

Child Abuse, Mandatory Reporting, & Presbyterians in New York:

Part 3. Risk Assessment & Incident Data



Presbytery of Genesee Valley
January, 2018

Rev. James S. Evinger & Mel Olver (former PGV Attorney)
6th update of material presented 2013-2017

Frequently heard statements from PGV sessions which resist adopting and implementing an effective **Sexual Misconduct Policy** or a **Child and Youth Protection Policy**, per G-3.0106, *Book of Order*.

“It doesn’t happen here.”

“It can’t happen here.”

“It won’t happen to us.”

Is this Presbytery that **safe**? How did they decide this?

“It can't happen here. Not in our church.”

They make a **Risk Assessment** based on **Probability**.

Probability that
an incident did or
will occur

Low
Probability

vs.

High
Probability

Probable degree
of harm from an
incident

Minor
Harm

vs.

Major
Harm

“It can't happen here. Not in our church.”

A Risk Assessment
based on Probability
is one which
ignores Possibility.

Probability vs. Possibility: FPC Pittsford 1.

First Presbyterian Church Pittsford, NY, May 15, 2004



Probability vs. Possibility: FPC Pittsford 2.

The morning after May 20, 2004



Probability vs. Possibility: FPC Pittsford 3.

The morning after May 20, 2004



Probability vs. Possibility: FPC Pittsford 4.

The morning after May 20, 2004



Is it true that PGV churches are **safe** from incidents involving minors?

If it can't happen here, is learning about mandatory reporting of abuse necessary?

What does PGV's **incident data** tell us about the reality of congregations' experiences regarding minors?

Risk? Criminal incidents directly involving PGV congregations



Per the NYS Sex Offender Registry, Richard Skellen was convicted in 1997 of committing “Rape, 2nd Degree” of a minor who was 12 y.o. At the time of his arrest and conviction, Mr. Skellen was an ordained deacon and active in New Life Presbyterian Church, Rochester. His victim was connected to the church. On 11/27/17, the Registry listed Mr. Skellen as a Risk Level of 3 – “high risk of repeat offense and a threat to public safety exists.” Lifetime registration is required.



Per the NYS Sex Offender Registry, Robert Gomperts was convicted in 2001 of committing “Sodomy, 2nd Degree” of a minor who was 14 y.o. At the time of his arrest and conviction, Mr. Gomperts was a deacon, church youth group leader, and Boy Scout troop leader at Penfield Presbyterian Church, Penfield. His victim was connected to the church. On 11/27/17, the Registry listed Mr. Gomperts as a Risk Level of 3 – “high risk of repeat offense and a threat to public safety exists.” Lifetime registration is required.

Risk? Criminal incidents affecting PGV congregations

Livingston County

- In 2006, during Lent, New York State Police arrested a man who was a ruling elder in his church. He was arrested for possession of images on his home computer of a sexual performance by a child. Media reports noted he was a part-time teacher in the local public school district. After his arrest, the district suspended him. He was functioning as his church's janitor and also delivered the children's sermon in worship services.

While claiming his innocence, he pleaded guilty to a lesser charge, was sentenced to jail, and assigned a Risk Level 1 designation on the NYS Sex Offender Registry. (Level 1, the lowest of 3, is termed "low risk of repeat offense.") Prior to completing the sentence, he was released on probation, and returned to his church. When he violated terms of probation by possessing prohibited media images, he was re-incarcerated. Upon release, he returned again to his church. As of July, 2015, he continued to maintain his innocence. His continuing presence in the church has been met with a mixed reaction by the congregation. One result, according to the pastor, has been the loss of potential members – "de-evangelism."

Risk? Criminal incidents affecting PGV congregations

Livingston County

- In 2008, New York State Police arrested a man who was active with his in a church where she was a deacon. He was charged with Felony Child Sexual Abuse, First Degree (sexual contact with a child less than 11 y.o.). None of the incidents dating to 2004 involved the church's mission or ministry. The man and his wife asked the pastor to keep this matter from the congregation, and the pastor complied with the request. Prior to his trial, the man, approximately 80 y.o., and his wife continued to attend worship on Sundays, the morning on which the Sunday school program was conducted. At trial, the man was found guilty and served a sentence in a jail setting.

