

CHILD SEXUAL ABUSE PREVENTION POLICY

Objectives for establishing a child sexual abuse policy:

1. To establish a familiarity with the problem of child sexual abuse as a general problem in society and the church.
2. To increase awareness of the symptoms and consequences of child sexual abuse.
3. To underscore the church's vulnerability to child sexual abuse.
4. To create an understanding of liability concerns and church policy guidelines pertaining to screening, supervision, and reporting.
5. To provide instruction on worker selection and worker training.
6. To describe the church policies governing ministry to children and youth.
7. To encourage worker commitment to follow church policies.
8. To discourage child abuse offenders from infiltrating the children ministries at FBC.

PROCEDURES FOR REDUCING THE RISK OF CHILD SEXUAL ABUSE

- I. Worker Selection
 - A. All workers require screening -- Both Paid and Volunteer
 1. Primary Screening Procedures
 - a. For all paid church workers who work with minors, including the pastoral staff or workers who are not members of the church.
 - b. The Primary Screening Procedures includes the following items:
 1. Employment application
 2. Screening form
 3. Personal interview
 4. Reference checks
 5. Criminal records check authorization form -- if necessary
 2. Secondary Screening Procedures

- a. To be used only with volunteer church regulars and members, who have been attending for at least 6 months and desire to work with youth or children. Examples of appropriate use would be Sunday School teachers and aides, workers and Day Camp workers, nursery workers and Junior Church.
- b. The secondary screening procedures includes the following items:
 1. Screening form.
 2. Personal interview at beginning of ministry with children; interview and oral review of the filled out screening form by department head or committee.
 3. Reference checks and child abuse background check, if necessary.
 4. The request for criminal records form will be processed only if deemed necessary.

II. Supervising Church Worker Procedures (Sunday School, Youth and children clubs, Day Camp, Nursery and Junior Church)

A. General Rules

1. The Two Adult Rule

Two adult supervisors should be present during any church activity. One of the adults should be a parent or someone over 21 years of age.

2. The Six Month Rule

Workers should only be permitted to work with youth or children after they have been regular attendees of the church for a period of time (six months).

3. Church Nursery Identification

Children and the children's parents or guardian will be clearly identified.

a. A Bulletin Board in the nursery with photographs of all parents and children who use the nursery will be maintained. (Photographs should be taken twice a year).

b. When a new family arrives, pictures of the parent(s) and child/children will be taken and posted.

c. Nursery workers will release the child/children only to the adult(s) in the picture unless parental or guardian permission is given ahead of time.

4. Sunday School and Children's Church

Teachers will release children only to the parents/guardian of the child.

Visiting children and parents will be given numbered tags and teachers will release the child after the tags have been checked.

5. The head or committee for each department (nursery, junior church, youth clubs, Day Camp, etc.) should make sure that each present worker and new worker has filled out a child prevention screening form. The forms should be given to the pastors for filing in the church office records.

B. Recognizing Suspicious Behavior

Church workers and staff should confront any inappropriate conduct or relationships between an adult worker and a child or youth should be confronted immediately and investigated.

Church workers and staff should be alert to the physical signs of abuse and molestation, as well as to behavioral and verbal signs that a victim may exhibit. Some of the more common signs are summarized below.

Physical signs may include one or more of the following:

- * lacerations and bruises
- * nightmares
- * irritation, pain, or injury to the genital area
- * difficulty with urination
- * discomfort when sitting
- * torn or bloody underclothing
- * venereal disease

Behavior signs may include:

- * anxiety when approaching church or nursery area
- * nervous or hostile behavior toward adults

- * sexual self-consciousness
- * “acting out” of sexual behavior
- * withdrawal from church activities and friends

Verbal signs may include the following statements:

- * I don’t like [a particular church worker].
- * [A church worker] does things to me when we’re alone.
- * I don’t like to be alone with [a church worker].
- * [A church worker] fooled around with me.

Definition of Sexual Abuse, “Reducing the Risk”, p. 13,14

III. Reporting Procedures For Church Workers

A. Reporting Obligations

The church has a legal and moral obligation to report any questionable or inappropriate behavior.

