

PRESBYTERY OF THE TWIN CITIES AREA
Sexual Misconduct Prevention and Response
POLICY AND PROCEDURES

(Submitted and approved by the Presbytery on March 8, 2008)

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I. FOUNDATIONS

God has told you, O mortal, what is good;
and what does the LORD require of you
but to do justice, and to love kindness,
and to walk humbly with your God?

Micah 6:8

Not many of you should become teachers,
my brothers and sisters, for you know that we
who teach will be judged with greater strictness.

James 2:15

It will not be so among you; but whoever wishes to be great among you
must be your servant, and whoever wishes to be first among you
must be your slave; just as the Son of Man came not to be served but to serve,
and to give his life a ransom for many.

Matthew 20:26-28

Tend the flock of God, that is your charge,
not under compulsion, but willingly,
not for sordid gain, but eagerly,
do not lord it over those in our charge, but be examples to the flock.

I Peter 5:2

Scripture addresses the issues of leadership, power, and ethical conduct in many different ways. For those who minister in the name of Jesus Christ, attention to these issues is of vital importance to the Church, for through these representatives an understanding of God and the gospels' good news is conveyed. In mutual accountability and understanding, church leaders have the responsibility of moderating their own behavior in accordance with scripture and the example of Jesus Christ. An understanding of appropriate professional boundaries, held in common between members and leaders, can help to prevent misconduct.

Sexual misconduct is both a betrayal of trust and a denial of the love of Christ, in which all relationships are rooted. As part of its Christian witness, the Church must make a clear and just response, so that the Church and its ministries may be seen as safe places in the community, places where it is known that sexual misconduct is not tolerated.

In all things, the Church has a clear calling to share the grace and mercy of God in Jesus Christ. Grace and mercy in the context of sexual misconduct policy and procedure show themselves in many ways, such as offering a safe place for nurture and growth, standing for justice when safety fails and hurt results, and administering a fair process in times when that grace is most needed in the lives of individuals and the faith community. Forgiveness removes neither the wrong itself nor its consequences, but points the way to new life. Justice cannot take away the injury, but can contribute to its healing while

detering future misconduct and providing a clear statement of moral standards to the community. The grace of God is for all, and especially for those who are injured by breaches of trust.

The Presbytery of the Twin Cities Area uses this policy and accompanying procedures as a means to care for everyone involved with compassion and justice, and in accordance both with secular law and the Constitution of the Presbyterian Church (U.S.A.).

II. POLICY STATEMENT

The policy of the Presbytery of the Twin Cities Area is that all church officers (ministers of Word and Sacrament, elders, and deacons – G-6.0103) employees, and volunteers serving the Presbytery and related agencies, shall maintain the integrity of ministerial, employment, and professional relationships at all times. Sexual misconduct is a violation of the principles of ethical leadership set forth in scripture, and a violation of the trust of the Presbytery, and is never permissible. The Presbytery of the Twin Cities Area takes such violations seriously, working diligently to prevent misconduct, and seeking to respond justly and effectively to all those affected by it.

III. PURPOSE

The Presbytery of the Twin Cities Area adopts the above policy on sexual misconduct prevention for the use of all Ministers of Word & Sacraments, congregations and other related agencies under its jurisdiction. The purpose of the policy and procedures is as follows:

1. To set standards of ethical behavior consistent with Scripture, the Presbytery of the Twin Cities Area Code of Ethics (Attachment C) and secular law, and to establish a process for the enforcement of those standards.
2. To provide for education about issues surrounding sexual misconduct and its prevention, as well as appropriate responses
3. To serve as a guide for the prevention of sexual misconduct.
4. To provide, both in principals and in particulars, guidance to congregations within the Presbytery in forming their own sexual misconduct policies and procedures.
5. To provide procedures for inquiry and effective response to allegations of sexual misconduct and/or harassment.
6. To serve as a guide for the application of the powers of the Presbytery under the Form of Government and the Rules of Discipline of the Presbyterian Church (U.S.A.). See D-1.0100.
7. To establish personnel employment practices and suggest standard forms for the administration of appropriate employer/employee relationships within the Presbytery and related agencies.
8. To demonstrate pastoral concern to all parties affected by any alleged incidence of sexual misconduct.

IV. GUIDING PRINCIPLES

The first and best way to deal with sexual misconduct is to prevent its occurrence through appropriate employment practices, screening and supervision of volunteers, and education.

Protection of privacy for the accuser/offended is a top priority. Adherence to the outlined process is critical to prevent further injury. Information shared outside the process may constitute additional violation of boundaries. In the context of this policy and these procedures, no information about the identity, circumstances or testimony of the accuser and/or the offended shall be revealed except on a need to know basis, as defined within. All allegations of sexual abuse, sexual harassment and sexual misconduct will be taken seriously. Every allegation will be received, investigated, and acted upon in accordance with the terms of this policy and these procedures, and the Constitution of the Presbyterian Church (U.S.A.)

An accused person is always presumed innocent until proven guilty. In the context of this policy and these procedures, no adverse finding will be made public or revealed against an accused person except on a need to know basis until a full investigation is completed and it has been determined that the complaint has been properly substantiated.

The protection of minors and vulnerable adults is a top priority. Persons having reasonable cause to suspect sexual abuse of a minor or vulnerable adult will report it to the appropriate secular authority for immediate investigation. (See Attachment G for mandatory reporting requirements in Wisconsin and Minnesota.)

V. EMPLOYMENT PRACTICES

A. Record Keeping

Accurate record keeping is an essential part of responsible hiring and supervisory practice. Every session and Presbytery shall maintain a permanent personnel file on every employee, including Ministers of Word & Sacrament, and any volunteer who works with minors or vulnerable adults. The file shall contain the application for employment, reference responses, and other documents related to this policy and these procedures, or required by law.

B. Pre-screening Applicants

Pre-employment screening for ALL employees, including Ministers of Word & Sacrament, and volunteers who work with minors or vulnerable adults, is to include completion of certification which states:

“I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; (b) I have never resigned or been terminated from a position for reasons related to sexual

misconduct; or (c) I have never been required to receive professional treatment for reasons related to sexual misconduct on my part.”

If the applicant is unable to certify to the above, applicant may instead provide a description of the relevant complaint, resignation, transfer, termination, or course of treatment giving dates, names, addresses, and telephone numbers of employers and/or physicians, the outcome of the situation, and any explanatory comments the applicant wishes to make.

The Presbytery of the Twin Cities Area applies Minnesota Statute 148a (Attachment H) to all of its members who are Ministers of Word and Sacrament.

C. Reference Checks

1. The employing entity, through its session, governing board, personnel committee, or Pastor Nominating Committee (PNC), as appropriate, is responsible for contacting references for all prospective employees, including Ministers of Word & Sacrament, and volunteers who work with minors or vulnerable adults.
2. The Presbytery, through the Executive Presbyter, is also responsible for including questions regarding sexual harassment and other sexual misconduct when making clearance checks of Ministers of Word & Sacrament; and for reporting to Committee on Ministry (COM) and the appropriate PNC any information received as to those specific subjects, including a report that there is no reported difficulty.
3. The Presbytery, through its Committee on Preparation for Ministry (CPM), is also responsible for including questions regarding sexual harassment and other sexual misconduct when making clearance checks of Candidates under care for the office of Minister of Word & Sacrament.
4. Applicants shall be given opportunity to respond to harmful information obtained from a reference by submitting additional references or giving other evidence.
5. If false or misleading information regarding sexual harassment or other sexual misconduct has been given by the applicant or relevant information withheld, the applicant shall be eliminated from consideration.
6. If a search is proceeding with a candidate with a history of sexual misconduct, the COM must be informed before continuing the search.
7. In response to reference requests, the Executive Presbyter and/or other persons authorized by the Presbytery (either directly or through COM) to give references, must give truthful information regarding allegations and

administrative or disciplinary action related to sexual misconduct of the applicant. The response, however, must be limited to information contained within the written summary prepared by the Permanent Judicial Commission (PJC) or governing body.

