

Questions re: Sanctuary

QUESTION: **How many people are currently residing in a sanctuary church?**

ANSWER): "Of the roughly 800 U.S. sanctuary congregations, including churches, synagogues, and mosques, only about a dozen are currently home to someone in need of physical sanctuary. Dhanya Addanki, "Safe House," *Sojourners* November 2017
"Under the Obama administration, more than 3 million undocumented immigrants were forcibly removed -- more than under any other president in U.S. history; the administration claimed that those prioritized for deportation were mainly undocumented immigrants who had been convicted of felonies. But under the Trump administration, things changed: All undocumented immigrants . . . are now considered targets for detention and deportation. In fact, from Jan. 22 to April 29, 2017, there were 10,800 arrests of undocumented immigrants *without* criminal records, compared to 4,200 such arrests during the same period in 2016 -- an increase of more than 150 percent." Dhanya Addanki, "Safe House," *Sojourners* November 2017

QUESTION: **Would it be possible for Covenant to become a Sanctuary Church on a "1 year trial basis," so that our congregation could: experience, learn and better understand what is involved and what it means to be a Sanctuary Church in 2018?**

ANSWER: If Covenant were approved to become a Sanctuary Church, there would always be the option to stop if that is deemed best by the session. It might be difficult to put a time limit on our being a Sanctuary Church since nobody can say exactly when or if our building would be used as a Sanctuary. Out of hundreds of New Sanctuary Movement congregations, only a handful actually have someone living in their building.

Another difficult to predict time element is how long an individual would stay in Sanctuary. Sanctuary gives an individual time to pursue legal options to determine if they can remain in the country legally. Some people are granted stays (i.e. a postponement of their deportation as the legal process proceeds) within weeks of entering Sanctuary. There are rare cases when an individual has been in sanctuary over a year. Whatever the court ultimately decides for an individual in Sanctuary would be respected by Covenant Church.

QUESTION: **What are the requirements to be considered eligible to enter Sanctuary?**

ANSWER: To be considered for sanctuary in Dane County, an individual would be referred by Voces de la Frontera and a legal team, and would fulfill these criteria:

- has a strong case to defer or stop deportation (determined by legal counsel. Examples of such may include such as dreamers, parents of US citizens with extreme disability, strong ties to the US community and a history of positive contributions to the community)
- has no significant criminal record unrelated to immigration violations (CONTD.)

- has a compelling story that puts a human face on the immigration dilemma
- has a willingness to be identified publicly
- has the ability to withstand the rigors and restrictions of sanctuary

Covenant would have discretion as to whether or not to accept any individual who is recommended for sanctuary.

QUESTION: What has someone done in order to be facing deportation?

ANSWER: As to how an individual could become an undocumented immigrant, there are unlimited scenarios. For example, people may come to the United States seeking a safer life from a country struggling with civil war or violence from gangs, but not be given asylum status. People may come seeking asylum due to unsafe living conditions caused by a natural disaster, such as Mexicans following the 2017 earthquake in Mexico City. Some may come seeking relief from economic hardships. Some come legally with work visas and then stay beyond their visa. Some are brought in as children by older family members who wish for a better and safer life.

Some undocumented immigrants have gone through the legal system and been confused. Others have not tried or known what legal avenues to pursue. Many undocumented immigrants may have access to legal status in the United States, but would not know due to the complexities of immigration law.

The offenses that could put someone in deportation proceedings can vary wildly. Including something as simple as failure to signal, or a broken tail light, and something as serious as a felony.

QUESTION: Would we need to have even more stringent standards than the Dane Sanctuary Coalition?

ANSWER: Undocumented people accepted into sanctuary are subject to stringent guidelines set by the Dane Sanctuary Coalition (DSC). However, each sanctuary church is advised to adapt the guidelines to fit their own situations and beliefs. See above for information on the DSC guidelines for Sanctuary eligibility. Covenant would set its own standards/requirements as a host site while using DSC's guidelines after inquiring what further restrictions other churches in the area have implemented. Our guidelines would include everything from defining public and private spaces, as well as, grounds for termination of sanctuary. The Sanctuary team is working to determine what, if any additional criteria for entry into Sanctuary is needed for Covenant.

QUESTION: Is "Sanctuary Church" a term that is "divisive" or "flawed" to use?

ANSWER: For some people, the term "sanctuary" or "sanctuary church" is associated with the hiding of undocumented immigrants in the 1980s, which is against the law, thus bringing up negative perceptions. For others, the term is associated with "sanctuary cities", in which local law enforcement limits cooperation with federal immigration enforcement. However, the term "sanctuary" has Biblical (CONTD.)

significance and means to be a place of refuge for persons accused of a crime they may not have committed; a practice that allows those wrongfully accused to escape swift and harsh retribution until the matter can be resolved.

