

**GYBA ABUSE/MOLESTATION
RISK MANAGEMENT PROGRAM 2009**

DISCLAIMER

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1. BACKGROUND

Child abuse/molestation in the world of youth sports has received much media attention over the past ten (10) years. A recent Sports Illustrated article and problems within the Catholic Church have heightened this awareness.

The June 9, 2003 feature article in Forbes Magazine states “the next litigation gold rush: child sexual abuse. Never mind priests – the Boy Scouts, day care firms, and Hollywood may be next.” This article outlines disturbing litigation trends where non profit organizations like sports organizations and their directors and officers can be targeted as “deep pockets”.

Medical professionals state that the effects of child abuse can surface decades later and often result in suicide, violence, delinquency, drug and/or alcohol abuse, and other forms of criminality that are child abuse related.

There have been a number of multi-million dollar verdicts against coaches and associations for sexual abuse over the past several years and at least one child has been killed.

2. PURPOSE

The purpose of this program is to reduce the liability risk and related negative publicity, expense, and trauma to the local sports organization and of course the children they serve. The likelihood of such can be reduced by making the environment unsuitable for the sexual predator and/or abuser.

This program will key in on the bare essentials of education, volunteer screening, policies, and program administration. The intent of this program is not to be all encompassing, but instead, to provide the framework of a basic workable program that is more likely to be implemented by a group of volunteers with limited resources and time. The simple framework of this program will not address all contingencies that are likely to be encountered. Therefore, the materials in the conclusion section should be available and consulted frequently.

3. DEFINITIONS

Child Abuse: Verbal abuse (ridicule or put-downs), physical abuse (any hurting, touching or excessive exercise used as punishment), emotional abuse (threats to perform unreasonable tasks), and sexual abuse.

Sexual Abuse: Refers to a wide spectrum of interactions including rape, physical assault, sexual battery, unwanted physical sexual contact, unwelcome sexually explicit

or offensive verbal communication, coercive or expletive sexual contact, verbal sexual harassment, and/or sexualized attention or contact with a minor.

Conduct Official: Single person within the league who is appointed by the board to administer the Simplified Child Abuse/Molestation Risk Management Program. The Conduct Official is responsible for education, reviewing Volunteer Applications, checking references, conducting criminal background checks, handling appeals from disqualified candidates, conducting investigations on allegations of abuse, acting as liaison to local law enforcement, etc. GYBA President in conjunction with each League Commissioner will act as Conduct Official.

Volunteer: Citizens who perform the various functions entailed in the running of a league without pay including league officers and directors, committee personnel, coaches, managers, umpires, scorekeepers, concession workers, etc.

Sexual Offender Registry Check (SOR): SOR checks are currently available on the internet for free in 43 states. Each state determines its own definition of what constitutes a sex offender. As a result, some states only list high risk (level 3) sex offenders. SOR's rely on a third party to input the information and current media accounts indicate that SOR's in many states are more than 50% incomplete. SOR information only goes back to the mid 1990's in most states. SOR's will never indicate other serious criminal history such as murder, armed robbery, etc. For the reasons listed above, a sports organization should not rely on a SOR check. Instead, only a criminal background check (CBC) should be used.

Criminal Background Check (CBC): CBC's will provide all misdemeanor and felony information (not just sex offenses) that a sports organization may want to take into account in the disqualification process. CBC's show offenses that go back a minimum of 7 years, but much longer in most cases. Also, CBC's do not rely on third parties to enter information into the database as this happens automatically as part of the judicial process. It is recommended that sports organizations use CBC's in the volunteer screening process instead of relying on the vastly inferior Sexual Offender Registry checks.

4. POLICIES ON CHILD ABUSE/MOLESTATION

Limit One On One Contact: It is this organization's policy that no activities shall take place involving one on one contact between a single, non-related league volunteer and a child, if such activities can be practically avoided. Instead, a "buddy system" is encouraged where two (2) adults should always be present during practices, games, carpooling, and special events.

Prohibition of Sleepovers: All sports organization sanctioned team or league sleepover activities are prohibited whether overnight parties or traveling to away games. Exception: Teams traveling to far away tournaments can have sleepovers if each child is either accompanied by his/her parent or is being supervised by two (2) adults who are in each other's presence at all times.

