

A LEGALLY SOUND APPROACH TO CHURCH SECURITY



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PURPOSE OF THIS PRESENTATION



To give you the tools you need to address the issue of church security from a legal perspective.

THREE-PART PRESENTATION

Part I: Help you develop a practical (and useful) understanding of the law of negligence

Part II: Help you select the right insurance coverages

Part III: Provide you with a recommended *5-Step Security Evaluation Process*

TWO IMPORTANT BENEFITS

If you follow these recommendations, you will receive two important benefits:

- 1) Make your church a safer place
- 2) Protect your church from civil liability

LET'S BEGIN WITH TWO REMINDERS FROM THE BIBLE

PSALM 127:1 (ESV)

Unless the LORD builds the house,
those who build it labor in vain.

Unless the LORD watches over the city,
the watchman stays awake in vain.

MATTHEW 28:18–20 (ESV)

And Jesus came and said to them, “All authority in heaven and on earth has been given to me. Go therefore and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all that I have commanded you. And behold, I am with you always, to the end of the age.”

Perspective-Shaping Verses:

- 1) God is our ultimate Protector; and
- 2) Our primary mandate is to carry out the Great Commission.

A BRIEF STORY ABOUT A DUDE IN A TRENCH COAT IN JULY



PART I:
UNDERSTANDING THE LAW OF
NEGLIGENCE



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THE LAW OF NEGLIGENCE CAN
SERVE AS A USEFUL GUIDE FOR
EVALUATION SAFETY AND
SECURITY ISSUES.

NEGLIGENCE DEFINED

“**Definition.** A failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances. The behavior usually consists of actions, but can also consist of omissions when there is some duty to act (e.g., a duty to help victims of one's previous conduct).”

[Negligence | Wex Legal Dictionary / Encyclopedia | LII / Legal ...](#)

[Cornell University › law › wex › neglige...](#)



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RECENT KENTUCKY CASE

To recover under a claim of negligence, the plaintiff must prove **[1]** that the defendants owed a duty of care to the plaintiff; **[2]** that the defendants breached that duty; and **[3]** that the breach was the proximate cause of **[4]** the plaintiff's damages. In general, each person owes a duty to every other person to exercise ordinary care in his activities to prevent foreseeable injury.

VF Rental Properties, LLC v. Foy, No. 2013-CA-001830-MR,
2015 WL 128533, at *2 (Ky. Ct. App. Jan. 9, 2015)

(Internal Citations Omitted)



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4 ELEMENTS OF NEGLIGENCE

1) Duty

2) Breach

3) Causation

4) Damages



THE UNIVERSAL DUTY OF CARE

“The rule is that every person owes a duty to every other person to exercise ordinary care in his activities to prevent foreseeable injury.”

Grayson Fraternal Order of Eagles, Aerie No. 3738, Inc. v. Claywell,
736 S.W.2d 328, 332 (Ky. 1987)

FORESEEABILITY

“The most important factor in determining whether a duty exists is foreseeability.”

David J. Leibson, *Kentucky Practice, Tort Law* § 10.2 (1995)



ANALYZING FORESEEABILITY

The determination of foreseeability must not be based upon hindsight; instead, the courts have given us a list of factors to be considered.



ANALYZING FORESEEABILITY

- ❏ What criminal conduct has previously occurred on or near the property?
- ❏ How recently has the criminal conduct occurred?
- ❏ How often the criminal conduct occurred?
- ❏ What publicity was given the occurrences to indicate that the landowner knew or should have known about criminal conduct?



TWO SIMPLE QUESTIONS

- 1) What risks can you *reasonably* anticipate?
- 2) What can you do to *reasonably* address those risks?

ORDINARY CARE, SIMPLY STATED



What would a reasonable person do under the circumstances?

A BIBLICAL VIEW OF NEGLIGENCE

THE LAW OF MOSES

- ▣ Digging a pit but failing to cover it (Ex. 21:33-34);
- ▣ Allowing animals to trespass on to the property of another and do harm (Ex. 22:5);
- ▣ Kindling a fire but negligently allowing it to get out of control and harm a neighbor's property (Ex. 22:6); and
- ▣ Building a flat roof on which people foreseeably would spend time, but failing to construct protective parapets to prevent their falling off the sides (Deut. 22:8).

ATTITUDE TOWARD ACCOUNTABILITY

The Church should not be hostile toward the notion of accountability. Rather, we should readily accept the consequences when we are negligent.

A WRONG-HEADED APPROACH

I hereby release and forever discharge ABC Church, its staff, all sponsors, state conventions, employees, and any designated individual in charge of any trip from any legal responsibility, financial responsibility, all claims, demands, actions or cause of action, past, present, or future with respect to my personal or child's participation in any Church activity.

Unbiblical

Unenforceable



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THREE PRACTICAL OBSERVATIONS

UNREASONABLE FEAR CAN LIMIT US

- ▣ Generally speaking, people worry too much about being sued.
- ▣ In a ministry context, the fear of being sued can limit improperly how we carry out our mission.
- ▣ We should be willing to take wise risks in order to carry out our Gospel mission.

PART II:
CHOOSING THE RIGHT
INSURANCE COVERAGE

THE NATURE OF INSURANCE

An insurance policy is
basically a risk-shifting
contract between two parties.