Genesee County

- A person who was found guilty of endangering the welfare of a minor seeks to be part of the church's mission and ministry. Now on probation, he asks the pastor to not disclose his history.

Monroe County

- A minor, a member of the church, pleads guilty in Family Court to Forcible Touching, a Class A misdemeanor, of 3 adult women not connected to the church. He is sentenced to a 3-year period of closely monitored probation. Family Court records are closed to the public. The Session must decide whether to inform his peers in the church youth group and their families.

Genesee County

- The small congregation was excited when new families began to attend on Sunday, including families with children. Adding to the significance was the fact that some families had never been part of any church. And some of those unchurched young children had been socialized to congregations' typical norms of behavior. They were noisy, they ran in the hallways, and they bumped into adults, including elderly members. One older member decided to intervene. He grabbed one boy who was running, and put the child in a strong headlock, squeezing so tightly that another member felt compelled to stop him.

Risk? Choices made by some PGV pastors

Numerous pastors throughout the PGV region have been approached by individuals who were a registered sex offender and seeking to participate in the church's mission and ministry, including worship, fellowship, and study. Typically, the individual asks the pastor to preserve confidentiality about the criminal history.

Some pastors have responded by welcoming the individual while maintaining confidentiality, which includes not informing the session.

When the person's history has been discovered, the congregation's response is a feeling of broken trust. Leaders have felt hurt, parents have been outraged, and survivors of child sexual abuse have felt betrayed.

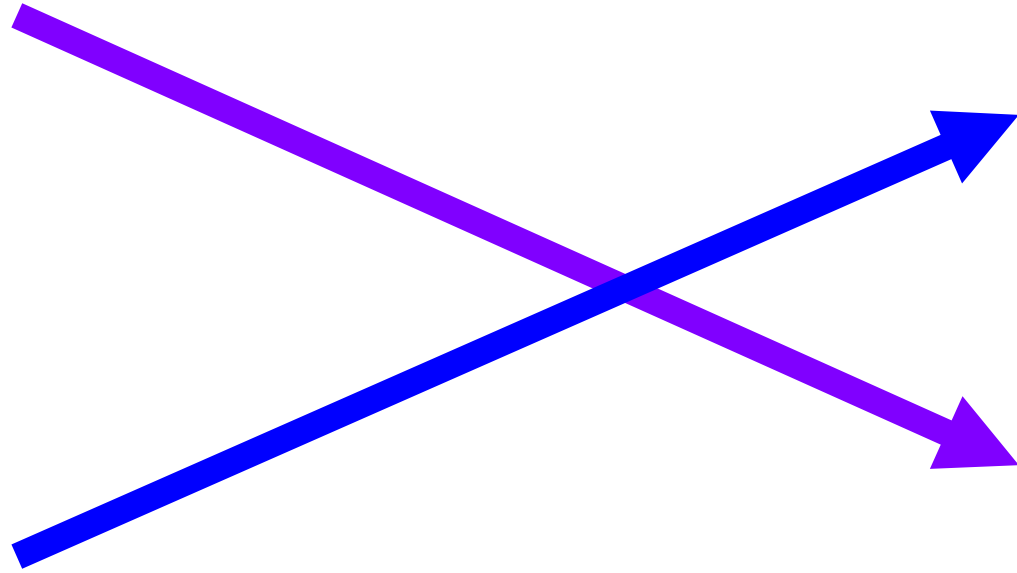
Themes in 21 case consultations: 15 PGV churches in 5 counties re disclosure of sexual boundary violations, 1999-2011

