

# TEXAS

# Child Abuse Reporting Guide

# **TEXAS CHILD ABUSE REPORTING GUIDE**

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# CHILD ABUSE REPORTING REQUIREMENTS

## REPORTING CHILD SEXUAL ABUSE

Every church or ministry will encounter sexual abuse issues, whether in the form of allegations from within the ministry or from a child's *core world* or *home environment*. Where suspicions or allegations of abuse are concerned, every ministry should create a Child Sexual Abuse Response Plan (See **Appendix 1**).

Every ministry's Response Plan should include *abuse reporting policies* complying with the mandatory reporting requirements of the respective state. Texas reporting requirements are provided below, highlighting key provisions and accompanying Best Practices.

Note: Child Sexual Abuse (perpetrated by an adult) and Peer-to-Peer Sexual Abuse (perpetrated by another child) are reportable events – *both involve sexual abuse of a child*. Consider the following simplified definitions:

### **Child Sexual Abuse:**

Any tricked, forced, manipulated or coerced sexual activity for the pleasure of the abuser.

### **Peer-to-Peer Sexual Abuse:**

Sexually harmful behavior between children involving an *aggressor* and a child who does not seek out or want the sexual interaction.

## TEXAS CHILD ABUSE REPORTING LAW

Texas child abuse and neglect reporting requirements are found in Chapter 261 of the Texas Family Code (TFC). Legal reporting requirements change constantly; ministry leaders must stay abreast of state and federal changes in the law.

### TEXAS

Local Law Enforcement Agency ..... Call 911

Statewide Child Abuse Hotline ..... 800-252-5400

### Mandatory Reporters [Section 261.101](#)

(a) A person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person (\*1) shall immediately make a report as provided by this subchapter.

(b) If a professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under [Section 21.11](#), Penal Code, and the professional has reasonable cause to believe that the child has been abused as defined by [Section 261.001](#), the professional shall make a report not later than the 48th hour after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under [Section 21.11](#), Penal Code. A professional may not delegate to or rely on another person to make the report. (\*2) In this subsection, 'professional' means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or healthcare facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

\*1 Under Texas law, Peer-to-Peer Sexual Abuse is reportable. Commonly, individuals hesitate to report abuse when the alleged wrongdoer is another child. Section 261 requires a report if a child is abused or neglected *by any person*.

**\*2** 'Professionals' cannot delegate the reporting obligation – the 'professional' must make the report. Section 261.101(b) then lists specific professions for clarification. Each profession listed relates to a form of licensure. Though Section 261.101(b) describes 'teachers' as professionals, it does not specify whether that term is limited to *licensed teachers* or, alternatively, includes every individual providing instruction to children, in any context. When in doubt, err on the side of broader interpretation and application.

### **Definition of a Child** [Section 101.003](#)

In reporting child abuse and neglect, Texas defines a child -in Subsection (a)- as any person under 18 years of age.

### **Confidentiality** [Section 261.101](#)

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

- (1) as provided by [Section 261.101](#); or
- (2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

### **NO Anonymous Reporting** [Section 261.104](#)

On June 9, 2023 House Bill 63 was signed into law. HB63 removes the availability of an anonymous report of child abuse or neglect – effective September 1, 2023.

#### [Section 261.104](#)

- (a) The individual making a report shall identify ...
- (4) the individual's name and telephone number;

#### [Section 261.104](#)

- (b) **If the individual making a report of child abuse or neglect** uses the toll-free telephone number the department operates for reporting child abuse or neglect and the individual **is unwilling to provide the information described by Subsection (a)(4)**, the department representative receiving the report shall notify the individual that:
- (1) **the department is not authorized to accept an anonymous report of abuse or neglect;**

### **NO Clergy Privilege** [Section 261.101](#)

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

Section 261.101  
NO clergy privilege exists in Texas.

