
DISCLOSING SEXUAL BOUNDARY VIOLATIONS TO A CONGREGATION: MANUAL OF BEST PRACTICES FOR ASSESSMENT AND INTERVENTION

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Preface

The lie is that there are no paths to follow through the disturbing landscape of sexual boundary violations and congregations. There are others who have traversed this wilderness, and we have learned from them. This document is a guide across difficult terrain. The core substantive and procedural components of this manual were developed in 1999-2001, during the author's assignment by the Committee on Ministry, Presbytery of Genesee Valley, to work with three congregations and their cases involving sexual boundary violations. This manual is possible because of people who were victims/survivors, their families, and their supporters and advocates. They courageously broke the silences imposed by others' denial, ignorance, and fear, and gave us the gifts of their truth and pain, and their yearning for justice.

The 1999-2001 cases involved:

- Commission of sexual molestation by an individual who was a deacon, a youth group leader, and a leader of the church-sponsored Boy Scout troop. The fact of perpetration against a minor, who was a member of the church, was entrusted to the pastor who handled the matter 'pastorally' and withheld the identity of the offender from the session with its concurrence.¹
- A pastor who, at the request of a church member's parole officer, arranged for the member's employment at the church after his release from prison as a convicted sex offender. The pastor did not share the facts with elders, staff, or the daycare program at the church, and did not comply with supervision of person in his employee role as required by the parole officer.
- A session's termination of a staff member, a layperson, who was the church's youth leader, for sexualized conduct with a member of the youth group.

Because there were no practical materials specifically developed at the time for church leaders who faced these circumstances, this manual was written to guide those sessions as they worked to identify and analyze the issues before them, and make a series of challenging decisions. In each case, the session chose to disclose to its congregation facts about events involving sexual misconduct and children and/or youth. The leaders of Penfield Presbyterian Church, Penfield, New York, Laurelton United Presbyterian Church, Irondequoit, New York, and First Presbyterian Church, Batavia, New York, were partners in creating the constructive outcomes that resulted from these disclosures.

Discussions in those sessions' meetings were fraught with fear, uncertainty, tension, and anxiety. In the end, each set of elders acted with strong conviction and asserted their leadership by choosing to disclose to their congregations. However reluctant they may have been initially, their final actions served as constructive precedents for others.

¹ Disclosure led to discovery of another child victim, cooperation with the New York State police, criminal arrest, conviction, and designation of the offender by state corrections officials as a high-risk sex offender.

Confirmation of the effectiveness of an early version of the manual was received later from Pat Hendrix, Sexual Misconduct Ombudsperson, Presbyterian Church (U.S.A.), Louisville, Kentucky, who utilized it to respond to requests she received for assistance. Validation was received from Marie Fortune, founder and senior analyst, FaithTrust Institute (formerly the Center for Prevention of Sexual and Domestic Violence), Seattle, Washington, who requested that the manual be posted on the FaithTrust website.

A major revision in 2009 was based on lessons from application of the model with sessions and congregations in our presbytery. Incidents in that period included the arrest of both adult and minor members of congregations on felony and misdemeanor charges related to sexual boundary violations that ranged from possession of child pornography to sexual abuse of a minor. The issues facing sessions involved the presence in worship of persons who were accused sex offenders, or who, following conviction, were released to the community. While the circumstances have varied, the core substantive and procedural components developed for the 1999-2001 cases continue to be effective. The manual was also utilized in relation to a case of embezzlement by an interim pastor.

New to the 2009 version was Appendix F. Mandated Reporting by Clergy and Child Sexual Abuse: *Frequently Asked Questions*. As incidents prompting questions about disclosure emerged, it became apparent that many clergy were not familiar with state law, Presbyterian Church constitutionally-mandated reporting and confidentiality provisions, or procedure for how to make a report of child abuse and/or maltreatment to a government agency. It also became apparent that many clergy adopt a one-dimensional approach to the topic of confidentiality, a stance insufficient in the face of complex circumstances involving multiple parties, issues, and responsibilities. Appendix F, in handout format, was developed to address those issues.

Confirmation of the value of manual is found in the document, “The Summary Report of the Presbytery of Greater Atlanta Administrative Commission (2013, August 17).” [See the minutes of the Greater Atlanta Presbytery, August 17, 2013, Recommendation 10, pp. 78-79. Accessed 10/09/16: http://pres-outlook.org/wp-content/uploads/2013/11/s3.amazonaws.com_dfc_attachments_public_documents_3179112_Commissioner_Handbook_8-17-13.pdf] Further confirmation was received from leadership of the Presbytery of Western Reserve in 2013 in relation to matters arising from the same case addressed by the Presbytery of Greater Atlanta. Revisions beginning in 2016 are essentially refinements.

Acknowledgments

Hebrews 12:1 reminds those who follow Jesus Christ that “we are surrounded by so great a cloud of witnesses...” To acknowledge the many whose work positively influenced the course of events from which this manual emerged is a way to give thanks to God whose redeeming work is manifested through disciples who commit to truth-telling, healing and support, justice and accountability, and risk prevention.

Essential to moving forward was the active commitment to the goal and process of disclosure by the chairpersons of the Committee on Ministry in the original period. Tracy Spencer-

Brown and Jane Kleehammer were steadfast and courageous in ways that will never be known fully by their colleagues. Bill Hawley, as Presbytery Executive, and Melvin L. Olver, Esquire, as Presbytery attorney, functioned as able confidants and wise sounding boards. They identified and attended to issues that, while beyond the scope of the Committee on Ministry, were extremely relevant. With resolve and care, they acted in the best interests of both presbytery and churches. On these challenging journeys, the Spirit provides companions whose strong faith inspires and guides, and whose discernment encourages and consoles. Gifted companions were: Dottie Yoder from the Committee on Ministry and pastor, Summerville Presbyterian Church, Irondequoit, New York; Nan Postlethwait, elder from Penfield Presbyterian Church and its Healing Committee, Penfield, New York; and Carolyn Whitfield, elder from New Life Presbyterian Church, Rochester, New York.

The 2009 revision reflected the helpful suggestions and insightful contributions of Melvin L. Olver, especially regarding Appendix F. Mandated Reporting by Clergy and Sexual Abuse: Frequently Asked Questions. Bob Rice, former chair of the Committee on Ministry, asked helpful clarifying questions about, and suggested useful editorial revisions to, Appendix F.

As the references in the footnotes of this manual attest, the specialized literature on congregational disclosure, however sparse, helps us construct a reliable map through the wilderness. The literature demonstrates that there are, indeed, norms and standards of best practice for congregations and governing bodies.

I. Introduction

It is useful to think about the occurrence of sexual boundary violations in a church as consisting of three chronological phases – *Commission*, *Latency*, and *Discovery*.

- The first phase, *Commission*, consists of a wide range of possible scenarios. There may be a single occurrence against a single victim, multiple occurrences against a single victim, or occurrences against multiple victims. Multiple violations may occur serially, i.e., one victim at a time succeeded by another, or as a cluster, i.e., more than one victim at the same, concurrently.
- The next chronological period, *Latency*, is the time between *Commission* and *Discovery*. The word ‘latent’ derives from Latin *latere*, to lie hidden, and is akin to the Greek *lanthanein*, to escape notice. During *Latency*, it is not uncommon for a few people in the congregation to have at least some degree of knowledge of the violation and to withhold that knowledge from the session as the formal governing body of the congregation.
- The *Discovery* phase, for the purposes of this manual, refers to the first awareness of the session that a violation was, or is alleged to have been, committed, an awareness that forces the question of what will be done with that knowledge. The *Discovery* phase may also consist of a wide range of possible factors, including civil liability issues, criminal law matters, and ecclesiastical jurisdiction for disciplinary offenses.

When leaders of a congregation discover that sexual violations occurred in the context of their church’s ministry, initial reactions are typically intense and varied, depending on circumstances. The pain of sexual boundary violations in a church radiates outward in widening concentric circles. Responses include: outrage, disbelief, anger, fear, loss, guilt, hurt, indignation, anxiety, grief, helplessness, shame, feelings of having been betrayed, and defensiveness. Profound spiritual distress and doubt may intensify reactions.² Intensifiers of initial reactions can include a

² Hopkins, Nancy Meyer & Laaser, Mark. (Eds.) (1995). Restoring the Soul of a Church: Healing Congregations Wounded by Clergy Sexual Misconduct. Bethesda, MD: The Alban Institute, Inc. See especially Part Two, “Secondary Victims,” for a discussion of the congregation as a victim. See also: Hopkins, Nancy Meyer. (1991). “The Congregation is Also a Victim: Sexual Abuse and the Violation of Pastoral Trust.” Special Papers and Research Reports No. OD88. Bethesda, MD: The Alban Institute. For a case study, see: Hill, Ellen R. (1997). Resurrection: Renewal and rebirth in congregations which have experienced betrayal of the pastoral trust. [Doctor of Ministry] Claremont, CA: School of Theology at Claremont. For an executive presbyter’s perspective, Presbyterian Church (U.S.A.), see: Wick, Jane E. (August, 1995). “The Congregation as a Victim: The Effects of Clergy Sexual Misconduct on the Congregation.” Unpublished manuscript; available from the author. For a Roman Catholic perspective in the context of child sexual abuse, see: Rossetti, Stephen J. (1996). “Parishes as Victims of Child Sexual Abuse.” Chapter 3 in A Tragic Grace: The Catholic Church and Sexual Abuse. Collegeville, MN: The Liturgical Press, pp. 45-63. For an earlier version, see: Rossetti, Stephen

number of factors, e.g., identified victims who are minors, publicity in the media, the prominence of the identified offender, and criminal law involvement, like an arrest, indictment, arraignment, or trial. Church leaders often do not apprehend that the congregation is, or could be, an associate victim of the violation.

Incidence and Prevalence

Following discovery, a frequent question is “How common are sexual violations in churches?” Many people have a general awareness that such phenomena occur, but most lack detailed information. For leaders of a congregation living through the disturbing experience of discovery, a frequently expressed theme is that their church must stand alone, that there are no precedents, and therefore no one will understand their situation. This sense of isolation makes it very difficult for leaders to act in ways that make for recovery and are consistent with the church’s mission and ministry. Other feelings upon discovery often include shame, embarrassment, and a sense of failure, all of which can reinforce attitudes of denial and defensiveness, which inhibit taking constructive steps.

To counter isolation and other negative feelings that inhibit beneficial action, we gain a more realistic perspective by learning from the body of published studies that substantiate the incidence (what occurs) and prevalence (how frequently it happens) of ecclesiastical misconduct that involves sexual boundary violations. Some studies are based on self-reports by perpetrators, and others are based on third party knowledge; some studies are regional in scope, and some are national. Studies with relevance to Protestant churches are presented here in chronological order of publication.³ Note that through the 1980s and 1990s, the focus of these materials was violations committed by clergy. More recently, however, congregations have been confronted by violations committed by laity. While there is less published literature on this emergent topic, the earlier material is very relevant to these situations.

- Blackmon, Richard Allen. (1984). *The hazards of ministry*. [Ph.D.] Pasadena, CA: Fuller Theological Seminary, School of Theology. 178 pp.

Based on a survey of 1,196 clergy with 300 responses (25.08% response rate) in Southern California in four denominations – Assembly of God, Episcopal, Presbyterian, and United Methodist. Sexuality was identified as one of seven

J. (1993). Parishes as victims of abuse. *Human Development*, 14(4, Winter):15-20. For an international and ecumenical perspective, see Chapter 7 in: Churches Together in Britain and Ireland. (2002). Time for Action: Sexual Abuse, the Churches and a New Dawn for Survivors: The Report to Churches Together in Britain and Ireland of the Group Established to Examine Issues of Sexual Abuse. London, England: Churches Together in Britain and Ireland (CTBI).

³ Entries are from “Annotated Bibliography of Clergy Sexual Abuse and Sexual Boundary Violations in Religious Communities.” Compiled by James S. Evinger, the document is publicly available on the World Wide Web site of FaithTrust Institute, Seattle, Washington, and is updated at least annually. [Accessed 06/08/21:
<https://www.faithtrustinstitute.org/resources/bibliographies/clergy-sexual-abuse>]

hazards of ministry. Of the respondents, 111 (37.15%) reported engaging in sexual behavior inappropriate for a minister, and more than 36 (12.67%) reported sexual intercourse with a church member other than their spouse. In addition, 76% of the clergy reported knowledge of another minister who had engaged in sexual intercourse with a church member. This is the first empiric study of the incidence of sexual abuse by clergy.

- Editors. (1988). How common is pastoral indiscretion? Results of a *Leadership* survey. *Leadership*, 9(1, Winter):12-13.

The editors of the journal commissioned Christianity Today, Inc. to conduct a survey of nearly 1,000 pastors on ‘sexual indiscretion’ and received a 30% response rate. To the question, “Have you ever had sexual intercourse with someone other than your spouse since you’ve been in local church ministry?”, 12% said yes. To the question, “Have you ever had other forms of sexual contact with someone other than your spouse, i.e. passionate kissing, fondling/mutual masturbation, since you’ve been in local church ministry?”, 18% said yes. Of pastors reporting intercourse or other forms of sexual contact, the other person was identified as: counselee, 17%; ministerial staff member, 5%; other church staff member, 8%; church member in a teaching/leadership role, 9%; someone else in the congregation, 30%; someone outside the congregation, 31%.

- Kuchan, Anthony. (1989). “Survey of Incidence of Psychotherapists’ Sexual contact with Clients in Wisconsin.” Chapter 3 in Schoener, Gary Richard, Milgrom, Jeanette Hofstee, Gonsiorek, John C., Luepker, Ellen T., & Confro, Ray M. (Eds.). Psychotherapists’ Sexual Involvement with Clients: Intervention and Prevention. Minneapolis, MN: Walk-In Counseling Center, pp. 51-64.

Approximately 4,500 surveys were distributed to therapists in Wisconsin; 1,559 were returned. 310 or 19.9% of respondents reported one or more clients who had been engaged in sexual activity by a therapist during the period of 1982-1984. The total number of cases reported was 655. The professional affiliation of the perpetrator was: psychiatrist, 33.8%; psychologist, 18.7%; social worker, 12.7%; clergy, 11.2%; physician, 5.5%; marriage counselor, 3.5%; other, 14.5%.

- Majak, Linda C. (1991). Sexual harassment in the church. *Society (Transaction)*, 28(4, May-Jun.):14-21.

Reports results of a United Methodist Church General Conference-ordered national survey to determine the extent of sexual harassment in the Church. Responses from 1,578 respondents – clergy, laity, students, employees – were received in February, 1990. 609 (39%) of respondents reported an incident of unwanted sexual attention.

- Hammar, Richard, R. (Ed.). (1997). 1997 survey findings. *Church Law and Tax Report*, 11(5, Sept./Oct.):9.

Reports a series of findings based on responses from 973 churches to a 1997 survey. Among the findings: “1% [of the churches] had responded to an allegation that a child had been molested in a church sponsored program.”

