

UNSPORTSMANLIKE CONTACT

Strategies for Reducing Sexual Assaults in Youth Sports

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Newspaper headlines throughout 1994 and 1995 focused on abuses meted out to female athletes and non-athletes. A notable example of abuse by an athlete was seen in the O.J. Simpson trial which highlighted Simpson's past record of spousal abuse². Media attention also focused on numerous additional cases ranging from abusive coaches³, sexual attacks by athletes⁴, and sexual assaults and improprieties against athletes.⁵

While these events have garnered significant media attention, organizations have begun to be aware of the need to develop comprehensive solutions to the ever increasing problem of sexual abuse in athletic settings. Historically, organizations have often swept sexual improprieties under the carpet, if possible, and then only act to censure such conduct when the incident becomes publicized.⁶ Abuses in collegiate and professional sports are also prevalent in youth sports.⁷ Millions of young athletes from youth leagues through interscholastic athletics are at risk to rape, battery, child abuse, sexual assault and molestation. However, significant steps can be taken to reduce the chances of sexual abuse in youth sports through the implementation of a comprehensive sexual abuse prevention program, the implementation of relevant risk management strategies and legislative assistance from a variety of governmental agencies.

Child abuse is a national epidemic affecting over 3 million children in 1994.⁸ Approximately 500,000 of these cases involve sexual abuse.⁹ According to a 1994 survey, twenty-one percent of all reported child abuse cases involved physical abuse while eleven percent of

the reported cases represented sexual abuse against children.¹⁰ Studies of the general adult population show that anywhere from 6 to 63 percent of females were sexually abused as children.¹¹ In 1992, twelve states reported to the Federal Bureau of Investigation 20,824 forcible rapes of females, of which, 51 percent were juveniles under age 18.¹² While sexual assault usually implies physical confrontation, sexual abuse will be used throughout this text to refer to a wide spectrum of interactions including: rape, physical assault, sexual battery, unwanted physical sexual contact, unwelcomed sexually explicit or offensive verbal communication, coercive or exploitive sexual contact, verbal sexual harassment, and/or sexualized attention or contact with a minor by a person in a position of authority.¹³

Why the emphasis on youth sports in particular? Whenever there exists a parental or nurturing environment, children are much more likely to acquiesce to activities they normally would never undertake. Similarly, when the expertise of one person places them in a position of authority over another, the expectation of compliance is clear. Such an environment is the norm between a coach and an athlete. One former collegiate athlete described the relationship as follows: "When I look at my coach, I look for someone who is doing the right thing, someone who can show me how to do the right thing. They are like surrogate parents who you look up to. I never felt that way about a teacher. It's a different relationship, and so the standards are different."¹⁴ Furthermore, the more the coach is admired and held in awe by the athlete, the more his or her wishes will be followed.¹⁵

Another reason why stopping sexual assaults in youth sports is so important can be found in the empirical research which shows that 70%-80% of adult sexual offenders, were sexually victimized as children.¹⁶ By providing a safer environment for children to learn socialization and team work skills without being exposed to possible sexual assault in that specific sports environment can hopefully reduce the number of future abusers. While helping to curtail sexual assault in youth sports organizations is a start, children can face sexual assault in countless environments and surroundings which are impossible to control.

This article will present potential risk management strategies that can be deployed by a youth sports organization to reduce the chances of sexual assault occurring within their programs. The article will examine the laws currently in place, civil liability examples, specific prevention strategies currently utilized by some youth sports organizations, specific risk management strategies and finally proposed legislation that could assist youth sports organizations fight the problem of sexual abuse.

THE LAW

Criminal sexual assault cases often revolve around school settings and the special relationship that exists between teachers, coaches, administrators and students. Several states have laws that specifically provide criminal penalties for individuals who use their position of authority or trust to seduce or coerce a child into sexual activity.¹⁷ Sexual battery is defined, in part, by Mississippi statute as:

"(2) A person is guilty of sexual battery if...the person is in a position of trust or authority over the child including without limitation the child's teacher, counselor ... ,scout leader or coach."¹⁸

Laws prohibiting a coach from abusing their position of authority have been upheld in court decisions involving a coach and a player they were coaching. One such case is *Scadden v. State*, where a high school volleyball coach was convicted of second-degree sexual assault against a volleyball team member.¹⁹ The coach violated Wyoming Statute Section 6-2-30 by

using his position of authority to force submission to sexual intercourse; which submission would not have occurred but for the coach's position.²⁰

Cases highlighting sexual assault in youth sports produce sensational news stories. Newspaper headlines regularly contain articles involving coaches, volunteers and individuals affiliated with a sports program being prosecuted, convicted or pleading guilty to criminal acts of sexual improprieties.²¹

As is often the case, incidents that spawn newspaper headlines are often replicated in court opinions. A typical case is *People v. Rossi*, decided by the New York Supreme Court, Appellate Division in 1992.²² Rossi was a Little League baseball coach who sexually abused three children. The children testified that Rossi had them stay overnight at his house. During these overnight stays, Rossi would sleep with the boys in the same bed and then would fondle and sodomize them. Rossi was convicted and sentenced to consecutive 1 to 3 year terms for each of the six sodomy convictions, 1 to 3 years for each of the sexual abuse convictions and 1 year for the conviction for endangering the welfare of a child.²³

CIVIL LIABILITY

Often, criminal convictions or investigations foster civil litigation. Possibly the most notorious civil suit involving a coach and young athlete is the Linda Van Housen case.²⁴ Michael Ipsen, a local running coach, started a sexual relationship with Linda when she was 13-years-old.²⁵ Linda claimed her coach stated that: "he was her coach and next to God and knew what was in God's mind..."²⁶ Two other members of the same running team also claimed to have their first sexual encounters with the coach when they were only 15.²⁷ While Linda's mother tried to go to the police with the two other victims, the Redwood City Police dropped their sexual abuse investigation.²⁸ Several years after moving out of Ipsen's house and suffering a nervous breakdown, Linda filed a civil suit against Ipsen, who was found guilty of sexual abuse of a minor and ordered to pay \$1.1 million in damages.²⁹

The Housen's case differs from traditional

sexual abuse civil cases because most civil suit focus on the "deep pocket" rather than the coach. Traditionally, the "deep pocket" with enough money to pay a judgment is the coach's employer or the organization that retained the volunteer. Even non-profit organizations are considered "deep pockets" because the organizations typically have insurance coverage. Cases against employers or supervising organizations can be broken down into two legal categories; failing to prevent a coach's alleged acts of sexual abuse,³⁰ and negligent employment practices.³¹

Plaintiffs in sexual assault civil cases often allege that the school district or youth organization should be liable for the negligent act of their employees or volunteers. Several terms such as vicarious liability or respondeat superior can be used to describe the employment relationship in which the coach's negligence is imputed to the employer. For liability analysis, a volunteer, acting in the scope of their specified volunteer duties, is considered similar to employees.