VI. OTHER PREVENTATIVE MEASURES

Congregations will be encouraged to actively engage in education, open discussion, and policy implementation to ensure that the congregation is a safe place to worship and serve. To that end, the Presbytery of the Twin Cities Area has approved and implemented the following specific measures for itself, and encourages its congregations to implement similar practices:

1. **Policy on Sexual Misconduct Prevention Training** (Attachment A)
2. **Policy on Background Checks** (Attachment B)

Maintaining healthy self-care, awareness and accountability, appropriate boundaries, appropriate use of power and other similar preventative measures may be subjects for prevention education sponsored by the Presbytery. Individuals engaged in ministry are responsible for maintaining appropriate behavior (see Code of Ethics, Attachment C)

The first priority of the Presbytery of the Twin Cities Area in regard to sexual misconduct will be the prevention of such behavior. Only when such prevention fails and misconduct is alleged will the balance of these procedures be needed.

VII. DEFINITIONS

1. **Accused** refers to the person against whom a claim of sexual misconduct is made.
2. **Accuser** refers to the person whose claim of knowledge of sexual misconduct initiates an inquiry into alleged sexual misconduct.
3. **Advocate** refers to the person(s) who provide ongoing support and accompaniment to the offended and/or the accused/offender throughout the inquiry process and any subsequent proceedings. This may be a Minister of Word & Sacrament or lay person, preferably with special training for this task, who will have their out-of-pocket expenses covered by the Presbytery.
4. **AIM** refers to Advocates for Integrity in Ministry formerly known as SMRC (Sexual Misconduct Response Committee).
5. **COM**, when abbreviated, refers to the Committee on Ministry of the Presbytery of the Twin Cities Area (G-11.0500).

6. **CPM**, when abbreviated, refers to the Committee on Preparation for Ministry of the Presbytery of the Twin Cities Area (G-14.0400).
7. **Child Sexual Abuse** is sexual misconduct and includes, but is not limited to:
 - a. Any sexual contact or sexual interaction between a minor (under the age of eighteen years) and an adult;
 - b. Any use of a minor for the sexual stimulation of an adult, a third person, or the minor;
 - c. Any risqué jokes, innuendo, unacceptable visual contact, unwelcome casual touch, unwelcome and inappropriate hugs and kisses, and sexually suggestive pictures between an adult and a minor, as deemed inappropriate by any reasonable adult.
8. **Church**, when capitalized, refers to the Church universal; when not capitalized refers to the Presbyterian Church (U.S.A.).
9. **Congregation** refers to a particular (local) church of the Presbyterian Church (U.S.A.) or other denominations in which a Minister of the Word and Sacrament of the Presbyterian Church (U.S.A.) serves.
10. **Disciplinary Process** is the process undertaken pursuant to section D-10.0100ff in the Book of Order.
11. **Emotionally Dependent** refers to a person who is “unable to withhold consent to sexual contact” by the pastor or church leader. (Minnesota Statute 148a, Attachment H).
12. **Employee (member or non-member)** is any person hired or called to work, for the Presbytery or any congregation or related organization within the jurisdiction of the Presbytery, for salary or wages.
13. **Investigation/Inquiry** are the terms used in the Rules of Discipline to determine whether charges should be filed based upon the allegation of an offense received by the Presbytery. It is the examination of information regarding alleged sexual misconduct in that regard. (D-10.0200)
14. **Investigating Committee**, as defined in D-10.0201ff, is the body charged with performing the investigation/inquiry on behalf of the presbytery. Members of the committee become the prosecuting committee if charges are filed, and if an accused is found to be guilty of charges, recommends degree of censure to the PJC.
15. **Mutual Consent** is possible only between two adults with equal power in the relationship. Mutual consent is ***not possible*** when one party is a Minister of Word & Sacrament/professional lay leader in a pastoral, counseling, employer or leadership position within the church, and the other party is a minor, a vulnerable

adult according to state statute, or an adult in a vulnerable position as defined by these procedures.

16. **Offended** is the term used to identify the person(s) against whom the sexual misconduct has been directly perpetrated.
17. **Offender** is the term used for the accused once charges have been sustained.
18. **PJC**, when abbreviated, refers to the Permanent Judicial Commission, the church “court” on the presbytery level in the disciplinary process. (D-5.0202)
19. **PNC**, when abbreviated, refers to the Pastor Nominating Committee in a particular congregation.
20. **Persons Covered** by this policy and these procedures are those whose positions are established or validated by the Presbytery: Ministers of Word & Sacrament, Commissioned Lay Pastors, Certified Christian Educators, and inquirers and candidates under care of the Presbytery. Employees, officers, and volunteers from congregations are covered under the Presbytery policy and procedures when they are working directly under the Presbytery’s supervision.

Individual congregations are not covered by this policy and these procedures; however, congregations within the Presbytery are encouraged to adopt and implement their own sexual misconduct policies.

21. **Pornography** “includes any sexually explicit material (books, magazines, movies, videos, TV shows, telephone services, live sex acts) produced for the purpose of sexual arousal by eroticizing violence, power, humiliation, abuse, dominance, degradation, or mistreatment of any person, male or female, and usually produced for monetary profit. Any sexually explicit material that depicts children is pornography.” (*Pornography: Far from the Song of Songs*, page 11) Producing, distributing or accessing pornography is sexual misconduct.
22. **Presbytery**, in this policy and these procedures, refers to the Presbytery of the Twin Cities Area, Presbyterian Church (U.S.A.).
23. **Reasonable Suspicion** is a belief or opinion based on information or circumstances sufficient for a prudent person to take action.
24. **Secular Authorities** are the government officials, who have the responsibility to investigate, prosecute, and/or bring charges in civil court against individuals accused of sexual crimes or offenses against adults and minors.
25. **Sexual Abuse** of another person is sexual misconduct and includes any offense involving sexual conduct in relation to 1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to

consent or 2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position. (D-10.0401c) or 3) any person defined by Minnesota state law as “emotionally dependent.” (MN Statute 148A).

26. **Sexual Harassment** is sexual misconduct and includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, or their continued status in the Presbytery or
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, or offensive working environment based on the declared judgment of the affected person.

Lack of intent to harass is no defense.

Examples of sexual harassment include, but are not limited to:

- a. **Verbal:** sexual innuendos, risqué jokes, sexually suggestive or insulting questions, comments or sounds, jokes or teasing of a sexual nature, sexual propositions or threats, continuing to make sexual advances or comments or otherwise expressing personal interest after being informed the interest is unwelcome, sexual remarks regarding clothing, body, or love life, or any type of subtle pressure for sexual activity.
- b. **Visual:** sexually suggestive or gender derogatory objects, pictures, computer software, posters, or letters; leering, whistling, or obscene or sexually suggestive gestures.
- c. **Physical:** unwanted physical contact, including touching, pinching, brushing the body, impeding or blocking movement, sexual intercourse or assault.
- d. Encouraging attitudes or patterns of verbal, visual, or physical conduct (may or may not be obviously directed at a particular person) which may reasonably be perceived as tending to legitimate, rationalize, or make light of unwanted sexual advances.

27. **Sexual Misconduct** is a comprehensive term used in this policy and these procedures to include, is not limited to:
- a. Child sexual abuse as previously defined.
 - b. Sexual abuse as previously defined.
 - c. Rape or sexual contact by force, threat, or intimidation.
 - d. Production, distribution, or accessing of pornography as previously defined.
 - e. Sexual Harassment as previously defined.
 - f. Sexual violation of marriage vows.

