?

The term best practice is rarely, if ever, used by faith communities. (Moses did not return from atop Sinai with stone tablets bearing that title...) Best practices are techniques or methods which have been evaluated and for which there is evidence to prove they are more effective or efficient at achieving an outcome, and can be replicated in other settings.

The concept and its practical application originated in secular settings by utilizing methodologies which led to measurable results. Manufacturing and business were early pioneers. Over time, best practices have been identified in science, healthcare, and, slowly, in the human service sector. For example, the Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services, maintains a national, searchable registry of evidence-based programs and practices. The registry "was developed to help the public learn more about evidence-based interventions that are available for implementation." [Reference: SAMHSA. Source accessed 03/14/16: http://nrepp.samhsa.gov/01_landing.aspx]

Rather than Re-invent the Policy Wheel, From Whom Can We Learn about Best Practices?

We learn from those who successfully adopted best practices have proven to reduce sexual boundary violations. We'll start with faith communities.

Think like a sociologist for a minute. Reflect on the religious denominations with hierarchical structures in which responsibility, authority, and power are easily identified. This leads us to Roman Catholics, Episcopalians, United Methodists, and Lutherans. These faith communities have been sued far more frequently than Presbyterians in civil courts for egregious failures to act to prevent sexual abuse or to intervene sufficiently when sexual abuse was discovered. (With us Presbyies' co-governance,

it's hard to assign responsibility.) Eventually, denominational insurance companies required congregations to start adopting specific language in their sexual misconduct policies and procedures. And incidence rates for congregations started to decline.

The same story is true for national youth serving organizations. Two examples are Boy Scouts of America (BSA), and Boys and Girls Clubs of America (BGCA). Both learned difficult and expensive lessons, and then very constructive changes were instituted.

- BSA made youth protection a clear priority and implemented a multi-layer approach based on selection of leaders and volunteers, education and training, and policies, including immediate reporting of concerns. [Source: BSA. Accessed 03/14/16: http://www.scouting.org/Training/YouthProtection.aspx]

- BGCA partnered with a widely-respected national company to provide a strong package of products and services available to its local affiliates. [Source: BGCA. Accessed 03/14/16: http://website.praesidiuminc.com/wp/wp-content/uploads/2013/05/BGCA-Club-Care-Brochure.pdf]

Presbytery of Genesee Valley developed, tested, evaluated, and refined a best practice with some of our congregations. The subject is the response of a Session to the request of a person who is a registered sex offender and seeks to participate in the church's mission and ministry. It also applies to a member or congregant who has been arrested and wants to continue participating. The takeaway truth here: solid, reliable best practices exist, and will boost your policy's quality!

...may have the power to comprehend, with all the saints, what is the

← → ↑ ↓

breadth *and* length *and* height *and* depth,

and to know of love of Christ that surpasses knowledge...

Ephesians 3:18-19

Figure 1. TOOL FOR GETTING STARTED ON A SESSION SEXUAL MISCONDUCT POLICY

FACTORS SHAPING THE CONTENTS

CORE SECTIONS Table of contents	Problem Analysis 1: Nature of the Problem	Problem Analysis 2: Vulnerable People	Problem Analysis 3: Vulnerable Programs & Spaces	Resource Analysis: People by Roles	Church Culture 1: Decision-making	Church Culture 2: Identity	Polity 1: Presby. Church (U.S.A.)	Polity 2: Presby. of Genesee Valley	Legal 1: Criminal & Civil	Legal 2: Risk Manage-ment	Best Practices
1. Introduction											
2. Terms & Definitions											
3. Prevent											
4. Report & Intervene											
5. Review (Post-Incident)											
6. References & Resources											
7. Appendices											

Tool for Getting Started on a Session Sexual Misconduct Policy

The figure on the preceding page is a tool to assist developing the content of a Session sexual misconduct policy. It consists of intersecting rows and columns. Here's how to apply this tool.

