

# SIMMS SHOWERS LLP

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

305 Harrison Street, S.E., 3<sup>rd</sup> Floor ■ Leesburg, Virginia 20175 ■ (703)771-4671 ■ Fax: (703)771-4681 ■ www.simsshowers.com

## SUCCESSFUL CHURCH ASSIMILATION OF SEX OFFENDERS

Public concern regarding sex offenders has been burgeoning over the past several years. In response, Congress passed the Sex Offender Registration and Notification Act (SORNA) in 2006. SORNA mandates that each state maintain a registry of sex offenders. Most states have established registration guidelines regarding sex offenders, and some are revising their standards. Additionally, courts have ruled on seminal cases that will impact how churches and sex offenders are able to interact. That tension has put churches, who are concerned about child protection but also have a heart to see spiritual transformation of sex offenders assimilated successfully back in to society which includes churches as an integral part, in the cross hairs of difficult decisions on a case by case basis.

In a recent survey of nearly 3,000 church leaders, an overwhelming number said they believe churches should welcome known sex offenders, despite their criminal pasts. Nearly 80 percent said sex offenders should belong to a church, while only 3 percent thought they should be completely excluded, according to the "Sex Offenders in the Church" survey conducted by Christianity Today International (hereinafter called SOC survey). With so many church leaders apparently willing to make a place in the pews for known offenders, one significant question is how can they do this and still keep their congregants safe?

On the other hand, according to SOC survey results, 62 percent said they either are not sure or do not believe a sex offender can be rehabilitated to the point where they no longer pose a threat to others. Although survey respondents overwhelmingly signaled a desire for the church to be part of an offender's re-entry and recovery process, nearly a quarter report that they are doing nothing to provide a church-based recovery ministry to people with sexual addictions. Nearly half provide referrals to outside recovery ministries. In fact, if sexual offenses occur from that sex offender attempted to be assimilated the consequences to the church are catastrophic both from a financial as well as cultural stand point with people voting with their feet.

The Association for the Treatment of Sexual Abusers (ATSA), the largest professional organization on treating sex offenders, states on its website that "although many, if not most, sexual abusers are treatable, there is no known 'cure.' Management of sexually abusive behavior is a lifelong task for some sexual abusers." The organization does point out that repeat sexual crimes can be reduced significantly through prevention, assessment, treatment, supervision, and collaboration involving all parties. The church and its assimilation process can be the critical component to having positive transformations by many sex offenders. However, faulty assimilation processes with little or no guidelines and accountability can expose the church to explosive liability, negative publicity and disserve the sexual offender as well.

## I. Theological Implications

In order to biblically and legally handle the reality of sex offenders in our society, church leaders must be informed of their respective state and local codes to winsomely protect the flocks that have been entrusted to their care (1 Peter 5:1-4). Church leaders are charged to imitate Christ's protection and gentle care for His sheep, as He is the ultimate Shepherd who has entrusted His people to the church. Christ's charge should not be taken lightly, as God will bring each church leader into account for the manner in which he shepherded his flock (Hebrews 13:17).

