



# JACOB'S HOPE

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## SUFFER THE CHILDREN: DEVELOPING EFFECTIVE CHURCH POLICIES ON CHILD MALTREATMENT



***JWRC maintains hope that through quality programming and services provided to communities, adults can help protect children from victimization by giving them positive identities and values, appropriate boundaries and expectations, and the support they need to flourish.***

**By: Victor I. Vieth<sup>1</sup>**

*"This quest may be attempted by the weak with as much hope as the strong. Yet such is oft the course of deeds that move the wheels of the world: small hands do them because they must while the eyes of the great are elsewhere."*

**– J.R.R. Tolkien<sup>2</sup>**

Although churches, synagogues, temples and other places of worship are increasingly implementing policies to protect children from abuse, the policies adopted are often inadequate and of limited value. This article includes ten concrete suggestions for faith institutions that will aid in developing and implementing policies more likely to keep children safe.

### **1. Consult with at least one child abuse expert in developing policies**

A church elder recently contacted the National Child Protection Training Center to express his frustration that their insurance provider told them to implement a child safety policy as a means of lowering their insurance rate. The insurance provider even gave the church several sample child safety policies. Unfortunately, the policies were vastly different and inconsistent with one another. When the church elder asked for an explanation, the insurance provider explained, "It doesn't matter to us what policy you adopt, you simply need to have one."

Church elders and other faith leaders must understand that very few, if any, insurance company employees have investigated, prosecuted, treated or otherwise have significant experience in working with sex offenders. The insurance company is primarily interested in limiting liability and thus they will advocate for some policy, but they are in a poor position to develop or implement effective policies.

Although faith leaders should certainly consult with their insurance provider, they need to make a concerted effort to consult genuine experts on child abuse. Contact local law enforcement agencies, prosecutors' offices and sex offender treatment providers and ask these true experts to assist in developing policies on child abuse.<sup>3</sup> Making these contacts in advance will also assist the church or other faith institution in working with these very departments if and when a case of child abuse arises within a congregation.

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### **Our Mission:**

Educate families and communities to prevent the exploitation of children

### **Our Vision:**

Every child grows up in a healthy, safe world free from exploitation and abduction

### **Our Values:**

It's a kid's job to be a kid and it's the adult's job to protect all kids.



## 2. Understand that insurance providers and some law firms have a vested interest in preventing future abuse – and keeping quiet about past abuse

Not only are insurance companies and some law firms poorly equipped to advise on developing church child abuse policies, they also have a vested interest in primarily thinking about the future. The reason for this is that preventing future abuse will limit liability for the church and the insurance provider. By the same token, insurance companies have a vested interest in not developing policies that may assist in uncovering abuse that has taken place in the past – because they believe doing so will increase the exposure of their client to liability. This is also why, when issues of past abuse arise, insurance companies and some law firms encourage churches to keep quiet and to limit any internal investigation.

### The danger of keeping quiet

When the leaders of Vienna Presbyterian Church in Vienna, Virginia decided to publicly acknowledge their failures in responding to reports of sexual abuse by a youth minister and to apologize to the survivors, they were admonished by their insurance provider to keep quiet.<sup>4</sup> Specifically, they received a letter from their insurance provider's lawyer advising them as follows:

"Do not make any statements, orally, in writing or in any manner, to acknowledge, admit to or apologize for anything that may be

evidence of or interpreted as (a suggestion that) the actions of Vienna Presbyterian Church...caused or contributed to any damages arising from the intentional acts/abuse/misconduct" by the youth director.<sup>5</sup>

Ironically, this sort of advice actually *increases* the chance a church or other faith institution will be sued by victims. This is because most victims are not interested in large monetary settlements – they are interested in public, unequivocal apologies, genuine church reform and compassionate assistance in addressing the medical, mental health and spiritual damage inflicted by the perpetrator.<sup>6</sup> Contrary to the fears of the attorneys, the church in Vienna has not yet been sued despite a public and unequivocal apology to those who suffered from abuse by a church leader.<sup>7</sup>

A plaintiff's attorney who has frequently sued churches for negligent handling of child abuse cases advises, "Doing the smart thing and doing the right thing *is the same thing*."<sup>8</sup> This same attorney notes that if churches or other faith institutions focus primarily on taking care of the needs of the victim, "they will find it goes better for them after that" because "it just takes all the venom out of the situation."<sup>9</sup>

### The danger of limiting the investigation

In addition to avoiding an apology or at least limiting public statements, some law firms recommend that churches conducting an internal investigation speak only to those who have revealed abuse, as opposed to speaking with all of those who may have been abused or may have knowledge of abuse.<sup>10</sup> This advice is contrary to best practices for child abuse investigators recommended by the National District Attorneys Association's National Center for Prosecution of Child Abuse.<sup>11</sup> Since most victims will delay disclosure and many will not disclose until asked,<sup>12</sup> failure to speak with all the children in the care of a sexual offender, or at least those children who share characteristics similar to known victims, will impede the ability of some children to share their experiences and access needed services. This failure will also impede the ability of the church to fully assess the conduct of a child abuser. Some law firms recommending a limited investigation suggest it may "re-injure" potential victims to ask them about their "sexual past."<sup>13</sup>

In reality, the parents of victims, and the victims themselves, are often outraged when they discover a church knew a perpetrator offended against one or more children and failed to fully assess the possibility there were other victims.<sup>14</sup> If a church purposely limits an investigation, and this abridged investigation results in a child abuser continuing to have access to children, this decision will almost certainly increase the church's exposure to liability.<sup>15</sup> More importantly, it will send a disturbing message to the entire church body, particularly any survivors, that the church is primarily interested in maintaining a positive public image and has no interest in finding, much less helping all the children who may have been harmed by a particular church worker.

