

Third-Party Use of Facilities and Sexual Abuse Risk: Observations for Camps, Conference Centers, Colleges and Churches

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Any activity or locale where children are gathered engenders the risk of sexual abuse. Many of these gatherings take place in camps, conference centers, colleges and churches.

All child-serving organizations should make reasonable effort to reduce the risk of child sexual abuse. What constitutes ‘reasonable’ effort is largely defined by the legal concept known as ‘Standard of Care’ – what a ‘reasonable’ organization should do to reduce a known risk. A reasonable safety system for any organization providing services to children includes at least five elements:

1. Sexual Abuse Awareness Training for staff members and volunteers;
2. Skillful Screening Processes;
3. Appropriate Criminal Background Checks;
4. Tailored Policies & Procedures; and
5. Effective Monitoring and Oversight.

(For detailed discussion of safety system elements and implementation, click [here](#).)

Sadly, many child-serving organizations have inadequate safety systems in place, and therefore run a higher risk of abuse (and corresponding liability). Some organizations DO have an effective safety system in place, but the system is designed to protect *only* children directly served by the organization within its particular program or service. Risk is reduced as to those children – as is liability. If an allegation does arise, a well-prepared organization is insured for that risk and equipped to report appropriately to law enforcement authorities, families, media and the organization’s insurance company.

But what about ‘outside use’ of a host organization’s facility?

This question circulates among organizations with facilities used by outside groups bringing children and adults onto the host organization’s campus. Specifically:

What is the organization’s responsibility for an allegation arising from an outside group?

What is the organization’s risk related to that allegation?

Should the organization require safety measures as a condition of facility use?

What should the organization reasonably require of an outside group?

Can the organization be held responsible for an allegation arising from an outside group?

These questions, arising out of recent lawsuits and claims, demand an answer.

What is ‘Reasonable’?

‘Reasonable’ action or behavior is sometimes defined by licensure and legislation. Given the risk of sexual abuse arising from outside groups using a host organization’s facilities, what ‘reasonable’ efforts should a host organization exert to reduce that risk?

Historically, host organizations have relied on the outside group to supervise its staff members and children. Is this reasonable? Will this protect the host organization from civil liability?

HOST ORGANIZATIONS IMPACTED BY CLAIMS

When an allegation is made or lawsuit filed, a host organization becomes involved in a myriad of contexts, beginning with initial press reports identifying the *location* of the abuse allegation, which may generate significant negative impact. When a lawsuit is filed, a host organization may be named as a party and forced therefore to defend itself, often requiring payment in some form or amount, if only to get the organization’s name off the pleading and out of the press. Many conference centers, camps, colleges and churches making their facilities available for outside use face this unfortunate situation.

Conference Centers

Organizations maintaining a campus for outside use – conference centers – are often owned and operated by religious groups or denominations for use by churches and youth groups within the denomination. Conference centers occasionally create programs that are internally staffed, operating like a camp, in that children are hosted and supervised directly by conference center staff members. More commonly, a conference center employs administrative staff, medical staff, food service staff and groundskeepers for the purpose of maintaining a facility where various church or outside groups bring their own adult chaperones and program staff. Multiple programs may be occurring at any given time. Ostensibly, each group is responsible for the supervision of staff and protection of children within its own program. [concern about different types of groups on site simultaneously].

Camps

Camps are generally operated to provide summer and seasonal programming designed to gather children for camp programs. In this capacity, camps are responsible for administration and program staff, providing activities, food service, grounds, medical care and counselors (leaders assigned to particular children for a set period of time). When operating as a camp, the organization is responsible for all aspects of child protection and should employ a reasonable safety system to reduce the risk of child sexual abuse. This safety system should be tailored to camp programming.

Camps sometimes operate as a conference center when the camp has facilities available that are not otherwise used in its camp program, offering unused facilities to an outside group.

Colleges and Churches (and other organizations offering facilities for outside use)

Often colleges, schools, churches or other organizations are asked by outside programs to use a building or facility. The outside group either cannot afford its own facility or does not own or lease its own facility, using instead what is available in the community (e.g. after-school programs, scouting groups, para-church ministries, mentoring programs).

