

Conquering the Fear of Scrutiny



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I Would Prefer That You Not Look

To err is human. And to fear scrutiny of our shortcomings is human nature. Although the popularity of reality TV shows suggests otherwise, most people value their privacy and would prefer to keep television cameras out of their homes. It should not be surprising therefore that nonprofit leaders, all of us human, have a natural aversion to the risk of media scrutiny or its more frightening cousin, legal scrutiny. Yet leaders of nonprofits must recognize the public's growing appetite for greater transparency and accountability. We must prepare our agencies for the possibility of scrutiny by acting as if the operations of our organizations and the documents that tell our story are within full view. We should take some comfort that, in the process of doing so, we will better accomplish our missions and protect our clients.

This is Your Wake-Up Call

When we read a media report of an unfavorable verdict against another agency, it should be a wake-call and be viewed as a potential object lesson. This week I received an inquiry from a nonprofit leader who, after learning of the verdict against Boy Scouts of America in a Multnomah County, OR jury trial asked, "What additional steps can we take to reduce the chance of abuse occurring in our agency?" This enlightened, forward-thinking response is admirable but sadly unusual. Media reports of jury verdicts against prominent organizations, especially those such as BSA that are rightfully regarded as leaders in youth protection, may in some cases have a chilling effect. This chilling effect causes some nonprofit leaders to turn away from, rather than pursue with vigor, important research into the events leading to misconduct, the effectiveness of ongoing risk management measures and the opportunity to do more.

Jury verdicts in cases involving the mistreatment and abuse of vulnerable clients serve two primary purposes: (1) they ensure the availability of funds to support the life-long treatment that victims of abuse require, and (2) they arguably provide an incentive for the defending agency and similarly situated organizations to examine the adequacy of their efforts to prevent harm and act accordingly.

Unfortunately, purpose #2 is stifled when the scrutiny of a particular case focuses on the failure of any one youth protection strategy. The reality is that *there is no single method or combination of methods that offer a failsafe way to prevent participants in a nonprofit organization from facing any form of harm*. Every nonprofit should consider taking practical steps to provide appropriate facilities, risk-aware programs and suitable personnel. These steps should be supported by policies that recognize the potential for harm—including accidents, errors in judgment, and the possible inadvertent hiring of someone whose background renders them

unsuitable for paid or volunteer service in an organization serving vulnerable clients.

Managing the risk of abuse continues with unwavering vigilance and careful supervision of facilities, programs, people and policies. Vigilance and supervision are required to detect problems that can arise despite the organization's best efforts to use screening and other tools to reduce the risk of harm. But let's face it, the full range of youth protection measures that warrant consideration by nonprofits today were not well known or understood 15 or more years ago. And each verdict against an agency serving vulnerable clients is both a wake-up call and a potential learning opportunity that no organization can afford to waste.

There is compelling evidence that abuse that occurs within the context of a nonprofit organization represents only a small percentage of reported abuse cases. Children are at greatest risk in their own homes and the vast majority of victims suffer at the hands of family members or others in the household. Nonetheless, the public rightly expects that every youth-serving organization will establish adequate procedures to protect the children who participate in the organization's programs. The public also expects that organizations will respond, upon receiving a complaint of inappropriate conduct or alleged abuse, in a way that demonstrates sincere compassion for any presumed victims of abuse.

It is distressing that instead of making the commitment to explore new strategies for minimizing the risk of harm and working to fix weaknesses in existing policies and practices, invariably some leaders will react in a way that demonstrates their fear of scrutiny and focus on protecting the organization from legal claims at the expense of protecting vulnerable service recipients. The underlying fear that should motivate the pursuit of "best practices" in youth protection is the fear that a child who has enrolled in your organization's programs will suffer harm at the hands of another participant or an adult supervisor of those programs, and should not be based upon the fear of facing a plaintiff's lawyer or jury representing an alleged victim. When leaders are motivated by the fear of scrutiny the very human "flight" instinct is likely to overpower the instinct to "fight" the risk of harm through thoughtful and appropriately rigorous youth protection programs. When leaders "flee" the opportunity to re-examine, reflect on and reinvestigate youth protection efforts they do their organizations and their clients a tremendous disservice.

Another unintended consequence of the instinct to protect assets at the expense of protecting children or vulnerable adult clients is the reluctance of some organizations to share openly information about their abuse prevention efforts—including successes and failures—with other agencies. The successes and failures of leading organizations would enable all of us to provide a safer environment for vulnerable clients. One of the goals of the Nonprofit Risk Management Center is to convene a national conference of youth-serving organizations where strategies can be discussed candidly and the movement to improve the lives of children strengthened in the process.

Be Fearless: You Don't Have All of the Answers

Nonprofits operate in an age of unprecedented scrutiny. The risk of media scrutiny and litigation are ever-present. Rather than shrink from or fear scrutiny, we must be fearless in describing the steps we are taking to provide appropriate programs and supervision of the clients we exist to serve—while admitting that we do not have all of the answers nor can we provide a risk-free environment.

Earlier this week Patrick Boyle, the editor of *Youth Today* (www.youthtoday.org), asked me about the tension between doing as much as practically possible to protect clientele from harm versus the obligation to protect the assets of the organization from exposure to liability. I told him: "I'd rather be on the witness stand and say 'we're doing our best to provide a safer environment', than say 'we didn't do anything out of fear that if we made a mistake or our efforts failed to prevent abuse, we could be held negligent'." This is not only my personal sense of striking the right balance, it is the essence of the advice I give nonprofit leaders who ask, "What more can we do?" Doing "your best" means persevering in your efforts to structure a youth protection program that suits the culture, circumstances, and experience of your nonprofit. And it also means accepting that your efforts must be sustained, and evolve with the availability of new information and experience. If you apply this approach and continuously subject your efforts to rigorous and ongoing internal scrutiny you will have no reason to fear what others might find.

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