28. **SMRC**, when abbreviated, refers to the Sexual Misconduct Response Committee of the Presbytery of the Twin Cities Area. This committee became Advocates for Integrity in Ministry in March 2008.
29. **Volunteer** refers to a person who provides services to the Presbytery, or a church or related organization, without financial or material remuneration.
30. **Vulnerable Persons** include:
- a) Minors
 - b) Vulnerable adults as defined in state statutes for Minnesota and Wisconsin, including emotionally dependent adults
 - c) Minors or adults who are living in a vulnerable life context, including but not limited to loss and grief, major transition, occasions for counseling, supervision

VIII. RESPONSE PROCEDURES

A. Initial Actions

Reporting: *The first person to learn of alleged sexual misconduct must take the allegations seriously and confidentially.* Allegations of sexual misconduct may be made in a variety of ways. It is important that officers, employees, and persons highly visible to church members and visitors understand how allegations of incidents are to be processed. Reports of sexual misconduct should never be taken lightly, disregarded, or allowed to circulate without concern for the integrity and reputation of the accuser, the offended, the accused, and of the church. Reports should be dealt with as matters of highest confidentiality by all parties, both before and after they have been submitted to appropriate authorities as outlined below.

Confidentiality guards with respect the privacy and dignity of people affected by sexual misconduct. Without appropriate confidentiality, help might not be sought. Information should be disclosed only when the benefits of disclosure outweigh the benefits of keeping the confidence. Information should be disclosed when it is needed to arrange for pastoral care or advocates for individuals or families, when it is needed to administer judicial processes, and when it is needed to engage in protective or preventative action. Confidentiality is neither secret-keeping nor satisfying the curiosity of people who care, but sharing information in ways that are beneficial to those affected by sexual misconduct.

An accuser may report alleged sexual misconduct to any of the following;

1. The pastor of the accuser's congregation or the congregation of the accused;
2. A member of the Personnel Committee of the congregation or governing body;

3. A member of the Advocates for Integrity in Ministry Committee of the Presbytery.
4. The Committee on Ministry;
5. The Executive Presbyter;
6. The Stated Clerk of Presbytery;
7. And additionally, in the case of a minor, to secular authorities.

This person shall aid the accuser in completing the Report of Suspected Sexual Misconduct (Attachment I), or a similar report. The report shall immediately be delivered to and called to the attention of the Stated Clerk of the Presbytery. The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the accuser or the accused. If the accuser is hesitant to talk to “higher authorities,” the person receiving the initial report has a special pastoral responsibility to encourage willingness to speak with higher authority, lest the Church be unable to respond because no one is able to give firsthand information.

Any incident of suspected sexual abuse of a minor, by a person covered by this policy and these procedures, shall IMMEDIATELY be reported to Child Protective Services, local law enforcement, and/or the district attorney. Mandated reporters are outlined in Attachment G.

As outlined in D-10.0106, the Stated Clerk shall immediately forward allegations involving a minor or vulnerable adult to the PJC. “The moderator of the permanent judicial commission shall, within three days, designate two members who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such shall be borne by the employing entity whenever possible or be shared by the Presbytery as necessary. While administrative leave is in effect, a minister or other employee may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings.” (D-10.0106)

B. Presbytery Pastoral Response

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family, are injuries frequently suffered by those impacted by sexual misconduct (these include among others: the offended(s), the accused, the accuser, the families and co-workers, the congregation, other employing and voluntary entities, and the Presbytery). It is important for the Presbytery to be sensitive to the pain of all those involved, and their need for healing, and to act as healing agents of God’s grace by making appropriate pastoral care available.

1. Offended and Family

The Presbytery may offer to provide for pastoral care to the offended and their families through AIM, who will offer resources for such care at the Presbytery's expense. If the offended or family at first refuses care, the Presbytery should continue to offer this assistance throughout the process. Above all, the Presbytery will NOT act in a self-protective manner by ignoring the offended and their families. AIM will also appoint, in consultation with the offended, an Advocate to walk through the church's processes with the offended.

2. Congregation (or employing entity)

The COM, recognizing that allegations may polarize the congregation, damage morale, and create serious internal conflicts, will meet with the session to inform them of the allegations toward a religious leader related to that congregation. After a briefing on the judicial process, the COM may assist the session in planning their care for the congregation through this time. The COM or the Stated Clerk will keep the session apprised of all reports out of the judicial process before such reports are made to Presbytery. The AIM Committee will offer therapeutic/consulting resources for the session to utilize at the session's expense.

3. Accused and Family

In addition to seeing that there is an Advocate to walk through the church's processes with the accused, the Presbytery may offer to provide pastoral care for the accused, as well as his/her family. If the accused is a Minister of Word & Sacrament, this is the responsibility of the COM (G-11.0502 i.), who can consult with AIM regarding needed resources. The responsibility for payment for such services belongs to the pastor and family, with the assistance of medical insurance that provides for counseling. A representative of the Presbytery is not to make any presumption of guilt or innocence, and must be aware that the accused and the family of the accused also may experience woundedness in incidents of sexual misconduct.

C. Presbytery Judicial Response

Immediately upon receipt of the Report of Suspected Sexual Misconduct, the Stated Clerk of the Presbytery shall inform the Executive Presbyter and the Moderator of Presbytery, and these three shall appoint an Investigating Committee as stipulated in the Rules of Discipline (D-10.0201).

The Investigative Committee must promptly begin its inquiry into the allegations, having received orientation by the Stated Clerk and a member of the Advocates

for Integrity in Ministry Committee, as delay may cause further harm to all parties involved. The Investigative Committee will conduct a thorough investigation as called for in D-10.0200. The Investigative Committee will consider in its definition as “thorough” the fact that all material facts relative to possible restoration must be surfaced in the context of the investigation. COM and the Presbytery have only the results of the investigation on which to rely when making these decisions, often years later. Therefore the investigation must be thorough even in the face of a self-accusation or admission of guilt by the accused.

If the Investigating Committee finds the allegations to be unsupportable, the report of that finding is forwarded to the Stated Clerk who shall then report that finding to the Presbytery.

Both accuser and offended have the right to participate in the judicial process. They will be kept informed of the progress of the process as outlined in D-10.0202 and D-10.0203.

If the Investigative Committee finds that the allegations may be sustainable, it shall proceed to an investigation of any past instances of sexual misconduct, including misconduct in other presbyteries and/or denominations. If the Investigative Committee determines to file charges, it is encouraged to consult with AIM regarding the degree of censure and terms for restoration appropriate to the offense. In the prosecution of the case, the Prosecuting Committee (made up of members of the Investigative Committee) shall provide for the testimony of the offended as well as any other persons that could speak to the desired degree of censure including possible conditions for restoration. The accused is also able to speak to these issues through the testimony of persons he/she may call.

The degrees of censure are listed in D-12.0100, and the terms for restoration in D-12.0200.

Both the offender and the offended/accuser have the right to initiate appeal. (D-13.0102 & 0106)

In cases where the accused dies or renounces jurisdiction of the church before the case is completed, the offended have the right to a pastoral inquiry as provided in G-9.0503a(7). The Moderator, in consultation with the Stated Clerk and Executive Presbyter, will immediately nominate an administrative commission.

The Stated Clerk and/or Executive Presbyter will inform any community organizations who need to know the outcome of the process in order to protect any further potential victims.

D. Media Contact

In order to minimize prejudice in any allegation yet to be decided, all inquiries from the media regarding an allegation of sexual misconduct must be directed to the Executive Presbyter. The alleged offender, the accuser, the accused, advocates for the accused or the alleged offender, members of AIM, COM, CPM, PJC, the members of the church or employing entity, members of Presbytery, or any others known to have information about the allegations shall not address questions from the media other than to refer the media to the Executive Presbyter or a spokesperson designated by the Executive Presbyter.

IX. PROMPT REPORTING AND INVESTIGATION

Allegation of sexual misconduct should be made to the proper officers of the Presbytery as promptly as possible. In the Presbyterian Church (U.S.A.) charges of sexual abuse may be brought regardless of the date on which an offense is alleged to have occurred (D-10.0401b).

X. COMPLIANCE AND DISTRIBUTION

All continuing members of the Presbytery, its employees, and volunteers with minors and vulnerable adults shall be required to sign a statement (Attachment E) acknowledging that they have received a copy of this document and that they understand they are expected to conduct themselves accordingly. It will also be distributed to the sessions of all congregations in the Presbytery and made available to their members upon request. Furthermore, a summary statement of the policy and procedures and other significant portions of this document (Attachment F) shall be posted in all congregations and related entities.

