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## *Risk Management*

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As surely as the seasons change, we know we're going to encounter risks in life. That's why managing them in an effective and proactive way is so crucial to your role as parish leaders. No one can eliminate risks, but one can minimize them and keep them from spinning out of control.

Unfortunately, risk management forces us to step outside our comfort zone and think like lawyers, accountants, businessmen, insurance agents, contractors, and more. It forces us to wear a variety of hats and look at things differently than we otherwise would.

In discussing risk management, it's helpful to start with a number of guiding principles. First, good fences make for good neighbors. In other words, good rules, policies, and structures make for good employees and volunteers within the parish. When we develop rules that are concise, fair, and clearly understood, we get much better results out of our people. They become, in effect, good neighbors.

Second, an ounce of prevention is worth a pound of cure. We can do lots of little things now to prevent big problems later on. Put another way, we can manage risks before they turn into crises. Proactive steps such as financial controls, monitoring, audits, and inspections are far more preferable than lawsuits, bankruptcies, and devastating newspaper headlines.

Third, controlling risk will not make you friends. No one likes rules and regulations. Your employees and volunteers will look upon them as restrictive and unnecessary. But you still need to have them in place, and they need to be enforced.

Fourth, risk management is a form of stewardship. Because we're put in charge of great assets, we must relentlessly care for them. If we don't, we run the risk of squandering them.

Fifth, we need to be aware of "third parties." These could be outside people or creditors who can initiate lawsuits or visit other problems upon us if we're not vigilant. For example, if someone gets hurt on church property and doesn't have adequate insurance to cover their medical bills, the hospital may come after us. So, we need to think not only about the people directly involved but about others who add secondary layers of risk.

With that as background, I'd like to turn to three broad areas of risk management that are particularly important to all of you as pastors and leaders of your parishes. They are legal, financial, and general risks.

## **Keeping Your Buildings Safe**

Physical plant is the source of countless legal headaches. That's why I strongly recommend an annual inspection of your facilities. Physical plant inspections should include sidewalks, stairs, masonry, roofing, windows, and the like. There are many building inspectors who do consulting on the side who can help you with this. Or you may be able to take advantage of parishioners with special skill sets in the construction field.

It's smart to include funds for annual inspections of your physical plant in your operating budget. Somebody needs to routinely get up on the roof to ensure it's not leaking; somebody needs to inspect the windows to make sure they're working properly; and somebody needs to check the walkways and steps for loose bricks that could cause people to fall and break a limb.

Also be aware of your responsibilities with respect to any vendors you hire. Because of the potential for lawsuits, you need to insist that these vendors not compromise on safety—that they strictly follow OSHA regulations and not leave dangerous electrical cords, for example, strewn across areas where people are working. You should have a current certificate of insurance on file before you hire any vendor. Remember, these certificates are only valid for one year, so requesting certificates annually from vendors is extremely important. It's not a bad idea, either, to have these certificates mailed directly to you from the contractor's insurance company to ensure they're not forged or doctored.

Being smart legally also means documenting all occurrences on church property. Someone might slip and fall, get up and say they're okay, and you think that's the end of the matter. That's a dangerous assumption. The reason is, that individual has up to two years after the incident to initiate a lawsuit, and if they decide to do so and the incident wasn't fully documented, you could find yourself on very shaky legal ground. So, when any type of incident occurs on church property, it's best to document, document, document. That means getting a name and phone number, taking a picture of the site where the incident occurred, and getting the names and phone numbers of any witnesses. Just because someone walks away from a fall doesn't mean you should let your guard down. You need to be proactive at all times.

I'd also advise contacting your insurance company, even if there doesn't appear to be a serious injury. Someone trying to scam the system could suffer a back injury working in their garden, say, and try to pin the blame on a totally unrelated incident, like a fall at your church. Your insurance carrier might want to reach out and contact the party involved to make sure documentation is in place to head off any future wrongful claims.