1. If your starting point is the <u>rows</u>, the Core Sections of a policy, (which form the Table of Contents)…
   As you work through the topical of each row, take into account how the columns, which display Factors Shaping the Contents, influence the contents of that topic. Here are some examples.

   - Row 2, Terms & Definitions, intersects with the Polity 1 column, for Presbyterian Church (U.S.A.). The factor of the *Book of Order* Rules of Discipline section, including its definition of the term "sexual abuse of another person," is important to include in the policy. Row 2 intersects with the Legal 1 column of Criminal & Civil. The factor of the legal statutory age of a minor – 17 years old – to consent to sexual contact according to New York State (NY Penal Law, Article 130.05) – is important to include in this policy.

   - Row 3, Prevent, intersects with column Best Practices. This column guides us to include performing background checks on staff or volunteers who have major responsibilities for, and influence on, our children and youth.

   - Row 4, Report and Intervene, intersects with Polity 2 column, Presbytery of Genesee Valley. It is important to include the factor of PGV policy to place a pastor on automatic administrative leave following a formal accusation against the pastor of "sexual abuse of another person," defined by the *Book of Order*.

   | There's no perfect place to start. | Simply start & keep cross-checking. |
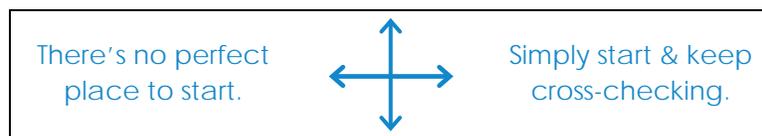
2. If your starting point is the <u>columns</u>, Factors Shaping the Contents…
   As each column is studied for the relevance of its topics to the policy, take into account how it can affect each row, Core Sections. Here are some examples.

   - Column Problem Analysis 2: Vulnerable People, calls for identifying individuals and groups who may be at risk for being violated sexually. Who comes to mind? Children? Adolescents? People with developmental disabilities or who lack capacity to consent? Connecting this column to row 3, Prevent, prompts us to describe what protective measures we will take in relation to this risk factor.

   - Column Problem Analysis 3: Vulnerable Programs and Spaces, leads us to think about people not directly affiliated with the congregation who utilized the church's facilities. Does the session sponsor a Boy Scout or Girl Scout troop? Does a day care center rent space? If so, this column is a factor to consider in the Prevent and Report and Intervene rows.

   - Column Polity 1: Presbyterian Church (U.S.A.) prompts us to note that the *Book of Order* designates the following as Church-mandated reporters of abuse: deacons, ruling elders, teaching elders, Certified Christian Educators, and commissioned ruling elders. Connecting this column to row 4, Report and Intervene, prompts us to include in the policy a provision that deacons and ruling elders are trained to recognize patterns of grooming behaviors, and to recognize and report sexual abuse prior to their being installed. This is relevant to column Legal 1: Criminal and Civil - clergy are <u>not</u> New York State-mandated reporters. (These factors could also be noted under column Resource Analysis: People by Roles because it focuses on responsibilities and obligations of people in relation to their particular roles as employees, volunteer staff, officers, volunteers, members, or congregants. These columns help identify people who, by virtue of their specific roles, are resources to mobilize in event of an incident requiring intervention.)

   - Column Legal 2: Risk Management reminds us to take into account the factor of the church's insurance policy. (Churches not only are congregations, they are also non-profit corporations under New York State law.) When this column intersects with row 4, Report and Intervene, we are prompted to include a procedure in our policy to notify the church's insurance carrier when an incident occurs.

Glossary: CORE SECTIONS (Table of Contents)

1. Introduction

A. <u>Purpose</u> Describes the essential reasons for the policy, or the outcomes it is intended to achieve. E.g., safeguard persons who are part of the church's mission and ministry, express a commitment to prevent and reduce the risk of sexual boundary violations, guide people's actions upon discovery of violations, teach the church's standards for ministry, exercise stewardship through risk management and fulfilling fiduciary responsibilities as trustees by law of a non-profit corporation, obtain justice, promote the recovery and healing of persons, restore the integrity of the church's mission and ministry after a violation, ensure due process and accountability.

