



### Background

The OCA first announced a policy on sexual misconduct in 2003.

In that time many parishes have acted aggressively to implement the policy. Other parishes have done little or nothing. Recognizing the need for consistent, systematic action on the part of Diocesan parishes, the Diocese' Parish Health Ministry identified this topic as an area of focus for 2007.

Providing answers to basic questions on the minds of parishes as they consider implementing this policy seemed to be a good first step.

To assist us we turned to Michael Herzak, a member of the Diocesan Council. He is familiar with the Orthodox Church in America's policy on Sexual Misconduct and has delivered many workshops on this topic at Diocesan, Deanery and parish gatherings over the past several years.

As a result he has been exposed to a wide variety of questions, concerns and many misconceptions about the actions that parishes should take to protect their children from harm and to protect their assets and good name from unfounded claims.

We asked him to summarize some of the most often heard questions and to provide answers.

**Joseph Kormos,**

**Parish Health Facilitator,  
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# Frequently Asked Questions and Misconceptions – Concerning Parish Practices for Avoiding Sexual Misconduct

*By Michael Herzak*

*Diocesan Council, Diocese of the Midwest, Orthodox Church in America*

## **1. "This Can't Happen to Us- Can It?"**

While the Roman Catholic Church has been in the news, recent articles have noted that there are hundreds of claims against communities of all denominations. Orthodox parishes and institutions have had incidents of misconduct in the past, and sadly it is reasonable to assume that they will happen again. When confronted with this fact most parish leaders agree that it 'could happen' but want to believe that any transgressions will occur in another parish. It simply "can't happen here." Perhaps. Perhaps not.

As Orthodox, we like to think of ourselves and our parish communities as being separated from and even above many of the trends of our society and culture. Unfortunately this is basically untrue.

It is also untrue that, because most Orthodox priests are married this is not an important issue for Orthodox parishes. Sexual episodes can be initiated by parish staff or volunteers – not only clergy. Likewise sexual predators are often married.

The most reasonable and prudent action a parish can take is to take the possibility of an event seriously and to develop a comprehensive, systematic approach to avoiding it and to react appropriately if a complaint is received. The plan should be:

- Based on the OCA policy -- which is basically a strong policy.
- Tailored to the particular local circumstances of the parish's facilities and ministries
- Implemented aggressively yet practically
- Reviewed and improved regularly.

**2. *"No parishes in the OCA are taking this seriously. By doing nothing we are just like everyone else."***

It is true that in the several years since its adoption, the implementation of the policy has been slow and spotty. That is why the Diocese of the Midwest is encouraging its parishes to take stronger, more consistent action and providing support and assistance for same.

It is, however, not true that all or even most parishes have ignored this issue. While there are probably few parishes with perfect compliance to the policy, there are a number of parishes with strong, consistently improving efforts to adapt the policy to local circumstances and to implement it in a firm loving manner.

Delaying action just delays protecting your parish and its children.

**3. *"When the OCA first sent out this policy they said they were going to follow it up with an update or clarifications. We've never seen this, so we assume we should just wait to take action."***

It is true that the OCA indicated early in this process that further information would be forthcoming. It is also true that this information has not been forthcoming.

Given the ongoing extensive reformulation of the OCA Chancery functions and the arrival of so many new staff people, it is reasonable to assume that updates and clarifications will not be available soon.

That is why the Diocese is encouraging parishes to move forward with taking local actions to comply with the policy as we know it today. Parishes that delay are assuming risk that need not be assumed.

***About the Author***

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Michael has been active in the insurance industry since 1968. A past president of the Professional Insurance Agents of Ohio, he holds multiple certifications including as a Risk Manager for Churches and Schools (CRMCS).

Michael is Chairman of the Board of Myers University and a member of the Board of Trustees of St. Tikhon's Seminary. He is a past president of the FOCA (Fellowship of Orthodox Christians in America) and, along with his wife Paula, is currently co-chairman, of the Metropolitan Cleveland Chapter of IOCC.

He is a member of Archangel Michael Orthodox Church in Broadview Hts. OH, and the Diocesan Council of the Midwest.

Michael has delivered numerous seminars within Orthodox parishes on the issues discussed in this document.

