

Improving Institutional Responses to Sexual Abuse Allegations: Lessons Learned from Recent Events

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Objectives



- Examine recent matters involving serial sexual abuse to identify common themes.
- Discuss the failures of institutional responses whether the respondents were the affected organizations or law enforcement.
- Learn from past errors made by institutions responding to sexual abuse allegations.
- Create and communicate a meaningful response plan and restore confidence.

Background

- Over 15 years as a prosecutor: three as a state prosecutor handling violent crime cases, including sexual abuse matters.
- Over a decade as a Federal prosecutor handling violent crime and white collar matters, with significant experience handling child exploitation and human trafficking cases.
- Served as the National Coordinator for Child Exploitation Prevention and Interdiction for the Justice Department.
 - National Strategy on Child Exploitation Prevention and Interdiction: <https://www.justice.gov/psc/file/842411/download>.
 - Testified for DOJ before Congress on child exploitation and human trafficking issues.

Common Theme

The Known, Trusted Abuser

Stranger Danger: Real But Rare



Common and Missed: The Unknown, Known Offender.

Access + Trust + Grooming + Isolation = Potential Danger



Common Theme

The Known, Trusted Abuser

- Maryland Teacher Sentenced to 8 years after abusing two students (October 2021): https://www.washingtonpost.com/local/public-safety/montgomery-teacher-bero-sentenced-sex-abuse/2021/10/15/fe2bacc8-2de5-11ec-8ef6-3ca8fe943a92_story.html (spent months grooming victims and building their confidence in the relationship).
- Gymnastics Coach Sentenced to 35 years for sexually abusing minor gymnasts (October 2021); <https://www.click2houston.com/news/local/2021/10/27/ex-gymnastics-coach-sentenced-to-35-years-in-prison-after-grooming-sexually-assaulting-child-in-montgomery-county/> (groomed and used his position of authority).
- Youth football coach sentenced to 45 years for sexually abusing four minor players who were friends with his son and videotaping the abuse (November 2021): <https://www.patriotledger.com/story/news/2021/11/24/derek-sheehan-sentenced-45-years-federal-court-for-sexually-abusing-3-boys-norwell-youth-coach/8746788002/> (manipulated kids and their parents to ensure an “astounding level of access to his child victims.”)

Common Theme

The Known, Trusted Abuser

- Minister sentenced to over 1,000 years in prison for serial sexual abuse of boys (December 2019): <https://www.al.com/news/anniston-gadsden/2019/12/alabama-evangelist-acton-bowen-sentenced-in-abuse-cases.html> (bought the victims gifts and took them on trips).
- Volunteer church bus driver sentenced for abusing two children under 10 years old (June 2021): <https://www.justice.gov/usao-sdoh/pr/man-who-volunteered-church-bus-driver-sentenced-30-years-prison-sexually-abusing-minor> (bought the kids games, took them on trips, and befriended their families).
- Former Boy Scouts chaplain sentenced to 40 years for sexually abusing multiple children, including a developmentally disabled child (January 2021): <https://www.nytimes.com/2021/01/28/us/boy-scouts-chaplain-sexual-assault.html> (parents entrusted their kids to the defendant).

Recent Matters

Medical Professionals

University of Michigan reaches \$490M settlement

The money will be shared by more than 1,000 people who alleged sexual abuse.

By Mike Householder and Larry Lage
ASSOCIATED PRESS



Robert Anderson was accused of sexually assaulting numerous people during medical exams.

The University of Michigan announced a \$490 million settlement Wednesday with more than 1,000 people who say they were sexually assaulted by a former sports doctor during his nearly four-decade career at the school.

The university said mediation led to the deal specifying that 1,050 people will share in the financial settlement, the latest in a series of large payouts made by American universities following accusations of repeated sexual abuse by employees.

Individuals and their attorneys will determine how to split \$460 million, with no input from the university, the school said in a statement. An additional \$30 million will be set aside for future claims.

"We hope this settlement will begin the healing process for survivors," said Jordan Acker, chair of the University of Michigan Board of Regents. "At the same time, the work that began two years ago, when the first brave survivors came forward, will continue."

