

# CHURCH DISCIPLINARY COUNCILS

*councils. Why? What factors determine which should be used?*

## Scripture References:

- Doctrine & Covenants 107:69-72
- Doctrine & Covenants 58:17-18
- Mosiah 26:29-30, 32, 36
- 2 Nephi 2:6-7
- Alma 42:24
- Doctrine & Covenants 134:10
- Doctrine & Covenants 102

— *How can a decision to excommunicate benefit both the transgressor and the Church?*

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## Reading Excerpts:

"Church Discipline," General Handbook of Instructions, p. 91, 1998:

"The purposes of Church discipline are (1) to save the souls of transgressors, (2) to protect the innocent, and (3) to safeguard the purity, integrity, and good name of the Church. These purposes are accomplished through private counsel and caution, informal probation, formal probation, disfellowshipment, and excommunication."

## Selected Reading Material:

Backman, James H., "ACourts, Ecclesiastical, Nineteenth-Century," *Encyclopedia of Mormonism*, pp. 329-30, 1992.

Seek to Obtain My Word - Melchizedek Priesthood Personal Study Guide 1989, p. 29:

"The Church judicial system is governed by the principles of the atonement of Jesus Christ. According to the law of justice, there must be a payment made for any transgression of divine laws; however, the law of mercy allows Christ to pay this penalty on behalf of the transgressor, so long as the transgressor fully repents. Because Christ has already paid for our sins through his atonement, mercy and forgiveness are fully available to the repentant."

M. Russell Ballard, "AA Chance to Start Over: Church Disciplinary Councils and the Restoration of Blessings," *The Ensign*, September 1990.

Hafen, Bruce C., "ADisciplinary Procedures," *Encyclopedia of Mormonism*, pp. 385-87, 1992.

Oaks, Dallin H., "The Lord's Way, AChurch Discipline," Chapter 8, 1991.

Simpson, Robert L., "ACourts of Love," *The Ensign*, July 1972.

## **Notes and Commentary:**

M. Russell Ballard, "AA Chance to Start Over," The Ensign, September 1990:

"The First Presidency has instructed that disciplinary councils must be held in cases of murder, incest, or apostasy. A disciplinary council must also be held when a prominent Church leader commits a serious transgression, when the transgressor is a predator who may be a threat to other persons, when the person shows a pattern of repeated serious transgressions, when a serious transgression is widely known, and when the transgressor is guilty of serious deceptive practices and false representations or other terms of fraud or dishonesty in business transactions."

## Section A: LDS Church Disciplinary Councils

### 1. The Purposes of Disciplinary Councils

— *When are disciplinary councils required?*

— *The Church employs informal discipline (private counseling) as well as more formal disciplinary*

Disciplinary councils may also be convened to consider a member's standing in the Church following serious transgression such as abortion, transsexual operation, attempted murder, rape, forcible sexual abuse, intentionally inflicting serious physical injuries on others, adultery, fornication, homosexual relations, child abuse (sexual or physical), spouse abuse, deliberate abandonment of family responsibilities, robbery, burglary, embezzlement, theft, sale of illegal drugs, fraud, perjury, or false swearing."

John Taylor, Manti Utah, 19 May 1883, Journal of Discourses Vol. 24, p. 171:

"What are bishops' courts [now "disciplinary councils"] and high councils for? That when men transgress the laws of God, they shall be tried according to the laws of the Church, and if found guilty, and are worthy of such action, they shall be cast out; that the pure and the righteous may be sustained, and the wicked and corrupt, the ungodly and impure, be dealt with according to the laws of God. This is necessary in order to maintain purity throughout the Church, and to cast off iniquity therefrom."

Teachings of Gordon B. Hinckley, pp. 95-6, 1997:

"Every individual in the Church is free to think as he pleases, but when an individual speaks openly and actively and takes measures to enlist others in opposition to the Church and its programs and doctrines, then we feel there is cause for action . . . We have to discipline people sometimes . . . I hope we won't cut them off from the Church to a point where they feel there is no way back. This is a work of redemption. This is a work of salvation. This is a work of reaching out to lift people, to help them find their way through the thicket of life."