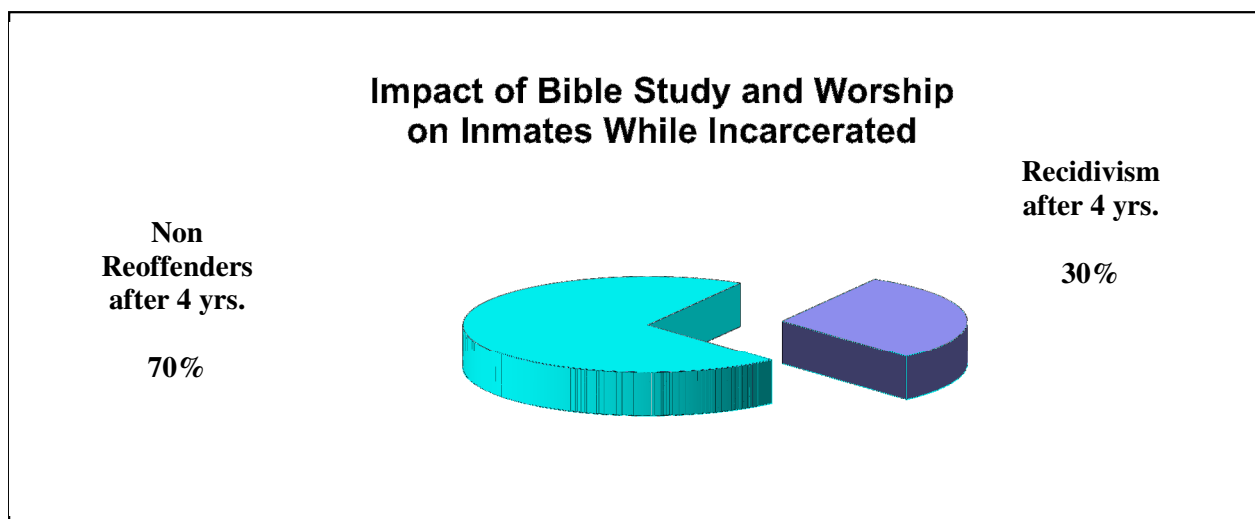
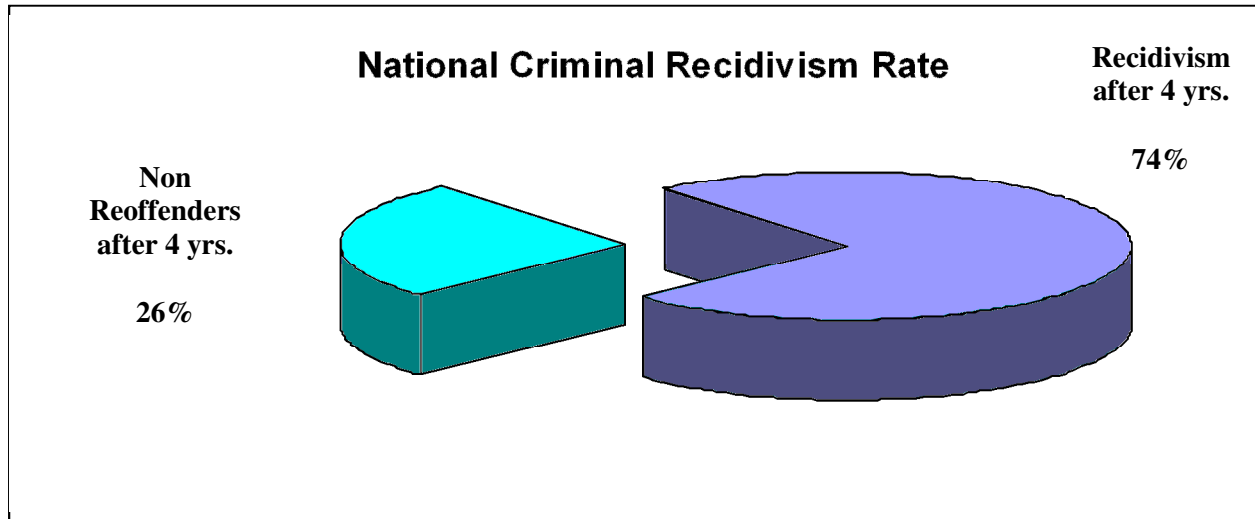
Although church leaders need to be watchful to enable a safe and legal congregational environment, carefully integrating sex offenders into the church body can illustrate the power of the Gospel. As Christians are called to a life of ministry of reconciliation (2 Corinthians 5:11-21), recognizing a repentant sex offender's reconciliation with God and his restored status in relationship with the church demonstrates a love for fellow believers and offers an attractive Gospel portrait to nonbelievers (John 13:34-35). As the Apostle Paul reminded the Corinthians, God's Kingdom includes the repentant sexually immoral, idolaters, thieves, greedy, and drunkards who have been washed, sanctified, and justified in Christ through the Holy Spirit (1 Corinthians 6:9-11). The reality of redemption available to sex offenders reminds Christians that before Christ, we were all dead in our sin, but we have received new life in Christ (Ephesians 2:1-9). It is helpful to remind Christians to reflect on the depth of their own sin and the fact that they too were once an enemy of God (Romans 5:6-8). This means that all Christians were formerly under the wrath of God, but in faith, are transformed and given new life in Christ.

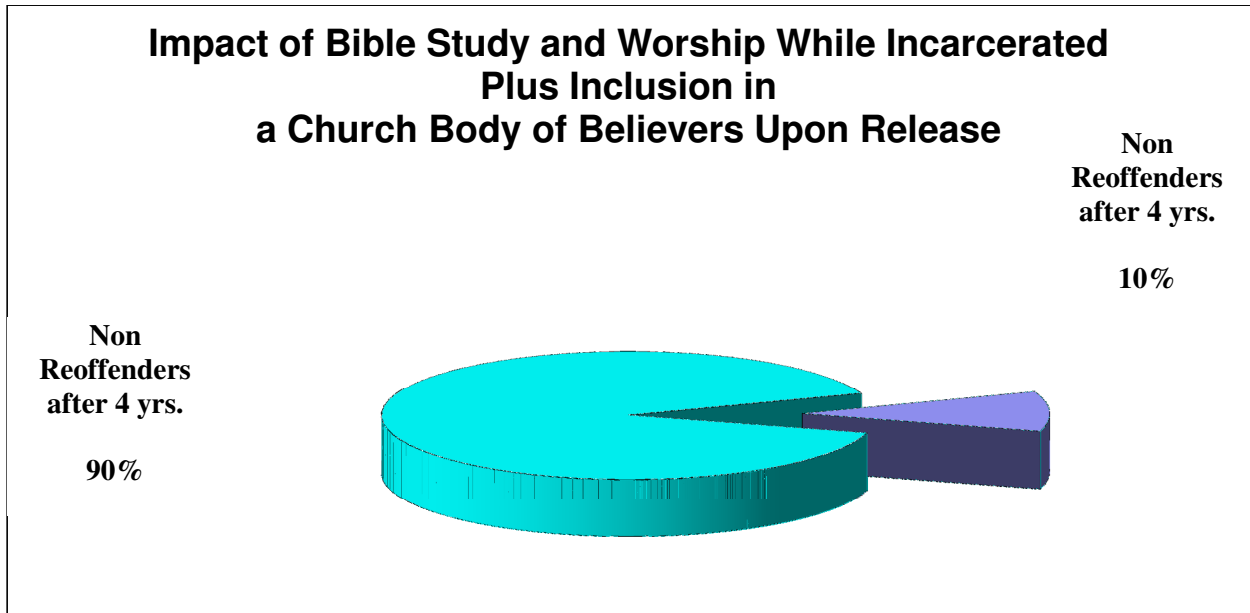
What can leaders do to help sex offenders and the congregation "live in the assurance of Christ's reconciliation yet be wise as serpents and gentle as doves"?