- Cagney, Mary. (1997). Sexual abuse in churches not limited to clergy. *Christianity Today*, 41(11, Oct. 6):90.] Also available on the World Wide Web:
<http://www.christianityonline.com/ct/7tb/7tb090/htm>
 Based on a 1996 survey of 1,700 congregations by *Church Law and Tax Report*. In 1995, .8% of the respondents reported allegations of sexual molestation against children. In 1996, the rate was 2%. The survey reports that of offenders against children: 50% were volunteers; 30% were paid staff, including clergy; and 20% were other minors.
- Thoburn, John W. & Balswick, Jack O. (1998). Demographic data on extra-marital sexual behavior in the ministry. *Pastoral Psychology*, 46(6, Jul.):447-457.
 Reports results of a 1991 national survey study of 186 male, Protestant clergy regarding factors that might predict extra-marital sexual behavior. 23 denominations were represented. Results include: 29 (15.5% of respondents) reported sexual behavior outside their marriage with 11 (5.9%) of all respondents reporting engaging in sexual intercourse. Intimate sexual intercourse was reported by 18 (9.6%) of respondents, and was more likely to occur with a church member than persons in any other roles, including church staff, counselee, friend, stranger, prostitute, or other. Of those reporting sexual intercourse, the highest incidence was with counselees.
- Smith, Alexa. (2000). When mentor becomes molester. *Presbyterians Today*, (Oct.). [Article also appears on the World Wide Web page of the magazine:
<http://www.pcusa.org/today/features/feat0010/htm>
 Context is the Presbyterian Church. Reports that there are about 50 clergy sexual misconduct cases annually. One denominational staff person, Mark Tammen, who has been consulted in 90+ cases in five years, reports that only two cases were clearly unfounded.
- Stockton, Ronald R. (2000). “The Politics of a Sexual Harassment Case.” Chapter 7 in Shupe, Anson, Stackey, William A. & Darnell, Susan E. (Eds.). Bad Pastors: Clergy Misconduct in Modern America. New York, NY: New York University Press, pp. 131-154.
 A case study of a three-year conflict in a PC(U.S.A.) congregation that involved: allegations of verbal and physical forms of sexual harassment by female staff and members of the church against the pastor; failure of the presbytery’s interventions to effect reconciliation; a formal ecclesiastical complaint of misconduct; three investigating committees were convened by the presbytery; a civil suit was filed by seven employees that resulted in a large cash settlement and 40% of the members left the church. For an extended treatment of the case, see: Stockton, Ronald R. (2000). Decent and In Order: Conflict, Christianity, and Polity in a Presbyterian Congregation. Westport, CT: Praeger Publishers, 238 pp.
- Evinger, James S. (2001). Investigation and disposition of formal ecclesiastical cases of pastoral misconduct involving sexual abuse: A quantitative study. *Journal of Religion and Abuse: Advocacy, Pastoral Care and Prevention*, 2(4):5-30.

A research study of case investigations and trial dispositions of formal cases of pastoral misconduct involving sexual abuse in the Presbyterian Church (U.S.A.) in the Synod of the Northeast, 1992-1997. Among the findings: 17 formal cases were reported; 31 victims were identified; all victims were female and laypersons; 30 of the 31 victims were of majority age and had capacity, and 1 was a minor. Of 16 perpetrators, all were male and clergy; 1 had 11 victims. Among the role relationships between perpetrator and victim, 26 (83.8%) of the 31 victims were in the role of congregant to the perpetrator's role of pastor. In all cases, not a single accusation was false.

- Halsey, Peggy. (2001, March). What if the abuser is one of us? A model for congregational response.
While prepared for a United Methodist context, the principles and components are transferable to other denominations. Utilizes a covenant to guide limited participation. Identifies specific components of the covenant. [Note: information regarding recidivism statistics are out of date.] [Accessed 10/13/16:
<http://www.elca.org/legalfaq/misconductResponse>]
- Hammar, Richard R. (2008). Ask Richard: A teenage boy wants to continue to attend our church even though he's a child molester. *Church Law & Tax Report*, 22(2, March/April).
- GuideOne Insurance Co. (2016, August 24). The Do's and Don'ts of Dealing with Sex Offenders at Church.
Brief, practical advice from an insurance company that insures over 40,000 churches. World Wide Web document. [Accessed 10/09/16:
<https://www.guideone.com/dos-donts-dealing-sex-offenders-church/>]

Choice and Trajectory

A simple point of the preceding published studies is to substantiate that the phenomena of sexual violations do, indeed, occur in the community of faith. Once we recognize and accept the reality, the challenge is what we do next. If our response to sexual violations is to deny or minimize what happened, our credibility and integrity as a people of God corrodes and crumbles. Experience painfully teaches us that people react strongly and negatively to leaders' decisions to hide, avoid, or diminish occurrences of sexual violations in a church. If this is the trajectory that leaders choose, good intentions notwithstanding, the risk is dramatically increased that the people affected will experience re-victimization. Anecdotal evidence demonstrates that cover-up by Protestant church leaders is much more likely to be a catalyst for civil litigation than the original violation.⁴

⁴ One academic researcher has published results of her study of the “why survivors [of childhood sexual abuse by Roman Catholic clergy in the U.S.A.] litigated... ...[and] what [they] accomplished through that litigation, and how litigation sometimes transformed pieces of their lives.” She reports that “nearly all agreed that the civil system was a last resort... ...litigation

Precedent teaches us that if the church fails to act in ways consistent with its identity as people of God in matters related to truth, healing, and justice, victims/survivors and their families are more inclined to seek a third party, like a court, to hold the church accountable for its inaction, which is another form of betrayal of trust.

At the other extreme, if our response is to overreact and allow ourselves to become paralyzed and withdraw into isolation, we betray our own faith and our conviction that God's Spirit will guide, accompany, and sustain. If avoidance is the trajectory of leaders' choices, all motivations notwithstanding, the risk is very high that people will lose confidence in, and respect for, the leaders or the church itself. This manual is written to ensure that leaders will be able to act faithfully and constructively after discovery of sexual violations.

Experience teaches us that church sessions without a sexual misconduct policy in place, or use one that is dated or is not comprehensive, have a much more difficult time making decisions about disclosure and sexual boundary violations. They lack a framework, a common language about the issues, and a shared set of convictions and principles. Experience also teaches that sessions are able to move forward more quickly and deliberately when the sexual misconduct policy includes a commitment to disclosure. Regardless of a session's starting point, this manual is a tool for choosing the trajectory to best serve the church's mission and ministry.

became the vehicle to establish that truth." Balboni, Jennifer M. (2011). Clergy Sexual Abuse Litigation: Survivors Seeking Justice. Boulder, CO: FirstForumPress, 179 pp.

II. Rationales for Disclosure

This chapter presents six rationales for the disclosure of sexual boundary violations: *Practical, Theological, Fiduciary Responsibility and Risk Management, Minors and People Who Are Vulnerable, Spiritual, and Standard of Practice*. The order of presentation does not reflect a relative importance. While each is vital, the six are interrelated, and form a consistent, clear, and strong position.

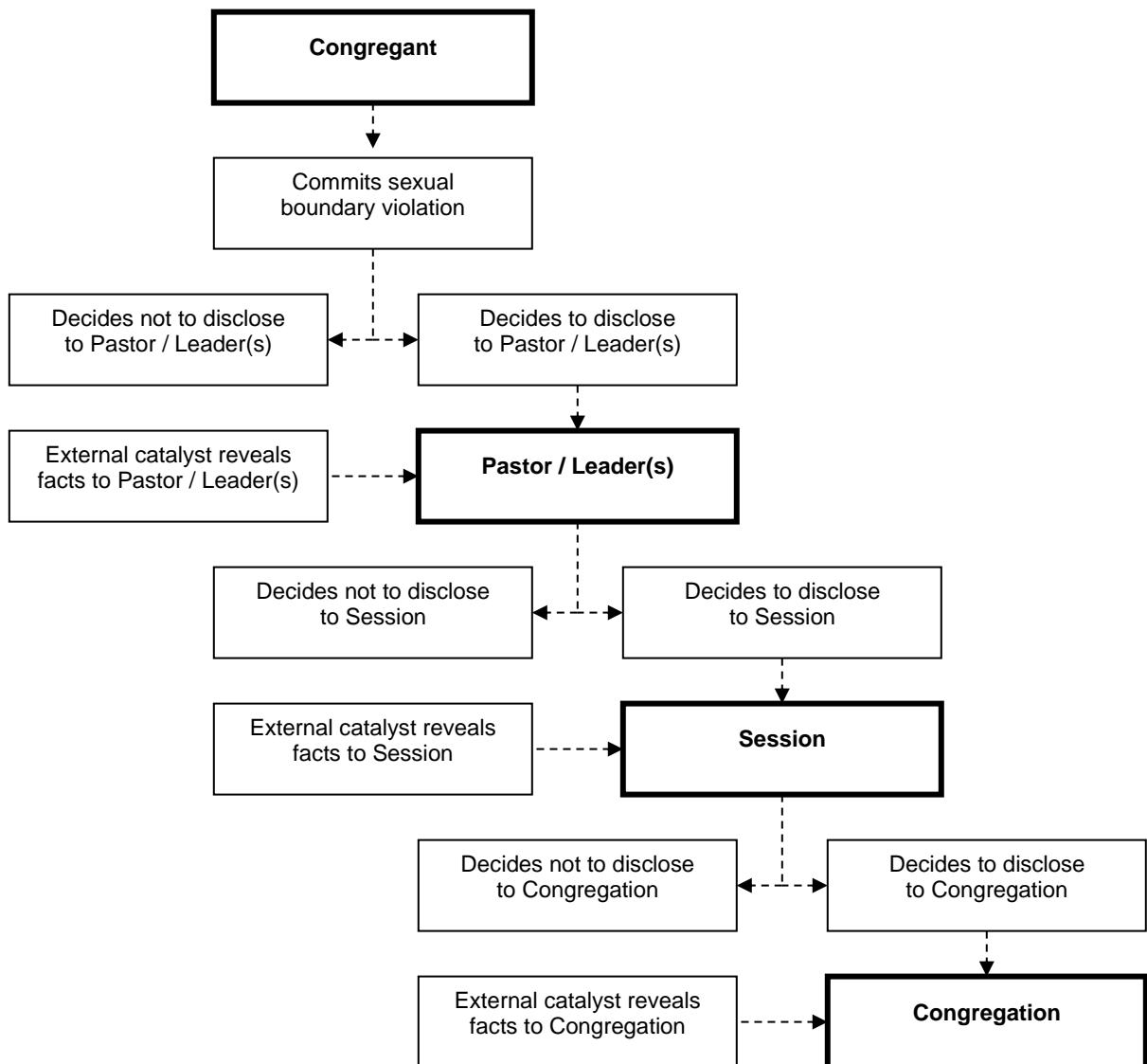
1. Practical

Discovery of a sexual boundary violation that has implications for the congregation focuses church leaders initially on the disturbing contents of the violation – the what and who, the when and where, the why and how. Thinking the unthinkable leads quickly to seeking explanations for what is incomprehensible. Initial resistance to disclosure is tied to the upsetting nature of the facts and to the anticipation that by communicating these facts, those who do the disclosing will be responsible for upsetting others. This reaction, however, overlooks whether it is possible to conceal this knowledge from the church. The unexamined assumption is often that it is possible for leadership to prevent the information from becoming known.

Experience in this presbytery teaches that the truth of sexual boundary violations will eventually emerge. Police action, a court proceeding, a media report, victims coming forth at a later date to church leaders, spouses of offenders confiding in church members who then passed the information to others – all have been external catalysts beyond the control of pastors and sessions that resulted in discovery by at least a segment of the church community. Examples from other presbyteries add to the possibilities: filing of a civil lawsuit, initiation of ecclesiastical disciplinary proceedings, and circulating rumors or hearsay. In situations where leaders deferred disclosure, they only postponed the inevitable. It is practical for a session to disclose because it is impractical for it to conceal the facts. The words of Jesus at John 19:40 are prophetic to this context: if the disciples are silent, stones shall cry out. And after the stones are heard, church leaders have a new burden: to explain their actions and inactions given the knowledge available to them.

Church leaders face two practical choices. They may act to disclose intentionally through a strategic and thoughtful plan of their design, or they may chose to wait until forced to react in relation to events initiated by others. The points at which these choices are made are depicted in Figure 1 following.

Figure 1. CHOICES REGARDING DISCLOSURE



The example in Figure 1 is of a congregant who commits, or is alleged to have committed, a sexual boundary violation. The choice is not whether the affected parties are informed. The choice is who discloses.⁵ The experiences of sessions that chose not to disclose teach us to expect several important consequences over time:

- First, there are consequences for the session. The pastor will be the primary source of sensitive and relevant information. Elders become dependent on the pastor for updates. The pastor becomes the sole filter as to what information is to be shared or withheld. By

⁵ In the Presbytery of Genesee Valley, in a disciplinary case involving a minister, the policy is to disclose: *Automatic Administrative Leave in Cases of the Accusation of 'sexual abuse of another person'* (adopted 12/02/08). [Accessed 10/13/16: <http://pbygenval.org/wp-content/uploads/sites/47/2016/03/PGV-Policy-on-Automatic-Administrative-Leave.pdf>]

default, this undermines the session's capacity to perform its leadership role. Without full and necessary facts, ruling elders, as church officers elected by the congregation, cannot make decisions, let alone wise and prudent decisions. The more the pastor is the gatekeeper of the sensitive and relevant information, the more the session's dependency pattern is reinforced.

- Secondly, the longer lack of disclosure continues, the more a pastor and session must bear the ongoing burden to keep informing new staff, whether employed or volunteer, and new elders. The standard, denominationally-required turnover of session classes ensures a change of members. The continuing need to inform people at the outset of their services diverts attention and energy from the basic mission and ministry of the church.

If a session chooses to initiate disclosure to the congregation, then it creates the context and timing of the disclosure of the facts. Initiation allows the session to presents its actions, rationale, and plans without the distraction of reacting to external events that forced the disclosure. Leadership serves best when it leads and takes the initiative.

The practical rationale for proceeding to disclosure is founded in part on the fact that the model described in this manual works successfully. It is effective. It was emergency service first responders, especially fire, police, and ambulance personnel, in partnership with clinicians, who developed the basic methodology. They recognized the adverse power of traumatic events on victims, witnesses, and emergency service workers. They also understood the need to help people cope with serious and unexpected incidents that had potential to disrupt lives and challenge basic belief systems. They recognized that timely intervention close to the event was effective in mobilizing supports to address the consequences. They recognized the practical value of utilizing consultants outside the affected group.