1.) Minor(s) as victim (confirmed, reported, or identified as potential), either from church or community, or Minor in church as offender (confirmed, reported, or suspected)	18
2.) Suspected or admitted illicit, (statutory, illegal) relationship by adult with Minor	15
3.) Secular authority action: investigation or adjudication by law enforcement, court system, probation or parole, and/or NYS licensing board	14 [13 ¹]
4.) Registered sex offender, or person arrested for sex crime involving a Minor, attends or seeks to attend worship and/or be part of the mission/ministry	05
5.) Religious authority action: proceedings per Rules of Discipline, <i>Book of Order</i>	03
6.) Acts by pastor against staff person may have violated <i>Book of Order</i> or civil law (sexual harassment)	01

1. 13 of the 14 involved Minors

51 of 56

PGV & PC(U.S.A.) trajectories: Cases & incidents of sexual boundary violations since the 1990s



Committed by clergy:

typically perpetrated by ♂ against vulnerable adult ♀

Committed against minors:

perpetrators include clergy & laity – adults & minors

Given PGV's churches' **incident data** regarding minors, what other sources help us think about **Risk Assessment**?

Risk? The PGV insurance carrier's perspective



A Member of the Tokio Marine Group

RELIGIOUS ORGANIZATION RISK MANAGEMENT GUIDEBOOK



The purpose of this Risk Management Program is to provide our Religious Organization clients with information dealing with targeted areas of loss potential for all operations.

Please take time to review these materials and integrate them into your ongoing loss prevention efforts at your facility.

If you would like additional Loss Control assistance please contact the Philadelphia Insurance Companies Loss Control Department by visiting us on the web: www.Phly.com



PIC Loss Control Services

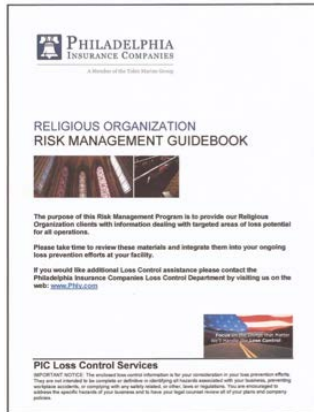
IMPORTANT NOTICE: The enclosed loss control information is for your consideration in your loss prevention efforts. They are not intended to be complete or definitive in identifying all hazards associated with your business, preventing workplace accidents, or complying with any safety related, or other, laws or regulations. You are encouraged to address the specific hazards of your business and to have your legal counsel review all of your plans and company policies.

PGV Master Insurance Policy

59 churches
participate

(June, 2015,
per Christopher
Williams Agency)

Risk? The PGV insurance carrier's perspective



- The 1st item in this guidebook is devoted to **Counseling Safety** – pastor and adults. 2/3 of a page.
- The 2nd item, **Volunteer Risk Management**, takes 1/3 of a page.
- The 3rd item, **Abuse and Molestation**, takes 1^{2/3} pages of single-space specifics that “should” be in a “Child Abuse Risk Management Program.”

Children evaluated for sexual &/or physical abuse

2017: 2,000+

On average, 40% live in the suburbs.

Source

Rosen, Deb. (2018.) *Putting Children First* (Winter), p. 1.
[Quarterly newsletter.]



trust. healing. justice.

Risk factor – PGV 6-county region

NYS Child Protective Services cases
of child abuse or maltreatment
reported by counties within the
6-county region in 2009
(last year of data posted)

Genesee	730
Livingston	707
Monroe	6,053
Ontario	1,386
Orleans	515
Wyoming	376
<u>Total</u>	<u>9,867</u>
New York	164,831



New York State
Office of Children and Family Services
Andrew M. Cuomo, Governor | Gladys Carrión, Esq., Commissioner

Accessed 12/23/17:
<http://ocfs.ny.gov/main/cps/statistics.asp>



2014-2015 Monroe County Youth Risk Behavior Survey. (Released March, 2017)

- Conducted in public high schools in the county.
- Students: 13 y.o. to 18 y.o. & >

Adverse Childhood Experiences (experienced at any time in life)

#21. Were you ever forced to do any of the following:
have sexual intercourse, touch someone sexually,
or be touched by someone sexually? 12%

Page 7, accessed 01/27/17:

<http://www2.monroecounty.gov/files/health/DataReports/2014-2015%20MC%20YRBS%20.pdf>

Risk factor – 5-county region: Incident statistics for sexual assault (children, women, & men)

RESTORE (formerly Rape Crisis Service) serves 5 counties: Genesee, Livingston, Monroe, Orleans, & Wyoming.