First and foremost, preach the Word of God. Ezekiel provides a striking visual that demonstrates the power of God's Word to give life to dead bones (Ezekiel 37). 2 Peter 3:1-3 reinforces the importance of our need to be reminded of truth, as we all need to hear the Gospel regularly to remind us of Christ's sacrifice. All those that heed Christ's call to repent and believe become beloved children of God, adopted by the Spirit, and are thus inseparably united to Christ. Christians, even Christians who have been convicted of sexual crimes, are forgiven, and provided the righteousness of Christ through the work of the Holy Spirit. As Jesus said, "there will be more rejoicing in heaven over one sinner who repents than over ninety-nine righteous persons who do not need to repent" (Luke 15:4). So, those that are in Christ, even sex offenders, should fear no condemnation (Romans 8:1) and approach the throne of grace with boldness (Hebrews 10:19-22).

## II. Practical Implications

Yet, statistics warn that sexual offenders have a strong potential to repeat their crimes despite secular treatments. Statistics also demonstrate that an offender's involvement in church or Bible study is an effective approach to reducing recidivism. Although the power of sin and death is ultimately broken in the life of a Christian, we live in the age where Christ's Kingdom is not fully realized. As even truly regenerate saints are capable of falling into grievous sin, even sexual sin (King David), church leaders who have been entrusted to shepherd God's people, are to be wise and discerning in protecting Christ's bride (I Peter 5:1-4).





National recidivism statistic from the U.S. Department of Justice, Bureau of Justice Statistics.  
 Statistics on faith-based impact from Billy Graham Center, Institute for Prison Ministries.

When balancing the desires to accept and encourage sex offenders’ transformed lives with assimilation into a church against the protection of children and church health if they repeat the offense, church leaders need to consider a few critical points.

**1. Not all sex offenses or child sex offenders are the same.**

Resistance to accurately depicting people most likely to sexually abuse children impedes effective abuse prevention and investigation. Most take comfort in the myth of “stranger danger” since most believe that people who commit such heinous acts could not possibly be friends, family, or other people we know. The fact is most child sexual abusers are people we know and who befriend children. Estimates suggest that as many as 85% of child sexual assaults are committed by someone known and trusted by the child. In about 60% of cases the perpetrator is a non-relative acquaintance, such as a neighbor, babysitter or family friend.<sup>1</sup> Relatives account for 30% of sexual abusers while only 10% of abuse stems from a stranger.<sup>2</sup> Myths that purport stereotypes such as child molesters as “mentally retarded or insane,” “drug abusers or alcoholics,” “dirty old men,” or “physically identifiable,” explode in the bright light of facts and knowledge.

Although many people use the terms “pedophile” and “child molester” interchangeably, they are not synonymous terms. Pedophilia is commonly used to describe a sexual perversion in which children are the preferred sexual objects. A pedophile may never act out his or her fantasies or preferences for sex with children, whereas a child molester may not have a

<sup>1</sup> *Id.*

<sup>2</sup> *Id.*

preference for children, but may sexually abuse them due to their availability, to avoid sexually transmitted diseases, to satisfy a curiosity or to hurt a loved one of the molested child.<sup>3</sup>

While preferential child molestation is a sex offense, many other crimes also fall under the definition of the term. One definition of child sexual abuse is “the engagement of a child in sexual activities for which the child is developmentally unprepared and cannot give informed consent.”<sup>4</sup> The abuse may be sexual and/or physical, but can also be accomplished without force or touching through exhibitionism, voyeurism, or using a child in the production of pornography.<sup>5</sup> A recent study suggests that “approximately 20% of children will be sexually abused in some way before they reach adulthood ....”<sup>6</sup>

More than half of the survey respondents felt that standards for a sex offender's participation at church should be determined, in part, by the seriousness of their crime. Richard Hammar, a good friend and noted church legal expert in the article "Sex Offenders in the Church" (Church Law & Tax Report, Sept/Oct 2010), cautioned churches about the potential danger of "erring on the side of mercy" in dealing with known offenders. "Many sex offenders are classified as 'tier 1' on a sex offender registry," Hammar said, "not because they committed a lesser offense, but because they 'plea bargained' down to a tier 1 offense." If a church allows a known offender to serve with children or youth, and this individual reoffends while on church property, a jury likely will be incredulous that a church would expose its most vulnerable members to such a risk, regardless of whether the offender only had a minor sex offense in his past. No court has exonerated a church from liability for the molestation of a child on the ground that the offender was merely a tier 1 offender who did not impose a duty on the church to implement reasonable restrictions.

**Child sex offenders are generally categorized on the severity of offenses and the propensity to recommit the sex offense as preferential sex offender, repeat situational offender and first time situational offender (categories are Level 3, 2 and 1 respectively).** However, while not all sex offenses are the same, a jury won't necessarily see it that way. A person on a sex offender registry is likely to be viewed by most juries as a serious risk warranting serious precautions and restrictions.