## 3. Limit the opportunity for sex offenders to access children

Dr. Anna Salter, a sexual offender treatment provider, states it is important for parents and child-serving organizations such as churches to avoid "high risk situations." This is because "we cannot detect child molesters or rapists with any consistency" and thus "must pay attention to ways of *deflecting* any potential offenders from getting access to our children."<sup>16</sup>

Many youth organizations have prevented the abuse of children in their care simply by limiting the access of potential offenders to boys and girls. Child abusers count on privacy to avoid detection of their criminal behavior. When churches or other faith institutions remove this privacy it becomes more difficult for the offender to succeed. At a minimum, then, faith institutions should have the following policies in place:

- **Two-deep leadership.** If at all possible, children should always be in the care of at least two church workers. Even if a worker or volunteer has to remove a child from the group for a legitimate reason, the child and the worker should always be in the eyesight of at least one additional worker or volunteer. When developing two-deep leadership teams, it may be wise to avoid placing close family members or friends as teams. This is because a spouse or other close family member is more likely to protect a loved one who violates church rules or engages in concerning behavior with a youth.

- *Respect for the child's privacy.* Sex offenders like to see children undressing or otherwise seek an opportunity to initiate conversation about sexual topics. Accordingly, workers and volunteers should avoid watching children undress in locker rooms, showers or bathrooms.
- *Separate sleeping accommodations.* At boarding schools, camps or other overnight settings, there should be separate sleeping accommodations for children and the adults. If there is a reason for an adult to enter the sleeping accommodations of children at night (i.e., a child has become ill), the exception should be well documented and, if at all possible, two adults should be entering the sleeping area. When requiring separate sleeping accommodations, make it clear this means truly separate. In one case, an offender arranged an overnight with youth during which he had an adjoining room door he could easily open and otherwise gain access to the children he molested.
- *Limit, if not prohibit, events at a worker's home.* In one case, a youth minister had the children he was working with over to his house for a party in which all the children joined him in a hot tub where he instructed some of the children how to masturbate with the jets. Again, sex offenders seek private access to children and allowing a worker to be alone with children at his or her house increases the risk. If there is a legitimate reason for hosting an event at the worker's home, have some rules around such activities—such as an additional worker present. In the same vein, there should be regulations on church workers visiting the homes of children. In more than one case, church workers have visited children at their homes and have molested them.<sup>17</sup>
- *Appropriate attire.* Adult workers and volunteers should wear appropriate clothing at all times. Activities such as skinny dipping should always be prohibited. Again, offenders look for opportunities to initiate inappropriate sexual conversations with their potential victims. Accordingly, sexually suggestive or otherwise inappropriate apparel or behaviors should be prohibited.
- *Sexual jokes, comments or behaviors around children should be strictly prohibited.* In one case, a “Christian”

teacher told the boys in his care about the frequency he had sex with his wife on his honeymoon. The same teacher would slam on the brakes when driving the school van and comment to the boys this was merely a “ball busting exercise.” A protestant worker at a church boarding school hosted a pizza party in which the invited adolescent girls were “accidentally exposed” to his pornography collection. In another case, a Lutheran school teacher made frequent jokes and impersonations of homosexuals. Apart from the fact that all of the behaviors described run contrary to the teachings of any legitimate theological practice, there are two practical, compelling reasons that behaviors such as these should be strictly prohibited and result in immediate discipline. First, these behaviors may be used by offenders to invite sexual conversations with children in the hope of engaging in sexual activity. Second, these behaviors create a climate making it much more difficult for abused children to disclose their victimization. For example, a boy being sexually abused by his father, or who may wonder about his own sexual identity, may be particularly reluctant to expose this victimization when he is in the company of a teacher and attends a school that allows jokes about same-sex conduct.

- *Windows and open doors.* There may be times when a teacher or other adult will need to be alone with a child, such as a teacher giving a child a music lesson. In such a scenario, it is important to have an open-door policy where fellow teachers or others can enter unexpectedly and to have windows on doors so others can see what is happening in a particular room. Again, sex offenders look for opportunities to abuse children and it is the responsibility of a youth-serving organization to limit these opportunities.<sup>18</sup>
- *Prohibiting corporal punishment.* Corporal punishment of children is prohibited in most schools, day cares and other settings.<sup>19</sup> There is a large body of medical and mental health research documenting that corporal punishment does very little good and is often harmful to children.<sup>20</sup> As an additional concern, sex offenders may view corporal punishment as a socially permissible means to touch a child's buttocks or other intimate parts of the body.<sup>21</sup>

#### 4. Conduct a background check and oral screening of workers and volunteers

Many seminaries do not conduct background checks or any other child protection related screening of their students prior to their graduation. In some instances, seminaries have been sued for negligently graduating a sex offender and sending them on to an unsuspecting flock.<sup>22</sup> Despite their exposure to liability, many seminaries and other faith schools graduate students into congregations without having done a comprehensive assessment of possible risk factors. Even if a seminary has conducted some sort of screening, it is still wise for a local congregation to conduct both a background check and an oral screening of workers and volunteers. This is because the seminary may have conducted an incompetent screening or it may have conducted a screening upon the student's admission to the seminary but did not examine behaviors that may have arisen during seminary training.