Bratton v. Calkins, involved a 17-year-old high school student, who had a sexual relationship with a science teacher who was also her softball coach.³² Two years later, she sued her former coach and school district alleging negligence.³³ The school district successfully prevailed based on the fact that no respondeat superior (and therefore no employer liability) liability existed because the sexual conduct was outside the coach's scope of employment.³⁴ In a similar case, the Washington Court of Appeals concluded that a sexual relationship between a coach and student provided no benefit to the employer and as such the coach's intentional tortious actions should not have been attributed to the school district.³⁵ However, in other states, courts have held that a school is liable for a coach's sexual assault.³⁶

Besides being sued as the abuser's employer, school districts and sports organizations have been sued for their alleged failure to determine that a volunteer or prospective employee had a propensity to engage in sexual misconduct. In Thurmond v. Richmond County Board of Education, the parents of a six-year-old student sued a physical education instruc-

tor and his employer for sexual abuse.³⁷ After affirming summary judgment for the school, the court noted that there was no evidence of any prior criminal behavior by the teacher and the school had successfully screened the teacher through the Georgia Criminal Investigation Center.³⁸

In a similar case decided on summary judgment, an Ohio Court of Common Pleas granted summary judgment for an ice skating club after the court concluded that even though the club had a duty to investigate an instructor's criminal background prior to placing the instructor with children, it could not be proven in that case that such a criminal check would have discovered anything in the instructor's criminal history.³⁹

A Washington court summarized the prevailing law when it concluded that an employer can be liable for failing to properly investigate an individual's background prior to person sexually assaulting a teenage girl.⁴⁰

PREVENTING SEXUAL ASSAULTS

While some programs have successfully defended civil suits alleging sexual assault by an employee or volunteer, the old adage that 'a strong offense is better than a strong defense' applies in sexual assault cases. This adage is especially appropriate when organizations develop and implement comprehensive risk management programs. One organization that has undertaken several measures to protect athletes in its charge is USA Gymnastics.⁴¹ USA Gymnastics has authority over its 11,100 member coaches and 120,000 gymnasts.⁴² There are an estimated 30,000 gymnastic coaches and 500,000 gymnasts competing in school or park and recreation programs.⁴³ Over the past six years, USA Gymnastics has expelled 11 coaches for sexual abuse involving approximately 20 boys and girls.⁴⁴ To stifle the problem before more children are victimized, USA Gymnastics urges gym owners to conduct criminal background checks before hiring, distribute educational material, and encourage the reporting of sexually deviant conduct.⁴⁵ USA Gymnastics' actions represent the start of a comprehensive risk management program which could possibly be ex-

panded in the future to cover other types of abuse such as negligent coaching and abusive coaching practices.

US Youth Soccer has made child abuse prevention a top organization objective which included the production of a "Kidsafe" brochure and program.⁴⁶ The Kidsafe program requires all US Youth Soccer affiliates (serving approximately 2,000,000 children age 5 to 19) to have written policies concerning child abuse, a point person for handling assault claims, a law enforcement liaison and approved practices for hiring, training, supervising, investigating and dismissing individuals.⁴⁷ Kidsafe calls for all coaches and administrators involved in US Youth Soccer to be registered and questioned concerning conviction for crimes of violence or crimes against persons.⁴⁸ All individuals possessing specific criminal histories are excluded from participating as a coach, volunteer or administrator.⁴⁹ Organizational policies designed to eliminate abuse and applicant screening are the cornerstones of the Kidsafe program.

Screening applicants is rapidly becoming the major tool for identifying individuals who might have a greater propensity to engage in sexually inappropriate activities. In a study of 197 convicted child molesters released from prison between 1958 and 1974, the recidivism rate for those reconvicted of subsequent sexual crimes was 42 percent.⁵⁰ These figures have not gone unnoticed by elected officials. Legislative bodies throughout the United States have passed various laws helping to identify and track individuals convicted of sexual assaults due to the high risk of recidivism.⁵¹ Due to the greater than normal likelihood that someone previously convicted of sexual assault crimes might reengage in the same or similarly abusive activity, a criminal history background check provides one method for identifying individuals who are more likely to engage in illegal sexual activity. Furthermore, although sexual abusers often demonstrate a long, pervasive and active abuse pattern, four-fifths of child sexual abuse cases in one study resulted only in court ordered probation.⁵² Nine states specifically require coaches or physical education instructors working with schools to be screened for prior criminal convictions.⁵³

tions.⁵³

While background checks for potential employees is appropriate in a variety of circumstances and positions, the harder question involves criminal background checks for individuals interested in volunteering their time.⁵⁴ Most youth sports programs rely heavily upon and are regularly seeking volunteer assistance. While an organization cannot offend potential volunteers, the organization has to protect children in their charge. Thus, all volunteers should be told the reason why their backgrounds will be checked and that the organization's policy is designed to protect the children.

In Washington, individuals interested in volunteering with non-profit organizations can be required by the nonprofit organization, as a condition of volunteering with that organization, to sign an informed consent form allowing a criminal history background check.⁵⁵ Nonprofit organizations have the final authority to determine if they want their applicants to undergo a background check. The background checks are conducted by the state patrol which researches whether the applicant has a record for conviction of offenses against children or other persons.⁵⁶ The legislation is designed to benefit nonprofit organizations and goes as far as to provide that no fee can be charged against a nonprofit organization for a background check.⁵⁷

An organization's ability to screen applicants is often hindered by a multitude of problems including: timeliness of the information⁵⁸, geography (if a former convict moves either during or after parole), privacy rights and screening costs.

While Washington does not charge nonprofit organizations for background checks, most organizations interested in conducting background checks in any other state have to pay a state agency or a private organization to perform a check. The YMCAs in Houston have access to a city run information data-base, but the YMCA also utilizes a private organization to conduct a more thorough check throughout Texas and sometime nationally.⁵⁹ The cost for a private agency background check can range from \$45 to \$100 for each applicant and are conducted utilizing various databases throughout

the nation.⁶⁰ The California Youth Soccer Association has over 40,000 volunteers in Northern California alone.⁶¹ Based on an average cost of \$50, the cost for conducting a thorough background check for California Youth Soccer Association would total \$2 million. The expense of conducting background checks on the estimated 3 million youth coaches would be staggering.⁶² Such a financial burden would cause most non-profit sports organization to stop providing sports activities. Even with some drawbacks, employment background checks remain the primary tool for weeding out potential bad apples. The key to any screening process is the signed consent to release information portion of an employee or volunteer application form.

An effective employment or volunteer disclosure form should, at a minimum, contain the following requests and statements: first, last and middle name, any prior names or aliases, social security number, complete address, date of birth (only request from volunteers, not potential employees), home and work numbers, driver's license number, state and expiration date, any coaching certificates or diplomas, prior background information concerning involvement in youth athletics, personal and business references including current phone numbers, all prior residences for the past ten years, any convictions for crimes involving violence, sexual assault, child molestation, or crimes against persons, a description of the organization's policy concerning the handling of individuals with prior criminal histories, whether an appeal process is available for those rejected, the period of time the form is valid and when it will be updated, and a signature and date line next to a statement indicating the applicant voluntarily gives the organization the authorization to check the applicant's criminal background.⁶³

While convictions for sexual offenses might appear in a sex offender registry open to numerous sources, Child Abuse Central Registries usually list alleged (and convicted) incidents involving any claim of child abuse. These records are strictly controlled with very controlled access only provided to specified groups such as schools and foster care agencies. Volunteers might not be listed under a sex offender regis-

try, but may have been accused of alleged child abuse. Thus, organizations should require all volunteers (and employees) to contact a state's central registry and request a copy of their own information. An applicant without any allegations in their records could then produce a registry's reply stating they are not listed.

In addition to establishing a policy to review each applicant and creating an application form, organizations should consider developing an appeals process available for individuals rejected for any reason including past criminal history. The appeal process, as well as the screening process, need to be confidential. At least three individuals should sit on an appeal board. The appeal board should operate under flexible guidelines as to allow individuals who have had clean records for many years, the opportunity to prove they can be trusted. The appeal process is even more important with volunteers because if volunteers feel the organization does not give them an opportunity to be heard, the organization might have a difficult time recruiting additional volunteers in the future.