**Level 1-**The vast majority of registered sex offenders are classified as Level 1 offenders. They are considered at low risk to re-offend. These individuals may be first time offenders, situational in motivation and they usually know their victims.

**Level 2-**Level 2 offenders have a moderate risk of re-offending. They generally have more than one victim and the abuse may be long term. These offenders again are

---

<sup>3</sup> Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis* 19 (National Center for Missing & Exploited Children 4<sup>th</sup> ed. 2001) available at

[http://www.missingkids.com/missingkids/servlet/ResourceServlet?LanguageCountry=en\\_US&PageId=469](http://www.missingkids.com/missingkids/servlet/ResourceServlet?LanguageCountry=en_US&PageId=469)

<sup>4</sup> *Diagnostic and Treatment Guidelines on Child Sexual Abuse*, American Medical Association at 5, available at <http://www.ama-assn.org/ama1/pub/upload/mm/386/childsexabuse.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

situational groom their victims and may use threats to commit their crimes. These crimes may be predatory with the offender using a position of trust to commit their crimes. Typically these individuals do not appreciate the damage they have done to their victims.

**Level 3-**Level 3 offenders are considered to have a high risk to re-offend. They usually have one or more victims and may have committed prior crimes of violence. They may not know their victim(s). They often have sexual for children as a psychological disorder. The crime may show a manifest indifference or cruelty to the victim(s) and these offenders usually deny or minimize the crime. These offenders commonly have clear indications of a personality disorder.<sup>7</sup>

Other diagnostic tools can help measure the danger although only professionals such as psychiatrists and psychologists can effectively use such tools that are constantly being updated. Cases such as the one in district court of Massachusetts in 2009 show how such diagnostic tools can be used where the government moved to keep a convicted child molester in jail following expiration of his sentence because his disorder causes him “serious difficulty in refraining from sexually violence conduct or child molestation.” US v Hunt, 643 F.Supp. 2d 161 (D. Mass. 2009). In this case, four experts used four generally accepted diagnostic instruments to reach their expert conclusions: 1) Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR); 2) Static-99; 3) Static - 2002 and 4) Minnesota Sex Offender Screening Tool Revised (MnSOST-R) that he was a high risk to repeat the sexual offense although the risk factors differed on all four tests. Only the MnSOST-R accounts for dynamic factors, such as whether offender committed an offense in a public place, in addition to static and historical factors. Some of the factors for Static-2002 are 1) age; 2) prior sex offenses and age of victims; 3) juvenile arrest for sex offenses; 4) high rate of sex offenses; 5) non-contact sex deviance convictions; 6) male sexual deviance victims; 7) 2 or more victims, at least one of whom related; 8) unrelated or stranger victims; 9) prior arrests for non sexual offenses; 10) breach of conditional releases; 11) 4 years free of non sexual offenses; and 12) prior non –sexual violence. **The importance of this case and the diagnostic tests and three levels is that they can provide vital information to church and nonprofit officials in deciding how to respond to known sex offenders who want to become ministers, attend church services, become active members or become involved in church/nonprofit programs and activities.**

## **2. Not all churches should attempt assimilation but for churches who have chosen to assimilate sex offenders must establish precautions and policies that are enforceable and practical.**

Churches which are willing to accept sex offenders that fit their criteria should create "reasonable precautions and restrictions." Churches should establish policies and practices regarding allowing sex offenders to be part of the church *before* they have to deal with the issue. Although one-third (34 percent) of survey respondents said they are not aware of a known

---

<sup>7</sup> [www.metrokc.gov/sheriff/sosch.htm](http://www.metrokc.gov/sheriff/sosch.htm)

offender in their church, they likely will be in the future. There are nearly 550,000 registered sex offenders in the United States, and the number continues to rise.

Unfortunately only twenty-three percent in the national survey have drafted conditional attendance agreements (also called "covenant agreements" at some churches). These include safety stipulations, such as being chaperoned at all times while on church property, and maintaining accountability with specific people in the church. (For a sample covenant agreement and sex offender attendance policy, see the downloadable documents at [www.NonprofitChurchLaw.org](http://www.NonprofitChurchLaw.org) as a subscriber and a training resource "Sex Offenders in the Church," available on [www.YourChurchResources.com](http://www.YourChurchResources.com)). The following guidelines should be considered by churches as to whether they should take on this risky but great ministry:

1. The church is receptive to such "messiness" which often accompany such addictions and are involved with recovery type ministries like Celebrate Recovery, AA or NA.
2. A vibrant, healthy, and stable church! An unhealthy church or the church in **transition** should never attempt to take on this ministry.
3. The church with an established pastor (preferably more than three years), not a church with a new pastor.
4. Churches need to have the **manpower**, vision, leadership and **discipleship** resources at their disposal. A larger church (more than 500 members) with many resources, both in programs, personnel and energy can often handle it better but regardless of the size the church should have the ability to have a hands-on discipleship and mentorship relationship.
5. Churches that have members who have a gift of discernment and a calling to serve in this area to serve as mentors and accountability partners. This is not a ministry for most churches.