# REPORTING PROTECTIONS

## IMMUNITY – CHILD ABUSE & NEGLECT

In Texas, *every adult* is a mandatory reporter of child abuse and neglect. When a report is made to Texas authorities in good faith, the reporter enjoys immunity from civil and criminal liability. Every report is legally *presumed* to be made in 'good faith' (without malicious intent). See [Section 261.106\(a\)](#):

### IMMUNITIES.

(a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

## IMMUNITY – DISCLOSING SEXUAL MISCONDUCT

A significant betrayal of trust occurs when a ministry leader engages in sexual misconduct. When a *child* is the victim of the sexual misconduct, the Texas reporting requirement is *mandatory*, and the reporter receives statutory protection from civil or criminal legal liability. See [Section 261.106\(a\)](#).

If sexual misconduct occurs in the context of a *counseling relationship*, the Texas reporting requirement is *mandatory*, and the reporter receives legal protection from civil and criminal liability. See [Section 81.006](#).

Other forms of sexual misconduct do not require a mandatory report (i.e., sexual harassment, extra-marital affairs, solicitation of prostitution). Nonetheless, information about a ministry leader's sexual misconduct is relevant to any ministry employing the bad actor – particularly if the ministry leader is using or abusing a ministry position to initiate or facilitate the misconduct.

When a ministry dismisses a ministry leader for sexual misconduct, and the bad actor seeks (or secures) a position at another church, is the ministry safe to communicate with the second church without fear of being sued?

In the past, church leaders may have been aware of the misconduct, but some were unwilling to communicate to subsequent ministry employers for fear of legal action threatened by the bad actor.

In June 2019, the Texas legislature enacted Section 84.0066 of the Texas Civil Practices and Remedies Code (see **Appendix 2**), which provides immunity to any ministry leader [Ministry Leader No. 1] who – acting in good faith – communicates information about sexual misconduct of another ministry leader [Ministry Leader No. 2] to Ministry Leader No.2's current or prospective employer. See [Section 84.0066](#):

**LIABILITY FOR DISCLOSING SEXUAL MISCONDUCT.**

(a) A charitable organization [Church], or an employee, volunteer or independent contractor of a charitable organization, acting in good faith, is immune from civil liability for any act to disclose to an individual's current or prospective employer information reasonably believed to be true about an allegation that an individual who was employed by or served as a volunteer or independent contractor for the charitable organization or its associated charitable organizations:

- (1) engaged in sexual misconduct;
- (2) sexually abused another individual;
- (3) sexually harassed another individual; or
- (4) committed an offense under any of the following provisions of the Penal Code ... .



# ADDITIONAL REPORTING OBLIGATIONS

## OVERVIEW

Beyond reporting to relevant authorities, some circumstances may require additional reporting and communication.

## NOTIFYING YOUR INSURANCE CARRIER

Reporting allegations or suspicions of child abuse or neglect to relevant authorities is *the law* in the state of Texas; failure to do so is a CRIME. Reporting this information to a ministry's *insurance carrier* is a *contractual* obligation, rather than an obligation under state law; failure to do so may have contractual consequences affecting a ministry's *insurance coverage*.

### Policy Notice Provision

Every ministry should purchase appropriate insurance coverage, including coverage related to Sexual Abuse and Molestation (SAM Coverage) or Sexual Misconduct Coverage. Every insurance policy contains a 'notice' requirement similar to this:

*In the event the insured [ministry] receives information concerning facts that could give rise to a claim, the insured is required under this policy to notify the insurance carrier immediately, but not later than 24 hours after receipt of this information.*

If a circumstance related to sexual abuse includes a fact pattern which *could* give rise to a claim (lawsuit) against the church or ministry, this notice provision requires the ministry to notify its insurance carrier. (*Clearly a report to authorities should have already occurred.*)

### Failure to Notify Carrier

Failure to notify the carrier in this circumstance can result in a 'reservation of rights' or denial of coverage by the carrier. Either scenario places the ministry in an adversarial position with its insurance carrier; not a desirable status while navigating a crisis.

## NOTIFYING PARENTS, CONGREGATION AND STAKEHOLDERS

Though not legally required or contractually mandated, notifying parents, members of the congregation and ministry stakeholders is imperative, particularly if the alleged abuser was a ministry staff member, volunteer or lay leader. *What* to communicate and *to whom* is driven by the specific fact pattern. See the Sexual Abuse Response Plan (See **Appendix 1**) for guidance related to these communications.