Checking backgrounds requires more than just a criminal history check. Some programs are adopting extensive interviews to search for prior conduct which might not appear in a criminal history check. After a disorderly conduct incident involving former University of Michigan head football coach Gary Moeller, Athletic Director Joe Roberson indicated that the university planned to develop a new coach evaluation system based on factors that include their personal conduct.⁶⁴ Additional screening steps include having in-depth phone interviews with all references, interviews with current or previous work supervisor and requiring all applicants to read and sign a form agreeing to abide by the organization's sexual abuse policy. The sexual abuse policy form should include a pledge that the applicant will adhere to the organization's policy or hold the organization harmless and indemnify the organization for all costs associated with a sexual abuse allegation which leads to a conviction or plea bargain. Screening should not be limited to just applicants or volunteers. Whenever an overnight activity is scheduled at an individuals house, all individu-

als residing at the premises or who will participate in the activity should also submit to background checks prior to the event, and a database of approved families should be created. Some individuals might feel that such a measure is taking risk management strategies to an extreme. However, a jury would not be sympathetic to a sports organization that did not take any steps to discover that an overnight activity was taking place in the house of a convicted sex offender, with the organization's consent.

ADDITIONAL STEPS NEEDED TO PROTECT YOUNG ATHLETES

Most organizations that are actively developing sexual abuse prevention do not preach background checks in a vacuum. Background checks are only one component of a comprehensive sexual abuse prevention plan that includes, first and foremost, an organization's sexual abuse policy reinforced throughout the organization.⁶⁵ The organization's sexual abuse policy should be developed by individuals aware of the research in the sexual abuse field. Imagining where a potential abuser might attack children or what an abuser might look for in choosing a victim becomes the cornerstone from which to build an effective policy designed to deter potential abusers at every corner. A recent study of 91 men from England, convicted of sexual offenses against children, helps highlight an abuser's mindset.⁶⁶ The survey discovered that a majority of offenders pick their victim based on the child's appearance, how the child was dressed, and they often looked for children with low self-esteem or a child with whom they have had a special relationship.⁶⁷

In the aforementioned study, the offenders primarily used the following strategies to access a victim: play or teaching activities (including sports), developing isolated contact through babysitting and bribes, outings, or a lift home.⁶⁸ A majority of the offenders were between the ages of 30 and 42 years when they committed the act, 35% were professional, 48% were married, 66% of the offenders knew their victims through family, friends, or caretaking opportunities and the sexual assault most often occurred at the offender's home.⁶⁹ Some sug-

gestions offered by the survey participants included: staying away from secluded remote places, being wary of public toilets, never going into public toilets alone, always walking to or from events or school with at least one other child, never accepting lifts from strangers, and never teaching children that a person that looks a certain way is bad because abusers come in all shapes, ages, colors and professions.⁷⁰

After analyzing how offenders try to assault youths, a sports organization can start implementing a prevention program designed to eliminate specific dangers. One suggested sexual abuse prevention program stresses the four P's; personnel, program, premises and participants.⁷¹ The following recommendations can form the basis of a risk management program incorporating the four P's.

Personnel-

In addition to screening and securing qualified personnel, an organization has to make sure everyone involved has adopted the organization's mindset. By carefully drafting precise job descriptions, setting forth what is and is not acceptable conduct, a potential volunteer or employee will know what types of activities are unacceptable. Acceptable activities could include monitoring children, teaching sports skills, and helping to adjust football equipment. Unacceptable activities could include entering a bathroom stall with a child or helping undress a child who already knows how to handle their personal hygiene/care. Job descriptions should include the job title, purpose, duties, responsibilities, required qualifications, training and position restrictions. Applicants should be required to sign-off on the application, indicating that they meet all the job description requirements. After thoroughly analyzing the application, the applicant has to be interviewed. Interviewers should be well trained to identify danger areas. For example, many child molesters have limited contact with members of their own peer group.⁷² An interviewer can discover this information by asking legally appropriate questions about the applicant's social life.

One contact person should be appointed in each organization as the sexual abuse (and child abuse) resource person who can handle

confidential screening material, handle all claims, and be a liaison with police and social services professionals. This person should be given a title such as "Special Friend."

Supervisors should be properly trained in recognizing signs of sexual abuse and signs that someone within their charge might be undergoing significant family changes which could possibly lead to sexual abuse.⁷³ Sudden changes in a volunteer's or employee's personal life can signal potential problems which should be monitored. Emotional situations such as marital strife can often weaken an individual's temptation to engage in a sexual relationship.⁷⁴

The organization's "Special Friend" can develop specific policies concerning what steps are taken to investigate a claim of sexual abuse, how to confront and who should confront an individual identified as a possible abuser, how to suspend an individual until the allegations are resolved and how to terminate a person's involvement in the organization after being convicted of a sexual offense. The organization has to take all appropriate measures to prevent retaliation against the child making a sexual assault claim.

Program-

Organizations should schedule a coaches/parent meeting prior to starting each season. This meeting should focus on explaining the organization's sexual abuse prevention program, soliciting assistance from parents to support the program and educating parents on some of the subtle signs of abuse. Parents should also be informed about specific organizational policies. For example, if an organization prohibits overnight activities, parents should know the organization strictly enforces such a rule. Thus, parents should not acquiesce to someone claiming they work for the organization and wanting to take a child on a special overnight excursion. Other specific rules should include: prohibiting photographing partially clad or naked children, prohibiting one coach from taking individual athletes or a team alone on excursions or overnight trips, having a buddy system in place⁷⁵, only allowing kids to ride home with specifically designated drivers and prohibiting coaches, volunteers, officials and visitors from assisting chil-

dren in removing any clothing; except for sport specific equipment such as a football shoulder pads.

Special rules should be adopted concerning specific sports, such as gymnastics, where physical contact is unavoidable. Current gymnastics clothing permits a spotter's hands to slide up a gymnast's body with relative ease. All participants and parents should be informed of the potential for significant bodily contact. Any individuals wishing to avoid such contact can be provided an opportunity to participate in other activities.

Parents should be encouraged to drop-in unannounced to practices or games. Noted sexual abuse researcher Finkelhor and his associates discovered lower rates of abuse in child care programs that encouraged parents to drop in for unannounced visits.⁷⁶ Parents should also be allowed access to their children at all times.

Sports organizations have to develop a mindset which filters down to the athletes and is adopted by the athletes. Children have to be actively involved in developing the sexual abuse prevention program and prevention strategies so that the children understand that sexual abuse against their peers is unacceptable conduct. Approximately one-third of sexual molestations are perpetrated by children.⁷⁷ Thus, educational campaigns should target both sexual abuse prevention techniques and steps to take if a child engages or might engage in sexual molestations. It should be noted that virtually all elementary and high schools currently provide sexual abuse prevention education to students.⁷⁸ Education can include assertive steps by the athletes themselves to reduce sexual abuse between athletes and other individuals. A good example at the adult level was established in 1995 by Rollins College where the school's baseball players wrote a date-rape contract for the women at Rollins and published the contract in the College's newspaper.⁷⁹ The contract required the baseball players to treat all women with respect and to not make sexual advances without their partner's approval.⁸⁰

Premises

The key to protecting premises is access. By limiting facility access an organization can drastically reduce access to children. All facili-

ties should be designed or retrofitted to provide only one entrance and exit. All visitors should be asked for a photo identification card to verify their address. If a facility cannot be designed to eliminate unauthorized access (such as a soccer field in a public park) a designated person should periodically go through the stands and sidelines to monitor the spectators. Additional attention should be given to securing locker rooms, bathrooms, and changing areas. Some programs and schools have designed showers and bathrooms with viewing areas and mounted cameras that can help spot potential abusers, while providing privacy for children using the bathrooms or showers. While cameras can help prove a case of sexual abuse, they can also be used inappropriately. Access to cameras or viewing areas should be strictly limited.

