

SIDELINED: UNCOVERING SEXUAL ABUSE IN CHEERLEADING

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INTRODUCTION

A recent USA Today investigation shows that more than one hundred and eighty individuals who work with youth cheerleaders have criminal records for sexual misconduct involving minors.¹ However, the two governing bodies controlling the sport, the U.S. All-Star Federation (USASF) and USA Cheer, are banning or suspending only twenty-one individuals.²

In the wake of the USA Gymnastics sexual abuse scandal, reports uncover that over two-hundred and fifty women are victims of sexual abuse.³ As a response to the gymnastics scandal, Congress passed the SafeSport Law in 2018 to prevent future sexual abuse in Olympic and amateur sports.⁴ While most sports organizations in the United States are adopting the SafeSport policy,

¹ See Marisa Kwiatkowski & Tricia L. Nadolny, Cheerleading has a list of people banned from the sport. It was missing 74 convicted sex offenders, USA Today (Sept. 18, 2020), <https://www.usatoday.com/in-depth/news/investigations/2020/09/18/cheerleading-cheer-investigation-sexual-misconduct-sex-offender-banned-list/3377622001/>.

² Id. (“The lists have since grown to 118 names, and nearly all of the new additions came in the past four weeks from the names provided by USA TODAY.”).

³ See Christine Hauser, Larry Nassar Is Sentenced to Another 40 to 125 Years in Prison, N.Y. Times (Feb. 5, 2018), <https://www.nytimes.com/2018/02/05/sports/larry-nassar-sentencing-hearing.html> (“The sentencing in Eaton County marked the end of weeks of emotional statements by young women and girls who said they were abused by Dr. Nassar under the guise of medical treatment. Judge Cunningham said on the first day of the hearing that the number of victims who had come forward had risen to 265, some of whom have chosen to remain anonymous.”).

⁴ See Bryna Misiura & Tori Paiva, Cheerleading Sexual Abuse Concerns Remain, CMBG3 (Nov. 10, 2020), <https://www.cmbg3.com/cheerleading-sexual-abuse-concerns-remain>.

cheerleading is seeing a new trend of issues surrounding sexual abuse.⁵

The USASF and USA Cheer both require a background check and have policies in place to handle sexual abuse allegations.⁶ However, the safeguards do little to stop predators from becoming members of organizations and working with minor athletes.⁷ For example, an investigation reveals that a registered sex offender in Ohio owns a cheerleading gym.⁸ However, the gym with USASF is under her sister's name.⁹ The gym owner works with young athletes with only one limitation; she is not allowed to go backstage during team warm-ups during competitions.¹⁰

The organizations governing cheerleading are failing to detect and respond to reoccurring sexual abuse.¹¹ The organizations appear to be negligent in implementing and enforcing the policies that will protect the safety of their young athletes.¹² The ongoing sexual abuse in cheerleading seems to be perpetuated by a lack of internal investigation, improper policies, and a culture of silence.¹³

The debates of this legal note uncover the contentious aspects surrounding protecting young athletes from sexual abuse, the governing bodies of cheerleading, and implementing and properly overseeing more robust safety policies. In addition, the Note critically analyzes safety policies and the ability to prevent further abuse. Part I provides an overview of the sexual abuse issues in

⁵ Misiura & Paiva, *supra* note 4.

⁶ *Id.*

⁷ *Id.* (“A recent USA Today investigation revealed that US All-Star Federal Cheer (‘USASF’) and USA Cheer, the two top national cheerleading associations, may not be taking sufficient steps to prevent individuals (including coaches and choreographers), who have been charged and/or convicted of sexual misconduct involving minors, to continue to be directly involved in the sport. The USA Today investigation identified 180 such individuals, seventy-four of which were convicted and/or are registered sex offenders.”).

⁸ See Misiura & Paiva, *supra* note 4; see also Kwiatkowski & Nadolny, *supra* note 1.

⁹ See Misiura & Paiva, *supra* note 4 (“In an interview with USA TODAY, Robinson was open in describing how she started a member gym while on the sex offender registry. Robinson said her sister is the registered owner with USASF because Robinson knows her conviction in 2006 for sexual battery of a high school boy would show up on a background check.”).

¹⁰ *Id.*

¹¹ See generally Kwiatkowski & Nadolny, *supra* note 1.

