THE TRIALS OF GENERAL COUNSEL

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Introduction

Count it all joy, my brothers, when you meet trials of various kinds, for you know that the testing of your faith produces steadfastness. James 1:2-3

As followers of Christ, we anticipate trials and challenges. As General Counsel for a faith-based organization, I anticipated various challenges and how they would deepen my faith if I allowed them, but I did not anticipate the full range of trials that would come my way, including litigation against the State of Michigan for religious liberty. I did not anticipate the conflicts that would arise with outside counsel on legal matters. I did not anticipate the trials outside of court that would drive me to my knees in prayer to the only Advocate and Judge that matters. But these trials experienced by General Counsel can lead to a deeper faith if we let them.

This outline contains general information of the common and not so common trials General Counsel face, but I will share how these not so common challenges have manifested in my role as the first GC of Bethany Christian Services and how God has so deeply made His presence known through them all.

I. The common trials of General Counsel

- Shifting from legal advisor to strategic business partner
- Increased exposure to personal liability (e.g., cybersecurity, compliance failures)
- Heightened expectations from boards, regulators, and executive leaders
- Mitigating legal risk in a fast-moving business environment
- Developing accurate litigation strategy and budget
- Resolving conflicts of interest
- Leading through crisis communications
- Handling data breaches and cybersecurity incidents

- Addressing regulatory changes in a bipartisan manner
- Preserving privilege and work product

II. The not-so-common-but-more-common-than-we may-think trials of General Counsel

- Assuming additional leadership roles (HR, Risk Management, Government Affairs)
- Range of litigation matters (adoption, foster care, refugee and immigration, religious liberty)
- Providing legal guidance in the world of AI
- Terminating outside counsel/legal malpractice
- Finding the right armor for spiritual warfare
- Resolving conflicts of interest
- Operating in crisis communications on a regular basis
- Managing internal leaks of confidential data
- Defending organization's bipartisan stance
- Does the attorney have to be in the room for us to maintain attorney client privilege?

III. Assuming additional leadership roles[1]-The positions you never asked for and didn't really want

General counsel often serve beyond the traditional role of chief legal officer and take on additional leadership responsibilities-by choice and by necessity. In a faith based nonprofit organization, this happens more regularly due to limited resources and infrastructure.

1. Executive & Business Leadership Roles

- Organizational strategist — Modern GCs function as executives who help shape organizational strategy, influence revenue, and donor-impacting decisions, and participate as core members of the leadership team.

[1] Microsoft Copilot, response to author's prompt, May 15, 2026.

- Operational leaders— Some GCs formally take on COO responsibilities, overseeing operations and cross-functional execution.
- Chief administrative officer / multifunctional C-suite roles — Increasingly, GCs add titles such as CAO or SVP of HR, consolidating legal, HR, and administrative oversight.

2. **Risk, Compliance & Governance Leadership**
    a. Enterprise risk manager — GCs now lead or co-lead enterprise risk management, integrating legal, financial, cybersecurity, and operational risk frameworks.
    b. Chief compliance & ethics leader — Many GCs oversee compliance, ethics programs, and corporate governance, ensuring alignment with regulatory expectations and organizational values.
    c. Crisis management leaders play central roles in crisis response, including regulatory investigations, reputational threats, and operational disruptions.

3. **Government Affairs Roles**
    a. Government relations— Many GCs oversee government relations, communications, and public policy engagement.
    b. Reputation and ethics guardian — They serve as stewards of organizational reputation, ensuring ethical conduct and values-aligned decision-making.

4. **People, Culture & Organizational Leadership**
    a. Human resources leadership — Some GCs directly manage HR, employment policies, and workplace culture.
    b. Cross-jurisdictional team leadership — Modern GCs manage global teams, navigate cultural and [2]geographic diversity, and build trust across regions (Faith-based organizations with operations in multi-jurisdictions and across the globe)

IV. **Range of Litigation Matters-** The weird cases I didn't see coming.

General counsel in social services agencies—whether government, nonprofit, or contracted providers—face a uniquely wide and sensitive litigation portfolio. The

[2] Microsoft Copilot, response to author's prompt, May 15, 2026.

work spans civil rights, employment, child welfare, benefits administration, and regulatory compliance.

1. **Child Welfare & Protective Services Litigation-**These are among the most high-risk and high-profile matters for social-services.

