



# LIABILITY INSURANCE & *Your Safety Program*

MAXIMUM MINISTRY.  
MINIMUM LIABILITY.



HOW DOES A CHURCH DETERMINE  
WHAT IS FORESEEABLE? THERE ARE A  
FEW FAIRLY OBVIOUS INDICATORS.

One of the most fundamental principles found in the Bible is the sanctity of human life. Each and every one of us is created in the image of God. This is not a new concept to anyone who has a basic familiarity with scripture.


It would not be unreasonable to take the position that a church has a moral obligation to protect its members, whose lives are sacred in the eyes of the Lord. A church does this by teaching its congregation about the dangers of a sinful world that can cause spiritual harm and also by taking proactive measures to guard against whoever might intrude on a church gathering with intent to cause physical harm.

Beyond the moral responsibility, legal obligations must also be considered. Failing to do so in today's litigious society could be considered legally negligent in certain circumstances and could be catastrophic from a human standpoint as well as a financial one. The sad truth is that churches are becoming targets of violence with increasing frequency, and good stewardship demands that a congregation be prepared to the best of its ability.

While considering a safety and security plan, even in the earliest planning stages, legal questions should be addressed. A church's leaders must consider whether they could be found liable in the event of a security breach and a violent incident on their property.

Among other things, courts look closely at whether a threat was "foreseeable." After the Virginia Tech shooting in 2007, where a man killed thirty-two people as well as himself, the families of two of the victims brought a lawsuit against the school (and essentially the state of Virginia, since it is a state institution).





WHILE CONSIDERING A SAFETY AND SECURITY PLAN, EVEN IN THE EARLIEST PLANNING STAGES, LEGAL QUESTIONS SHOULD BE ADDRESSED.

A jury awarded \$4 million to each family, but the school appealed to the state’s Supreme Court, which reversed the ruling and found that the school was not liable because it was not foreseeable for them to have anticipated the shooting.

**“The uncontradicted evidence presented at trial established that it was the unanimous decision of three law enforcement agencies that the mass shooting was simply not foreseeable,”** the attorney general’s office said in a statement. “Only with hindsight can one conclude that [the gunman’s] unprecedented acts were foreseeable.”

How does a church determine what is foreseeable? There are a few fairly obvious indicators. Part of any thorough safety plan involves taking a survey of the surrounding neighborhood for whatever potential problems may be lurking. An analysis with the assistance of local law enforcement will reveal whether the campus is located in a high-crime area. For example, there could have been a string of burglaries or armed intrusions within close proximity to the church. How often they took place and how close they were to the church could be important factors if a similar incident strikes on church property soon afterward. The previous incidents would suggest it was foreseeable that the church and its members would be victims of criminal activity, and the church would likely have a legal obligation to prepare for that possibility while also warning potential victims of the threat.

IT CANNOT BE OVERSTATED THAT HAVING LOCAL LAW ENFORCEMENT INVOLVED IN ALL LEVELS OF A CHURCH'S SAFETY PREPARATION IS VITAL TO ITS SUCCESS.

Even if a shooting is thought to be foreseeable, it has often been determined in court that it is nearly impossible to prevent such a crime. It has been proven over and over again that someone who wants badly enough to inflict harm can overcome metal detectors and armed officers. Virginia Tech had its own police force on campus during the 2007 shooting but was unable to prevent it.

But that does not mean a church should not take whatever measures it can to protect itself. Even if a church does not have a legal obligation to prepare for an armed intruder or other emergency situation, it does not mean that it does not have an ethical obligation to do so. Churches across America host millions of people every week—people from all ages and stages of life—and churchgoers expect that the church house will be a safe house. Church leaders should do everything they can to protect those to whom they minister.

It cannot be overstated that having local law enforcement involved in all levels of a church's safety preparation is vital to its success. Any law enforcement presence will help reduce risk, even something as simple as having a police car sitting outside that is visible to everyone coming and going. If a church creates its own safety team and any of its members carry weapons, they must know what is and is not allowed. A church can actually raise its liability if the safety plan involves untrained and unqualified people.



THE TYPE OF SAFETY TEAM A CHURCH UTILIZES CAN AFFECT ITS LIABILITY.

Once a church undertakes to provide safety/security-related activities, it has a duty to perform those activities in a **“reasonable”** manner. This is known as **“voluntary assumption of duty”** (i.e., when a person or ministry assumes a duty that would otherwise not be a legal responsibility). A person or organization that voluntarily assumes a duty is required to exercise that duty with reasonable care. So, for example, obtaining background checks on a church safety team would likely be a minimum standard of **“reasonableness”** in the church’s providing of safety services. If the church did not conduct background checks on safety team workers and a safety team member with a criminal background misused a firearm on the grounds, a court would likely consider the church’s actions in failing to do a background check **“unreasonable”** and thus hold the church liable for any injuries that resulted.