**4. “Won’t we be better off doing nothing? The more we do the higher the standards to which we will be held.”**

This is an oft heard misconception. Ignorance or feigned ignorance of the laws and the standards by which those laws are enforced has been shown not to be a valid defense. The primary standard that courts are applying to determine whether proper preventative measures are in use is: “Have you implemented the actions that would be expected of a reasonable and prudent person or entity.”

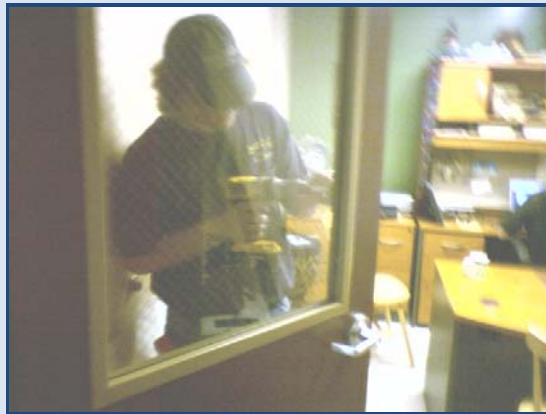
Parishes need to demonstrate that they reviewed the situation as it applied to their local facilities and circumstances and took *consistent systematic action* to prevent an event. This includes:

- Understanding the backgrounds of those who have contact with children. Performing criminal background checks on all of those involved with youth is probably the single most important action that can be taken.
- Clarifying who is responsible for reporting alleged events to authorities.
- Evaluating their facility’s compliance with all safety measures.

**5. “Discussing this policy and taking action to implement it will turn people off. We have a hard enough time getting people to teach church school and volunteer for youth activity.”**

Educating parishioners about the policy and implementing the policy within a parish of course needs to be done carefully. The approach will vary with parish circumstances and personalities, however central points of emphasis for explaining this effort will likely include:

- Reminding the parish that we hold our children in high regard. We are doing this to protect them against any misdeeds.
- Reminding the parish that we also desire to protect our volunteers and workers from untrue accusations and to be able to offer the priest and all workers an adequate defense.
- Explaining that we also hold our parish in high regard. We have had no incidences and we want to keep it that way.
- Other Orthodox parishes in the US, and of course many Roman Catholic and Protestant communities have had incidents.



Implementing a *systematic policy* involves more than background checks and insurance coverage. Here, as part of the parish effort to avoid issues and comply with the Misconduct policy, a parish worker installs a glass panel in the door to the rector’s office. All classroom doors should have windows as well.

- Reminding everyone that the intent of this effort is not to stifle church workers but to help them fulfill the scriptures and traditions of the Church.
- Recognizing the remote, though devastating, possibility of a future unfortunate incident and taking our best efforts to protect against it is the best way to protect the good name and resources of the parish, its clergy leaders and volunteer workers from accusations. Implementing this policy is not an accusation.
- Explaining to the parish that the law and an adequate defense in court requires the parish to demonstrate that it has taken reasonable and prudent actions to protect children. This is the standard to which the parish would be held should an incident be reported.

**6. “Many of our church school teachers have been teaching for 25 years or more. This will offend them. Why do we need to include them in the request for background checks?”**

While there is a certain amount of logic in this question, three points come to mind in replying.

- If an accusation occurs, defending against it will require that we show in the court that we screened everyone. Selective screening opens all sorts of problems.
- More importantly the person who has spent 25 years teaching church school has shown a great love for proper formation of children as Orthodox Christians and a love for our parish. As a result, once the need for the policy and its implementation is carefully explained to these veteran teachers they usually can see the value of being good leaders and showing others their commitment to take the protection of children seriously. The last thing a committed church school teacher wants is to have a child learn through an unfortunate experience that the parish/church is not a safe place. This effort is aimed at avoiding that.
- The appropriate evenhanded implementation of the policy helps to protect them from the devastation of false accusation.
- Making exceptions for particular individuals makes it difficult to apply the policy to others. This, in turn, puts the parish if all are not screened. Volunteers/staff/clergy who have been working with youth for 2 years or 20 years require and deserve the protection afforded by screening.

Obviously, as with all aspects of moving forward with this policy, a good deal of diplomacy and love is required in its explanation.