Joseph F. Smith, The Prophets Have Spoken, Vol. II, p. 125, 1905:

"From time to time there are characters who become a law unto themselves and they follow the bent of their own 'sweet will' until they get themselves into a condition mentally and spiritually that they become a menace to the body ecclesiastic. In other words, they become like a boil, tumor or carbuncle on the body [of the Church], and you have to call in the surgeon to apply the knife to cut them out, that the body may be cleansed from

them; and this has been the case from the beginning."

## 2. A Bishop's Authority to Judge

— *Bishops are called and ordained to be Ajudges in Israel." In what ways is a bishop's role similar to that of a judge in the civil judicial system, and in what ways is it different?*

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### Reading Excerpts:

Doctrine & Covenants 107:69-72:

"A Bishop must be chosen from the High Priesthood . . . [and] set apart unto the ministering of temporal things, having a knowledge of them by the Spirit of truth . . . to be a judge in Israel, to do the business of the church, to sit in judgment upon transgressors upon testimony as it shall be laid before him according to the laws, by the assistance of his counselors, whom he has chosen or will choose among the elders of the church."

Doctrine & Covenants 58:17-18:

"And whoso standeth in this mission is appointed to be a judge in Israel . . . And to judge his people by the testimony of the just, and by the assistance of his counselors, according to the laws of the kingdom which are given by the prophets of God."

The Teachings of Spencer W. Kimball, p. 474, 1982:

"The bishop's calling is one of spiritual power. A bishop is ordained with an everlasting endowment, and it is lost only through unworthiness which brings Church discipline, even to excommunication. He is set apart as bishop of a ward to provide it leadership. He becomes the judge, spiritual advisor, inspirer, counselor, discipliner. He becomes by ordination and setting apart the father of his people and should know them individually by name and nature and weakness and strength. He should foresee and forestall possible problems and, if some develop, be able and ready to help in their

solution. His ward family should be his enlarged family and receive the same general interest as his own flesh and blood children.”

### 3. Responsibilities of “a Judge in Israel”

— *What consequences does a bishop face if he overlooks serious transgressions of members in his ward?*

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#### Reading Excerpts:

Seek to Obtain My Word - Melchizedek Priesthood Personal Study Guide 1989, p. 31:

“Bishops and stake presidents are judges of members’ worthiness for all Church privileges. The Church judicial system is therefore at work when members are interviewed for worthiness to obtain a temple recommend, to be called to a responsible Church position, to be ordained to a priesthood office, or to receive a patriarchal blessing. A bishop’s decision not to approve a proposed action due to unworthiness has the effect of a disciplinary judgment, because it restricts a Church member’s privileges. For this reason, such decisions are always made prayerfully, with the view toward encouraging repentance and personal growth, and not as a means of punishment.”

Harold B. Lee, The Prophets Have Spoken, Vol. III, p. 588, 1972:

“The common judges of Israel, our bishops and stake presidents, must not stand by and fail to apply disciplinary measures within their jurisdiction, as set forth plainly in the laws of the Lord and procedures as set forth in plain and simple instructions that cannot be misunderstood. Never must we allow supposed mercy to the unrepentant sinner to rob the justice upon which true repentance from sinful practices is predicated.”

John Taylor, Conference Report, April 1880, p. 78:

LDS PERSPECTIVES ON THE LAW:  
FREEDOM OF RELIGION

“Some Bishops . . . have been seeking to cover up the iniquities of men; I tell them, in the name of God, they will have to bear them themselves, and meet that judgment . . . God will require it at your hands. You are not placed in position to tamper with principles of righteousness, nor to cover up the infamies and corruptions of men.”

Spencer W. Kimball, Miracle of Forgiveness, p. 327-28, 1969:

“The bishop will determine the merits of the case. He it is who will determine by the facts, and through the power of discernment which is his, whether the nature of the sin and the degree of repentance manifested warrant forgiveness. He may deem the sin of sufficient gravity, the degree of repentance sufficiently questionable, and the publicity and harm done of such considerable proportions as to necessitate handling the case by a Church court under the procedure outlined by the Lord. All this responsibility rests on the bishop’s shoulders. Seminary teachers, institute directors and auxiliary and other Church workers can wield a powerful influence on people in distress by imparting wise counsel and sympathetic understanding, but they are without ecclesiastical authority and jurisdiction and will not attempt to waive penalties but will send the sinner to his bishop who should determine the degree of public confession and discipline that is necessary.”