# OVERCOMING OBSTACLES TO REPORTING

## OVERVIEW

Every state in the United States, including Texas, has mandatory reporting requirements decreed by state law: when a mandatory reporter gains knowledge of or suspects abuse or neglect of a child, that individual is required to report to designated authorities. The consistent message from state and federal lawmakers, child advocacy organizations, insurance organizations and risk managers is this: *when in doubt, REPORT.*

Regardless of clear legal requirements mandating the report of child abuse and neglect – and the reality that *failure to report* is a crime – *ministry leaders continue to struggle with this obligation.* To avoid the common pitfalls, ministry leaders must understand common misconceptions about sexual abuse and sexual abusers that lead to failure to report. By replacing misconceptions with factual information, ministries can avoid these failures, providing a clear pathway for a *correct response* that may feel or seem counterintuitive. Listed below are the most common obstacles to reporting.

### ***“WHAT IF I AM WRONG?”***

Many individuals struggle with the thought: *What if I’m wrong?* What if I make this report, impact this person’s life, and I’m *wrong*?

Hesitation in reporting Child Sexual Abuse is common, particularly in circumstances where ministry staff members or leaders lack an understanding of sexual abuse, sexual abusers, legal requirements and ramifications to the victim. When sexual abuse is alleged or reasonably suspected, leaders know the next step may have significant consequences – for the ministry, for the child and for the alleged bad actor/abuser.

At this juncture, too often the focus of ministry leaders is on the alleged bad actor:

- “If I call authorities, it can ruin this employee’s career, marriage, reputation...”
- “This child is accusing someone I know...I cannot imagine him doing this.”
- “When I asked her about it, she denied any inappropriate touch.”
- “This is simply what the child said...and I have no proof.”
- “This child may be making this up – should I believe a trusted staff member or a *child*?”

Here’s the reality: by creating very broad reporting obligations and requiring that *all* allegations *and* reasonable suspicions of abuse be reported, the Texas legislature has

decided that the safety and welfare of the *child* outweigh any inconvenience to an *adult* (or another child, in Peer-to-Peer sexual abuse scenarios).

**Reporting Principle: the safety and welfare of the child outweighs any inconvenience to an adult.**

In addition, when an adult or older child is the subject of a report to authorities, the alleged bad actor has *significant* due process and legal rights in any investigative process and criminal prosecution. When *no* report is made, the child victim receives *no due process*.

Worse, the child joins thousands of abuse survivors who draw damaging conclusions from the experience, including:

- “No one believes me.”
- “They believe my abuser instead of me.”
- “There is no point in speaking out; I will never be believed.”
- “Somehow, it was my fault.”
- “I was powerless to stop it, and will be powerless to stop it in the future.”
- “There is no justice here for me, or others.”
- “This is not a safe place for me.”

At this point, ministry leaders are at a crossroad: *make a report or not*. When a report is made, the accused adult (or older child) may engage in the process to prevent injustice. When the report is *not* made, the child may continue to experience abuse...*and additional trauma from the silence of those who failed to report*.

### **FEAR OF FALSE ALLEGATIONS**

One of the most unfortunate reasons for failure to report is the fear of reporting a *false allegation*, thereby creating hardship for the individual accused. This fear is pervasive, notwithstanding mandatory reporting requirements, and has great likelihood of causing further damage to an abuse victim. In reality, false allegations are RARE; in general, children don't fabricate or 'make up' allegations of sexual abuse.

**False allegations of child sexual abuse are rare: less than 3%.**  
*(Center for Disease Control)*

### ***False Allegations are RARE***

Statistically, false allegations of Child Sexual Abuse are *rare*. The Center for Disease Control (CDC) and numerous academic studies indicate false allegations are uncommon: *less than 3%*.

The majority of allegations determined to be false are *made by adults* on a child's behalf in the context of divorce and custody disputes. When an allegation is communicated by the child – *even if subsequently recanted in an effort to please family members or others* – more than 98% of allegations are factual. In most circumstances, a child's outcry provides only a fraction of the actual abusive experience. In general, *children don't fabricate an allegation*.