- **Child abuse/neglect removal challenges** — Appeals of agency decisions to remove children from homes; emergency removal hearings; termination of parental rights litigation.
- **Failure-to-protect lawsuits** — Claims alleging the agency did not intervene quickly enough to prevent harm.
- **Wrongful removal / due process claims** — Parents suing for unconstitutional removal or inadequate notice.
- **Foster care system litigation** — Class actions alleging systemic failures (placement shortages, inadequate services, unsafe conditions).
- **Contested adoptions**- Litigation between and among birth parents, adoptive families, and adoption agencies for the custody of a child.
- **Licensing disputes** — Foster home or group home license revocations or denials.

2. **Civil Rights & Constitutional Litigation-**Social services agencies are frequent targets of civil rights claims under §1983, state constitutions, and federal statutes.

- **Due process violations** — In benefits termination, child removal, or investigations.
- **Equal protection claims** — Allegations of discriminatory treatment in service delivery.
- **ADA / Rehabilitation Act claims** — Failure to accommodate disabilities in services, benefits, or investigations.
- **First Amendment claims** — Often involving religious-based service providers or foster parents.

3. **Employment & Labor Litigation-**Social services agencies are large employers with unionized and non-unionized staff.

- **Discrimination, harassment, and retaliation suits** — Title VII, ADA, ADEA, state equivalents.
- **Wage and hour claims** — Overtime disputes, misclassification, on-call time.
- **Grievances**— Discipline, discharge, workplace safety, staffing levels.

- **Whistleblower claims** — Often tied to child welfare or benefits-processing concerns.

4. **Contracting, Procurement & Vendor Litigation-**Social services rely heavily on third-party providers.
    - **Contract disputes** — Performance failures, payment disputes, breach of service-level agreements.
    - **Procurement challenges** — Bid protests, challenges to RFP awards.
    - **Liability flowing from vendor misconduct** — Abuse in contracted group homes, data breaches, or fraud by service providers.

5. **Privacy, Data Security & Confidentiality Litigation-** Agencies handle extremely sensitive personal data.
    - **Data breach litigation** — Class actions after cyber incidents.
    - **HIPAA / state privacy law violations** — Improper disclosure of health or case information.
    - **Subpoena and records-access disputes** — Balancing confidentiality with court orders, FOIA, or public records laws.

6. **Tort & Negligence Litigation-** Often tied to agency decisions or provider actions.
    - **Negligent supervision** — Of children, vulnerable adults, or contracted providers.
    - **Wrongful death claims** — In child welfare, adult protective services, or residential facilities.
    - **Infliction of emotional distress**- Often brought by biological families, adoptive families, employees

7. **Regulatory & Administrative Litigation-**GCs often defend or prosecute matters before administrative tribunals.
    - **Licensing actions** — Against childcare centers, group homes, foster care facilities.
    - **Regulatory enforcement** — Sanctions, fines, or corrective action plans.
    - **Appeals of administrative decisions** — To state courts under administrative procedure acts.

8. **Specialized Social-Services Litigation-**Depending on the agency's scope:

- **Child protective services** — Guardianship disputes, failure-to-protect claims.
- **Residential services** — Litigation over facility conditions, abuse
- **Behavioral health services** — Duty to warn.
- **Immigration-related social services** — Custody, benefits eligibility, or federal-state conflicts.

9. A GC in this sector must blend:

- Constitutional law
- Administrative law
- Employment law
- Child welfare law
- Privacy & data security
- Government contracting
- Crisis management

V. **Providing legal guidance in the world of AI**[3]- "ChatGPT" says you're wrong."

General counsel operating in an AI-driven world are no longer just legal risk managers — they're becoming enterprise stewards of data, algorithms, ethics, and organizational trust. The job expands in every direction: strategy, governance, compliance, culture, and technology.

1. **Setting AI Strategy, Not Just Approving It-** GCs now help shape the organization's AI roadmap.
    a. Define where AI can and cannot be used in the business.
    b. Evaluate vendor risk, model transparency, and data-use rights.
2. **Building AI Governance Frameworks**-AI governance is becoming as essential as financial controls. GCs typically led or co-lead:
    a. AI use policies for employees
    b. Model risk management frameworks.
    c. Documentation standards (data sources, training sets, testing results)
    d. Incident response protocols for AI failures or hallucinations
3. **Workforce Guidance & Change Management-** Employees need clarity on how to use AI safely. GCs help craft:
    a. Acceptable-use policies.

[3] Microsoft Copilot, response to author's prompt, May 15, 2026.

b. Training in confidentiality, bias, and accuracy
c. Guardrails for using generative AI tools.
d. Protocols for handling sensitive or regulated data

VI. **Terminating outside counsel**[4]-You're not the boss of me!

General counsel don't terminate outside counsel lightly — it's usually the result of patterns of risk, cost, or trust breakdowns that make continued engagement untenable. In practice, there are several recurring situations where a GC decides it's time to end the relationship.