¹² *Id.*

¹³ See generally Marc Edelman & Jennifer M. Pacella, *Vaulted into Victims: Preventing Further Sexual Abuse in U.S. Olympic Sports Through Unionization and Improved Governance*, 61 *Ariz. L. Rev.* 463, 478-482 (2019).

cheerleading while comparing the similarities with the USA Gymnastics scandal. Part I also analyzes these organizations' cultural and structural facades and exposes the problematic policies. Part II explains the need for intervention in cheerleading through stricter policies and more vigorous enforcement. Lastly, Part III and IV propose legal and systemic reforms to the world of cheerleading to prevent further abuse and levy the responsibility of proper oversight on specific authorities.

I. AN OVERVIEW OF SEXUAL ABUSE IN USA GYMNASTICS AND CHEERLEADING

A. *The USA Gymnastics Scandal*

The USA Gymnastics (USAG) sexual abuse scandal appears to be an ongoing story in the public spotlight.¹⁴ After Larry Nassar, a former USAG orthopedic specialist, sexually molested over two hundred female athletes during his 20-year career, the USAG administration still feels the effects of heavy scrutiny.¹⁵ For years, the Michigan State University (MSU) administration and USA Gymnastics turned a blind eye to the reports of sexual abuse.¹⁶

From the onset of his career, Nassar sexually abused young athletes while providing them medical care.¹⁷ From 1986 until 2016, Nassar is an employee for USAG and MSU in various medical roles, including serving as MSU's team physician and USAG's national team physician.¹⁸ Nassar sexually abused athletes by using "pelvic floor therapy."¹⁹ The therapy involves intra-vaginally penetrating patients with his hands.²⁰ Nassar often performed these "treatments" without another adult present, or when another

¹⁴ See Misiura & Paiva, *supra* note 4.

¹⁵ See Hauser, *supra* note 3.

¹⁶ See Edelman & Pacella, *supra* note 13.

¹⁷ *Id.*

¹⁸ *Id.* at 469.

¹⁹ *Id.* at 470 ("Nassar exploited these women, who were often minor children, by relying on the fact that a form of 'pelvic floor' therapy that utilizes manipulation of internal vaginal soft tissue does exist. However, such therapy is used for conditions such as consistent pelvic pain, bowel and bladder issues like incontinence, and painful sexual intercourse—none of which are descriptive of the type of physical afflictions affecting gymnasts and other athletes.").

²⁰ *Id.* at 470-71.

adult was present, he positioned himself in a way that blocked the supervising guardian's view.²¹

The lack of reporting mechanisms contributes to the issue of undetected sexual misconduct within USAG.²² In an intense environment where the goal is getting young girls to the Olympics, athletes are "completely silenced," without regard for their mental and emotional well-being.²³ For example, a gymnast in MSU's youth program reports her concerns about Nassar's treatment methods to her head coach.²⁴ Instead of reporting or investigating her concerns, the coach berates the victim for "misunder[standing] a legitimate medical technique."²⁵ Coaches, trainers, and other staff members at MSU tacitly justify Nassar's behavior as legitimate because of his status as a world-renowned doctor.²⁶

In 2015, the USAG conducted an internal investigation after a coach and a member of the U.S. gymnastics team overheard

²¹ See Edelman & Pacella, *supra* note 13, at 471.

²² See *id.* at 474 ("While Nassar deserves a lion's share of the blame for his monstrous acts in abusing hundreds of gymnasts, he is not alone to blame. Nassar was the lone perpetrator of sexual abuse, but various other individuals affiliated with USAG played a role in creating a culture of silence and fear in which everyone involved missed the warning signs of wrongdoing.").

²³ *Id.* at 477; see also Hadley Freeman, *How was Larry Nassar able to abuse so many gymnasts for so long?*, *The Guardian* (Jan. 10, 2019, 12:23 PM), <https://www.theguardian.com/sport/2018/jan/26/larry-nassar-abuse-gymnasts-scandal-culture> (statement of Joan Ryan) ("There is no other sport in which this could have happened but gymnastics . . . These girls are groomed from an incredibly young age to deny their own experience. Your knee hurts? You're being lazy. You're hungry? No, you're fat and greedy. They are trained to doubt their own feelings, and that's why this could happen to over 150 of them.").

²⁴ Edelman & Pacella, *supra* note 13, at 479-80.

²⁵ *Id.* at 480.