**7. “One thing that really annoys us in our parish is the need to have our parish insurance policy pay to insure the Diocesan Bishop and the Orthodox Church in America. Shouldn’t those entities pay for their own insurance?”**

The misconduct policy of the Orthodox Church in America requires that parish insurance policies name the Diocesan Hierarch and the OCA as “additional insureds”. This is because, as a Hierarchal Church, courts can hold the Hierarch and the OCA responsible for actions that occur in your parish. Your parish policy is defending the Hierarchy from your parish’s wrong doing – not theirs. This is

NOT paying their insurance. You are not being asked to pay for insurance for Hierarchs or OCA leadership to cover their own actions. The Diocesan budget covers insurance for the Hierarch. You are expected to protect them from litigation for actions in your parish.

As an aside, some insurance companies today, recognizing this situation in Hierarchal churches, automatically include the Hierarch as an additional insured on a parish policy. Therefore, no additional explicit action needs to be taken by the parish. Your parish does not incur additional cost for its insurance because of the naming of additional insureds.

**8. "This OCA policy sounds very encumbering. Our parish can't afford all the time and cost to do this."**

The short reply to this is, of course, "Can you afford the time to investigate and defend a claim –real or imagined?" When thought of in that way most would conclude that they can't afford not to do this.

Parishes that have put forth serious effort toward the policy have primarily justified the effort based on the human cost of "scarred lives". Here is information we received from one parish:

*"Our primary motivation (in our policy implementation) was to avoid the cost of scarred lives. Additionally, we weighed the startup and maintenance expenses against the fact that just one sexual misconduct allegation or lawsuit could financially ruin us, especially since we are a relatively small parish. By putting the procedures in place to minimize risk, we protect ourselves from financial ruin and complete the requirements of our insurance company."*

A single allegation can ruin a parish financially, emotionally and spiritually. We are all aware the staggering costs encountered by many Roman Catholic Dioceses in the US. To repeat this issue, is not confined to Roman Catholics. Insurance industry estimates indicate upwards of 250 reported incidents per year among Protestant congregations.

**Time Investment**

The amount of time invested in prevention is clearly not insignificant. Nor is it particularly enjoyable. Yet good administration and doing things in good order are clearly qualities of a healthy parish.

Nonetheless the concern about time and financial resources is a fair one.

Here is information received from one parish describing its effort to implement the policy.

*"Preparatory travel costs may include going to a seminar, perhaps purchase of DVD introducing idea to workers and parish (then purchasing updates every 1-2 yrs).*

*Background check costs - approx. \$35 per person, sometimes you can get a group fee for much less Paper costs to provide handbook copies to parish and worker/volunteer applicants Paper costs to print application forms File folder costs to hold confidential application papers on each worker and volunteer*

*I may have forgotten something, but I estimate that minimum startup costs might be \$100 (\$75 for copies, \$25 for DVD and support materials) minus background checks, which vary by number of people being checked and area fingerprint costs. We have just started to use electronic*

*fingerprint locations now, which are more expensive (about 60% greater) than ink prints but more conveniently located throughout the county and state. Overall maintenance costs are small: copies of revised handbooks (3-4 pages, doubled sided) for parish members, and an occasional new DVD.*

*Manpower for process setup is front loaded, as it took a committee of seven (Rector, myself, church school lead, youth lead, choir lead, and two at-large workers) eight 2-to-3-hour meetings in the 14-months prior to implementation to get procedures on paper and plan for fingerprinting about 50 people in the first session in July, 2004. The second year required about four meetings, and the third year 2 meetings. Now we are meeting annually to review the handbook (required), make changes, and publish to the parish."*

**9. "Who really needs to be covered by background checks? Isn't it more than just church school teachers?"**

This is a good practical question. We put this question to the person leading the compliance effort in one parish in our diocese. Here is her answer:

*The basic answer is to use the " screening procedures with all persons serving in the church who will have any contact with minors. That said, we still come up with situations that we hadn't thought of previously, like anyone that transports someone else's child anywhere (OCA camps in the summer) or a parent who has a child other than their own in a hotel room for OCA-promoted overnight trips, but it always seems to fit the original statement above.*