1. **Poor Quality of Work or Legal Judgment-** This is the most fundamental reason.
    - Repeated errors in filings, briefs, or advice
    - Overly conservative or impractical guidance that slows the business.
    - Failure to understand the organization's risk tolerance.
    - Missed deadlines or procedural missteps.
    - Weak courtroom performance or poor negotiation strategy
    - When the GC loses confidence in the firm's legal judgment, the relationship is effectively over.

2. **Breakdown in Communication**- Outside counsel must be responsive and clear. Termination often follows:
    a. Slow or inconsistent communication
    b. No proactive updates on litigation status
    c. Surprises — especially bad ones
    d. Failure to escalate issues early.
    e. Not tailoring communication to the GC's needs (too much detail or too little)
    f. A GC cannot manage risk if they can't get timely, reliable information.

3. **Cost Overruns or Unpredictable Billing**- Budget discipline is a core GC responsibility. Common triggers:
    a. Bills that consistently exceed estimates
    b. Staffing matters with too many senior lawyers
    c. Over-lawyering
    d. Lack of transparency in billing

[4] Microsoft Copilot, response to author's prompt, May 15, 2026.

e. When the GC can't justify the spending to the CFO or board, the firm is replaced.

4. **Lack of Subject-Matter Expertise-** Sometimes the firm was the right choice at the start but no longer fits.
    a. Case evolves into a specialized area the firm can't handle.
    b. Opposing counsel brings in experts and the firm can't keep pace.
    c. New regulatory or technical issues exceed the firm's capabilities.
    d. GCs terminate when the matter outgrows the firm.

5. **Conflicts of Interest**- A conflict — actual or perceived — can force immediate termination.
    a. Firm represents a competitor, vendor, or adversary.
    b. Conflict waivers become too frequent or too risky.
    c. Firm fails to disclose a conflict promptly.
    d. Trust evaporates when conflicts aren't handled cleanly.

6. **Misalignment with Organizational Values**- Increasingly important in public agencies, nonprofits, and mission-driven organizations.
    a. Firm's litigation posture clashes with the agency's values
    b. Poor treatment of diverse or junior attorneys
    c. Ethical lapses or questionable tactics
    d. Public controversies involving the firm.
    e. GCs must protect the organization's reputation, not just its legal position.

7. **Loss of Trust or Relationship Breakdown**- Sometimes the relationship simply stops working.
    a. Defensive or dismissive attitude toward feedback
    b. Lack of collaboration with in-house teams
    c. Treating the GC like a client of last priority
    d. Personality or cultural mismatch
    e. Once trust is gone, termination is inevitable.

8. **Internal Changes at the Organization**- Not all terminations are performance-related.
    a. New GC with different preferred firms
    b. Budget cuts requiring consolidation.
    c. Shift in litigation strategy.

d. Move to panel-based or preferred-provider models.

VII. **Finding the right armor for spiritual warfare**[5]- Sword, shield, belt, shoes, and helmet

General Counsel need the right armor for spiritual warfare to stay grounded, protected, and clear-minded while navigating the intense pressures, ethical dilemmas, and spiritual weight that come with leadership — especially in a faith-based or mission-driven environment. General Counsel doesn't fight people. We, too, fight the principalities of darkness that manifest through trials and challenges that require Biblical integrity, discernment, and wisdom in a role where decisions carry spiritual, legal, and human consequences.

1. Armor of Identity — Knowing Who You Are A GC is constantly pulled by competing pressures: executives, staff, regulators, donors, the public. Spiritual armor starts with identity clarity.

- You're not defined by crises.
- You're not defined by criticism.
- You're not defined by the loudest voice in the room.
- A spiritually grounded GC leads from conviction in Christ, not reaction to the crisis.

2. Armor of Integrity — Uncompromising Ethics Legal leadership is full of moments where the "easy" path isn't the right one. Your armor here is:

- Truthfulness even when it's costly.
- Transparency when secrecy would be convenient.
- Courage to say "no" when others want "yes."
- Protecting the vulnerable, not just the organization
- Biblical integrity is premised on honoring/glorifying God first— it keeps you from becoming someone you don't recognize.

3. Armor of Discernment — Seeing Beyond the Surface A GC often deals with:

- Conflicting narratives
- Hidden motives
- High-stakes decisions

[5] Microsoft Copilot, response to author's prompt, May 15, 2026.

- Moral gray zones
- Discernment form the Holy Spirit is needed to sense what's beneath the facts:
  - What's the real issue?
  - Who is harmed?
  - What outcome aligns with mission and truth?
  - What decision brings peace, not just compliance?