Their methods were tested and refined over time, studied as to effectiveness, taught in workshops, and widely utilized by local communities and federal and state agencies.⁶ Gradually, these methods were adapted by individuals in the religious community who specialize in helping congregations and governing bodies respond to sexual boundary violations.⁷ Learning how to

⁶ In chronological order of publication: Mitchell, Jeffrey T. (1983). When disaster strikes: The critical incident stress debriefing process. *Journal of Emergency Medical Services*, 8:36-39. Mitchell, Jeffrey T. & Bray, Grady P. (1990). Emergency Services Stress: Guidelines for Preserving the Health and Careers of Emergency Services Personnel. Englewood Cliffs, NJ: Brady. Clark, Marcie & Friedman, Diane. (1992). Pulling together: Building a community debriefing team. *Journal of Psychosocial Nursing*, 30(7, July):27-32. Shelton Ray & Kelley, Jack. (1995). Chapter 6, "Critical Incident Stress" in EMS Stress: An Emergency Responder's Handbook for Living Well. Carlsbad, CA: Jems Communications (Mosby-Yearbook, Inc.), pp. 131-160.

⁷ In chronological order: Craddock, Carroll, & Bardner, Jill R. (1990). "Psychological Intervention for Parishes Following Accusations of Child Sexual Abuse." Chapter in Rossetti, Stephen J. (Ed.). Slayer of the Soul: Child Sexual Abuse and the Catholic Church. Mystic, CT: Twenty-Third Publications, pp. 123-142. Chilton. (1991). Trauma debriefing: A congregational model. *Conciliation Quarterly Newsletter* [published by Mennonite Central Committee], 10(2, Spring):12-13. For a formal policy of a governing body, see Episcopal Diocese of Virginia. (no

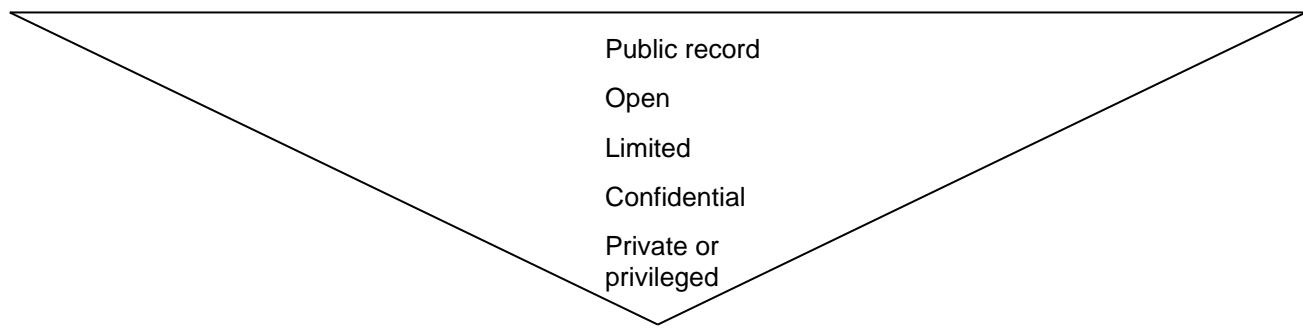
intervene effectively in the midst of life-threatening trauma was the opportunity to learn how to intervene effectively in the midst of faith-shaking trauma.

One practical benefit of disclosure is that it allows church leaders to address issues openly and honestly. In a non-disclosure situation, secrecy becomes the norm, and the consequence is avoidance or denial. Disclosure is a guided, structured process that channels emotions and actions in constructive and healthy ways. Non-disclosure either blocks that energy or allows it to proceed in ways that are potentially detrimental. In these circumstances, church leaders put themselves in a continuingly reactive position:

One session chose to defer disclosing to the congregation its knowledge of a congregant's arrest for sexual abuse of a minor. It set a contingency of the congregation learning of the arrest through public knowledge. Following publication of a police report of the person's arrest in the local newspaper, the pastor found herself in the difficult situation during Sunday worship of receiving prayer requests about the matter from the congregation without worshippers' knowledge of how the pastor and session had been dealing with the situation.

While the decision by church leaders of whether to disclose is dichotomous, as illustrated by Figure 1, the decision about what to disclose is not. Figure 2 is a construct of five ascending degrees of dissemination of private-to-public dissemination information.⁸

Figure 2. TYPES OF INFORMATION AND DEGREES OF DISSEMINATION



date). Trauma Debriefing. [Accessed 05/24/99: <http://www.us.net/edov/cpsm/appb>] Regarding a congregation's need for information and education through disclosure, see: Cooper-White, Pamela. (2003). "Sexual Exploitation and Other Boundary Violations in Pastoral Ministries." Chapter 16 in Wicks, Robert J., Parsons, Richard D., & Capps, Donald. (Eds.). Clinical Handbook of Pastoral Counseling, Volume 3. Mahwah, NJ: Paulist Press, pp. 342-365. For a brief, non-clinical description, see: Hopkins, Nancy Myer. (2006). "Best Practices after Betrayal Is Discovered." Chapter 1 in Gaede, Beth Ann. (Ed.). When a Congregation is Betrayed: Responding to Clergy Misconduct. Herndon, VA: The Alban Institute, pp. 2-13.

⁸ Adapted from: Ruth, Kibbie Simmons, & McClintock, Karen A. (2007). Healthy Disclosure: Solving Communication Quandaries in Congregations. Herndon, VA: The Alban Institute, 251 pp.

Differentiating carefully between types of information and the degree to which the information has been disseminated helps to avoid the fallacy that disclosure of sexual boundary violations in a faith community is an all-or-nothing matter. There have been pastors and elders who failed to make such distinctions, and thus naively resisted any degree of disclosure.

In Figure 2, information that is ***private or privileged*** would include information protected by law or the privileged communication between a client and an attorney. It could include medical information shared by a victim/survivor or her/his family with a pastor in the context of the pastor/congregant role relationship, information that legally belongs to the individual and is not the pastor's to disclose to a congregation without express consent. Information that is in the ***public record*** could include a record of a court proceeding, i.e., it is publicly available. Information that is ***open*** could include a media account of events. Media accounts are not public records. E.g., media accounts will typically withhold, as a matter of policy, the name of a victim of sexual assault, even when the person was identified in a trial proceeding open to the public. ***Limited dissemination*** would include documents in a meeting in which the congregation is voting on the pastor's salary package for the coming year. Regarding clergy and ***private or privileged*** information, laws vary considerably from state-to-state regarding whether clergy/congregant communication is privileged. In New York, the language of applicable statutes and case law should be taken into account when disclosure is anticipated.⁹ The essential point of Figure 2 is that church leaders can exercise discernment regarding what degree of information they communicate. An example of ***confidential*** information is a document which is entrusted to another person and contains restrictions regarding access or requires prior permission before disseminating it.

Differentiating between types of information also allows for correlation with differentiated types of knowledge bases of people who are sources of information.¹⁰

- People with ***first-hand knowledge*** are informants whose knowledge originates from direct experience or observation.
- People with ***second-hand knowledge*** are informants whose knowledge is based on what was received directly from those with first-hand knowledge.
- People with ***general knowledge*** are informants whose knowledge derives from hearsay, i.e., sources of second-hand knowledge based on sources of second-hand knowledge.

Correlating types of information with types of knowledge bases promotes clarification that some information is more authoritative than others. It also helps communicate that some sources, e.g., a survivor with first-hand knowledge, may possess more sensitive information.

⁹ For a thoughtful, brief discussion of the ethical dimension of the pastor's role and confidentiality, see: Mazat, Alberta. (1995). Abuse: Confidentiality, reporting, and the pastor's role. *Ministry*, 68(10, November):5-7. See also Appendix F.

¹⁰ Cunningham, Peggy, Drumwright, Minette E., & Foster, Kenneth William. (2019). Networks of complicity: Social networks and sex harassment. *Equality, Diversity and Inclusion: An International Journal*, 40(4, December):392-409.

Another component of the practical rationale for disclosure is that it permits others who may have been victimized by the offender and are connected to the faith community to learn that they are not alone, that the church is acting responsibly, and that leadership will be responsive to those who come forward and report abuse. Disclosure sends strong signals regarding the leaders' hospitality to receive new information about violations. It also sends a strong signal to those who were sexually violated in other contexts that their church cares about these offenses and will act in just and healing ways upon discovery.

The final, important practical reason to disclose is that it creates the possibility of intervening to interrupt abuse that is currently being committed, and/or creates the possibility of preventing future abuse by alerting potential victims and instituting appropriate measures. Disclosure mobilizes and channels the resources of the congregation, and allows for assistance by those from beyond the congregation who will contribute their expertise.

2. Theological

A primary rationale for disclosure is grounded in the reality that the issues before us are theological at heart. The question of whether a session should disclose to the congregation may be re-framed as a question of whether secrecy is consistent with the covenant nature of a faith community. The meaning of our sacraments, especially baptism, shapes our understanding of our covenant as a congregation. Consider the Presbyterian Church's Directory for Worship:

“The Sacraments of Baptism and the Lord’s Supper are God’s acts of sealing the promises of faith within the community of faith as the congregation worships... The congregation shall... voice its support of those baptized, [and] express its willingness to take responsibility for the nurture of those baptized. A ruling elder may lead the congregation in these professions and affirmations.”¹¹

To disclose important facts that affect the nurture and wellbeing of those baptized is to act in ways that are responsible and consistent with promises and professions we make at baptism.

To fulfill one of its three functions, a session is assigned by the Form of Government with “the responsibility and power to... *nurture the covenant community of disciples of Christ.*”¹² [italics in original] When a session faces the question of whether or not to disclose, the Form of Government obligates us to measure the decision against the norm of what it means to be a community of disciples gathered in the name of Jesus Christ.

If we choose non-disclosure, the resultant secrecy effects a substitution of human judgment that displaces God’s intentions. To not disclose is to yield to the power of fear, and thus deny the providence of God and the work of God’s Holy Spirit which works through the manifestation of

¹¹ Office of the General Assembly, Presbyterian Church (U.S.A.). (2015). Book of Order 2015-2017, Directory for Worship, W-3.3601 & 3.3603(f) and (g). Louisville, KY: Office of the General Assembly.

¹² Ibid. Form of Government, G-3.0201c.

truth. For example, we exercise our reliance on the truth of God's faithfulness and goodness when we disclose the truth of our sins:

“In prayer we respond to God in many ways... In confession we acknowledge repentance for what we as individuals and as a people have done or left undone.”¹³

Non-disclosure obscures the truth, and excludes the role of God to guide us. As a community of faith, we are called to a discipleship focused on Jesus Christ in whom nothing, including the crisis of sexual boundary violation, can separate us from the love of God.

Our Reformed tradition teaches us to preserve the covenantal nature of community by pursuing the truth. The Historic Principles of Church Order unequivocally affirm:

“...truth is in order to goodness; and the great touchstone of truth, its tendency to promote holiness, according to our Savior’s rule, ‘By their fruits ye shall know them.’”¹⁴

Congregational disclosure may be understood as a witness to the truth of sin in our midst. Insofar as disclosure works to hold offenders accountable, seeks justice and recovery for victims/survivors, and rebuilds trust among the people of the church, then disclosure works toward goodness.

Secrecy in a congregation is contrary to the preferred practice of transparency by leaders who make decisions affecting the body of believers. Transparency builds trust and is a means by which leaders are accountable. Regardless of how well-intentioned the keeping of secrets about sexual boundary violations in a church may be, including the justification of confidentiality, secrecy that puts vulnerable people at risk will undermine the church as an instrument of mission and ministry in the name of Jesus Christ. The power of trust between people in a covenant community is stronger than the capacity to coerce, order, or demand. Erosion of trust within a congregation is a threat to the community’s well-being. The Form of Government states clearly:

“Ruling elders are so named not because they ‘lord it over’ the congregation (Matt. 10:25), but because they are chosen by the congregation to discern and measure its fidelity to the Word of God, and to strengthen and nurture its faith and life.”¹⁵

This author was present at a meeting of church members after secrets had finally been disclosed to the whole congregation. A prominent lay member had committed felony acts against children in the church and community. Upon learning the details, one parent responded with tears and anger arising from her feelings of astonishment, betrayal, and fear. Wounded, she spoke spontaneously from the depths of her heart to the elders who had deliberately withheld the perpetrator’s identity from the congregation: “You knew he had molested our children and you didn’t tell us! You didn’t let me do my job to protect my child. You made that decision for me. How do you defend yourselves?” There was only painful silence. Loss of people’s trust is a serious casualty of the loss of leaders’ integrity, and a predictable consequence of non-disclosure.

¹³ Ibid. Directory for Worship, W-2.1002.

¹⁴ Ibid. The Foundations of Presbyterian Polity, F-3.0104.

¹⁵ Ibid. Form of Government, G-2.0301.

Truth is intimately related to faith and practice. We preserve our faith, and our community, when we pursue the truth vigorously before God. If the church as the body of Jesus Christ cannot speak due to a self-imposed silence, then it betrays its heritage and calling. Disclosure honors our heritage and calling, and preserves trust within the covenant community. It is a lie that disclosure will destroy a church. The people of God are resilient because they belong to God. It is utter *hubris* to believe that our wisdom about which difficulties people of faith can, or can't, endure is greater than God's will and capacity to guide those same people and bring new life out of death. We belittle the people of our churches, and our God, when we as leaders fail to prepare and lead the people of the church in times of trial and tribulation.

There are pastors and elders who have resisted disclosure on the basis of a need to express pastoral concern and/or compassion for the identified offender. This reasoning effectively defines pastoral concern and compassion only in relation to the offender, and ignores the needs of other parties, including the congregation and those who may be at risk. Such reasoning also suggests that holding an identified offender accountable for violating others is neither pastoral nor compassionate. It contradicts the church's theological understanding of confession of sin as an act of faithfulness and a step in the process of repentance. This type of thinking is seriously constricted and, more importantly, results in collusion by default. It ignores any theological or scriptural understanding of justice. In the end, it does not serve the needs of an offender, wounded parties, or the church.

2a. Scripture

There is a significant body of the Hebrew Scriptures in which God calls the people of Israel to practice hospitality directly with those who are at risk or are especially vulnerable, notably the orphan, the widow, and the stranger who dwelled among them (see particularly Deuteronomy).¹⁶

In the New Testament, concern for the neglect of widows is the basis for the appointment of those regarded as the first deacons (Acts 6). There is also a body of scripture to support righteous actions by third parties on behalf of those who are at risk or are being harmed. These warrants support our interventions to disrupt harm that is occurring, prevent future harm, accomplish good outcomes, and hold offenders accountable.

Exodus 1:15-22

Hebrew midwives intervene to save the lives of the newborn Hebrew males whom the ruler of Egypt had ordered to be killed.

Exodus 2:1-9

Three women – the daughter of the Pharaoh, Miriam (the sister of Moses), and the mother of Moses – intervene to save and care for the life of the Hebrew infant, Moses, contradicting the Pharaoh's edict.

Leviticus 5:1

One who is able to testify and does not speak commits a sin.

¹⁶ For further reflection on the ethical significance of the hospitality code of Israel, see the significant work of Marie M. Fortune, e.g., Sexual Violence: The Sin Revisited. (2005). Cleveland, OH: The Pilgrim Press.