THE PURPOSE AND FUNCTION OF LIABILITY INSURANCE

There are two essential benefits that a liability policy provides, often described as “duties.” The first is the insurance company’s “duty to indemnify” and second is the “duty to defend.”

DUTY TO INDEMNIFY

The “duty to indemnify” is the insurance company’s obligation to pay money damages to someone harmed by your negligent conduct.

DUTY TO DEFEND

The “duty to defend” is the insurance company’s obligation to provide you with a legal defense to a claim made against you.

IMPORTANT CAVEAT

Where there is no “duty to indemnify,” there is no “duty to defend,” which can have serious financial consequences if you have to cover the cost of defending a claim.

THE POINT

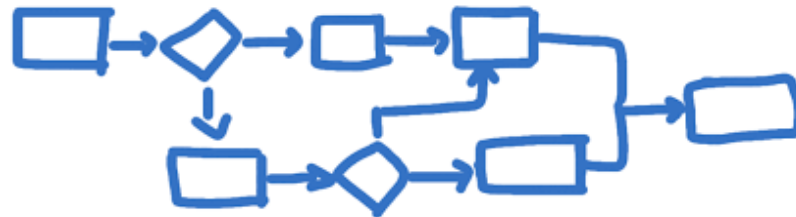
When you buy insurance, make sure that you have the necessary coverages. Not all insurance policies are created equal.

PART III:
A SUGGESTED
*5-STEP SECURITY EVALUATION
PROCESS*

FIRST, A WORD ABOUT SECURITY POLICIES

A PROCESS, NOT A POLICY

It is better to follow a security evaluation process than it is to adopt a security policy.



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SAMPLE LANGUAGE FROM A POLICY

Don't heighten your own standard of care.

B. Standard of Conduct

All workers, volunteers, paid, full-time and part-time, or (BC) shall comply with this established Safety Policy. Any actions contrary to this Safety Policy shall be dealt with swiftly and shall include disciplinary measures up to and including termination, as well as legal ramifications when applicable.

3. All volunteers/workers are responsible for addressing suspicious behavior or any behavior that may be contrary to this policy and to document and report such occurrences to the appropriate minister.

THE 5 STEPS

Step 1: Assemble a Security Evaluation Team

Step 2: Define the Scope and Purpose of the Evaluation

Step 3: Evaluate Your Security Situation and Formulate an Action Plan

Step 4: Carry Out Your Action Plan

Step 5: Turn Your Completed Action Plan into a Training Curriculum

STEP 1: ASSEMBLE THE TEAM

Assemble a competent team of people to evaluate your church's security situation.

STEP 1: ASSEMBLE THE TEAM

- ❏ Pass a resolution authorizing formation of the Security Evaluation Team and funding the effort.
- ❏ Appoint the most competent person to lead it.
- ❏ Task someone with carefully documenting each step of the process.
- ❏ Seek outside assistance as necessary to fill gaps in expertise.

STEP 1: ASSEMBLE THE TEAM

Remember that if you have a security occurrence, your actions beforehand will be closely scrutinized.

STEP 2: SCOPE AND PURPOSE

Determine at the outset the scope and purpose of the Security Evaluation Team.

STEP 2: SCOPE AND PURPOSE

- ▣ Active shooter scenarios
- ▣ Protection of Student Ministry participants
- ▣ Protection of Children
- ▣ Premises safety
- ▣ Transportation Safety

STEP 3: EVALUATE YOUR SITUATION

This is the point at which you analyze risks and determine what you can do to address those risks.

STEP 3: EVALUATE YOUR SITUATION

Most churches will have to engage outside consultants. Some will cost money, though many won't.

STEP 3: EVALUATE YOUR SITUATION

- ▣ Local law enforcement
- ▣ Local health inspector
- ▣ Local fire marshal
- ▣ Experienced security consultants
- ▣ Safety inspectors
- ▣ Resources from your insurance company

STEP 3: EVALUATE YOUR SITUATION

Don't be penny-wise and dollar-foolish!

STEP 3: EVALUATE YOUR SITUATION

Get reports from these consultants and follow the recommendations as closely as possible. That demonstrates ordinary care.

STEP 3: EVALUATE YOUR SITUATION

Compile all of the recommendations that you receive, whether from a member of the Security Evaluation Team or an outside consultant. This becomes your Action Plan.

STEP 4: WORK YOUR ACTION PLAN

This is the point at which you implement the action plan.

STEP 4: WORK YOUR ACTION PLAN

- 🏛️ Make clear assignments of tasks.
- 🏛️ Set a timeline for completion.
- 🏛️ Meet as often as necessary to gauge progress.
- 🏛️ Document your progress through meeting agendas and reasonably detailed minutes of your meetings.
- 🏛️ When all action items are completed, compile all of this information into a comprehensive Security Evaluation Report.

STEP 5: TURN YOUR ACTION PLAN INTO TRAINING

Use your Security Evaluation Report as a training curriculum for ministry staff and volunteers. Conduct training as often as necessary to maintain currency.

STEP 5: TURN YOUR ACTION PLAN INTO TRAINING

Develop a “Continuous Quality Improvement” mindset. Diligent attention to safety and security issue will make your church a safer place and is the ideal demonstration of Ordinary Care.

Q&A