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July 2007

Special points of interest

Sexual abuse prevention and control

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The unspeakable: sexual abuse and misconduct in the church

People come to churches seeking refuge, fellowship, healing, spiritual guidance and redemption. But, what if the safe haven they seek turns out to be a nightmare? What if someone attending your church, child or adult, became a victim of sexual abuse or molestation?

For children and those with a diminished mental capacity, sexual abuse or misconduct occurs when they become engaged in a sexual situation with a minor or an adult. It can include actual physical contact such as fondling or rape, and it also includes making a child watch sexual acts or pornography, using a child in any aspect of the production of pornography or making a child look at an adult's genitals. For adults, sexual abuse or misconduct includes the forcing of unwanted sexual activity by one person on another with the use of threats or coercion.

Zurich Services Corporation has found sexual abuse and misconduct in virtually all religious entities: Catholic, Protestant, Evangelical, Jewish, school, camp, administrative office and daycare. At-risk individuals, those most likely to become victims of sexual abuse and misconduct, come to organizations like yours for the positive benefits noted above. Sexual predators, as the term suggests, may come to your religious institution seeking vulnerable



targets. For this discussion, at-risk individuals include minors and those who are vulnerable due to psychological, physical, emotional, spiritual or other challenges. The risk-control steps described here are focused on protecting at-risk individuals, but will help in reducing adult-to-adult sexual abuse and misconduct also.

Risk factors

Characteristics of perpetrators of sexual abuse and misconduct on minors are 94 percent male, and in 33 percent of the cases, the perpetrators were abused as minors themselves. Individuals that engage in sexual abuse and misconduct tend to be repeat offenders.

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The unspeakable: sexual abuse and misconduct in the church *(continued)*

- 34 percent of abusers are a relative to the victim, 59 percent are an acquaintance and only 7 percent are a stranger.
- 67 percent of all sexual assaults are against minors.
- Girls are four times more likely to be victims than boys.
- 14 percent of all sexual assault victims are under six years old.

The most common settings for sexual abuse and misconduct include residences, roadways, fields/woods, schools and hotels/motels. The most common times for sexual abuse and misconduct involving minors are transition times, such as immediately after school and during meals.

There is heightened potential for sexual abuse and misconduct from certain high-risk activities or operations, including:

- **Personal activities:** toileting, bathing, changing clothes, sleeping
- **Supervisory transitions:** moving between rooms/activities, being picked up or dropped off
- **Touch:** athletics, recreational activities, comforting, instructing, disciplining
- **Working with the psychologically vulnerable:** counseling, caregiving
 - One-on-one interactions: extra instructional help, any of the above activities
 - Offsite activities: field trips, other offsite activities where any of the above may take place
 - Age mixing: interaction of children more than one year apart in age from each other

Controls

Zurich Services Corporation has identified six key controls that help churches recognize and remove threats and exposures that can lead to sexual abuse and misconduct.

1) Develop a formal sexual abuse prevention and control program

A well-designed prevention and control program can provide a framework for your sexual abuse and misconduct prevention efforts. Your plan should include a zero-tolerance stance for sexual abuse and misconduct for anyone involved with the church and particularly for at-risk individuals and confirmed sex offenders. As a religious organization, it may be difficult or against your beliefs to deny involvement to sex offenders, especially if they are seeking redemption. If you choose not to exclude them, we strongly recommend sex offenders be restricted from interaction with at-risk individuals and activities where others may be exposed. Also, you should request and review the probation agreements (if applicable) with confirmed sex offenders, as their court agreements may not permit them to attend church.

Your program should require at least two complimentary controls for every high-risk activity noted earlier. For example:

Chaperones:

- 1) Background checks should be required for all volunteer and paid chaperones.
- 2) Chaperones should be coached about acceptable behavior and monitored by church leadership.

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The unspeakable: sexual abuse and misconduct in the church *(continued)*

At-risk individuals:

Children, and those with a diminished mental or physical capacity, should be attended to by more than one person, thereby eliminating one-on-one interaction, especially for offsite activities.

Your program's success hinges on a strong leadership commitment, including resource allocation. Finally, safeguard confidentiality to protect the privacy of possible victims, accused individuals and candidates for hire/volunteer. This confidentiality needs to include verbal, written and electronic communication.