“Judges in Israel: Watching Over the Church,” Doctrine & Covenants Student Manual, p. 406, 1981:

“Since the bishop is the president of the Aaronic Priesthood in his ward (see Doc. & Cov. 107: 13-15), he holds the keys to repentance for the people of the ward. Those who desire to repent of sins they have committed can obtain great help from their bishop, whom the Lord has chosen and designated to be his representative in such matters. Not only is it helpful to go to one’s bishop when seeking to repent, but it is necessary in the case of serious sins, for which a person cannot obtain forgiveness without confession to the appropriate priesthood leader.”

Harold B. Lee, Address Given at Regional Representatives' Seminar, Oct. 1/2, 1969:  
 "I was in a stake conference recently where one of the bishops frankly stated that he had determined that he would never excommunicate any person no matter what the sin. I told him that if this was his true feeling, then he was in the wrong position—as a common judge in Israel. . . . When we let members lead a double and destructive life, instead of doing them a favor as we suppose, we damage them, sometimes, irreparably. We must let the light of gospel standards shine fully, and not try to deflect the penetrating rays of its standards. The gospel is to save men, not to condemn them, but to save it is sometimes necessary to confront and to discipline as the Lord has directed us. When individuals are on the wrong path, our task is to redirect them lovingly, and not to watch idly from our vantage point on the straight and narrow path."

4. Stake Disciplinary Councils

— *What is the role of the high council in stake disciplinary councils? Compare and contrast with the role of jurors in the civil judicial system.*

— *Why must a Melchizedek priesthood holder be tried before a stake disciplinary council when excommunication is a possible outcome?*

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**Reading Excerpts:**

M. Russell Ballard, AA Chance to Start Over, The Ensign, September 1990:

"The bishopric, in consultation with the stake president, has the responsibility and authority to hold disciplinary councils for all ward members. However, if excommunication of a Melchizedek Priesthood holder is thought to be a possibility, the matter is transferred to the stake presidency, who, with the assistance of the high council, may convene a stake disciplinary council."

Doctrine & Covenants 102:15-16:  
 "The accused, in all cases, has a right to one-half of the council, to prevent insult or injustice. And the councilors appointed to speak before the council are to present the case, after the evidence is examined in its true light before the council; and every man is to speak according to equity and justice."

Dallin H. Oaks, A Church Discipline, The Lord's Way, pp. 233-34, 1991:

"In a stake disciplinary council, the stake president is assisted by twelve high councilors. Their role is easily misunderstood. Uninformed persons are tempted to liken the high council to a jury. In view of the not well understood instructions in section 102 of the Doctrine and Covenants, there is also a tendency to view individual high councilors as prosecutors or defenders. Neither of these comparisons is appropriate. Members of the high council are present to "stand up in behalf of the accused, and prevent insult and injustice" (Doc. & Cov 102:17). In other words, they are to give added assurance that the evidence is examined in its true light and that the procedures and treatment of the accused are consistent with equity and justice. Their roles are illumination and persuasion, not advocacy or decision."

"Church Discipline," General Handbook of Instructions, p. 100, 1998:

"After hearing any additional comments from the high council, the stake presidency withdraws from the council room to confer in private. After consultation and prayer, the stake president makes the decision and invites his counselors to sustain it. The stake presidency then returns and announces the decision to the high council. The stake president asks the high councilors as a group to sustain his decision. The high council cannot veto the decision; it is binding even if it is not sustained unanimously."

5. The Judgment Process

— *How does the adversarial system compare to the church's system of arriving at a verdict?*

— *What role does the transgressor's level of penitence and contrition play in the judgment process?*

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### **Reading Excerpts:**

Bruce C. Hafen, A Disciplinary Procedures," Encyclopedia of Mormonism, Vol. I, pp. 385-87, 1992:

"Members for whom a formal disciplinary council is convened are given advance notice of the reasons for the council and an opportunity for a hearing. Although legal procedures do not govern the proceedings, the Church observes basic standards of fairness. The proceedings are officially recorded by written minutes. Both the hearing and the formal record are treated as confidential information, and disciplinary penalties are announced only to those Church officers who have a need to know, except when the offender poses serious risks to uninformed Church members. Those subjected to disciplinary sanctions have a right of appeal."

