

WHEN THE ATHLETE IS A CHILD:

An Assessment of USA Swimming's Safe Sport Program

Executive Summary

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GUNDERSEN
NATIONAL CHILD
PROTECTION TRAINING CENTER

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INTRODUCTION

In late August, 2013, USA Swimming contracted with the National Child Protection Training Center, a program of Gundersen Health System, to conduct an independent assessment of USA Swimming's Safe Sport program. Specifically, Gundersen Health System was asked to review the following target areas: 1) policies and procedures; 2) screening and selection; 3) education and training; 4) monitoring and supervision; 5) recognizing, reporting and responding; 6) grassroots engagement and feedback.

THE SCOPE OF REVIEW AND PROCESSES FOLLOWED

In assessing these areas, we compared USA Swimming's Safe Sport program against guidelines proposed by the Centers for Disease Control in 2007, as well as child protection policies in international swimming bodies. We reviewed several thousand pages of documents pertaining to every banned or suspended coach in the history of USA Swimming as well as files of coaches or others investigated that were not sanctioned. We also interviewed 57 witnesses connected to the sport of swimming or who were subject matter experts that could assist us in our analysis. We also had our final report reviewed by a number of child protection experts.

POLICIES AND GUIDELINES

From 1980-2009, USA Swimming had a number of child protection policies. However, these policies fell below the 2007 CDC guidelines for youth serving organizations. Although some children were protected, and some coaches expelled, the policies proved ineffectual in many instances. In 2010, the weaknesses in these policies were brought to light in a series of national media accounts of athletes sexually abused within USA Swimming. Witnesses we spoke with describe the impact of media coverage as "changing the will" of the organization and making it clear reforms were in order.

Working initially with the Child Welfare League of America and using as its baseline the aforementioned CDC guidelines, USA Swimming made significant policy changes, tightened its policies, and hired employees to work exclusively on improving the organization's response to sexual misconduct.

The policies implemented were directly targeted to address previous risk factors and were compatible with the CDC guidelines. Since Safe Sport went into effect, the organization has seen a marked increase in reports of abuse—more reports in the past three years than in the previous 20 years. The files we reviewed reveal a number of successes in the handling of child abuse cases. Even so, there are a number of remaining weaknesses that leave some children at risk.

Recommendations

1. Provide equal layers of protection for all abused children within the sport

USA Swimming's policies and procedures are focused primarily on sexual abuse within the sport. Children who are physically or psychologically abused receive fewer protections. There is very little in the rules protecting a child who may be involved in swimming but is being abused in his or her own home. Not only does this afford lesser protection to some abused children, it also impairs the ability of the organization to fully protect children who may be sexually abused within swimming. This is because most children who are abused in one way are abused in multiple ways, and children who are abused in their own home may be more susceptible to abuse by other parties. Accordingly, if the organization improves its ability to recognize and respond to other forms of abuse, it will also do a better job of protecting athletes from sexual abuse. To this end, we recommend that USA Swimming follow the lead of swimming organizations in other countries, as well as a number of youth serving organizations in the United States, and require all of its members to report suspected child abuse no matter the type and irrespective of the source of the abuse. All policies, procedures and training programs of the organization should reflect this change.

2. Develop a workable definition and response to cases of psychological abuse

USA Swimming declined to adopt a separate definition of psychological abuse in its rulebook and instead put some of these concepts in its definition of bullying. This is problematic, in part, because bullying is best seen as conduct among peers while emotional abuse is at the hands of someone in authority over a victim. Because emotional abuse is unlawful and research indicates this form of maltreatment is equally harmful to children, USA Swimming should better educate its members about this type of abuse and develop a workable definition and set of policies reigning in this conduct.

SCREENING AND SELECTION

Prior to 2010, pre-employment screening was a significant weakness enabling a number of offenders to escape detection. Although USA Swimming's current policies are much improved, there is room to get better.

