

2001 ANNUAL CHURCH & THE LAW SEMINAR

HOW TO PROTECT VOLUNTEERS FROM FALSE ACCUSATIONS

A.K.A. A PRIMER FOR THE WRONGFULLY ACCUSED

Tuesday November 6th, 2001

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1. *The liability of an individual must be considered apart from a church's liability. There are many significant differences.*

2. *A false allegation should lead to different procedural responses that commence early.*

3. *The process can be divided into three stages:*
 - *Before a charge or civil claim*
 - *The investigatory phase*
 - *Post charge or civil claim*

*Stages one and two require more attention than is often provided.
Early legal intervention can prevent later problems.*

4. *Investigators may be from Children's Aid Societies, police authorities or commissions. Their roles and routines must comply with legal requirements such as a right to counsel. The most important protection – the right to remain silent – is constitutionally enshrined .*

5. *It is incumbent on all churches to have risk management policies in place. These have been delineated in Church and The Law Updates and discussed in earlier seminars. They will significantly reduce the legal exposure of the organization and any individual who adheres to them.*

6. *A church's response when an allegation is made against an individual presents that person with a legal dilemma. To participate in the church's process may impair the legal process. There is no priest – pertinent privilege to protect information provided by the targeted individual. Sometimes the ecclesiastical process should be put on hold until the legal process is completed.*

7. *Legal advice should be sought at the earliest hint of a problem; not when court proceedings are imminent. Most of the legal die has been cast by that time and little can be done in a proactive fashion.*

8. *Learn as much about the investigators as about the investigation. Accurately record all contacts and conversations as soon as practicable after the events.*

9. *Concurrent criminal and civil proceedings are possible and very perilous. Evidence from one may be utilized in the other. Counsel should be diligent in seeking all possible protections for their clients. For example, section five of the Canadian Evidence Act should be relied upon if the criminal charge is proceeding first.*

10. *The termination of a false accusation will bring some relief to the wrongfully accused however, it is a church's responsibility to restore the person's good name and to return the person to full fellowship.*