XI. REFERENCES

All references to the Book of Order are from the 2005-2006 edition. Biblical excerpts are from the *New Revised Standard Version*.

Pornography: Far from the Song of Songs A Study Paper Adopted by the 200th General Assembly (1988), Presbyterian Church (U.S.A.).

Special thanks go to the Presbytery of San Jose, the Synod of the Pacific, and the Office of the General Assembly. No attempt has been made to reference their work in this document, as they gave permission to borrow freely.

XII. ATTACHMENTS

Attachment A
PRESBYTERY OF THE TWIN CITIES AREA
SEXUAL MISCONDUCT PREVENTION TRAINING POLICY
Adopted by the Presbytery of the Twin Cities Area on February 10, 1998
Amended March 8, 2008

Whereas, the potential for sexual misconduct is an ever present danger within any human institution, and

Whereas, as persons in ministry, we have a sacred trust to keep with God, our parishioners, counselees, students, and others to fulfill our shared responsibility to create and assure safe environments, and

Whereas, as we deal with the confusion over dual roles, boundaries, power, and powerlessness, we do not need to be mystified about these things, and

Whereas, the Advocates for Integrity in Ministry (formerly SMRC) and the Committee on Ministry have developed a training program to help us all learn about and deal with these issues,

Now, Therefore, Be It Resolved by the Presbytery of the Twin Cities Area that

- a. All clergy, honorably retired clergy who continue in some active ministry, youth leaders engaged in youth ministries under the direction and supervision of the Presbytery, candidates, members of the Permanent Judicial Commission or former members of the Permanent Judicial Commission who may be called to serve, any clergy laboring within our bounds, and any members of this Presbytery laboring outside the bounds are required to attend a training session (Level 1) sponsored by Advocates for Integrity in Ministry Committee (AIM) within twelve months of reception of membership into this Presbytery or permission to labor within the bounds of this Presbytery. Under exceptional circumstances, AIM may authorize a brief extension of time. Such an extension will be done on an individual basis.
- b. Every three years, at least one elder commissioner or other elder from each church in the Presbytery is encouraged to attend a full training session (Level 1).
- c. AIM is authorized to approve other training opportunities as substitutes for this required training. If training was taken in another judicatory within the prior five years, AIM may consider that training as fulfilling the requirement of Level 1 training. It is the responsibility of the incoming clergy or candidate to submit to AIM the documentation and information about the training they desire to have approved for Level 1 equivalency. Further, the AIM is authorized to work with other religious bodies to conduct and/or approve ecumenical training opportunities. AIM is also authorized to provide alternative training for people who are outside the Presbytery and unable to find training opportunities at the site of their ministry. This may include sending them written materials.
- d. A record of attendance and participation shall be included in AIM's report to Presbytery to be published in the Presbytery meeting minutes for the purpose of keeping a record at the Presbytery level. The Presbytery and the appropriate session, or other appropriate hiring body, will be notified of persons failing to comply with this resolution. Clergy and candidates are responsible for maintaining a record of the training they have taken.

Attachment B
PRESBYTERY OF THE TWIN CITIES AREA
CRIMINAL HISTORY BACKGROUND CHECKS POLICY FOR CLERGY AND
LAYPERSONS WHO WORK WITH CHILDREN AND YOUTH IN PRESBYTERY
SPONSORED EVENTS

Approved by Presbytery July 8, 2003
(Revised September 9, 2003 & March 8, 2008)

This Policy is presented in response to Minnesota Statute 299C.62, the Child Protection Act, (excerpts from which are attached to this policy; Attachment A), regarding background checks for persons, employees and volunteers, who work with children. The Policy will define I) what constitutes a criminal history background check, II) those persons who will have background checks conducted, III) when to be completed and how often the background checks will be conducted, IV) entity responsible for expense, V) where this information is held, VI) access to this information, VII) response to negative report, and VIII) noncompliance.

I. CRIMINAL HISTORY BACKGROUND CHECKS

There are potentially two levels of criminal background checks:

- A. A SELF-DISCLOSURE (Attachment B)
A self-disclosure, requiring that the applicant indicate whether or not they have ever been convicted of any of the "Background Check Crimes."
- B. CRIMINAL BACKGROUND CHECK (Attachment C)
Applicant completes an Informed Consent, supplies social security number and authorizes a full criminal background check in all states and counties of residence for the previous 10 years.

II. PERSONS WHO WILL HAVE CRIMINAL BACKGROUND CHECKS CONDUCTED

- A. All clergy members of the Presbytery of the Twin Cities Area engaged in active ministry shall have a criminal background check conducted (A and B of I).
Exempt: Honorably retired clergy members of the Presbytery of the Twin Cities Area not actively engaged in ministry. Should exempt clergy resume active ministry, a criminal background check shall be conducted.
- B. All clergy new to the Presbytery of the Twin Cities Area (A and B of I).
- C. All laypersons who chaperone Presbytery of the Twin Cities Area events for children and youth (A and B of I).
- D. For local congregations:

Those who are in designated positions of leadership (Director of Youth Ministries/Children's Ministries, Children's Choir Directors, etc.) whether paid or volunteer (A and B of I).

The Presbytery of the Twin Cities Area suggests those in local congregations who volunteer with children and youth in "situations of opportunity" e.g. individual mentoring or counseling, overnight trips that include occasions for unsupervised contact – should be considered for criminal background checks. Those who teach children or work with them in context where their behavior can be observed and/or monitored by others also need criminal background checks. The presbytery does not mandate this for congregations, but recommends that criminal background checks be conducted to protect children and youth as well as reduce liability.

III. WHEN CRIMINAL BACKGROUND CHECKS ARE CONDUCTED AND HOW OFTEN

- A. New clergy members entering the presbytery will have criminal background checks completed prior to planning installation in the presbytery. Those persons identified in II.C. will complete a criminal background check prior to beginning service for the presbytery.
- B. Criminal background checks will be updated if a person changes positions or responsibilities within the Presbytery and if the last background check is five (5) or more years old.
- C. Beginning in 2008, the Presbytery will conduct background checks at 5 year intervals for clergy that move from church to church within the presbytery. Background checks are required for all clergy new or returning to the Presbytery of the Twin Cities Area.

IV. ENTITY RESPONSIBLE FOR EXPENSE

- A. The Presbytery of the Twin Cities Area is responsible for the expense of criminal background checks for clergy members of the presbytery.
- B. The Presbytery of the Twin Cities Area will pay for criminal background checks for up to two people from each congregation to comply with II, C. 2.
- C. For local congregations:
Expense for clergy persons is covered by the presbytery.
Expense for those noted in II. D. is the responsibility of the congregation.

V. WHERE THIS INFORMATION IS HELD

- A. Reports for clergy persons will be held in the office of the Presbytery of the Twin Cities Area as part of the clergy person's Minn. Stat. Chapter 148.A file.
- B. Reports for the Executive Presbyter will be held in the office of the Synod of Lakes and Prairies.
- C. Reports for all laypersons who chaperone Presbytery of the Twin Cities Area events will be held by the Presbytery.
- D. Local congregations:

Reports for members of congregations will be held under the jurisdiction and authority of the session of the congregation.

VI. ACCESS TO CRIMINAL BACKGROUND CHECK INFORMATION

- A. Clergy persons will have access to (only) their own Minn. Stat. Chapter 148.A file.
- B. Those laypersons who chaperone Presbytery of the Twin Cities events will have access to (only) their own report in the Presbytery office.