Touch Policy: Touch is acceptable only if it is "respectful and appropriate". Some experts have adopted a no touch policy, but most experts believe that "no touch" is an over-reaction and is ultimately damaging in itself and not practical.

Verbal Conduct Policy: Inappropriate comments of a sexual nature and suggestive jokes are prohibited.

Take Home/Pick-Up: Take home/pick-up of athletes by league personnel is strongly discouraged because of the difficulty in limiting one on one contact between adult and child (remember the Buddy System). Parent(s) should provide transportation for their own children to and from scheduled events. The league will clearly outline the expected start and end time for all events and communicate this with all parent(s). Parent(s) should be instructed to make back-up plans in the event they can't provide transportation. Such policy will help to protect against potential abductions or being thrust into the middle of any custody dispute.

Child Abuse Prohibition: All forms of sexual, physical, verbal and emotional abuse are prohibited.

Name Distribution: The distribution of directories/rosters with names, phone numbers, addresses, and pictures should be limited to persons on a "need to know" basis.

5. EXAMPLES OF ABUSE/MOLESTATION

Emotional Abuse: Yelling or making the following statements:

- You're stupid;
- You're an idiot;
- You're an embarrassment;
- You're not worth the uniform you play in; etc.

Physical Abuse: Besides the obvious examples of a coach hitting, kicking, throwing equipment, or shaking a player, watch out for the following:

- Behaviors seem violent versus disciplinary;
- Training practices become abusive
- Fighting is encouraged or ignored;
- Illegal moves, often associated with injuries are encouraged;
- Coaches teach improper techniques or encourage conduct which violates safety rules;
- Coaches allow athlete(s) to become physically or verbally abusive;
- Behaviors result in injuries to athlete(s); etc.

Sexual Abuse: An adult may not improperly sexualize touch by fondling instead of hugging (with permission), kissing, or seductive stroking of various body parts. On the other hand appropriate touching can be used when a young child needs comfort, reassurance, and support. Appropriate touch is respectful of a person's personal boundaries and comfort level, public (done in front of others and not secretly), and nurturing (not sexualized).

- Misuse of power and authority;
- Misuse of love and affection;
- Manipulation or tricks:
 - * *This is love;*
 - * *This is what you need to be a part of the team;*
 - * *This is what we do for initiation*

- Grooming: desensitization that begins with appropriate touch, then the touch change. Examples:
 - * *You liked the touch before;*
 - * *What's wrong? Don't you trust me?; or*
 - * *courting (gifts, time, attention);*
 - * *romancing (talking of love or attraction);*
 - * *line (you're special, I don't usually do this sort of thing, you're so mature, you're so attractive); or*
 - * *secrets (this is our special secret, others wouldn't understand, you or I would get in trouble)*

6. WARNING SIGNS OF ABUSE/MOLESTATION.

With some forms of abuse, there may be physical indicators (examples: with physical abuse, bruises, welts, broken bones) or with sexual abuse venereal diseases, genital swelling/soreness, difficulty sitting or walking, pain or itching when urinating or defecating, stomach aches, pain/itching in genital area, and frequently unexplained sore throats. But most often the effects of sexual abuse are less obvious. Indications of abuse may include: sudden shifts in behavior or attitude; an outgoing child suddenly builds a protected, closed wall; a generally happy child becomes aggressive and angry; or a trusting child becomes fearful. In sports, this can show up as losing interest or wanting to drop out of sports or a sudden decline in ability or functions.

Please note that no indicators or symptoms are absolute. Many of these could be indicators of problems other than child abuse. However, if some of these things are going on, consider them to be a red flag. One difficulty is that some signs are ambiguous. Children may respond in different ways and some may show no sign at all. Some indicators include:

- Disclosure by child. Most children won't just come out and say they have been abused, but instead, may hint at it.
- Observations, complaints, concerns, or allegations about league volunteers.
- Attitudes/behaviors expressed on the part of an adult that may be associated with inappropriate or abusive behavior (racist, poor sense of athlete development, raging temper, extremely controlling, jealous, hypersensitive, poor sexual boundaries, bullying, intimidating manner, unrealistic or inappropriate training practices and risks, etc.)
- Unexplained/unlikely explanation of injuries.
- Extreme fear of a league volunteer;
- Extreme low self-esteem, self worth;
- A child's attachment to a coach/staff to the point of isolation from others;
- A coach/staff with an interest beyond caring concerns, special interest in a child (time, gifts, attention, obsession, unrealistic expectations)
- A child's desire to drop out without a clear explanation, or without one that makes sense;
- A child that misses a lot of practices or games with suspicious explanations or excuses.