Therefore, there is currently a “New Sanctuary Movement” in the United States. Undocumented immigrants are not hidden / not “harbored.” If an individual lives in a sanctuary church, their presence is made know to Immigration and Customs Enforcement (ICE), along with the media (as a way to bring increased awareness of the issues facing undocumented immigrants).

Being a sanctuary church would merely be a part of, and not the entirety of, Covenant’s mission.

QUESTION: Is it still the case that no house of worship has been criminally charged for housing an undocumented person since the prosecutions in the 1980's?

ANSWER: Per Bonnie Margulis, President of WI Faith Voices for Justice (Dane Sanctuary Coalition is part of this):

A congregation as an entity I do not think could be charged with anything. The pastor, the board or session members, anyone actively engaged in sanctuary work, is what the concern is. The only people, as far as I know, who have ever been arrested were Rev. Fife and a few of his congregants at Southside Presbyterian in Tucson in the 80’s, but my understanding is that they weren’t arrested for providing sanctuary, but for transporting illegal immigrants across the border into the United States. Even so, none of them went to jail, but received probation or community service, as far as I can remember.

The legal opinion we have received from the ACLU and other lawyers we have heard from is that, as long as we are public and visible in what we are doing, we would not be ‘harboring’ someone. ‘Harboring’, according to the 7th circuit court, means keeping someone in secret, hiding them from law enforcement, helping them to evade legal proceedings. What the Dane Sanctuary Coalition would do, on the other hand, would be public. Would we have someone in sanctuary, we would hold a press conference and notify law enforcement, including ICE. The person in sanctuary would still go through the legal process, with the support and accompaniment of the community.

QUESTION: If a house of worship or individuals were prosecuted and faced substantial fees for its legal defense, do you think money could become available to help it through crowd-funding or other voluntary contributions?

ANSWER: Per Bonnie Margulis, President of WI Faith Voices for Justice (Dane Sanctuary Coalition is part of this):

The only reason someone might be subject to arrest, as far as we can say right now, is if ICE comes to the house of worship with a legal warrant and someone tries to (CONTD.)

interfere with their legal right to enter and search (depending on what the warrant says). That is not to say that ICE might not decide someone is interfering and arrest them. We can't predict the future, but as of now, it seems like the risk is not great. We do not now have a plan for legal fees, but Dane Sanctuary Coalition is talking about potential costs overall and how to address them, and this is certainly in the mix.

QUESTION: What steps are being taken to reach out to other congregations that have this issue under consideration but that have not yet taken a vote regarding whether to become a sanctuary church?

ANSWER: Covenant's Sanctuary exploration team has not systematically reached out to congregations that may be considering sanctuary as an option. More recently, one of Covenant's sanctuary team members has been in contact with a member of Christ Presbyterian Church's Sanctuary exploration team to share information about process, policies, steps taken to date, etc...

Covenant's team has also contacted the churches in Madison that have become sanctuary congregations after prayerful and thoughtful consideration. This includes 6 congregations that are sharing the commitment as "buddy churches" to provide sanctuary in 3 locations: First Unitarian Society & Congregation Shaarei Shamayim; Community of Hope UCC & Advent Lutheran (aka Madison Christian Community); Orchard Ridge United Church of Church & Madison Mennonite. Covenant's team prepared a list of questions to ask them including what steps they followed; their decision criteria; support and resistance encountered; what legal resources they used; and, as available, the guidelines that they prepared tailored to their congregations (beyond guidelines provided by the Dane Sanctuary Coalition).

Finally, Covenant's team also communicated with a church that became a "supporting Congregation" (First Baptist Church) but not a sanctuary congregation. A supporting congregation is one that provides resources to the sanctuary effort (Money, food, transportation, staffing, etc.) but would not be housing an undocumented immigrant.

QUESTION: Is this an issue for the neighborhood or church realtors?

ANSWER: Covenant being a sanctuary church would be very similar to how we have hosted the Road Home families in the past.

The neighbors could possibly notice the media periodically coming to Covenant (since the process would be made public to the media and to Immigration and Customs Enforcement).

Covenant hosting folks who have been vetted by Centro Hispano, wouldn't have an impact on our neighbors or the neighborhood.

QUESTION: What required changes will need to be made to the church, and what are the approximate costs to make these changes?