Under California law, with some limited exceptions, “child abuse” means a physical injury which is inflicted by other than accidental means, cruel or unjustifiable punishment, sexual abuse, unlawful corporal punishment, or neglect of child in out-of-home care. [California Penal Code Section 11165.6]. Child care custodians must report abuse to a child protective agency when they have knowledge of, or observe, a child whom they know or reasonably suspect has been the victim of child abuse. [California Penal Code Section 11166, subd. (a).]

Child care custodians may be mandatory or permissive reporters. Mandatory reporters include teachers, employees of public or private youth centers, day care centers, foster parents, employees and administrators of public or private organizations whose duties require direct contact with and supervision of children. Volunteers at churches are permissive reporters, which mean they and are “encouraged” to obtain training in the identification and reporting of child abuse. [California Penal Code Section 11165.7.]

B. Line of Reporting

Fellowship Bible Church’s policy requires that the Senior Pastor receive reports on known or suspected child abuse. Under California Law, the Senior Pastor must inform a child protective agency as soon as possible by telephone. Within 36 hours of receiving the information, the Senior Pastor must prepare and send a written report to the agency. [California Penal Code Section 11166.]

C. Contents of Report

The telephone report must include the name of the person making the report, the child's name, present location, nature and extent of injury to the child, and any other information that led the person making the report to suspect child abuse, or that the agency requests. [California Penal Code Section 11167, subd. (a).]

D. Liability for Failure to Report

A pastor is subject to criminal prosecution and conviction for failure to report known or suspected child abuse.

IV. Responding to Actual Allegations of Abuse

A. Preparation

1. All allegations needed to be taken seriously and reported to his or her department head or deacon.
2. Situations must be handled forthrightly with due respect for people's privacy and confidentiality.
3. Immediately contact insurance carrier.
4. Full cooperation to be given to all reasonable and lawful requests from civil authorities.
5. Following verification of allegations, adequate care must be shown for the well-being of the victim(s).
6. The child victim should not be held responsible in anyway.

B. The Response Plan

1. Maintain Adequate Records

Adequate records of workers' application, references, and screening forms. They should be up-to-date and accessible. This will be the responsibility of the church secretary.

2. Designated Spokesperson

The Senior pastor or legal representative will speak for the church.

He will present a clear position statement of the church position which states the church policies and establish safeguards against sexual abuse. He will not engage in denial, minimization, or blame.

B. Guidelines For An Actual Allegation of Sexual Abuse.

In the case of an actual allegation the following guidelines will be used:

1. Document all efforts at handling the incident.
2. Report the incident immediately to the church insurance company attorney.
3. Contact the proper civil authorities following the guidance of the insurance company and attorney. Do not attempt an in-depth investigation.
4. If circumstances warrant it, the victim's parents will be notified.
5. Do not confront the accused until the safety of the child or youth member is secured.
6. Do not rejudge the situation, take the allegations seriously and reach out to the victim and the victim's family.
7. Treat the accused with dignity and support. If the accused is a church worker, that person should be relieved temporarily of his or her duties until the investigation is finished. If the person is a paid employee, arrangements should be made to either maintain or suspend his or her income until the allegations are cleared or substantiated. Church workers will have no contact with children while allegations are pending.
8. Use a prepared text to answer the press and convey news to the congregation, using care to safeguard the privacy and confidentiality of all involved.

Fellowship Bible Church Children and Youth Workers' Prevention and Screening Policies

Fellowship Bible Church is implementing a prevention and screening policy for children and youth workers to continuously provide a safe and secure environment for the minors to learn and grow in Christ. We also intend to protect volunteer and compensated workers from any false accusations by providing adequate supervision during church sponsored activities.

Why Churches And Church Leaders Are Sued

("Reducing the Risk of Child Sexual Abuse in Your Church", p. 22)

Most of the lawsuits filed against churches for acts of child molestation have alleged that the church was legally accountable either on the basis of *negligent hiring* or *negligent supervision*. Both theories of liability are pivotal issues. The term *negligence* generally refers to conduct that creates an unreasonable risk of foreseeable harm to others. It connotes carelessness, heedlessness, inattention, or inadvertence. Negligent hiring simply means that the church failed to act responsibly and with due care in the selection of workers (both volunteer and compensated) for positions involving the supervision or custody of minors. A church may exercise sufficient care in the hiring of an individual, but still be legally accountable for acts of molestation on the basis of negligent supervision. Negligent supervision means that a church did not exercise sufficient care in supervising a worker.