Although a background check is important, it will only reveal those who have been convicted of a crime against a child.<sup>23</sup> This is problematic because most sex offenders, even some who have abused hundreds of children, have never been charged much less convicted of a crime.<sup>24</sup> Accordingly, an oral screening of faith workers and volunteers should also be conducted. This screening may include:

- *Asking the candidate if he has reviewed the church child protection policy and what his thoughts are about the policy.* Candidates who don't believe such policies are necessary or express any hesitancy in abiding by the policies may not be child abusers, but they are also less likely to be vigilant in keeping children safe.



- *Asking a candidate interested in working with children the basis for that interest.* In recommending this question, some experts suggest it may help locate workers and volunteers who understand their role is to help children and not the other way around.<sup>25</sup> Offenders are often ego-centric and seek children who meet their needs (i.e., "Children are non-judgmental and make me feel good about myself.") as opposed to what they can do for children (i.e., "I think I'm a very good teacher and I can help children read and otherwise grow intellectually.")
- *Asking a candidate whether they have any adult friendships.* Some sex offender treatment providers have noted it is risky to place children in the care of an adult who appears to have no adult friendships or activities—and yet is frequenting settings and putting himself in situations where he has regular access to children. According to sex offender treatment provider Dr. Anna Salter, church groups should "be careful with men who involve themselves in youth activities and who do not have children of their own or children of that age. From church youth leaders to coaches to anyone who befriends your child, notice if they have grown-up friends and partners. If they do not, be very cautious about leaving them alone with your child."<sup>26</sup>
- *Give the candidate a hypothetical case of potential child abuse and ask how she would handle the situation.*<sup>27</sup> If the candidate expresses any reservation in following the church child protection policy in response to a hypothetical case, it is a fair assumption that he or she will also hesitate when confronted with an actual case.

An oral screening is not a panacea and, similar to a background check, will not catch most sex offenders. This is because many sex offenders understand the "right" answer to many questions and are more than happy to say whatever it takes to get near children. Nonetheless, an oral screening will assist in at least three ways. First, it sends the message that the church is serious about its child protection policies.<sup>28</sup> This may deflect some sex offenders to the extent they realize that a church serious about child protection will be more difficult to operate in than a church which only gives lip service to the protection of children. Second, it may take away an

offender's excuses when a church seeks to discipline or remove him for violating policies. For example, if the screener makes it clear that making sexual jokes around children is prohibited, the offender can no longer say "I didn't realize that" when confronted for violating the rule. Third, an oral screening may help screen out those applicants who may not be child abusers but who will not be vigilant in enforcing the child protection policies.

## 5. Teach personal safety to children in faith-based schools

A personal safety program for children sends a powerful message that the faith community is aware of the need for personal safety and is willing to help if a child is harmed.<sup>29</sup> A personal safety program is not the same as sex education. The teacher or other instructor is simply telling children that the parts of their body covered by bathing suits are not supposed to be touched by others and, when they are, they should tell someone. If the person they tell doesn't believe them, they should keep on telling until they are believed. There are a number of personal safety programs that can be easily modified for a faith-based school.<sup>30</sup> In addition to teaching the children personal safety, it is important to provide instruction to the parents so that they can reinforce these lessons at home and will know how to respond if a child makes a disclosure.

Many faith-based schools teach fire safety, school crossing safety or even swimming safety and yet bristle at the thought of personal safety designed to empower children to protect themselves against offenders. Some professionals are opposed to personal safety classes because they believe the classes put the burden on the children to protect themselves.<sup>31</sup> However, these children have already been led by their perpetrators to believe there is nothing they can do to stop the abuse. A personal safety program may give them a way out. In one case, a three-year-old victim, who had received personal safety instructions from her church day care, subsequently reported to her mother being molested by a twelve-year-old boy. The boy confessed to the offense and was prosecuted in juvenile court.<sup>32</sup> This is not an isolated anecdote.<sup>33</sup>

It is important to remember that, although some children may disclose as a result of a personal safety program, many children will never voluntarily disclose abuse. This is because child abuse, particularly sexual abuse, is engulfed in secrecy and the victim may fear repercussions for disclosing abuse.<sup>34</sup> It is also important to remember that many victims love their offender and count on their parent or other perpetrator for food, clothing, shelter and other basic needs. As bad as things may be at home, a child may fear that another environment will be worse.

## 6. Don't investigate – report

When a child makes an outcry of abuse, many faith organizations decide they need to conduct a preliminary assessment or investigation to determine if the allegation is plausible before reporting the matter to the police. This is problematic for four reasons.

First, it is unlikely that any church or other faith institution has forensic interviewers specifically trained to speak with a child about sexual abuse, police officers skilled at interrogating child sexual abuse suspects or mental and medical health professionals who can document physical and psychological injuries resulting from abuse. Simply stated, the church is not specifically trained to assess an allegation of child abuse and thus should refer the matter to the local authorities who are specifically trained.