2) Implement sound selection and work practices

Sound selection and work practices are the most direct and effective controls in preventing sexual abuse incidents. Keeping individuals with a history of sexual misconduct from employment and volunteer positions is critical to your organization's abuse prevention efforts. Background checks are a critical aspect of these selection and work practices (please see accompanying article). Since most sexual abuse cases do not result in conviction, you need to use other measures in selecting and retaining workers and volunteers such as applications, interviews and reference checks. It is prudent to proceed cautiously, as sexual predators are often charming and skilled at winning over confidence. Finally, all state and local labor laws must be followed.

3) Utilize physical controls

Physical controls can keep potential predators from interacting with at-risk individuals and help minimize any one-on-one interaction. Classrooms or play areas may need secured doors and fencing to minimize children wandering away. Windows and open viewing configurations allow for parents and others to easily monitor activities.

4) Establish training and communication

Training should be provided to workers, volunteers and any service providers contracted to work with or around your at-risk individuals. You don't want procedural errors by untrained workers to lead to critical failures. All states have laws requiring specific occupations, such as childcare providers or counselors, to report suspected abuse to legal authorities. Make sure your workers and volunteers understand these mandatory reporting laws, as applicable. Training should take place before new workers are allowed to interact with at-risk individuals. Lastly, the basic components of your program and prevention tips should be communicated to at-risk individuals and their parents/guardians. Parents and guardians can be valuable advocates of the program and should be encouraged to take an active and informed role.

5) Plan your response to allegations

Your church or religious entity's response to allegations of possible sexual abuse or misconduct should include the involvement of appropriate parties, including top leaderships, higher governing bodies within your denomination (if applicable) and legal counsel. Individuals and family members should be encouraged to come forward promptly to help minimize the chance the abuser will strike again. Also, prompt reporting aids in the thoroughness and effectiveness of investigations. Therefore, the reporting process must be clear and easy for potential victims to follow. If the evidence collected points toward criminal misconduct, law enforcement must be brought in immediately to protect the victim(s), preserve evidence and expedite legal proceedings.

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The unspeakable: sexual abuse and misconduct in the church *(continued)*

Your program should identify those who will respond to and investigate allegations. At least two non-related individuals should head the investigation. Documentation of the investigation should be factual. All charges must be treated sincerely. Even if the allegations seem difficult to believe, due diligence must be followed.

When an incident or report of sexual abuse or misconduct occurs and becomes high profile, it is even more important to have an appropriate person for media relations. Zurich insureds should contact our staff for advice on how to address the media. While working to respond to and investigate allegations, your church or organization may be overwhelmed by a wave of negative public sentiment. Inaccurate and sensational reporting by the media can create a backlash in the court of public opinion. So, identify a designated spokesperson ahead of time who will speak on behalf of your church in the event an allegation becomes public.

The safety of at-risk individuals must be the top priority of your organization—both during and following investigations. Your program needs to provide for suspensions or

reassignment of duties until your investigation is completed. Final determinations should be made according to your program's policies.

For minor offenses, your personnel

committee or board of directors may seek an exception to termination. However, resolutions should strive to honor your organization's zero-tolerance stance, with exceptions cleared with your legal counsel.