In 2012, RESTORE provided

- 1,376 clients with intervention and counseling services.

Of those survivors,

- 84% knew their assailants.

Per the national group, RAINN (Rape, Abuse, and Incest National Network),

- Only 344 out of 1,000 (33%) sexual assaults are reported to law enforcement.

If every one of the 1,376 cases in the 5 local counties was reported to law enforcement, there were 2,793 more cases that were not. That's a total of 4,169 cases of sexual assault locally. [1,376 / 4,169 : 33% / 100%]


RESTORE: Accessed 01/23/17. <http://plannedparenthood.org/planned-parenthood-central-western-new-york/restore/statistics>

RAINN: Citing U.S. Dept. of Justice statistics. Accessed 01/23/17. <https://www.rainn.org/statistics/criminal-justice-system>

Risk factor – National: Prevalence statistics (prevalence = proportion of the population)

Prevalence of Individual Adverse Childhood Experiences

Collected between 1995 and 1997, the prevalences (%) presented below are estimated from the entire ACE Study sample (n=17,337). Individual research papers that use only Wave 1 data or Wave 2 data will contain slightly but not significantly different prevalence estimates for individual ACE.

<u>Abuse</u>	Women (N = 9,367)	Men (N = 7,970)	Total (N = 17,337)
Emotional Abuse	13.1	7.6	10.6
Physical Abuse	27.0	29.9	28.3
 Sexual Abuse	24.7	16.0	20.7



Centers for Disease Control and Prevention

CDC 24/7: Saving Lives, Protecting People™

Centers for Disease Control & Prevention, U.S. Dept. of Health & Human Service

<http://www.cdc.gov/violenceprevention/acestudy/prevalence.html>

Risk factor – National: Prevalence statistics
(prevalence = proportion of the population)

**Of victims of all types of reported child maltreatment:
Cases of confirmed sexual abuse**

<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
9.5%	9.2%	9.1%	9.3%	9.0%	8.3%	8.4%

All sources consistently report: the proportion of ♀s sexually abused is greater than ♂s.

Children's Bureau, U.S. Department of Health and Human Services.
Sources accessed 012/23/17: Child Maltreatment annual reports,
Chapter 3, sub-section on maltreatment types.

Economic cost of the consequences of child maltreatment

Centers for Disease Control & Prevention's estimate of average lifetime financial costs associated with confirmed cases of non-fatal child maltreatment (physical abuse, sexual abuse, psychological abuse, & neglect) in 1 year (2008) in U.S.A.

Childhood health care

Costs

Adult medical

Costs

Adult productivity losses

Losses

Child welfare

Costs

Criminal justice

Costs















Special education

Costs

Per lifetime of child **\$234,616** (*CPI \$ 2017*)

Risk: Most frequent reasons that churches went to court

Source: Richard J. Hammar, *Church Law & Tax Report*, annual report.

	2010	2011	2012	2013	2014	2015	2016
#1							
	Sexual abuse of a minor	Sexual abuse of a minor	Sexual abuse of a minor	Sexual abuse of a minor	Sexual abuse of a minor	Sexual abuse of a minor	Property dispute
#2							
	Personal injury	Property dispute	Personal injury	Insurance dispute	Personal injury	Property dispute	Sexual abuse of a minor

Sources

Anonymous. (2015). Top 5 reasons churches end up in court. *Church Law & Tax Report: A Review of Legal and Tax Developments Affecting Ministers and Churches*, 29(4, July/August):20.

