

LAW OFFICE OF IVY SCARBOROUGH

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CHURCH, PASTOR AND MINISTRY PROTECTION CHECKLIST

Making certain that each of these steps has been taken will provide greater assurance that your church, pastor or Christian organization is being protected. All references to “church” herein should be construed as also including ministries and Christian organizations.

As a lawyer, I have been advising and representing churches, pastors, ministries, Christian schools and organizations for over 25 years (Please see our website for a more in-depth background www.ivyscarborough.com). I have studied and written in-depth in my book *Into the Night – The Crisis of Western Civilization* (Please see www.IntoTheNightBook.com) on the decay and decline of our nation and the failures of us as Christians and the American church which have contributed to it. This led to the founding of our ministry Decision Point America. As the son of a minister, a man I deeply respected as well as loved, I understand better than most the demands and perils of being a “shepherd of the flock”. Further, I have traveled internationally visiting many foreign countries and entering eight war zones. As a consequence of these experiences I have intensive experience working in and with the media (print, radio, television), having served as a print, radio and television commentator, and a radio program host on geopolitical issues and the Christian faith.

Thus, I have seen this world and the “inside” of the Christian church and been “in the trenches” in a way few have. I recognize that the craving for the quick, simple and easy pervades everything in our culture, including the thinking of many Christians. But I know that no one can truly come to understand anything through that approach, much less develop wisdom for decision-making. I have taken the time and made the effort (7 years of full time study and writing for *Into the Night.*) to truly understand what is taking place in our culture and where it is headed.

Because of these experiences and these commitments, I have a different perspective than most. Mine is a “real-world” perspective borne of sometimes painful experiences that rejects everything which is superficial or out of touch with the deep, often unseen currents in our society and our world. Furthermore, my preaching and writing emphasizes a view of the Christian faith that calls for the absolute surrender of one’s life in complete obedience to God with no exceptions, no rationalizations, and no compromise. Some might ask how is this different from the way other Christians view their Christian faith? The answer

would be found in *Into the Night* which describes what I believe have been the many compromises of the American Christian and the American church in all of its iterations with the culture.

I believe that the Supreme Court's decision in favor of homosexual "marriage" creates not only a challenge but a great opportunity for us Christians – an opportunity to do far better than we have done and to powerfully influence our society for Christ! This viewpoint too is central to all that I write and preach.

Everything said below - and indeed in all of my preaching, speaking and writing - is founded on this study of the greater depth, the broader understanding and this uncompromising commitment to absolute truth and realism and to a dynamic, bold faith that is central to all I think and do.

It is very important to recognize that dealing with the challenges and issues the church, ministries, and even Christian businesses and professions, now face is neither simple nor easy. Much of what is being said and written, often appearing in the internet, from legitimate Christian organizations suggests that taking certain steps, such as making this change or that in church bylaws, or establishing a policy on marriage or the use of churches facilities, etc. covers and protects sufficiently or is adequate in some respect. Even though well-intentioned - and often useful to a point - this can be misleading and potentially hazardous. Furthermore, it does not "throw a wide net", capturing the truly significant for Christians and the church in the trends of our time.

First, as I have said in my writing and as will appear in the video presentation of our Church/Pastor Protection program, Christians and churches must adopt a completely new and more dynamic mindset if they are to achieve the protection they understandably want, and if they hope to have an impact on the culture. This is not as simple as it may sound. Old patterns and ways are difficult to change – especially those that are deeply entrenched and regarded as sound. Following upon that is the crafting and implementing of new church policies and procedures.

Beyond that then, are a series of practical – I sometimes call them tactical – steps which should be done. Some of these are listed below. There will be, for most churches, new costs to assume. But as with any form of security this is to be expected. Some of these costs, such as proper and complete insurance coverage will be an ongoing cost; others will be at the beginning but not continuing.

In sum, preparation for this new era of Christianity in America must be broad, sweeping and in-depth. That is the way we in our Law Office and in our ministry

Decision Point America will approach it. There will be no easy, quick, or facile proposals emanating from this office. Following Christ was always to be a great and self-sacrificing challenge. Now in America, serving Christ demands such – especially if churches and Christians hope to avoid the snares and offenses prepared for them and influence the culture.