Second, any delay in reporting may result in the loss of critical evidence.<sup>35</sup> Evidence on the child's body, for example, will absorb, transfer or be washed away. Lubricants, pornography, sexual toys or other objects used in the abuse of the child may be destroyed. The perpetrator may use any delay to pressure the child or others to minimize or recant an allegation.<sup>36</sup>

Third, any delay in reporting is likely a violation of the law. In most states, churches and other organizations or professionals serving youth are mandated to report to the authorities any reasonable suspicion of abuse.<sup>37</sup>

Fourth, a church conducting an incompetent investigation that taints the memories of witnesses, results in the loss of evidence, or that provides the perpetrator with an opportunity to threaten or pressure one or more victims into silence may, on that basis alone, expose itself to liability.



This is because an incompetent investigation may fail to detect an actual abuser. If the abuser continues to offend, which is likely, the church conducting the original investigation may be held responsible.

There may be instances in which the government declines to investigate a report of abuse even though there is compelling evidence or even an admission of wrongdoing. If, for example, the sexual offense took place in another country while a pastor was a missionary, the local law enforcement agency may be unable or unwilling to take any action. In such a case, the church may need to conduct an internal, competent investigation. Failure to do so may result in future victims and will expose the church to liability.<sup>38</sup> If a church does not have as a member of the congregation a child abuse detective or other genuine expert, it may wish to retain such an expert to conduct the investigation or at least to serve the church as a consultant.

## 7. Develop church policies for sex offenders seeking to attend services or to join a congregation

Most offenders describe themselves as religious<sup>39</sup> and some studies suggest the most egregious sex offenders tend to be actively involved with their faith community.<sup>40</sup> According to a national survey of 2,864 church leaders, 20% of these leaders knew of at least one convicted sex offender who was attending or was a member of their church.<sup>41</sup> Accordingly, churches need to think in advance what their policies will be when a sex offender seeks membership in their congregation.

At a minimum, these policies should include:

- *Compliance with the law.* The church should speak with the offender's probation officer and with the local prosecutor's office to determine if the offender can lawfully attend services or other functions

at which children are present. If the offender is prohibited from attending public gatherings at which children are present, the church should inform the offender that under no circumstances will the church aid in a violation of the law. Once these boundary lines are clearly drawn, church leaders can then determine how to meet the offender's spiritual needs.

- *Consultation with the sex offender's treatment provider.* If the offender is or has been in sex offender treatment, the church should require him or her to sign a release so the appropriate church leaders can speak with the treatment provider. This will assist the church in determining the potential dangers the offender poses to children and will also help the church leaders in meeting the needs of the offender.
- *Review of court and investigative records of the offender's conduct.* The appropriate parties from the church should review the original complaint filed against the offender as well as any records generated as a result. In many cases, an offender may have pled guilty to sexually abusing one child in exchange for dismissing allegations of abuse against other children. Indeed, the offender may even have confessed to abusing many more children but the other cases were dismissed as a result of the plea bargain. A complete review of these records will be more telling than simply examining the offender's conviction record. In many states, accessing these records is as simple as visiting the court administrator's office in the county where the perpetrator was convicted and asking to see any public files regarding the case.
- *Determine the level of supervision necessary to protect children.* If the offender is considered a low risk by the government and his or her treatment provider, it may be possible for the offender to attend services but only under supervision of at least one and preferably two mature members of the congregation who will be with the offender at all times to ensure no children are harmed, and also to protect the offender from taunting or other misconduct that may be directed at him or her. If the offender is at a higher risk, or if there is any question as to risk, the church should establish separate services for the offender at his home or another location

in which he can be ministered to. It may be appropriate to select a group of mature men who will also attend these services so that the offender can have some sense of fellowship. This scenario would allow the congregation to meet the offender's spiritual needs without placing any child at risk. If the offender is a woman, the supervision should be provided by mature women from the congregation.

- *Even if the offender is at low risk, he should not be allowed to join a congregation where the victim attends services.* If the offender abused a member of the congregation, he should be prohibited from joining the church. The congregation may work to find the offender another spiritual home but the emotional needs of the victim should always take priority. If it is necessary to find the offender a different church, it is critical to inform the new church of the basis for the offender's removal. Otherwise, the offender may be given a "fresh start"—and access to a whole new set of potential victims.
- *The church leaders should inform the congregation of the offender's request to attend worship or to join the congregation and take into account the needs of the entire church body.* Offenders thrive on secrecy and they, and the community as a whole, are best protected when there is an open discussion of their conduct and their presence in the pew. Church leaders who believe they can keep secret the presence of a convicted sex offender are engaging in wishful, even dangerous thinking. In an age in which sex offender registries and conviction records are easily accessible online, members of the congregation will eventually discover an offender is present and may feel betrayed that the church hierarchy kept this from the members, particularly those members with children. Accordingly, the entire congregation should be informed of the situation and there should be a public discussion. The congregation should be particularly sensitive to the concerns of parents who worry that even if an offender is shadowed and otherwise monitored in such a way as to make additional abuse difficult, the offender may nonetheless have sexual thoughts when he or she is watching the children's choir sing.

Even more importantly, church leaders should be sensitive to the fears of survivors of abuse who may be emotionally harmed by knowing there is an offender in their midst. Close proximity to a sex offender may be a weekly, painful reminder to survivors of their own suffering. Simply put, the church must minister to the offender in such a way that survivors are not re-victimized, emotionally or otherwise.