The point is this: *the great majority of abuse allegations are factual and should be taken as truth*. Not only should the child be believed, it can generally be assumed that the child has endured *more* abusive behavior than what has been communicated. Further, state and federal reporting requirements do not require *proof or corroboration*, the reporting requirement is triggered by *receiving an allegation* or forming a *reasonable suspicion* of abuse or neglect.

### ***Legislative Balance: Protect the Child***

Clearly, reporting requirements were intentionally crafted to initiate communication with a low threshold of information – even if an alleged bad actor is inconvenienced by the report. This is intentional on the part of state and federal legislative bodies: the safety of the child outweighs inconvenience to the alleged bad actor. Legislative bodies have balanced the possible inconvenience and injury to an accused adult (or older child) and found it to be insufficient to overcome the compelling interest of *protecting vulnerable children*.

### **GROOMING THE GATEKEEPERS**

Circumstances giving rise to a report of sexual abuse are rarely convenient, easy or unemotional. Instead, allegations typically involve behavior that is *difficult to believe* about an individual who is *difficult to suspect*. Keep in mind: false allegations are rare – the majority of outcries are truthful and factual.

In some circumstances, ministry leaders fail to report due to a fundamental lack of understanding of the *preferential offender*. Preferential offenders, who *prefer* a child as a sexual partner, generally have an *age and gender of preference* (e.g. *pre-pubescent females* or *adolescent males*). These offenders *groom* children for sexual abuse, and, in addition, *groom the gatekeepers* surrounding the targeted child, working to have parents, supervisors and co-workers believe them to be helpful, trustworthy and responsible.

When a ministry supervisor has been *groomed* as a gatekeeper, he or she rarely remains objective, and this is intentional on the part of the offender. Almost without exception, offenders create opportunities for *trusted time alone* with the targeted child, and because he or she is now 'known' and trusted, an allegation or suspicion is more likely to be discounted by co-workers and supervisors.

## **HISTORICAL ALLEGATIONS**

Historical allegations – those that relate to alleged abuse occurring years or decades ago – have become common. In most circumstances, ministries should treat historical allegations as if the alleged abuse occurred *today*. Keep these two realities in mind: the United States has the best criminal justice system in the world, yet the system is clearly imperfect.

Two out of three children *don't tell* about abuse  
until adulthood, if ever.



In our current cultural context, two out of three children *don't tell* about abuse they have experienced until adulthood, *if ever*. This is further compounded by the fact that most children don't tell because "no one will believe me" (which, too often, is true). The Church must become more skilled at preventing abuse, recognizing signs and symptoms of abuse, and recognizing predatory behaviors and characteristics. A ministry's willingness to recognize and report suspicions of abuse forms a key element in protecting the children it serves.

If the historical allegation relates to behavior which occurred on your watch, in the context of your ministry, or the alleged abuser is a current or former staff member or volunteer, *report* to law enforcement. *Do not* assume that the passage of time makes a report time-barred or irrelevant; from a public perception standpoint, this looks like cover-up. In general, when in doubt ... *report*.

## **HEARSAY**

Some fail to make a report of child abuse because the information they learned about the suspected abuse was 'hearsay'.

### **Hearsay Defined *and Misapplied***

The legal definition of hearsay: *an out-of-court statement, made in court, to prove the truth of the matter asserted*. In a courtroom setting, the Rules of Evidence prefer the original source of a statement or utterance rather than a version of the statement being recounted by another. In short, 'hearsay' is a legal principle associated with forms of evidence that are admissible in a legal proceeding.

### **Suspicions of Abuse Include Hearsay**

The concept of 'hearsay' is often interpreted by lay people as follows: *I cannot report an abuse allegation because I heard about it from someone else – therefore, I cannot meet the evidentiary threshold for making a report*. Ministry leaders must not, however, confuse standards related to courtroom Rules of Evidence with Texas mandatory reporting requirements.