4. Armor of Community — Not Fighting Alone Isolation is one of the biggest risks for any GC. Your armor includes:

- Trusted advisors
- Spiritual mentors
- A circle that tells you the truth
- People who pray for you, support you, and challenge you.
- No one carries the weight of a GC role alone without breaking.

5. **Armor of Stillness — Guarding Your Heart, Body, Mind, and Soul** the GC role is mentally and spiritually noisy. Stillness is armor because it:
   a. Reduces reactivity.
   b. Sharpens judgment.
   c. Keeps ego in check.
   d. Creates space for wisdom.
   e. This can look like prayer, silence, journaling — whatever keeps your inner world anchored.

6. **Armor of Purpose — Remembering the Mission** When you know *why* you're doing the work, you can withstand almost anything. Purpose protects you from:
   a. Burnout
   b. Cynicism
   c. Fear-based decision-making.
   d. Mission drift
   e. A GC with purpose is harder to shake, manipulate, or overwhelm.

7. **Armor of Compassion — Leading with a Soft but Strong Heart** Spiritual warfare often shows up as:
   a. Hardening
   b. Bitterness

c. Emotional exhaustion
d. Losing empathy
e. Compassion is armor because it keeps your humanity intact while you navigate conflict, discipline, investigations, and crises.

For General Counsel, "spiritual armor" isn't about aggression — it's about protection, clarity, and leadership grounded in Christ.

VIII. **Resolving conflicts of interest**[6]- Recuse yourself.

A general counsel lives in the middle of competing loyalties — to the organization, to the law, to the board, to employees, to outside partners — which means conflicts of interest aren't occasional events; they're a constant management responsibility. The GC's job is to spot them early, neutralize them, and build systems that keep the organization trustworthy.

1. **Identifying Conflicts Before They Become Problems** Conflicts show up in predictable patterns:

- **Personal conflicts** — an employee or leader has a financial or relational stake in a decision.
- **Board conflicts** — directors with business ties, family ties, or competing fiduciary duties.
- **Vendor conflicts** — staff steering contracts to friends, former employers, or side businesses.
- **Legal conflicts** — outside counsel representing adverse parties.
- **Mission conflicts** — decisions that benefit individuals but undermine organizational purpose.

2. **Creating Clear, Enforceable Conflict-of-Interest Policies** A GC doesn't just enforce rules — they design them. Strong policies include:

- Annual disclosure requirements
- Definitions of financial and non-financial conflicts
- Gift and hospitality limits.

[6] Microsoft Copilot, response to author's prompt, May 15, 2026.

- Recusal procedures
- Board-specific conflict rules.
- Consequences for nondisclosure

3. **Running a Robust Disclosure Process** Conflicts aren't managed unless they're **known**. A GC typically oversees:

- Annual conflict disclosure forms
- Event-based disclosures (e.g., new vendor, new hire, new relationship)
- Board conflict questionnaires.
- A centralized log of all disclosures
- Follow-up interviews to clarify ambiguous situations.

4. **Evaluating and Mitigating Conflicts** Once a conflict is disclosed, the GC decides what to do with it. Common mitigation tools:

- **Recusal** from decisions
- **Firewalls** between individuals and information
- **Independent review** by a disinterested committee
- **Reassignment** of responsibilities
- **Renegotiation** of vendor relationships
- **Termination** of the conflicted relationship if necessary

5. **Handling Conflicts Involving Senior Leadership** These are the most sensitive — and the most dangerous. A GC must be prepared to:

- Advise the CEO or board chair privately.
- Document the conflict and the mitigation steps.
- Bring in outside counsel for independence.
- Escalate to the board or audit committee when necessary.
- Protect whistleblowers and internal reporters.

6. **Managing Board Conflicts**. Boards are fertile ground for conflicts because directors often have business, political, or community ties. A GC ensures:

- Conflicts are disclosed before meetings.
- Directors recuse themselves appropriately.
- Minutes reflect recusals and abstentions.
- Related-party transactions receive independent review.
- The board understands its fiduciary duties.

7. **Monitoring Outside Counsel for Conflicts.** Law firms must run conflict checks, but the GC must verify:

- No adverse representation
- No "positional conflicts" (arguing against your interests in another matter)
- No undisclosed relationships with executives or board members
- No conflicts arising from mergers or lateral hires.

8. **Building a Culture Where Conflicts Are Normal to Discuss**. The GC sets the tone. Healthy cultures treat conflicts as:

- Expected
- Manageable
- Something to disclose early.
- Not a sign of wrongdoing

9. **When the GC Must Step Back**. Sometimes the GC is the conflict.

