

Washington Presbytery
Policy and Procedures on Sexual Misconduct
Updated and Revised - Approved November 12, 2013

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I. Introductory Statement

As God who called you is holy,
be holy yourselves in all your conduct.

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

You know that we who teach
shall be judged with greater strictness.

1 Peter 1:15; 5:2-3; James 3:1 NRSV

We believe and proclaim that all people are created by God. God values all human life and intends that everyone--men, women and children--have worth and dignity in all relationships.

We further believe in justice for all persons. Sexual misconduct is an abuse of power and trust, therefore, unjust. Scripture asserts that religious leadership involves a covenant relationship that presumes the trustworthy exercise of power in behalf of those in our care. A betrayal of this trust is more than just a personal tragedy for the victim. It reflects a tragic breakdown in the character of the abuser that seriously threatens, not only those immediately affected, but the well-being of the church itself.

For too long, incidents of sexual misconduct have been glossed over, rationalized or subverted for the good of the church. The Presbytery of Washington here proclaims that, the good of the church can never be served by overlooking an abuse of power and trust, that sexual misconduct is wrong and that charges of misconduct must be dealt with swiftly, fairly and with compassion for both the accused and the accuser.

The purpose of this Policy is to make clear the presbytery's position on sexual misconduct and to establish the procedures to be followed in investigating and resolving instances where misconduct is alleged to have occurred.

II. Basic Principles

- ② Sexual misconduct is a violation of the role of teaching elders, persons in position of pastoral leadership, officers, employees and volunteers of the presbytery who are called upon to exercise integrity, sensitivity, and caring in a trust relationship.
- ② Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if someone else initiates or invites sexual content in the relationship, it is always the responsibility of the pastor, person in position of pastoral leadership, officer, employee or volunteer of the presbytery to maintain the appropriate role, and to take all reasonable steps possible to prohibit a sexual relationship.
- ② There is no such thing as consenting adults between pastors and their parishioners or staff. The role of a pastor in the congregation is a role in which he or she is granted such power by members of the congregation that there can never be equality. This makes it always the responsibility of the pastors to take all reasonable steps possible to set appropriate boundaries in any relationship.
- ② Sexual misconduct takes advantage of the vulnerability of children and persons who are less powerful to act for their own welfare. It is contrary to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

III. Definitions

Accused is the term used to represent the person against whom a claim is made of sexual misconduct.

Accuser is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the victim may be the accuser whose information initiates the convening of the Response Team.

Child is a person under eighteen years of age.

Child sexual abuse includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child.

Church when spelled with the initial capitalized refers to the Presbyterian Church (USA). Church when spelled with the initial in lowercase refers to local churches.

Confidentiality means that information is withheld from all except those who need to know.

Employee is the term used to cover individuals who are hired or called to work for the presbytery, for salary or wages.

Inquiry is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a council. (See Book of Order D-10.0200.)

Investigating Committee is that group of people designated by the presbytery to inquire into the allegations and if charges are filed prosecute the case brought under Rules of Discipline D-10.0200.

Investigation is the term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense.

Mandated Reporter is the term used for the person required to report any and all suspected incidents of child abuse, including child sexual abuse that comes to his/her attention. Please refer to Chapter 63 of PA Code for full reporting requirements.

Parishioner is an individual who is a member of a particular teaching elder's congregation or someone who is relating to the teaching elder as a pastor as in a non-member counseling setting. For clergy serving in specialized ministries, a parishioner is any person receiving the benefit of the teaching elder's exercise of the office of ministry. (ex. Pastoral counselor/client; campus minister/student).

Persons Covered by this policy include teaching elder members of the presbytery, commissioned ruling elders, officers, employees and volunteers of the presbytery while acting on behalf of the presbytery. For example, this policy covers a non-member adult who sexually abuses a non-member teenager while helping out on a presbytery-sponsored activity. Response is the action taken by the presbytery when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action, (3) pastoral care and intervention for victims and their families and others, and (4) pastoral care and professional intervention and rehabilitation for the accused and care for their families.

Response Team is a body constituted by the presbytery to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy.

Rules of Discipline is that section of the Book of Order of the Presbyterian Church (U.S.A.) which outlines the procedures to follow in situations in which the church must exercise authority over its members to guide, control and nurture.

Secular Authorities are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused of sexual crimes or offenses against adults and children.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.

Sexual Abuse is the term used to describe any contact or interaction involving sexual conduct in relation to any person under the age of eighteen years; anyone over the age of eighteen years without mental capacity to consent; or any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. (Rules of Discipline D-10.0401 c.)