### **Texas Reporting Requirements**

The Texas legislature clearly created an 'evidentiary threshold' well below that required to prove a matter in a criminal or civil proceeding – in fact, it is the lowest possible threshold in law. Texas law requires every adult to report any SUSPICION of child abuse or neglect. *Suspicion* is not defined in the code section but is commonly understood to mean: *a feeling or thought that something is possible, likely or true*. Hearsay falls clearly within this broad definition. In fact, most *suspicions of abuse* originate from something learned from another.

In short, the Texas legislature intentionally created an extremely broad definition in order to receive as much information from as many individuals as possible in order to protect vulnerable children. Whether relevant information is 'hearsay' (or not) may play a role in subsequent criminal or civil proceedings, but 'hearsay' should never provide a basis for failure to report child abuse or neglect to the appropriate Texas authorities.

## Guiding principle: when in doubt, REPORT

### WILL MY IDENTITY BE KEPT CONFIDENTIAL?

Often the reporter is a relative, family friend, neighbor or has a role in the child's life, and is justifiably concerned about whether his or her identity will be disclosed if an investigation is initiated.

### Anonymous Reporting

As of September 1, 2023, Texas does not allow anonymous reporting.

### Confidentiality of Reporter Identity

As a general rule, the Texas reporting system *encourages* the reporting of child abuse and neglect. Texas prioritizes confidentiality of the reporter's identity with very defined parameters for protecting identity. [Chapter 261.101\(d\)](#) provides the following:

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

- (1) as provided by [Section 261.201](#); or
- (2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Typically, the reporter's identity is disclosed only to law enforcement in the context of a criminal investigation. In some cases, the reporting person's licensure status (i.e., Education Agency, Nursing Board, or other licensing body) may negate any expectation of privacy or confidentiality.

### Notifying the Parent or Caregiver

**Best Practice:** AFTER the report has occurred, informing the child's parent or caregiver may occur ONLY if the child is not thereby endangered by doing so. For example, if a child says she was molested by her mother's boyfriend who lives in the home, do not inform the child's mother: doing so may endanger the child. When in doubt, err on the side of protecting the child.

### SUMMARY – KNOWLEDGE DISPELS FEAR

In many cases, ministry leaders fail to report suspicions or allegations of child abuse due to fear: fear of what will happen *after* a report is made. Ministry leaders are more likely to report when they better understand mandatory reporting requirements and the

reporting process: what occurs 'behind the curtain'. If *every* reasonable suspicion or allegation of Child Sexual Abuse is simply reported by church leaders to appropriate authorities, the Church *and* its children are better protected.

# APPENDIX 1

## CHILD SEXUAL ABUSE RESPONSE PLAN

### BIG PICTURE QUESTIONS

- Will this issue/event define the church, in terms of public perception?
- What is the cost of managing (or mismanaging) a Child Sexual Abuse allegation?
- How will this reflect on the church's reputation within the community?
- Will the church's enrollment or census suffer?
- What is the impact on the congregation's trust in the church's *child-safe culture*?
- What may a Child Sexual Abuse claim or lawsuit cost the church?
- Is the church carrying adequate insurance coverage to address this specific risk?

### ADDRESSING A CHILD SEXUAL ABUSE (CSA) ALLEGATION

- Creating (and following) a defined *written* plan is imperative.
- Who manages the plan (e.g. Executive Pastor or other)?
- The PLAN must include contact information for critical individuals and entities, including:
  - Mandatory Reporting contacts (see below)
  - Attorney (with significant experience addressing CSA issues)
  - Insurance agent and carrier
  - PR or media contacts

### TEXAS REPORTING REQUIREMENTS:

#### Section 261.101

(a) **A person having reasonable cause to believe** that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person **shall immediately make a report** as provided by this subchapter.

### CONTACT LIST:

- Local law enforcement agency: **Call 911**; or
- Statewide Child Abuse Hotline: 800-252-5400.