Recommendations for improving screening and selection

1. Recommend to clubs additional pre-employment screening tools of a written application, personal interview and written acknowledgment of the code of conduct pertaining to child protection

These are recommendations of the CDC guidelines for youth serving organizations and should be implemented in USA Swimming clubs.

2. Develop materials to assist clubs in this process

Many swimming clubs are small with literally a handful of people sitting around a kitchen table discussing the hiring of the next coach. Accordingly, it is critical to help these clubs with pre-employment screening by developing additional tools—many of which are readily available from other sources including the CDC guidelines.

3. The Safe Sport training program for parents should include information on asking questions about pre-employment screening

The Safe Sport training program for parents should include information that will help parents in asking questions about the pre-employment screening practices of a given club. If parents are empowered to ask the right questions, clubs will have an even stronger incentive to take pre-employment screening to a higher level.

USA Swimming Background Checks

The USA Swimming background checks, conducted by Sterling Global Background Checks, are extensive, and conducted regularly. In addition to the initial background check, non-athlete members undergo a recurring monthly background check. As a result, non-athlete members are checked more than 450,000 times a year. Although background checks detect very few offenders, they do detect some.

Recommendations for improving background checks

1. USA Swimming should maintain its current background check program but explore the feasibility, perhaps in collaboration with other youth-serving organizations, of one day moving to a fingerprint-based check

It would be possible to expand the USA Swimming background check policy by conducting a fingerprint-based check. A fingerprint-based check is more likely to catch an alias or otherwise identify someone attempting to avoid detection. However, fingerprint-based checks are not as timely, may not be available to all non-profits, are more expensive and still may not detect every conviction if, for example, a fingerprint was not taken at the time of the arrest.

The National Center for Missing & Exploited Children (NCMEC) did operate a pilot nationwide fingerprint program that was able to generate results in no more than two days and which cost only \$13.25 per check. Unfortunately, this pilot program expired on March 31, 2011.

USA Swimming may wish to explore with NCMEC, congressional leaders and other youth serving organizations the value of reinstating the NCMEC fingerprint program and the feasibility of participating in an even broader background check. At the present time, though, the USA Swimming background check program appears to be a comprehensive approach that exceeds that of many organizations.

EDUCATION AND TRAINING

USA Swimming now requires mandatory training for coaches and other non-athlete members as well as voluntary training for athletes and parents. The training comports with the CDC guidelines, exceeds it some areas, and has been well received by coaches. However, a very small percentage of parents and athletes have taken the training.

Recommendations

1. Require children who are athlete members 12-18 to take the Safe Sport training

In reviewing academic studies on the effectiveness of abuse prevention education for children, researchers have found “ample empirical evidence” in support of these programs. Although the research is clear that personal safety education will increase the chance a child may take actions to protect him or herself, this education cannot work if children do not receive the training. As of this writing, only 0.5% of the children in USA Swimming have taken the Safe Sport program. Sex offenders and other abusers count on the naivete of youth and USA Swimming should address this dynamic by requiring athletes to take the training.

2. Develop personal safety materials for younger children—and require parents to review them with younger athletes

According to USA Swimming data of 94 cases of abuse investigated since 2010, more than 13% of the children were ten years of age or younger. In general, young children “report minimal knowledge of sexual abuse and self-protection skills.” Research indicates that many young children believe that abuse is their fault, that they should not report secret touching and, if they wanted to report, didn’t know how to.

Although there is a clear need to provide personal safety education for younger children, the current athlete protection training is aimed only at adolescents and teenagers. To address this, it would be wise to develop written materials for younger children and to require parents or other caretakers to go through this material with these children and document having done so.

3. Require parents to take Safe Sport training

As of this writing, no more than 1.4% of parents have taken the Safe Sport training. This is problematic for multiple reasons. Research shows that parents know very little about child sexual abuse, that they subscribe to a number of myths about abuse, that few parents discuss sexual abuse prevention with their children and those who do often give inaccurate information suggesting, for example, that perpetrators are often social misfits or strangers. In order to address this dynamic, USA Swimming should require parents to take the Safe Sport training.