B. <u>Principles</u> In the language of faith, states the foundational tenets to guide peoples' decisions and actions when applying the policy. E.g., sexual boundary violations of another are an injustice and a sin; we are created in the image of God and our personhood deserves to be respected and honored; we are a covenant community rooted in relationships of trust; as disciples of Jesus Christ, we tell the truth; we honor our baptismal promises to nurture children; we are called to care for those who have been harmed.

C. <u>Application and Scope</u> States to whom the policy applies. Includes members, congregants, paid employees, and volunteer staff. States that the Session has original jurisdiction in the discipline of members.

D. <u>Primary Sources</u> Lists authoritative sources: e.g., scripture, *Book of Order*, *Book of Confessions*, New York State law, and the church's insurance policy, mission and ministry statement, and personnel policy.

2. Terms and Definitions

This is an opportunity to arrange and educate. E.g., "mandated reporter" as defined by the *Book of Order*, the difference between a "member" and a "congregant," "sexual harassment" as defined by Title VII of the Civil Rights Act of 1964, "child maltreatment" and "child sexual abuse" as defined by New York State law, and the difference between staff who are paid and volunteers.

3. Prevent

This describes procedures to implement to reduce potential for violations to occur and people to be harmed.

A. <u>Staff (paid and volunteer)</u> Primary components addressed are: 1.) recruiting, screening, background checks, and hiring paid employees or selecting volunteers; 2.) clearly stated expectations and guidance for interactions, e.g., as contained in a position description or a staff handbook; 3.) training both in regard to prevention and intervention; 4.) supervising and monitoring; 5.) responding to a reasonable concern about a situation, disclosure, allegation, discovery of an incident, or violation of the policy or New York State law.

B. <u>Volunteers</u> The same primary components as 3. A. are addressed. They are adjusted on the basis of the particular role and function of the volunteer, based on the degree of responsibility for, or authority in relation to, minors and people who are vulnerable or at risk. Volunteers includes youth, who are not only in a potentially vulnerable status, but also can be offenders and commit sexual boundary violations.

C. <u>Specific subgroups</u> Addresses how the following are educated regarding the policy: youth, parents of minors, and leadership of the congregation.

D. <u>Congregation as a whole</u> Addresses: 1.) how the congregation is educated regarding the policy; 2.) how the policy is communicated throughout the congregation (e.g., displayed prominently in public space in the church building, distributed to new members...); 3.) the process by which the congregation, including youth and parents of minors as subgroups, is involved in future revisions of the policy.

E. <u>Circumstances involving persons subject to formal law enforcement proceedings</u> Addresses how the session responds to: 1.) a person who is a register sex offender, not part of the congregation, and seeks to participate in the church's mission and ministry; 2.) a member or congregant who is arrested for behaviors of a sexual nature that constitute sexual abuse or misconduct as defined by State or Federal law. (This is best specified in a dedicated appendix.)

4. Report and Intervene

A. <u>Principles to be honored</u>   No policy or set of procedures can anticipate every situation. Defining the principles to be honored serves as a guide for making decisions in complex situations. Examples include: the truth is discovered and told; people who are vulnerable or at risk of harm are protected; offenders are held accountable; leadership is accountable to the congregation; bonds of trust within the congregation are to be preserved; the integrity of the congregation's mission and ministry is to be preserved.

B. <u>Responding to discovery of a situation involving possible harm, a violation of the policy, or a violation of State or Federal law, regardless of whether the incident is discovered at the time of its occurrence or after it was completed</u> This identifies the types of circumstances which require action:

- a reasonable concern about, or evidence of, a situation involving possible, potential, or actual harm to a person(s) as a result of sexualized behavior;

- verbal disclosure by an individual(s) about sexualized behavior that violates the policy or law;

- submission by an individual(s) of a written allegation of a violation, either contemporary or in the past, of either the policy or law.