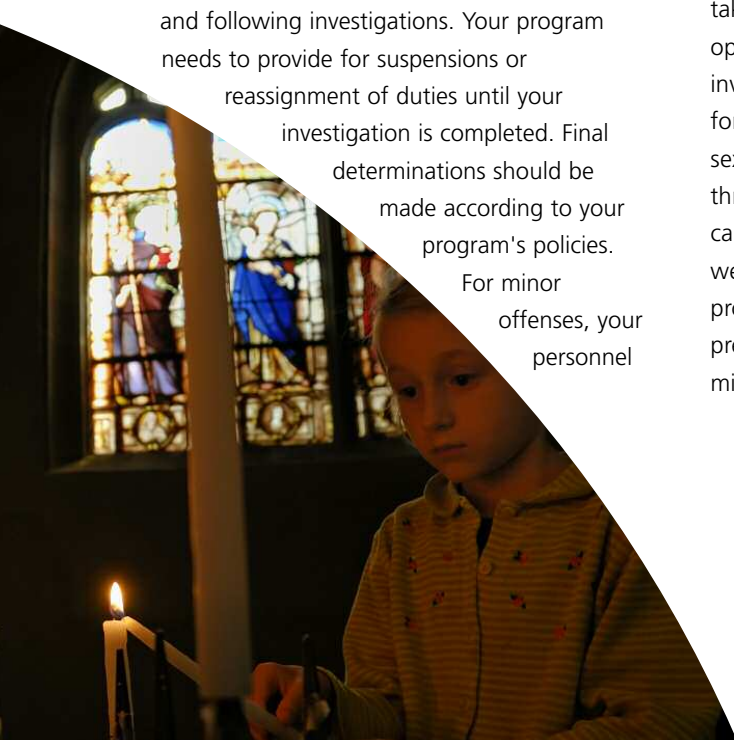
6) Maintain oversight and validation

Your sexual abuse and control program needs to be part of your church or organization's culture and day-to-day operations. At-risk individuals, frontline workers, third-party vendors and church leadership should understand their respective roles and comply with the program's requirements. The church's designated person or group charged with the responsibility for oversight and enforcement of the program should periodically validate that at-risk individuals are being protected.

Enforcement should include a review, at least annually, to confirm all aspects of the program are in effect.

Summary

Churches that have experienced sexual abuse and misconduct all share one characteristic: they did not expect or intend for these acts to take place. Certainly, all churches desire to operate in a safe manner and people who are involved with churches predominantly do so for ethical and altruistic reasons. However, sexual abuse and misconduct takes place throughout all types of religious entities and can manifest itself at your organization too. A well thought out, well executed plan can provide protection and a defense for preserving the sanctuary of your church ministry.



Employment background screening for religious organizations

Overview

Past behavior may very well be the best predictor of possible future behavior. For this reason, religious organizations should investigate how to conduct applicant and worker background checks to ensure they are hiring and retaining the most qualified workers, while at the same time reducing the risk of hiring the wrong applicant.

A pre-employment background check is a commonly accepted practice in our working culture. In many cases it is the expected norm, so religious organizations need not fear they are acting inappropriately when requiring a pre-employment background check.

Before a church initiates a background check, it is important they investigate the appropriate steps to ensure compliance with state and federal requirements surrounding notice, confidentiality and record retention.

Background checks can provide religious organizations with information about an individual's past pattern of lawful and ethical behavior. Background checks can look into an individual's:

- Criminal history
- Credit history
- Employment history
- Education verification
- Identity verification
- Property ownership
- Driving records
- Personal references

Benefits of conducting a background check

Conducting a background check can help a religious organization hire the most qualified candidate for the position. Many organizations have avoided hiring individuals that have a criminal background or inadequate job credentials. In essence, background checks can help identify the most qualified individual presenting the least amount of risk to the organization.

Background checks can help religious organizations avoid negligent hiring and negligent retention liabilities.

- Negligent hiring can be presumed when an organization fails to conduct background checks for criminal records and the hired individual engages in criminal activities consistent with their history and bring harm to another person.
- Negligent retention can occur when an organization fails to release or reassign workers after discovering the worker has a history of violent or abusive behavior.

Program considerations

- Legal experts agree that requiring all applicants to fill out a written application for every paid and volunteer position, regardless of how well known the individual is to the organization, helps the organization establish reasonable care during the hiring process.
- Religious organizations that decide to engage in background checks should seek out professional advice on how to best comply with requirements presented through the Fair Credit Reporting Act (FCRA) and with state and local statutes. Hiring criteria should be established so hiring administrators and committees know when it is appropriate to disqualify a candi-



Conducting a background check can help a religious organization hire the most qualified candidate for the position.

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Employment background screening for religious organizations *(continued)*

date based on their background results, remaining consistent and fair in the application of their policy. Organizations that deviate from their hiring policies based on knowing the individual could encounter legal action.

- Background screening criteria should be dependent upon the anticipated job duties, whether paid or volunteer, within the organization. The screening criteria applied to one position may not be appropriate for another position. For example, if an individual's duties suggest that they will never have access to the religious organization's funds, it may not make sense to conduct a credit check on this person.
- Screening volunteer workers can present challenges to whether an organization has any right to look into an individual's history. Organizations should consider that the risks are no less just because an individual chooses to volunteer their services.
- If an individual will be involved in a setting where they have contact (even casual contact) with children, the disabled or elderly it may be in the best interest of the organization to conduct a criminal background check to identify whether there is any evidence of sexual misconduct or abusive behavior.
- Candidate background information must remain confidential and only provided to those individuals that have an operational need for the information.

Use of outside services

Religious organizations should use the resources and expertise of a company that specializes in background checks to ensure they are receiving quality information and can be advised of how to comply with the requirements of the FCRA. Employers must obtain job candidate consent

before a credit report is run in compliance with the FCRA. Consent forms should be used as documentation of this consent and should include permission for any possible future FCRA screenings.