4. Develop a version of Safe Sport accessible to children or parents with disabilities

There are 1,613 children participating in USA Swimming who have a physical, cognitive, visual or hearing impairment. Although these numbers are relatively low, a number of studies find that children with a disability are at greater risk of abuse. Because the Safe Sport training involves reading, hearing, seeing and cognitive abilities, all or portions of the athlete or parent trainings may be inaccessible to children or parents with a disability. Accordingly, USA Swimming should develop a version of Safe Sport accessible to these athletes and parents.

5. Strengthen the physical abuse section of the Safe Sport training

Since a swimsuit exposes a great deal of a child's body, coaches may be able to see signs of physical abuse to a greater extent than teachers or other mandated reporters. Because approximately 66% of children abused in one way are abused in another, doing a better job of detecting physical abuse may also enable those in the sport to better detect instances of sexual abuse. Accordingly, this aspect of the training needs to be strengthened.

6. Incorporate Adverse Childhood Experience (ACE) research into Safe Sport training

There is a large, prestigious body of research conducted by Kaiser Permanente's Department of Preventive Medicine in collaboration with the United States Centers for Disease Control. This research, entitled *Adverse Childhood Experiences* (ACE) has been widely heralded as groundbreaking and, if incorporated into the Safe Sport training, could assist USA Swimming in recognizing indicators of abuse, in working with children who have been traumatized and in helping coaches better evaluate the impact of trauma on their own lives and to address it.

7. Develop training and written materials pertaining to juvenile sexual behaviors and offenses

In recent years, USA Swimming has received a number of reports concerning juvenile sexual behaviors. Understanding and responding to these issues is a complicated issue and almost certainly beyond the expertise of any coach or club. To sort through these and other issues, it is critical that USA Swimming develop materials that are rooted in research on sexual behaviors and can assist clubs in knowing who to call and what to ask.

8. Incorporate resilience research into Safe Sport training

Researchers are increasingly interested in why some abused and neglected children do so much better than others. The answer, at least in part, seems to be that one or more persons or social structures helped build resiliency in the child enabling him or her to excel in spite of abuse. Resiliency can be as simple as having supportive relationships—including those found among peers in swimming. Resilience can also come from a role model who demonstrates support for an abused child and demonstrates a different way to live—the sort of role model found among many swimming coaches. The current Safe Sport training for coaches includes a section emphasizing

the joy of coaching swimmers. We suggest that this section be replaced with a discussion on resiliency research with practical tips on how coaches can continue to build resilience in children who have endured trauma.

9. Constantly re-evaluate training as research expands

The body of literature on all aspects of child maltreatment is constantly expanding. Accordingly, there needs to be a concerted effort to constantly monitor the literature, attend national child abuse conferences and access training and other aspects of the program reviewed by those well versed in the literature.

MONITORING AND SUPERVISION

In prohibiting coaches from massaging athletes, and in placing restrictions on travel, locker rooms and social media, USA Swimming was responding directly to past incidents of sexual abuse. These policies should be maintained.

Recommendations

1. Continually reinforce the rationale behind and importance of the monitoring and supervision rules

In the course of our assessment, one witness contended the organization had gone *too far* in its development of rules. Other witnesses said that they supported the various rules but said they knew others who believe the organization may have gone too far. Although we see little evidence that this attitude is widespread, the fact that there is any opposition or call to retreat from the rules is a reminder that USA Swimming must continually be vigilant in educating its members about the reason for the rules.

2. Continue to develop options for “two deep leadership” on all team travel

The rule allowing a child to travel alone to a competition with a coach merits additional discussion within USA Swimming. The rule may be helpful to smaller clubs lacking the resources to transport an athlete to a particular competition if he or she is the only athlete participating from that club. Even so, there have been instances in which a coach traveling alone with a child used this opportunity to abuse the child. USA Swimming’s “recommended policies” for team travel urges clubs to adopt “two-deep leadership” in which at least two adults are present during team travel. The organization must continue to develop options to help all clubs follow this best practice.