Sexual Harassment is the term used to describe unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when submission to such conduct is explicitly or implicitly a term or condition of employment or volunteer service; when submission to or rejection of such conduct by an individual is threatened or used as the basis for employment decisions affecting such individual; or when such conduct, when repeated after a request to cease, unreasonably interferes with work or volunteer service performance by creating an intimidating, hostile, or offensive environment for employment or volunteer service. For example sexual harassment may include, but is not strictly limited to explicit sexual propositions; subtle pressure for sexual activity; sexual innuendo; sexually oriented verbal teasing or abuse; sexually oriented jokes, obscene gestures, language, suggestive pictures, or drawings; physical contact, such as patting, pinching, touching, or constant brushing against another's body and in third party situations, an individual being offended by the sexual interaction, conduct or communications between others. It does not refer to occasional compliments.

Sexual Impropriety is the term used to describe inappropriate verbal or physical sexual conduct toward those under one's supervision or for whose spiritual and physical welfare one is responsible by reason of one's position in the church. This term includes, but is not limited to, abuse of a position of trust and exploitation or manipulation of persons who are emotionally, psychologically, physically or spiritually vulnerable.

Sexual Misconduct is the comprehensive term used in this policy to include:

1. **Sexual Malfeasance.** Sexual malfeasance as defined for this policy is as follows: the broken trust resulting from genital contact (contact with the breasts, buttocks, or pubic area) within a ministerial (e.g. pastor with a member of his or her congregation) or professional relationship (e.g. officer of presbytery with a committee member). This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having normal mutual, social, intimate, or marital

relationships. Adultery and fornication are never appropriate behaviors

2. Child sexual abuse as defined above.
3. Sexual abuse as defined above.
4. Sexual harassment as defined above.
5. Sexual impropriety as defined above.

Victim is the term used to identify the person alleged to have been injured by sexual misconduct as defined above.

Volunteers are those who provide services for the presbytery and receive no remuneration. Volunteers include persons elected or appointed to serve on boards, committees, and other groups.

IV. Sexual Misconduct Response Team

A. Purpose and Functions

The Sexual Misconduct Response Team (hereinafter referred to as Response Team) has as its primary purpose the reception of, and a timely and objective response to reports of Sexual Misconduct by persons covered by this Policy. The Response Team will seek to provide support for the accuser/victim as he/she decides how to resolve the problem, as well as showing concern for the Accused. The Response Team shall be available to work with the accuser, the victim, the accused, the families involved, the congregation, and the presbytery and will seek to address their respective needs.

The Response Team does not offer legal advice as to either secular or church law and in no way is a substitute for legal counsel. The Response Team will neither initiate disciplinary proceedings nor be available to testify in disciplinary proceedings arising from an accusation of sexual misconduct.

The Response Team is responsible for providing an annual training workshop to inform new and continuing members of the presbytery of concerns and issues related to sexual misconduct issues.

B. Membership and Training

There shall be five (5) members of the Response Team, representing both women and men, teaching elders and ruling elders ... ordained or non-ordained or lay members of the churches of the presbytery. The Response Team should include, if possible, a licensed psychological counselor and an attorney. The members of the Response Team shall be nominated by the committee on ministry and confirmed by the presbytery. Members of the Response Team must be able to attest that no civil, criminal, or ecclesiastical complaint has ever been sustained or is pending against them for sexual misconduct. Members of the Response Team will serve a five year term; there is no limit to the number of terms a member may serve.

The committee on ministry shall specify from the members a chairperson of the Response Team. The chairperson shall convene the Response Team when a report of possible sexual misconduct is received. When the Response Team has more than one report to consider at the same time, members will need to decide how many persons are to be involved in each response. As in all responses, balance and appropriate representation should be considered. The Response Team may choose a temporary chairperson from its number to serve in the absence or unavailability of the chairperson.

The team must be trained to respond to allegations of sexual misconduct and to identify and

recognize the issues involved in sexual misconduct, sexual harassment, and child sexual abuse. Team members must be familiar with the legal, administrative, and disciplinary procedures of the presbytery and the church.

Team members should commit to serve for no less than a full term to ensure a professional level of experience, skill and continuity. After initial training, the team should meet no less than three times a year to familiarize itself with this policy, the procedures of the presbytery and to continue its professional training.

C. Understanding the Needs of Those Involved

1. Victims and Families

The presbytery and Response Team shall endeavor to assure that adequate treatment and care are available to the victims of sexual misconduct and their families. If the victim or family at first refuses help, the Response Team should continue to offer help. Above all, the presbytery should not act in a self-protective manner by ignoring the victims and their families.

2. Congregations

The presbytery and Response Team should be aware of the problems a congregation may experience as a result of allegations of sexual misconduct by a pastor, employee, or volunteer. The allegations may polarize the congregation, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation.

