

# Genesee Valley Toolbox for Session Sexual Misconduct Policies

Presbytery of Genesee Valley

#5 in a series (2016, June)

## Selected Best Practices for a Sexual Misconduct Policy

Teach, Preach, Pray <i>page 2</i>	Lease & Building Use Covenant for Youth Retreats <i>page 3</i>	Intervening... Reporting <i>page 4</i>	Covenant of Accountability & Support <i>page 5</i>	Training... Screening Volunteers <i>page 6</i>	When to Seek Outside Assistance & Guidance <i>pages 7-8</i>
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from the Resource Center

This edition of *Genesee Valley Toolbox* continues our series of support for 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 numerous topics. The intent is to deepen knowledge, encourage behaviors, and achieve important outcomes.

This edition is devoted to a select group of **best practices**. These are specific procedures that have been demonstrated - through the experience of congregations and presbyteries - to lead reliably to important outcomes or have become a standard way of addressing a specific issue or problem. While there are many to choose from, the ones presented here were chosen because they address situations arising from situations in congregations in our Presbytery.

No - the expectation is not that every Session will see the relevance of these **best practices**. And no - the expectation is not that every Session will choose to adopt and implement these. After all, it was Paul who exhorted the Christian community at Philippi to "work out your own salvation with fear and trembling." (Philippians 2:12) Regard these as thoughtful recommendations worthy of consideration. It's far better to think about these in advance of difficult circumstances!

...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.



## Teach, Preach, Pray



The premise of this best practice - **teach** - is simple. Presbyterians take an educated approach to our mission and ministry. However, our proud heritage of learning takes a distant backseat when the leaders of congregations approach the topic of sexual boundary violations. The approach is usually in the administrative context - a policy, a procedure, a protocol...

The result is we do not prepare ourselves as well in advance of a problem involving a sexual violation as we could. We lack a common language, we're uncomfortable talking about sensitive topics, and our silence omits a voice grounded in faith. How do we remedy this?

There are 2 distinct points in time when the best practice of **teaching** can contribute significantly - **Prevent** phase, before an incident, and **Review** phase, after an incident. Options include the standard educational offerings of scripture study and inviting knowledgeable resource people from beyond the congregation to address particular topics.

- After it became public knowledge that a person attending a Livingston County congregation had been arrested and charged by the New York State Police with sexually violating a minor, the Session brought in a resource person to lead a study of issues needing to be explored. This Session seized a "teachable moment."



The premise of this best practice - **preach** - is also simple. Addressing matters related to sexual boundary violations from the pulpit not only is a **teaching** function, but it also helps to sanction conversation about the matters. To **preach** is a public act, and it validates, or normalizes, a topic as safe to talk about. It gives permission for people to tell their stories.



When we **pray** in our worship on behalf of others or intercede on behalf of people who are suffering, do we include those who have been harmed by sexual violence? Do we **pray** for those who work with the victims and their and their families, like law enforcement, clinicians, and health care personnel?



## Lease & Building Use Arrangements

### A best practice from the Presbytery of Genesee Valley

1. If church property is leased to a group outside the church, or if a group is permitted to use church space, especially a group that serves minors, consult your church's insurance agent regarding liability and risk management practices in cases of sexual misconduct committed under the supervision of the external group.
2. Require the external group to provide a copy of its sexual misconduct policy and procedures to your church's Session/board of trustees.
3. Whenever there is a contract signed with an external entity using church property, there should be clauses that state: there is no connection between the church and the entity; the church is not involved in any way in the selection, hiring, training, or supervision of any employee, staff, or volunteer associated with the organization; the entity must present a certificate of insurance, which includes coverage for sexual abuse.

Attribution: Ruling Elder Mel Olver, attorney for the Presbytery of Genesee Valley, 2010. The language was developed originally for First Presbyterian Church, Chili, New York.

## Covenant for Youth Retreats, Workcamps, & Mission Trips



Plan for one-time occurring events sponsored by the church, like youth retreats, work camps, and mission trips, by integrating a covenant regarding both expected best behaviors and unacceptable behaviors.