3. Develop checks and balances or quality control measures for the informal resolution process

USA Swimming has developed an informal resolution process in which a boundary violation can result in a warning letter. This procedure is consistent with the CDC manual

as well as the child protection field and may serve as an effective preventive measure. There are, though, several risks inherent with this practice that can be reduced. These risks can be reduced by having written guidelines governing informal resolution and external peer review of a randomly selected number of cases.

RECOGNIZING, REPORTING AND RESPONDING

Recommendations to protect coaches or others who report abuse

1. Extend whistleblower protection to coaches or others who make a good faith report of physical abuse or psychological abuse/bullying

The USA Swimming rulebook prohibits retaliation against a member who makes a “good faith report” involving sexual misconduct. However, the rules do not explicitly protect a coach, official or other party when reporting an act of physical abuse or psychological abuse/bullying even though these acts are also prohibited under the code of conduct. It makes little sense to prohibit physical or psychological abuse/bullying but not provide reporters of this type of abuse the same sort of protection afforded reporters of sexual misconduct. This policy should be changed.

2. Extend whistleblower protection to coaches or others who make a good faith report to the authorities or to USA Swimming of any act of child abuse committed by any person inside or outside of USA Swimming

The current rules do not protect coaches or others who report to the authorities a case of suspected child abuse against an athlete that may have been committed by a parent or other person who may not be a member or directly connected to swimming. Acting to protect a child, particularly in cases in which reports are required by law, should never result in retaliation. We believe already existing whistle blower protection rules should be expanded to protect coaches or others who report abuse no matter what the case may involve or who the offender may be.

3. Create a “rebuttable presumption” clause that further protects coaches or other reporters from retaliation

Given the importance of reporting child abuse, and the possibility of retaliation against reporters, some state laws create a “rebuttable presumption” that any action taken against a reporter within a limited period of time is *presumed* to be taken because of the report. In these instances, the employer can still take action against an employee but now the burden shifts to the employer to prove the discipline was unrelated to the report. USA Swimming could adopt a similar approach and thereby provide some teeth to its whistleblower protections.

Recommendations for improving investigations, the assessment of physical and psychological abuse, and the handling of non-compliant victim cases

- 1. If a report concerns recent abuse such that most witnesses are in one location, consider the possibility of the investigator traveling to the community and conducting in person interviews**

When it can be done, in-person interviews provide a better opportunity to gauge demeanor of a witness. An in-person interviewer may also develop greater rapport with survivors who are reluctant to share an account of abuse. Simply stated, an in-person interview humanizes the process in a way that is more difficult over the phone.

- 2. If the crime scene is available and accessible to the investigator, have it photographed**

There are multiple reasons that photographs of the location of abuse can help prove a case. We urge USA Swimming investigators to follow this best practice in those cases in which it has access to a crime scene.

- 3. Develop a pool of medical, mental health and sex offender treatment experts that can be consulted in cases of physical abuse, psychological abuse and juvenile sex offenses**

Although USA Swimming does have a Safe Sport committee that includes a detective, a psychologist and a medical professional that can be consulted, there is a need to expand this list to include a board certified pediatric specialist in child abuse, a psychologist specializing or well versed in cases of psychological abuse and a sex offender treatment provider specializing or well versed in juvenile sexual behaviors or offenses.

- 4. Disband or limit the coaches' panel to evaluating whether a coaches' conduct is acceptable within the sport of swimming**

Although cases of sexual misconduct may go directly to an NBOR after an investigation, cases of physical abuse or psychological abuse go to a "coaches' panel" after an investigation. Although coaches are qualified to render an opinion as to whether particular conduct is acceptable within the field of coaching, they are not qualified to determine if an act constitutes physical or psychological abuse. Either their role should be limited to their field of expertise or the coaches panel should be abolished.