VII. RESPONSE TO A NEGATIVE REPORT

- A. Findings of a negative report for clergy persons will be discussed with the individual by the Executive Presbyter and/or members of the Advocates for Integrity in Ministry committee and restrictions may be imposed.
- B. Findings of a negative report for those persons identified in II. C. will be discussed with the individual by an Executive Presbyter or designate and restrictions may be imposed.
- C. For local congregations:

In the event a negative report is received for those persons in a local congregation identified in II.D. and II.E., the session of the congregation may seek the counsel of the Presbytery of the Twin Cities Area through the Advocates for Integrity in Ministry.

VIII. NONCOMPLIANCE

- A. Those clergy failing to authorize necessary release documents (Attachments B and C) and/or failure to complete a Self-disclosure form (Attachment B) will:

- a. Have a letter placed in the clergy member's Minn. Stat. Chapter 148.A file held in the office of the Presbytery of the Twin Cities Area.
- b. Noncompliance status will be noted in outgoing reference calls.
- c. Have their names removed from the Pulpit Supply List endorsed by the Presbytery of the Twin Cities Area.
- d. Not serve with or minister to vulnerable persons.

Attachment C
PRESBYTERY OF THE TWIN CITIES AREA

ETHICS POLICY

Approved May 13, 2003
Revised September 3, 2003

The following document constitutes the Code of Ethics of the Presbytery of the Twin Cities Area. Upon its adoption by the Presbytery, each ordained Minister of the Word and Sacrament will be expected to sign it in recognition of its ethical principles and rules and as an undertaking to live up to the standards of behavior and commitment it identifies.

Preamble:

I believe that God calls the whole Church and every member to participate in and extend the ministry of Jesus Christ; that the privilege of witnessing to the gospel in Church and society belongs to every baptized Christian; that God empowers the ministry of the Church and its members by the Holy Spirit; that the Church nurtures faith, evokes gifts, and equips its members for service, and that God calls certain of the Church's members to various forms of ministry in and on behalf of the church.

Because I have been called by God to be a Minister of Word and Sacrament in the Presbyterian Church (USA), to preach and teach the gospel of our Lord Jesus Christ, to administer the sacraments and rites of the Church, and to exercise pastoral care and leadership; Because I wish to conduct my office as a witness to Jesus Christ; Because I recognize that how I live and work affects the wellness of the whole body of Christ, of particular congregations and ministries, and of the Presbytery;

Therefore,

1. Relationships with others I will strive to:
 - a. Be honest and truthful.
 - b. Regard all persons with equal respect and concern.
 - c. Recognize the gifts of others.
 - d. Work with others cooperatively and collegially.
 - e. Be diligent and dependable.
 - f. Speak the truth in love and bear witness without fear or favor.
 - g. Maintain an attitude of repentance, humility, and forgiveness.
 - h. Maintain critical self-awareness.
2. In personal conduct I will strive to:
 - a. Recognize my own needs for intimacy, dependence, and support.
 - b. Recognize and seek help from others when needed.
 - c. Engage in self-evaluation.
 - d. Strive toward a balance in my life, including family commitments.
 - e. Be a responsible steward of my own gifts and resources.
 - f. Attend to my physical and psychological well-being.
 - g. Pursue a discipline of study, prayer, and reflection.
 - h. Live joyfully.
3. In the conduct of my professional responsibilities and relationships, I will strive to:
 - a. Conduct my life with integrity so that it demonstrates consistently that I am a disciple of Jesus Christ.
 - b. Acknowledge the power of my office.

- c. Be judicious in the exercise of power and privilege.
 - d. Recognize the limits of my power and authority.
 - e. Honor professional commitments and covenants.
 - f. Accept the discipline and guidance of the church and the appropriate guidance of those to whom I am accountable for my ministry.
 - g. Encourage regular evaluation of my ministry by others.
 - h. Participate actively in the ministry and work of the Presbytery and in the larger church.
 - i. Conduct my ministry with impartiality.
 - j. Be an advocate for fairness and justice.
 - k. Seek to grow in faith, knowledge, and the practice of ministry through continuing education and study.
4. In the conduct of my professional responsibilities and relationships, I will:
- a. Refrain from abusive, violent, addictive or exploitive behaviors, including inappropriate conduct of a sexual nature. I affirm that sexual abuse in any form is never permissible.
 - b. Be a faithful steward of and fully accountable for the resources entrusted to my community and not use my position for undue personal financial gain.
 - c. Avoid conflicts of interest that might compromise the effectiveness of my ministry.
 - d. Maintain the privacy of others, within the limits of the law.
 - e. Claim only those competencies and qualifications I have attained and give appropriate credit to others where due.
 - f. Deal honorably with the record of my predecessors.
 - g. Upon my termination or departure from a ministry position, respect the responsibilities of and refrain from interfering with or intruding upon the ministry of my successor.

Signature

Date

Revised: September 3, 2003

Attachment D

PRESBYTERY OF THE TWIN CITIES AREA

Acknowledgment of Receipt

(Sexual Misconduct Prevention Policy & Procedures, Presbytery of the Twin Cities Area)

I hereby acknowledge that I received on _____(date) a copy of “Presbytery of the Twin Cities Area Sexual Misconduct Prevention and Response Policy and Procedures, dated November 8, 2005, and that I have read the policy and procedures, understand its meaning, and know that I am expected to conduct myself in accordance with them.

Name (Please print)

Signature

Date

A similar acknowledgment will be signed at such times as amendments or revisions to the policy are made and distributed.

Attachment E
PLEASE POST!
PRESBYTERY OF THE TWIN CITIES AREA
Information Regarding Policy and Procedures
Sexual Misconduct Prevention

In recognition of the public and spiritual trust given to the Presbyterian Church (U.S.A.), the Presbytery of the Twin Cities Area has adopted a policy and received a written copy of procedures used within the Presbytery to set and enforce standards of ethical sexual behavior by Ministers of Word & Sacrament and lay leaders consistent with scripture and secular law, and procedures for inquiry and effective response to allegations of sexual misconduct. Copies of the entire document may be obtained from your pastor, clerk of session, or the Presbytery office.

THE POLICY AND PROCEDURES ARE BASED UPON SCRIPTURE

As God who called you is holy, be holy yourselves in all your conduct. I Peter 1:15

Not many of you should be come teachers, my brothers and sisters, for you know that we who teach will be judged with greater strictness. James 2:15

POLICY STATEMENT

The policy of the Presbytery of the Twin Cities Area is that all church members, church officers, nonmember employees, and volunteers of the Presbyterian Church, and related agencies, shall maintain the integrity of ministerial, employment, and professional relationships at all times. Sexual misconduct is a violation of the principles of ethical leadership set forth in scripture, and a violation of the trust of the presbytery and its congregations, and is never permissible. The Presbytery of the Twin Cities Area takes such violations seriously, working diligently to prevent misconduct, and seeking to respond justly and effectively to all those affected by it.

CONSONANT WITH SCRIPTURE, THE UNDERLYING ETHICAL PRINCIPLES OF THIS POLICY AND THESE PROCEDURES ARE:

1. Sexual misconduct is both a betrayal of trust and a denial of the love of Christ, in which all relationships are rooted. As part of its Christian witness, the Church must make a clear and just response, so that the Church and its ministries may be seen as safe places in the community, places where it is known that sexual misconduct is not tolerated.
2. The first and best way to deal with sexual misconduct is to prevent its occurrence through appropriate employment practices, screening and supervision of volunteers, and education.
3. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles of leadership, taking advantage or the vulnerability of others. Ministers of Word and Sacrament and other church leaders have the responsibility to maintain an appropriate role.
4. The church has a responsibility to offer justice with dignity to all who are injured by sexual misconduct.

SEXUAL MISCONDUCT IS DEFINED AS:

1. Sexual abuse of children (under the age of 18 years).
2. Sexual abuse of vulnerable or emotionally dependent persons.
3. Rape or sexual contact by force, threat, or intimidation.
4. Production, distribution or accessing of pornography.
5. Sexual harassment.
6. Sexual violation of marriage vows.