Fair Credit Reporting Act (FCRA) requirements

Religious organizations choosing to conduct background checks need to be aware the FCRA has several requirements that must be closely followed. These requirements include the following:

Before conducting a background check, employers must:

- Notify the candidate or worker a background check will be conducted and obtain written authorization
- Provide a summary of consumer rights to the applicant

After a background check has been completed:

- If an 'adverse decision is made regarding a candidate's, worker's or volunteer's employment eligibility based upon information gathered from the background check, i.e., a person is not hired, demoted or is given a job transfer, the candidate or worker must be notified in writing.

Candidate and worker rights

There are many rights to consider with respect to an organization's obligation to inform an individual being denied employment. Major obligations of the employer include:

- When employers use background check information to decline employment, they must provide, in writing, the name, address and phone number of the agency that provided the information from which their decision was based to the candidate, worker or volunteer.

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¹(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

Employment background screening for religious organizations

(continued)

- Candidates and workers have the right to request and obtain information provided to the employer by consumer reporting agencies.
- State and local statutes may vary and will certainly be no less than what has been discussed through this discussion.
- Candidates receiving written notice that they did not get a job because of a negative credit history can receive a free copy of their credit report if requested within 60 days.

Suggested background screening types for volunteers and paid workers

One way of looking at who should receive a background check is the role or function they perform within the church. Looking solely upon specific job titles may overlook someone in an area of responsibility.

Before using this chart, please refer to the guidelines and procedures established by your denomination, religious program or religious hierarchal sponsorship for your institution. Use of this chart is for informational purposes only and should not supersede established requirements of your church.

Position/role	County criminal search	Identity check	State sexual offender registry	Reference check	Education verification	Credit check	Employment verification	Motor vehicle records check
Pastors	●	●	●	●	●	●	●	●
Youth and lay pastors	●	●	●	●	●		●	●
Organists, choirmaster, music directors	●	●	●	●	●		●	
Individuals with access to church financial records or confidential church records	●	●	●	●		●		
Compensated Christian education director, education workers	●	●	●		●		●	
Individuals that have keys to the church buildings or property	●	●	●	●	●		●	
Individuals who work with nursery or youth groups	●	●	●	●	●		●	
Individuals who work as caregivers for elderly, sick or nursing home residents	●	●	●	●	●		●	
Anyone providing transportation services for church workers or parishioners	●	●	●	●	●		●	●

Sexual abuse prevention and control program checklist



- Your program should prohibit interaction between confirmed sex offenders and at-risk individuals.
- Implement rules for high-risk activities, i.e., offsite activities, toileting, touching, counseling, etc.
- Your program should be in writing, endorsed by senior leadership and included in your policies and procedures.
- Strictly protect the privacy of candidates for work, individuals under investigation and purported victims.
- Complete background checks prior to new worker and key volunteer involvement with at-risk individuals. Complete background checks for all existing workers/key volunteers. The depth of background checks should be appropriate for the risk posed by the positions/roles.
- Ensure your background check policies permit periodic checks beyond hiring.
- Hiring and employment practices for workers and key volunteers should include:
 - Compliance with state/federal labor laws
 - Applications completed pre-hire
 - Personal interviews
 - Reference checks
- Implement physical controls, such as segregated rooms, fencing and viewing-glass panes to allow for clear supervision and open monitoring of at-risk individuals.
- Train workers and key volunteers on the organization's program – including (but not limited to) prevention, recognition and response.
- Make information on basic prevention tips and key aspects of the program available to at-risk individuals and their parents/guardians.
- Provide a clear and easy way for individuals to report allegations to your organization. All allegations should be communicated to top leadership, higher governing bodies, legal counsel and legal authorities, if applicable.
- Investigate all allegations, with checks and balances so one individual does not solely control the investigation and response process. All purported victims should be treated with care.
- Designate a qualified spokesperson to handle all media inquiries and statements to the public.
- During investigations, remove alleged offenders from their positions if safety concerns exist and terminate all offenders if allegations are determined to be true.
- Designate a person or group to oversee, enforce and audit the program. Leaders should be held accountable for their group or area. Hold subcontractors to standards of the program. Any deviations from the program need to be reviewed with legal counsel.