Adjacent facilities, including parking lots, might also pose security problems. Inadequate premises lighting is a major concern for night activities. Children should not be allowed to wander in parking lots or wait in public areas without supervision. Parents should be encouraged to pick-up their child directly from the facility or a program volunteer should escort children directly to waiting cars or busses.

Participants-

A central component of an organization's sexual assault prevention program is the participant education program. Such a program emphasizes a child's rights and helps them understand that they have a choice. The prevention program has to be carefully presented to avoid scaring children while effectively communicating safety tips. Children should be taught that it is okay to say "No" to some adults. They also should be taught the difference between good and bad touching. Touching should: be in response to the needs of the child, be given with the child's permission, avoid private areas, be open and not secretive, and be regulated by the participants age, experience and understanding.⁸¹

All participant education programs need to discuss the concerns associated with unwanted or unwelcomed advances or actions by strangers, coaches, administrators and parents. Furthermore, participants need to be educated on

the harms associated with peer sexual abuse and assault. Participants need to understand the legal repercussions for sexually assaulting a fellow participant.

Participants should receive assertiveness training which will hopefully assist a child in resisting an abuser. Appearing confident will help discourage a would be attacker.⁸² Organizations should develop policies requiring all players to report unapproved or uncomfortable conduct to the "Special Friend" immediately after an incident arises. The "Special Friends" would then take all necessary steps to protect the child, report the incident to appropriate authorities and gather information critical for any future legal needs.

Preventing a potential offender from knowing a child's name can reduce the chances of the offender endearing him or herself to the child. Steps to reduce the chances of identifying participants include: taking names off their uniforms, not publishing lists of player names/addresses, listing parent's work phone numbers rather than home numbers, and cheering teammates on by using their jersey number, rather than their name.

Lastly, if possible, children should be required to sign-in and sign-out of practices and competition, provide their parents with specific times they will be home after practice or competition, and carry a quarter in case they need to make a phone call.

Organizations are not required to implement any and all sexual abuse prevention strategies. Each organization has to evaluate their own goals and objectives before implementing any risk management program. While some strategies might dehumanize the athletic process, that threat has to be weighed against the fear that failing to implement that strategy could possibly contribute to a sexual assault.

THE NEED FOR FURTHER PROTECTION Legislation

While the 1978 Child Abuse Prevention and Treatment Act had been repealed, a new Personal Responsibility Act (HB 4), is being considered by the U.S. Senate which will hopefully relax the confidentiality laws surrounding crimi-

nal records.⁸³

New laws are also being passed requiring organizations to prevent sexual harassment which can lead to sexual assault. Sexual harassment has traditionally been litigated in the employment law context between an employee and an employer. However, under a new California law, sexual harassment has been extended to apply to a teacher-student or similar relationship.⁸⁴ Sexual harassment is defined as sexual advances, solicitations, sexual requests or demand for sexual compliance that were unwelcomed and persistent or severe and which continued after the victim requested that the conduct stop.⁸⁵ If similar legislation is adopted by other states, more organizations will be required to develop policies and procedures to prevent both sexual assault and sexual harassment.

While new laws are being adopted, there are a variety of laws which have yet to be adopted, but would be very beneficial in the fight to prevent sexual assault in youth sports. Legislation should be adopted providing enhanced penalties, sentencing, or revocation of parole for any volunteers and/or employees who lie on application forms and do not mention past convictions or provide false names or other misleading information.

Legislation should also be adopted providing for enhanced penalties for youth coaches convicted of these crimes. Enhanced penalties are warranted by the authority position exercised by coaches and teachers.⁸⁶(see note authority position)

Currently, 41 states require the registration of convicted sexual offenders upon their release.⁸⁷ These laws normally require registration if the individual had been convicted in any jurisdiction throughout the United States.⁸⁸ These laws also normally require the implementation of a database to help disseminate information about past offenders to local law enforcement agencies.⁸⁹ As of January, 1996, only eight states allow public access to registration material, and access is normally only allowed if it is a necessary for public protection.⁹⁰ Current legislative trends involve the newspaper publication of a released sexual offender's age, gender, street

name and zip code.⁹¹ While some states are making this information available to citizens who request it, in at least one state, Texas, a convict's name will not be published for fear of vigilante actions against the parolee.⁹² Legislation should be adopted allowing the publication and dissemination of a parolee's name and other information to all school, day care centers, and other specified non-profit organizations.

Currently, 49 states require various specified individuals to report child abuse cases.⁹³ This reporting requirement is primarily an obligation for teachers, social workers, police and health care professionals. This reporting requirement should be extended to coaches and sports administrators. While this will require some additional work from coaches, the end result would be extremely beneficial.

Legislation should also be adopted to provide immunity for organizations that publish or disseminate information concerning an individual who has been terminated or resigns because of sexual inappropriate behavior, allegations, or convictions. Similar laws already protect individuals who report cases of alleged child abuse, which might be inaccurate.⁹⁴

National Campaign

A national campaign involving federal and state authorities along with all youth sports organizations is needed to coordinate various currently existing or planned programs. A coordinated campaign will reduce the chances of a convicted abuser affiliating with different organizations in different states or different sports. The hallmark of such a campaign should involve a national computer database assessable to all youth organizations. Once an employee or volunteer has been cleared they should be issued a photograph identification card. The card could be valid for several years. The card could be presented to any sports or youth organization and automatically qualify that individual to work with any youth organization. Only certified individuals would be allowed to work with children. Such a system can track individuals convicted of sexual abuse and other crimes against people. It could also be used in conjunction with coaching education programs. The identification card can indicate what coaching level

the coach has reached and what type of training they have completed.

A national effort has to be undertaken to educate athletic coaches about the problems associated with sexual abuse. The National Association for Sports and Physical Education developed national standards for athletic coaches in 1995.⁹⁵ While 37 standards in eight domains were identified, neither sexual abuse nor sexual battery are mentioned. Furthermore, no protocols were developed to deal with these concerns.⁹⁶

One component of a national effort is the development of educational materials. VideoNet has produced a video "Special Report" entitled "Somebody Told."⁹⁷ The video effectively conveys several steps to reduce sexual assault in youth programs including: developing organizational written policies, designating a contact person to coordinate efforts with government agencies, immediately report and handle all alleged cases of sexual assault, utilize a previously produced press release and do not interrogate either the victim or the alleged assailant.⁹⁸

One educational campaign entitled "Keep Child Abuse Out of Child Sports" was launched by Parents and Coaches in Sports, a program of the National Institute for Child Centered Coaching based in Park City, Utah.⁹⁹ The campaign revolves around various types of abuse, but provides two important points to consider in developing a sexual abuse prevention plan. Some children who have experienced abuse do not like to be touched.¹⁰⁰ Thus, a coach should be sensitive to this fact. Additionally, while numerous coaches congratulate an athlete by tapping them on their buttocks, team members who have experienced past instances of sexual abuse can perceive such touching as a frightening feeling or a feeling of being violated.¹⁰¹

Lastly, sexual abuse prevention materials and courses have to be included with athletic strategies and conditioning material typically provided to coaches. As role models, coaches can use their persuasive clout to encourage children to say no, assert their rights, protect their privacy and to report any unwanted verbal and non-verbal communications. Coaches can only teach necessary skills if they

understand the problems and concerns themselves.