Dallin H. Oaks, A Church Discipline," The Lord's Way, pp. 219-220, 1991:

"Evidence of repentance is the most important single factor in determining what church discipline is necessary to accomplish its principal purpose—to save the soul of the transgressor. This is a matter that calls for the spiritual discernment given to the Lord's judge. The redemptive function of church discipline and the revelation necessary for its implementation have no counterpart in the laws of man."

James E. Talmage, Articles of Faith, Ch.3, p. 59, 1984:

"As rewards for righteous deeds are proportionate to deserving acts, so the punishment prescribed for sin is made adequate to the offense. But, be it remembered, both rewards and punishments are natural consequences. Punishment is inflicted upon the sinner for disciplinary and reformatory purposes and in accordance with justice. There is nothing of vindictiveness or of desire to cause suffering manifest in the divine nature."

Joseph F. Smith, The Prophets Have Spoken, Vol. II, p. 312, 1913:

"We should not deal with [serious transgressors] with prejudice in our minds against them. We should dismiss prejudice, dispel anger from our hearts, and when we try our brethren for membership or fellowship in the Church we should do it dispassionately, charitably, lovingly, kindly, with a view to save and not to destroy. That is our business; our business is to save the world, to save mankind, to bring them into harmony with the laws of God and with principles of righteousness and of justice and truth, that they may be saved in the kingdom of our God."

Dallin H. Oaks, A Church Discipline," The Lord's Way, pp. 232-33, 1991:

"Formal discipline is administered by a ward or stake or mission disciplinary council (formerly called a church court) in an ecclesiastical proceeding that involves notice, presentation of evidence, opportunity for the member to be heard, and a decision formally reached, recorded and communicated."

Dallin H. Oaks, A Church Discipline," The Lord's Way, pp. 240-42, 1991

"A major contrast between civil or criminal courts and church disciplinary councils is the disciplinary council's reliance on revelation. This occurs in two ways. One is general and familiar and the other is exceptional. In general, the participants in a disciplinary council rely on revelation to guide them in performing functions that are comparable to those performed in civil or criminal courts—understanding and weighing the evidence in a contested case and determining the appropriate discipline to impose." (See Doc. & Cov. 102:23)

## 6. Possible Verdicts

— *What is the difference between disfellowshipment and excommunication?*

— *Why is deprivation "the usual method of disciplining in the church" and how is it effective?*

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## Reading Excerpts:

Robert L. Simpson, New Era, Q&A section, July 1975:

“The great majority of those who talk to their priesthood leaders about their personal problems are worked with confidentially without even the need for a court hearing or a formal disciplinary action.”

Spencer W. Kimball, Miracle of Forgiveness, p. 326, 1969:

“When the bishop is ordained he becomes judge of his people . . . If he considers someone unworthy to receive . . . temple privileges, he may punish by withholding the privilege. Many other blessings are withheld to give the individual some time to bring his life up to the standard required. Deprivation, then, is the usual method of disciplining in the Church. In extreme cases, as described below, the transgressor is deprived of Church activity and participation by disfellowshipment or is totally severed from the Church by excommunication.”

Bruce C. Hafen, ADisciplinary Procedures,” Encyclopedia of Mormonism, Vol. I, pp. 385-87, 1992:

“A formal disciplinary council can result in four possible outcomes: (1) no action; (2) a formal probation involving restricted privileges; (3) disfellowshipment; or (4) excommunication. Disfellowshipment is a temporary suspension of membership privileges. A disfellowshipped person remains a Church member but may not enter Church temples, hold Church callings, exercise the priesthood, partake of the Sacrament, or participate openly in public meetings. An excommunicated person is no longer a member of the Church, and all priesthood ordinances and temple blessings previously received are suspended. Excommunicants may not pay tithing and, if previously endowed in a temple, may not wear temple garments. They may attend Church meetings. Excommunicants may later qualify for rebaptism after lengthy and full repentance and still later may apply for a formal restoration of their original priesthood and temple blessings.”