Attorney Parker Stinar said the settlement was reached Tuesday night. The university had been in mediation to resolve multiple lawsuits, most by men alleging Robert Anderson sexually abused them during routine medical examinations.

"It has been a long and challenging journey, and I believe this settlement will provide justice and heal-



top public universities in the U.S.

The deal came roughly two weeks after a state senator announced new bipartisan legislation that would retroactively give the accusers a 30-day window to sue the school for damages regardless of legal time limits and bar the university from using the government immunity defense. The bills, which were poised for introduction this week, were promoted as a way to provide the victims more certainty and increase pressure on the school for a resolution.

Earlier this week, two men who say they were sexually assaulted by Anderson said they were hoping that a change in leadership with the end firing of president Mark Schlasse would allow the school to be more accountable to ward abuse victims.

Keith More an art Stone told reporters Tuesday that the Anderson school was ripe for culture change as board conducted a search to permanently replace Schlasse, who was moved Saturday due to what the school called a "inappropriate relationship with a university employee."

A number of football players and other athletes have come forward to accuse Anderson, who died in 2008, of sexually abusing them.

A report by a firm hired by the school determined that staffers missed many opportunities to stop Anderson over his 37-year career. The university regularly is ranked among the

University of Southern California



The University of Southern California (USC) has agreed to the more than \$1 bn (£730m) to patients treated by a former campus gynecologist accused of sexual abuse.

Over \$850 Million

\$71M Fund Set up for Victims of NY Doctor Charged With Abuse

Columbia University and New York-Presbyterian Hospital have announced a settlement with 79 women who say they were sexually abused by former gynecologist Robert Hadden.

By Associated Press | Dec. 1, 2021, at 8:59 p.m.



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RELATED ARTICLES

Recent Matters

Jeffrey Epstein/Ghislaine Maxwell and Nassar/USA Gymnastics

Epstein/Maxwell

- Use of female companion and other teens to draw in victims
- Cover of “massages”
- Educational and other support for girls with complex family dynamics
- Cash payments
- Isolation
- Red flags ignored

Nassar/USA Gymnastics

- Cultivated relationships of trust
- Regular unobserved access to victims; strategic use of adults
- Cover of medical procedure
- Abusive and highly competitive environment for female gymnasts
- Isolation
- Red flags ignored

Recent Matters

Improving Understanding of Grooming Techniques

Government's Expert Filing: U.S. v. Maxwell

- Manipulation in long-term relationships
- Trust and attachment building
- Obscures awareness of abuse and prevents disclosure
- Nondisclosure, incremental disclosure, and secrecy common
- Memories of abuse impacted by trauma

and research to the following: Individuals with particular vulnerabilities are often targeted by perpetrators of sexual abuse. Sexual abuse of minors frequently occurs through the use of manipulation or coercion in the context of an established relationship that is developed over time, rather than through the use of forcible rape. Minor victims are often subject to a strategic pattern of behaviors, often called grooming, that can take a variety of forms and function to render the victims vulnerable to abuse, to obscure the nature of the abuse, and to build trust and attachment with their abuser. The relationship of trust and attachment can prevent victims from being aware that what they are experiencing is abuse and can prevent disclosure. Minor victims therefore may not identify themselves as victims of abuse while it is ongoing, and may not recognize the consequences of that abuse until adulthood. Repeated exploitation and abuse can increase the likelihood of victimization later in life and can result in long-term traumatic and psychological consequences, especially when it occurs in the context of complex trauma. The presence of other individuals can facilitate the sexual abuse of minors. Dr. Rocchio is also expected to testify that nondisclosure, incremental disclosure, and secrecy are common among victims of sexual abuse for a variety of reasons, and that memory and disclosure of traumatic or abusive events is impacted by a number of factors, including the circumstances surrounding the trauma. Dr. Rocchio has not

Increasing Online Risks

Identifying the Changed Environments for Exploitation and Abuse

- Any online communication platform
 - Direct messaging
 - Social media
 - Internal communications system
 - Gaming
 - The “metaverse”
- Shift Online Means Different Types of Misconduct and Abuse
 - Production, trading, and possession of child exploitation images
 - Enticement
 - Live streaming content
 - Sextortion
 - Cyberstalking
 - Revenge pornography
 - Sex trafficking