PRESBYTERY WILL SEEK TO PREVENT AND TO RESPOND TO MISCONDUCT BY:

1. Providing education and other procedures aimed at preventing sexual misconduct.
2. Immediately and thoroughly investigating all allegations of sexual misconduct.
3. Offering advocates to walk through the process with both the offended and the accused.
4. Working with congregations to heal pain and conflicts within the congregation resulting from such misconduct.
5. Taking disciplinary action against the accused if the investigation reveals that the misconduct did, in fact, occur.

YOU CAN HELP TO ENSURE THE EFFECTIVENESS OF THIS POLICY BY:

1. Monitoring your own conduct toward others.
2. Promptly informing any person or persons involved that they should stop engaging in conduct offensive or objectionable to you or to others.
3. Bringing the matter to the attention of your pastor, supervisor (if you are a church employee), member of personnel committee, elder, chairperson of Presbytery Committee on Ministry, or the Executive Presbyter.

THE COMMITTEE ON MINISTRY CHAIR FOR THE YEAR _____ IS:

Name of Chairperson Phone

YOUR EXECUTIVE PRESBYTER IS:

Name Phone

ATTACHMENT F RESPONSES TO ALLEGATIONS OF SEXUAL MISCONDUCT

	<i>Advocates for Integrity in Ministry Committee</i>	<i>Committee on Ministry</i>	<i>Investigative Committee (Members become Prosecuting Committee if charges are filed)</i>	<i>Permanent Judicial Commission</i>	<i>Executive Presbyter</i>	<i>Stated Clerk</i>	<i>Moderator</i>
<p><i>Accused Respondent Offender</i></p> <p><i>(If offender renounces jurisdiction of the church judicial process stops and stated clerk reports such renunciation to Presbytery with reference to status of case at that time. A pastoral inquiry may still be requested by the offended)</i></p>	<ul style="list-style-type: none"> - Refers allegation - Gives resources for pastoral care/therapy - accused pays w/ Board of Pensions benefit <p>Mentor</p> <ul style="list-style-type: none"> - With the stated clerk, trains investigative committee 	<ul style="list-style-type: none"> - Refers allegation - Sees that an Advocate is available to accompany through the process. - Works with restoration process; results of trial given to them by stated clerk - Looks at published judgment with an eye to restoration after temporary exclusion - Recommends when offender is ready to be reinstated after temporary exclusion according to COM process 	<ul style="list-style-type: none"> - Meets with stated clerk for training - Meets with accused to communicate allegation - Need for pastoral care? Resources for therapy? - Meets with accused to inform of outcome of investigation and intent for follow-up - If charges, reports recommendation for charges and censure with witnesses and documents - Notifies stated clerk of results - If charges are filed, names from their number a prosecuting committee and -offender becomes respondent for trial by PJC 	<ul style="list-style-type: none"> - Hears evidence presented by the Prosecuting Committee in trial - Reaches a decision based on evidence presented - If "guilty," decides censure; if "not guilty," dropped and sealed. - Clerk of PJC delivers decision to offender 	<ul style="list-style-type: none"> - Refers allegation - Confers with moderator and stated clerk on moderator's appointment of investigative committee and, if needed, on the moderator's nomination of an administrative commission for pastoral inquiry 	<ul style="list-style-type: none"> - Receives allegation - Confers with moderator and EP on moderator's appointment of investigative committee and, if needed, on the moderator's nomination of an administrative commission for pastoral inquiry - Trains investigative committee, with AIM - Receives report of investigative committee - Forwards trial results to COM for restoration process 	<ul style="list-style-type: none"> - Appoints investigative committee with stated clerk and EP - In case of renunciation of jurisdiction or death of the accused, nominates an administrative commission for pastoral inquiry.

	<i>AIM</i>	<i>COM</i>	<i>IC/PC</i>	<i>PJC</i>	<i>EP</i>	<i>Stated Clerk</i>	<i>Moderator</i>
<p><i>Offended</i></p> <p><i>(If judicial process stops because of death or renunciation of jurisdiction of the accused, the offended has the right to a pastoral inquiry so that the truth may be told.)</i></p>	<ul style="list-style-type: none"> - Refers allegation - Gives resources for therapy/pastoral care - Presbytery pays - Provides additional therapeutic resources if jurisdiction is renounced by offender - Appoints advocate to accompany through church's process 	<ul style="list-style-type: none"> - Refers allegation 	<ul style="list-style-type: none"> - Meets with offender/accuser to clarify allegations - Notifies offended of results of investigation - Notifies offended of results of trial/hearing 	<ul style="list-style-type: none"> - May hear testimony of offended - Clerk of PJC delivers decision to the offended - Should receive a victim's impact statement, without cross examination, prior to censure. 	<ul style="list-style-type: none"> - Refers allegation 	<ul style="list-style-type: none"> - Receives allegation - Need for pastoral care/therapy? 	
<p><i>Offended's Family</i></p>	<ul style="list-style-type: none"> - Gives resources for therapy/pastoral care - family pays 					<ul style="list-style-type: none"> - Need for pastoral care/therapy? 	
<p><i>Accuser (Observer)</i></p>	<ul style="list-style-type: none"> - Refers allegation 	<ul style="list-style-type: none"> - Refers allegation 	<ul style="list-style-type: none"> - Meets with offender/accuser - clarifies allegations - Notifies of results of investigation - .Notifies accuser of results of trial/censure 	<ul style="list-style-type: none"> - May hear testimony of accuser. Should receive a victim's impact statement, without cross examination, prior to censure. 	<ul style="list-style-type: none"> - Refers allegation 	<ul style="list-style-type: none"> - Receives allegation 	
<p><i>Other Staff (of congregation)</i></p>		<ul style="list-style-type: none"> - When complaint is about to become known: COM meets with staff 					

	<i>AIM</i>	<i>COM</i>	<i>IC/PC</i>	<i>PJC</i>	<i>EP</i>	<i>Stated Clerk</i>	<i>Moderator</i>
<i>Congregation/ Organization/ Other Denomination</i>	- Provides resources for congregation and interim for aftercare	- When session knows, COM meets with congregation - Stated clerk or COM reports to those who are not direct parties to the case, such as the congregation, session, staff etc			- EP or stated clerk informs outside org (hosp, other gov body, etc); keeps them appraised	- Stated clerk or EP informs outside org (hosp, other gov body, etc); keeps them appraised - Stated clerk or COM reports to those who are not direct parties to the case, such as the congregation, session, staff etc.	
<i>Session/ Personnel Committee</i>	- Resource: therapeutic/consulting resources for session (session pays)	- At resignation or need to know - meets with session before news breaks - Coaches about media dealings and process with congregation - COM or stated clerk takes a copy of judgment, if any, to session prior to announcement at Presbytery - Provides guidance during and after the event and works to find interim pastor				- Stated clerk or COM reports process to session before announced at Presbytery	

	<i>AIM</i>	<i>COM</i>	<i>IC/PC</i>	<i>PJC</i>	<i>EP</i>	<i>Stated Clerk</i>	<i>Moderator</i>
<i>Presbytery</i>		- Forwards recommendation regarding restoration to Presbytery for action	- Documents procedures and publishes any public information or decision	- Reports trial results to Presbytery through stated clerk - If not guilty, reports to Presbytery		- If no charges filed, reports to Presbytery without name or facts, and results are sealed and filed. If charges are filed, refers to PJC - If guilty judgment (inc. guilty plea), notifies Presbytery	- On behalf of Presbytery, imposes censure and delivers intercessory prayer
<i>Other</i>			- Interviews other witnesses (history and this specific allegation) - Urged to consult with AIM prior to recommending censure.	- May hear testimony of other witnesses	- EP or stated clerk informs any community organizations who could supply more victims (volunteer)	- Stated clerk or EP informs any community orgs who could supply more victims. *If offender renounces jurisdiction at any point, reports to Presbytery (with reference to status at time) and closes judicial process, pending pastoral investigation	

Attachment G
PRESBYTERY OF THE TWIN CITIES AREA

CHILD PROTECTION POLICY AND PROCEDURES: MN

We are committed to nurturing a safe and healthy environment for children in the community.