3. Accused

The presbytery and Response Team shall be mindful that an accused is presumed to be innocent and, shall offer assistance and care for the accused as well as victims and their families. If the accused is a teaching elder, or ruling elder, this responsibility is carried out in consultation with the committee on ministry.

4. The Non-Victim Accuser

A person other than the victim, such as a parent, guardian or other advocate for a child who has been the victim of sexual misconduct, may be an accuser. Because of a child's minority status, an adult is required to act on behalf of the child. The Response Team shall be aware that a non-victim accuser may have some or all of the same needs as a victim.

V. Response Procedures

A. Reporting of, and Responses to Allegations of Sexual Misconduct

1. Receiving Initial Reports

Reports of sexual misconduct will occur in a variety of ways. Because a governing body or entity

cannot control to whom the accuser of sexual misconduct will first speak, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person.

Reports of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the accuser, the accused, and of the church. Reports should be dealt with as matters of highest confidentiality both before and after they have been submitted to appropriate authorities as outlined below.

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 who has received the initial report has a special pastoral responsibility to build trust and to encourage a willingness on the part of the accuser to speak out, lest the church be unable to respond because no one is able to give firsthand information.

The person receiving the initial report of sexual misconduct from the accuser shall encourage the accuser to report the incident to the executive presbyter, the chairperson of the committee on ministry, or the moderator of the presbytery who will forward the report to the Response Team.

A person receiving an initial report of child sexual abuse may be considered a mandated reporter and may be required to report the incident to civil or criminal authorities when required by local or state law.

2. Responsibilities of the Response Team Upon Receipt of an Initial Report When Formal Accusations Have Not Been Filed With the Stated Clerk

Upon receiving notice of sexual misconduct from the executive presbyter, the chairperson of the committee on ministry, or the moderator of the presbytery, and when formal accusations have not been filed, the chair will immediately call a meeting of the Response Team to coordinate the initial inquiry process. The Response Team should do the following:

- a. Notify the accused of the allegations and advise the accused to have no further contact of any sort with the accuser, the victim, or the victim's family.

- b. Notify the accuser/victim that the team has received the report, that the accused has been notified to have no further contact with the accuser, and what steps the Response Team will be taking to investigate the report. (At any time in the initial inquiry process, advise the accuser if the accused has admitted to the misconduct as charged.)

NOTE: If the accuser claims child sexual abuse, the Response Team is advised not to interview the child (or children) due to the possible secondary trauma caused by the interview itself. Secular authorities should be notified immediately by the Response Team, if a report has not been filed already. The Response Team should be guided in its actions by the recommendations of the secular authorities. If the Response Team needs a consultant to advise it concerning the effects and complications involving a child victim, it should contact an expert in child sexual abuse. The Response Team should make the secular authorities aware that it wishes, insofar as the law allows, to be kept informed of the developments in the case to allow appropriate church discipline to be exercised with the accused. ⁵⁷

- c. File a report with secular authorities, if required by state or local law and none has been previously filed.
- d. A minimum of two representatives of the Response Team will meet with the accuser and/or victim to hear the accusations first-hand and to provide them with a copy of this policy.
- e. Inform the accuser of his or her right to file a written report of the allegations as outlined in the Rules of Discipline. (D-10.0101)
- f. A minimum of two representatives of the Response Team will meet with the accused to receive a response to the allegations. These should ordinarily be different representatives from those who meet with the accuser/victim (line d).
- g. In consultation with the committee on ministry, the Response Team should assess and recommend resources for the following:
 - (1) Need for pastoral care and/or counseling (psychological evaluation) of the victim or accused. If it should be determined during the initial inquiry that professional counseling is needed for the victim, the Response Team may refer the victim to a professional counselor trained to deal with issues of sexual misconduct. The Response Team should maintain a referral list of counselors and counseling centers sensitive to sexual misconduct issues and issues of faith and spiritual needs. The Response Team and thus the presbytery must be sensitive to the victim's financial ability to pay for psychological counseling. The Response Team may refer the victim to an agency, which sets fees based upon client's ability to pay. Although the church is not legally obligated to pay for the victim's counseling, it should be considered a pastoral obligation.;
 - (2) Need for parties involved to obtain legal counsel and inform insurance carriers;
 - (3) Personal and pastoral needs of the accuser/victim and the accused; since the Response Team is not expected to pass judgment on the guilt or innocence of the accused, it shall avoid such language in its findings and conclusions;
- h. Recommend educational or employment practices to be implemented to prevent further instances of sexual misconduct.
- i. Recommend actions to be taken to begin the healing process within the congregation.