## 7. A Chance to Start Over

— *What is Elder Simpson suggesting when he refers to disciplinary councils as ‘courts of love’?*

— *How do disciplinary councils encourage transgressors to repent?*

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## Reading Excerpts:

Robert L. Simpson, “Cast Your Burden Upon the Lord,” 1974 Speeches of the Year, BYU, p. 57:

“When serious transgression requires a court hearing, may I promise you . . . that the procedure is kind, and it is gentle. The Church court system is just. As has been stated on many occasions, these are courts of love, with the singular objective of helping Church members get back on a proper course. There is no plan in Heavenly Father’s realm to put his children down. Everything is designed to aid our progress, not to impede it. I wish I could introduce you to the scores of people I know personally who have been excommunicated from this Church but who have come back through the waters of baptism, who have found their way and who have had a restoration of all their blessings. They now stand on more firm ground than they have ever been on during most of their lives. Without appropriate priesthood discipline, I am doubtful that they could ever achieve the position of renewed confidence they stand in today.”

M. Russell Ballard, “A Chance to Start Over,” The Ensign, September 1990:

“To you who have not yet returned, who may still be struggling with the hurt and haven’t yet felt the healing: please allow yourself to feel the love that the Lord, his presiding authorities, and your friends in the Church feel for you. We are aware of your pain, and we pray for your healing and your return. As the First Presidency has said, ‘We are confident that many have longed to return, but have felt awkward about doing so. We assure you that you will find open arms to

receive you and willing hands to assist you . . . We know there are many who carry the heavy burdens of guilt and bitterness. To such we say, Set them aside and give heed to the words of the Savior: Come unto me, all ye that labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn of me; for I am meek and lowly in heart: and ye shall find rest unto your souls. For my yoke is easy, and my burden is light (Matt. 11:28-30).“

“Church Discipline,” General Handbook of Instructions, p. 97, 1998:

“If discipline is imposed, the presiding officer interviews the person regularly. The officer counsels him in love, helps him repent, and encourages him to live so he may again enjoy the full blessings of Church membership.”

Dallin H. Oaks, “Church Discipline,” The Lord’s Way, p. 224, 1991:

“The objective of church discipline is to facilitate repentance, whose purpose is to qualify a transgressor for the mercy of God and the salvation made possible through the atonement of Jesus Christ. Consequently, church discipline is not an instrument of punishment but a catalyst for change. The purpose of the suffering that must occur as part of the process of repentance is not to punish the transgressor, but to change him. The broken heart and contrite spirit required to ‘answer the ends of the law’ introduce the repentant transgressor to the change necessary to conform his life to the pattern prescribed by his Redeemer.”

“Church Discipline,” General Handbook of Instructions, p. 104, 1998:

“To consider ending formal probation, disfellowshipment, or excommunication, a presiding officer where the person currently lives must convene a disciplinary council. The council should have the same (or higher) level of ecclesiastical authority as the council that took the initial disciplinary action . . . A bishop needs the approval of the stake president to convene a disciplinary council to consider changing a person’s status.”

“Church Discipline,” General Handbook of Instructions, p. 105, 1998:

“If the person was disfellowshipped or excommunicated for any of the following reasons, the approval of the First Presidency is required before he may be reinstated to full fellowship or readmitted by baptism: murder; incest; sexual offense against or serious physical abuse of a child by an adult; apostasy; committing a serious transgression while holding a prominent Church position; an elective transsexual operation; embezzlement of Church funds or property.”

Robert L. Simpson, “Cast Your Burden upon the Lord,” 1974 Speeches of the Year, BYU, pp. 57-8 :

“Eventually, the member finds new security in his new-found freedom, in his ability to put that problem behind him. Another burden has been unloaded; another barrier to exaltation has been removed. New peace of mind can now replace a troubled heart, and that old feeling of hypocrisy is replaced by a clear conscience.”

## **Section B: Special Procedures** **Protecting the Member**

### 1. Adequate Evidence Needed

— *What is the role of evidence in an LDS disciplinary council? Compare and contrast with the rules of evidence in the civil judicial system.*

— *What is the role of revelation?*

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### **Reading Excerpts:**

Joseph F. Smith, September 13, 1917, quoted in James R. Clark’s Messages of the First Presidency of the Church of Jesus Christ of Latter-day Saints, p. 85, 1971:

“If a man is accused, we do not expect him to prove his innocence in the Church any more than he would be expected to prove his innocence under the laws of the land.

We expect the evidence to be brought to prove his guilt beyond all question, if he is guilty; and when we receive that evidence we

must deal with it according to righteous principles, exercising all the mercy and charity we can, looking always for the salvation of men and not their destruction.”