Churches need to understand the extent of their liability. Churches are not "guarantors" of the safety and well-being of children. They are not absolutely liable for every injury that occurs on their premises or in the course of their activities. Generally, they are responsible only for those injuries that result from their negligence. Victims of molestation who have sued a church often allege that the church was negligent in not adequately screening applicants or for not providing adequate supervision.

The following policies and procedures that provide safeguards against child sexual abuse will be dealt with in four areas.

1. Worker Screening
2. Worker Supervision
3. Reporting Obligations
4. Responses to Allegations

Screening Form For Children Or Youth Work

Confidential

Fellowship Bible Church

This application is to be completed by all applicants for any position (volunteer or compensated) involving the supervision or custody of minors. This is not an employment application form. Persons seeking a position in the church as a paid employee will be required to complete an employment application in addition to this screening form. It is being used to help the church provide a safe and secure environment for those children and youth who participate in our programs and use our facilities.

1. Persons convicted of child sexual abuse should not volunteer to serve in the children's or youth ministry.
2. The FBC church family loves and accepts adult survivors of sexual and physical abuse. Survivors of abuse recognize the need to discuss their desire to work with children or in the youth ministry with a pastor before beginning to serve.
3. Before working with children or in the youth ministry, adult volunteers must be attending FBC for at least six month.
4. Volunteers must never violate the "Two Adult Rule," which prohibits volunteers from being alone with children or youth.
5. Volunteers should report abusive or inappropriate behavior to the Senior Pastor and the department head.

Personal

Date _____

Name _____
Middle Last First

Identity must be confirmed with a state drivers license or other photographic identification.

Present address: _____

City _____ State ____ Zip _____ Home Phone (____) _____

Please indicate the type of youth or children's work you prefer _____

Please indicate the date you would be available to begin _____

What is the minimum length of commitment you can make? _____

Have you ever been convicted of or pleaded guilty to a crime?

Yes (If yes, please explain --- (attach a separate page, if necessary) _____

No

Were you a victim of abuse or molestation while a minor?

Yes

No

Prefer to talk to an elder

If you prefer, you may refuse to answer this question, or you may discuss your answer in confidence with an elder rather than answering it on this form. Answering yes, or leaving the questions unanswered, will not automatically disqualify an applicant for children or youth work.

Do you have a current driver's license?

Yes

No

Current CA I.D. card

If yes, please state the license number, class, date issued, and any restrictions:

Has your license ever been suspended or revoked for any reason?

Yes

No

If yes, please explain the circumstances, including date, place (including county where case was heard, if applicable), reason for revocation or suspension, whether your license was restored, and under what conditions, if any:

Church History and Prior Youth Work

Name and address of church of which you are a member: _____

List (name and address) other churches you have attended regularly/have been a member of during the past ten years: _____

Please state reason for leaving of each church in which you have been a member of:

List all previous church work involving youth (list each church's name and address, type of work performed, and dates) _____

List all previous non-church work involving youth (list each organization's name and address, type of work performed, and dates) _____

List any gifts, callings, training, education, or other factors that have prepared you for children or youth work: _____

REFERENCE INFORMATION

List four people who have supervised your previous work with youth or children, if any, or who have known you for at least five years. Include organizations or contact's name, address and phone number and relationship to you. Do not list relatives, or employers (unless your job included working with children).

Name _____

Name _____

Organization/Supervisor _____

Organization/Supervisor _____

Address _____

Address _____

Telephone _____

Telephone _____

Name _____

Name _____

Organization/Supervisor _____

Organization/Supervisor _____

Address _____

Address _____

Telephone _____

Telephone _____

Applicant's Statement

The information contained in this application is correct to the best of my knowledge. I authorize any references or churches listed in this application to give you any information (including opinions) that they may have regarding my character and fitness for children or youth work. In consideration of the receipt and evaluation of this application by Fellowship Bible Church, I hereby release any individual, church, elders, youth organization, charity, employer, reference, or any other person or organization, including record custodians, both collectively and individually, from any and all liability for damages of whatever kind or nature which may at any time result to me, my heirs, or family, on account of compliance or any attempts to comply, with this authorization. I waive any right that I may have to inspect any information provided about me by any person or organization identified by me in this application.