C. <u>Reporting procedures</u> This specifies actions to take upon discovery, including actions dependent on specific factors. Examples include:

- in all cases, an incident report form is completed and is the basis for disclosing information;

- designating who is responsible for submitting a report in which circumstance;

- in a situation involving a minor(s), the parent(s)/guardian(s) are notified, and a report is made to civil authorities (New York State Child Abuse Hotline or law enforcement), and the PGV Presbytery Leader or chair of the Committee on Ministry is informed;

- in a case involving a violation of the law, a report is made to law enforcement, and the PGV Presbytery Leader or chair of the Committee on Ministry is informed;

- in a case involving a teaching elder or commissioned ruling elder, or Certified Christian Educator, all of whom are subject to the Presbytery of the Genesee Valley, the Presbytery Leader, chair of the Committee on Ministry, or the Stated Clerk is informed;

- in call cases, a report is made to the session;

- in all cases, a report is made to the church's insurance carrier.

D. <u>Intervening procedures</u> This specifies actions to take, other than reporting, following discovery. It specifies actions dependent on particular factors. Examples include:

- in a case involving a person who is a paid or volunteer staff member, situations in which limitations are placed on the person's activities and responsibilities, situations in which automatic leave will be imposed, and situations which require termination;

- in a case involving a member or a congregant, situations in which limitations are placed on participation;

- situations which require the session to notify others who are at risk or might have been victimized;

- how the session will respond to the persons identified as a victim and as an offender;

- cross-referencing the Presbytery's policy on automatic administrative leave when a pastor is accused formally of the Church's disciplinary offense of "sexual abuse of another person";

- in all cases, promote the discovery of the full truth of an incident;

- in all cases, request expert assistance <u>beyond</u> the congregation, e.g., through the Presbytery Leader or Presbytery attorney;

- in some very large congregations, a trained and qualified response team is mobilized.

5. Review (Post-Incident)

This is the important opportunity after an incident to reflect, analyze, and learn. Procedures typically include:

- review the incident(s) and its dimensions, utilizing expertise beyond the congregation for an independent point of view;
- determine which policies and procedures were followed, and which were not;
- analyze which policies and procedures worked effectively, and which did not;
- analyze how well the church leaders responded to the incident;
- propose revisions to existing policies and procedures to improve the church's preventive and intervention capabilities;
- communicate findings and recommendations to church leadership and the congregation;
- adopt the recommendations as revisions to the existing policy and procedures;
- implement the revisions, and monitor the outcomes.
- identify systemic issues and collaborate with others to advocate for change.

6. References and Resources

This section is another opportunity to engage and educate. It lists the sources utilized or consulted in the writing of the policy, e.g., publications and people with expertise. This reference list will also assist the process of future revisions by showing what has shaped the policy.

7. Appendices

This includes items for specific uses, e.g., a volunteer application form, background check form, and an incident report form.

Adopt ~ Revise policy

Implement policy

Change behaviors

Change outcomes

Glossary: FACTORS SHAPING THE CONTENTS

1. Problem Analysis 1: Nature of the Problem

Consideration of this column helps shape the contents of a number of Core Sections in the policy. For example, in the Introduction section, some congregations identifying themselves as evangelical and conservative will define the problem of sexual boundary violations as behaviors of individual moral failure or sin. The focus is on what the offender did; it invokes a confess/repent/forgive framework. This framework may lead to an emphasis on leadership's handling of an incident internally. Other congregations, however, define the problematic behaviors in light of a justice framework, giving at least equal attention to persons who were victimized or harmed. This is more likely to name as a problem the silence of those with knowledge of an incident who fail to come forward and disclose relevant information.