2. Proper Notice Must be Given

— *Why is it so important to notify and to invite the accused to his or her disciplinary council?*

— *Is justice compromised if the accused chooses not to attend the trial?*

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Reading Excerpts:

“Church Discipline,” General Handbook of Instructions, p. 98, 1998:

“The presiding officer gives a member written notice of a disciplinary council that will be held in his behalf. The notice should be addressed to the member by his full name and signed by the presiding officer . . . Two Melchizedek Priesthood holders deliver the notice to the member personally and privately with courtesy and dignity. The members who deliver the notice must give the clerk of the disciplinary council a signed statement certifying that the member was notified and describing how he was notified. If the notice cannot be delivered in person, it may be sent by registered or certified mail, with a return receipt requested.”

3. Confessions to Bishop Confidential

— *Why is it so important for Bishops to keep confessions confidential?*

— *What does a transgressor’s refusal to confess in a disciplinary council indicate about his or her level of repentance?*

— *What happens if the only evidence of wrongdoing is the confession of the perpetrator to the bishop and the member refuses to consent to the divulgence of the confession to anyone?*

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Reading Excerpts:

Spencer W. Kimball, Miracle of Forgiveness, pp. 334-35, 1969:

“The bishop is expected to keep confidential the confession of the transgressor, unless he considers the sins serious enough and the repentance slack enough to take the matter before the bishop’s court or the high council court. The keeping of full confidence makes it possible for the repentant individual to retain the confidence and win the friendly support of all with whom he associates.”

Dallin H. Oaks, AChurch Discipline,” The Lord’s Way, pp. 235-36, 1991:

“A confession cannot be used as evidence in a church disciplinary council unless the confessing transgressor consents. This rule vividly illustrates the bishop’s or stake president’s solemn duty to keep the content of a member’s confession strictly confidential. Confidentiality encourages members to communicate freely with their bishops. Members’ unrestrained and trusting communication with their bishops is essential in view of the vital role of confession in the process of repentance and forgiveness . . . [On the other hand] a repentant person will give consent. The lack of permission from an unrepentant transgressor does not prevent a disciplinary council from proceeding on the basis of other evidence. (Nor does it prevent the bishop from imposing informal discipline on the basis of the confession.)”

4. Right to One-half of the Council

— *Why is the high council divided into two groups, one to Astand*

*up” for the accused, and the other to represent the interests of the Church? Compare and contrast with procedures in the civil judicial system.*

- *How does this procedure relate to the description of church courts as ‘courts of love?’*

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### **Reading Excerpts:**

Doctrine & Covenants 102:15-20:

“The accused, in all cases, has a right to one-half of the council, to prevent insult or injustice. And the councilors appointed to speak before the council are to present the case, after the evidence is examined, in its true light before the council; and every man is to speak according to equity and justice. Those councilors who draw even numbers, that is, 2, 4, 6, 8, 10, 12, are the individuals who are to stand up in behalf of the accused, and prevent insult and injustice. In all cases the accuser and the accused shall have a privilege of speaking for themselves before the council, after the evidences are heard and the councilors who are appointed to speak on the case have finished their remarks. After the evidences are heard, the councilors, accuser and accused have spoken, the president shall give a decision according to the understanding which he shall have of the case, and call upon the twelve councilors to sanction the same by their vote. But should the remaining councilors, who have not spoken, or any one of them, after hearing the evidences and pleadings impartially, discover an error in the decision of the president, they can manifest it, and the case shall have a rehearing.”

### 5. Two Witnesses for Adultery Cases

- *Why do you think the Lord require at least two witnesses for cases of adultery?*

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### **Reading Excerpts:**

Doctrine & Covenants 42:80:

“If any man or woman shall commit adultery, he or she shall be tried before two elders of the church, or more, and every word shall be established against him or her by two witnesses of the church, and not of the enemy; but if there are more than two witnesses it is better.”

### **Section C: Appellate Procedures and Policies**

#### 1. Three Levels of Jurisdiction

- *What do the three levels of jurisdiction indicate about the Church’s priority to be fair?*

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### **Reading Excerpts:**

“Church Discipline,” General Handbook of Instructions, p. 101, 1998:

“An appeal of the action of a ward disciplinary council is to the stake presidency (and high council). An appeal of the action of a stake disciplinary council is to the First Presidency . . . If a person who has been disciplined wants to appeal the decision, he should specify in writing the alleged errors or unfairness in the procedure or decision . . . The decision on the appeal may be to (1) let the initial decision stand, (2) modify the initial decision, or (3) direct the disciplinary council to rehear the matter.”