1. **Make certain that whatever your church professes as principles, doctrines or beliefs, whether in covenants, constitutions, bylaws, Statements of Doctrine and Belief, resolutions, employment applications, church membership applications, etc. ARE HONORED IN PRACTICE NOT SIMPLY IN PROFESSION.** Any form of inconsistency is not only damaging to the church's witness and credibility but can undermine the church's legal position in the event some issue results in conflict or litigation. Courts often rule against churches in litigation when evidence is presented of this type of inconsistency. If for example a church denies use of its facilities for a homosexual "marriage" but does not maintain similar standards for other forms of behavior it condemns as sinful, a court is likely to view this inconsistency as a ground for denying the church protection from the claims of a lawsuit.
2. **Make certain your church, ministry or other Christian organization is *incorporated*.** This protects pastors, church leadership and members from legal claims and lawsuits to which they might otherwise be vulnerable. **Lawsuits or legal claims against an unincorporated church impact every member of the church regardless whether they had anything to do with the circumstances that triggered the lawsuit. This means that any judgment in a lawsuit against a church can be satisfied by taking the money and assets of any and all church members.**

This is not possible when a church is incorporated; only the incorporated church's assets can be taken to satisfy a judgment. **Make certain, therefore, not only that the church is incorporated, but also that its active status has not been lost and that the incorporation charter is in good order and all of the approximately 10-14 steps (they vary from church to church) which should be done to make the incorporation complete and secure have been done.**

[Our law office incorporates churches, ministries, schools and other nonprofit Christian organizations. We have incorporated well over 300 in TN and other states as well. (Please see our website www.ivyscarborough.com for the procedures and a list of our church and ministry clients.)]

3. Make certain you **have** abided by, and **are** abiding by, **all legal requirements for a nonprofit corporation.**
4. **Make certain you have sufficient liability insurance** both as to a) areas of coverage, and b) dollar amounts that is sufficient for the protection of the church, the pastor and the board. Just one example - every church should be covered for any form of sexual behavior that could lead to some form of legal action.
5. **Do background checks on every individual being considered for an important role within the church** (e.g., pastor, associate pastors, youth minister, treasurer, secretary, etc.) These should only be done by a highly trained professional who knows how to do them properly and who has the access to the secure data bases needed to be comprehensive.

[In the Resource Packet of our Church Protection Program you will find a RESOURCES page which includes the name and contact information for such an investigator. The Church Protection Program will soon be available for purchase through our website www.ivyscarborough.com .]

6. **Avoid church or religious jargon or “Christianese” in all communications** so that misunderstandings may be avoided and the appearance of some form of religious “elitism” will not be given to the secular world. Such language creates barriers. This is important both to witnessing and evangelism and in terms of avoiding potential misunderstandings that could have legal ramifications.
7. **When sensitive or controversial issues come up within the church always consider the possibility that they will be “heard” outside the church and particularly with the media.** When this occurs
 - a. do NOT shun the media or appear to be evading a forthright response to reasonable questions
 - b. do NOT interact with the media without having thought through what is likely to be asked of you and what you will say.

The latter point is especially critical since whatever you say or present in writing will go into the public arena and will be there permanently. If the topic has potential legal ramifications then what you say or present to the media may have an impact in that respect as well. **It is far better to consult with someone well versed in dealing with the media before and during your interactions with them.**

[We offer services not only in legal counsel but also in dealing with the media. For churches the two forms of counsel are often needed at the same time. We have extensive experience in dealing with the media, and we

provide this consultancy service through our law office. Guidance on dealing with the media is also provided in our Church Protection Program.]

8. Establish strong alliances with like-minded churches or organizations across denominational lines.

The threats to pastors' leadership, to churches and all forms of Christian entities today, dictate something that should be happening anyway: **Christians coming together with A mutual commitment to aid, protect and serve one another.** Consciously planning and undertaking such alliances can lead to a sense of mutual support that can be critical in the event a lawsuit or public relations issue or any form of unusual stress on pastors, churches and Christian organizations. Scripture tells us of innumerable instances in which people of faith came to the aid of one another. One of the most famous is Aaron and Hur holding up the arms of Moses, but the need for unity is a theme of the New Testament. **Alliances should be the norm for Christians in 21st Century America.**

[If you would like guidance on the formation of alliances, feel free to contact our Law Office.]