PC(USA)

Mandated Reporting of Abuse **& Privileged Communication** Sexual Ethics Resource Ministry Team

January, 2018 (revised)

1. Mandated Reporting & Presbyterians in New York State



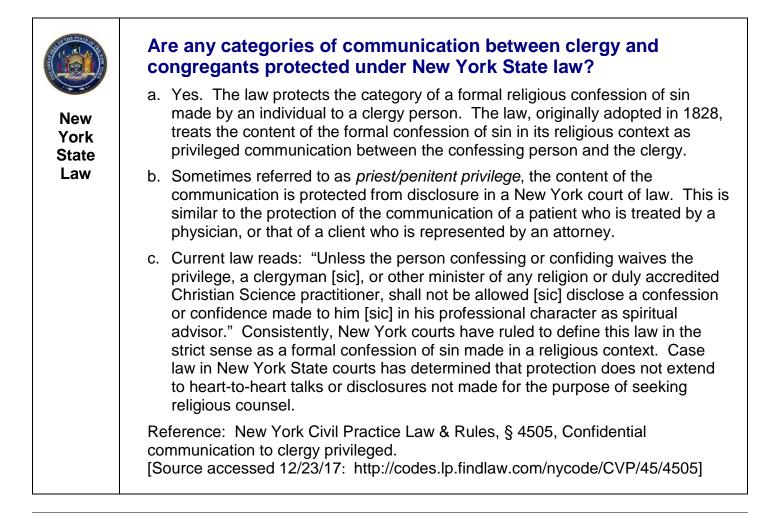
What is the *Book of Order*'s position on the reporting of sexual abuse?

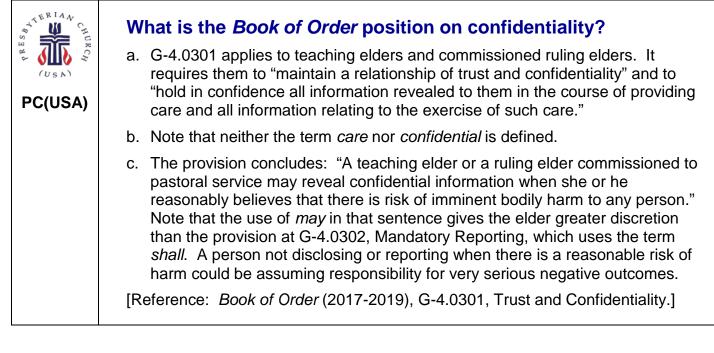
- a. According to the Book of Order (2017-2019), G-4.0302, Mandatory Reporting: Church-mandated reporters of abuse, sexual and physical, are deacons, ruling elders, commissioned ruling elders, certified Christian educators, and teaching elders. (There is no mention of members of churches.)
- b. In addition to the abuse of minors, the mandate to report includes the abuse of adults who lack mental capacity.
- c. The Church-mandated person "shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm."
- d. If the person in one of the above ordered ministries gains the information while functioning in a role that is bound by an obligation of privileged communication under law (e.g., a deacon who is a lawyer talking with a client, or a ruling elder who is a physician talking with a patient), the person is not mandated by the Church to report.
- e. If a commissioned ruling elder or teaching elder gains the information within "a confidential communication as defined in G-4.0301," the person is not mandated. [G-4.0301 in the Book of Order is described below. The term confidential is not explicitly defined in the paragraph.]

Take no part in the unfruitful works of darkness, but instead expose them.

Ephesians 5:11

2. Privileged Communication & Presbyterians in New York State





3. Disclosure vs. Non-disclosure & Presbytery of Genesee Valley



rationa	he <i>PGV Sexual Misconduct Policy</i> provide direction and le for disclosing knowledge or a reasonable concern ing abuse?
Definitel	y! Examine the following sections. The message and intent are clear.
1. III. Pi	inciples, A. Principle of veracity, or truth, 2.
•	"Truth is a means to prevent foreseeable harm to others, especially those who are vulnerable and rely on the Church's care and guidance."
	tervention Procedures, A. Receipt of a written allegation or accusation of al misconduct, 4.
•	"In the instance of any submission of written information involving a minor, the individual under jurisdiction of Presbytery who receives the report shall promptly inform Disclosure to, and consultation with, civil authorities is the primary action to be achieved " [emphasis added]
	tervention Procedures, F. Civil authorities and obligation to cooperate eport.
•	 "Each person to whom this policy applies shall cooperate with civil authorities in a civil investigation of sexual abuse or other criminal sexual misconduct allegations."
•	2. "Each person to whom this policy applies shall follow child abuse and neglect reporting obligations as mandated by New York State Social Services Law, Article 6, Title 6"
•	3. "Ministers of Word and Sacrament, elders, deacons, Commissioned Lay Pastors, and Certified Christian educators of Presbytery are expected to comply with Church-mandated abuse reporting provisions in the <i>Book of Order</i> " [emphasis added]
	hment C., Safe Sanctuaries: Protecting Children in Our Congregations, 4. for Responding to Allegations of Child Sexual Abuse A.
•	"Safety of the child is always the church's primary concern." [emphasis added]
accesse subsecti https://pl	ce: Presbytery of Genesee Valley Sexual Misconduct Policy. [Source d 12/23/17 on PGV website. Go to Committee on Ministry section, on on "Sexual Misconduct Policies & Resources": bygenval.org/committees/committee-on-ministry/sexual-misconduct- resources/]

4. Recognizing Sexual and Physical Abuse



New York State

What is the basis for a reasonable concern about physical abuse, neglect, and/or sexual molestation or abuse of a minor?