- The covenant is signed by the participants, parents, accompanying leaders, and the Session.
- Behaviors are specified for adults, as well as youth.
- The covenant includes how violations will be addressed and to whom reports will be directed.
- A promise to care for, and protect, one another is included.
- Language regarding making leaders aware of risky behaviors is include; the language is framed in the context of caring and protecting.

*(The covenant is an opportunity to create positive expectations through affirmative language that declares the purpose and significance of the event, and how it expresses the church's mission and ministry.)*

# Intervening on Behalf of Those at Risk: Reporting Child Abuse & Maltreatment

## Prevent Phase

1. Post a list in the church building that guides people when to report child abuse or maltreatment:
  - a. When there is a known emergency - a young child is left alone, a child is being beaten, a child is subjected to unlawful sexual behavior.
  - b. When there is a reasonable cause for concern about a child's safety or well-being. The concern is based on rational observations or knowledge of circumstances or conditions. (Communicating a "reasonable cause for concern" is not the same as making an accusation.)
2. Post a current list in the church building that directs people to whom to report child abuse or maltreatment:
  - a. New York Statewide Central Register of Child Abuse and Maltreatment (the state hotline).
  - b. The applicable division of the New York State Police.
  - c. County law enforcement.
  - d. Local law enforcement, as applicable.
3. Post a list in the church building that directs people to support services for victims/survivors of sexual violations:
  - a. For minors, the local Child Advocacy Center. In Genesee County, Justice for Children Child Advocacy Center. In Monroe County, Bivona Child Advocacy Center. In Ontario County, Child Advocacy Center of the Finger Lakes.
  - b. For adults, RESTORE. Serves Genesee, Livingston, Monroe, Orleans, and Wyoming counties.

## Report and Intervene Phase

Include in the **Report and Intervene** section of your Session sexual misconduct policy the same information as posted in the building. At the time of discovery of an incident involving a minor, the ready availability of this information will be very important.

Now, you know, we use our imagination a great deal to try to determine why the priest and the Levite didn't stop [while traveling on the Jericho Road]. ...I'm going to tell you what my imagination tells me. It's possible those men were afraid. You see, the Jericho Road is a dangerous road... It's a winding, meandering road. It's really conducive for ambushing... In the days of Jesus it came to be known as the 'Bloody Pass. And you know, it's possible that the priest and the Levite looked over that man on the ground and wondered if the robbers were still around. Or it's possible that they felt that the man on the ground was merely faking, and he was acting like he had been robbed and hurt in order to seize them over there, lure them there for quick and easy seizure. And so the first question that the priest asked, the first question that the Levite asked was, "If I stop to help this man, what will happen to me?" But then the Good Samaritan came by, and he reversed the question: "If I do not stop to help this man, what will happen to him?"

Rev. Dr. Martin Luther King, Jr.  
"I've Been to the Mountaintop"  
Mason Temple, Memphis, Tennessee  
April 3, 1968, the night before he was assassinated.

# Covenant of Accountability & Support: A Person Who is a Convicted Sex Offender Or Alleged to Have Committed a Sexual Offense



...be wise as serpents  
and innocent as doves.

Jesus to the disciples.  
Matthew 10:16



## Circumstances Involving Adults

A person who is a convicted sex offender and seeks to be part of the church community, whether as a congregant or member, shall have conditions placed upon his or her participation through a written covenant signed by the person and church leadership. (This applies equally to a current member or congregant following an arrest for a sexual boundary violation.) *The covenant holds accountable the person who offended, and also holds the church leaders accountable.*

- To the fullest extent possible, it is imperative that the Session be open with the congregation.
- Prior to drafting a covenant of accountability, it is critical that the Session have complete and relevant facts based on documents obtained from law enforcement agencies and court systems, including probation and parole records, to the fullest extent possible. Second- or third-hand oral reports by church members are NOT adequate. If a document is restricted, request that the person waive privacy.