- GC has a personal relationship with someone involved.
- GC previously represented a party in the matter.
- GC's own conduct is under review.
- GC's legal advice is part of the investigation.

IX. **Operating in crisis on a regular basis**[7]- Crisis de jour

A general counsel becomes the center of gravity in any organizational crisis. The role goes far beyond legal triage — it's strategic, operational, reputational, and deeply cross-functional. Based on recent analyses of GC crisis responsibilities, several themes emerge about what the GC must do before, during, and after a crisis. Below is a structured, evidence-grounded view of GC crisis management, integrating insights from recent legal-industry guidance and crisis-leadership research. GCs are now expected to lead, not just advise. They are often the first person the board and CEO turn to when something breaks.

- GCs increasingly operate in a broader, more strategic arena, identifying pressure points that could disrupt operations or damage reputation.
- Directors now look to the GC as the first port of call in a crisis, shifting the role from discrete advisor to organizational steward.

[7] Microsoft Copilot, response to author's prompt, May 15, 2026.

- The GC must ensure compliance, protect the organization from legal exposure, and coordinate messaging with executives and communications teams.

X. **Managing internal leaks of confidential data**[8]- I didn't know you really meant it.

Internal leaks are one of the most dangerous threats a general counsel faces because they combine **legal exposure**, **reputational harm**, and **loss of privilege**. The GC's job is to protect confidentiality, investigate quickly, and rebuild controls so it doesn't happen again. Below is a grounded, practical framework based on authoritative guidance on internal investigations, privilege, and in-house counsel communications.

A. What Makes Internal Leaks So Risky- Leaks can expose:

- privileged legal advice
- sensitive investigative findings
- HR or misconduct allegations
- financial or regulatory information
- board-level deliberations.

B. GC's Core Responsibilities When a Leak Occurs- Trigger an Internal Investigation Immediately

Internal leaks fall squarely within the triggers for internal investigations, which include "suspected misconduct," "unconfirmed allegations," and "online comments" that suggest internal information has escaped the organization.

A GC must:

- define the purpose of the investigation.
- determine who the client is (company, board, committee)
- decide whether to use internal or external investigators.
- assess whether immediate action is needed to prevent further harm.

XI. **Defending organization's bipartisan stance**[9]- Neutral IS a stance.

A general counsel who oversees government affairs must maintain a *strictly bipartisan posture* to protect the organization's credibility, access, and long-term influence. The search results reinforce that effective government-relations teams

[8] Microsoft Copilot, response to author's prompt, May 15, 2026.
[9] Microsoft Copilot, response to author's prompt, May 15, 2026.

are intentionally structured as bipartisan, relationship-driven, and credibility-focused — and that success depends on trust, disciplined communication, and long-term relationship-building across political lines.

A. Build and Maintain Relationships on Both Sides- The most effective government-relations teams rely on meaningful relationships that span all branches of government and across party lines. For a GC, which means:

- Maintaining equal access to Democratic and Republican offices
- Avoiding over-reliance on a single party's champions
- Ensuring outreach calendars include both majority and minority caucuses.
- Treating staff turnover as an opportunity to refresh relationships (a known challenge in government affairs)
- This protects the organization from political swings.

B. Keep Messaging Policy-Focused, Not Political-Government-affairs success depends on clear communication, credibility, and trust with legislators and stakeholders. A GC ensures:

- Advocacy is framed around policy impacts, not ideology.
- Briefing materials avoid partisan language.
- Organizational positions are grounded in data, mission, and public interest.
- Communications are consistent regardless of audience.
- This keeps the organization out of political crossfire.

C. Stay Mission-Centered During Political Tension- Political environments shift rapidly. Government teams must stay organized, credible, and adaptable to maintain influence. A GC keeps the organization grounded by:

- Reaffirming Mission Based Advocacy
- Avoiding reactive or partisan-leaning public statements
- Ensuring long-term relationships are prioritized over short-term wins.

XII. **Maintaining attorney client privilege**[10]- Did everyone stay at the Holiday Inn?

Attorney–client privilege for General Counsel is powerful, but it's also more fragile and more frequently challenged than many executives realize.

1. Privilege protects only certain communications, not all interactions with a lawyer.

[10] Microsoft Copilot, response to author's prompt, May 15, 2026.

2. In-house counsel face unique risks because they operate at the intersection of legal and business advice. Courts scrutinize whether the GC was truly acting as a lawyer.
3. Privilege can be lost easily through waiver, broad distribution, or mixing legal and business content.