Esther 7:3-4	Esther intervenes by revealing her Jewish identity to King Ahasuerus to save the Jewish people.
Judges 19-20	The tribes of Israel make repeated attempts before they succeed in holding accountable those in the tribe of Benjamin for their crimes against the woman identified as the Levite's concubine.
Ezekiel 33:1-6	The sentinel's duty is to warn the people of impending danger.
Matthew 12:9-13; Mark 3:1-5; Luke 6:6-10	Jesus intervenes by working on the Sabbath to accomplish a healing.
Matthew 2:13-14	God's angel intervenes to warn Joseph that Herod seeks to kill his son.
Luke 10:29-37	The Samaritan acts to care for the wounded traveler on the Jerusalem/Jericho road.
Ephesians 5:11	Expose the unfruitful works of darkness.
James 4:17	Failure to do what is known to be the right thing is to commit sin.

Disclosure of sexual boundary violations to a congregation honors the imperative of scripture to pursue justice.

3. Fiduciary Responsibility & Risk Management

Under New York State not-for-profit corporate law, an incorporated church is a legal entity, and the officers of the corporation – ruling elders, if the church uses a unicameral system of governance, and trustees, if the church uses a bicameral system – have a fiduciary responsibility under the law to act in the best interests of the legal corporate entity. It is clearly in the best interests of the corporation to disclose incidents of sexual boundary violations, especially if events involve minors or adults without capacity. Conversely, not to disclose may place the church at risk for civil and/or criminal liability, particularly in a case in which the legal directors and officers had personal knowledge of continuing offenses and failed to take appropriate action. From a risk management perspective, failure to disclose may compromise or even negate the church's insurance coverage, as insurance policies typically require prompt notice of *potential* claims, not just *probable*, to allow adequate opportunity for timely investigation.

The issue in secular law is what actions a reasonable and prudent person would take in these circumstances. Performing due diligence as a trustee under the law leads to consideration of the distinction between *possibility* of harm and *probability* of harm. An example illustrates. When some elders and pastors face the question of whether to disclose the identity of an accused person or known offender, a typical assumption is that disclosure should not occur because the person poses a low *risk* of committing further harm. They argue that the person is receiving counseling and this demonstrates the person's good intentions. Their position is based on an assessment of low *probability*. Even if such a low *risk* assessment could be confirmed with a high degree of certainty, the problem with this position is that it dismisses the *possibility* of harm occurring. It assumes that counseling will be effective and will thwart future harm. Even if counseling was to reduce the *probability* of re-offending, it does not eliminate the *possibility*. When the First

Presbyterian Church of Pittsford in our presbytery routinely renewed its insurance coverage, no one would have suggested that there was a high *probability* that the church would be struck by lightning in a summer storm in 2004 while the choir was rehearsing, and that the resultant fire would require the congregation to worship off-campus for months while the sanctuary was rebuilt. Due diligence was the basis to renew the insurance because of the *possibility* of such a devastating event. Prevention grounded in a risk management principle is oriented to preventing an adverse *possibility*.

Acting to disclose on the basis of a risk management rationale is also a preventive measure in two ways. If the person identified or accused as the offender is committing acts against others unknown to the church leaders, disclosure can help interrupt ongoing perpetration. Disclosure also sets a standard that leaders will not tolerate, or acquiesce to, sexual boundary violations in their faith community, and that offenders will be held accountable. Disclosure helps prevent future perpetration. It actively de-normalizes a cultural tolerance of sexual abuse.

4. Minors and People Who Are Vulnerable

In the case of children and youth who are minors, our moral obligation is to comply with the reporting requirements of New York State Social Services Law, Section 415 (see Attachment D. of the Presbytery of Genesee Valley *Policy on Sexual Misconduct*).¹⁷ Disclosure facilitates compliance. Disclosure also facilitates notification of parent(s) or legal guardian(s) of the child(ren) or youth involved. It facilitates cooperation with any investigation by law enforcement officials or Child Protective Services personnel.¹⁸

Disclosure is also consistent with the mandated reporting provisions for all church officers that were added by amendment to the Book of Order, effective July 3, 2005.¹⁹ The mandating reporting provision also extends to abuse of adults who are vulnerable because they lack capacity, and so would protect persons with dementia, traumatic brain injury, and developmental disabilities, to name some examples of those whose cognitive functioning is impaired.

In matters involving children and youth, disclosure is consistent with an “Unacceptable Risk Rule.”²⁰ This rules sets a standard of risk assessment designed to protect minors: if on the

¹⁷ Presbytery of Genesee Valley. (2021). *Policy on Sexual Misconduct*. Rochester, NY: Author. [Accessed 06/08/21: <https://media.myworshiptimes22.com/wp-content/uploads/sites/25/2021/03/05101818/Sexual-Misconduct-Policy-revised-2020-JUL-1.pdf>]

¹⁸ In situations involving minors, the perspective of risk management would lead the session to report known information to legal authorities or agencies able to conduct a formal investigation, like Child Protective Services.

¹⁹ See Book of Order (2015), G-4.0302: minister of Word and Sacrament, ruling elder, deacon, and certified Christian educators.

²⁰ Parkinson, Patrick. (1997). Child Sexual Abuse and the Churches. London, England: Hodder & Stoughton Ltd. See also the updated and revised edition: (2003). Child Sexual Abuse and

basis of all known facts, a session chooses not to disclose and the decision would likely expose children or youth to an unacceptable degree of risk or harm, the session is violating the rule. By this simple standard, the outcome of disclosure is measured against the outcome of exposing children or youth to risk.

Another standard that supports disclosure in the case of children is the “Balance of Protection Rule.”²¹ This acknowledges, on the one hand, the interests and rights of a person who is reported to be at risk for committing sexual abuse of a minor. It also acknowledges, on the other hand, the interests and rights of children and youth who are in the congregation or participate in the church’s program. The rule, adopted by the Presbytery of Genesee Valley in its *Sexual Misconduct Policy*, would encourage a session to always honor the balance that most strongly favors the protection of minors.²²

5. Spiritual

Disclosure recognizes that a congregation has its own genuine and valid needs, and that it is often a silent, indirect victim when sexual boundary violations occur within churches.²³ Disclosure is always warranted by a congregation’s continuing need that it be, in fact and in people’s perception, a place safe and secure for children, youth, families, and all vulnerable people. Disclosure is always warranted by the need to obviate rumor, innuendo, gossip, and speculation in the community of faith. Disclosure is always warranted by the session’s responsibility to foster trust and truth within a congregation. This includes taking actions that reinforce members’ confidence in their leaders as trustworthy, honest, forthright, and willing to be accountable for their decisions in sensitive and difficult situations.

the Churches: Understanding the Issues, 2nd edition. Sydney, Australia: Aquila Press (a division of Anglican Youthworks), 321 pp.

²¹ Ibid.

²² Presbytery of Genesee Valley *Policy on Sexual Misconduct* op. cit., Attachment 3 at 3(C)5. The basis for this is the work of Patrick Parkinson, Op cit. Parkinson, Patrick. (1997). In cases involving the criminal legal system, some pastors are very concerned about the accused person’s presumption of innocence. A session that acts to protect children within its care does not negate the presumption of innocence under the law. Some pastors have wanted to protect the accused person’s confidentiality; if the accused person has been charged and arraigned in a legal proceeding, the fact is generally a matter of public record.

²³ For an excellent discussion of the needs of associate victims, see Luepker, Ellen Thompson. (1995). “Helping Direct and Associate Victims to Restore Connections After Practitioner Sexual Misconduct.” Chapter 12 in Gonsiorek, John C. (Ed.). Breach of Trust: Sexual Exploitation by Health Care Professionals and Clergy. Thousand Oaks, CA: Sage Publications, pp. 112-128. See also the analysis based on a case study by Graham, Larry Kent (1992). “Restorative and Liberating Care: Healing a Congregation.” Chapter 10 in Care of Persons, Care of Worlds: A Psychosystems Approach to Pastoral Care and Counseling. Nashville, TN: Abingdon Press, pp. 224-239.

The boundary violated may have been ecclesiastical (Book of Order, a session policy), civil (e.g., sexual harassment statutes), or criminal. As such, the context defines the events as a *rule* violation. However, this orientation overlooks the *relational* dimension of the violation. A *rule* orientation focuses, by definition, on the offender or perpetrator, i.e., the one who violated the rule. A *relational* orientation takes into account the personhood of those who were violated – directly, as the person victimized experienced it, and indirectly, as the congregation and others experienced it. The *relational* orientation takes into account the nature of the offender’s betrayal. Betrayal is associated with the breaking of a person’s trust in the offender, particularly insofar as the offender’s sanctioned position and status, and the derivative power, within the faith community was used to accomplish the violation. Betrayal conveys a significant and disturbing interpersonal experience. Rule violation proceedings, be they ecclesiastical disciplinary ones, or ones conducted under civil or criminal law, proceed in ways that restrict how the effects on those harmed directly and indirectly, as they experienced it, will be considered. The act of disclosing to the congregation opens possibilities for the *relational* dimension to be addressed. Restoring covenants of trust in a faith community depend upon the truth being known.

One common source of opposition to disclosure is rooted in fear as expressed in the metaphor, “We don’t want to wash our dirty linen in public.” If this is leadership’s position, the real possibility exists that the congregation will learn a version of the information through less than desirable sources, like gossip or media. If there is bad news to deliver, it is best for the health of the faith community if delivery is by the leadership of that community. To do so demonstrates leadership. Leaders who act to fulfill their spiritual role in a faith community are acting accountably and assuming responsibility for cleaning the dirty linen. These actions restore the spiritual well being of the community and preserve it over time. Hiding dirty linen undermines spiritual resilience.

6. Standard of Practice

The Presbytery of Genesee Valley is committed by policy to disclose “to an affected congregation the basic facts regarding commission of sexual misconduct, or other related matters.”²⁴ Disclosure is the Presbytery standard of practice.

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

Ephesians 5:11

²⁴ *Policy on Sexual Misconduct*, op cit., Section VI. Intervention Procedures, H. Disclosure.

III. Inventory of Sexual Misconduct Case Complexity

A variety of factors increase the complexity of a case of a sexual boundary violation, and affect decisions about disclosure. It is vital to identify and describe the relevant factors as early as possible. It is essential to discuss these even if all facts are not known and available information is only partial. The instrument in Figure 3 was created to specify the components of complexity in relation to the commission of sexual misconduct and sexual abuse.

Figure 3. GENESEE VALLEY INVENTORY OF SEXUAL MISCONDUCT CASE COMPLEXITY

TYPOLOGY OF SEXUAL MISCONDUCT (1)	FACTORS OF COMPLEXITY						
	# of victims (2)	Status (3)	Duration (4)	Nature of harm (5)	Offender-related	Clinical (7)	Context-related (8)
Illicit Behavior is, or when committed was, subject to criminal prosecution and/or civil liability, e.g., statutory rape, child sexual molestation or abuse, child pornography, sexual harassment, or solicitation.							
Exploitive In the commission of misconduct, an entrusted religious office, position, or role is misused and violated. Frequently includes intentional grooming behaviors.							
Situational 2. Onset is attributed to situational stress, e.g., reactive depression, lack of support or social isolation, personal crisis, or a failed primary relationship.							
Situational 1. Onset is attributed to lack of comprehending the nature or importance of professional role boundaries.							

Footnotes are on following pages. Adapted from Evinger, James S., Whitfield, Carolyn, Postlethwait, Nan, Hawley, Bill, & Yoder, Dottie. (2000). Unpublished paper.

Compiling the Genesee Valley Inventory

The Genesee Valley Inventory combines objective and quantifiable components with others requiring the exercise of judgment based on knowledge and/or expertise. While the factors are listed as discrete components, they are interrelated functionally. Compiling this inventory is best accomplished by leaders, clergy and laity, from the affected congregation and the presbytery in collaboration with outside resource people who bring specialized knowledge, are at a critical distance from the situation, and are not in dual role relationships with principal parties that could present conflicts of interest. The process of collaborative compilation is as important as the Inventory itself.

Typology of Sexual Misconduct ⁽¹⁾

This typology expands upon terms introduced in the 1990s by Marie M. Fortune, founder and senior analyst, FaithTrust Institute, Seattle, Washington. Ms. Fortune, whose work is internationally recognized, testified as an expert witness in 1996 at a trial conducted by the Presbytery of Genesee Valley's Permanent Judicial Commission in a disciplinary case against a minister on charges of sexual abuse. The gravity of sexual misconduct is displayed in descending order based on the seriousness of the behavior. The degree of gravity directly affects decisions about a case. If the behavior is *Illicit*, it will always intensify the complexity, even if the etiology of the offender's misconduct is determined to be *Situational*.²⁵ This typology is descriptive, and should never be used to excuse an offender, rationalize commission of an offense, minimize the consequences of an offense, or otherwise fail to hold an offender accountable. This typology, because of its etiological nature, inherently focuses on the offender. Historically, the religious communities' attention in a case of clergy sexual misconduct centers on the offender, and overlooks or downplays the personhood of the victim and the consequences to the congregation.

²⁵ The typology is further informed by clinical and forensic models. See: Gonsiorek, John C. (1995). "Assessment for Rehabilitation of Exploitative Health Care Professionals and Clergy." Chapter 14 in Gonsiorek, John C. (Ed.). Breach of Trust: Sexual Exploitation by Health Care Professionals and Clergy. Thousand Oaks, CA: Sage Publications, pp. 145-162. For a refinement of this model, see: Gonsiorek, John C. (1999). "Forensic Psychological Evaluations in Clergy Abuse." Chapter 4 in Plante, Thomas G. (Ed.). Bless Me Father for I Have Sinned: Perspectives on Sexual Abuse Committed by Roman Catholic Priests. Westport, CT: Praeger, pp. 27-57. See: Irons, Richard. (1995). "Inpatient Assessment of the Sexually Exploitative Professional." Chapter 15 in Gonsiorek, John C. (Ed.). Breach of Trust: Sexual Exploitation by Health Care Professionals and Clergy. Thousand Oaks, CA: Sage Publications, pp. 163-175. See also: Irons, Richard & Roberts, Katherine. (1995). "The Unhealed Wounder." Chapter in Hopkins, Nancy Meyer & Laaser, Mark. (Eds.). Restoring the Soul of a Church: Healing Congregations Wounded by Clergy Sexual Misconduct. Bethesda, MD: The Alban Institute, Inc., pp. 33-51. See also: Irons, Richard & Schneider, Jennifer P. (1999). The Wounded Healer: Addiction-Sensitive Approach to the Sexually Exploitative Professional. Northvale, NJ: Jason Aronson Inc., 252 pp. See also: Schoener, Gary Richard. (No date). "Typology of clergy who engage in sexual misconduct." [Accessed 10/30/06 at the World Wide Web site of AdvocateWeb, posted 1998: <http://www.advocateweb.org/hope/typologyofclergy.asp>]

Including a typology of offending behaviors recognizes one factor to be considered, but it holds no greater relative value than the others.

Victim-related Factors (2) (3) (4) (5)

The degree of complexity of Victim-related factors correlates to the magnitude of the quantification of each.