Lessons of loss

Youth minister

A twenty year old male was employed as a volunteer youth minister at a church and was responsible for conducting youth ministry services for over 40 teens. Background screenings had been completed and came back without any history of sexual misconduct. Some time after the youth minister had been employed with the church, the senior pastor was visited by the parents of a 14 year old girl who reported that the youth minister had engaged in sexual misconduct with their daughter. The pastor agreed to conduct an investigation.

A couple of days following the report and beginning stages of the investigation, the matter became complicated as the senior pastor was once again approached by the parents of the girl who indicated they wished to retract their statement and cease the investigation due to personal reasons. The senior pastor was confused by the request, but agreed he would cease the investigation if he did not have a complaint from a family.

Within a short period, other parents came forward reporting similar instances of sexual misconduct with their teenage daughters. It was at this point the senior pastor could no longer ignore the evidence presented to him, which required him to reopen the investigation and ultimately release the youth pastor from service and report the matter to the local authorities. The matter had become considerably worse because the senior pastor did not act when he was approached by the first family. In essence, the pastor had opened the door to continued exposures to sexual misconduct from this individual.

While the church had conducted a background screening as a first approach to prevent sexual misconduct, the senior pastor ignored strong evidence that could have prevented others from being victimized. The senior pastor should have sought advice from professionals that could have advised him how to investigate the matter rather than ignore the warning signs. As such, the courts found the senior pastor negligent in his duties as a leader, exposing the church to considerable loss due to the lawsuit filed.

Church camp director

A forty year old male had been employed as a church camp director for ten years. Camp counselors that worked with the director complained to the church leaders about unusual behaviors the director engaged in during overnight outings. It appears the camp director played the role of a friend to the campers rather than that of a leader. Activities included favoritism, mind games and popularity contests. Church leaders investigated the matter and determined some level of sexual misconduct was being committed on the part of the camp director, but chose to attempt an intervention through counseling.

Over the next ten years, three additional reports came through to the church camp leadership, who in each instance attempted further counseling and rehabilitation. A 24 year old male filed suit against the camp director and camp leadership for having been molested as a child. During the trial, it was discovered that the church leaders allowed continued employment of the camp director even though they knew of his sexual misconduct. The jury found both the camp director and church leaders negligent.

Lessons of loss *(continued)*

Churches should adopt policies that remove individuals from service at first word of any alleged inappropriate behavior until the conclusion of the investigation through an impartial third party. In cases of abuse and sexual misconduct, pastors have an obligation to protect the children, parents and congregation of the church. Church leaders should have involved professionals that could have advised how to investigate the matter rather than ignoring the warning signs or attempting to handle the serious matter without the advice of legal counsel.

Daycare worker

A church daycare center allowed a volunteer worker to attend to a class of nursery school children. A background screening was completed as the volunteer would have access to children. During the children's nap time the worker was the only adult left supervising the classroom. The daycare worker would invite some children to sleep behind his desk and would molest them while the others slept.

Even though a background check was completed, the daycare center still should have been vigilant as it is never appropriate to leave someone with unchecked, unsupervised access to children. The worker gave no indication he was engaging in sexual misconduct and the children were too young to articulate the presence of inappropriate advances.

The question arises as to what is prudent in terms of protecting children under daycare settings. Could the daycare leadership have reasonably anticipated any exposure even if the worker showed no signs of wrongdoing? In this case the jury found the daycare center negligent because they had not provided a minimal level of protection even though there was no evidence indicating otherwise.



References

Protecting Children,
<http://www.childwelfare.gov/>

Center for Sex Offender Management,
<http://www.csom.org/>

National Sex Offender Public Web site,
<http://www.nsopr.gov/>

The Fair Credit Reporting Act (FCRA),
<http://www.ftc.gov/os/statutes/031224fcra.pdf>

Federal Trade Commission – Credit
<http://www.ftc.gov/credit/>

Protecting Personal Information, a Guide for Business
<http://www.ftc.gov/infosecurity/>

Using Consumer Reports, What Employers Need to Know
<http://www.ftc.gov/bcp/online/pubs/buspubs/credempl.shtm>

Appendix H: Notice to Users of Consumer Reports:
<http://www.ftc.gov/os/2004/11/041119factaapph.pdf>

If you have any questions, please send them to:
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Note: The information contained in this publication was compiled by Zurich Services Corporation and is presented to promote awareness with respect to how damaging and pervasive sexual abuse and sexual misconduct is in our society. When dealing with matters associated with sexual abuse and/or sexual misconduct, it is important for religious institutions to follow the guidelines and procedures established by the denomination, religious program or religious hierarchal sponsorship for their institution.

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