CONCLUSION

Sexual abuse is not an easy topic for most people to talk about. However, the increased reporting of sexual abuse cases involving youth sports participants signals a call for more thorough safeguards. Currently existing laws provide an opportunity to weed-out some potential "bad apples" wishing to affiliate with youth and youth programs. Case law has highlighted the need for youth sports organizations to implement comprehensive sexual abuse prevention programs to prevent extensive liability exposure. Thus, youth sports organizations have to undertake the development and implementation of comprehensive risk management plans designed to secure their participants, program, personnel and premises from potential abusers. With the implementation of sexual abuse prevention programs and the adoption of new statutory protections allowing greater access to criminal history records, youth sports organizations can reduce the potential for any further preventable sexual abuse.

References

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- ² See generally, M. Dorgan, *Who is the 'Real O.J.?'* SAN JOSE MERCURY NEWS, June 19, 1994, 1A. See also Henry J. Reske, *Verdict on Simpson Trial*, ABA JOURNAL, November, 1995, 48.
- ³ Abusive coaching and training techniques have been alleged against various coaches including women's gymnastics coaches who often force athletes to engage in dangerous dietary regimes which have contributed to eating disorders and death. See generally Aric Press, *Old Too Soon, Wise Too Late?*, NEWSWEEK, August 10, 1992, 22. Joan Ryan, *Little Girls in Pretty Boxes*, COSMOPOLITAN, September, 1995, 246. Spousal abuse by coaches was highlighted in several 1994 and 1995 cases, including spousal abuse charges raised against Iowa State football coach Dan McCarney. Debra E. Blum, *Coaches as Role Models*, CHRON. HIGHER EDUC., June 2, 1995, A35.
- ⁴ In 1995, college athletes provided the American public with significant exposure to sexual assaults. A 1994 study of rape, attempted rape and fondling cases at 30 universities showed that while athletes made up 3.3 percent of all male students, the athletes carried out 19

percent of the reported cases. News In Brief , *Athletes get Poor Marks in Campus-Assault Study*, SAN JOSE MERCURY NEWS, November 12, 1994, 14A. See also Erik Brady, *Study Searches for Tie Between Sports, Violence*, USA TODAY, October 4, 1995, C1-C2.

During the 1995 college football season several sexual assault incidents raised national awareness. University of Tennessee receiver Nilo Silvan was arrested for allegedly raping a 17-year-old. Silvan was the second Tennessee player in a two week span to be accused of assaulting a woman. *Tennessee WR Charged With Rape*, HOUSTON CHRONICLE, September 19, 1995, 6B. The University of Nebraska faced a similar fate when two running backs, including Heisman Trophy contender Lawrence Phillips, were arrested for allegedly assaulting women. *Nebraska in Disarray After RB Arrests*, HOUSTON CHRONICLE, September 12, 1995, 2B. An uproar ensued after several weeks of being "off" the team, Phillips was allowed to stay in school and compete for the football team. *Nebraska Lets Phillips Stay in School*, HOUSTON CHRONICLE, October 24, 1995, 2B. See also John P. Lopez, *Crime Without Punishment*, HOUSTON CHRONICLE, October 27, 1995, B1. See also Shelly Smith and Sonja Steptoe, *Coach and Jury*, 83 SPORTS ILL. 13, September 25, 1995, 31. The exploits of various Nebraska football players convicted or accused of various illegal acts was highlighted on national television programs including CBS News' 48 Hours. *Violent Athletes*, 48 Hours, November 30, 1995, Transcript produced by Burrelle's Information Services.

Professional athletes also shared the national spotlight in several cases: Patti Muck, *Moon Case Spotlights Abuse Dilemma*, HOUSTON CHRONICLE, September 10, 1995, 37A. A review by the Washington Post found that from 1989 through 1994, 141 men, 56 current and former pro football players and 85 college football players were reported to police for alleged violent behavior against women. Bill Brubaker, *NFL Counseling Teams on Violence*, SAN JOSE MERCURY NEWS, November 13, 1994, 22A. See also David A. Kaplan, *Are Two Chances Too Many?*, NEWSWEEK, August 21, 1995, 66. William Nack and Lester Munson, *Sports' Dirty Secret*, 83 SPORTS ILL. 5, July 31, 1995, 62.

⁵ An example of sexual impropriety was the improper video taping of female athletes in changing rooms. James Pinkerton, *Secret Video Upsets Parents at High School*, HOUSTON CHRONICLE, October 11, 1995, 21A.

⁶ See generally the University of Nebraska' response to the assault by Phillips, supra note 4. National publicity swirled around the recruiting of New York City schoolyard star Richie Parker. Despite his felony conviction for sexual abuse, Parker was recruited by four colleges aware of Parker's conviction. However, they were all willing to bend rules to attract a potentially great basketball player. Johnette Howard, *Sending the Wrong Message*, SPORTS ILL., May 15, 1995, 84. One school that recruited Parker, George Washington, drew national outrage when it offered Parker's victim a \$100,000 scholarship as an inducement to get Parker to play for their school. Debra E. Blum, *A Controversial Scholarship*, CHRON. HIGHER EDUC., June 30, 1995, A29. See also *Scholarship Offered to Athlete's Victim*, SAN JOSE MERCURY NEWS, June 18, 1995, 21A. Both the Phillips and Parker incidents help demonstrate that some institutions employ a double

standard for athletes and only punish superstars athletes faced with a national publicity scandal. Such responses were considered so comical by some that these episodes became the topic of a nationally syndicated sports cartoon., Jeff Millar and Bill Hinds, *Tank McNamara*, HOUSTON CHRONICLE, November 13 and 14, 1995 at 12B and 8B respectively.

- ⁷ See infra notes 17 through 39 and accompanying text.
- ⁸ NATIONAL COMMITTEE TO PREVENT CHILD ABUSE, NCPA FACT SHEET, Chicago, IL (1995).
- ⁹ John Patterson,, CHILD ABUSE PREVENTION PRIMER FOR YOUR ORGANIZATION 1 Nonprofit Risk Management Center, Washington, DC (1995).
- ¹⁰ National Committee, supra note 8.
- ¹¹ National Committee, supra note 8. While the exact magnitude of sexual abuse is not known, a Los Angeles Times survey found that 27 percent of women and 16 percent of men claimed to have been sexually abused prior to reaching majority (18). Id, citing Finkelhor, D. A SOURCEBOOK ON CHILD SEXUAL ABUSE (1986). The American Medical Association reported that over 700,000 women are sexually assaulted each year. Richard Saltus, *Doctors Urged to Learn Signs of Sexual Abuse*, HOUSTON CHRONICLE, November 7, 1995, 5A. The AMA's research also concluded that an act of sexual assault occurs throughout the United States every 45 seconds. Id.
- ¹² Patrick Langan, and Caroline Wolf Harlow, *Child Rape Victims, 1992*, CRIME DATA BRIEF, U.S. DEPARTMENT OF JUSTICE, June 1994, 1. The same data provided an estimate that 17,000 of the 109,062 women raped in 1992 were under age 12. Id. at 2.
- ¹³ Patterson, supra note 9, at 17-18. See also, Diane DePanfilis and Marsha K. Salus, A COORDINATED RESPONSE TO CHILD ABUSE AND NEGLECT: A BASIC MANUAL 7, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services, Washington, DC (1992). Abusive sexual assault is clinically broken down into three differential categories: power (where one party controls the other either through power or position such as a teacher or coach), knowledge (where one party cannot appreciate the consequences of the relationship) and gratification differential (where only one party will be gratified by the sexual encounter). Kathleen Coulborn Faller, CHILD SEXUAL ABUSE: INTERVENTION AND TREATMENT ISSUES 10-11, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services, Washington, DC (1993). The National Center on Child Abuse and Neglect has identified the potential for sexual abuse by a coach in an example of non-contact sexual abuse as follows: "[A] coach told a team member he had a fine body, and they should find a time to explore one another's bodies. He told the boy he had done this with other team members, and they had enjoyed it." Id. at 12.
- ¹⁴ Blum, supra note 3, A36. See also Gil Fried, *Applying the First Amendment to Prayer in a Public University Locker Room: An Athlete's and Coach's Perspective*, 4 MARQ. SPORTS L. QUAR. 2, Spring 1994, 301, at 311-312.
- ¹⁵ D. STANLEY EITZEN, *The Dark Side of Coaching and the Building of Character*, SPORTS IN CONTEMPORARY SOCIETY 133 (1989).
- ¹⁶ Gail Ryan, *Victim to Victimizer*, 4 JOURNAL OF INTERPERSONAL VIOLENCE 3, September 1989, 325-

341, at 326.