The *number of victims* is differentiated between persons confirmed as victims, and persons who are thought to be, but are not confirmed. The *status of victims* specifies whether the victim(s) is an adult with capacity, a minor, or an adult without capacity. If either of the latter two categories is specified, this status is a critical factor in determining complexity.

The *duration of misconduct* is identified in relation to each victim in order to report more accurately the reality of the offense. The length of the incidence is measured from the beginning of the first offense against the person to the end of the last. This measurement applies equally both to a one-time event that occurs on one day, a continuous episode over a protracted length of time, and an incident that consists of a series of episodes occurring in an interrupted sequence. Duration is also reported for each victim because an offender's perpetration may occur against multiple victims in serial or cluster patterns. In these patterns, without victim-specific differentiation, a complete picture of the offenses may be obscured. A serial pattern consists of separate and discrete episodes against two or more victims, and occurs consecutively, one victim at a time. A cluster pattern consists of offenses against two or more victims, and occurs concurrently, two or more victims in the same timeframe. A 5-point rating measures duration of misconduct in relation to each victim:

- 5 = >5 years
- 4 = >2 years to 5 years
- 3 = >1 year to 2 years
- 2 = >1 day to 12 months
- 1 = <1 day

As a general practice, it is reasonable to correlate increased duration with a greater negative impact on a victim. However, one individual may experience a high degree of harm as a consequence of a shorter incident, and another person may experience a lesser degree of harm as a consequence of a more protracted incident. The nature of harm in each case is best assessed on an individual basis.

The *nature of harm* to the victim is specified in relation to eight domains: *psychological*; *spiritual* (one's relationship to God); *religious* (one's affiliation with a faith community); *familial* (one's primary relationships); *occupational and vocational* (one's capacity to work, whether as employed or as a volunteer); *financial* (e.g., counseling expenses); *relational* (one's social functioning and competence); *medical* (e.g., offense-related treatment as medically required). Note that one individual may experience a high degree of harm as the consequence of less serious misconduct, and another person may experience a lesser degree of harm as the consequence of more serious conduct. The nature of harm in each case is best assessed on an individual basis, and in relation to each domain.

Offender-related Factors (6) (7)

The degree of complexity of Offender-related factors correlates to the weight or magnitude assigned to each.

The sanctioned *religious role, office, position, or function of an offender* is identified in relation to the victim(s): e.g., pastor, pastoral counselor, youth minister or leader, campus minister, chaplain. This factor recognizes an intrinsic power differential between the offender and victim's respective roles, regardless of whether the offender is paid staff or volunteer.

If a formal *clinical assessment* of the offender has been conducted, describe the results, as privacy permits: e.g., diagnosis of personality disorder, major or minor depression, or alcohol or substance abuse or dependence. The current edition of Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association is the standard clinical reference. If the offender has prior acts of sexual misconduct, estimate the risk of recidivism, taking into account prior known acts and access to potential victims. A 5-point rating measures risk:

- 5 = Highly Likely
- 4 = Likely
- 3 = Unknown
- 2 = Unlikely
- 1 = Highly Unlikely

Context-related Factors (8)

The degree of complexity of Context-related factors correlates to the number and nature of the factors involved, and the consequences of each, whether realized or anticipated, for others.

To assess the impact on a congregation, it is useful to think about the person who is the identified offender in terms of his/her *role within the congregation*. In descending order, we would typically expect the impact to be greatest if the person is in the role of: pastor; member of the church staff; formal lay leader (elder, deacon, Trustee, youth group leader, Sunday School teacher); active member; active congregant; occasional visitor. This acknowledges the relational dimension of a sexual boundary violation: that trust between people was betrayed.

Context factors are differentiated between *ecclesiastical* and *non-ecclesiastical*, a distinction based on whether the factors are within or beyond the church's control and responsibility, and therefore may limit the options available to church leaders. This portion of the Inventory, Figure 4, identifies elements that may intensify the complexity of a case.

Figure 4. FACTORS RELATED TO CONTEXT

1. ***Ecclesiastical*** factors include, but are not limited to:
 - commission occurred at or within the church's facilities, or in a church program;
 - church leaders have not consulted with, or have not heeded the advice of, experts from outside the congregation;
 - leaders act to maintain secrecy or contain awareness, e.g., inappropriately imposing confidentiality;
 - leaders violate an appropriate promise of confidentiality, e.g., disclosing a victim's request that personal identifiers not be revealed;
 - leaders are divided over responses and strategy;
 - the church lacks a sexual misconduct policy, or the policy is inadequate for the circumstances;
 - high profile status of any principal party(ies), whether within the religious or secular community;
 - some leaders had prior knowledge of the offender's behavior and either did not act appropriately to the circumstances or did not act effectively;
 - a victim or an offender who is a minor, or who is an adult who lacks capacity, and is involved in a program of the church or a church-sponsored entity;
 - a victim who is also an offender, or an offender who is also a victim;
 - discovery by leaders of previously unknown victims of the offender;
 - leadership fails to notify law enforcement or Child Protective Services, when such notification was relevant;
 - one of the principal parties retains a lawyer;
 - continued involvement in the congregation by family members of the offender and/or victim(s);
 - a formal accusation is filed which initiates an ecclesiastical disciplinary case;
 - suspending or terminating the accused offender, whether from a paid staff or volunteer position;
 - failure to suspend or terminate the accused offender;
 - multiple ecclesiastical governing bodies are involved;
 - uninvited or unauthorized involvement of a former staff member or clergy of the congregation;
 - congregation includes people who have been victimized in the past, but not by this offender.
2. ***Non-ecclesiastical*** factors include, but are not limited to:
 - force or violence was used during commission;
 - case receives media coverage;
 - the church's insurance carrier becomes directly involved;
 - criminal or civil action is initiated;
 - the offense involved a victim affiliated with an organization or agency not formally a part of the church, but which is contractually related, e.g., a child care program that leases space in the church facilities or a non-profit group like a scout troop that uses church facilities.

IV. Decision Phase: *Role of the Session*

- IV.1 The first step after discovery is for a session to decide whether to tell the congregation. To accomplish this, the session is convened in a special meeting.²⁶ Resource people who are external to the congregation should be invited to participate, i.e., representative(s) from the Committee on Ministry, the general presbyter, and a person(s) with expertise on sexual boundary violations and congregations.²⁷ If the church uses a bicameral governance structure, it is imperative that its Board of Trustees also participates.²⁸
- IV.2 In general, it is better that the meeting be conducted as an open meeting. If people other than those specifically invited would be present, or if personnel matters and decisions are involved, then the session may choose to conduct select portions of its business in executive session, per Robert's Rules of Order. Actions related to sensitive details can be handled prudently and with discretion by the clerk's careful wording of the minutes. Practicing a commitment to openness is consistent with rationales in Chapter 2 related to commitments to truth and preserving trust. Based on anecdotal experience, the desire to close a meeting may reflect an overreaction based on fear and anxiety.

²⁶ It is not realistic to consider a matter as important and emotional as this as an agenda item at a regular meeting. This topic requires time and attention apart from the usual agenda items. Calling a special meeting is consistent with the urgency and seriousness of a decision about whether to disclose.

²⁷ The purpose of inviting people who are external to the congregation is to counterbalance the tendency of a group not to proceed to disclosure. This tendency, typically, is driven by strong feelings: denial of the facts or the seriousness of the incident(s); fear – of conflict, anger, litigation, publicity, losing members; defensiveness; avoidance – of the fact of abuse, of the reality that a respected individual in the church community violated a position of trust; guilt; shame; identification with the perpetrator, or the perpetrator's family; protectiveness; suspicion of outside involvement. Direct participation and leadership by external resource people at this meeting helps ensure that a wider range of viewpoints is considered, especially ones related to risk management concerns. Under duress, those closest to the principal parties, i.e., victim and perpetrator, will likely find it very difficult to consider the nuances of the situation or contrary points of view.

²⁸ In a unicameral system of governance, the session functions as the trustees under New York State not-for-profit corporate law. The trustees of the church are the directors of the corporation, and are charged by law to exercise a fiduciary responsibility on behalf of the corporation. In a bicameral system, the seriousness of these matters requires the board of trustees to be involved directly.

- IV.3 Documents and materials that should be available at the special session meeting include: the session’s sexual misconduct policy; Presbytery’s sexual misconduct policy; materials from the church’s insurance carrier; Book of Order; topical materials, as relevant, e.g., materials related to legal statutes, especially if the incidents involve children.
- IV.4 The meeting is convened and chaired formally by the moderator of the session, but the resource people guide the discussion about disclosure.²⁹ This discussion is structured and directed. It deliberately elicits active participation by all elders.³⁰ The primary tool for structuring discussion is Appendix A. Deciding Whether to Disclose: *An Exercise in Session Discernment*.
- IV.5 It is essential that elders consider the dichotomous choice of not disclosing versus disclosing, and identify the positive and negative implications of each option. In preparation for this meeting, it is useful for the person(s) who guides the discussion to be familiar with the types of reasons that were generated by elders in actual discussions. See Appendix B. “No Disclosure” versus “Disclosure.” It is a background resource, and should not be distributed in advance.

Implementation of the Decision to Disclose

- IV.6 If the session decides to disclose, the immediate action is to appoint a committee, task force, or ministry team, to develop a plan for the disclosure. The charge to this group should include the instruction that the plan will be presented to the session for its review and approval.
- IV.6a It is very important that this committee represent both a diversity of gender and points of view. Broad composition ensures that a number of factors will be taken into account, and increases the likelihood that the congregation will trust the group’s recommendations because of confidence in the individuals. Participants should not have dual relationships with the principal parties of either the accused perpetrator or the identified victim(s), e.g., family ties a close working relationship, or a friendship that could constitute a conflict of interest, or give the appearance of a conflict of interest. People who are mature and reasonable will greatly enhance the work of the group. Stressors include matters related to sexuality, making choices from options that all have trade-offs, and competing moral values. The decisions to be made require a

²⁹ In circumstances in which the pastor of the church is a very significant party to the events, it may be wiser to utilize a person who is less involved to function as the moderator. This would allow the pastor to function in the single and primary role of a participant in contrast to the dual roles of moderator and participant. The pastor appointing a one-time moderator easily accomplishes this arrangement.

³⁰ If this meeting is not carefully structured and guided, the result, typically, is that the position of several of the most verbal elders will prevail while a number of elders sit quietly as spectators. The greater the degree of participation from all elders, the better the whole session will understand the range of viewpoints, choices, and the implications.

great degree of discernment. Members will have to name the spiritual dimensions of the issues, and must be able to articulate their faith.

- IV.6b Between three and six members is sufficient in size. If the group is too large, the more difficult it is to arrange for meeting dates/times. The group should be available to meet as soon as is feasible. Individuals must be willing to make this commitment a major priority. The ability to respond to quick-moving events is a necessity.
- IV.6c Clergy and/or paid staff are ex-officio members of this group, with the exception of one who is an alleged offender. It is essential that a resource person(s) from the presbytery, i.e., outside the congregation's leadership, be included as consultant(s) or liaison(s).
- IV.6d If the session does not designate an elder to chair the group, the group should be empowered to name its own chair.
- IV.6e Some sessions have formed the committee on basis of elders who volunteered. Some defer to the pastor to appoint. Each procedure has advantages and disadvantages. What is more important is that the criteria for members as described in II.6a are fulfilled.

V. Planning Phase: *Role of the Disclosure Committee*

In Advance of the First Meeting

- V.1 The first meeting of the Disclosure Committee should be as soon as possible after the session makes its appointment.
- V.2 Before the first meeting, the individual with the most knowledge of the facts prepares a typed history of events in chronological order. It should be objective and impartial in tone, and describe who, what, when, where, how, and why. This statement is as complete as possible, and organized in chronological order. The source(s) of the facts is also stated. Typically, it is the pastor who has the most amount of information. However, if other individuals have played a significant role in events to date, it would help to get their versions in writing, as well. Committing the facts to writing allows more people access to review the information, and thus increases the likelihood of achieving greater accuracy and a reasonable tone. A written document is a means of accountability in that it prevents one person from controlling the information. The document is also a means of protection in that it permits the leadership of a church to assume greater responsibility for decisions. A verbal account is never sufficient.
- V.3a The statement that is prepared in advance includes information that is publicly available, and also information that is *confidential*, i.e., information that is not for public disclosure, and is identified as such. Types of *publicly available* information may include legal records, e.g., an arrest record or a record of an arraignment proceeding, and non-legal documents, e.g., a story published in a newspaper. *Confidential* information most likely will be excluded from the version that it is disclosed to the congregation.³¹ Information that is *private* or is *legally privileged* is not included in this version.³²

³¹ *Confidential* information is included at this point because it is relevant and necessary to persons who, because of their designated roles, exercise formal, role-related authority in order to fulfill specific responsibilities, e.g., a church's elders, trustees, and ordained staff; presbytery representatives; the church's insurance carrier; law enforcement authorities.

³² *Private* refers to information that may not be communicated without the subject's informed, explicit consent. An example from the context of health care illustrates the difference between *confidential* and *private*. Mr. Smith's medical records are private, and are maintained by Dr. Jones, Mr. Smith's health care provider. Access to Mr. Smith's private records may be extended on a confidential basis, however, to other health care providers who have a clear need to know that information in order to treat Mr. Smith. This 'need to know' basis is always measured in relation to Mr. Smith and his care. 'Need to know' means, in effect, that it is in Mr. Smith's best interests if other role-appropriate providers have access to the private records – in order to be able to best treat him. Churches and clergy frequently use *confidential* and *private* synonymously, and need to learn the clear distinction. Legally and ethically, there

V.3b Frequently at this point, a question is raised regarding a fear of the church being sued for libel (published information, as in written or printed) or slander (spoken information) if defamatory information is distributed that includes personal identifiers of the individual alleged to have committed the violations. A church generally has a solid defense when the information is substantially true and accurate, fairly represents the facts, lacks demonstrable malice (e.g., communication is made for the sake of protection of third parties), and information sources are from a police record or legal proceeding. The act of a threat being made is not a sufficient reason to suppress disclosure.

V.4 A copy of the draft statement of facts is made available to each group member.

First Meeting

V.5 The elder designated to chair the committee moderates the meeting. The standard practice of taking minutes of the meeting is not advisable in this unique circumstance. The information discussed is extremely sensitive, and the greater need is for freedom of open conversation. The agenda that will focus the committee's work is determined by needing to accomplish very concrete tasks:

- write a final version of the statement of facts;
- write the individual components that will be communicated in the disclosure event in light of the goals of disclosure;
- write documents that will be used to notify others apart from the disclosure, e.g., letters or a notice to be distributed by the church office.

Focusing on creating these documents moves the work of the committee forward. Rather than produce minutes, the work group should focus on generating its draft work products.