## Circumstances Involving Minors

For a thoughtful response to the matter of a minor who has committed sexual boundary violations and is a participant in a church's ministry and mission, see: Hammar, Richard R. (2008). Ask Richard: A teenage boy wants to continue to attend our church even though he's a child molester. [Originally published in *Church Law & Tax Report* (2008), 22(2, March/April).]

Hammar observes: 1.) "Allowing a known child molester to have unrestricted access to your church property and church activities exposes the church to an extraordinary risk of liability." 2.) "...a jury would be incredulous that the church took no steps to protect minors in such a case." 3.) "...if a jury concludes that the church was reckless in not adequately supervising or restricting the offender, it may assess punitive damages." 4.) "...if a jury concludes that the church was not merely negligent, but grossly negligent, in supervising or retaining the offender, then the members of the church board may be exposed to personal liability." 5.) "...it is always a good idea to check with other charities in your community regarding the practice in similar circumstances." 6.) "...in similar cases some churches have allowed the offender to attend church services and activities, but only in the presence of a parent or other designated person." 7.) "[extending mercy] should not be an excuse for allowing the offender to have unrestricted access to church property."

For details on covenants, see the resources provided on the Presbytery of Genesee Valley website:

1. Covenants of Accountability & Support in PGV.
2. Registered Sex Offenders. (a bibliography of resources)

Accessed 04/26/16:

<http://pbygenval.org/committees/committee-on-ministry/sexual-misconduct-policies-resources/>  
(This is under Committees, under Committee on Ministry, under Sexual Misconduct Policies & Resources.)



## Training Deacons & Ruling Elders as Church-Mandated Reporters

As officers in the Presbyterian Church (U.S.A.), deacons and ruling elders are mandated reporters of abuse, including sexual abuse, by the *Book of Order*. Because each deacon and ruling elder elected by the congregation must complete “a period of study and preparation” (G-2.0402) prior to being installed, this requirement becomes a wonderful opportunity to include basic information regarding:

- child sexual abuse
- child maltreatment and child neglect
- recognition of physical and behavioral symptoms, and
- reporting procedures in New York State.

If a church has a bicameral governance structure, i.e., a Board of Trustees separate from the Session, it is wise and prudent stewardship for the Session policy mandate that newly elected Trustees also be trained.

## Screening Volunteers



...he will separate people one from another as a shepherd separates the sheep from the goats...

Matthew 25:32

Congregations often object to the concept of performing background checks as impractical, expensive, or as an affront. As a result, some Sessions, while trying to be conscientious, also try to cut corners:

- to save money or avoid upsetting an individual who seeks to volunteer, some have “grandfathered/grandmothered” church members who previously passed a background check performed by their child’s athletic league, although it was not known how thorough the league’s effort was;
- to save money, some have utilized very low-cost on-line services, which were of very low quality. (Fee-based services typically ascend in cost according to ascending degrees of information.)

It is realistic to distinguish between *primary* and *secondary* screening procedures. The distinction is based on situations most likely to pose risks for minors or adults without the capacity to consent, or increase the opportunity for a boundary violation.

1. *Primary* screening is implemented for those, who, in the course of their responsibilities, have opportunity to be alone for any period of time with 1 or more minors, or work in a supervisory capacity. (Supervision may include clergy, associates in ministry, youth workers, child-care staff, and people who direct music ministries with minors.) Consider: degree of vulnerability of people at risk; perceived authority/influence of the supervisor; isolation of the setting; need for supervision of the employee/volunteer; intensity or intimacy of the relationship with the minor. A greater level of background and reference checks is applicable here. (If they training to do their work, they probably need a great level of screening.)
2. *Secondary* screening can implemented for those not expected to be alone with children, e.g., volunteer staff of a Vacation Bible School who supply refreshments but have no teaching responsibilities. A lesser level of screening is applicable here.