## **Targeting Lawsuits by Employees**

Let's turn to the employment arena, another fertile field for lawsuits. Those suits could be triggered by alleged age discrimination, gender discrimination, ethnic discrimination, or sexual harassment. Typically, they don't have clear black-and-white lines and are very difficult to manage.

Termination procedures often factor into employment-related lawsuits. So, if you're going to terminate someone's employment, you need to have a well-defined process based on solid documentation. That process needs to clearly spell out why the individual is being terminated, along with source documents to prove it, whether they be complaints or evidence of excessive absenteeism, tardiness, poor performance, and so on. Those documents need to be part of the employee's updated file.

It's always advisable to draft an "exit" letter when you terminate someone. It should state all the relevant facts, including the reason for termination and what documentation is available to substantiate it. Finally, the terminated employee should be required to sign the letter, and both of you should have a copy. This way, if a suit alleging

discrimination on your part is filed six months or a year down the road, you have an accurate record of what the issues were and why you took the steps you did.

It's not a bad idea, by the way, for your parish to have an employee manual that describes in straightforward language the terms of employment: policies, expectations, vacations, sick leave, and so on. What's more, every employee should sign a letter stating they're aware of, and have a copy of, the manual. Such a document can be pivotal in the event a lawsuit is brought against your parish.

Among the key areas your employee manual should cover are policies governing sexual harassment. Clearly, your parish should have in place a zero tolerance policy so that there's no question in anyone's mind what constitutes sexual harassment. It's particularly important that the pastor set the tone here, and if you see or are made aware of any behavior or practice that violates the sexual harassment policy, that you deal with it quickly and forcefully.

## **Mitigating Contractor Risks**

Tax issues surrounding independent contractors is another high-risk area. When you hire someone and don't withhold taxes, you run the risk of improperly classifying them as an independent contractor, instead of as an employee. A true independent contractor is someone who maintains a business with a physical location, phone number, clients, insurance, and so forth; they may or may not be incorporated. If you have any doubts, take a look at the checklist the IRS has prepared to see if they qualify as a business or as an employee.

Be aware that if you hire someone as an independent contractor and the IRS says, "No, they don't meet the criteria," then the parish will be responsible for that worker's full tax burden, including income tax withholding and Social Security taxes at the federal level, and disability and unemployment at the state level. And those taxes are going to end up costing you an additional 30 percent of what you're actually paying that individual.

Worker's compensation is another major concern when hiring a contractor. As a general rule, independent contractors are not covered under the parish's worker's comp policy; only employees are covered. So, let's say you retain an accountant and he falls down the front steps

of the church and is injured. The parish's worker's compensation policy is not engaged; the accountant must use his own insurance. That's why whenever you hire an outside business, you should ask to see their certificate of insurance to make sure they're covered. Be particularly wary of undocumented workers and businesses. While your heart may be in the right place in giving the cleaning lady a job where you pay her without taking out taxes, you could be taking a huge legal risk if she is not independently insured as her own business.

Let me describe for you the magnitude of that risk. The State of New Jersey has a rule known as treble damages for worker's compensation claims. If the cleaning lady you've retained falls down the stairs at your parish, for example, and winds up at the hospital with no insurance, that hospital could end up spending \$50,000 out of its own pocket to treat her. The hospital will be reimbursed from a special state fund created for cases like that, but in order to replenish the fund, the state will bill you, her employer, \$150,000—treble damages, or three times the amount of the claim.

To reiterate, everyone who works at the parish must either be on the payroll system as an employee or have their own business with insurance coverage.

## **Financial Risk: Cash Management**

Let's flip the page and look at our second major area of risk management: financial.

One of the ripest areas for trouble is the handling of cash, especially the proceeds from the Sunday collection. Specifically, you should have multiple teams of counters, and the same team should not count every week. Rotate the teams so that it's easier for you to spot any irregularities from one week to the next. In addition, all parishes should be using sealed and tamperproof bags for depositing collection proceeds, instead of the traditional canvas bags with the big zippers. Banks are on notice that if a seal is broken, they should not accept that deposit.