When the senior pastor, or any member of the church board, is informed that a registered sex offender is attending the church, there are steps that can be taken to manage risk. These include the following:

1. Obtain a record of the sex offender's prior criminal convictions by conducting a national criminal records check. The church must be fully informed regarding the sex offender's criminal background.
2. If the sex offender is on probation, identify his or her probation officer and ascertain the conditions that have been imposed. In some cases, sex offenders are not even allowed to attend church. If the probation officer says that the offender is free to attend church, ask the officer if he or she would recommend that the offender be allowed to attend church, and if so, under what conditions. Obtain this information in writing, or, if that is not possible, make a detailed written account of the officer's response.
3. Condition the sex offender's right to attend church services and activities on his or her signing a "conditional attendance agreement" that imposes the following conditions:

- The sex offender will not work with minors in any capacity in the church.
- The sex offender will not transport minors to or from church, or any church activity.
- The sex offender will not attend any youth or children's functions while on church property, except for those involving his or her own child or children, and only if in the presence of a chaperone (see below).
- The sex offender will always be in the presence of a designated chaperone while on church property. This includes religious services, educational classes, activities, and restroom breaks. The chaperone will meet the sex offender at the entrance of the church, and accompany the sex offender on church premises until returned to his or her vehicle.
- A single violation of these conditions will result in an immediate termination of the sex offender's privilege to attend the church.
- The conditional attendance agreement option will not be available unless the church's insurer is informed and confirms that coverage will not be affected.

4. In some cases, exclusion of the offender from church is the only viable option. This option is advisable if (1) for any reason the conditional attendance option is not feasible or enforceable; or (2) if the offender's crimes are so frequent or heinous that exclusion is the only appropriate option; or (3) one or more of the offender's victims attends the church. This will be a judgment call made by the pastor and board.

5. It is often desirable to draft a short policy addressing the church's response to registered sex offenders attending the church, and have it adopted by the congregation during an annual or special business meeting. This would allow the membership to discuss this issue in a rational manner.

6. Seek legal counsel in formulating the church's response.

### **3. Repentance is a good sign, but be cautious and discerning.**

Most church leaders in the survey said they believe offenders deserve a place in the faith community. Nearly 80 percent said that a registered sex offender should be allowed to attend church under continuous supervision and with appropriate limitations. When asked what influences their opinion on whether a former sex offender should be allowed to participate in church, 83 percent said a repentant attitude would be the number one factor.

Some sex offenders, particularly pedophiles, are notoriously good liars, though. Clinical psychologist Anna Salter offers a word of caution from her 2003 book *Predators: Pedophiles, Rapists and Other Sex Offenders*: "Decades of research have demonstrated that people cannot reliably tell who is lying. Many offenders report that religious people are even easier to fool than most people."



While a repentant attitude is a necessary and healthy sign of change in a person's life, it's a subjective basis for making such a critical decision. Many churches look to the facts of one's past and the patterns they have established to ensure positive, ongoing change. Churches need to learn the terms of an offender's parole or probation, both to help keep the offender accountable to the law as well as to avoid inadvertently making an offender break their agreement. Many sex offenders are not allowed to attend church or visit any place where children are present.

#### **4. Recovery is hard and a life long process**

##### **The Seven Link Chain Church Plan**

Realizing that integrating sex offenders requires diligence, hard work and spiritual maturity, churches should evaluate their situation to ensure they have the resources to partake in this endeavor. This type of ministry requires an established and stable church leadership, a spiritually mature congregation that is accustomed to a culture of discipleship, and a congregation gifted with discernment. The benefits are rich, as the body of Christ gains a newly committed member a picture of the Gospel, and the offender can commend the Gospel by living a new life worthy of Christ's call (Mark 5:18-19).

Therefore, a church should adopt a plan to address that seeks to safely assimilate sex offenders. Simms Showers LLP provides churches with a seven chain link policy for considering admitting sex offenders into membership.

1. The Initial Interview Link- In this stage, a church representative should meet confidentially with the offender. The purpose of the meeting is to understand the sex offender's background and current spiritual state, while simultaneously beginning a relationship. The church representative should inquire whether the offender is open to accountability and monitoring, as these commitments serve as prerequisites for starting the process of membership consideration. It is important to note that if the victim is at the church, the offender must find another church. Also, sex offenders who have a history of violating contracts with other churches should not be considered for membership.

2. The Discernment Link- If the church representative believes that the offender's membership might be appropriate, the church representative should prayerfully consider presenting the situation to the elder body if the offender has provided clear confirmation to proceed.

3. The Communication Link- If the church representative thinks it is wise to proceed considering the offender for membership, the representative should discuss the situation with the elders. The church's leadership team may wish to interview the offender at this point.

4. The Accountability Team Link- If the leadership team finds it is wise to proceed, the leadership should establish an accountability team of 2 to 3 spiritually mature men. The team should establish a meeting plan for accountability and discipleship. These disciplers must be humble enough to gently restore those struggling with sin (Galatians 6:1). They must understand their own sinful hearts and God's restraining grace, and that they too have fallen short of the

glory of God. Also, they must not be given to the fear of man, in that they need to be able to clearly and boldly, and yet lovingly, represent the truth of God's Word.