STATE LAW MANDATES

In Texas, most organizations allowing outside use have legislated responsibilities. The Texas legislature created specific requirements for youth camps, day camps and colleges related to child sexual abuse. Whether an organization provides services in Texas or not, this legislation is instructive, and will become, we believe, ‘standard of care’ for all organizations gathering children, regardless of whether the organization is acting merely as a host organization or facility provider. Subsequent to the passing of this legislation, many camps, conference centers and colleges across the country embraced the requirements of the Texas Youth Camp Act as ‘reasonable measures’ designed to reduce the risk of sexual abuse in camp settings.

Two of the five safety system elements referenced above, Sexual Abuse Awareness Training and an appropriate criminal background check, are directly impacted by Texas legislation.

For more information concerning the Texas Youth Camp Act (as amended - 2010), click [here](#).

RECOMMENDED ACTIONS FOR HOST ORGANIZATIONS

What are ‘reasonable’ precautions for a host organization in Texas not directly impacted by the Texas Youth Camp Act and Texas Senate Bill 1414? What are ‘reasonable’ precautions for a host organization *outside* the state of Texas?

The following recommendations are meant to be practical recommendations or options based on systems and tools existing in the marketplace. These recommendations assume that child safety is a priority.

Facility-Use Agreement Form

Host organizations should utilize some version of a Facility-Use Agreement form. This Agreement should include the costs and requirements associated with facility use. Within the Agreement form, the host organization should describe required safety efforts to be employed by any outside group.

Require Safety Controls, and Verify

The safety system or measures utilized by an outside group using a host organization’s facilities are its ‘Safety Controls’. An outside group’s safety system should include Awareness Training, effective screening (including an appropriate criminal background check), policies and procedures requiring a plan for adequate supervision designed to reduce the risk of sexual abuse (perpetrated by an adult *or another child*), and a plan for reporting abuse/neglect consistent with respective state reporting requirements.

Host organizations should consider requiring a list of adult participants, with verification of criminal background checks and completion of Awareness Training within the previous two years.

Verification. Verification may occur through written assurance from the outside group. *Is it reasonable for the host organization to trust the outside group to have met this requirement by simple acknowledgement?* Optimally, verification is provided by paper or electronic copies of completed criminal background checks and certificates of completion for Awareness Training, as currently required in Texas in compliance with legislation related to youth camps, day camps and colleges. This option shifts some responsibility to the host organization to ensure compliance.

The tracking system and Control Panel offered by MinistrySafe and Abuse Prevention Systems allows for relatively simple verification of Awareness Training and completed criminal background checks.

When outside groups arrive, the host organization should have a system in place to verify completed criminal background checks and certificates of completion for Awareness Training corresponding to all participating adults. [In many cases, this type of process is already in place regarding medical releases related to outside group participants.] In the event either is not completed, the host organization may undertake a criminal background check (at the outside group's expense) and have the adult complete Awareness Training online upon arrival at a designated computer terminal (at the outside group's expense). Sexual Abuse Awareness Training is available online at MinistrySafe.com and AbusePreventionSystems.com.

Some host organizations provide Sexual Abuse Awareness Training online to all participating adults prior to arrival, so the host organization can ensure completion of Awareness Training for all adults with an outside group. The cost of training is then passed to the outside group in the form of facility fees or per-participant costs.

Policies/Supervision. Ensuring an outside group has adequate policies or supervision is more difficult. Programs vary, making a one-size-fits-all policy or plan implausible. Some degree of this risk is addressed by *simply requiring* Awareness Training, because all adults from the outside group will be trained to understand the 'grooming process' utilized by an abuser and the *possibility* of peer-to-peer abuse, thereby better understanding the importance of supervision AND 'high risk' behaviors – and reporting, when necessary. At a minimum, host organizations should require *written* policies addressing the risk of abuse and reporting responsibilities, in conformance with state law.

Proactive host organizations provide suggested resource links to outside groups, allowing outside organizations to obtain sample policies and procedures, sample screening forms and training resources. These resources are available, for example, at MinistrySafe.com and AbusePreventionSystems.com.

Recommend that Outside Groups Implement Safety Controls

If 'requiring and verifying' is overly challenging, a host organization may opt to strongly 'recommend' that an outside group implement 'Safety Controls', providing suggested resource links for consideration.

A recommendation is better than *no action*, but will a jury consider this ‘reasonable’? In some sense, to ‘recommend’ is to acknowledge a risk without any corresponding requirement of action to address a known (and acknowledged) risk.