It is advisable to have a standing committee selected by the church body to oversee and enforce these policies. If the church or other faith entity has members with knowledge or experience in responding to or working with cases of sexual abuse it is wise to ask them to be part of this committee. If the church permits outside members to serve on such a committee, it may be helpful to have someone from the local law enforcement agency, social service department or prosecutor's office to at least serve in an advisory capacity to the committee. The members of the committee themselves should be subjected to a background check. Needless to say, it will be difficult to regulate a sex offender in the church if the committee charged with his oversight also includes a sex offender.

## 8. Be cognizant that many offenders are seeking "Cheap Grace"

Dietrich Bonhoeffer was a Lutheran minister executed by the Nazis because of his opposition to the government.<sup>42</sup> Perhaps Bonhoeffer's greatest contribution to theology was his recognition of the dangers of "cheap grace," which Bonhoeffer defined as "grace sold on the market like cheapjacks' wares. The sacraments, the forgiveness of sin, and the consolations of religion are thrown away at cut prices."<sup>43</sup>

Many sex offenders have found the value of "cheap grace" in faith communities. Simply put, these sex offenders have come to realize that if they cry readily and mouth the words of repentance they won't have to take any action to remedy the damage they have inflicted. According to sex offender treatment provider Anna Salter, "If children can be silenced and the average person is easy to fool, many offenders report that religious people are even easier to fool than most people."<sup>44</sup>

Numerous clergy have been confronted with an offender who confesses to sexually abusing

a child, emotionally expresses remorse and pledges abuse will never happen again. The offender begs for God's forgiveness and some members of the clergy are quick to absolve the sinner and the sin. When this happens, many offenders return home, realize how easy it is to be forgiven and will molest their child again.

Given the manipulative nature of many offenders, members of the clergy may wish to ask a series of questions to determine the seriousness of the offender's repentance. The pastor may wish to ask the following questions:

- Have you informed your spouse that you have sexually abused your child? If your wife wants you to move out of the house, are you willing to do it? If the child victim wants you to leave the house are you willing to do it?
- Have you informed your child's medical provider that you have violated her body?
- Have you referred your child to a counselor to assist in coping with the abuse you have inflicted on him or her?
- Do you hold yourself fully responsible for your conduct – or do you believe your victim in some way contributed to the abuse?
- Have you turned yourself in to the police? Are you willing to confess your crimes to the police or will you make them "prove it"? If the government files charges for crimes you have committed, will you be pleading guilty or will you force your child victim to testify publicly and be grilled by any attorney you hire?
- Are you willing to enroll in a sex offender treatment program?

An offender who is confessing sexual misconduct but is unwilling to address the physical or emotional needs of his victim, to disclose the abuse to his spouse or to seek sex offender treatment may be seeking forgiveness but is giving no indication of an intention to repair the damage inflicted or to reform his behavior. Given the serious criminal nature of the conduct, an offender unwilling to turn him or herself into the police should be subjected to church discipline – not the recipient of sacraments.<sup>45</sup>

Some members of the clergy have told me that such harsh treatment of an offender removes the gospel from the pastor's work.<sup>46</sup> When this happens, I often ask the objecting pastor

how he would handle a situation in which a parishioner confesses to having committed numerous thefts, asks God's forgiveness for his crimes but freely admits he has no intention of returning any of the stolen property to his victims, much less turning himself into the police. When confronted with this hypothetical, pastors have always told me they would not pronounce forgiveness since it is clear the offender is not truly penitent. The very same principle must be applied to the sex offender unwilling to hold himself accountable to the authorities or to do everything within his means to assist the children he has harmed.

## 9. Develop policies for responding to an allegation within the faith community

In addition to reporting an allegation to the police, the church should determine in advance how it will handle an allegation of sexual or other misconduct made by a child in the congregation against another member of the congregation. At a minimum, the accused offender should be suspended from activities involving children until the case is fully considered by the authorities. Even if the authorities decline to prosecute, this may not resolve the matter. For example, there may be credible evidence of child abuse but the government has determined it cannot prove the abuse beyond a reasonable doubt, or there may be a legal barrier to admitting a suspect's confession or other evidence. It is also possible the government declines to prosecute because no crime was committed and yet the offender's conduct is deeply concerning. In one case, for example, a Christian school teacher was discovered to be chatting online with a student in which he admitted having sexual thoughts about the child.



Although the church reported the incident to the police, law enforcement concluded a crime had not yet been committed. Although the government may have been unable to take action, the church certainly can. Simply put, the admission of sexual thoughts about a child, much less the communication of these thoughts to a girl, warrants immediate removal from teaching or other duties that places this man in the company of children. Accordingly, even when the government declines to prosecute, the church should fully assess the allegation and take appropriate action.

## 10. Policies must be accompanied with training

Employees or volunteers in a faith setting must receive annual training not only on church policies pertaining to child abuse but also on recognizing and otherwise responding to cases of child maltreatment. There are a number of training materials that can assist the faith community in carrying out this function.<sup>47</sup>

## Conclusion

According to Dietrich Bonhoeffer, "Silence in the face of evil is itself evil: God will not hold us guiltless. Not to speak is to speak. Not to act is to act."<sup>48</sup> Faith communities must recognize the attraction of child abusers to their institutions and must be proactive in keeping children safe. Failure to do so will result in additional cases of abuse, and in lifetimes of agonizing physical, emotional and spiritual damage.