Minnesota law requires that anyone who provides child care must report known or suspected child abuse or neglect within 24 hours to public authorities. Minnesota law also permits anyone to make a good faith report of suspected child abuse or neglect. For a complete statement of the law, please see Minnesota Statutes § 626.556. This policy and these procedures document is intended to assist the community in fulfilling child neglect and abuse reporting obligations under Minnesota law.

Who reports?

You must report concerning children of the community if you are:

- Director of Day Care
- Professional staff of Day Care
- Parish Nurse
- Youth Coordinator

The statute requires reporting by persons “engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement.” Minn. Stat. § 626.556, subd. 3(a)(1). The statute also **expressly applies to clergy** who receive information in the course of ministerial duties, unless the information is protected by the clergy-penitent privilege. *Id.* at subd. 3(a)(2); *see* Minn. Stat. § 595.02, subd. 1(c) (defining the privilege).

What triggers the reporting obligation?

When a mandatory reporter “knows or has reason to believe” a child is being neglected or physically or sexually abused, a report must be made immediately but in no event longer than 24 hours. The statute provides immunity from civil or criminal liability for any mandatory or voluntary report made in good faith.

Definitions

Child Neglect is the failure by a parent or caretaker to provide needed care and protection for a child. This includes failure to provide food, shelter, clothing, medical care, or other care required for the child’s physical or mental health.

Child Sexual Abuse is an act or threat of an act by a parent, caretaker, or person in a position of authority to make sexual contact with a child, including touching intimate parts (of the child or the adult or another) whether clothed or unclothed. A “child” is any person under the age of 18.

Child Physical Abuse is any physical injury, mental injury, or threatened injury inflicted by a person responsible for the child's care other than by accidental means, except for reasonable and moderate physical discipline which does not result in an injury.

Procedures

Immediately make a telephone call to Child Protection or the Police Department. After making that report, notification should be made to Pastor and Clerk of Session and the Stated Clerk or Executive Presbyter of the Presbytery. The Pastor and/or Clerk of Session will take appropriate steps to respond to the report, and cooperate with the Child Protection and/or police authorities in their investigation.

(Opinion rendered by Eric Jorstad of Faegre & Benson)

**In Minnesota, report suspected child abuse to:
County office of Department of Human Services
First Call for Help: (651) 291-0211 (24-hour)**

Mandatory Reporting of Child Abuse & Neglect

The State of Wisconsin requires individuals who work in certain professions to report child abuse and neglect. With some exceptions, any of the following individuals who “has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur” must report as described below [See Wis. Stat. sec. 48.981(2)(a)]. Every new instance of child abuse or neglect must be reported. Reporters are protected from discharge for reporting child abuse. Reports must be made to law enforcement, the child welfare agency (CWA), or child protective services (CPS) agency. Law enforcement must refer all reports to CWA or CPS agencies within 12 hours. CWA or CPS agencies must refer reports of sexual abuse to law enforcement within 12 hours and must also develop a policy regarding referrals for other types of abuse. These agencies are required to collaborate with each other when investigating sexual abuse.

Who Must Report? Wis. Stat. 48.981(2)(a)1 lists the following individuals as mandated reporters:

- | | |
|--|--|
| <input type="checkbox"/> Physician | <input type="checkbox"/> Public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d) |
| <input type="checkbox"/> Coroner | <input type="checkbox"/> Member of the treatment staff employed by or working under contract with a county department under s. 46.26, 51.42, or 51.437 |
| <input type="checkbox"/> Medical examiner | <input type="checkbox"/> Marriage and family therapist |
| <input type="checkbox"/> Nurse | <input type="checkbox"/> Professional counselor |
| <input type="checkbox"/> Dentist | <input type="checkbox"/> Day care provider |
| <input type="checkbox"/> Chiropractor | <input type="checkbox"/> Speech-language pathologist |
| <input type="checkbox"/> Optometrist | <input type="checkbox"/> Emergency medical technician |
| <input type="checkbox"/> Occupational therapist | <input type="checkbox"/> Court appointed special advocate |
| <input type="checkbox"/> Dietician | <input type="checkbox"/> Police or law enforcement officer |
| <input type="checkbox"/> Audiologist | <input type="checkbox"/> Child care worker in a day care center, group home as described in s. 48.625(1m), or residential care center for children and youth |
| <input type="checkbox"/> Acupuncturist | <input type="checkbox"/> School teacher, school administrator, school counselor |
| <input type="checkbox"/> Physical therapist & PT assistant | |
| <input type="checkbox"/> Alcohol or other drug abuse counselor | |
| <input type="checkbox"/> Medical or mental health professional | |
| <input type="checkbox"/> Social worker | |
| <input type="checkbox"/> Mediator under s. 767.11 | |
| <input type="checkbox"/> First responder | |
| <input type="checkbox"/> Clergy (See section below.) | |

What is Reportable Child Abuse? Wis. Stat. sec. 48.02(1)

Physical abuse inflicted on a child by non-accidental means, serious physical harm inflicted on an unborn child, and the risk of serious physical harm to a child when born, caused by the

habitual lack of self-control of the expectant mother in the use of alcoholic beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree.

Sexual abuse, defined as:

- Sexual intercourse or sexual contact under s. 940.225, 948.02, or 948.025 (sexual assault, sexual assault of a child, and repeated acts of sexual assault of the same child)
- Sexual exploitation of a child
- Causing a child to view or listen to sexual activity
- Permitting, allowing, or encouraging a child to engage in prostitution
- Exposing genitals or pubic area

Emotional damage for which the child’s parent, guardian, or legal custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to relieve the symptoms.

Neglect is the “failure, refusal or inability on the part of a parent, guardian, legal custodian, or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child” [Wis. Stat. sec. 48.981(1)(d)].

Notably, acts that would constitute the crime of sexual intercourse with a child age 16 or over are not reportable abuse, but acts that would constitute sexual assault under Wis. Stat. sec. 940.225 are reportable child abuse. Wis. Stat. sec. 940.225 describes the acts of sexual contact or intercourse with another person without consent, with a person incapable of giving consent, or between people in certain relationships, such as inmate-guard.

Exceptions to Reporting Requirements: Wis. Stat. sec. 48.981(2m)

The State of Wisconsin carved out an exception to reporting requirements to allow children to obtain confidential health care services. Health care services means family planning services as defined by law, pregnancy testing, obstetrical health care or screening, and diagnosis or treatment for a sexually transmitted infection. For purposes of this exception, health care providers include physicians, physician assistants, and registered or licensed nurses.

The exception applies when one of these persons provides a health care service to a child or when a mandatory reporter obtains information about a child who is receiving or has received health care services from one of these persons. However, this exception is not absolute. A report is required in spite of the exception whenever the health care provider suspects any of the following:

- The sexual intercourse or sexual contact occurred or is likely to occur with a caregiver.
- The child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.
- The child, because of age/immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.

- The child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.
- Another participant in the sexual contact or sexual intercourse was or is exploiting the child.
- There is any reasonable doubt that the child's participation in the sexual contact or I intercourse was voluntary.

Clergy Mandatory Reporting Provisions

As of May 1, 2004, clergy are mandatory reporters of child sexual abuse. Under these provisions, a report is required if a clergyperson has reasonable cause to suspect that a child seen in the course of the clergyperson's professional duties was sexually abused or was threatened with sexual abuse and sexual abuse is likely to occur. Further, a report is also required if a clergyperson has reasonable cause to believe, "based on observations made or information that he or she receives," that a child has been sexually abused or has been threatened with sexual abuse and sexual abuse is likely to occur. However, "[a] member of the clergy is not required to report child abuse information that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing." Wis. Stat.sec. 49.981(2)(bm)(3).

Are Staff at Sexual Assault Service Provider Agencies Mandated Reporters?