Will you define the nature of problem in relation to: scripture? concepts of power, betrayal, and exploitation? threats to the well-being of the church community? exposing the church to civil liability? How the problem is defined can also shape the Prevent section. If the problem of sexual violation is an individual's moral failure, then prevention activities are more likely to be moral education. If actively maintaining a safe community in the name of Jesus Christ is a responsibility of the entire community, prevention activities are more likely to be more holistic. This column prompts us to be consistent throughout the policy.

2. **Problem Analysis 2: Vulnerable People**

This column asks us to identify persons who participate in the congregation's mission and ministry who may be at particular risk of being harmed by sexual boundary violations. Does the church host a child care program on-site? Are there residents from a group home for adults with developmental disabilities who regularly attend worship services? If so how will the **Prevent** and **Intervene** sections of the policy take this into account?

3. **Problem Analysis 3: Vulnerable Programs and Spaces**

This is another way to ask the question about Vulnerable People. Is there a summer Vacation Bible School program which attracts a large number of children from the community and depends on a large number of volunteers? What about the church's mission trips? Are there spaces in the church facility used by youth-serving organizations, like Boy Scouts or Girl Scouts, which are isolated? Who has unrestricted access to which spaces? How will the **Prevent** and **Intervene** sections of the policy take these factors into account?

4. **Resource Analysis: People by Roles**

This column identifies people who, by their roles in the congregation, are potential resources as the policy is implemented in the life of the congregation, especially in the Prevent and Intervene phases. In a church with a separate board of trustees, persons on that board can contribute their risk management knowledge. The involvement of the director of the day care center, even if it is a legally separate from the church, is important to the effectiveness of the policy. If the adult member who is a longtime volunteer with the youth group, whom everyone likes and respects, is insulted at being required to participate in a background check, ask the person to step forward as a role model for others and set the precedent of doing what's best to protect both minors and the also the church.

5. **Church Culture 1: Decision-making**

This column is a reminder to take into account the style of how decisions are made in the congregation. If the approach is typically more formal, relying on the structure of a session and committees with specific responsibilities, how will people directly affected by the policy be involved in developing or implementing it? If the approach is more informal and relies on key individuals, how will others be included and informed?

6. **Church Culture 2: Identity**

This prompts us to check whether the unique identity of the congregation is included in the policy. Does it reflect the church's mission and ministry statement? It is possible to read the policy and see this particular congregation in it? Can the witness of this congregation be seen in this policy?

7. **Polity 1: Presbyterian Church (U.S.A.)**

This factor takes into account the role of the national denomination in shaping the policy. The most relevant factor is the *Book of Order*, which is part of the Church constitution. It is important to include the following from the *Book of Order*: the mandate that a session adopt and implement a sexual misconduct policy (G-3.0106); who Church-mandated reporters of abuse are (G-4.0302); the definition of "sexual abuse of another person," a disciplinary offense (D-10.0401c.). The following portions of the *Book of Order* – powers of the trustees of the local church corporation (G-4.0101), who the trustees are (G-4.0102), and the session's risk management obligation (G-3.0112) – can be cited to support rationales in the Introduction or actions in the Prevent or Intervene sections.

8. **Polity 2: Presbytery of Genesee Valley**

This factor takes into account the role of the Presbytery in shaping the policy. The most relevant factor are two Presbytery's policies. Its *Policy on Sexual Misconduct* contains important sections, "Attachment C., Safe Sanctuaries: Protecting Children in Our Congregations," and "Attachment D. Congregational Disclosure." The second policy, "Policy on Automatic Administrative Leave in Cases of the accusation of "Sexual abuse of another Person," applies to a member of the Presbytery, which affects pastors serving congregations.