Anonymous. (2017). Top 5 reasons churches end up in court. *Church Law & Tax Report: A Review of Legal and Tax Developments Affecting Ministers and Churches*, 32(5, September-October):14.

Risk factor – National: Commentary on why churches are being held accountable in civil courts.

Data source

12,000 published & unpublished rulings in by state appellate and federal courts pertaining to religious organizations that went to court in 2011

Analyst

Richard R. Hammar, a lawyer, CPA, and editor of *Church Law & Tax Report*

Finding

“sexual molestation of minors” – the #1 reason for 6 of the last 7 years

Comment

“Victims generally allege a church holds responsibility for their injuries on the basis of negligent selection, retention, or supervision of the perpetrator. Churches have lost many of these cases due to their failure to implement appropriate safeguards in the selection and supervision of employees and volunteers who work with minors...”

Risk factor – NYS: Statute of limitations, criminal sexual abuse of a minor

NYS Criminal Procedure Law Section 30.10, subdivision 3, paragraph f.

The statute of limitations for prosecution expires 5 years after the child victim reaches majority age (18), i.e. **23 y.o.**

In a national study of adult males who were sexually abused as minors:

- average length from time of abuse to telling someone was **21 years**;
- median age at initial telling was **32 y.o.**
- **28 years average** from time of perpetration to “a helpful in-depth discussion”

Easton, S. D. (2013). Disclosure of child sexual abuse among adult survivors. *Clinical Social Work Journal*, 41(4, December):344-355.

Why delays? Shame, guilt; secrecy &/or threats imposed by offender; protecting the offender; lack of supportive responsive in initial disclosure...

Risk factor – PGV: Self-report by our churches re status of session sexual misconduct policies

04/19/17

N = 63

Has a misconduct policy on file at PGV	44 (70%)
No compliant policy is on file	19 (30%)
Uses PGV policy (does not comply)	05 (08%)
No policy is on file	14 (22%)

Risk factor – PGV: Quality of session sexual misconduct policies

Session's last action on the policy

2016-2017 04 (09%)

2011-2015 28 (64%)

2006-2010 06 (14%)

2001-2005 02 (05%)

2000 or prior 01 (02%)

No date 03 (07%)

Risk factor – PGV: Quality of session sexual misconduct policies

Based on 6 best practices, policy had no, some, or all recommended language.

1. Clause recommended by Mel Olver, PGV attorney, re outside group's use of church property. Sessions with no language = 52%
2. Directs that Ruling Elders & Deacons be trained as Church-mandated reporters. Sessions with no language = 54%
3. Prohibits church-owned digital & social media re child pornography, sexual harassment, or abuse. Sessions with no language = 56%
4. Directs Session to use a covenant of accountability & support with a registered sex offender participating in the church life. Sessions with no language = 57%
5. Threshold for reporting abuse is “reasonable concern.” Sessions with no language = 38%
6. Upon discovery of abuse of a minor, directs 4 parties to be notified. Sessions with no language = 16%

“It does happen here. It can be very harmful.”

Our Risk Assessment is based on Reasonable Possibility.