Should my application be accepted, I agree to be bound by the By-Laws and policies of Fellowship Bible Church, and to refrain from unscriptural conduct in the performance of my services on behalf of the church.

I further state that **I HAVE CAREFULLY READ THE FOREGOING RELEASE AND KNOW THE CONTENTS THEREOF AND I SIGN THIS RELEASE AS MY OWN FREE ACT.** This is a legally binding agreement which I have read and understand.

Applicant's Signature _____

Date _____

Witness _____

Date _____

REFERENCE CHECK RECORD

Applicant Name

Reference Name

Date of Contact

Contactor's Name

Method (Phone/letter/in-person, etc...)

Summarize Conversation

Signature

Date

Position

Request For Criminal Records Check And Authorization

I hereby request the _____ Police Department to release any information which pertains to any record of convictions contained in its files or in any criminal file maintained on me whether local, state, or national. I hereby release said Police Department from any and all liability resulting from such disclosure.

Signature

Print Name

Print maiden name if applicable

Print all aliases

Date of Birth

Place of Birth

Social Security Number (if required by the Police Department)

Today's Date

Record sent to:

Name _____

Address _____

Answering Pertinent Questions in Relation to Child Abuse

I. QUESTIONS PRESENTED

- A. What constitutes an occasion for reporting child abuse?
- B. What reporting channels should church workers use to report abuse?
- C. What information must the report include, and who receives the report?
- D. What are church workers' liabilities for failure to report?
- E. Does reporting child abuse violate the clergyman-penitent privilege?

II. DISCUSSION

A. Occasions for Reporting

Under California's Child Abuse and Neglect Reporting Act, "child abuse" generally means a non-accidental physical injury, cruel or unjustifiable punishment, sexual abuse, unlawful corporal punishment, or neglect of a child in out-of-home care. California Penal Code Section 11165.6. Child care custodians must report abuse to a child protective agency when they have knowledge of, or observe, a child whom they know or reasonably suspect has been the victim of child abuse. California Penal Code Section 11166, subd. (a).

Reporters may be "mandatory" or permissive." Mandatory reporters include child care custodians, teachers, employees of public or private youth centers, day care centers, foster parents, and employees and administrators of public or private organizations whose duties require direct contact with and supervision of children. Permissive reporters include any person who has knowledge or reasonable suspicion of abuse. California Penal Code Section 11166.

Church volunteers are permissive reporters, which means they are "encouraged" to obtain training in the identification and reporting of child abuse. California Penal Code Section 11165.7. The statute's application to the pastors of Fellowship Bible Church, however, is ambiguous. On one hand, the pastors of Fellowship Bible Church are mandatory reporters because they are "employee[s] of...a private organization whose duties require direct contact and supervision of children." On the other hand, the pastors' duties arguably do not "require direct contact" with children, with the exception of the youth pastor. For purposes of this memorandum, the pastors of Fellowship Bible Church will be considered mandatory reporters.

B. Reporting Channels

Organizations may establish internal procedures for reporting provided that they are consistent with the Child Abuse and Neglect Reporting Act. For example, the organization cannot impose any sanction for reporting child abuse, nor can it require that mandatory reporters disclose their identities beyond the requirements of the law. The internal procedures may, however, facilitate reporting and apprise supervisors and administrators of the report. Penal Code Section 11166, subd. (f).

Fellowship Bible Church's policy requires that the Senior Pastor receive reports of known or suspected child abuse. Under the reporting law, the Senior Pastor must inform a child protective agency as soon as practically possible by telephone. Following the telephone report, the Senior Pastor must prepare and send a written report to the agency within 36 hours of receiving the information, pursuant to California Penal Code Section 11166. Because the church's internal procedures facilitate reporting, apprise administrators of the report, and allow for confidentiality, the procedures are consistent with the reporting law.

C. Contents and Routes of Reports

The telephone report must include:

- (1) the name of the person making the report;
- (2) the name, present location, nature and extent of injury to the child; and,
- (3) any other information that led the person making the report to suspect child abuse, or that the agency requests. California Penal Code Section 11167, subd. (a).

As for the written report, the Department of Justice publishes forms that must be used to report abuse. In addition to the information contained in the telephone report, the written report calls for a narrative description of the abuse or its discovery, any history of similar incidents, and certain biographical information about the parties involved. A copy of the written report form is attached.

