



How can churches be prepared for gun violence?

While a person is not responsible for the criminal acts of another, custom creates duties to prepare for the bad acts of others.

Not too long ago the idea of gun violence in churches would have seemed peculiar — maybe a scene in a western movie, but certainly not a story line like this in suburban America: *Witnesses Recall Church Shooting Horror*. But the headlines are multiplying. Virtually every part of the country, denomination or sect, and size church has been impacted. In most incidents, more than one person was murdered. What should churches and denominations be learning from these tragedies and how is the law evolving as a result?

You probably know about some of the incidents. Among evangelical churches, New Life Church in Colorado Springs, CO, a congregation of 10,000, received the most attention in 2007, when 30 minutes after a service a man in a black trench coat began firing indiscriminately in the church parking lot, then entered the main foyer and began firing into the departing crowd with a high powered rifle.

Earlier in the day he killed two and wounded two persons at the Youth With a Mission training center in Arvada, which had expelled him, and he killed two more and wounded three at New Life Church before a volunteer security guard shot him multiple times. The man then shot himself. The killer had expressed hatred for Christianity on Web sites and left a note of disaffection toward God and church.

Sermon upsets shooter

Some of the lesser known tragedies are equally compelling. Here are just a few: In Brookfield, Milwaukee, WI, a regular attender of Living Church of God, a congregation of 60 meeting at the Sheraton Hotel conference room, left upset about a sermon. He had a history of depression and was about to lose his job. The gunman returned a couple weeks later about 20 minutes into a service with a 9 mm handgun and unloaded 22 bullets, killing seven (including the pastor and his son) and wounding four. Then he shot himself.

In Clifton, NJ, the assailant entered the sanctuary of St. Thomas Syrian Orthodox Knanaya Church, shot two, including his estranged wife, and criti-

cally wounded another. When arrested in Georgia, the gunman said he was unhappy that members were allegedly blocking his efforts to contact his wife because of their allegedly abusive relationship. He told investigators that he would have killed everyone in the church if only he had a machine gun.

In Knoxville, TN, a man pulled a 12-gauge shotgun out of a guitar case and opened fire into the sanctuary of the Tennessee Valley Unitarian Universalist Church during a children's musical performance, killing two and wounding seven. In his truck was a note expressing frustration that he could not find employment and hatred for the liberal movement, which he said was ruining America. Police found 76 shotgun shells in the church, including three spent casings.

Tragedies such as these mean that churches of all stripes must now seriously consider not only the best way to protect their members both on and off campus at church-sponsored or arranged activities, but also how the law may impose liability on them if they do not. The general rule is that a person is not responsible for the criminal acts of another; however, legal duties evolve by "custom and practice" or "voluntary assumption" to create duties to prepare for the bad acts of others. Like it or not, gun violence in churches is changing the legal culture.

Text and voice warnings

Higher education provides an example of the evolution of legal norms due to gun violence. Most universities have now implemented low tech and high tech warning systems to get crime alerts out within minutes of an assault through text and voice messaging, as a result of the recommendations of a blue ribbon task force analyzing the Virginia Tech University shootings.

Universities that do not adopt these policies and other campus security measures that at one time were considered unusual will have to demonstrate that they have acted with reasonable care under the circumstances. As social norms change to make text messaging standard like locks on dormitory >>

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doors, universities that fail to keep up are likely to be found negligent.

The most common lawsuits for incidents of violence or crime will be tort claims for personal injury. The three elements to every tort claim are (1) a duty of care, (2) a breach of that duty, and (3) harm proximately caused by the breach of duty. The duty of care can be based on custom

and practice, actions which indicate a voluntary assumption of a duty, or a special relationship. To show causation, a plaintiff generally has to show a greater likelihood or probability that the harm complained of was due to causes for which the defendant was responsible than other causes.

Specific foreseeable harms are the most dangerous, as opposed to a general aware-

ness of the possibility of harm to church members. When a church has specific information about a person with a propensity to engage in violence, a court is more likely to find that the church had a duty to protect members from that harm than a generalized potential harm. Persons with a special relationship to the church beyond membership as a result of, for example, counseling may also be owed duties to protect them against violence (even self-inflicted) not owed to others. The likelihood that a church will be able to avoid this liability on the basis of the First Amendment is low.

For all these reasons, churches would be wise to begin taking steps to anticipate violence that could harm participants in all types of activities both on and off campus, but to do so without voluntarily assuming any duties. Every church needs a general security plan identifying and assigning the steps to take in the event of an emergency. The plan should include a training component and indicate whom to notify about specific foreseeable harms.

Things to consider

A non-exhaustive list of other items some churches will also want to consider include security patrols and protocols, surveillance measures, building design modifications, call boxes, and emergency notification systems. For at-risk persons, churches will also want to consider tailored monitoring plans.

Last, churches that provide specialized services to vulnerable populations (such as counseling or childcare ministries) or which operate ministries in high-risk areas should also integrate security plans specific to these activities.

Doing ministry will always involve risks, but wise churches will take steps in advance to minimize them to avoid more costly liability that juries may otherwise impose and to minimize harm to their participants. CE

Nathan A. Adams IV is senior counsel with Holland & Knight LLP in its national Religious Institutions practice in Tallahassee, FL. [hklaw.com]

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