Despite increased sensitivity to abuse, there is still a tendency to blame the victims instead of holding the person(s) accountable who:

- lost their temper;
- got a little out of control;

- were just having a dispute;
- misinterpreted the touch;
- is really a wonderful person; etc.

Listen to what the athlete is saying.

7. ALLEGATIONS OF ABUSE/MOLESTATION AND OTHER POLICY VIOLATIONS

Point of Contact: A GYBA League Commissioner or any other GYBA Board member is the appropriate person to whom all reports of child abuse/molestation should be reported. In the event that a League Official is the alleged abuser/molester, the report should be made to the President of GYBA.

Assessing the Seriousness of the Situation: It is useful to differentiate between:

Concern: When the person just needs to be heard and have some information clarified.

Complaint: When the person needs you to listen and may or may not want action taken if they feel you listened.

Allegation: Clarify if the allegation is:

- appropriate, but unappreciated act;
- inappropriate act, but not illegal act;
- illegal act that needs to be reported to law enforcement.

Disclosure: When the person tells you that abuse occurred or based on their actions gives you reason to believe abuse has occurred.

The Conduct Official must take the appropriate action depending on where the situation falls in the above mentioned categories.

Information Gathering:

Upon receipt of a disclosure of child/sexual abuse or of a policy violation, the Conduct Official should gather all pertinent facts in a fair, respectful, and confidential manner and review with both the accuser and accused. All such disclosures must be brought to the attention of the Board of Directors.

The Conduct Official must immediately report to the authorities when there is reasonable cause to believe that physical abuse or sexual abuse has occurred. At this point, the Conduct Official should never investigate, as this is the role of the law enforcement authorities. Furthermore, allowing the law enforcement authorities to investigate helps to shield the Sports Organization against potential lawsuits for defamation of character.

Suspension/Termination: The findings of the Conduct Official should be reported to the Board of Directors and all proceedings should be confidential. If the alleged abuser or policy violator admits to the conduct, the Board can employ the most appropriate punishment. If the alleged abuser or policy violator denies the conduct, the Board can conduct further investigations (except when reasonable cause of physical or sexual abuse exists that should be reported to the authorities) deemed necessary prior to rendering any appropriate punishment or exoneration.

Remember, the alleged violations range from inappropriate, but not illegal behavior to clear cut child/sexual abuse and the punishment must be tailored to the violation.

Suspension: Less egregious conduct on the part of the volunteer will result in a written reprimand. If more than two (2) written reprimands are received in a Single season, this will result in termination of the volunteer.

Termination: All volunteers are subject to immediate termination based on the disqualification criteria outlined below.

Duty to Disclose/Immunity/Confidentiality:

All volunteers may be required by state law to report suspected cases of child/sexual abuse. Any person(s) who makes or participates in the making of a good-faith report of abuse/neglect, participates in the investigation, or in judicial proceedings shall in so doing be provided with complete and absolute immunity from civil liability.

The identity of the Volunteer reporting a case of suspected child/sexual abuse should not be revealed. All records and reports concerning investigations and their outcome are protected by various confidentiality laws. Unauthorized disclosure of such records is a possible criminal offense which could subject the violator to fines and/or imprisonment.

8. VOLUNTEER SCREENING

Volunteer Application and Consent/Release Form: The attached application entitled “Volunteer Application” must be completed, signed, submitted, and processed on an annual basis before a volunteer will be allowed to work with athletes.

All volunteers who have regular access to or repeated contact with athletes must complete the “Volunteer Application.” This would normally include all head coaches, assistant coaches, managers, league administrators, umpires, scorekeepers, concession workers, field maintenance workers, etc. Refusal to comply will result in immediate dismissal from the sports organization even if the volunteer has been allowed to participate in the past.

The Conduct Official will review all such applications, will conduct a Criminal Background Check, may conduct a follow-up interview to clarify questions, and will decide whether or not the candidate is disqualified based on this information.