- ¹⁷ States with authority abuse statutes include: New Hampshire (State v. Collins, 529 A.2d 945 (N.H. 1987)), Michigan (People v. Usman, 406 N.W.2d 824 (Mich. 1987)), and New Mexico (State v. Gillete, 699 P.2d 626 (N.M. Ct. App. 1985)). States that have case law creating a duty for individuals in a position of authority include: Alaska (Skrepich v. State 740 P.2d 950 (Alaska Ct. App. 1987) involved a karate teacher who abused his position of authority), North Carolina (State v. Gilbert, 385 S.E.2d 815 (N.C. Ct. App. 1989)), Ohio (State v. Penton, 588 N.E.2d 951 (Ohio Ct. App. 1990)), and Rhode Island (State v. Burke, 522 A.2d 725 (R.I. 1987)).
- ¹⁸ Mississippi Codes, § 97-3-95 (2) (1972). See also Page's Ohio Revised Code Annotated, § 2907.03 (1994). The Ohio Revised Code specifies criminal sexual battery involving sexual conduct with a parent, guardian, custodian or person in loco parentis. Ohio Revised Code § 2907.03(A)(5). In State v. Noggle, the Ohio Supreme Court concluded that a teacher and coach charged with sexual battery did not, solely based on his position, stand "in loco parentis", but in loco parentis only resulted when the coach assumed a parental role. State v. Noggle, 615 N.E.2d 1040 (S.C. 1993).
- ¹⁹ Scadden v. State, 732 P.2d 1036, 1038-1039 (Wyo. 1987).
- ²⁰ Id. at 1040-1041.
- ²¹ For example, in an unfortunately typical case, a 31-year-old father pleaded guilty to jumping onto and fondling a 14-year-old member of a girls' volleyball team in a school's locker room. Jennifer Liebrum, *Caught at Girls' Gym, Fondler Gets 20 Years*, HOUSTON CHRONICLE, August 25, 1995, 30A.
- ²² People v. Rossi, 585 N. Y. Supp. 2nd, 816 (S.C., 1992).
- ²³ Id. at 817.
- ²⁴ Eric Goodman, *The Coach and His Girls, A Dangerous Bond*, GLAMOUR, October, 1993, 248. See also S.L. Wykes, *Coach Tells of Runner's Suicide Threats*, SAN JOSE MERCURY NEWS, August 12, 1992, B1.
- ²⁵ Id. at 249
- ²⁶ Id. at 249
- ²⁷ Id. at 250
- ²⁸ Id. at 251. In response to his criminal investigation, Ipsen sued Mrs. Housen for defamation, based partially on Linda's deposition, where she claimed Ipsen never touched her. Ipsen succeed in getting Mrs. Housen's insurance company to pay some money to settle the defamation suit out of court. Id at 251 and 283.
- ²⁹ Id. at 285.
- ³⁰ See generally, Hagan v. Houston Independent School District, 51 F.2d 48 (5th Cir. 1995) alleging the school's principal failed to prevent the coach's sexual assault which was a violation of the students' constitutional and civil rights. See also Doe v. Taylor Independent School District, 975 F.2d 137 (5th Cir. 1992) and 15 F.3d 443 (5th Cir 1994). Recently successful civil cases have focused on a school's obligation to provide an environment free of sexual abuse under Title IX, rather than a negligence cause of action. Leija v. Canutillo Ind. School Dist., 887 F. Supp. 947 (W.D. Tex. 1995) and Rosa H. v. San Elizario Ind. School Dist., 887 F. Supp. 140 (W.D. Tex. 1995). 1996 witnessed the first filing of a civil suit under the 1994 Violence Against Women Act. The case was brought by a student from Virginia Polytechnic & State University allegedly raped by two freshman football players from the same school. Nina Bernstein, *Rape Victim Turns To Federal Law*, HOUSTON CHRONICLE, February 12, 1996, A1.
- ³¹ Negligent employment practices include negligent hiring, failing to supervise an employee, failing to properly train an employee, and negligent retention of an employee. The term negligence infers the failure to act reasonable under the circumstances. Thus, while no employee screening process is 100% accurate, it is considered a reasonable practice to screen applicants and identify any potential problem applicants. JOHN PATTERSON, STAFF SCREENING TOOL KIT 10, Nonprofit Risk Management Center, Washington, DC (1994).
- ³² Bratton v. Calkins, 870 P.2d. 981 (Wash. App. Div. 3 1994).
- ³³ Id. at 982. Bratton alleged the school district was negligent in failing to: control, supervise and regulate extracurricular activities; properly investigate or take corrective measures; and anticipate dangers and take precautionary measures. Id. at 983.
- ³⁴ Id. at 982.
- ³⁵ Id. at 986, citing Thompson v. Everett Clinic, 860 P.2d 1054 (Wash. App. Div. 1 1993).
- ³⁶ See generally, supra note 30.
- ³⁷ Thurmond v. Richmond County Board of Education, 428 S.E.2d. 392 (Ga. App. 1993).
- ³⁸ Id. at 395. See also Big Brother/Big Sister of Metro Atlanta, Inc. v. Terrell, (359 S.E.2d. 241 (Ga. App. 1987)) wherein the court held that screening was sufficient when the applicant's family history was reviewed, three references were contacted and the applicant went through several extensive interviews.
- ³⁹ Kuhn v. Youlten, Court of Common Pleas, Cuyahoga County, Case No. CV-258142. Summary Judgment decided September 20, 1995.
- ⁴⁰ Carlsen v. Wakenhut Corp., 868 P.2d. 882 (Wash. App. 1994)
- ⁴¹ Maryann Hudson, *...On the Dark Side, Sexually Abusive Coaches a Major Concern*, HOUSTON CHRONICLE, May 28, 1995, 14B.
- ⁴² Id.
- ⁴³ Id.
- ⁴⁴ Id.
- ⁴⁵ Id.
- ⁴⁶ US YOUTH SOCCER, KIDSAFE, A RISK MANAGEMENT PROGRAM, Richardson, TX (1994).
- ⁴⁷ Id. at 1.
- ⁴⁸ Id. at 2-3.
- ⁴⁹ Id. at 2-3.
- ⁵⁰ Karl Hanson, Richard Steffy, and Rene Gauthier, *Long-term Recidivism of Child Molesters*, 61 JOURN. CONSULTING CLINICAL PSYCHOL. 4, 1993, 646-652 at 646. Among child molesters, those with male victims have the highest recidivism rate while those with unrelated female victims had a lower recidivism rate. Vernon Quinsey, Marine Rice, and Grant Harris, *Actuarial Prediction of Sexual Recidivism*, 10 JOURNAL INTERPERSONAL VIOLENCE 1, March 1995, 85-100 at 86.
- ⁵¹ Pennsylvania indicated a legislative intent to register sexual assailants because the offenders pose a high risk of engaging in future offenses. Thus, releasing