V.6 The primary task of the first meeting is to review the prepared statement of facts line-by-line. The goal is to establish a document that is as complete, clear, accurate, and authoritative as possible. It is crucial that consensus as to the facts, and the sources, be achieved. The final version will be the basis for the statement used in the disclosure to the congregation. The final version will include relevant confidential material to the

must be a clear and compelling reason to breach privacy. This is especially relevant in situations involving sexual boundary violations. The first reason to breach the privacy of one who commits sexual boundary violations relates to people who lack capacity to consent under the law. In any matter involving a child or an adolescent who is a minor, or an adult who lacks capacity, as defined by law, the church's choice should always be to act in ways that protect the vulnerable person's welfare and safety. The second compelling circumstance that justifies a breach of an offender's privacy is one in which there is a risk that a person will be harmed. However, the privacy rights and needs of a victim, especially in the case of a minor, should always be respected. See also Appendix F.

extent necessary. Of secondary consideration at this review is grammar and style. It is very important that final tone be impartial and descriptive. Anticipate that a second meeting to review the revised draft will be required before a final version is ready. This is also a way to integrate newly discovered or recently emergent facts in a developing situation.

V.7 The next task is to discuss the design of the congregational disclosure and its components. This is best accomplished by reviewing materials used by other congregations in actual disclosures. While particulars of context and circumstance shape the final plans, the core design is retained. Components of a disclosure include:

- opening prayer and/or song
- description of the context as a community of faith *
- background to the events *
- report of the known facts *
- rationales for the session's decisions, including its convictions *
- questions and answers in relation to the reported facts
- discussion of reactions
- spiritual reflection
- future steps planned by the leadership *
- concluding prayer and/or song

* indicates a formal document that may be distributed

For further detail, see Appendix D. Components of a Disclosure.

V.8 The components above are implemented in ways that fulfill the essential goals of the disclosure process. At the first meeting, it is sufficient to identify these goals. The real work of making sure they are being realized begins after the statement of facts is firmly established. The goals include:

- a. honor a primary commitment to the truth;
- b. recognize and respect valid needs for privacy and confidentiality;
- c. defer to, and protect, formal ecclesiastical and/or secular investigations;
- d. empower a session to act in ways congruent with its authority and responsibilities;
- e. be consistent with standards for risk management;
- f. articulate the spiritual dimension of the issues;
- g. express the convictions that guide the session's decisions.

V.9 Another item for consideration is which individuals or parties should receive direct notification of the facts apart from the congregational disclosure. Examples of those included in this category typically include: the church's insurance carrier, general presbyter, chairperson of the Committee on Ministry, and attorney for the presbytery.

Others to be notified separate from the congregational disclosure depend on context and circumstance, and how certain individuals or groups have already, or will be, affected, e.g., the victim and family, the perpetrator and family, a youth group and its leaders, Sunday school teachers, day care staff, etc.. Discretion, wise judgment, and a careful assessment of the implications are all necessary to this discussion. It is more important at the first meeting to begin this discussion than to reach conclusions.

- V.10 The second meeting should be scheduled to occur as soon as possible while allowing for sufficient lead-time to ensure that the critical tasks, especially completing a revised statement of facts, are completed in advance.

Second Meeting

- V.11 The priority agenda item is to achieve concurrence on a final draft of the statement of facts. When this is accomplished, the committee shall present it to the session at the earliest possible date. While the disclosure committee is the author of the document, the statement must be reviewed and adopted by the elders. This is the means by which our polity honors the primary leadership role of the session.³³
- V.12 A second agenda item is to identify who should be notified of the statement of facts apart from, and preceding, the congregational disclosure (IV.9).³⁴ The means of notification should include formally typed materials and cover letter, a copy of which is retained by the church. The copy protects the church in that it can substantiate what contents were communicated. It is vital that the session's actions be documented. As a rule of thumb, it is always better to conduct this form of notification in person. It is consistent with the relational nature of being a church, allows for questions and answers, and ensures that notification was achieved.
- V.13 The next agenda item is to discuss in greater detail the components of the disclosure (IV.7 and Appendix D.), and to do so in light of the goals (IV.8). The most efficient way to focus the discussion is by reviewing samples from other churches that have been through disclosures. The person who is consulting may be able to supply these.³⁵

³³ After a boundary violation occurs in a congregation, all actions that reassert or restore the norms that are the basis for boundaries is a means to further recovery. Reinforcing the constitutional and spiritual role of the session is one of the first actions to be taken.

³⁴ The parties to be notified in advance include the principal parties to the events that prompt the disclosure. Other parties to be notified may include staff of the church, paid and/or volunteer, who will be directly affected, e.g., in a case involving children or youth, staff who work with the Christian education program. One way to identify who should be notified is to consider the question in the negative: "After the disclosure, if we discovered there were individuals or people in particular roles that we had failed to notify in advance, whom would we truly regret that we had overlooked?"

³⁵ Samples also serve an educational function by putting this church's experience into a larger context and so help the members of this committee to gain a more reality-based perspective.

Depending on circumstances, the committee may also need to consider whether children and youth should be in attendance. This has implications for youth who are communicant members and for parents with needs for childcare. Typically, a session will communicate its recommendation about the presence of children and youth to parents, but indicates that it will leave the final judgment to the parents. It is highly preferable to not have media representatives present during the disclosure.

- V.14 By this point, the nature of events, and their impact, or potential impact, has been determined. A subjective determination is made as to the relative degree of the severity of the facts. The analog to this determination derives from the three-point scale that health care providers use to rate burns, i.e., 3rd degree/severe, 2nd degree/moderate, and 1st degree/mild. This determination is a necessary step to planning the component of the disclosure in which participants discuss their reactions and emotions to the statement of facts. The lower the degree of severity, the more the discussion may occur within a single group and be facilitated within the format of the congregational gathering. However, the higher the degree of severity, the more it is necessary to arrange for outside resource persons from the presbytery to facilitate small groups.³⁶ If severity is high, additional steps to planning and implementation phases are added. The assessed degree of severity is also useful in projecting the length of the disclosure. For mild severity, 45-to-60 minutes is a reasonable estimate. For those of the greatest severity, 2-to-2 ½ hours is a reasonable time to schedule.
- V.14a If the rating of severity is high, a small group format is preferable to the whole congregation format. The small group format allows for greater participation by a greater number of individuals. The act of utilizing skilled resource persons from the presbytery to function as facilitators also integrates an implicit and symbolic display of support from the larger governing body.³⁷
- V.14b The consultant's task is to secure the cooperation of the general presbyter and the chair of the Committee on Ministry so they can recruit people who will facilitate. Ideally, these facilitators will have good listening skills, be able to manage a potentially intense discussion without imposing a point of view, are able to preserve confidentiality, and will be perceived as fair and empathic. The preferred ratio of facilitators to congregants is approximately 1:8-10.
- V.14c It is very important that, as part of their commitment, those who agree to facilitate also agree to attend a one-time training session prior to the disclosure conducted by the consultant. The disclosure model is not familiar to most clergy.

³⁶ One reference point for assessing the degree of severity is a graphic created by Chilton R. Knudsen based on her work with congregations. See Appendix C., Reactions to Initial Discovery. When there is more congruence between the shock and grief reactions that she identifies and the expressed reactions of the leadership, the assessment will reflect the greater degree of severity.

³⁷ Of the first four disclosures in this presbytery since 1999, two sessions chose to use small groups for the discussion format, and requested Committee on Ministry to provide facilitators.

- V.14d Directly involving youth is even more critical if the offenses either were against a peer(s) or were alleged to have been committed by one who worked with the youth. If the congregation is large and has a number of youth, it is reasonable to discuss arranging for a separate group that young people may attend in order to process their reactions. The wise session will recognize that some parents may prefer that their children remain with them at the congregational gathering. A suggested age minimum for attending the congregational gathering is the age at which young people are received into membership of the congregation.³⁸
- V.14e See Appendix E. Instructions for Reaction Group Facilitators.
- V.14f In this design, elders from the affected congregation disperse themselves between the groups in order that the session is able to hear the greatest number of people. It also assigns to the elders the responsibility for any follow-up with a particular individual.
- V.15 The final agenda item is to assign individuals to prepare a typed draft of the specific components of the disclosure. Drafts will be reviewed and edited at the third meeting. The next meeting should be scheduled for the earliest date possible while also allowing sufficient lead-time for the drafts to be prepared.

Third Meeting

- V.16 The third meeting continues the work of the prior one. All drafts are reviewed and critiqued in light of the goals. It is important to achieve clear language and a consistent tone. The pressure of wanting to disclose and to move the church forward in constructive ways will help people move toward consensus. It is realistic to expect that an effective committee can complete its work in three working meetings.
- V.17 The next agenda item is to decide on the best possible date for disclosure to the congregation. Working in reverse chronological order, this date must incorporate:
- allowing time for notification through a first class mailing to all members;
 - preparation of the first class mailing to all members;
 - notification of those designated to receive information apart from the disclosure;
 - preparation of materials for the disclosure;
 - a special meeting of the session.
 - (If small group discussion will be used, a recruitment period is factored into the timeframe. This includes time to obtain and train facilitators.)
- V.18 To the extent possible, after drafts are critiqued and consensus reached, the committee confirms who will be responsible for leading which component of the disclosure.

³⁸ In circumstances involving a church with a large youth and children's ministry, use co-facilitators, female and male, who are known to, and trusted by, the youth.

- V.19 As a rule, the greater the severity of events, the more important it is that the general presbyter participate in the disclosure. The particular speaking part s/he performs is secondary to the symbolic nature of being present. Appropriate assignments include prayer, spiritual reflection, or reading a personal statement of support. The lesser the severity of events, the need declines for this overt, symbolic demonstration of support. In cases of lesser severity, the attendance of the general presbyter at disclosure, coupled with an acknowledgment of her/his presence, will suffice.³⁹
- V.20 Plans for who is to be notified in advance of the congregational disclosure are reviewed. Content and the means of how notification will occur are approved.
- V.21 It is useful to discuss what may happen after disclosure is completed. It is realistic to anticipate that new information may be forthcoming.⁴⁰ It is reasonable to anticipate that the session may need to commit to accomplish specific actions based on a post-meeting review of the event. What is unreasonable is the wish that this one-time disclosure will fix all the problems that have surfaced. Appreciate that disclosure is an act of crisis intervention, a constructive way for people to move forward and move through difficult circumstances. Disclosure is part of a process.
- V.22 The last agenda item is to decide when and how to convene a special meeting of the session for the sole purpose of receiving the committee's recommendations.
- V.23 By now, the committee should be very clear about its rationale for its recommendations, and be able to articulate the basis for its choices. In presenting this material, whether as recommendations to the session, or through implementing the design with the congregation, the educational aspect is a very important component.

³⁹ The published literature on disclosure frequently emphasizes the necessity of the presence of an ecclesiastical bishop at the disclosure. This reflects the fact the early authors on this topic came from Roman Catholic and Episcopalian traditions. Their denominational hierarchies in particular in the 1980s and 1990s were named in civil lawsuits when litigation became a tool to hold ecclesiastical leaders accountable for failing to act responsibly after discovering sexual boundary violations in their dioceses. Because Presbyterian governance assigns greater authority and responsibility at the congregational level to the session, the literature's advice regarding the visible participation of the highest ecclesiastical officer does not always apply.

⁴⁰ Serious sexual boundary violations in congregations frequently occur as *serial* and *cluster* patterns of commission. A *serial* pattern entails acts against one victim for a specific period of time until commission ceases. The acts are then repeated with a new victim, and the series continues. A *cluster* pattern entails acts of commission against multiple victims that overlap in time. When it becomes known that church leaders will not tolerate secrecy, that the report of a victim will be taken seriously, and that the church will act to disclose, other victims may come forward due to a new sense of safety and security created by the session's disclosure.

Special Meeting of the Session

- V.24 The disclosure committee's recommendations form the agenda for a special meeting of the session. The session's role is to approve, refine, and adopt the recommendations.
- V.25 Copies of the draft materials should be distributed at the meeting to preserve confidentiality. The materials should include:
- an agenda for the special gathering of the congregation [Note: This is not a formally called business meeting because there is no business to conduct.⁴¹];
 - the statements to be read at the disclosure;
 - the committee's timeline leading to the disclosure;
 - the letter to be sent to the congregation announcing the disclosure gathering;
 - letters to be sent to individuals and parties who will be notified separately apart from the disclosure, the congregation, and the principal parties, i.e., the alleged perpetrator and the identified victim.

Since these are draft materials, it is important to retrieve all documents at the end of the meeting to preserve confidentiality.

- V.26 The response of the elders at this meeting is a useful way to prepare the committee for the disclosure. In effect, it is a dress rehearsal. It is reasonable to expect questions and resistance. The committee serves its purpose best if it treats these responses as opportunities for education, as teachable moments. A calm, confident, and reassuring tone is preferable to an argumentative, anxious, or accusatory one. The committee should be willing to preserve the essential portions of its drafts in exchange for accepting minor edits. The committee's task in this meeting is to build consensus among leadership that will carry into the disclosure gathering.

⁴¹ This is a *gathering* of the congregation rather than a formal *business meeting* because there is no business to conduct. It would be extremely unwise to conduct formal business at a disclosure gathering. 1.) A formally called meeting requires specific advance notice, whereas disclosure gatherings need to happen more urgently. 2.) The necessity of voting on motions, and the nature of Robert's Rules as the basis, runs counter to congregants' primary needs to process both the facts disclosed and their reactions to those facts. (See Appendix C.) 3.) New facts may emerge in the disclosure that require session deliberation apart from the congregation.

VI. Disclosure Phase

- VI.1 The day of disclosure is a day to ensure that all details are in place, and to trust that the design will work. It is a day to ensure that the individuals with leadership assignments are prepared, and to trust that God's Spirit will be present. The model of disclosure described in this manual relies on a process. This means that the hardest work is done in advance. The day of disclosure is a day to implement the model and its components.
- VI.2 If new and significant information emerges on the eve of disclosure, it is best not to incorporate it into the proceedings unless it can be thoroughly reviewed by the disclosure committee and the session in advance. Otherwise its disclosure should be deferred until proper review is possible. The process of decision-making and planning should not be discarded at this point. Of course, if the information has profound implications and must be communicated as soon as possible, then the most appropriate step is to convene the session before the disclosure to inform the elders of what has transpired. If the new information is available to the public, it is reasonable in the disclosure event to acknowledge the emergence and to state that the session has not yet had the opportunity to assess it.
- VI.3 The components of the design wonderfully encourage leadership by a select but sizable group of people. When trust is shattered in the body of Christ, drawing upon the members of the body is one of God's ways to restore trust. There is no room in this model for one or two individuals to dominate or control the process, either in a positive or negative sense. The church is healthier when laity who are elders assume their proper role as spiritual leaders of the congregation.

