

# **The Cost of Being a Shepherd**

## **How Vienna Presbyterian Church chose between its sexual abuse victims and a potential loss of insurance coverage**

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Recently, Vienna Presbyterian Church of Vienna, Virginia made headlines by 'trying to do the right thing' about past sexual abuse at the hands of a student ministries director hired by the church.

[http://www.usatoday.com/news/religion/2011-05-09-vienna-virginia-church-abuse-case-lawyers-insurers\\_n.htm#uslPageReturn](http://www.usatoday.com/news/religion/2011-05-09-vienna-virginia-church-abuse-case-lawyers-insurers_n.htm#uslPageReturn)

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The article describes the struggle between church leadership and insurance defense counsel in detail, after church leaders recognized that a former youth director had victimized girls in the church's youth group.

No one today will argue the fact that child sexual abuse is occurring in the evangelical Christian church; this is a significant problem all by itself. The problem is exacerbated by the fact that many church and ministry leaders misunderstand, minimize, ignore or mishandle warning signs and victim outcries. When church and ministry leaders finally stop to address a sexual abuse outcry, the matter has become multifaceted and seemingly impossible to balance. Church and ministry leaders soon realize that their ship is in rocky waters – some they can see and others they cannot.

At this point, church and ministry leaders usually ask: how did we get here; do we have a meaningful safety system,\* what is our exposure; what are the 'rocks' that surround us; how do we move forward, and how do we balance all of the competing interests?

When an outcry of sexual abuse finally rises to the attention of leadership, there are many immediate challenges, including the balance of discretion versus disclosure. The first inclination is usually one of limiting who knows what. Public perception is critical to the church; nonetheless, state laws mandate the reporting of actual and suspected sexual abuse. When a matter is investigated, beat reporters will pick up the story – sexual abuse stories (especially those involving churches) are eagerly reported. How does leadership balance the inclination to withhold negative information, yet comply with the law? How does leadership balance what and when to tell the congregation (especially when the matter will be reported in the media)? How does leadership balance the needs of the victims with the fact that the accused is a trusted member of the staff? How does leadership balance the HR issues during a pending investigation? How does leadership balance its desire to provide healing

to victims and the risk of legal liability stemming from actions meant to facilitate healing?

This last challenge is usually the most difficult, involving many pressures that most onlookers will never see or appreciate. Vienna Presbyterian Church understood this difficulty – and chose a brave and narrow path.

To understand and appreciate VPC's choice, some explanation is needed. Most churches have a Commercial General Liability insurance policy (CGL) that provides coverage for injuries that occur in or related to church programming. Virtually every CGL policy requires that the church give notice to the insurer as soon as the church has information about an event that may trigger a claim. Because church leaders often misunderstand, minimize and ignore warning signs and victim outcries, they also fail to notify the insurance carrier, which can easily lead to denial of coverage. In addition to the CGL reporting requirement, there is also a cooperation clause that requires an insured church to participate in the defense of a potential claim and to do nothing that would be detrimental to an insurance company's attempt to defend a claim.

When church leaders provide 'notice of a potential claim' relating to child sexual abuse, insurance companies take them very seriously. Insurance companies understand that child sexual abuse claims are very dangerous: there are often multiple victims, they are expensive to defend, they are emotionally charged and the jury awards/settlement amounts can be unpredictably high. Insurance companies understand that HOW a church handles the matter can seriously impact exposure, costs and awards (i.e. perception of a cover-up or an admission of responsibility). When an insurer receives a notice of a potential claim, the insurer will usually engage legal counsel for the insured church. The lawyer engaged by the insurance company for the church is in the uncomfortable position of owing a fiduciary duty to the insured church, while being paid by the insurance company to defend the claim.

The stage is now set for the church to make a very difficult decision – a decision that will have serious potential consequences no matter what direction is chosen. This is further complicated when the church has ignored or mishandled earlier outcries.

The victims and the congregation want to know that church leaders will be transparent and pastoral – they want to know if leadership has mishandled a matter and, if so, to apologize and seek forgiveness. After all, they are shepherds who are supposed to model ownership of failures.

To make such an admission, however, would create serious risks in a civil lawsuit and insurance coverage related to the claims in the suit. Admitting responsibility for failing to sufficiently screen an employee or mishandling a prior outcry forms the basis of a negligence claim. This is exactly the type of admission a plaintiff's lawyer would rely upon to make his/her case; and the insurance company knows that. Insurance companies will therefore clearly communicate to church leaders that the

CGL policy strictly prohibits such admissions for poor screening/supervision or failed handling of an outcry, as doing so can jeopardize insurance coverage. Unfortunately, these are usually the exact types of expressions that victims need to hear so they can heal and forgive.

Vienna Presbyterian Church arrived at that crossroad, and got clear instructions from GuideOne, its insurer, not to make statements acknowledging any prior mishandling. The VPC leadership, however, seemed to clearly understand the needs of the victims and balanced those needs with the risk of denied coverage. Notwithstanding the GuideOne instructions, the VPC leadership publicly addressed the abuse victims in writing and from the pulpit admitting mistakes, accepting responsibility and apologizing.

At present, no civil lawsuit related to the sexual abuse has been filed against Vienna Presbyterian Church; it is possible that none will. Sexual abuse injuries have very emotional components, which include betrayal of trust, isolation, guilt and anger. Oftentimes, victims do not want to sue their church – they want compassion, not compensation. Commonly, victims and families will sue their church only after the church has refused to own responsibility and has further isolated them. In short, they sue because they are frustrated and angry. When a church (even one that has mishandled an outcry) comes alongside the victim to accept responsibility and apologize, this is oftentimes enough – and no claim is ever filed.

Vienna Presbyterian Church understood their position, weighed their options, and chose to be a shepherd to its flock – even if being a shepherd meant that insurance coverage for future claims would be placed at risk. By choosing to shepherd, it is possible that the claim will never be filed. We shall see.

Make no mistakes, the decision VPC made took courage and may have significant costs. Nonetheless, it is refreshing to know that VPC placed the victims first. That's what Good Shepherds do.

**\*Every ministry should have a safety system in place that includes Awareness Training, tailored policies & procedures, and an effective screening system (which includes but is not limited to a background check). Though it is possible to have an outcry even with a working system in place, it is far less likely.**

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*address child safety risks related to sexual abuse. For additional information concerning safety systems and tools designed for the churches and schools, see [www.MinistrySafe.com](http://www.MinistrySafe.com).*

*MinistrySafe provides tools assisting church and school administrators with each safety system element referenced in this article. MinistrySafe members have access to sexual abuse awareness training online, skillful screening forms, policies and procedures and a customized Administrative Control Panel, which tracks training, background checks, applications, interviews and references.*