- 5. USA Swimming should develop materials that may assist an abused athlete and his or her family in cooperating with an investigation or NBOR hearing**

There are cases in which a victim or victim's parents are unwilling to allow a child to testify before the National Board of Review, thus making it more difficult for USA Swimming to ban

an abusive coach. Contrary to what many survivors fear, there are several studies suggesting that testifying against an abuser is not harmful to the victim and may have a number of beneficial effects. This research should be shared with survivors and their families.

6. Research the effects of testifying before the NBOR and utilize this research in responding to cases in which a victim or family is uncooperative

The research referenced above pertains to children testifying in criminal or other proceedings. USA Swimming should specifically research the effect of testifying before the NBOR. If positive, this research may persuade more survivors to participate. If not, it may indicate how the process can be improved.

7. Establish “reliable hearsay” standards that may allow the organization to ban coaches USA Swimming believes has abused a child or otherwise violated the code of conduct

USA Swimming has a number of “non-compliant victim” files in which a survivor has given a clear statement of abuse but is unwilling or unable to testify before the NBOR and for which there may be little corroborating evidence. In these cases, USA Swimming has informed survivors that they do not have a statute of limitations and are willing to proceed whenever the victim may be able to testify. These dynamics may result in an offending coach having ongoing access to children. Even if the coach is no longer a member of USA Swimming, he or she could still access children in another organization. Accordingly, it is critical to explore the development of rules or procedures under which USA Swimming can proceed in cases in which a victim has given a credible statement of abuse but will not testify. There are a number of evidentiary rules used in civil and criminal cases of child abuse which could be adopted for use before the NBOR—and that would give USA Swimming a better chance to move forward in in at least some non-compliant victim cases.

8. Develop standards for evaluating underlying law enforcement and child protection investigations

In some instances, USA Swimming has been too reluctant to proceed when an underlying civil or criminal investigation does not find abuse. In some cases, the civil and criminal investigations were poorly done and should be given little weight. Our report offers guidelines to help USA Swimming in sorting them out.

GRASSROOTS ENGAGEMENT AND FEEDBACK

The Centers for Disease Control guidelines for youth serving organizations states these organizations should “take on as many individual strategies to prevent child sexual abuse as they are able” but organizations “must have a strong infrastructure in place to serve as a foundation for efforts to prevent child sexual abuse.” In order for this infrastructure to be effective, it must begin at the local level which, in the case of USA Swimming, means

the individual clubs and the parents, athletes and coaches participating in them. USA Swimming has developed Safe Sport coordinators among its Local Swimming Committees. This approach should be expanded.

Recommendations for strengthening grassroots engagement

- 1. Set a goal of a Safe Sport coordinator in every club—and strive to meet this goal within five years**

The next, and probably most important evolution in grassroots engagement, is to develop a Safe Sport coordinator at the club level. This person can take a lead in reminding parents and athletes about the importance of Safe Sport training and otherwise make sure Safe Sport policies are being adhered to.

- 2. Facilitate connections between local clubs and community child protection organizations that may assist in evaluating risks unique to a particular club**

Although the Safe Sport employees at USA Swimming can assist in answering questions, developing connections with community child protection professionals will help on many levels. It will also assist the clubs should they ever encounter a situation of abuse and may be unsure of where to turn or of local resources available.

- 3. Make a concerted effort to engage survivors in every major Safe Sport initiative**

Survivors of abuse have a great deal to offer USA Swimming. They know best how to help others who have been hurt and can provide valuable insight into the mind and tactics of offenders. USA Swimming has involved survivors on the Safe Sport committee and in other realms. These efforts should continue and expand.

OTHER RECOMMENDATIONS: RESEARCH, VICTIM ASSISTANCE, A TASK FORCE TO REVIEW ACCESS TO FILES, AND AN INDEPENDENT ENTITY TO RESPOND TO CHILD ABUSE CASES

To date, USA Swimming has developed policies based on what it knows about abuse with this information largely drawn from cases that have been detected. The greater danger to the organization is not what it knows—but what it doesn't know. The only way to determine the extent of abuse within the organization and among its athletes is simply to ask.