Any Reasonable
Possibility that an
incident did occur

Low or High
Possibility

Any Reasonably
Possible degree
of harm

Minor or Major
Harm

PGV references for this basis

PGV Sexual Misconduct Policy

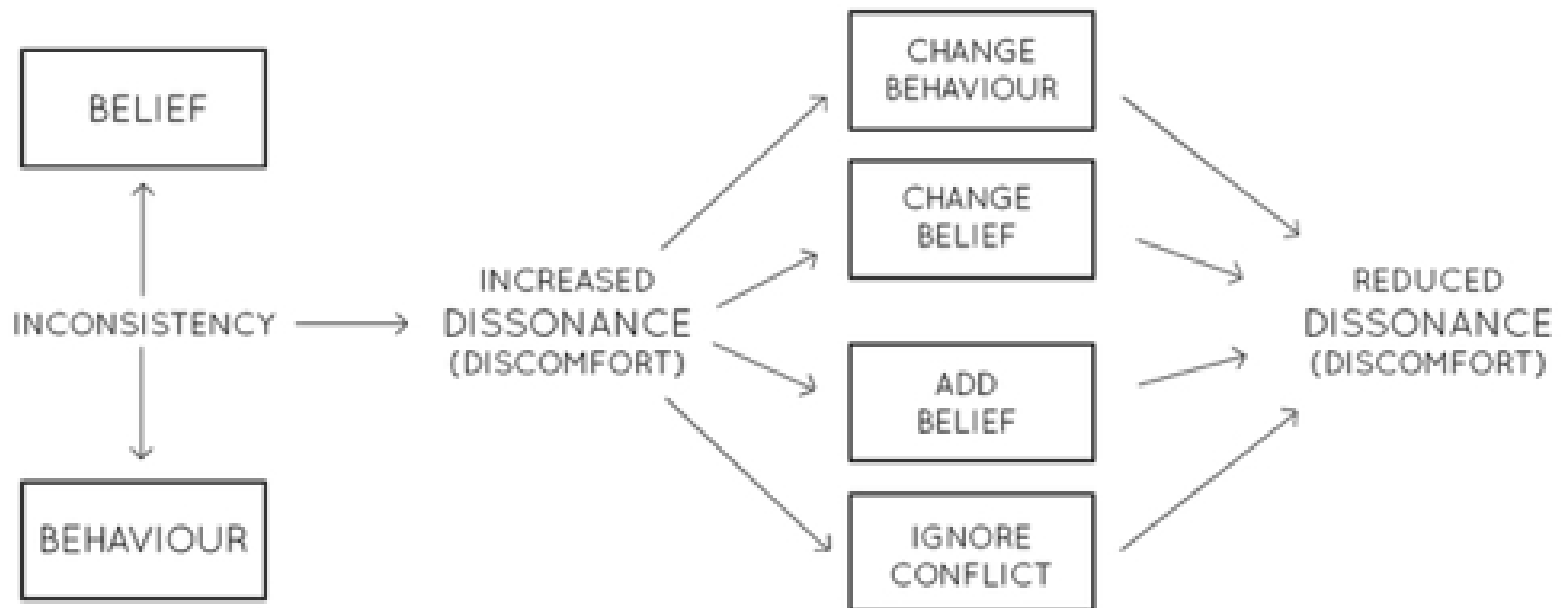
- III. Principles, A. Truth.
- VI. Intervention Procedures, A. 4.
- VI. Intervention Procedures, F.
- Attachment C., Safe Sanctuaries: Protecting Children in Our Congregations, 4. Plan for Responding to Allegations of Child Sexual Abuse, A.: **“Safety of the child is always the church’s primary concern.”**

Book of Order, G-4.0302, Mandatory Reporting.

Scripture

Denying a **Reasonable Possibility of Abuse** can result in failing to recognize the serious nature of an incident. We are tempted to distort the truth as a way to reduce our discomfort with it.

COGNITIVE DISSONANCE



Implications for pastoral care

Just because the incident did not occur in the context of your congregation's mission & ministry...

do not assume there are no implications for your congregation...

Do assume that among those sitting in your pews on Sunday morning are survivors or are family members of survivors.

Takeaways

1. Yes, it can happen here, and it does happen here.
2. When it does happen, it involves congregations, directly and/or indirectly.
3. The outcomes can be traumatic – for individuals, and for the congregation's mission and ministry.
4. The historical trend is that incidents in congregations will likely involve minors as victims and laity as offenders.
5. Awareness is the first step in prevention.
6. PGV has the capacity – experience, knowledge, resources – to assist congregations.

This concludes Part 3.

Part 1. What is Required of Us?

Part 2. Discerning Whether to Report

Part 4. What Does Reporting Involve?