Post-Disclosure

- VI.4 All that can reasonably be said about the post-disclosure reality of the congregation is that it will be different than before the disclosure. There is no way to anticipate what dynamics will be set in motion by the disclosure. A willingness to receive new information and an ability to recognize the necessity to act in healthy and constructive ways are two principles to guide a session in the days and weeks following a disclosure.
- VI.5 It is reasonable to structure time into the agenda of the session's regular meetings for the next six months to monitor events, assess current needs, and plan for the future. It is difficult to define when a post-disclosure phase is complete: no chronology exists to determine when closure or recovery is accomplished. Some would propose developmental tasks as helpful markers. (See, for example, the resources cited in footnote 22, and the analytical tool in Appendix C.) The core need is for the session to lead actively.

An example illustrates. After a disclosure regarding a popular deacon and youth leader whose acts of child molestation against a member of the church were beyond New York state's criminal statute of limitations, the session appointed a task force on healing to work with concerns and issues that emerged. Among those addressed was a new case involving another minor in the congregation who came forward post-disclosure to present accusations to the New York State Police. The deacon was arrested, tried, and convicted. The ability of the session to function and attend to the church's mission and ministry was greatly enhanced by the work of the task force. Important to the independence and credibility of the task force was the involvement of a member from beyond the church, in this instance a well-qualified and knowledgeable member of the Presbytery's Committee on Ministry who had been involved in the disclosure.

VII. Review Phase

VII.1 At a reasonable point after the disclosure event, it is wise for the leadership of the disclosure team to evaluate the process and assess the outcomes.⁴² A disclosure is an atypical event in the life of a congregation, prompted by atypical events, and therefore presents an uncommon opportunity to learn for the sake of future situations. At the least, a review should include:

- a record of what occurred, including a chronology of events and actions;
- identification of which steps in the procedure utilized were constructive and which were not;
- an analysis of the disclosure model's strengths and weaknesses;
- recommendations for the future.

The review is also the opportunity to identify actions to be taken for the benefit of all parties, or measure progress on initiatives underway.

A written report submitted to the session and to the Committee on Ministry would complete the review. Based on anecdotal experience, completion of this type of deliberate review by a church's leadership is the exception. Writing and submitting a written report is rare.

The report can serve as an important catalyst for the Committee on Ministry's learning, and helps lay a foundation of evidence-based practice to benefit other sessions facing the question of whether to disclose.

VII.2 The necessity to learn is underscored by the findings of two published studies that, although they focused on clergy, have relevance for sessions and congregations. The first was a quantitative study conducted in Ohio regarding clergy serving congregations and mandatory reporting of child abuse.⁴³ Among the results reported:

- While 71% of the clergy respondents reported having received education on the topic, one denomination accounted for one-quarter of those reporting having received no education: "Variations in how local judicatories address the issue of child abuse reporting make it inappropriate to assume a level of universal competence."

⁴² Woodruff, Mike & Kasper, Dennis. (2001). Confronted with the shameful. *Leadership*, (Summer):96-101.

⁴³ Grossoehme, Daniel H. (1998). Child abuse reporting: Clergy perceptions. *Child Abuse & Neglect*, 22(7):743-747.

- Over half of the respondents' education came from personal initiative, and only 22% were required by their denomination/faith group to have training;
- "The most surprising result was that 22% (N = 32) of the respondents indicated that they believe evidence is necessary before reporting abuse. However, there was no correspondence between those reporting no prior education about child abuse and those who stated they thought evidence was necessary before reporting abuse."

The second was a qualitative study conducted in Maryland regarding the role of clergy in responding to people who have experienced sexual abuse or assault.⁴⁴

- Among the results reported for encounters with victims, clergy participants reported they: encountered few cases of sexual abuse and assault, and provided counseling explicitly related to victims' abuse in only a small number of cases; agreed "that there is a tendency for church leaders to avoid responding proactively and directly when there is evidence of sexual abuse."
- Among the results reported for *adequacy of training and preparation*, participants reported: being unprepared to respond to incidents of sexual abuse and assault, primarily due to lack of training; overall, "a lack of importance placed on the issue by the church..."
- Among the results reported for *accessing community resources for victims*, clergy reported: being "generally unfamiliar with social service agencies, support organizations, and other resources for victims;" "feeling alone and isolated in handling troublesome cases, as there was no structure for consultation or supervision by church system administrators;" a distrust by African Americans in urban settings of police and the child welfare system which reinforces a code of silence as a barrier to accessing resources.
- Regarding *barriers to clergy serving as effective responders*, participants reported as potential barriers: victim perceptions of clergy and the church, e.g., "fear [of] breaches of confidentiality," and reluctance to trust a person in a position of power if the victim was abused by a person in a position of power; "lack of accessibility and availability of clergy members;" resistance in congregations as a whole to topics of domestic violence and sexual assault.

We must learn for the sake of acting constructively, ethically, and consistently with our call as the disciples of Jesus Christ. We must learn for the sake of the wellbeing of God's people entrusted to our care, especially those who are at risk or are vulnerable.

⁴⁴ Bruns, Eric J., Lewis, Charla, Kinney, Linda M., Rosner, Leah, Weist, Mark D., & Dantzler, Joyce A. (2005). Clergy members as responders to victims of sexual abuse and assault. *Journal of Religion & Spirituality in Social Work*, 24(3):3-19.

Appendix A.

Deciding Whether to Disclose: *An Exercise in Session Discernment*

Before a session can discuss the *probability* of the positive benefits or negative consequences occurring from disclosing or not disclosing, and the magnitude of the benefits and consequences, all *possibilities* should first be identified. The following instrument is for use in a special meeting of a session that must decide whether to disclose sexual boundary violations to the congregation. The design is structured, educational, and inductive.⁴⁵

Preparation

The resource person(s) leading the discussion is responsible for ensuring that there is in advance:

- 1) a copy of Handout 1 (see this appendix) for each elder and pastor;
- 2) 2 newsprint sheets mounted side-by-side and on a surface that allows for writing with a marker (sheets replicate the upper and lower portions of Handout 1);
- 3) tape or other mounting device;
- 4) large-tip marker(s) for use with the newsprint;
- 5) sufficient quantity of handouts describing the agenda of a disclosure, i.e., Appendix D.

⁴⁵ This is an instrument for making a group decision, not for imposing a pre-determined outcome. It is designed to promote the identification and analysis of multiple factors, and to encourage the active involvement of all elders in discussion. The conceptual foundation for this instrument is the standard reference work for bioethics: Beauchamp, Tom L. & Childress, James F. (1994; 2009). *Principles of Biomedical Ethics* (6th edition). New York, NY: Oxford University Press. Particularly relevant is its description of the ethical principles of *beneficence* and *non-maleficence*. The former is the principle of doing good and doing that which will benefit. The latter is the principle of not doing that which is harmful. The two principles are distinctly different, and both require serious consideration. Each principle contains practical value for analyzing the consequences of disclosing and of not disclosing. From the standpoint of behavioral theory, this conceptual approach is congruent with clinical approaches to working with ambivalence and resistance. For an influential social psychology theory that emphasizes respect for, and support of, a person's autonomy, see: Deci, Edward L., & Ryan, Richard M. (1985). *Intrinsic Motivation and Self-Determination in Human Behavior*. New York, NY: Plenum Press. For a more widely known clinical intervention that addresses ambivalence, see: Miller, William R., & Rollnick, Stephen. (2002). *Motivational Interviewing: Preparing People for Change* (2nd edition). New York, NY: Guilford Press.

Step 1 Individual Elders Identify Consequences

- 1) Begin by briefly outlining the three steps in this exercise so elders know what to expect. This reduces anxiety. The resource person makes a self-introduction, including a summary of experience, expertise, and credentials related to the topic. Ask each elder to introduce her/himself, and identify her/his area of session role and responsibility, e.g., Christian education, worship, etc. Invite an elder to open with prayer.

- 2) Distribute Handout 1 – the 8.5” x 11” grid – to each elder. Present these directions:

“You each are receiving a grid divided into two options, If We Do Not Disclose to the Congregation and If We Do Disclose to the Congregation. Under each option are two subsections, Positive Consequences and Negative Consequences. We’ll take 5-10 minutes in silence. Each of you will list what you foresee as potential consequences for each option. We want to know what could be the positive and negative outcomes. There are no right or wrong answers. The goal is to identify as many potential consequences as you can. Also think about your area of responsibility as an elder, and how it could be affected. You may find overlap between a subsection under one option and a subsection under the other. That’s okay. Some people respond to the question when it’s worded one way, and some when it’s worded another way. As you complete your grid, please don’t discuss this with each other.”

- 3) Discourage conversation while people construct their lists. Some finish quickly; others take longer. After about 7 minutes, announce the time remaining to encourage completion.

Step 2 Individual Elders Report

- 4) Ask each elder to report her/his responses. Record items under the appropriate sections on the posted newsprint. Clarify as necessary. Avoid all critique, evaluation, or long commentary. Keep the interaction between the resource person and individual elder, and away from discussion among elders. The goal is to generate nuances and identify the tradeoffs of the choices. Validate each person’s contribution. By deferring decision-making and discussion at this point, it forces elders to listen and consider multiple points of view. It also encourages each elder’s participation and counterbalances the few who would typically dominate a discussion. Typically, after about half the elders have reported, most possibilities will have been identified. However, ensure that each elder is included in the reporting.

Step 3 Session Decides

- 5) The session decides whether to disclose or not. Be prepared to describe the components of a disclosure. Have Appendix D. available as a handout to distribute. People may need this material before they can make an informed decision as to whether to disclose. The best possible outcome is a genuine consensus.
- 6) Ask an individual, e.g., clerk of session, to take the newsprint and prepare a written record. The point is to encourage the session to take responsibility for their decision and rationale.

Handout 1

IF WE DO NOT DISCLOSE TO THE CONGREGATION...

Possible positive consequences	Possible negative Consequences

IF WE DO DISCLOSE TO THE CONGREGATION...

Possible positive consequences	Possible negative consequences

Appendix B. “No Disclosure” versus “Disclosure”

This is a compilation of remarks made by elders of three sessions during discussions, 1999-2001, regarding whether to disclose matters related to sexual boundary violations to their congregations. It is a background resource for the resource person(s) who guides the decision-making discussion of a session. Neither list is exhaustive. This should not be provided to elders in advance of the discussion lest it pre-empt their own assessment and discernment.

“NO DISCLOSURE”

Possible positive outcomes if there is no disclosure

- Protect victims and their families from humiliation and embarrassment.
- Will not disturb the congregation or create turmoil. They won't have to deal with it.
- Will not tie-up session time; allows elders to get on with their work.

Possible negative outcomes if there is no disclosure

- If there are other victims, will not make it safe for them to come forward.
- If word leaks out that the session knew and did not disclose, trust will be compromised.
- Stories are likely to grow and rumors are likely to persist.
- Will leave many questions unanswered for many people.
- We can't control secrets; information will leak.
- People who do know lack a supportive environment in the church to help them deal with this.
- Sends the wrong message to other victims.
- Increases risk of uncontrolled disclosure, e.g., someone going to the media.
- Liability issues: From a risk management point of view, the session is not protecting the church.
- It's the wrong choice, ethically and morally.
- Leaves the session without a process to receive or handle new information, surprises, or the like.

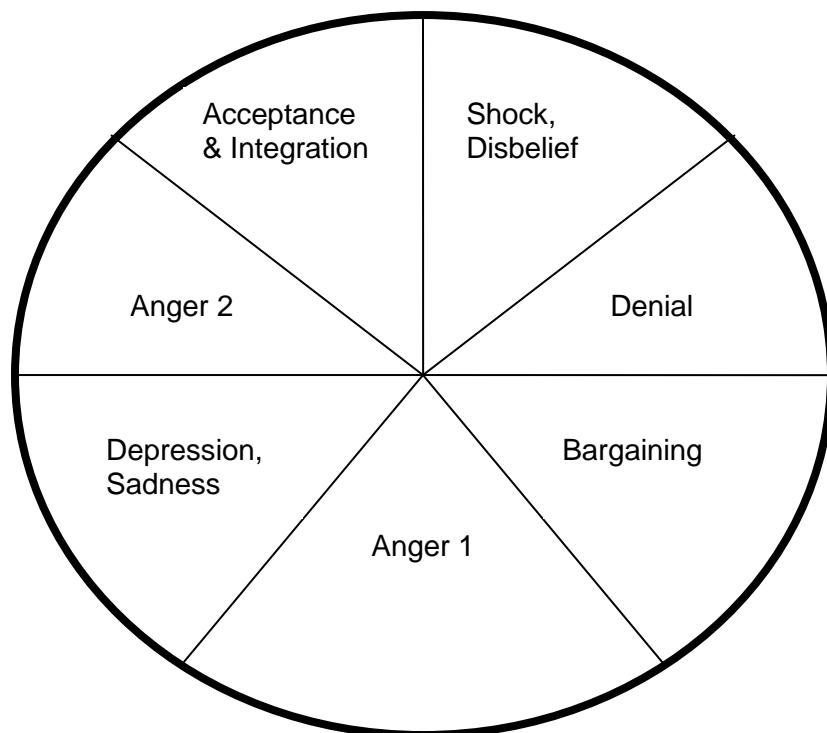
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“DISCLOSURE”

Possible positive outcomes if there is a disclosure	Possible negative outcomes if there is a disclosure
<ul style="list-style-type: none">• Congregation could grow positively from an experience of handling a crisis in a constructive manner.• Allows for the whole congregation to begin openly processing the events.• Won't be different degrees of knowledge; all will know the same basic set of facts.• If there are other victims, it will be safer for them to come forward to get help.• Lessens possibility of a frustrated victim going to the media.• Victims and their families could more easily get help.• Session can control a disclosure; it can't control rumors and secrecy.• Congregation will feel that session is dealing with issues in a forthright manner. Demonstrates constructive leadership.• Ends secrecy; no more pockets of people who know and who don't; all will know.• Church would be more aware of potential for problems, and could take preventive measures for the future.• Affirms our faith that God's Spirit will lead us.• Sets a healthy precedent for telling the truth. An act of honesty.• The most prudent course from a risk management perspective.	<ul style="list-style-type: none">• Stirs up fears and rumors beyond the facts. People might overreact or make more of events than situation warrants.• People will leave the church. This will unleash conflict, grief, and hurt.• Will give rise to gossip, which can hurt the victims, the perpetrator, and the church.• Could further injure the victims and their families.• May lead someone to file a civil lawsuit against the church.

Appendix C. Reactions to the Initial Discovery

Upon their first discovery of sexual boundary violations in a church, people typically react by expressing forms of distress or loss, and seek to cope. In this graphic, one may enter at any point and move in any direction, including non-sequentially.⁴⁶



Shock, Disbelief: "I can't believe what I'm hearing."

Denial: "That could not have happened here. Look at all the good things he's done for so many."

Bargaining: Between holding on/letting go. "Can he come back part-time, or under supervision, or...?"

Anger 1: Focused. Scapegoating/blaming. "Who hired this person?" "The victim is just overreacting."

Depression, Sadness: "He was such a good servant of God." "Will anyone ever want to come to our church again?"

Anger 2: More generalized. Righteous indignation or *holy rage*. Prophetic voices. "How can we make this better?"