I also recommend that at least two of those counters sign the actual deposit slip. And here's the reason: if you're making a five-thousand-dollar deposit and have a signed slip to prove it, then this acts as a deterrent to a bookkeeper or anyone else from filling out and bringing to the bank an alternative slip for four thousand dollars and pocketing the difference.

Tight cash management should be employed for not only Sunday collections but also for school cafeteria money, bingo receipts, carnival receipts, and any other church event or activity where money is involved. Carnivals, in particular, can involve the handling of tens of thousands of dollars. So again, it's important to use sealed bags, teams of counters, and signed deposit slips.

You might think of cash as toxic waste. It requires extreme precautions in terms of how it's collected, where it's stored, who has access to it, and how it's transported. You also need to train your personnel in proper handling techniques. And to that end, you should have comprehensive procedures in place. It gets back to what I said above: good fences help to keep everyone honest.

## **Simple Ways to Detect Fraud**

Speaking of procedures, one of the smartest you can adopt as pastor is to personally open every bank statement that comes in. In fact, no bank statement should be opened by anybody other than you. The reason is that you want to be able to take a close look at the bank's record of checks written by the parish to payees or vendors. In one recent scam involving a church, the names of legitimate, recognizable vendors were entered into its computerized financial books, but the actual checks were made out to individuals who fraudulently cashed them and kept the money, which eventually turned into a fraud of over \$800,000. The scam was set up so that anyone looking at only the electronic records would never be able to detect it. The best way for you to combat this type of fraud is to scrutinize the checks and names of payees on the church's bank statement.

This practice should be applied, by the way, to every bank account you maintain, whether it's for the CYO, religious ed, home school, or any other. Experience shows that those small accounts can often be breeding grounds for fraud. Here's an example: you might go through your bank statement and see a check from the home school account written out to Sears for two thousand dollars for a high definition TV. When you question the head of that program, she tells you, yes, she wrote the check out to Sears but then paid it back with a personal check so that no one was cheated. She just wanted to avoid paying the sales tax on the TV. Well, at the very least what she did was defraud the state

as well as misuse church resources. Again, a little vigilance on your part can help uncover these types of schemes.

Another good financial safeguard is to compare actual to budgeted expenditures. In other words, compare what's actually spent by a department against what it was budgeted for at the beginning of the budget cycle. If you have a maintenance supplies budget of five thousand dollars, for example, and halfway through the year your janitor has already spent ten thousand dollars, it's time to ask some hard questions. I'm familiar with a case involving a maintenance man who was taking church supplies and selling them every weekend at a Pennsylvania flea market and pocketing the money. A budget comparison can be helpful in spotting this kind of abuse. What can really help you in this effort is commercially available software that makes the budgeted-to-actual-expenditure comparison quick and simple.

It's not a bad idea, either, to have an accountant on your parish finance council. And be sure to ask that professional to conduct some random audits. Just knowing that someone is looking over their shoulder should help to keep all staff members on their toes.

## **Being Proactive about Unpaid Tuition**

The final area I want to mention under financial risk management is unpaid tuition within Catholic schools. This is becoming an increasingly serious problem as more and more parents are out of work, and their discretionary money continues to shrink. The result is that tuition gets paid late or not at all.

While as Catholics we're sympathetic to the plight of these families, we can't turn our backs on the financial implications it has for our schools. We must address the problem proactively by establishing a policy around tuition delinquency and letting parents know upfront that if they fall *x*-number of months behind on their payments, their children will no longer be able to attend school. Or you might specify that no child is allowed to graduate unless the tuition is paid in full. Your parish may have a "tuition angel" type program in place to help needy families. But it's important to make sure these policies and programs are known in advance by everyone. Once a family has fallen two or three months behind on tuition payments, it becomes a very difficult process to manage once the unpaid tuition becomes substantial.