Under Wisconsin law, staff of sexual assault service provider (SASP) agencies are not mandated reporters. However, individuals who work at these agencies may be mandated reporters due to their profession, such as licensed social workers, etc. Many agencies, through agency policy or due to grant requirements, have adopted these reporting guidelines for all staff. A minor concerned about mandatory reporting and seeking services at a SASP should ask for a copy of the agency's reporting policy.

For further information, see WCASA's information sheets on sexual assault laws, child sexual assault laws, child pornography laws, and the WCASA information sheet on teens.

This information sheet was compiled in 2004 by the Wisconsin Coalition Against Sexual Assault (WCASA). WCASA is a membership organization of sexual assault service providers, other organizations, and individuals throughout Wisconsin working to end sexual violence.

For information sheets on other topics or to become a member contact WCASA, 600 Williamson St., Suite N-2, Madison, WI 53703, (608)257-1516, www.wcasa.org. For more information about sexual assault or to receive support with a sexual assault experience, contact your local sexual assault program. This sheet may be reproduced in its original format only. This information does not constitute legal advice.

<http://www.wcasa.org/resources/factsheets/Manreport.pdf>
referred to the Presbytery by Eric Jorstad of Faegre & Benson

In Wisconsin, report suspected child abuse to:

**Department of Health and Social Services
Children, Youth, and Families Bureau
Office of Child Abuse and Neglect
1 W. Wilson St.
Madison, WI 53703
(608) 266-3036**

Attachment H

MINNESOTA STATUE 148a

148A.01 Definitions.

Subdivision 1. **General.** The definitions in this section apply to sections 148A.01 to 148A.04, 148A.05, and 148A.06.

Subd. 2. **Emotionally dependent.** "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to believe that the patient or former patient is unable to withhold consent to sexual contact by the psychotherapist.

Subd. 3. **Former patient.** "Former patient" means a person who was given psychotherapy within two years prior to sexual contact with the psychotherapist.

Subd. 4. **Patient.** "Patient" means a person who seeks or obtains psychotherapy.

Subd. 5. **Psychotherapist.** "Psychotherapist" means a physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, marriage and family therapist, mental health service provider, licensed professional counselor, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 6. **Psychotherapy.** "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 7. **Sexual contact.** "Sexual contact" means any of the following,

whether or not occurring with the consent of a patient or former patient:

(1) sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, into the genital or anal openings of the patient's or former patient's body by any part of the psychotherapist's body or by any object used by the psychotherapist for this purpose, or any intrusion, however slight, into the genital or anal openings of the psychotherapist's body by any part of the patient's or former patient's body or by any object used by the patient or former patient for this purpose, if agreed to by the psychotherapist;

(2) kissing of, or the intentional touching by the psychotherapist of the patient's or former patient's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts;

(3) kissing of, or the intentional touching by the patient or former patient of the psychotherapist's genital area, groin, inner thigh, buttocks, or breast or of the clothing covering any of these body parts if the psychotherapist agrees to the kissing or intentional touching.

"Sexual contact" includes requests by the psychotherapist for conduct described in clauses (1) to (3).

"Sexual contact" does not include conduct described in clause (1) or (2) that is a part of standard medical treatment of a patient.

Subd. 8. **Therapeutic deception.** "Therapeutic deception" means a representation by a psychotherapist that sexual contact with the psychotherapist is consistent with or part of the patient's or former patient's treatment.

HIST: 1986 c 372 s 1; 1Sp1986 c 3 art 2 s 22; 1987 c 347 art 1 s 19; 2003 c 118 s 3

148A.02 Cause of action for sexual exploitation.

A cause of action against a psychotherapist for sexual exploitation exists for a patient or former patient for injury caused by sexual contact with the psychotherapist, if the sexual contact occurred:

(1) during the period the patient was receiving psychotherapy from the psychotherapist; or (2) after the period the patient received psychotherapy from the psychotherapist if (a) the former patient was emotionally dependent on the psychotherapist; or (b) the sexual contact occurred by means of therapeutic deception.

The patient or former patient may recover damages from a psychotherapist who is found liable for sexual exploitation. It is not a defense to the action that sexual contact with a patient occurred outside a therapy or treatment session or that it occurred off the premises regularly used by the psychotherapist for therapy or treatment sessions.

HIST: 1986 c 372 s 2

148A.03 Liability of Employer.

(a) An employer of a psychotherapist may be liable under section 148A.02 if:

(1) the employer fails or refuses to take reasonable action when the employer knows or has reason to know that the psychotherapist engaged in sexual contact with the plaintiff or any other patient or former patient of the psychotherapist; or

(2) the employer fails or refuses to make inquiries of an employer or former employer, whose name and address have been disclosed to the employer and who employed the psychotherapist as a psychotherapist within the last five years,

concerning the occurrence of sexual contacts by the psychotherapist with patients or former patients of the psychotherapist.

(b) An employer or former employer of a psychotherapist may be liable under section 148A.02 if the employer or former employer:

(1) knows of the occurrence of sexual contact by the psychotherapist with patients or former patients of the psychotherapist;

(2) receives a specific written request by another employer or prospective employer of the psychotherapist, engaged in the business of psychotherapy, concerning the existence or nature of the sexual contact; and

(3) fails or refuses to disclose the occurrence of the sexual contacts.

(c) An employer or former employer may be liable under section 148A.02 only to the extent that the failure or refusal to take any action required by paragraph (a) or (b) was approximate and actual cause of any damages sustained.

(d) No cause of action arises, nor may a licensing board in this state take disciplinary action, against a psychotherapist's employer or former employer who in good faith complies with this section.

HIST: 1986 c 372 s 3

148A.04 Scope of Discovery.

In an action for sexual exploitation, evidence of the plaintiff's sexual history is not subject to discovery except when the plaintiff claims damage to sexual functioning; or

(1) the defendant requests a hearing prior to conducting discovery and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

The court shall allow the discovery only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is subject to discovery.

HIST: 1986 c 372 s 4

148A.05 Admission of evidence.

In an action for sexual exploitation, evidence of the plaintiff's sexual history is not admissible except when:

(1) the defendant requests a hearing prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial effect.

The court shall allow the admission only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other such evidence may be introduced.

Violation of the terms of the order may be grounds for a new trial.

HIST: 1986 c 372 s 6

148A.06 Limitation period.

An action for sexual exploitation shall be commenced within five years after the cause of action arises.

HIST: 1986 c 372 s 7

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**Attachment I
PRESBYTERY OF THE TWIN CITIES AREA
REPORT OF SUSPECTED SEXUAL MISCONDUCT**

Reported by:

Name and title

Address

City, State, Zip Code

Telephone

Date of Report:

Person suspected of misconduct:

Name and title

Address

City, State, Zip Code

Telephone

Other person(s) involved (victims)

Name and title

Age and sex

Address

City, State, Zip Code

Telephone

Witness(es)

Name and title

Age and sex

Address

City, State, Zip Code

Telephone

Describe incident(s) of suspected sexual misconduct with as much detail as you are able, including date(s), time(s), and location(s):

Identify eyewitnesses to the incident, including names, addresses and telephone numbers, where available:

Other information which may be helpful:

This completed report should be delivered to, and brought to the attention of, the Stated Clerk of the Presbytery at Presbytery of the Twin Cities Area, 122 W. Franklin Avenue, Minneapolis, MN 55404, phone 612-871-7281.

Attachment J

PRESBYTERY OF THE TWIN CITIES AREA
EMPLOYMENT REFERENCE

If the information in this report alleges sexual misconduct as defined in the *Presbytery of the Twin Cities Area Sexual Misconduct Prevention & Response Policy and Procedures*, a copy of this employment reference in its entirety will be given to the accused.

1. Name of applicant _____

2. Reference or congregation contacted (if a congregation, identify both the congregation and person contacted):

3. Date and time of contact: _____

4. Method of contact (telephone, letter, personal conversation): _____

5. Summary of conversation (summarize the reference's remarks concerning the applicant's fitness and suitability for the position, any allegations of sexual misconduct or child sexual abuse):

Name of person making this reference contact _____

Signature

Date