The goal of the accountability team is to minister to the offender and secondly, to monitor the offender. These relationships should be transparent and aid the offender to regularly understand his sin, and examine his heart to see if he is living in repentance and belief. If the offender is legally allowed to have computer access and the team believes he requires computer access, the leadership should install a computer monitoring software such as Covenant Eyes, which provides accountability partners access to a person's Internet use and is capable of blocking sites as necessary. This form of monitoring should be an extra set of accountability.

5. The Chaperone and Monitoring Link- Once the accountability team has been established, the church should create a chaperone team of 1 to 2 people. The team should determine the specifics of the time and place of each meeting at church for each Sunday service. Before a sex offender is allowed on church property, he needs to sign contract similar to the one included. Additionally, church leaders should notify those that need to know of the offender's status for security reasons. The sex offender should not be allowed on campus if he fails to keep the contract terms. The offender should have a chaperone from the time of entering the premise to the time of exit. The team must identify boundaries, what is accessible and what is off limits. If the chaperone is not available at any time, another chaperone must be appointed prior to the offender arriving on church grounds.

If the offender misses church he should be called to find out why, perhaps he was sick or in an accident. Note that family members of the offender should never be a chaperone. Chaperones should be spiritually mature and understand the utmost in confidentiality. Remember that the chaperone's leash will get longer as the offender has proven himself to be trustworthy.

6. The Discipleship Link- Church leaders should begin discipling the offender at this point. Some topics to study include the need to fight sin and Christian victory in Christ. The Christian Counseling Education Foundation (CCEF) provides resources in how to counsel people biblically in a vast number of life issues, including sexual addiction, (<http://www.ccef.org/national-conference-2009-audio> and <http://stores.newgrowthpress.com/-strse-MINI-BOOKS/Categories.bok>). Also, Dr. John Piper led a conference in 2004 that presented a biblical and redemptive theology of sexuality, and can be accessed at no cost at: <http://www.desiringgod.org/ResourceLibrary/ConferenceMessages/ByConference/2/>. However, the church representative or team is not responsible for clinical counseling, as this role is fulfilled by therapists and clinicians.

7. The Evaluation Link- The evaluation phase is extremely important to both church leaders and the offender. There is no concrete time framework to follow, as some phases will take a year while some offenders may require 2 to 3 years, depending on various issues like relapse(s). The evaluation phase should include clear attainable and understandable benchmarks such as:

- Consistent church attendance
- Participation- not too much and not too little

- Confessions with the accountability and chaperone teams
- Creating healthy links between DOC, counselors and church teams
- Self disclosure to elders and subcommittees and ongoing accountability groups
- Testimonies- 12 to 18 months out
- Restitution
- Number of jobs offender has held in the last 12 to 18 months.

Note that church leadership positions, especially supervision of children, should be off limits to sex offenders, as Christians leaders are required to be above reproach, and are to be held to the standard established in 1 Timothy 3.

Overall, the church must keep the Gospel central to the process of considering membership for sex offenders. As the Apostle Paul reminded the Romans, “for there is no distinction, all have fallen short of the glory of God” and nobody is righteous, and all those who repent and believe are saved solely by God’s grace through faith in Christ (Romans 3). Christians are commanded to meet together regularly and spur one another on in the faith (Hebrews 10:19-25), by sharing one another’s burdens (Galatians 6:2). Sharing our union in Christ through the way the church lives out the Gospel with regenerate sex offenders tangibly demonstrates the love of God.

As a result, churches need to regularly monitor federal, state, and local laws that regulate how churches are able to interact with sex offenders. Churches that operate a school or child care facility will likely have to abide by additional regulations, as many states restrict registered sex offenders from certain zones where children are likely to be present. For instance, the New Hampshire Supreme Court is likely to rule on whether a registered sex offender is able to attend church with a chaperone. Some of the laws that regulate the interaction between sex offenders and churches can be broadly categorized as prohibited areas, prohibitions against employment and volunteer activities, participation in community notification systems, GPS and Internet monitoring, and the broad discretion certain states provide courts in establishing individualized sex offender prohibitions and conditions.

### **III. Legal Issues that Address the Sex Offender’s Relationship to the Church**

#### 1. Areas where Sex Offenders’ Presence Prohibited

Numerous states have established zones in which sex offenders are not prohibited to reside or even be present. These restrictions may have varying impacts on churches, but are more pertinent to congregations that operate schools or child-care centers, depending on the unique statutory definitions provided such respective entities. For instance, Florida recently enacted a law that prohibits a sex offender from being present within 300 feet of where children congregate. The law specifically prohibits sex offenders from being present on any child care facility or school for children from kindergarten to grade 12 unless a school official has granted special permission.

Iowa law is even more specific, as the statute bars registered sex offenders from being present on school real property or a school vehicle, a child care facility, a public library, or

within 300 feet of the premises of any place intended primarily for the use of minors including but not limited to a playground available to the public, a children's play area available to the public, recreational or sport-related activity area when in use by a minor, a swimming or wading pool available to the public when in use by a minor, or a beach available to the public when in use by a minor. Likewise, Tennessee restricts sex offenders from being present on the premises of any building or grounds of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when the offender has reason to believe children under 18 years of age are present. Texas also has similar restrictions that prohibit sex offenders from being in, on, or within 1,000 feet of a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility. Texas law does permit a defendant to request a court to modify an individual offender's child safety zone per the statute's regulations.