‘Hope for the Best’

Consistent with outside *legislated* requirements such as those in the state of Texas, a host organization may elect to implement a safety system directly related to its own staff and program, and hope that abuse does not occur within an outside group utilizing its facilities. For obvious reasons, this practice involves risk.

Other Safety Steps

In addition to the measures described above, a host organization may consider one or all of these requirements for facility use:

- Require a particular staffing ratio (i.e. one adult to eight children with at least two adults present at all time).

- Require age limitations for youth volunteers (i.e. no youth workers under 15 years of age, and youth volunteers do NOT count in staffing ratios).

- Require outside organization to provide existing written policies aimed at reducing sexual abuse. (Suggest appropriate resources, if needed.)

- Require written acknowledgement that all adult staff members and volunteers have read, understand and agree to follow state reporting requirements. (Suggest appropriate resources regarding state reporting requirements).

CHALLENGES

Cost/Competition in the Marketplace

From a business/budgeting standpoint, camps and conference centers work to fill their facility to ‘make budget’ or ‘operate in the black’. Staffing requirements for operating a camp or conference center are oftentimes fixed, requiring the organization to market to outside groups to ensure full use. When the camp does not meet certain occupancy levels or use, the organization is forced to cut expenses – generally staff, as many other costs are ‘fixed’ (utilities, maintenance, grounds).

Given these economic challenges, organizations compete with other organizations to pursue the patronage of a limited number of ‘campers’ and outside groups. Raising prices or adding administrative requirements can often result in losing campers or outside groups to other organizations that appear more attractive through lower costs or fewer administrative requirements.

The tension is clear: how does an organization ‘raise the bar’ through safety measures (which creates added costs and administrative requirements) and not lose campers and outside groups that make operation financially feasible? In pursuit of safety, is a host organization willing to risk financial viability as an ongoing concern? In the alternative, is the organization willing to ignore safety measures in order to gain a competitive edge

in the marketplace – thereby risking exposure from an allegation arising from an outside group?

These questions are inescapable.

In Texas, these issues are becoming moot as a result of legislation requiring camps, conference centers and colleges to ensure certain sexual abuse safety measures. In other states, however, the tension will continue until legislative changes are in place.

When Outside Groups Have a Right to Facility Use

In some cases (particularly in religious or denominational contexts), churches, scout troops or other bodies are entitled to access to a facility through joint ownership or membership.

Regardless of how access occurs, these questions remain:

1. Should a host organization require a reasonable (and demonstrated) safety system as a condition of using the host organization's facilities?
2. HOW can a hosting organization effectively implement this requirement?
3. Is it sufficient for a hosting organization to *simply recommend* that the outside entity employ a reasonable safety system?

For outside groups that have such a right or membership, this issue will remain a challenge until both the host and outside group understand the risk and agree to embrace 'reasonable' efforts to reduce that risk.

CONCLUSION

Every organization providing services to children should utilize an effective Safety System aimed at reducing the risk of child sexual abuse at the hands of adult staff members or volunteers, *or other children*. An effective safety system should contain the following elements:

- Sexual Abuse Awareness Training;
- Skillful Screening Processes;
- Appropriate Criminal Background Check;
- Tailored Policies and Procedures; and
- Monitoring and Oversight.

No single element above provides a 'stand alone' method for preventing or reducing sexual abuse in children's programs. Rather, each element works within the **system** to create checks, balances and accountability in an overarching plan of protection.

When a host facility provides its facilities (with or without payment) to outside groups, questions arise concerning the host's responsibility to take reasonable action to safeguard children enjoying use of its facilities through the outside group. In some states, these responsibilities are legislated; in others, civil cases are creating change in 'best practices' and 'standards of care' through litigation. Inevitably, 'standards of care' and legislation are trending toward practices more protective of children, including specific training and screening requirements.

Unprotected, both children and child-serving organizations are at risk.

About Gregory Love and Kimberlee Norris:

Love & Norris, Attorneys at Law

Gregory Love and Kimberlee Norris have a nationwide sexual abuse litigation practice representing victims of sexual abuse throughout the country. In addition, Love & Norris provide consulting services to secular and ministry organizations providing services to children. Representative clients include the United States Olympic Committee, Awana International, Church of the Nazarene, the North Texas Conference of the United Methodist Church, Gladney Center for Adoption, and many church and para-church schools, camps and ministries.