Increasing Online Risks

Identifying the Changed Environments for Exploitation and Abuse

- Since 1988, the NCMEC CyberTipline has received over 92 million reports. In 1999, the CyberTipline received less than 10,000 reports; in 2014, it received over 1 million reports; in 2019, it received nearly 17 million reports; in 2020, it received over 21 million.
- Overall, the dominant type of report to the CyberTipline relates to child pornography, but between 2019 and 2020, reports to NCMEC related to the enticement of children for sex were up ninety-seven (97) percent.
- The use of the internet to recruit trafficking victims has similarly increased. The CyberTipline recorded almost 16,000 complaints related to child sex trafficking.
- Child predators and traffickers have expanded their reach beyond social media platforms to virtual spaces once thought to be relatively safe for vulnerable populations - they are engaging children online through multiplayer video games and chat applications.

Institutional Failures

Same Thing, Another Decade

“These individuals ... empowered Sandusky to attract potential victims to campus and football events by allowing him to have continued, unrestricted and unsupervised access to the University’s facilities and affiliation with the University’s prominent football program. Indeed, that continued access provided Sandusky with the very currency that enabled him to attract his victims. Some coaches, administrators, and football program staff **ignored the red flags** of Sandusky’s behaviors and no one warned the public about him.”

Report of the Special Investigative Counsel, Penn State (July 2012)
(emphasis added).

Institutional Failures

- Failure to recognize signs of danger and rapidly respond
- Failure to report or reporting to the wrong agency
- Failure to conduct an immediate, thorough, and credible investigation
- Failure to understand the impact of abuse on victims and its effect on outcomes
- Failure to implement trauma-informed policies and communication strategies

Institutional Failures

Failure to recognize signs of danger and rapidly respond



Virtually all cases involve multiple red flags that were ignored

- Train individuals to spot red flags
- Act on them
- Make reporting process clear and easy
- Protect and support reporters, even if they're wrong
- Create an environment that prioritizes safety

Institutional Failures: Different context

Hall v. Millersville University, et al. (Third Circuit, Jan. 11, 2022)

The record shows that after receiving Wiberg's report, neither Millersville's Deputy Title IX Coordinator nor its Area Coordinator ensured the report was received by Millersville's Title IX Coordinator, as they were required to do under Millersville's own Title IX policy. Moreover, the record reveals Millersville did not reach out to Karlie after the October 4th incident, and that it did not take any action in response to Renea's calls other than to tell her nothing could be done without a complaining witness. Certainly, Millersville's inaction in response to these reports raises a genuine issue of fact best left for a jury.

Institutional Failures

Failure to report or reporting to the wrong agency

Example: USA Gymnastics



Indianapolis



Los Angeles

Substantial Portion of Criminal Conduct

- Michigan
- Texas
- Competitions Worldwide

What is Federal? Limited, Mostly child pornography

Lesson: Generally report suspected contact offenses to local police; if mandatory reporting applies, follow mandated procedure if it differs.

Institutional Failures

Failure to conduct an immediate, thorough, and credible investigation

- Cases involving serial abuse or misconduct have several similarities
 - Offenders are trusted and respected by the community which causes hesitation or disbelief rather than action
 - Individuals have an instinct to keep information to him/herself or a small group of people thereby limiting the informed perspectives of others
 - Reports are not properly escalated
 - Decision makers wrongly weigh reputational harm over immediate action
 - Decision makers overestimate the level of trust in the organization, even when action is immediate and the report properly handled

**** Trust is essential and takes time to build, particularly when it's been lost**

Institutional Failures

Understand the impact of abuse on victims

- Trauma impacts the brain in a number of ways such that a person's behavior may not make sense to you. Understand your limitations.
- Experience shows that victims can react to abuse in a variety of ways, including in ways that are counterintuitive such as aligning with her/his abuser.
- Victim-blaming behavior: Is the inquiry overly focused on the sexual/domestic nature of the offense? If it was an armed robbery, would you have the same questions or reactions?