The type of safety team a church utilizes can affect its liability. Typically, a church will either hire off-duty law enforcement personnel, hire a private security company, or maintain its own team consisting of volunteers from its membership.

Active law enforcement officers will usually be much better trained and experienced in dealing with incidents that might arise. Often an off-duty officer responding to a criminal act is considered to be doing so as a police officer in the eyes of the law, which can help provide an extra layer of protection for a church against potential liability. But that doesn’t necessarily translate into indemnity or additional insurance.



ONCE A CHURCH UNDERTAKES TO PROVIDE SAFETY/SECURITY-RELATED ACTIVITIES, IT HAS A DUTY TO PERFORM THOSE ACTIVITIES IN A “REASONABLE” MANNER.

Using a professional company of security guards provides a definite layer of liability protection for a church. Of course, the church is obligated to perform its due diligence by vetting a company thoroughly with regard to its training, licensing, and procedures. There should be a written agreement in place so that the security company indemnifies, or holds harmless, the church from any injury or damage resulting from the company’s activities on church property. The security company should be fully insured and have the church added as an additional insured on its own insurance policies, with written proof of this coverage provided to the church.

Should a church elect to use its own people for security, the church is responsible for screening, training, and supervising them in all aspects of their duties. If security is a regulated profession in a particular state, churches there have to make certain that their safety teams comply with any applicable licensing and certification requirements. These efforts are compounded if the safety team is to be armed; all must be properly licensed and permitted, carrying only legal and authorized weapons.

Florida’s “stand your ground” law, which is duplicated in many states, received national notoriety when a man was found not guilty of criminal charges after shooting another man near his home, as he was ruled to have acted in self-defense. But his homeowners’ association was exposed to a civil lawsuit because he was acting on its behalf as a security volunteer. Because of this and other cases, it is feared that a church could be sued due to the actions of a safety team member in the performance of his or her duty. A notable exception is the Mississippi Church Protection Act, which protects the congregation of the church and also makes a member of the security team carrying out his or her lawful duties immune from civil liability.



SHOULD A CHURCH ELECT TO USE ITS OWN PEOPLE FOR SECURITY, THE CHURCH IS RESPONSIBLE FOR SCREENING, TRAINING, AND SUPERVISING THEM IN ALL ASPECTS OF THEIR DUTIES.

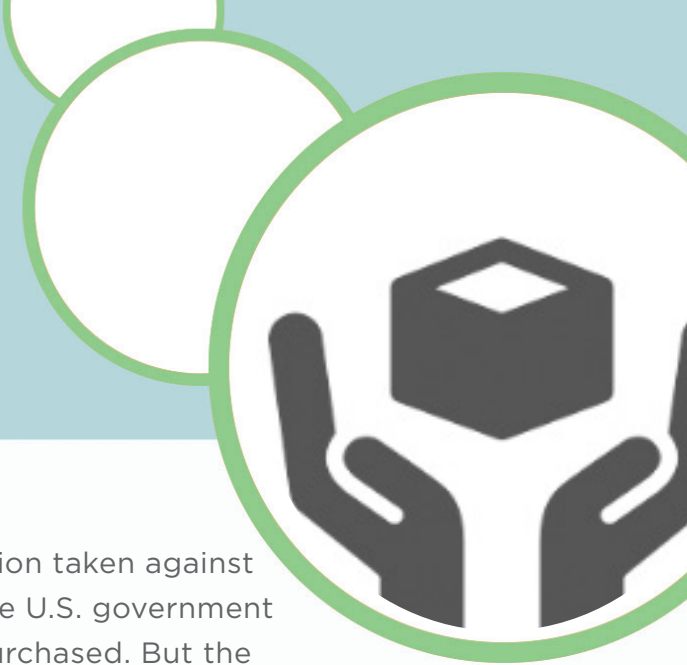
This will protect the entire church, and church leaders across the United States would like to see this legislation passed in every state.

It is not uncommon for family members of crime victims to seek financial relief in civil court, and often they look for any organization that might be the most well-equipped to provide it. After twenty-six people were killed in late 2017 at a church in Sutherland Springs, Texas, legal action was filed against the U.S. Air Force for not bringing more attention to the shooter's history of domestic violence while he was an airman, charging that proper action could have prevented him from being able to purchase the weapons he used at the church. A lawsuit was also filed against a major sporting goods retailer for selling him weapons.