- information to public agencies would further the government interest of public safety and communities could develop constructive plans to prepare themselves and their children for an offender's release. Title 42 of the Pennsylvania Consolidated Statutes, Chapter 97, § 9791 (a)(1),(2), and (6), enacted 1995. See also No. Car. Gen. Stat. § 14-208.5 (1995).
- ⁵² Barbara Smith, *THE PROBATION RESPONSE TO CHILD SEXUAL ABUSE OFFENDERS: HOW IS IT WORKING?*, 1 and 9, A Study of the American Bar Association, Criminal Justice Section (1990).
- ⁵³ Connecticut Gen. Stat. Ann. § 10-221d(a) (Supp. 1995), Florida State Ann. 231.02 and 231.15 (Supp. 1995), Georgia Code Ann. § 20-2-211 (Supp. 1995), Nevada Rev. Stat. Ann. § 391.033 and 391.100 (1991), Ohio Revised Code Ann. § 3301.541 (Supp. 1994), Oregon Rev. Stat. § 342.223 (1993), Rhode Island Gen. Laws § 16-48.1-5 (1988), Tenn. Code Ann. § 49-5-413 (Supp. 1994), and Washington Rev. Code § 28A.410.010 (Supp. 1995).
- ⁵⁴ See generally, *Insurance Regulator Supports Fingerprinting All New Agents*, HOUSTON CHRONICLE, January 19, 1996, 2C, regarding fingerprinting of newly licensed insurance agents and requiring background checks. For a complete discussion concerning liability issues associated with volunteers, see generally, Betty van der Smissen, *LEGAL LIABILITY AND RISK MANAGEMENT FOR PUBLIC AND PRIVATE ENTITIES*, Chp. 3 (1990)
- ⁵⁵ See generally Washington Revised Code § 43.43.830 et seq. (Supp. 1995). Information can be released if it pertains to either an employee or a volunteer who will have regularly scheduled unsupervised access to children under sixteen, and other specific groups. Wash. Rev. Code § 43.43.830 (1)(b).
- ⁵⁶ Wash. Rev. Code § 43.43.832 (1).
- ⁵⁷ Wash. Rev. Code § 43.43.838(2). The research is only performed to assist in making initial employment or engagement decisions. Id. at § 43.43.834(5). An insurance company cannot require, as a prelude to receiving insurance, that all new employee or volunteers have their records checked. Id. at § 43.43.834(6). Lastly, the nonprofit organization requesting the background check shall be immune from civil liabilities for failing to request a background check, unless the failure to do so constitutes gross negligence. Id. at § 43.43.834(7).
- ⁵⁸ Texas State Bill 503 (1991) authorized the distribution of criminal background information to certain nonprofit organizations. However, while the Volunteer Center of Dallas County offers system access to nonprofit organizations, the process is very time consuming as a list of potential applicants (who had signed releases) is forward from the nonprofit to the Volunteer Center, and then from the Volunteer Center to the Texas Department of Public Safety. The reverse process was utilized to get the information back to the non-profit organization. Volunteer Center of Dallas County, *Criminal Background Checks/Summary*, undated. Time delays can become a critical concern when volunteers are needed immediately, but background checks might take several weeks.
- ⁵⁹ Telephone interview with Marilyn Dogan, Program Director, YMCA (South Central) Houston, TX, on October 10, 1995 (713) 748-5405.
- ⁶⁰ Telephone interview with Anthony Winter, Vice President of Joe Winter and Associates, Houston, TX on October 10, 1995. (713) 221-1900. See also, supra note 54, where the cost to fingerprint someone is estimated at \$10 to \$17. The Federal Bureau of Investigation charges a nonprofit organization \$18 for a national criminal history record check, including fingerprinting. PATTERSON, supra note 31 at 63. One strategy used to defray costs involves a sponsor paying for background checks. Thus, one Optimist Club paid for the screening of their sponsored team's coach. Id. at 64.
- ⁶¹ California Youth Soccer Association, 1994-1995 Team Manual (1994).
- ⁶² The National Institute for Child Centered Coaching, *Information Sheet*, undated.
- ⁶³ See generally US Youth Soccer, supra note 46.
- ⁶⁴ Blum, supra note 3, A36. Background checks cannot be used to discriminate against applicants for non-job related issues such as race and religion. Patterson, supra note 31 at 96. See generally, Patterson, supra note 31, concerning specific employment evaluation factors, interview questions, and employment screening techniques.
- ⁶⁵ Patterson, supra note 31 at 1. See generally US Youth Soccer, supra note 44, and Faller, supra note 13 at 7. The National Alliance for Youth Sports held a National Summit on Child Protection in Youth Sports in 1995 that was designed to develop a meaningful and effective child protection program to be implemented by youth sports organizations. National Summit on Child Protection in Youth Sports, Program Agenda, August 11-12, 1995.
- ⁶⁶ Michelle Elliot, Kevin Browne, and Jennifer Kilcoyne, *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE & NEGLECT 5, pp. 579-594 (1995).
- ⁶⁷ Id. at 581. The abusers overall preferred a pretty, young, small and provocatively dressed child. Id. at 584
- ⁶⁸ Id. at 581.
- ⁶⁹ Id. at 583-45
- ⁷⁰ Id. at 588-591.
- ⁷¹ Faller, supra note 13, at 27.
- ⁷² Patterson, supra note 31, at 39.
- ⁷³ See generally, Faller, supra note 13.
- ⁷⁴ Stephen J. Bavolek, *Sexual Abuse and Exploitation of Athletes by Their Coaches*, CHILD CENTERED COACHING NEWS, Spring 1995, 5.
- ⁷⁵ Faller, supra note 13, at 31. The Boy Scouts utilize a buddy system for the completion of merit badge requirements. Id.
- ⁷⁶ Faller, supra note 13, at 32.
- ⁷⁷ Patterson, supra note 9, at 25.
- ⁷⁸ Keith L. Kaufam, Cynthia Harbeck-Weber, and Leslie Rudy, *Re-Examining the Efficacy of Child sexual Abuse Prevention Strategies: Victims' and Offenders' Attitudes*, 18 CHILD ABUSE & NEGLECT 4, pp. 349-356 at 349 (1994).
- ⁷⁹ Mark Freeman, *Athletes Putting A Dent in Date Rape*, 32 THE NCAA NEWS 40, November 13, 1995, 4.
- ⁸⁰ Id.
- ⁸¹ Faller, supra note 13 at 38.
- ⁸² See generally, Elliot, supra note 66.
- ⁸³ J. Randolph Burton, *Justice for Children-Legislative Objectives*, 1 THE TEXAS LAW REPORTER 4, August 1995, 10. See generally, Patterson, supra note 31 at 61, regarding a thorough analysis of criminal history records checks under the National Child Protection Act of 1993. See also 42 U.S.C.S. § 5119(b).
- ⁸⁴ California Civil Code § 51.8 (Supp. 1995). Allowable

damages under the statute include emotional distress, treble damages, punitive damages, and attorneys' fees. California Civil Code § 52.

⁸⁵ Id. at § 51.8(a)(2).

⁸⁶ See generally, supra notes 18-20.

