



# ARE YOUR KIDS SAFE? ADVANCED DISCUSSION

CARPENTER HAZLEWOOD CHURCH LAW GROUP

FALL 2011



**CARPENTER HAZLEWOOD**  
CARPENTER HAZLEWOOD DELGADO WOOD  
CHURCH LAW GROUP

1400 East Southern Ave. Suite 400, Tempe, AZ 895282  
t 480.427.2800 | f 480.427.2801

[www.carpenterhazlewood.com/churches](http://www.carpenterhazlewood.com/churches)

- I. INTRODUCTION
  
- II. GOALS
  - IDENTIFY RISKS
  - ADDRESS RISKS
  
- III. WHAT ARE THE RISKS RELATED TO CHILDREN AND CHURCH?
  
  
  
  
  
  
  
  
  
  
- IV. ARE RISKS “INHERENT” OR “REDUCE-ABLE”?

## V. INSURANCE

- a. RISK SHIFTING RUBRIC:
  - i. What are the Risks?
  - ii. Which risks are we keeping, and which are too “risky” to keep?
- b. EVERY CHURCH SHOULD UNDERTAKE THE EXERCISE
- c. MOST CHURCHES DO IT IN REVERSE
- d. INSURANCE IS NOT A SUBSTITUTE FOR GOOD SYSTEMS / PRACTICES

## VI. CHURCH LIABILITY FOR ACTS OF OTHERS

- MOST COMMON THEORIES:
  - Negligent hiring
  - What did the church “KNOW” or what “SHOULD IT HAVE KNOWN” about the applicant?
  - Applies to employees and volunteers
  - Negligent supervision
  - Did the church act “REASONABLY” in supervising employees and volunteers

## VII. DUTY TO REPORT

- A.R.S. SECTION 13-3620
  - Any “Person”
  - Includes “clergy”
  - Includes “any other person who has responsibility for the care or treatment of the minor”
  - Who REASONABLY believes that a minor has been the victim of:
    - Physical Injury, abuse, child abuse, neglect OR
    - A “Reportable Offense”
  - MUST IMMEDIATELY REPORT TO POLICE OR CPS
  - “Reportable offense”
    - Indecent exposure
    - Public sexual indecency

- Sexual abuse
- Sexual conduct with a minor
- Sexual assault
- Molestation of a child
- Bestiality
- Continuous sexual abuse of a child
- Sexual misconduct
- Violent sexual assault
- Sexual exploitation of children
- Furnishing harmful items to minors via the Internet
- No duty to report IF:
  - The conduct is “sexual abuse” or “sexual conduct with a minor”
  - The conduct involves only minors who are 14, 15, 16 or 17
  - Nothing indicates the conduct is not consensual
- Reports must be made IMMEDIATELY
- Telephone or in person
- Followed up with written report within 72 hours
- Immune from civil liability for making the report
- Exception for malice
- Cannot be called to testify regarding confessions
- Neither of the above negates the duty to report
- Failure to report
  - Class 1 Misdemeanor
  - Failure to report a “Reportable Offense”
  - Class 6 Felony

## VIII. BEST PRACTICES

- SCREEN
  - Job description for ALL employees and volunteers
  - Develop written application for ALL positions
  - Classification of positions
  - Primary or secondary access to children?
  - Obtain written applications
  - In-person interviews (Standard Questions?)

- Check references
- Background check
  
- TRAIN
  - WHO?
  - WHEN?
  - HOW OFTEN?
  - CONTENT?
  - Recognizing an abuser
  - Identifying victims
  - Appropriate/Inappropriate interactions
  
- OPERATIONS
  - Does it work the way it is supposed to?
  - Do you know your volunteers?
  
- RESPONSE
  - Does everyone know what will happen if a report occurs?

## IX. ADDITIONAL ISSUES

- PERMISSION SLIPS
- WAIVERS
- WAIVER AND INDEMNITY
- CONSENT TO MEDICAL TREATMENT