ANSWER: Relatively small (less than \$1,000). If Covenant becomes a Sanctuary Church, there is a potential room that could be used for an approved person (a room used by neither Sunday School nor The Road Home, and that is close to the shower room). If that room were approved for use, costs to prepare the room would be relatively small; we would need to install curtains in the room and a lock for the door. Minimal furnishings for the room would be acquired via donations.

The anticipated cost for utilities is low. Food for an individual in sanctuary is typically provided by volunteers, so would not be a direct cost to our church, although our team is consulting with Dane Sanctuary Coalition (DSC) to confirm this. DSC would also help find volunteers as needed, such as for translation services, or help raise funds to help cover other potential costs, such as doing background checks on volunteers within our church.

Another factor Covenant's sanctuary exploration team has explored is the possible impact to rental income. If we are approved to be a sanctuary church, we would notify all groups which rent space in our building. If an organization felt their ideology conflicted with sanctuary, it is possible they would stop renting from us. We do not anticipate this coming to pass, and if it did, any impact on our budget would be small.

QUESTION: Would Covenant risk its tax exempt status by giving sanctuary to an undocumented immigrant?

ANSWER: The question of whether a church would lose its tax exempt status by giving sanctuary to an undocumented immigrant has not been answered by the courts in judicial decisions or by the IRS in regulations or published guidance interpreting the tax code. The question has been addressed, however, by a number of lawyers specializing in the law pertaining to tax exempt organizations, who have analyzed judicial decisions and IRS published guidance that discuss the circumstances under which a charitable or religious organization may lose its tax exempt status on account of activity that is illegal or contrary to public policy. Based on the opinions expressed by these legal experts (published on the internet or given by local attorneys), Covenant would face minimal risk of losing its tax exempt status if it were to offer sanctuary to an undocumented immigrant subject to the conditions proposed by the sanctuary exploration team.

QUESTION: Would Covenant would be violating the law if we were to offer sanctuary to an undocumented immigrant?

ANSWER: Sanctuary, a kind of public witness, is inherently different than "harboring a fugitive," an act that current case law requires an intent to conceal the individual. There is a degree of ambiguity, though.

(CONTD.)

There were arrests in the 1980's sanctuary movement, but the eight charges that the members of the movement were found guilty of were smuggling charges, and Covenant would not be engaging in smuggling of any kind. The act of housing an undocumented immigrant has never resulted in charges.

Covenant member and attorney Eric Wendorff looked into US v. Costello, the 7th circuit case that Immigration Attorney Matthew Gillhouse cited in his presentation to Covenant as grounds for his opinion that we wouldn't be violating the law

Summary of 7th Circuit case: "At a minimum, a good faith argument can be made that Covenant would not be "harboring" an illegal alien by providing sanctuary in the manner we have discussed, i.e., openly, without resistance to a lawful federal court warrant, and without aiding and abetting the escape of an illegal alien after a sanctuary stay at Covenant. More strongly, I think it is unlikely that Covenant or its officers would be convicted of harboring an illegal alien under the law stated in Costello. There is legal risk, which I think we can minimize by adopting a clear statement of purpose and clear policies regarding our response learning that a person in sanctuary had received a final, unappealable deportation order and our response to a federal court warrant for the person's arrest."

The case discusses what the word "harboring" means: Secure haven for undocumented immigrants in which the authorities are unlikely to seek them. A church could be harboring if doesn't cooperate with ICE if they came with a warrant

This interpretation could change based should the judges choose to interpret the law differently. Should that happen, it would be entirely appropriate for Session to review their decision on offering Sanctuary.

QUESTION: If a federal government employee, or a contractor to the federal government, is a member of Covenant, could they be at risk if Covenant becomes a Sanctuary Church?

ANSWER FROM ATTORNEY MATT GILLHOUSE: A federal government employee would not be at risk by merely being a member of a sanctuary church. The question is a little more fine-tuned if they are required by their position to refrain from engaging in political activity (like members of the federal judiciary), but even then, those individuals are allowed to register for a political party and vote, so they would also be allowed to be a member of other organizations that happen to participate in activities that might be considered political, as long as they are not themselves actively voicing their own political opinion by so doing. Mere membership in an organization that as a group decided to take a stand on something does not equate with the person him or herself making a political stance. I think the person would still be safe. If they are prohibited to engage in political activities and they are voting in the board or voicing political opinions as part of the process, that becomes trickier. It is best recommended that a person with such a restriction refrain from voting on the matter or taking a public position on it. Even then, private and anonymous voting would probably be fine. If the person has no political activities restriction, there's no restriction I could imagine getting in the way.