A Google search using the words "church sued shooting" will produce as the second-ranked result a link to a law firm that is actively seeking potential plaintiffs in church shooting incidents for possible representation. With regard to the Sutherland Springs shooting, the firm's website alludes to the aforementioned steps the federal government could have taken to prevent the tragedy. But the page also includes this statement related to the Las Vegas shooting that killed nearly sixty people at an outdoor concert:

**"The premises liability law in Nevada states that it is the responsibility of the property owner to maintain it in a condition that is safe for guests who are on the property. Failure to maintain the property in a safe condition entitles the injured party to file a premises liability claim for negligence against the hotel or casino."**





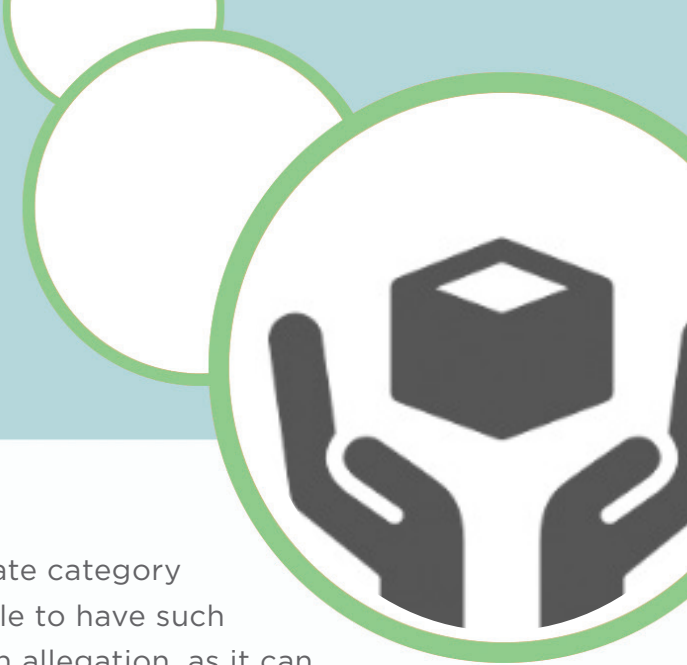
A NUMBER OF COMPANIES OFFER A  
WIDE RANGE OF LIABILITY INSURANCE  
OPTIONS FOR CHURCHES.

None of the search results revealed legal action taken against a church, as most of the lawsuits targeted the U.S. government over availability of the weapons that were purchased. But the Nevada law, and similar statutes in other states, could certainly be brought to the fore in any attempted legal action against a church. And it does not just apply to active-shooter situations; other potential incidents could range from a fight in the parking lot to an assault on a child on church property.

A number of companies offer a wide range of liability insurance options for churches. By definition, liability insurance covers the actions that could leave a church liable for damage to others, whether it be physical injury, property damage, or damage to one's reputation. There are many different categories of liability insurance for a church to consider, covering virtually any possible incident, several of which can be tied directly to a safety program.

General liability is utilized when a church is legally liable for bodily injury or property damage. It can cover damages for the injured party as well as defense costs for litigation. It is typically recommended that a church carry at least \$1 million in general liability coverage. A special medical endorsement can allow a goodwill payment (usually \$5,000 or less) to someone injured on church property regardless of who is at fault.





GENERAL LIABILITY IS UTILIZED WHEN A CHURCH IS LEGALLY LIABLE FOR BODILY INJURY OR PROPERTY DAMAGE.

Sexual misconduct liability is its own separate category for a church's insurance needs. It is advisable to have such coverage for an actual incident as well as an allegation, as it can cost hundreds of thousands of dollars to defend against such a charge in court. A judgment in favor of a victim in a sexual misconduct case can bankrupt a church.

Excess liability coverage can be obtained to act as an umbrella should other coverage limits be reached through previous claims. Other coverages are available depending on what a church needs and the various activities it is involved in. It is crucial that church leaders maintain communication and a good relationship with their insurance agent. Any time a ministry such as a safety team is added, there should be a discussion with the agent regarding how coverage might need to be adjusted.

Proper and thorough preparation to guard against possible safety problems in a church will require cooperation with a number of sources: local law enforcement, the church's insurance provider, and its legal counsel. The importance of receiving professional guidance throughout this process, from the minute a safety program is first suggested until its implementation, cannot be overstated. The ultimate goal of a safety program is one of the most important things it could ever undertake. It is there to protect human life.