⁸⁷ Ala. Code § 13A-11-200(1975), Alaska Stat. § 12.63.010(1994), Ariz. Rev. Stat. Ann. § 13-3821 (1993), Ark. Code Ann. § 12-12-902 (1987), Cal. Penal Code § 290 (1994), Colo. Rev. Stat. § 18-3-411(1) (1991), Conn. Gen. Stat. Ann. § 54-102r (1994), Del. Code Ann. tit. 11, § 4120 (1994), Fla. Stat. § 775.22 (1994), Ga. Code Ann. § 42-9-44.1 (1994), Haw. Rev. Stat. § 706-603 (1991), Idaho Code §§ 18-8303-8306 (1993), 730 Ill. Comp. Stat. Ann. § 150/2 (1992), Ind. Code §§ 5-2-12-5 through 5-2-12-11 (1994), Kan. Stat. Ann. §§ 22-4903-4910 (1994), Ky. Rev. Stat. Ann. §§ 17.510-530 (1994), La. Rev. Stat. Ann. § 15:535 (1991), Me. Rev. Stat. Ann. tit. 34-A § 11002 (1993), Mich. Comp. Laws §§ 28.721-730 (1994), Minn. Stat. § 243.166 (1994), Miss. Code Ann. § 45-33-1 et seq. (1994), Mo. Rev. Stat. Ann. §§ 566.600-625 (1994), Mont. Code Ann. § 46-23-502 (1991), Nev. Rev. Stat. § 207.151 (1991), N.H. Rev. Stat. Ann. § 632-A:11 (1993), N.J. Rev. Stat. §§ 2C:7-1-5 (1994), N.D. Cent. Code § 12.1-32-15 (1993), Ohio Rev. Code Ann. § 2950.01 (1974), Okla. Stat. tit. 57, § 582 (1993), Or. Rev. Stat. §§ 181.518 and 181.591 (1991), R.I. Gen. Laws § 11-37-16 (1992), S.C. Code Ann. §§ 23-3-400-490 (1994), S.D. Codified Laws Ann. § 23-5-14 (1990), Tenn. Code Ann. § 38-6-110 (1989), Tex. Rev. Civ. Stat. Ann. Art. 6252-13c.1 (1993), Utah Code Ann. § 77-27-21.5 (1994), Va. Code Ann. § 19.2-298.1 (1994), Wash. Rev. Code § 9A.44.130 (1994), W.Va. Code §§ 61-8F-2 through 61-8F-8 (1993), Wis. Stat. § 175.45 (1993) and Wyo. Stat §§ 7-19-302-306 (1994). See also 42 U.S.C. § 14071 (1994).

⁸⁸ See generally, Washington Revised Code Chapter 258, § 1(5)(l).

⁸⁹ See generally, Washington Chapter 258, § 5 et seq.

⁹⁰ The State Statutes Project, *Child Abuse and Neglect Statutes at a Glance Fact Sheet*, 1 undated. California established a 900 number so citizens could determine if an individual is registered as a child molester. Mitchel Benson, *Parents Given Safety Line*, SAN JOSE MERCURY NEWS, July 1, 1995, 1A. Callers can request up to two names for \$10.00, but callers need to give their name, provide a good reason for why they are calling, identify the number of children at risk, and provide the subject's name and additional information (date of birth, social security number, address, driver's license number, or exact physical description). Id. at 18A.

Due to the lack of a national data base that would allow law enforcement authorities to track sex offenders between states, recent legislation has been introduced by Senator Phil Gramm entitled the Sexual Predator Identification and Notification Act of 1996 which would require convicted sexual criminals to register with the FBI when they cross state lines. Eric Hanson, *Law Aims To Track Sex Offenders*, HOUSTON CHRONICLE, March 17, 1996, A37.

⁹¹ Similar bills have been adopted in Delaware, Louisiana, Oregon, Washington, New Jersey and most recently, Texas. Eric Hanson, *Authorities Prepare to Publicize Release of Sex Offenders*, HOUSTON CHRONICLE, December 16, 1995, 37A.

⁹² Id. In Colorado, anyone can walk into a police station and ask to see the list maintained by the police.

⁹³ Ala. Code § 26-14-3, Alaska Stat. § 47.17.020, Ariz. Rev. Stat. Ann. § 13.3620, Ark. Code Ann. § 12-12-507, Ala. Code § 26-14-3, Alaska Stat. § 47.17.020, Ariz.

Rev. Stat. Ann. § 13.3620, Ark. Code Ann. § 12-12-507, Cal. Penal Code §§ 11165.7, 11165.8, and 11166, Colo. Rev. Stat. § 19-3-304, Conn. Gen. Stat. § 17a-101, Del. Code Ann. tit. 16, §§ 903 and 904, D.C. Code Ann. § 2-1352, Fla. Stat. Ann. § 415.504, Ga. Code Ann. § 19-7-5, Haw. Rev. Stat. § 350-1.1, Idaho Code § 16-1619, Ill. Ann. Stat. Ch. 325, Para. 5/4, Ind. Code §§ 31-6-11-2.1 and 31-6-11-3, Iowa Code §§ 232.68 and 232.69, Kan. Stat. Ann. § 38-1522, Ky. Rev. Stat. Ann. § 620.030, La. Rev. Stat. Ann., Ch. C. arts. 603 and 609, Me. Rev. Stat. Ann. tit. 22, § 4011, Mass. Gen. L. Ch. 119, § 51A, Mich. Comp. Laws Ann. § 722.623, Minn. Stat. § 626.556 Subd. 3, Miss. Code Ann. § 43-21-353, Mo. Rev. Stat. § 210.115, Mont. Code Ann. § 41-3-201, Neb. Rev. Stat. § 28-711, Nev. Rev. Stat. § 432B.220, N.H. Rev. Stat. Ann. § 169-C:29, N.J. Rev. Stat. § 9:6-8.10, N.M. Stat. Ann. § 32A-4-3, N.Y. Soc. Serv. Law § 413, N.C. Gen. Stat. §§ 7A-543 and 115C-400, N.D. Cent. Code § 50-25.1-03, Ohio Rev. Code Ann. § 2151.421, Okla. Stat Ann. tit. 10, § 7103, Or. Rev. Stat. §§ 419B.005 and 419B.010, 23 Pa. Cons. Stat. Ann. § 6311, R.I. Gen. Laws § 40-11-6, S.C. Code Ann. § 20-7-510, S.D. Codified Laws Ann. § 26-8A-3, Tenn. Code Ann.

§ 37-1-403, Tex. Fam. Code Ann. § 34.01, Utah Code Ann. § 62A-4a-403, Vt. Stat. Ann. tit. 33, § 4913, Va. Code Ann. § 63.1-248.3, Wash. Rev. Code Ann. § 26.44.030, W. Va.

Code § 49-6A-2, Wis. Stat. Ann. § 48.981, Wyo. Stat. § 14-3-205, P.R. Laws Ann. Tit. 8,

§ 406, V.I. Code Ann. Tit. 5, § 2533

⁹⁴ See generally, supra note 87.

⁹⁵ National Association for Sports and Physical Education, *National Standards for Athletic Coaches Executive Summary* (1995).

⁹⁶ Id. The closest standards relate to understanding risk management concerns, understanding the social and emotional development of athletes, and identifying and applying ethical conduct in sports. Id.

⁹⁷ VideoNet, *Somebody Told a 23 minute video and accompanying Leader's Guide*, undated. See generally, NCPA Fact Sheet, supra note 8.

⁹⁸ Id., VideoNet.

⁹⁹ STEPHEN J. BAYOLEK, *COACHES' MANUAL-HAVING FUN AND FEELING GOOD ABOUTME* (1993).

¹⁰⁰ Id. at Page 7.

¹⁰¹ Id. at Page 7.