*The other question that tends to arise is: We've known these parishioners forever, isn't it overkill to check them? In our parish we have foregone calling references (requested on app. form) for these particular folks but still fingerprinted for insurance sake, including anyone who has been connected to our parish for more than six months with a previous parish connection prior to ours. I hope this helps.*

*The fingerprint session is pain-free and worth the effort, even if a parish receives a few strident remarks about overkill."*

**10. "What is the best way to make sure we stay on top of this? We got off to a decent start but we haven't kept up with it. What are others doing?"**

Many parishes took initial actions and those actions have not been kept up to date. In our experience, it is unlikely that a parish will systematically maintain compliance to the policy without assigning a specific set of individuals to oversee this compliance. You simply cannot assume that parish council or the rector will keep after it – they have a full plate and multiple administrative concerns.

As evidenced by the experiences mentioned in the response to the previous question, the most successful practice seems to be to:

- have the parish council name a parish risk management committee
- assign specific responsibilities to that committee



- ask the committee to summarize the local specifics of the misconduct policy in a Parish Misconduct Policy Manual.
- have the Risk Committee oversee the implementation of the policy within the parish

Obviously this is only one way to do it. If you have a better one let us know.

**11. *“Why a risk management committee? Committees are usually a (very) bad joke around our parish? Just more ‘administrivia’.”***

Obviously the heart of an effective prevention effort is to keep everybody aware and reminded of the ongoing importance of the issues and how the parish is/will deal with it.

However, as with most actions and activities within the parish, it usually requires some person or persons to *take the lead* in defining and improving the parish’s implementation of the policy.

If it is everybody’s job it is usually nobody’s job. As a result, nothing gets done and the possibility of an occurrence is heightened.

If you have a better approach, use it – but consistent, systematic effort seems to be a necessity.

Call it a committee. Call it a “team”, an “initiative” or a ministry –whatever fits your community’s culture. But make sure multiple named parishioners have assumed responsibility for effective management of your parish effort.

**12. *“I don’t want to serve on a Risk Management Committee for our parish, because that will put me in an awkward position if I need to confront someone who might be my friend.”***

Participation in any parish ministry needs to be based on the gifts that each person has to offer. Clearly not everyone has the gifts and skills appropriate to this ministry.

Most parishes have competent persons who can make a useful contribution to this ministry. While few if any parishioners will relish the need to confront someone or to request and review background checks of others in the community, the significant benefit in avoiding an unfortunate incident should allow persons to see this as an important contribution to the parish well being.

Following a disciplined, structured, evenhanded approach which spells out expectations ahead of time for everyone is critical to minimizing damage to personal relationships and to controlling strong personalities.

**13. *“Why do we need a Parish Risk Management Manual?”***

Again, the idea of summarizing parish practice in a handbook or manual seems logical and self evident. The point of the manual is, in the parlance of the “quality movement” in the secular world, “Say what you do and do what you say.” Protecting a parish against an abuse-related event is partly, not totally, a procedural effort. Documenting those procedures in writing requires active discussion and thought – which almost always is fruitful.

Likewise, as mentioned above, the manual sets expectations. This is at the heart of the “say what you do and do what you say” approach.

**14. “If we want to create such a manual for our parish can you provide a starting point?”**

Yes, the Diocesan Parish Health Ministry is preparing a manual template that parishes can use as a starting point.

A good set of parish practices includes a definition of:

- How parish workers who have contact with children and youth will be screened and selected.
- Concepts of negligent hiring, negligent supervision, negligent retention
- Supervision of children/youth workers.
- How to report an incident. –including one that may involve clergy.
- The importance of understanding the requirement to report incidents.
- The important of having the right spokesperson in place to deal with the media.
- Appropriate insurance coverage.
- Audit of the parish facilities to identify areas of non-compliance

**15. Where can we go to learn more?**

By all means, please explore this issue and become knowledgeable about it.

The following sites can be helpful in taking screening action

[www.screennow.com](http://www.screennow.com)

A lot of good information, though clearly from an insurance industry perspective, can be found at the [Guide One Center for Risk Management](#)

Simply “googling” relevant terms for this topic can, of course, turn up a ton of info – not all of which is accurate or up to date.

Please contact the [Parish Health Ministry](#) with questions. We will work to get answers for you.