#### 2. First Presidency has Supreme Jurisdiction

- *How does Bruce R. McConkie shed light on President Woodruff’s statement: “The Lord will never permit me or any other man who stands as President of this Church to lead you astray. It*

*is not in the programme” (Doc. & Cov. Declaration 1, p. 292)?*

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### **Reading Excerpts:**

Bruce R. McConkie, Mormon Doctrine, p. 150, 1958:

“The supreme tribunal in the Church is the Common Council of the Church, which consists of the First Presidency of the Church and 12 high priests chosen by them to assist as counselors. ‘This is the highest council of the church of God, and a final decision upon controversies in spiritual matters. There is not any person belonging to the church who is exempt from this council of the church. And inasmuch as a President of the High Priesthood shall transgress, he shall be had in remembrance before the common council of the church, who shall be assisted by twelve counselors of the High Priesthood; And their decision upon his head shall be an end of controversy concerning him. Thus, none shall be exempted from the justice and the laws of God, that all things may be done in order and in solemnity before him, according to truth and righteousness’ (Doc. & Cov. 107:76-84).”

### **Section D: History of Church Disciplinary Councils**

#### **1. Involvement of the Church in Civil Suits**

- *Why was the Church “judicial system” once involved in civil suits?*
- *Did the Church’s involvement in civil suits signify disrespect for the U.S. government?*

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### **Reading Excerpts:**

James H. Backman, ACourts, Ecclesiastical, Nineteenth-Century,” Encyclopedia of Mormonism, Vol. I, pp. 329-30, 1992:

LDS PERSPECTIVES ON THE LAW:  
FREEDOM OF RELIGION

“In the nineteenth century members used Church courts in private disputes largely because of the principle of exclusive jurisdiction widely enforced by the Church. Applying this principle, leaders used sermons and scripture to encourage members to avoid the civil courts; they also imposed disfellowshipment or excommunication on members who sued another member in the civil courts. Thus non-Mormons initiated most of the cases in the civil courts of the Utah Territory even though the population was overwhelmingly Mormon. After Utah acquired statehood in 1896, a regular state court system was instituted. Thereafter the Church court system ceased to consider temporal disputes.”

Bruce C. Hafen, “Disciplinary Procedures,” Encyclopedia of Mormonism, Vol. I, pp. 385-87, 1992:

“The isolation of the Latter-day Saints during the settlement era in the Great Basin gave a broader jurisdiction to Church judicial courts than is presently the case, in part because of the absence of a developed state court system.”

Bruce R. McConkie, “Church Courts,” Mormon Doctrine, p. 126, 1958:

“In practice most church trials deal with alleged transgression, excommunication being the supreme penalty that may be imposed. On occasion, however, temporal matters have been decided by church courts . . . The framework is so formed that all types of cases might be handled by church courts, and during the millennium (when there is no longer a separation of Church and state) the courts of the kingdom will have jurisdiction in all things. Under millennial conditions court problems obviously will not exist in the manner that now prevails.”

John K. Carmack, “Missouri Era,” Regional Studies in Latter-day Saint History, p. 5, 1994:

“The dark days of disunity and competition for position and power which started in Kirtland continued in Missouri. This disunity led to the disfellowshipment and excommunication of some of the leaders. With some of the leading brethren unwilling to support the policies and leadership of

Joseph Smith, the fledgling Church had to use a disciplinary structure with as yet unclarified lines of authority and untested procedures for handling dissent, apostasy, conspiracy, and disloyalty. The necessity of survival, when under attack from within and without, led the Church to clarify and create procedures to cleanse itself from internal quarrels and save the growing body of the Saints from extermination, starvation, and the other horrors of mob rule and militia attack.”

James H. Backman, “Courts, Ecclesiastical, Nineteenth-Century,” Encyclopedia of Mormonism, Vol.1, pp. 329-30, 1992:

AWith passage in 1874 of the Poland Act and with the Supreme Court decision in Reynolds V. United States (1879), the federal assault on Mormon polygamy intensified, and the Church courts provided the only forum to assist wives and children in settling disputes with their polygamous husbands and fathers. Government courts could offer little assistance because polygamous marriages were outside the law.”