### Information to Provide when Making a Report:

- Provide as much identifying information (ex. name, date of birth or age, sex) and locating information (ex. address, phone number, school) of the child, child's parents or other persons responsible for the child's care as possible
- Include as much detail about the incident(s) or concern(s) as possible
- If the answer to a question is unknown, simply explain that it is unknown
- Any other information that the person making the report believes may be helpful





## CHILD SEXUAL ABUSE REPORTING PLAN

- Create *clear instructions* if a mandatory report to authorities is necessary:
    - To whom and within what timeframe to report (Report 'immediately' by telephone or in person, followed by a written report, if requested, within 48 hours).
    - Required information for report.
    - Request the name of the person to whom the report is given and the file number.
  - Document the report in writing, including the date and time of the report (ONLY FACTUAL INFORMATION, *no speculation*).
- Remember, when in doubt, REPORT.***
- Failure to report isn't just a bad idea, IT'S A CRIME, with criminal penalties!
  - Reporting must occur *regardless* of the desires of the child or his/her parents.
  - NEVER promise confidentiality to a child where child abuse is alleged or suspected.
  - Create a partnership with local law enforcement for reporting purposes.
  - Create known, easy access to critical documents:
    - Insurance policies
    - Texas Reporting Requirements
    - Contact information for critical individuals or entities
  - Designate a media/information point-person:
    - WHO will speak on behalf of the Church, and WHO SHOULD NOT?
  - If child abuse is alleged to have occurred *within a Church ministry program*, immediately put the Church's insurance carrier **ON NOTICE, in writing**.
  - Create a communication tree (phone/email/text) to inform key individuals, church staff members, and stakeholders.

## VICTIMS/VICTIMS' FAMILIES

- All actions should occur from a VICTIM-CENTRIC perspective.
- Remember, **FALSE ALLEGATIONS ARE RARE!**
- Avoid any defensive posture that prioritizes REPUTATION over CARE.
- DO NOT IDENTIFY the victim(s) to the public or the congregation.
- Offer counseling with a licensed professional counselor of the victim's choice.
- Communicate with the victim(s) and their families:
  - Communicate early and often.
  - Listen with an empathetic ear.
  - Set aside organizational defensiveness or justifications.
  - Understand that parents will need to VENT.
  - Victims and families may be understandably angry!
  - **EFFECTIVE COMMUNICATION AND CARE IS MORALLY RIGHT and ETHICALLY CORRECT.**

In general, abuse survivors sue a ministry based upon how they are treated *after* the allegation is communicated to ministry leaders.
- The victim's comfort should take priority over any desire to continue to support or provide ministry services to the (alleged) abuser.
  - Ex: In a Peer-to-Peer Sexual Abuse scenario, the comfort and emotional protection of the non-aggressor (victimized) child should be prioritized.

*The church may not be able to continue to provide ministry services to the aggressor child.*
- NEVER require the victim(s) to confront the alleged abuser.
- NEVER require *cheap forgiveness* of the alleged abuser from the victim.
- NEVER assume that *repentance* from the abuser is real or conclusive.
- NEVER give a known, admitted or credibly accused abuser access to children.
- How will the church manage gossip and backlash in the community?
  - In many cases, a group of children or families will support a well-liked staff member; keep in mind: '*Molesters Groom the Gatekeepers*'.
- How will the church prevent bullying behaviors aimed at alleged victims?

(For example: "She brought it on herself. She's a ....")

  - Plan to manage subsequent bullying behaviors.
  - Staff awareness is *key*.
  - Social media may be used negatively (e.g. Facebook page to "save the staff member").
- How will the church provide aftercare to affected children and parents?

**Initially, if the alleged abuser serves as your staff member or volunteer, provide external counseling options with a licensed professional counselor, rather than 'in house'. At the same time, Christ-based care and support are ALWAYS appropriate.**



## PARENTS/STAKEHOLDERS

Communicate with families immediately.

**Effective and immediate communication with parents is critical.**

- Discuss: How is this best addressed in various Church programs?
- Avoid gridlock – What are the customary communication lines?
- Who receives priority in the communication process?
- Start with those more directly impacted and work OUT; direct others to the website or more general forms of communication.