Another sound piece of advice is this: if a delinquent family decides to make a lump-sum payment, require that it be in cash or a bank check. This way you prevent a situation whereby parents write a large tuition check, allowing their child to graduate, knowing full well that check is going to bounce. They've managed to abuse the system because we weren't more diligent.

## **Managing Contractors**

Beyond legal and financial is an array of other risks you're likely to encounter as pastor. One of the biggest involves building renovation and construction projects. Because these projects can run into millions of dollars, I strongly suggest hiring what's known as a "master of the works." This is an individual with extensive construction experience whose job is to keep an eye on the general contractor and ensure that appropriate materials are being used and that no shortcuts or variations from original specs are occurring. Because the master of the works keeps the contractor on his toes and helps mitigate or prevent potential problems, he's well worth his fee. You might find a retired person or a parishioner with considerable construction knowledge and background who would be delighted to serve in this important risk management role for the church.

When it comes to mitigating risk, sometimes it's better to just tear down a building. The Catholic Church has lots of old structures, and sometimes they're so antiquated and/or asbestos-filled that there's no point in renovating them or even letting them stand. As the parish leader, you may need to make that determination as a way of cutting your risks.

Raffle games are another area that can get you in trouble if you're not alert. Make sure that any organization you team up with to run the contest is following all gaming laws and regulations, particularly as they relate to obtaining proper gambling licenses from the state and distributing raffle books across state lines. We had a case of a pastor running a super-raffle who apparently didn't know any better and mailed books all over the country, in clear violation of U.S. postal laws. Also, make sure that you and any cosponsor are following federal tax laws, which require sending 1099 and W-2G tax forms to any raffle winner of more than six hundred dollars, whether it's in the form of cash or a prize like a TV.



## **Keeping Computers and Information Safe**

Let's talk a little bit about computer risks, particularly in the area of backups. I can personally cite the case of a business manager who was diligent in backing up all her files, only to become the victim of an overnight robbery at the rectory that not only resulted in the loss of her desktop computer but also a box of backups that she kept nearby. The message is clear: all the backups in the world are worthless unless you secure them off-site. Robbery isn't the only risk: if a fire occurs in the rectory and the sprinkler system goes off, your backups could be destroyed. Still another example: we had a bookkeeper who dutifully backed up everything but inadvertently left her portable flash backup drive in the computer at the close of work one day. When she returned the next morning, she discovered that a lightning strike had fried the computer and her backups, including the flash drive. So watch how your staff handles the backup of important information.

Three other computer areas you need to be aware of are firewalls, spam, and spyware. With respect to the first, you need to be sure that your tech people have built a firewall that's capable of preventing intrusions into your network and the loss of propriety and personal information. It's important, too, that firewalls be tested on a regular basis by experienced companies to reduce the chance of a hacker breaking into your system.

Spam is also a serious problem because of what may be attached to it—software that captures and sends out propriety data residing on your network. In a more mundane way, as most of us know, spam can clog your machines and make them work much slower.

By the same token, spyware can pose a severe threat. Once this software secretly penetrates your hard drive, it can collect bits of personal information and monitor your computing function. The way to combat this intrusion is through installing anti-spyware and anti-spam software. Remember that it, too, needs to be regularly tested and updated to remain effective.

Let's conclude our discussion on risk management by turning to disaster plans, which any parish with a school needs to have in place. Lockdown procedures are an important part of that plan. Lockdowns are emergency protocols designed to protect people from a dangerous event originating outside your facility, like an intruder trying to break in, or from the inside, like a chemical spill in the science lab.

Lockdown procedures need to be practiced through periodic drills so that your principal and teachers have a firm grasp of when to shut the school down and when to keep students inside or send them outside the building. Remember to submit your disaster plans to the township and the chief of police.

The drills and precautionary measures you take may seem at times like an inconvenience or annoyance. But like the other forms of risk management we've touched on, they're a vital safeguard that protects you, the parish, and your people.

Risk management really *is* a form of good stewardship and one that you and your staff need to take quite seriously.