Institutional Failures

Trauma and The Brain

- Reptilian (brain stem): This innermost part of the brain is responsible for survival instincts and autonomic body processes.
- Mammalian (limbic, midbrain): The midlevel of the brain, this part processes emotions and conveys sensory relays.
- Neomammalian (cortex, forebrain): The most highly evolved part of the brain, this area controls cognitive processing, decision-making, learning, memory, and inhibitory functions.

“During a traumatic experience, the reptilian brain takes control, shifting the body into reactive mode. Shutting down all non-essential body and mind processes, the brain stem orchestrates survival mode. During this time the sympathetic nervous system increases stress hormones and prepares the body to fight, flee or freeze.”

<https://www.bostontrials.com/how-trauma-changes-the-brain/>

Institutional Failures



Trauma and The Brain

- Thalamus – a part of the brain that controls memory development and processing, and can be impacted by trauma. The impact of trauma can prevent a person from forming an integrated memory of the event.
- Hippocampus – also plays a role in memory development and processing. Under stress, a person can have difficulty assigning meaning to certain events, which results in fragmented and disoriented memories of it.
- These brain processes, along with the other reactions the brain has to trauma, combine to limit a person's ability to bring usual reasoning skills and emotional regulation to his/her communications and interactions with others.

Institutional Failures

Trauma-informed policies and communication strategies

- Most organizations have policies and procedures in place, but they are outdated or not followed consistently
 - Next level work is to practice what we preach and do the hard stuff
 - **USA Gymnastics example:**
 - ❑ Policies in place and outside policy review, but didn't follow them in numerous instances
 - ❑ Whole of organization integration and commitment to the cause
- Common themes again
 - Lack of trauma-informed skills among responders
 - Lack of follow-up communication
 - Organizational confusion
 - Lack safety first culture and commitment

Learning from Past Failures

- Understand the problem
 - Identify areas of risk and address them appropriately
 - (Example: medical practices that require two individuals in the room to observe certain examinations or procedures)
 - Train members of your organization on risks and red flags
 - Engage experts in government or nongovernmental organizations
 - Review reports on emerging risks (online forms of exploitation, for example)
 - Train members of your organization on the process for reporting potential misconduct
 - Be clear that reporting will not have adverse consequences for the reporter
 - Have accessible and understandable means to report
 - Permit informal and/or anonymous reporting
 - Designate one responsible individual to whom these issues escalate who is properly trained, has full access to information, and lines of communication to the highest level decision makers

Learning from Past Failures

- Create an environment that encourages victims to come forward
 - Show you care through action
 - Trainings
 - Volunteer opportunities
 - Charitable donations
 - Show you care through words
 - Internal messaging
 - Using social media
 - Open lines of communication
 - Acknowledge past mistakes, if applicable

***Learn to apologize to rebuild
institutional credibility***

Response Plans & Confidence Building

Hierarchy of Concern



Response Plans & Confidence Building

- Promote a fair and transparent process for addressing claims of sexual abuse
 - Have policies that are easily accessible and understandable
 - Designate points of contact who are perceived as welcoming and fair
 - Understand the benefits and limits of digital communications
- Eliminate barriers to reporting
 - Accessible tools that complainants and others are comfortable using
 - Third party reporting
 - Anonymity
 - Criminal vs. other improper conduct
- Policies and processes are not enough – must follow them
 - Test the processes, conduct audits
 - Track timeframe for resolutions
 - Solicit feedback
- Evidence action in response to reports of abuse consistent with policies

Response Plans & Confidence Building

What You Can Do

- Explain process in detail
- Timeframe
 - Set expectations on check-in
- List of contacts: Keep them updated
- What does the victim need?
 - Housing
 - Shelter
 - Food
 - Health Services
 - List of physicians for provision of relevant services
 - Mental health practitioners
 - EAP-style services

Response Plans & Confidence Building

What You Can Do

Be a Resource: Information is power and a source of comfort

- Legal Assistance
 - General legal services organizations
 - Victims' rights counsel
- Victims' Rights
 - Federal and state victims' rights laws
 - State compensation funds
 - Specialized government compensation funds
 - Restitution in criminal cases
 - Civil actions for damages
 - Private compensation funds



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