- a. Based on rational observations or knowledge of circumstances, you have a concern or suspicion that a child under 18-years-old is exposed to the danger of harm, or conditions exist that would reasonably result in abuse or neglect.
- b. Here is a link to *The Concerned Citizens Guide*, (2006) New York State Office of Children and Family Services, Bureau of Training, source accessed 12/23/17: http://ocfs.ny.gov/ohrd/ccg/ccg.asp The video format includes a list of possible indicators of maltreatment or abuse. [For greater detail, see Summary Guide for Mandated Reporters in New York State. (2016), source accessed 12/23/17: http://ocfs.ny.gov/main/publications/Pub1159.pdf]
- c. Neither *certainty* nor *proof* is required to communicate a concern. The threshold is **good faith**, **reasonable concern** for a child's safety or well-being.
- d. Worried about making an accusation that is false? Communicating a **reasonable concern** is not an accusation. If you smell smoke in your church and call the fire department, you're alerting the experts to a possible fire, based on your reasonable concern. You're not required to confirm that an active fire is underway before calling. The experts in New York at determining whether child abuse is occurring are the staff of Child Protective Services.
- e. When a voluntary, non-New York mandated person makes a "good faith" report, the person is immune from civil or criminal liability. [State-mandated reporters are also immune from liability if they act in "good faith" in the discharge of their duties and within the scope of their employment.]

5. Reporting Abuse to Civil Legal Authorities in New York



New York State

How do I communicate a concern about possible maltreatment of a child, or report the abuse of a child to civil legal authorities?

- a. If a child is in immediate danger, call 911 or your local police. Otherwise, call:
 - New York State Child Abuse Hotline: (800) 342-3720 [24 hours / 7 days]
- b. If you suspect child sexual abuse and are uncertain about calling the Child Abuse Hotline, call confidentially to a trained professional. For a list of regional resources, see Attachment A., "Resources for Reporting Maltreatment of Children," Presbytery of Genesee Valley *Child and Youth Safety Policy*. Accessed 12/23/17: https://pbygenval.org/wpcontent/uploads/sites/25/2017/08/Approved-PGV-Child-Safety-Policy-5.23.17.pdf

6. Calling the Child Abuse Hotline



New York State

What kinds of information will I be asked to provide when I call the Child Abuse Hotline?

- a. Here are some typical kinds of questions that would be asked of a caller:
 - What concern prompted you to call?
 - Has the child been injured, or is the child at risk of being injured?
 - What is the child's name, age, and home address?
 - What is the name of the parent or other person legally responsible who injured the child, or created the risk of harm?
 - Are there other children in the household, like sisters or brothers?
- b. You may communicate your concern anonymously. If you provide your name and phone number, it allows for the Child Protective Services caseworker to contact you for further information, which could assist in an investigation.

Source: *Concerned Citizens Guide*, (2006), New York State Office of Children and Family Services, Bureau of Training, source accessed 12/23/17: http://www.ocfs.state.ny.us/ohrd/ccg/ConcernedCitizensGuide.pdf See the text for the slide on page 17 for a list of typical questions.

7. After a Call to the Child Abuse Hotline

New York State	 What happens after I contact the Child Abuse Hotline? a. Depending on the information provided, there a number of steps that can be taken. For example, if the information meets the legal requirements, it will be registered as a report, and the county Child Protective Services unit will begin an investigation in 24 hours.
	 b. For more information, consult the following: <i>Concerned Citizens Guide</i>, (2006), New York State Office of Children and Family Services, Bureau of Training, source accessed 12/23/17: http://www.ocfs.state.ny.us/ohrd/ccg/ConcernedCitizensGuide.pdf See slides and accompanying text on pages 18-21 for an overview. On the website of Prevent Child Abuse New York, see the <i>Reporting Child Abuse – Frequently Asked Questions</i> section, source accessed 12/23/17: https://www.preventchildabuseny.org/resources/about-child-abuse/reporting-faq/

Biblical models of interventions by third parties on behalf of children at risk:

- Shiphrah and Puah, the Hebrew midwives, on behalf of male babies (Exodus 1:15-21).
- Miriam on behalf of the infant Moses, her brother, and his birth mother (Exodus 2:1-10).
- Elisha on behalf of the widow's children (2 Kings 4:1-7).
- God's angel warns Joseph and Mary of King Herod's intentions (Matthew 2:13-14).

Original document reviewed March, 2017, by Mel Olver, attorney for Presbytery of Genesee Valley.