2. Now, Strictly Spiritual Jurisdiction

— *Does one’s declared innocence in the courtroom automatically imply that he or she will not be found guilty in church courts? Does this signify disrespect for the courts of the land? Why or why not?*

\* \* \* \* \*

**Reading Excerpts:**

Official Declaration Signed by First Presidency and Twelve Apostles, Dec. 12, 1889, The Prophets Have Spoken, V. 1, pp. 924-26 :

“We declare that no Bishop’s or other court in the Church claims or exercises civil or judicial functions, or the right to supersede, annul or modify a judgment of any civil court. Such courts, while established to regulate Christian conduct, are purely ecclesiastical, and their punitive powers go no further than

the suspension or excommunication of members from Church fellowship.”

Dallin H. Oaks, “Church Discipline,” The Lord’s Way, p. 216, 1991:

“An alleged crime that is also a serious transgression under the laws of God may warrant church discipline even if a civil court has dismissed the criminal charges for technical reasons.”

The Discourses of Wilford Woodruff, p. 193, 1969:

“We hold that this Church was set up and organized by command of the Almighty; that it has the right to formulate and maintain rules of church discipline applying to its own members; that the extent of its punitive power is the excommunication of the transgressor; that it has no power to punish anyone by deprivation of life, liberty or property or personal injury in any form; that governments should not regulate the church, nor the church seek to control the state; that all men should be politically free and equal to vote as they please and to sustain what politics they please, so that they do not infringe on the rights of others.”

**Session 5: Disciplinary Councils Compared with Canonical Courts in Other Churches**

— *How are LDS disciplinary councils distinct from canonical courts of other faiths?*

\* \* \* \* \*

**Comments:**

When compared to canonical courts of other faiths, LDS disciplinary councils are unique in several ways. Most canonical courts of other churches rely heavily upon precedents when passing judgment. LDS disciplinary councils make decisions based on: (1) careful consideration of the facts and (2) revelation. Ecclesiastical judges are given procedural guidelines, but decisions in former cases are not considered when approaching a verdict. Furthermore, two transgressions of equal

magnitude may receive very different judgments in an LDS disciplinary council. While the objective facts of the transgression and the transgressor's state of mind during the act are certainly considered, they are of lesser importance than his or her level of repentance. Since the first priority of LDS disciplinary councils is to help save the soul of the sinner, it would be inappropriate to exact unnecessarily harsh punishment which could hinder the repentance process. Those who are found guilty of serious transgressions are generally denied certain privileges in the church and aided in the repentance process by their local bishops. It is normally hoped that persons who transgress will repent and regain full fellowship with the church.

## **Additional Reading Selections:**

### **Alma 30:6-11**

6 But it came to pass in the latter end of the seventeenth year, there came a man into the land of Zarahemla, and he was Anti-Christ, for he began to preach unto the people against the prophecies which had been spoken by the prophets, concerning the coming of Christ.

7 Now there was no law against a man's belief; for it was strictly contrary to the commands of God that there should be a law which should bring men on to unequal grounds.

8 For thus saith the scripture: Choose ye this day, whom ye will serve.

9 Now if a man desired to serve God, it was his privilege; or rather, if he believed in God it was his privilege to serve him; but if he did not believe in him there was no law to punish him.

10 But if he murdered he was punished unto death; and if he robbed he was also punished; and if he stole he was also punished; and if he committed adultery he was also punished; yea, for all this wickedness they were punished.

11 For there was a law that men should be judged according to their crimes. Nevertheless, there was no law against a man's belief; therefore, a man was punished only for the crimes which he had done; therefore all men were on equal grounds

### **D&C 101:77-80**

77 According to the laws and constitution of the people, which I have suffered to be established, and should be maintained for the rights and protection of all flesh, according to just and holy principles;

78 That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment.

79 Therefore, it is not right that any man should be in bondage one to another.

80 And for this purpose have I established the Constitution of this land, by the hands of wise men whom I raised up unto this very purpose, and redeemed the land by the shedding of blood.

### **D&C 98:5-8**

5 And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me.

6 Therefore, I, the Lord, justify you, and your brethren of my church, in befriending that law which is the constitutional law of the land;

7 And as pertaining to law of man, whatsoever is more or less than this, cometh of evil.

8 I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free.