## END NOTES

- <sup>1</sup> Director, National Child Protection Training Center. The author thanks Dr. Anna Salter, Amy Russell, Stephanie Smith and Molly Cirillo for their helpful comments and suggestions. The author also thanks his son, Christian Vieth, for forwarding the quote from J.R.R. Tolkien.
- <sup>2</sup> Edmund Fuller, *The Lord of the Hobbits: J.R.R. Tolkien*, in NEIL D. ISAACS & ROSE A. ZIMBARDO (EDS), *TOLKIEN AND THE CRITICS* 31(1968).
- <sup>3</sup> The Boy Scouts of America should be commended for consulting with a number of child abuse experts in developing their child protection policies and for hiring a former child abuse detective, Michael Johnson, as its Youth Protection Director. <http://www.scouting.org/sitecore/content/BSAYouthProtection.aspx> (last visited June 27, 2011).
- <sup>4</sup> Peter Eisler, *When God and Law Collide*, USA TODAY, May 10, 2011 at 1A.
- <sup>5</sup> *Id.*
- <sup>6</sup> See generally, Kelly Clark, *Institutional Child Sexual Abuse – Not Just a Catholic Thing*, 36(1) WILLIAM MITCHELL LAW REVIEW 220, 235-239 (2009).
- <sup>7</sup> Eisler, *supra* note 4, at 2A.
- <sup>8</sup> Clark, *supra* note 6 at 233.

<sup>9</sup> *Id.* at 233, 234.

<sup>9</sup> DR. ANNA C. SALTER, *PREDATORS* 223 (2003).

<sup>10</sup> A law firm representing churches and other faith institutions accused of negligence in the handling of cases of child abuse has published an article on their website critical of an investigation of child sexual and physical abuse in which the investigators contacted everyone who may have been abused (all the child abuse victims were adults at the time of the investigation) or may have had knowledge of the abuse. See L. Martin Nusbaum & Theresa Lynn Sidebotham, *Are Protestant Ministries a New Market? Lessons Learned from the Catholic Scandal*, (6/14/11) available online at: <http://www.rothgerber.com/showarticle.aspx?Show=1451> (last visited June 27, 2011). According to these defense attorneys, this is improper because it "risked re-injuring persons who, for a variety of reasons, wished not to participate in questions about their sexual past." *Id.* at 18.

<sup>11</sup> AMERICAN PROSECUTORS RESEARCH INSTITUTE, *INVESTIGATION AND PROSECUTION OF CHILD ABUSE* 86 (2004) (noting that in "nonfamilial cases, it is extremely rare for a person to commit a single act of abuse against a single child... If the suspect has access to other children through family, work, or recreational or volunteer activities, the investigator should find out who these children are and whether they have been approached or abused by the suspect.")

<sup>12</sup> See e.g., Roland Summit, *The Child Sexual Abuse Accommodation Syndrome*, 7 CHILD ABUSE & NEGLECT 177 (1983); Thomas Lyon, *Scientific Support for Expert Testimony on Child Sexual Abuse Accommodation*, in J.R. CONTE (ED.), *CRITICAL ISSUES IN CHILD SEXUAL ABUSE* (2002).

<sup>13</sup> Nusbaum & Sidebotham, note 10 at 18.

<sup>14</sup> See e.g., Sarah Burge, *No Law on Church Worker Checks*, THE PRESS ENTERPRISE (May 31, 2011) available online at: [http://www.pe.com/localnews/sbcounty/stories/PE\\_News\\_Local\\_D\\_choir28.3ce2363.html](http://www.pe.com/localnews/sbcounty/stories/PE_News_Local_D_choir28.3ce2363.html) (last visited June 27, 2011). (The article quotes a parent expressing her "outrage" that a church failed to disclose to her and others that a pastor had a previous conviction for sexually abusing a child. Specifically, the parent said she believed the church should have informed her and other parents "so that we can make the decision whether to put our babies around this person.")

<sup>15</sup> See e.g., Amy Person, *Court Clears Way for Diocese to be Sued*, WINONA DAILY NEWS A1 (June 28, 2011) (alleging that a priest who admitted sexually abusing boys was allowed to continue to serve as a priest and, as a result, abused at least one boy 16-18 years after his first admission).

<sup>16</sup> DR. ANNA C. SALTER, *PREDATORS* 223 (2003).

<sup>17</sup> See e.g., Britt Johnsen, *Sunday School Teacher Pleads Guilty to Criminal Sex Charge*, WINONA DAILY NEWS, February 17, 2007, available online at [http://www.winonadailynews.com/news/article\\_7492e940-986d-55ce-8c8d-9513de50e9fd.html](http://www.winonadailynews.com/news/article_7492e940-986d-55ce-8c8d-9513de50e9fd.html) (last visited June 2, 2011).

<sup>18</sup> According to a report issued by the United States Department of Education, certain types of educators, such as coaches or music instructors, are more likely to sexually abuse children simply because these educators will have an easier time being alone with a boy or girl. CAROL SHAKESHAFT, *EDUCATOR SEXUAL MISCONDUCT: A SYNTHESIS OF EXISTING LITERATURE* 22 (U.S. DEPARTMENT OF EDUCATION 2004).

<sup>19</sup> For a listing of state and national laws prohibiting corporal punishment, visit the website of the Center for Effective Discipline at [www.stophitting.com](http://www.stophitting.com).