9. **Legal 1: Criminal and Civil**

This factor prompts us to consider the reality of criminal and civil law, as a factor shaping the policy. Protection from sexual harassment, e.g., is provided under both state and federal law. In a digital world, there are important topics to consider. Does the policy specify: who owns email accounts provided by the church to staff? social media accounts? digital devices provided by the church, e.g. smart phones or tablets? (This is important in cases involving pornography, especially child pornography.) Does the policy include language about sexting? Does the policy note that in New York State the legal age of consent to a sexual act is 17-years-old? (Consent would not apply if a person with legal capacity was impaired at the time.)

10. **Legal 2: Risk Management**

This prompts the question: Does the policy conform to the requirements of the church's insurance carrier? If the church is enrolled in the Master Insurance Program offered by the Board of Trustees of the Presbytery, have you consulted the insurance the document from the carrier? It's posted on the Presbytery's World Wide Web site: Philadelphia Insurance Companies. (no date). *Religious Organization Risk Management Guidebook*, pp. 1-6. (Received from Christopher T. Williams, the local agency, 06/26/15). http://pbygenval.org/wp-content/uploads/sites/47/2016/02/PGV-Master-Insurance-Policy-Carrier-Guide.pdf

11. **Best Practices**

This column is a check to see whether the policy relies on identified best practices used in churches and child- and youth-serving organizations, especially in the Prevent and Intervene stages. [The next issue of *Genesee Valley Toolbox* is devoted to Best Practices.]

Prevent
Preserve integrity of mission & ministry

Review
Learn from the past, change for the future

Intervene
Stop the harm, tell the truth

Prevent

"I will raise up shepherds over them who will shepherd them, and they shall not fear any longer, or be dismayed, nor shall any be missing," says the LORD. Jeremiah 23:4

Intervene

…you shall not stand idly by the blood of your neighbor… Leviticus 18:16

Review

Iron sharpens iron, and one person sharpens another. Proverbs 27:17

What, then, shall we say
in response to these things?

IF GOD IS FOR US
WHO CAN BE AGAINST US?

Romans 8:31

Completing a policy for the sake of completion vs. Creating a living document to guide our actions: Which is more likely to keep us from being bystanders?

"To study psychological trauma is to come face both with human vulnerability in the natural world and with the capacity for evil in human nature. To study psychological trauma means bearing witness to horrible events. When the events are natural disasters or 'acts of God,' those who bear witness sympathize readily with the victim. But when the traumatic events are of human design, those who bear witness are caught in the conflict between victim and perpetrator. It is morally impossible to remain neutral in this conflict. The bystander is forced to take sides.

"It is very tempting to take the side of the perpetrator. All the perpetrator asks is that the bystander do nothing. He appeals to the universal desire to see, hear, and speak no evil. The victim, on the contrary, asks the bystander to share the burden of pain. The victim demands action, engagement, and remembering."

Judith Lewis Herman, M.D. (1992;1997). *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror.* New York, NY: BasicBooks, pp. 7-8. [Herman, a psychiatrist affiliated with Harvard Medical School, wrote the book based on her clinical work with veterans of military combat, refugees who had been tortured, women who had been battered, and survivors of incest.]

"There is a dawning understanding that we simply cannot afford to keep the secrets [of child sexual abuse] that protect adults and forsake children. A secret ocean of suffering exists, which increases health care costs, reduces the productivity of millions of individuals (to the detriment of us all), and generates untold suffering for families and friends."

Marci A. Hamilton. (2008). *Justice Denied: What America Must Do to Protects Its Children.* New York, NY: Cambridge University Press, p. 114. [Hamilton holds the chair in public law, Benjamin N. Cardozo School of Law, Yeshiva University, New York, NY.]

Genesee Valley Toolbox for Session Sexual Misconduct Policies

Forthcoming topics include:

- Resources, Resources, & More Resources

- Selected Best Practices: What's Wise to Include in a Session Sexual Misconduct Policy

The entire series will be posted on the PGV website in the dedicated folder, "Sexual Misconduct Polices & Resources": http://pbygenval.org/committees/committee-on-ministry/sexual-misconduct-policies-resources/