



Sex Offenders in Your Congregation: Recommendations and Best Practices

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DISCLAIMER

This webinar is not legal advice to the attendees; it provides general information as well as best practices gleaned from my experience. The webinar consists of slides for viewing as well as a significant oral presentation component. Neither the slides nor the oral presentation alone offer all of the information I am presenting. If you need legal advice for your church's particular situation, you should contact your church's attorney. Questions about insurance coverage should be directed to your insurance company or agent.

INTENDED AUDIENCE

The intended audience for this webinar includes church pastors, church lay leaders, and those charged by their churches with implementing and enforcing safe conduct and abuse prevention policies. This information pertains to sex offenders in the congregation. Churches who employ sex offenders should seek legal advice from a qualified employment attorney. Non-church organizations should also seek legal advice from a qualified attorney.

Integrating Sex Offenders into Your Congregation

- Your church is ministering to:
 - Sex offenders
 - Survivors of sexual abuse
- Do good ministry: establish policies that account for the needs of the entire congregation.

Integrating Sex Offenders into Your Congregation

- Adopt a robust safe conduct and abuse prevention policy: your church needs it now.
- Include a policy on integrating sex offenders.
- Do this before an instance of abuse occurs or before you must make a decision on integrating a sex offender.

Integrating Sex Offenders into Your Congregation

- What is a sex offender, and what is the difference between a sex offender and a registered sex offender?
- How do we know there is a sex offender in our congregation?
- What are the elements of an effective sex offender policy?
- What about concerns related to behavior with youth when the person is not a sex offender?

Who Is a Sex Offender?

- A person who has committed a crime of a sexual nature as defined by state law, including:
 - “registered sex offenders”
 - “convicted sex offenders”
- But also consider:
 - offenders who may have committed sexual offenses but were charged with or pled guilty to nonsexual offenses
 - offenders who have never been charged, or even caught

Who Is a Registered Sex Offender?

- Person required by law to register, under a tiered system that sets the length of time a person must stay registered after a sex offense conviction.
- Information the state collects on registered sex offenders varies from state to state.

Who Is a Registered Sex Offender?

- Tier 1: least serious catch-all classification that can include felonies and misdemeanors—15 years
- Tier 2: felonies that include child pornography, child prostitution, use of a minor in a sexual performance; sexual contact with a minor—25 years
- Tier 3: sexual acts involving force or threats; sex acts with a person who is unconscious or unable to decline to participate; sexual acts with a child under 12; non-parental kidnapping of a minor—for life.

Remember:

- Sex offender registries are only as good as the information that goes into them.
- Penalties for not registering or updating information vary by state.
- Community notification policies vary by state.

Sex Offender Integration: Policy and Agreement

- Combination of:
 - Including provisions in your abuse prevention policy
 - Limited access agreement with sex offender
- Abuse prevention policy must be easily accessible to congregation.

Abuse Prevention Policy

- State that the protection of children and vulnerable individuals is of highest priority
- State that it will take steps, up to and including denying access to the church, if church leadership has concerns about a person's behavior

Abuse Prevention Policy

- For volunteers, require:
 - Criminal background checks: need to check where volunteer has lived, not just the current state
 - Reference checks: ask for non-related references and check them
 - Self-disclosure questions

Abuse Prevention Policy

- Ask whether the person has been convicted, or adjudicated delinquent, of any crime relating to conduct with children, including but not limited to child pornography, physical abuse, or sexual abuse
- Ask whether the person has been adjudged liable for civil penalties or damages involving physical or sexual abuse of children
- Ask whether the person has been convicted, or adjudicated delinquent, of any sex-related crime
- Ask whether there is any fact or circumstance involving the volunteer's background that would call into question the volunteer being entrusted with the responsibilities of the position

Abuse Prevention Policy

- Require persons who have been convicted of sex-related crimes, including child pornography, to notify specific church leaders of their presence
 - Identifies people convicted of sex-related crimes
 - Shows church is paying attention to the issues

Limited Access Agreement

- Offender agrees to provide, and leaders review, certain information:
 - Statement from the court as to the nature of the conviction
 - Risk assessment from qualified therapist
 - Report from certified treatment provider indicating the recidivism risk for the offender
- Offender agrees that leaders may contact parole officer

Limited Access Agreement

- Offender AGREES:
 - To disclose status to congregation.
 - To have access to children and other vulnerable individuals is limited
 - To be accompanied by designated persons at all times while on church property or at church events

Limited Access Agreement

- Offender, pastor, and persons appointed to accompany offender meet on a regular basis to monitor the implementation of the agreement.
- Agreement stays in place for the duration of the offender's attendance.

Sex Offenders in the Congregation

- How do we know there is sex offender in the congregation?
 - An existing member is convicted of a sex offense.
 - A potential member discloses that they are a sex offender.
 - Someone tells church leadership that someone else in the congregation is a sex offender.
 - Anonymous tip.

Sex Offenders in the Congregation

- Inform offenders of the church's policy as soon as the church is aware there is an offender present.
- Long-time members should not be exempt from the policy.

Legal Considerations: Clergy-Penitent Privilege

- The clergy-penitent privilege is a rule of evidence that applies to testimony given during a legal proceeding or a deposition.
- Convictions are not confidential.
- The pastoral ethic of confidentiality should not extend to keeping secrets that will harm others.

Legal Considerations: Liability

- Churches may face legal liability for sex abuses committed by employees or volunteers during church or church-related activities, regardless of whether the church knows whether a person previously committed sex-related crimes.
- The risk of liability increases if the church knows that the abuser previously committed abuse.
- Insurance coverage may be affected, in certain instances, if a church knows that a person previously committed abuse. Consult your insurer.

Resources

- Federal sex offender registry:
<https://www.nsopw.gov>
- Insurance Board SafeConduct™ Workbench:
<https://www.insuranceboard.org/safety-resources/safeconduct-workbench/>
- Association for the Treatment of Sexual Abusers (ATSA)– certified treatment provider search:
<http://www.atsa.com/referral>