Acceptance & Re-integration *The way through pain. An adaptation.*

⁴⁶ Adapted from: Knudsen, Chilton R. (1995). In Tracy, Denise D. (1995). "Healing the Congregation." Special Papers and Research Reports, OD114. Bethesda, MD: The Alban Institute, Inc.

Appendix D. Components of a Disclosure

The components of a disclosure form a simple agenda for a special gathering – which is not a formal, called business meeting – of the congregation. These components have been tested and proven in gatherings of congregations. Only when circumstances clearly call for alteration, addition, or deletion should significant variations be considered. Likewise, the sequence presented here has been tested and proven with congregations, and should be trusted for its potential to serve God's people.

1. Opening prayer and/or song.

Prayer and/or songs of faith ground people in the source of their life as a community, and is a standard opening for any gathering.

2. Description of the context as a community of faith.

This statement reminds the people of the very basic tenets and beliefs that hold them together as a community of faith. In one disclosure, the committee drew upon "The Great Ends of the Church" section from the Book of Order to reassert the foundations of their community. Another committee drew upon their church's mission and ministry statement. This component is the church leaders' opportunity to appeal to the best in people's faith and offer a larger vision of what the church of Jesus Christ is. It introduces a solemn and serious tone for all that follows. The individual presenting this part of the disclosure can also personalize the introduction to the description by referencing what this means to her/him.

3. Background to the events.

This component presents background information, i.e., that which precedes the essential facts. Whether this information is widely known or known only to a few, it is important to present the session's version of events. The format of this statement is factual, descriptive, straightforward, impartial, and fair. If certain important facts are unknown to the session, the statement should convey that. It should be read word-for-word without spontaneous revision or comment. A member of the disclosure committee is in a better position to be knowledgeable about these events, and thus is a better choice to present this authoritatively. Present the events in chronological order.

4. Report of the known facts.

Instructions for #3 above apply equally here. This too should be read word-for-word without spontaneous revision or comment. As before, a member of the disclosure committee is a better choice to present this. Be explicit and clear that these facts are those known to the session, acknowledging that more facts may come to light. Referencing the sources is a way to establish the reliability of the facts.

5. Rationale for the session's decisions, including its convictions.

This component is an opportunity to make explicit the rationale for the session's actions that resulted in this disclosure. The format should be simple, affirmative, and unapologetic in tone. It is an opportunity to focus on what the session identifies as the central issues and values. It makes clear why the session took this action.

6. Questions and answers in relation to the reported facts.

This component allows members of the congregation to ask questions and obtain answers related to the statement of reported facts. This is for the purpose of clarifying those items only. It is *not* a time for opinion, motions, or discussion. One member of the disclosure committee should be designated to respond to the questions. The person moderating should be prepared to intervene if congregants do not adhere to the announced format. If the question asks for sensitive information that may not be disclosed, e.g., pertaining to a police investigation, the person responding should simply affirm the importance of the question and make it clear that the session is not at liberty to provide the information due to legal circumstances. If the information sought is not known to the session, simply say so. If the information can be obtained, promise to find out the answer and to report back. [And make a note to do so. And follow through.]

Responding to the questions requires a careful judgment about the 'how' as well as the 'what.' How one responds can do much to restore a congregation's trust and confidence in its leadership. It is important to keep this goal in mind while responding.

People's questions and the manner in which they are expressed will give some cues as to how people are reacting to the information.

7. Discussion of reactions.

Whether this is conducted in a single group format or concurrent small groups, this seventh component is the opportunity for members of the congregation to express personal thoughts and feelings about what was presented. The person facilitating this component should refrain from taking sides, offering opinions, or becoming overly involved emotionally. The primary need is for the leader to listen and validate people's expression of their reactions: "It's evident that you have very

strong feelings about this matter. Thank you for sharing.” “I’m sorry that this causes you so much pain. You are not alone in your suffering.” It is best to permit someone who has already spoken to speak a second time only if no one else who hasn’t yet spoken wishes to do so. The facilitator’s maturity and the ability to conduct one’s self under duress are important during this time.

As a rule, the more the session anticipates intense reactions, the better it is to use concurrent small groups with skilled facilitators external to the congregation, e.g., from the presbytery. [For instructions for group facilitators, see Appendix E.]

8. Spiritual reflection.

When the discussion of reactions to the facts is completed, it is important to again ground the members of the church in the foundations of their faith. It is best for this component to be led by an elder, as opposed to a minister, because the congregation will identify more with the perspective of a lay person at this point. Effective ways to focus this include the use of scripture and hymns: “When I think about the facts before us, the passage of scripture that comes to mind and gives me hope is...” “In times like these, I remember the words of a hymn that speaks directly to my heart and soul...” People will look for consolation, encouragement, hope, and assurance. Lay witnesses at this point will be able to communicate effectively to their sisters and brothers. If a small group format is used to facilitate discussion of reactions and emotions, it may be helpful to complete the spiritual reflection within that setting as well.

9. Future steps by the leadership.

This component works at both literal and symbolic levels. Literally, it is a report of future actions the session intends to take. Examples from disclosures in our presbytery include a promise to make changes in policy and procedure, to convene an educational workshop on the topic of child sexual abuse, and to keep people informed of developments by reporting quarterly at a congregational meeting. It is not crucial that the session state exactly the full contents of what it plans to do next, but it is crucial that it communicate it has identified the issues and movement is underway. If a substantive statement cannot be offered (“This is what we are going to do about XYZ...”), then offer a procedural one (“We are currently studying what we are going to about XYZ, and we will report to you when we reach our decision.”). Beyond the *content* that is reported, the *act of committing to act* in the future demonstrates that church leaders are fulfilling their responsibilities.

10. Concluding prayer and/or song.

This is a last opportunity to affirm the core convictions and aspects of faith that shaped the session’s decisions and will guide the congregation through the events at hand.

Post-conclusion

Following the formal conclusion, the immediate temptation for those leading the disclosure will be to relax in relief that the event is over. Some will naturally interact with each other, and for some, the urge will be to withdraw. What is important is for this group to remain on-site and accessible to those in the congregation who seek to approach them. The formal disclosure is concluded, but it likely is not over.

Appendix E. Instructions for Reaction Group Facilitators

This outline and script is for use by each facilitator of a reaction group.

- 1.) *[Facilitator introduces self: Name, church affiliation, and role, e.g., elder.]*

Thank you very much for coming today.

We hope each of you will feel safe and free enough to take part in this discussion.
These are our guidelines:

- a. We're here to express our individual reactions to facts presented to us.
- b. I'll begin by going around the whole group, one person at a time.
- c. Each person will have a chance to talk once before I open it for discussion.
- d. You're also free to pass without speaking when it's your turn.
- e. Please listen carefully and respectfully to each other.
- f. Each person here has a right to her or his own reaction to the disclosure.
- g. It is okay to have a reaction that is different from others.
- h. Each person has a right to express that reaction without interruption.
- i. Please hold all comments until after all have had their chance to speak once.

Is that clear to everyone? *[Pause; clarify as needed.]* We will conclude at time.

- 2.) Let's begin. When you heard the disclosure, what was your reaction?

Can you express it in one sentence, or perhaps in a phrase? *[Pause.]*

Is there a word, or a thought, or a feeling that summarizes your reaction? *[Pause.]*

Who's willing to begin?

[Prompt as needed, e.g., Who'd like to go next?]

- 3.) *At 5 minutes remaining, prompt the group:* We have 5 minutes left before we stop.

If all have spoken once, ask: Is there something else you want to say before we stop?

- 4.) *[At the time to stop.]*

Thank you all very much for your contributions and honesty.

Your participation is very important to the mission and ministry of congregation name.
You will be in my prayers as you move forward from here.

Appendix F.

Mandated Reporting by Clergy and Child Sexual Abuse: *Frequently Asked Questions*

1. What is required of clergy as Church-mandated reporters?

Since 2005, the PC(U.S.A.) Book of Order designates clergy as Church-mandated reporters of harm and abuse:

"Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity..." (G.-40302,

2015-2017 edition) [The term *shall* is mandatory.]

Three specific circumstances are listed: "...when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is a risk of future physical harm or abuse."

2. How does G-4.0301 address clergy confidentiality and abuse disclosure?

The context is identified as "the exercise of pastoral care," which is not defined. The designated parties are clergy and commissioned ruling elders. They "shall maintain a relationship of trust and confidentiality, and shall hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care."

Two exceptions follow: (1) when the one

who confides gives her/his express consent to reveal confidential information, the minister may disclose it; (2) "A teaching elder or a ruling elder commissioned to pastoral service may reveal confidential information when she or he reasonably believes that there is a risk of imminent bodily harm to any person." [The term *may* is permissive.]

3. Are clergy New York State-mandated reporters of child sexual abuse?

No; in New York, clergy are not mandated reporters of the abuse or maltreatment of a minor. (N.Y. State Social Services Law, Article 6 Children, Title 6 Child Protective Services, §413 Persons and officials required to report cases of suspected child abuse or maltreatment.) [Accessed 10/17/16 from N.Y. State Legislature's World Wide Web site. Select "Laws," then "SOS" (Social Services), then "Article 6 Children Title 6 Child Protective Services," then "413": <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>] Note that laws regarding clergy vary greatly between states. (Clergy as Mandatory Reporters of Child Abuse Neglect. Current through August, 2015.) [Accessed 10/17/16 from Child Welfare Information Gateway, U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau: http://www.childwelfare.gov/systemwide/laws_policies/statutes/clergymandated.cfm]

4. How does New York State law treat clergy/congregant confidentiality?

- a.) Within New York law on rules of evidence, New York State Civil Practice Law & Rules (CPLR) regarding privileged communication with clergy states very simply:

“Unless the person confessing or confiding waives the privilege, a clergyman, or other minister of any religion or duly accredited Christian Science practitioner, shall not be allowed [to] disclose a confession or confidence made to him in his professional character as spiritual advisor.” (CPLR, Article 45 Evidence, §4505
Confidential communication to clergy privileged. Accessed 10/17/16.)

- b.) Case law, however, is much more nuanced, and legal precedents must be considered.

In *Morales v. Portuondo*, 154 F. Supp. 2d 706, 728-729, a man made statements “to a priest during a ‘heart-to-heart talk’” and confessed to a murder for which another man was convicted. The court held that the clergy/pentitent privilege did not bar the priest from disclosing the statement, in part, because “the conversation was not a formal confession but a ‘heart-to-heart talk’...” Martin, Michael M., & Capra, Daniel J. (2008). New York Evidence Handbook: Rules, Theory, and Practice (2nd ed.). (2008 Cumulative Supplement). Austin, TX: Wolters Kluwer Law & Business, pp. 134-135.

“In *People v. Drelich*, 123 AD2d 441, it was held that disclosures made by the defendant to a rabbi to induce the rabbi to negotiate a plea bargain and help the defendant retain counsel were not privileged because the disclosures were not made for the purpose of seeking religious counsel.” Shaw, Gary. (2008). Canudo on Evidence Laws of New York (2008 ed.). Charlottesville, VA: LexisNexis.

- c.) Legal commentaries clarify how New York law has been interpreted and applied:

“Something more than statements to a clergyman are required to waive this privilege. The ‘cloak of the confessional’ must surround the statements; that is, they must be confidentially made to a clergyman [sic] in his spiritual-advisor capacity for the purpose of seeking religious advice, solace, absolution or ministration. A criminal who asks a clergyman to convey an apology to his victim is using the clergyman as a messenger not a clergyman.” Gray, Lawrence N. (2003). Chapter 6, The Clergy-Penitent Privilege. In Evidentiary Privileges: Grand Jury, Criminal and Civil Trials (4th ed.). Albany, NY: New York State Bar Association, p. 66.

“The privilege extends only to communications made in confidence. Thus, communications made in the presence of third parties, or intended to be relayed to third parties, are not protected... What is important is that the communication be made for the sole purpose of receiving ‘religious counsel, advice, solace, absolution or ministration,’ that is that the clergyperson be acting in a ‘professional character as spiritual advisor.’ Thus, speaking to clergy in order to receive secular assistance or to make an apology for robbing the church does not come with the privilege....” Martin, Michael M., Capra, Daniel J., & Rossi, Faust M. (2003). New York Evidence Handbook: Rules, Theory, and Practice (2nd ed.). New York: Aspen Law & Business, pp. 382-385.

5. Is there an ethical framework for resolving the tension between requirements to preserve confidentiality and disclose abuse?

The ethical principle of non-maleficence – *do no harm* – from biomedical ethics leads us to identify the consequences of violating confidentiality and failing to report abuse. (The standard text is: Beauchamp, Tom L., & Childress, James F. (2012). Principles of Biomedical Ethics (7th ed.). New York, NY: Oxford University Press. See especially Chapter 5.) With breach of a pastoral confidence, we can foresee the loss of pastoral trust by the individual who confided in the pastor. With failure to report abuse, we can foresee harm to an innocent person. Either action secondarily could impair a congregation's trust in its pastor.

Unless one can justify preserving confidentiality as an end in itself and in all circumstances, regardless of negative consequences to others, the ethical choice, in light of the non-maleficence principle, is the act that causes lesser damage and affects a lesser number of people negatively. Not reporting abuse will likely inflict the greater harm due to the deleterious nature of sexual and physical abuse. Failure to report will affect a greater number of people e.g., indirect effects on victims' family, or by leaving other potential victims unknowingly exposed to harm.

The ethical principle of beneficence – *doing good* – also leads us to identify foreseeable outcomes. (See Beauchamp & Childress, Chapter 6.) Reporting harm or abuse serves justice by creating opportunities to hold offenders accountable, interrupt any ongoing harm or abuse, encourage victims to obtain assistance, and prevent future harm. Not keeping abuse secret consoles those in churches who have experienced these injuries. (Reporting is also consistent with the Presbytery Sexual Misconduct Policy. See VI. Intervention Procedures, H. Disclosure. See also Attachment C, Safe Sanctuaries: Protecting Children in Our Congregations.)

Another factor to consider as affected party is the church as a corporation under secular law. (Book of Order, G-4.01, Incorporation and Trustees.) The formal leadership of a church as the corporation's trustees, typically a session, retains a fiduciary responsibility under New York State not-for-profit corporate law to act in the best interests of the corporation.

N.Y. State Not-For-Profit Corporation Law, Article 7 Directors and Officers, §717 Duty of directors and officers, states: "(a) Directors and officers shall discharge the duties of their respective positions in good faith and with that degree of diligence, care and skill which ordinarily prudent men [sic] would exercise under similar circumstances in like positions."

Given knowledge of abuse, the question may be posed: Would "ordinarily prudent men [and women]" who are in leadership positions, and who are disciples of Jesus Christ, fail to intervene and warn others of one has been a danger to children and youth, or adults who lack mental capacity?

Similarly, failure to disclose may jeopardize a church's insurance coverage. Risk management, which is an act of god stewardship, is also consistent with the ethical principle of *doing no harm*.

Not disclosing knowledge of abuse is ethically antithetical to acting in the best interests of a congregation, the church as a legal entity, and the multiple parties affected by a case.