### Common Questions from Parents/Stakeholders:

- Has the Church fired him/her yet?
- Why hasn't the Church fired him/her yet?
- Did the Church undertake a thorough Background Check when he/she was hired?
- What are the Church's hiring practices?
- What will the Church do to prevent this from happening again?
- Who will take over the alleged abuser's responsibilities?
- Is it safe to bring my child back?
- What are you doing at the Church to protect children from abuse?

## CHILDREN IN PROGRAM

- Identify and meet with children (through parents) who *may* have been impacted.  
**DO NOT INTERFERE WITH ANY ONGOING CRIMINAL INVESTIGATION.**
- Include parents when communicating with children in the program; particularly important with children 13 and under.
- All should hear the same information, rather than garbled expressions or different 'facts'.
- Use caution when creating written materials to send home with children; assume written materials will be shared.

## STAFF MEMBERS

- Briefings and debriefings:
  - Information provided to staff members should be uniform, but may be specific to hierarchy; upper leadership getting needed detail.
  - Allow discussion in a closed and safe setting.
- Employee assistance programs - counseling resources:
  - Provide resources for self-care.
  - Identify resources for counseling care.
- Longer-term follow-up:
  - Follow-up with individuals close to circumstance: co-workers, and/or friends.
- Expect to deal with staff members' anger, sense of betrayal and disappointment.





## LEGAL COUNSEL

- Clearly identify skilled legal representation conversant with sexual abuse issues.
- How will the Church address allegations of wrongdoing against the ministry?
- How will the Church address potential wrongful termination issues?

## INSURANCE CARRIER – COVERAGE FOR CHILD SEXUAL ABUSE ISSUES:

- Identify insurance agent: is the agent knowledgeable concerning sexual abuse?
- Review coverage for critical incidents and occurrences of this nature.
- Does the Church have adequate insurance coverage, given the current environment?
- Does existing insurance policy have an exclusion, endorsement, qualification or limitation of coverage for matters related to sexual abuse or sexual misconduct?
- IF an allegation or suspicion of abuse relates to a Church employee or volunteer, immediately put the carrier ON NOTICE, *in writing*.

## MEDIA MANAGEMENT

How will the Church proactively provide information to stakeholders and manage media?

- Who is responsible for media communications?
- How will the Church address news reporters calling Church leaders?
- How to address news reporters calling staff members OUTSIDE the church?
- How will the Church monitor local press coverage and social media posts?
- How will the Church manage media on campus (physically), or on adjacent property?
- How will the Church utilize social media, if at all? (If social media is utilized to provide and direct communication regarding an allegation, do so very carefully.)
- ONE designated individual should speak on the Church's behalf.

If other staff members or volunteers are contacted:

*"We take child safety **very** seriously. In order to get you the most accurate information, let me give you \_\_\_\_\_'s phone number (designated staff)."*

## Common Questions from Media:

- Please comment on the incident....  
*"We want to let law enforcement do their jobs without interference or speculation. We take child safety **VERY** seriously at \_\_\_\_\_ Church. This is why we reported the allegation immediately when it was communicated to one of our staff members."*
- Is this worker still employed? Is this volunteer still involved?  
*"The staff member/volunteer is taking a leave of absence during the pending investigation OR is working in a position where he/she is not interacting with children."*

- Could there be more than one victim? Have other children been impacted?  
“Our top priority is the protection of children. We are fully cooperating with law enforcement in its investigation. At this point, we are not aware of any other victims. OR At this point, we are taking steps to determine what steps should be taken to more effectively protect children in \_\_\_\_\_ Church programs.”
- When did you first hear about the allegations?  
“In accordance with our policy, the allegation was reported immediately, after it was communicated to one of our staff members.”
- Can you give us details about the charges?  
“We are fully cooperating with law enforcement, who are currently investigating. We don’t want to interfere with the investigation in *any* way, so we can’t discuss details at this point.”
- Have you seen the evidence (text messages/photos, etc.)?  
“We are fully cooperating with law enforcement, who are currently investigating. We don’t want to interfere with the investigation in *any* way, so we can’t discuss details at this point. OR We’ve been instructed by law enforcement to limit discussion of details so that the investigation can proceed effectively.” (A common occurrence)
- Was the alleged abuser screened (Background Check, etc.)?  
“All \_\_\_\_\_ Church staff members or volunteers who work with children complete a Background Check and stringent screening process, including an application, interview and reference checks. This process was created by child protection experts.”
- Has he/she been charged with anything like this in the past?  
“No. All \_\_\_\_\_ Church staff members and all child-serving volunteers complete a Background Check and stringent screening process, including an application, interview and reference checks. This process was created by child protection experts.”
- Has the Church fired the alleged abuser? Why? Why not?  
In order of preference:
  - “The staff member has been terminated from employment OR is taking a leave of absence during the pending investigation OR is working in a position where he/she is not interacting with children.”
  - “The volunteer has been suspended from all interaction with children during the pending investigation.”