In some cases, child molesters are given probation instead of imprisonment, subject to various conditions. If such a person attends a church, it is important for church leaders to be apprised of such conditions so that they can help to ensure that they are followed. A case in Washington state in 2009 illustrates how important it is for church leaders to know these conditions. The Washington state supreme court affirmed the revocation of a child molester's probation as a result of his repeated violations of the terms of the probation which, among other things, barred him from attending church or other places frequented by minors.

The CCO recommended that the court revoke the sex offender's sentence for going to a church food bank and send him to prison to serve his suspended sentence. Following a hearing, the court accepted the CCO's recommendation, finding that he was at high risk to reoffend and was difficult to monitor in the community.

On appeal, the sex offender argued that his suspended sentence could not be revoked without proof of willful violations of the terms of his sentence (i.e., that he frequented areas where he knew that minors congregated), and, that there was insufficient evidence to support the revocation. The state supreme court rejected the sex offender's arguments, and authorized the commencement of his term of imprisonment. It concluded:

*“The government has an important interest in protecting society, particularly minors, from a person convicted of raping a child. That interest is rationally served by imposing stringent conditions related to the crime Brian committed. The condition forbidding Brian from frequenting areas where minors congregate serves as a way to prevent him from being in a situation where he would have an opportunity to again harm a child. Also, his rights are already diminished significantly as he was convicted of a sex crime and, only by the grace of the trial court, allowed to live in the community subject to stringent conditions. Those conditions, like the one at issue, serve an important societal purpose in that they are limitations on his rights that relate to the crimes he committed. Given the strength of that interest and Brian's diminished rights as someone on a suspended sentence, the balance tips heavily in favor of not requiring a finding of willfulness .... The evidence demonstrates that Brian went to a food bank located in an elementary school that is connected with a church. The trial court could reasonably conclude that the location of the food bank in a building housing a church school presented a risk to the*

*safety or welfare of society. This violation, combined with his prior violations for visiting a church, high school, and a park on three separate occasions, justify revoking his suspended sentence.”*

This case demonstrates that convicted child molesters may be subject to a supervised probation arrangement that restricts their church attendance. Some churches do not allow such persons to attend church until they have determined whether they are subject to probation, and if so, the conditions imposed by the probation arrangement. In many cases, probation arrangements prohibit a defendant from attending church under any circumstances (which appear to be constitutionally problematic), while in other cases a defendant is allowed to attend church but under strict conditions. A church's exposure to liability is increased if it allows a known sex offender to attend services or other church activities without ascertaining the existence and conditions of a probation arrangement. *State v. McCormick*, 213 P.3d 32 (Wash. 2009). While these kinds of probations may be legally problematic under the 1<sup>st</sup> amendment freedom of religion and other legal arguments, no denomination or church has successfully challenged as yet such restrictions and thus, church must comply or pay the high cost in terms of liability and negative public relations should something go amiss.

## 2. Prohibitions Against Sex Offender Employment and Volunteer Activity

States also have distinct laws which pertain to a sex offender's eligibility to obtain employment or volunteer in organizations that provide access to children. In May 2010, the Georgia legislature revised its law that was previously ambiguous in regard to whether sex offenders were allowed to volunteer at a church. The new legislation (HB 571) provided that the term volunteer “should not include participating in activities limited to persons who are 18 years of age or older or participating in worship services or engaging in religious activities or activities at a place of worship that do not include supervising, teaching, directing, or otherwise participating with minors who are not supervised by an adult who is not required to register” as a sex offender. This clarification enables sex offenders to participate in activities like adult Bible Studies or adult choirs. Also, Georgia laws goes even further, as it prohibits an individual who is a sexually dangerous predator from being employment or volunteering at any business or entity that is located within 1,000 feet of an area where minors congregate if the offense occurred after July 1, 2008.

The New Jersey statute bars sex offenders from holding a position or participating, in a paid or unpaid capacity, in a youth serving organization. The state statute also bars an individual from knowingly hiring, engaging or appointing an excluded sex offender to serve in a youth serving organization, as the responsible individual is liable of a criminal offense.

Other states require sex offenders to disclose their status as a sex offender to an organization. For example, California requires certain sex offenders to disclose their status in writing to his or her employer, supervisor or other person similarly situated, when he begins employment, begins a vocation or volunteers his or her services, regardless of whether the sex offender receives payment or other compensation. Yet, sex offenders who committed an offense that involved a person under 16 years of age are prohibited from employment and volunteer activity that involves minors.

### 3. Community Notification Systems

Although Rhode Island's legislature is still developing comprehensive sex offender guidelines, the state requires religious organizations to participate in the community notification program, which alerts organizations to the release and residence of local sex offenders. Although most other states do not require churches to participate in such programs, numerous states include schools to participate in community notification programs, which could include schools operated by a church. Additionally, many states provide mechanisms by which churches can stay alert to sex offenders in the neighborhood, and may help churches stay involved in local neighborhood issues and be more vigilant in protecting children.