Recommendations for research

- 1. Conduct a baseline study to assist in determining the extent of child abuse within swimming, the manner in which offenses may be carried out and the effectiveness, or lack of effectiveness of various responses**

Baseline studies of abuse have been conducted in other sports. Moreover, a baseline study is conducted every three years of public school students in Minnesota. In speaking to researchers, this type of study could be relatively easy to administer and score but it would require the cooperation of parents and athletes throughout the sport. If such a study had been conducted 25 years ago, USA Swimming could have discovered and responded to abuse much more effectively than it did. If baseline studies were repeated periodically, the organization could also determine if abuse is increasing, decreasing or remaining static. A baseline study could help the organization better determine the effectiveness of Safe Sport.

2. Evaluate the level of victimization of boys

Although there are documented cases of the sexual assault of male swimmers, the actual numbers may be higher. A number of studies suggest that the sexual victimization of boys is underreported with boys disclosing less frequently than girls and often much later in life with one study finding that 44% of boys who did disclose took over 20 years to do so. A baseline study could assist in determining if the victimization of boys within swimming is underreported and help the organization respond accordingly.

3. Allow researchers access to USA Swimming's current data and files

USA Swimming is collecting a large amount of data on sexual abuse and other forms of misconduct. If this data were of benefit to researchers, and this research could help keep children safer, the information should be shared with legitimate researchers whose proposed research has IRB clearance.

4. Establish and maintain a victim assistance fund

The files of banned coaches also document the enormity of suffering inflicted on victims. This includes eating disorders, depression, cutting behaviors and suicidal ideations and actions. USA Swimming should develop a fund to assist those in need and otherwise give back to those whose childhoods were interrupted or ended at the hands of an abusive coach.

5. A taskforce regarding greater access to files and NBOR decisions, as well as sharing information about banned, suspended or flagged members with other youth serving organizations

Although there should be protection for victims who may not want National Board of Review decisions published, the organization may want to exercise its current discretion in publishing more of these decisions. This would help the public understand the organization's processes to a greater extent, would help the public sort through the relative safety risks posed by banned coaches and would create legal precedent that may ensure consistency in the handling of these cases.

6. A taskforce to assess the limits of USA Swimming jurisdiction over offenders

In recent years, USA Swimming has expanded its jurisdiction over coaches who may have abused a child. In the past, this may have happened when the organization found a “loophole” in past rules. The organization should appoint a taskforce to determine two issues. First, how far *can* the organization extend its jurisdiction over a coach or athlete? Second, how far *should* the organization extend its jurisdiction? The more USA Swimming expands its jurisdiction, the greater the drain on resources and the possible impairment to respond timely to cases involving active coaches. These and other questions involve considerations of federal and state law as well as public policy. However these questions are answered, they need to be communicated clearly to the public.

7. An independent entity to oversee the investigation, adjudication and imposition of sanctions in cases of abuse

The United States Olympic Committee has formed a 10 person task force to explore the feasibility of an independent agency to handle the investigation, adjudication and sanctions in cases of abuse within sport. The possibility an independent entity may instill greater trust in the handling of child maltreatment cases is a positive aspect of such an agency. At the same time, an independent agency, by itself, is not enough to keep children safe. In order to be truly effective, any such agency must be filled with experts in the field of child protection who can respond to cases thoroughly, impartially and with excellence. If this model is followed, the independent entity can succeed.

CONCLUSION

Although USA Swimming has made great strides since 2010, there are remaining weaknesses in its policies that may leave some children in harm’s way. Moreover, there is a constant need to evaluate old policies in the light of new tactics. Sex offenders and other child abusers are not machines. In many instances, they are intelligent men and women fully capable of adapting to the new rules and finding a way around them. Because these offenders are vigilant, so must everyone else.

The reforms proposed in this report will not end child abuse within the sport or in the homes of the children standing on the deck, in the locker rooms, or speeding through the pools.

It will, though, give more of them a fighting chance.