## When to Seek Outside Assistance & Guidance: Intensifying Factors

Bear one another's burdens,  
and in this way you will fulfill  
the law of Christ.

Galatians 6:2



When leaders of a congregation discover a sexual boundary violation, the question may arise, "Do we need to bring someone in to help us?" Some pastors and some Sessions in our Presbytery have resisted guidance from those beyond the congregation itself. The reasons have varied: fear of exposing a situation to scrutiny, desire to protect a key person in the congregation, the attitude that "We know what's best for us."

The following factors intensify issues and emotions in a case of a sexual boundary violation, and quickly lead to complex decision-making. These factors warrant seeking qualified and competent outside guidance.

1. Type of Sexual Misconduct
  - a. Illicit. (secular law is violated)
  - b. Exploitive. (misuse of power of church role or office)
2. Victim-Related Intensifiers
  - a. Status of victim: person is a minor; person is an adult who lacks capacity to consent.
  - b. Severity of harm: the standard clinical model for assessment is one that is *trauma-informed*.
  - c. # of victims.
  - d. Role of victim: the closer the person's tie to the congregation, the greater the consequences.
3. Offender-Related Intensifiers
  - a. Role of offender: the more prominent the person is perceived by the congregation, or the closer the person's ties to the congregation, the greater the consequences.
  - b. Age of offender: e.g., the offender is a minor, or the offender is elderly.
  - c. Clinical factors: e.g., substance abuse.
4. Context-Related Intensifiers
  - a. Force, threats, or violence was used during commission.
  - b. Case receives media coverage.
  - c. The church's insurance carrier becomes directly involved.
  - d. The victim and/or the offender retain a lawyer.
  - e. The national Church-mandated reporting requirement is applicable.
  - f. Criminal or civil action is initiated.
  - g. The offense involved a victim affiliated with an organization or agency not formally a part of the church, but which is contractually related to the church, e.g., a child care program that leases space or a non-profit youth-serving group, like a scout troop, which uses space.
5. Context-Related Intensifiers: Church Specific
  - a. Church leaders are considering maintaining secrecy.
  - b. Commission occurred at or within the church's facilities, or in a church-sponsored program.
  - c. Church leaders have ignored the advice of experts beyond the congregation.
  - d. Church leaders violate an appropriate promise of confidentiality, e.g., disclosing the victim's identity.
  - e. Church leaders are divided over responses and strategy.

...continues on page 8

Context-Related Intensifiers: Church Specific (continued)

- f. Session lacks a sexual misconduct policy, or the policy is insufficient for the circumstances.
- g. A principal in the case has a high profile status within the faith community or secular community.
- h. Some church leaders had prior knowledge of the offender's behavior and did not take effective steps to intervene.
- i. Leaders discover previously unknown victims of the offender.
- j. Family members of the offender and/or victim are involved in the life of the congregation.
- k. A formal accusation is filed with initiates a church disciplinary case.
- l. The individual accused is suspended or terminated from a paid staff or volunteer position.
- m. The Session fails to suspend or terminate the accused offender.
- n. Multiple ecclesiastical governing bodies are involved.
- o. There is uninvited or unauthorized involvement of a former church staff member or pastor.
- p. Congregation includes people who were victimized in the past, but not by this offender.
- q. The offense is part of sequence of prior offenses which were previously known and addressed by church leaders or entities, e.g., by a formal disciplinary proceeding, or through an informal arrangement by a higher governing body.

The real to question is not whether your session has a sexual misconduct policy. That simply checks the *yes* box or the *no* box on a form. The real question to ask is whether it is current, or whether it is sufficient to protect the people and the mission and the ministry of your congregation. Ask if it is of a breadth and depth worthy of those who gather in the name of Jesus Christ. Ask if the people in your congregation care about what this document says, and if they care enough to make it come to life

Nothing is covered up that will not be uncovered, and nothing secret that will not become known.

Luke 12:2

[Jesus] answered [the Pharisees, "I tell you, if [the disciples] were silent, the stones would shout out."

Luke 19:40