### 4. Sex Offender GPS and Internet Monitoring

A few states provide regulations that enable law enforcement to monitor the location and activities of sex offenders. Such regulations involve GPS and Internet monitoring. For example, Wisconsin law enables the government to craft individual GPS exclusion zones for sex offenders if necessary for public safety. In creating exclusion zones, the department is instructed to focus on areas where children congregate, with perimeters of 100 to 250 feet, and on areas where the person has been prohibited from going as a condition of probation, extended supervision, parole, conditional release, supervised release, or lifetime supervision.

In terms of Internet monitoring, New Hampshire requires sex offenders to register their "online identifiers," including electronic mail address, instant message screen name, user identification, user profile information, and chat or other Internet communication name or identity information pursuant to RSA 651-B:4. Sex offenders are required to report any changes to an existing online identifier, or the creation of any new online identifier to law enforcement before using the online identifier. Other states, like Nebraska, require prohibit sex offenders from accessing social networking functions that would enable them to have access to minors. Churches should be aware of these requirements, especially if the church communicates with the offender electronically, as Internet access is potent source of temptation for offenders. Churches can help hold offenders accountable in the realm of Internet access with appropriate monitoring technology if the sex offender is allowed and requires Internet access.

### 5. Broad Sex Offender Discretion

As the government recognizes that preventing sexual offenders from committing additional crimes is important, North Dakota granted courts great liberty in crafting individualized probation requirements for released sex offenders. In North Dakota, the court is permitted to use its discretion to enact conditions of probation that are reasonably necessary to assist the defendant in living a law-abiding life. If a sex offender desires to become a church member, the church should inquire to see what specific restrictions the court may have imposed on the individual.

## IV. Conclusions

Sex offenders that become Christians and are successfully assimilated into a church environment have a much lower chance of recidivism; however, sex offenders are highly volatile and require many precautions and restrictions to succeed in incorporating them into the church and community and not taking unnecessary risks that will not serve the church to the sex offender should the train run off the track. Only certain churches and certain sex offenders as outlined above should try this desperately needed but highly risky process which requires walking a fine line that must be closely monitored in which tough love must be practiced. **Any church is strongly encouraged to seek appropriately trained and experienced professional legal counsel who specializes in church law and sex offenders prior to taking the step of implementing a church policy regarding assimilating sex offenders and actually assimilating certain sex offenders.**

*Any reader is encouraged to seek appropriately trained and experienced professional legal counsel who specializes in church law and sex offenders prior to taking the step of implementing a church policy regarding assimilating sex offenders. For the policy, please refer to [www.nonprofitchurchlaw.org](http://www.nonprofitchurchlaw.org) under legal memos for Policy for Assimilating Sex Offenders.*

# *SAMPLE CONTRACT\**

## Agreement for Sex Offenders At Church

1. I will have no intentional contact at church with any minors.
2. I will not sit next to a child in church. If a child sits next to me, I will move to a different seat. I will attempt to sit on the aisle seat with my chaperone.
3. I will always place myself in such a way that I cannot make direct or indirect eye contact with a minor.
4. If I start to have any sexual thoughts or feelings toward any minor, I will contact my sponsors, counselor and Pastor.
5. If I have to use the restroom I will contact my sponsor and wait for an escort to attend me. If there should be a minor present, I will promptly leave until they leave.
6. I will sign a release of information for my Pastor, Elder and Sponsors for the purpose of communicating with my probation officer and my counselor.
7. I will give a full disclosure of my sexual offense to my Pastor, Elder and Sponsors
8. I will give a copy of these boundaries to my Community Corrections Officer and my counselor.
9. I will review these boundaries each time I attend the accountability group and/or meet with my sponsors.
10. I understand that a breach in any of these boundaries could lead to a permanent expulsion from the FMO group and church.
11. I will not place myself in a position of authority that the church has not approved for me because these are positions of trust that may involve children at some time.
12. When asked to supervise or watch a child for a parent or other person, I will decline because this puts me in a place of authority with children.
13. I will not work directly with children either in Sunday School or any other program at the church.
14. I will not be in areas where children are being taught.
15. I will not take a child home with me or be alone with children unsupervised.
16. I will not kiss or hug children at church. If a child tries to kiss or hug me at church I will remove myself from the situation. I will not allow a child to sit on my lap, even with an approved chaperone.



17. I will have two or more approved chaperones/sponsors at the church that know about my offense and will hold me accountable for my behavior, and one of which will accompany me at all times while at church.
18. I will not go to a church member's home if they have children present without full knowledge and consent of the parents, pastor and sponsors.
19. I will not make any inappropriate sexual remarks or gestures to anyone at church.

I have read, understood and voluntarily agree to follow these guidelines or be subject to immediate church discipline including termination. I hereby waive any and all claims I may have against the church or its agents for this process and shall indemnify and hold the church and its agents harmless for any claim, lawsuit or damages that I may cause directly or indirectly.

Offenders Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by Sponsors: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by Sponsors: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by Pastor: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by Therapist: \_\_\_\_\_ Date: \_\_\_\_\_

***\*Any reader is encouraged to seek appropriately trained and experienced professional legal counsel who specializes in church law and sex offenders prior to taking the step of implementing a church policy regarding assimilating sex offenders. For the policy, please refer to [www.nonprofitchurchlaw.org](http://www.nonprofitchurchlaw.org) under legal memos for Policy for Assimilating Sex Offenders.***