The Response Team is **NOT** intended to do the following:

- Advocate for any party involved;
- Act as legal counsel for any party involved;
- Replace the functions of the committee on ministry, counsel, or investigating committee;
- Determine guilt or innocence of the accused; or
- Enforce a specific remedy or disciplinary action.

3. Responsibilities of the Response Team Upon Receipt of an Initial Report When Formal Accusations Have Been Filed With the Stated Clerk

If an accusation is received by the Stated Clerk in writing, alleging an offense by a teaching elder or commissioned ruling elder, an investigating committee will be formed as outlined in the Rules of Discipline. (D-10.0200) The chair of the sexual misconduct Response Team will then be notified. The team will then be involved as outlined in section V.A.2. above with the exception of V.A.2.e, and the addition of the following responsibility:

- ② Together with the executive presbyter and/or the chairperson of the committee on ministry, meet with the session to inform its members that a written allegation of sexual misconduct has been made against the teaching elder or commissioned ruling elder, and that administrative leave may be recommended while the investigation is going on. No one shall either negotiate or suggest disciplinary actions to or for continuing members of presbytery; neither shall they negotiate nor suggest to or for the session concerning this matter at this time.

4. Media Contact

Any inquiries from the media regarding an incident of sexual misconduct must be directed to the executive presbyter or the stated clerk of the presbytery. Questions from the media shall not be addressed by any member of the Response Team.

5. Response Team Record Keeping

The Response Team will keep all records confidential. The Response Team should keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, accused, and other parties involved, copies of the initial report and correspondence.

When the Response Team determines that its work is completed, all of the Response Team's records, along with its final report, will be forwarded to the stated clerk and will be marked confidential and securely stored. No member of the Response Team will keep any separate records of confidential material that they have turned over to the governing body as a result of its work.

B. Presbytery Response

The presbytery's response is subject to the discipline outlined in the Book of Order, D-3.0101b,c,d. The pastoral relationship of teaching elders and commissioned ruling elders serving congregations is subject to oversight by the presbytery, G-2.0105, G-2.0502, G-2.0503, G-2.0504, G-2.1004. Such teaching elders and commissioned ruling elders are subject to the Rules of Discipline.

The presbytery must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

C. Time Limit

The ability of the presbytery to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and gather evidence soon after the occurrence. However, this policy recognizes the special problems related to discovery and recognition of various forms of sexual misconduct. Child sexual abuse may not be recognized until the victim of abuse reaches adulthood. Recognition of abuse and willingness to come forward by an adult victim may also be delayed for many years. Therefore there is no time limit on the filing of charges. (D-10.0401b)

VI. Policy Implementation

A. Compliance

All teaching elders and commissioned ruling elders will be ~~asked~~ required to sign a statement of acknowledgment, indicating that they have received a copy of the Policy and Procedures on Sexual Misconduct and understand that the presbytery will abide by it.

Sessions are expected to annually review “Washington Presbytery Policy and Procedures on Sexual Misconduct”, or their own session/congregation policy if one exists, and to show record of such annual review in the session minutes.

B. Distribution

The presbytery will distribute this policy to its officers, employees, committee members and volunteers through their chairpersons, and the congregations through their clerks of session.

C. Record Keeping

Accurate record-keeping is an essential part of hiring and supervision practices. The presbytery office will maintain personnel files on all clergy. The file will contain PC(USA) Personal Information Forms, executive presbyter reference checks and responses, and other documents related to this policy.

D. References

Pastor nominating committees are responsible for contacting references for prospective pastors. A written record of conversations or correspondence with references shall be kept in the pastor’s personnel file.

In dealing with teaching elders called from one position to another, the presbytery will assume responsibility for previous employer reference checks through the executive presbyter or other authorized persons who would report to the committee on ministry either that there had been no reported sexual misconduct, or that the committee should inquire into reported sexual misconduct.

The person within the presbytery authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, 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 as part of the Response Team and/or presbytery records.

Applicants should be informed of negative comments regarding sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.

**Washington Presbytery
Policy and Procedures on Sexual Misconduct**

Acknowledgment

I hereby acknowledge that I received and read a copy of the Policy and Procedures on Sexual Misconduct of the Washington Presbytery, Presbyterian Church (U.S.A.). I understand that the Presbytery of Washington will adhere to its policy and procedures.

Name _____
(Please type or print)

Address: _____
_____ ZIP _____

Position _____

Employer _____

Note: A similar acknowledgment may be required if and when significant amendments to the policy are adopted by the presbytery and distributed to all persons concerned.

Signature _____

Date _____

Please return to:

Washington Presbytery
P.O. Box 146
Eighty Four, PA 15330