<sup>20</sup> See Elizabeth T. Gershoff, *Report on Physical Punishment in the United States: What Research Tells Us About its Effects on Children* (Phoenix Children's Hospital 2008) available online at [www.phoenixchildrens.com](http://www.phoenixchildrens.com). There is also very little theological support for the practice of corporal

punishment. See generally, MEIR MUNK, *SPARING THE ROD: A TORAH PERSPECTIVE ON REWARD AND PUNISHMENT IN EDUCATION* (1989); Benjamin Shmueli, *Corporal Punishment in Jewish Law*, 18 THE JEWISH LAW ANNUAL, 137, 209 (2004) (concluding "it is generally agreed that corporal punishment is not required, but merely permitted in principle"); WILLIAM J. WEBB, *CORPORAL PUNISHMENT IN THE BIBLE* (2011); SAMUEL MARTIN, *THY ROD AND THY STAFF THEY COMFORT ME: CHRISTIANS AND THE SPANKING CONTROVERSY* (2006); CONCORDIA SELF STUDY BIBLE 965 (NIV 1984) (noting the handful of references to "rod" in the book of proverbs are best read as simply a "figure of speech for discipline of any kind"). Another Bible commentary similarly notes the term "rod" is referencing the type of governmental punishment used at the time the proverbs were written and should not be taken literally. Specifically, the commentators conclude: "Flogging was a common form of punishment. The ceremonial scepter held by rulers symbolized their authority to judge and discipline. Children are best 'trained with kindness and delight. For children who must be forced with rods and blows will not develop into a good generation.'" THE LUTHERAN STUDY BIBLE 1010 (2009 Concordia Publishing House) (citing Martin Luther's Large Catechism).

<sup>21</sup> As one example, Terence Michael Lynch was a school headmaster convicted of sexually abusing 12 boys. Among his atrocities, Lynch lined boys up naked after their showers and would inflict corporal punishment on their bare buttocks for a variety of infractions. Lynch also checked the boys' genitals to assess their "sexual maturity" and encouraged some boys to watch TV with him in his bedroom. Peggy Wright, *Spanking Horrors Detailed: Ex-Headmaster's Arrest Opens Old Wounds*, *Say Former Morris Students*, DAILY RECORD, February 16, 2006, available online at: <http://www.nospank.net/lynch.htm> (last visited June 2, 2011). Sexual sadism "involves acts (real, not simulated) in which the individual derives sexual excitement from the psychological or physical suffering (including humiliation) of the victim" and may include acts of "spanking" or "padding." AMERICAN PSYCHIATRIC ASSOCIATION, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS FOURTH EDITION TEXT REVISION*, Section 302.84 (2000).

<sup>22</sup> For example, Trinity Lutheran Seminary in Columbus, Ohio was sued for failing to disclose inappropriate behavior of a seminary student including providing alcohol to minors and exposing them to pornographic material. The seminary student went on to molest children and was sentenced to 397 years in prison. This seminary reached an out-of-court settlement with the victims. Associated Press, *Both Sides Rest in Lutheran Abuse Case*, April 21, 2004.



<sup>23</sup> Although a background check won't detect most sex offenders, it will detect some. See e.g. Sarah Burge, *No Law on Church Worker Checks*, THE PRESS ENTERPRISE (May 31, 2011) available online at: [http://www.pe.com/localnews/sbcounty/stories/PE\\_News\\_Local\\_D\\_choir28.3ce2363.html](http://www.pe.com/localnews/sbcounty/stories/PE_News_Local_D_choir28.3ce2363.html) (last visited June 27, 2011). (The article details the arrest of an assistant pastor for sexually abusing a teenager. The article notes the pastor had a previous conviction for sexually assaulting a teenager).

<sup>24</sup> Gene Abel, et al., *Self-Reported Sex Crimes on Nonincarcerated Paraphiliacs*, 2(1) JOURNAL OF INTERPERSONAL VIOLENCE 3-25 (1987).

<sup>25</sup> See STEPHEN R. TRACY, MENDING THE SOUL 210 (2005).

<sup>26</sup> Salter, *supra* note 16, at 227.

<sup>27</sup> In a survey of 197 school teachers, the educators were given two hypothetical cases of abuse. In the first hypothetical, the teachers were asked if they would make a report when a student tells them a stepfather had been touching their genitals. In the second hypothetical, the teachers were asked if they would make a report when a student tells them another teacher was touching their genitals. Only 26% of the teachers said they would report the first instance and only 11% said they would report the second incident to the authorities. Maureen C. Kenny, *Child Abuse Reporting: Teachers' Perceived Deterrents*, 25 CHILD ABUSE & NEGLECT 81, 88 (2001).

<sup>28</sup> For example, the United States Department of Education notes "(w)hile screening will not identify the majority of educators who have or will sexually abuse, it signals seriousness on the part of the district." CAROL SHAKESHAFT, EDUCATOR SEXUAL MISCONDUCT: A SYNTHESIS OF EXISTING LITERATURE 48 (U.S. DEPARTMENT OF EDUCATION 2004).