Disqualification Criteria:

Individual volunteers or paid officials found to be guilty of the following crimes will be disqualified as a volunteer or official as outlined below. Guilty means the applicant was found guilty following a trial, entered a plea of guilty, entered a no contest plea accompanied by the court’s finding of guilty, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. This policy does not apply if criminal charges resulted in acquittal, dismissal or in an entry of “nolle prosequi”:

1. Ever Found to be Guilty of:

- All sex offenses including child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure etc.
- All felony violence including murder, manslaughter, aggravated assault, kidnapping, robbery, aggravated burglary, etc.

2. Found to be Guilty Within the Past Ten (10) years of:
 - All felony offenses other than violence or sex including drug offenses, theft, embezzlement, fraud, child endangerment, etc.
3. Found to be Guilty Within the Past Seven (7) Years of:
 - All misdemeanor violence offenses including simple assault, battery, domestic violence, hit & run, etc.
4. Found to be Guilty Within the Past Five (5) years or Multiple Offenses in the Past Ten (10) Years of:
 - Misdemeanor drug or alcohol offenses including driving under the influence, simple drug possession, drunk and disorderly, public intoxication, possession of drug paraphernalia, etc.
5. Any other misdemeanor within the past five (5) years that would be considered a potential danger to children, or is directly related to the functions of the volunteer including contributing to the delinquency of a minor, providing alcohol to a minor, theft, etc.

Criminal Background Check: After receiving the “Volunteer Application”, the Conduct Official will conduct a Criminal Background Check with the selected vendor (ex: Intellicorp or SSCI) and will search records in all current and past counties of residence of the volunteer. This procedure is confidential and only the Conduct Official will have access to these records. The Conduct Official will decide whether or not the candidate is disqualified based on the findings and the predetermined disqualification guidelines that have been set in writing by the sports organization.

Appeals: Candidate(s) disqualified due to an unsatisfactory Referral or Criminal Background Check and/or other reason(s) will be given the right to appeal upon written notification to the Conduct Official.

The Board will appoint three (3) board members to hear the appeal and they will decide whether or not to uphold or overturn the decision of the Conduct Official. As a compromise, the appeal committee may decide to reassign a candidate to a more appropriate position or to place the candidate under a probationary period. The results of all criminal background checks and appeals will be kept confidential.

Acknowledgment Of Training: All volunteers who have been accepted must read the Simplified Child Abuse/Molestation Risk Management Program (Safe At First) and must agree to abide by the rules.

9. CONCLUSION:

Due to the simplified nature of this program; it does not address all contingencies and as a result the sports organization, Directors, Officers and Conduct Official may incur legal liability for failure to perform certain acts related to a case involving child/sexual abuse. For this reason, it is strongly recommended that legal counsel be retained in the event that a case is suspected.

This program was designed for sports organizations consisting entirely of volunteer workers. Use of the Forms and decisions about suspension/termination may not be appropriate for employees since they have greater rights under the State, Federal, and Constitutional Law.

Please consult with legal counsel about modifications to this program in the event your league uses employees.

Sadler & Company will not answer questions concerning the implementation of this program as this is beyond our scope of expertise.

The following references were used almost exclusively in the design of this program and it is strongly recommended that a copy be kept on hand and that they are referred to whenever a question arises:

Athlete Abuse and Youth Sports, A Comprehensive Risk Management Program; National Alliance for Youth Sports; Copyright 1996; 1-800-729-2057.

Sexual Abuse Risk Management Manual For Youth Sports/Activities Organizations; Gil B. Fried, M. A., J. D., Gil Fried & Associates LLC (www.gilfried.com) (203)789-8694, Copyright 1996, Dr. Fried is a national expert in the field of sports related legal issues and provides legal services for a number of prominent sports organization.

Southeastern Security Consultants, Inc. (SSCI), Byron Palmer, 2627 Sandy Plains Road, Suite 203, Marietta, GA 30066, phone 866-996-7412. SSCI provides consultation and runs criminal background checks on behalf of sports organizations. Their cost per criminal background check ranges from \$13.50 to \$20.

Intellicorp, John Sebeck, 6001 Cochran Road, Suite 200, Solon, OH 44139, phone 440-505-0238, www.intellicorp.com. Intellicorp provides criminal background checks on a “do it yourself” basis off of its website for a cost of as low as \$1.75 per background check in many states. In other states, the charge is \$8.00 for every county where the volunteer applicant has resided. Additional courthouse fees may apply in some cases.