## ADMITTED BEHAVIOR

After an allegation or suspicion of abuse is reported:

- If abusive behavior is admitted, in part or whole, immediately terminate the employee or volunteer and communicate that he or she is no longer welcome on Church property.

## **'AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE!'**

- Implement an effective Safety System.
- Utilize effective training: educate staff members and volunteers to recognize *the abuser's grooming process* and *common grooming behaviors*.
- Hiring processes: SCREEN your staff members and volunteers.
- Understand what an effective Background Check does, or does not, accomplish.
- Will staff members know to tell, *and whom to tell?*
- Foster a culture of communication: *if you see something, say something*.

## **APPENDIX 2**

### **CIVIL PRACTICE AND REMEDIES CODE, SECTION 84.0066**

6-10-2019

#### CIVIL PRACTICE AND REMEDIES CODE

#### TITLE 4. LIABILITY IN TORT

#### CHAPTER 84. CHARITABLE IMMUNITY AND LIABILITY

##### Sec. 84.0066. LIABILITY FOR DISCLOSING SEXUAL MISCONDUCT.

(a) A charitable organization, or an employee, volunteer, or independent contractor of a charitable organization, acting in good faith, is immune from civil liability for any act to disclose to an individual's current or prospective employer information reasonably believed to be true about an allegation that an individual who was employed by or served as a volunteer or independent contractor for the charitable organization or its associated charitable organizations:

- (1) engaged in sexual misconduct;
- (2) sexually abused another individual;
- (3) sexually harassed another individual; or
- (4) committed an offense under any of the following

provisions of the Penal Code:

(A) Section [20A.02](#) (a) (3), (4), (7), or (8) (sex trafficking of persons);

(B) Section [20A.03](#) (continuous trafficking of persons), if based partly or wholly on conduct that constitutes an offense under Section [20A.02](#) (a) (3), (4), (7), or (8);

(C) Section [22.011](#) (sexual assault) or 22.021 (aggravated sexual assault); or

(D) Chapter 21 (sexual offenses) or 43 (public indecency).

(b) Immunity from civil liability under Subsection (a) applies in relation to an allegation described by that subsection that was required to have been reported as abuse under Chapter [261](#), Family Code, only if the allegation has been, at the time of the act to disclose, previously reported to an appropriate agency under Section [261.103](#), Family Code.

(c) An individual is not immune under this section from civil or criminal liability for:

(1) disclosing the individual's own conduct that constitutes:

(A) sexual misconduct;

(B) sexual abuse of another individual;

(C) sexual harassment of another individual; or

(D) an offense under any of the following provisions of the Penal Code:

(i) Section [20A.02](#) (a) (3), (4), (7), or (8) (sex trafficking of persons);

(ii) Section [20A.03](#) (continuous trafficking of persons), if based partly or wholly on conduct that constitutes an offense under Section [20A.02](#) (a) (3), (4), (7), or (8);

(iii) Section [22.011](#) (sexual assault) or 22.021 (aggravated sexual assault); or

(iv) Chapter 21 (sexual offenses) or 43 (public indecency); or

(2) acting in bad faith or with a malicious purpose in making a disclosure described by Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 925 (H.B. [4345](#)), Sec. 1, eff. June 10, 2019.