Upon receipt of the report, Child Protective Services reports the incident to local law enforcement agencies and the district attorney having jurisdiction over the matter. Similarly, if a law enforcement agency or district attorney's office receives the report, then they will notify Child Protective Services. The reporting law is designed to ensure that all appropriate authorities receive notice of the report, regardless of which agency first received the report. Penal Code Section 11166, subd. (g).

D. Liability for Failure to Report

Mandatory reporters are subject to civil liability for failure to report. In Landeros v. Flood (1976) 17 Cal. 3d 399 [131 Cal. Rptr. 69], a physician and a

hospital failed to report abuse inflicted upon a minor by her parents. The court held that the plaintiff was entitled to prove that the defendants violated the reporting act, in order to raise the presumption that the doctor and hospital violated their duties of care.

In addition to civil liability, mandatory reporters are subject to criminal prosecution and conviction for failure to report child abuse. In People v. Hodges (1992) 10 Cal. App. 4th Supp. 20 [13 Cal. Rptr. 2d 412], a pastor and assistant pastor were convicted of violating the reporting law when they failed to report that a student sought help regarding molestation by her stepfather. The court found that the pastors were mandatory reporters because they operated a school. The court wrote, “[W]hen, as here, a student seeks assistance from them as administrators of the school, their obligation under the statute arises. Hodges, 10 Cal. App. 4th Supp. at p. 32.

Because the pastors are mandatory reporters as “employee[s] of...a private organization whose duties require direct contact and supervision of children,” they would face criminal prosecution and civil liability for failure to report. Church volunteers are permissive reporters, which may preclude imposing criminal or civil liability on them for failing to report. On the other hand, church volunteers have an obligation to report abuse to the Senior Pastor. Failing to fulfill that duty could expose church volunteers to civil liability.

E. Clergyman-Penitent Privilege

The court in the Hodges case did not address specifically whether the clergyman-penitent privilege provided a viable defense for the pastors. The court alludes to the pastors’ argument that their faith required them to keep the victim’s communication secret, and that the abuse issue be handled within the church. Hodges, 10 Cal. App. 4th Supp., at 209. The court rejects the argument on the grounds that the Legislature did not intend to create any exceptions to the reporting requirements. The statute survived a constitutional “vagueness” challenge and did not interfere with the pastors’ First Amendment rights. Id. at 30-34. The court’s analysis, therefore, would not support the contention that the clergyman-penitent privilege can defeat a mandatory reporter’s duty to report abuse.

Before the privilege could be used as a defense, its elements would have to be satisfied. California Evidence Code Sections 1030-1034 define the clergyman-penitent privilege. Under those sections, a penitent and a clergyman have the privilege to refuse to disclose, and to prevent others from disclosing, penitential communications. A “penitential communication” is a confidential communication to a clergyman who is authorized or accustomed to hear penitential communications, and who has a duty under the tenets of the church to keep such communications secret. Evidence Code Section 1032.

Fellowship Bible Church’s tenet regarding the confidentiality of penitential communications is set forth, in part, in its Constitution, Article IV, Section F. In subsections 2, the Constitution provides for disclosure of known offenses to the congregation if the offender refuses to “rectify” the offense. The Articles of Faith

provide that the Old and New Testaments provide the final authority for faith and life; thus the clergyman may have to consult the Bible to determine whether he must keep the communication secret.

Based on those authorities, and subject to case-by-case analysis, the clergyman-penitent privilege may vitiate the reporting requirements only when the following elements are present:

1. The abuser confesses his or her sin to a pastor confidentially;
2. The abuser claims the privilege;
3. The abuser promises to rectify the sin in an appropriate manner;
4. There is support in Scripture for keeping the communication secret.

This author, however, found no controlling authority from California appellate courts concerning when, if ever, the clergyman's privilege vitiates the duty to report. The court's opinion in Hodges is inconclusive at best, and is reasonably susceptible to the interpretation that the privilege never vitiates the duty to report. Many individuals who are mandatory reporters would also be protected by a privilege. The communication to the doctor in the Landeros case could possibly have been covered by the physician-patient privilege. See, Evidence Code Sections 990-1007. Nevertheless, the privilege did not defeat the duty to report. Therefore, failing to report based upon a claim of privilege entails substantial risk. If a situation arises that implicates the privilege, the pastor should consult an attorney.