MinistrySafe and Abuse Prevention Systems

In addition to an active law practice, Love and Norris are co-founders and Directors of **MinistrySafe** and **Abuse Prevention Systems**, entities dedicated to sexual abuse awareness and prevention. **MinistrySafe** and **Abuse Prevention Systems** provide Sexual Abuse Awareness Training (live and online) and assist child-serving organizations in the design and implementation of safety systems that reduce the risk of child sexual abuse. Love and Norris are frequent speakers before ministries, educational entities, adoption and foster care organizations, and youth camps. They have addressed national and regional audiences for organizations such as the National Association of Church Business Administrators (NACBA), National Council for Adoption (NCFA), American Camp Association (ACA), and the Christian Camp and Conference Association (CCCA).

MinistrySafe and Abuse Prevention Systems are endorsed by Philadelphia Insurance Companies and the American Camp Association. MinistrySafe and Abuse Prevention Systems' Sexual Abuse Awareness Training is approved by the Texas Department of State Health Services and the Departments of Insurance for Texas, Washington, Oregon, California, Nebraska, Missouri, Iowa, Kansas, Oklahoma and other states. MinistrySafe's Sexual Abuse Awareness Training is an approved CEU for the Association of Christian Schools International (ACSI).

APPENDIX – TEXAS LEGISLATION

Texas Youth Camp Act (youth camps and day camps)

In 2006 the Texas legislature enacted the Texas Youth Camp Act, which mandated all youth camps and day camps (both defined liberally) to require:

1. Administrators to have a background in child care;
2. Background Checks on all staff members and volunteers; and
3. Sexual Abuse Awareness Training for all staff members and volunteers.

The definition of a “youth camp operator” includes “a person who owns, operates, controls or supervises a youth camp, regardless of profit.” [Health & Safety Code Ch. 141.002 (6)]. This arguably covers all camps and conferences centers.

The Youth Camp Act outlines specific elements required in the state-approved Sexual Abuse Awareness Training and specific obligations for the operating organization in Chapter 141.0095:

141.0095. TRAINING AND EXAMINATION PROGRAM.

(a) A person holding a license issued under this chapter may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(1) the individual submits to the person or the youth camp has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program required by this section; or

(2) the individual successfully completes the youth camp's training and examination program, which must be approved by the department as required by this section, during the individual's first workweek and the youth camp issues and files documentation verifying that fact.

(b) A person holding a license issued under this chapter must retain in the person's records a copy of the documentation required or issued under Subsection (a) for each employee or volunteer until the second anniversary of the examination date.

(c) A person applying for or holding an employee or volunteer position involving contact with campers at a youth camp must successfully complete the training and examination program on sexual abuse and child molestation required by this section during the applicable period described by Subsection (a).

(d) ...

- (e) A training and examination program on sexual abuse and child molestation approved by the department must include training and an examination on:
- (1) the definitions and effects of sexual abuse and child molestation;
 - (2) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;
 - (3) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse;
[emphasis added]

In short, all staff members and volunteers must complete a Sexual Abuse Awareness Training that is state-approved (Texas Department of State Health Services), and the Awareness Training must include information related to abuser characteristics, grooming process, common grooming behaviors, signs and symptoms of abuse and reporting requirements.

The Texas Youth Camp Act was amended in 2010, which made a number of changes related to the requirement of a criminal background check. A few of those requirements include:

1. The criminal background check must be completed before the staff member or volunteer is in a supervisory capacity related to minors;
2. The criminal background check must include searches related to the applicant's primary and temporary residences (i.e. college students attending an educational entity away from home); and
3. A list of 'disqualifying offenses' that preclude an applicants acceptance.

For a highlighted and notated copy of the Texas Youth Camp Act as amended in 2010, click [here](#); changes and commentary related to criminal background checks is found on pages 8 of 45 through 10 of 45.

It is important to note that the hosting organization is responsible for maintaining the verification of completion for all supervisory adults for two years.

Senate Bill 1414 (colleges and universities)

In 2011, the Texas legislature enacted Senate Bill 1414, which mandated that all colleges and universities in Texas that provide or host 'campus programs minors' require that staff members and volunteers related to 'campus programs for minors' to complete a Sexual Abuse Awareness Training consistent with Chapter 141 of the Health and Safety Code (Texas Youth Camp Act). In short, the state-approved Sexual Abuse Awareness Training is now required for colleges and universities.