<sup>29</sup> The United States Department of Education has recommended student education as part of an overall program to prevent the sexual abuse of children by educators or other school personnel. CAROL SHAKESHAFT, EDUCATOR SEXUAL MISCONDUCT: A SYNTHESIS

OF EXISTING LITERATURE 49 (U.S. DEPARTMENT OF EDUCATION 2004). [Illinois legislators recognized the importance of educating youth with the passage of "Erin's Law." See IL Senate Bill 2843 - 96th General Assembly. A similar bill was also introduced in Minnesota - SF 1469/HF 1758.]

<sup>30</sup> See, JILL STARISHEVSKY, MY BODY BELONGS TO ME (2007). For ideas and suggestions, contact the Jacob Wetterling Resource Center at 651-714-4673 or visit [www.jwrc.org](http://www.jwrc.org).

<sup>31</sup> See Sharon Portwood, *What We Know – And Don't Know – About Preventing Child Maltreatment*, in VICTOR VIETH, BETTE BOTTOMS & ALISON PERONA (EDS.) 55, 64-66 (2006).

<sup>32</sup> This is a case on which NCPTC provided consultation.

<sup>33</sup> Teena Sorenson & Barbara Snow, *How Children Tell: The Process of Disclosure in Child Sexual Abuse*, 70(1) CHILD WELFARE 3 (1991) (noting that "education awareness" resulted in some children making purposeful disclosures of sexual abuse).

<sup>34</sup> See e.g., Roland Summit, *The Child Sexual Abuse Accommodation Syndrome*, 7 CHILD ABUSE & NEGLECT 177 (1983); Thomas Lyon, *Scientific Support for Expert Testimony on Child Sexual Abuse Accommodation*, in J.R. CONTE (ED.), CRITICAL ISSUES IN CHILD SEXUAL ABUSE (2002).

<sup>35</sup> See generally, Mike Johnson, *The Investigative Windows of Opportunity: The Vital Link to Corroboration in Child Sexual Abuse Cases*, 1(9) CENTERPIECE (2009), available online at [www.ncptc.org](http://www.ncptc.org).

<sup>36</sup> See generally, Tamara E. Hurst, *Prevention of Recantations of Child Sexual Abuse Cases*, 2(11) CENTERPIECE (2010), available online at [www.ncptc.org](http://www.ncptc.org).

<sup>37</sup> See U.S. Department of Health and Human Services, *Clergy as Mandated Reporters of Child Abuse & Neglect: Summary of State Laws*, available online at: [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/clergymandated.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/clergymandated.cfm) (last visited June 2, 2011).

<sup>38</sup> See e.g., Marie Rhode, *Assault Victim Sues School, Synod*, MILWAUKEE JOURNAL SENTINEL (May 8, 2008) (alleging church should have been aware of a previous police investigation of a teacher and should have properly assessed the risk to other children and taken appropriate action. The teacher was eventually convicted of sexually abusing a child on and off school grounds).

<sup>39</sup> GENE ABEL & NORA HARLOW, THE CHILD MOLESTATION BOOK (2001).

<sup>40</sup> Donna Eshuys & Stephen Smallbone, *Religious Affiliations Among Adult Sexual Offenders*, 18 SEX ABUSE 279 (2006); Philip Firestone, et al., *Clerics Who Commit Sexual Offenses: Offender, Offense, and Victim Characteristics*, 18 JOURNAL OF CHILD SEXUAL ABUSE 442 (2009).

<sup>41</sup> Marian V. Liautaud, *Sex Offenders Coming to a Church Near You*, CHRISTIANITY TODAY (posted online 10/25/10).

<sup>42</sup> See generally, ERIC METAXAS, BONHOEFFER (2010).

<sup>43</sup> DIETRICH BONHOEFFER, THE COST OF DISCIPLESHIP 43 (1959).

<sup>44</sup> Salter, *supra* note 9, at 28.

<sup>45</sup> For many faith traditions, this is not a foreign concept. In the late 1800's, seminary professor C.F.W. Walther delivered a series of famous lectures on law and gospel in which he stated, "Do not proclaim forgiveness of sins to impenitent and secure sinners. That would be a horrible mingling of Law and Gospel. It would be like stuffing food into the mouth of a person who is already filled to the point of vomiting." C.F.W. WALTHER, LAW & GOSPEL 45 (2010) (citations omitted).

<sup>46</sup> As an authoritative treatise on the Christian pastor's application of law and gospel to a penitent, see generally, C.F.W. WALTHER, LAW & GOSPEL (2010).

<sup>47</sup> Organizations and resources include: Faith Trust Institute ([www.faithtrustinstitute.org](http://www.faithtrustinstitute.org)); GRACE ([www.netgrace.org](http://www.netgrace.org)); the Jacob Wetterling Resource Center ([www.jwrc.org](http://www.jwrc.org)); the National Child Protection Training Center ([www.ncptc.org](http://www.ncptc.org)); and Darkness2Light ([www.darkness2light.org](http://www.darkness2light.org)).

<sup>48</sup> Metaxas, *supra* note 42, jacket cover.

## FOR MORE INFORMATION ABOUT JWRC AND NCPTC:

The Jacob Wetterling Resource Center merged with the National Child Protection Training Center in February 2010. The merger is an effort to combine the groups' resources and strengthen common efforts to ensure every child grows up in a healthy, safe world free from abuse, exploitation and abduction. Please visit [www.jwrc.org](http://www.jwrc.org) to learn more about JWRC, a program of the National Child Protection Training Center. For information about NCPTC, please visit [www.ncptc.org](http://www.ncptc.org).

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