²⁶ Edelman & Pacella, *supra* note 13, at 480 ("Dismissive responses by coaches, trainers, and other professionals to whom the women reported include some of the following: (1) 'Nassar [is] a respected doctor and [you] should trust him' (response to Christie Achenbach, former runner, by her coach); (2) '[H]e's a world-renowned doctor . . . [who] treats elite athletes' (response to Tiffany Lopez, former softball player, by her trainers); (3) trainer of Jennifer Rood Bedford, former volleyball player, told Bedford she would need to make an official statement that 'what Nassar had done was unprofessional or criminal' in order to proceed with looking into the matter, which Bedford decided not to pursue due to embarrassment; and (4) Kyle Stephens, whose parents were very close friends of Nassar and who was as young as six-years old when Nassar molested her in his own home, told her psychologist about the abuse in 2004, who never reported the allegations, and her parents chose to believe Nassar over her (which later led her father to commit suicide in 2016).").

concerns about Nassar's treatment of a fellow gymnast.²⁷ The internal investigation centers around the abuse of McKayla Maroney, a 2012 Olympic gold medalist, at both the Karolyi Ranch and during international competitions.²⁸ During Maroney's interview, she reveals on one occasion that Nassar gave her a sleeping pill on a flight, leading to a subsequent event of sexually abusing her in his hotel room during an international competition.²⁹

After Maroney's interview, the USAG finally fires Nassar, and the FBI is alerted about the alleged abuse.³⁰ However, Nassar continues to abuse gymnasts at MSU due to USAG's failure to inform MSU about the allegations.³¹ USAG's improper handling of sexual abuse allegations drove the organization into bankruptcy due to the payout of legal claims and forced it to reinvent itself internally.³²

B. SafeSport Act

In response to the USAG sexual abuse scandal, Congress enacts the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017 ("SafeSport") and established the United States Center for SafeSport in 2018.³³ Although SafeSport implements mandatory reporting requirements, training, and prevention policies, the law only applies to U.S. Olympic organizations and U.S. non-Olympic organizations participating in interstate or international activities.³⁴

²⁷ Edelman & Pacella, *supra* note 1, at 480-81.

²⁸ *Id.* at 481.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² See Misiura and Paiva, *supra* note 4.

³³ See Dionne L. Koller, A Twenty-First-Century Olympic and Amateur Sports Act, 20 *Vand. J. Ent. & Tech L.* 1027, 1028-29 (2018).

³⁴ See John M. Sadler, New Safe Sport Act Applies to Most Amateur Sports Organizations, Sadler Sports & Recreation Ins., <https://www.sadlersports.com/new-safe-sport-act-applies-amateur-sports-organizations> (last visited Oct. 28, 2021) ("The reach of the federal act is limited to organizations that are engaged in interstate or international commerce or activities. Interstate competition refers to sports organizations that travel across state lines to compete. But even those that do not travel across state lines are indirectly impacted by the act because it sets a new standard of care that will likely apply to all organizations.").

Non-Olympic sports like cheerleading follow a modified version of SafeSport's policies.³⁵ Although cheerleading is not an Olympic sport, it adheres to the national standards for protecting athletes and investigating instances of abuse.³⁶ However, an USA Today investigation points out that cheerleading organizations are not adequately implementing guidelines.³⁷ As a result, cheerleading squads and other sports teams are susceptible to the same type of abuse as USA Gymnastics due to the lack of protections in the SafeSport Act.³⁸

II. SEXUAL ABUSE IN CHEERLEADING

USASF and USA Cheer are national organizations governing the registration process for cheerleading gyms.³⁹ The organizations provide guidelines and compliance standards for coaches, judges, and athletes.⁴⁰ USASF's primary goal is "providing the safest possible environment for cheer and dance athletes to train and compete."⁴¹ Nevertheless, some of USASF's safety guidelines prove ineffective in preventing sexual misconduct.⁴² Several "loopholes" allow sexual predators to work in the sport.⁴³

In September 2020, an investigation revealed that more than one hundred and eighty individuals within USASF have criminal records for sexual misconduct involving minors.⁴⁴ Similar to the USAG, the misconduct in cheerleading continues because of a lack

³⁵ See Sadler, *supra* note 34.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Misiura & Paiva, *supra* note 4 ("[The U.S. Center for Safe Sport] was established to set national standards for the protection of athletes and to investigate and discipline instances of abuse in US Olympic and now para-Olympic sports. However, cheerleading is not an USA Olympic sport.").

³⁹ See About the USASF, U.S. All-Star Federation, <https://www.usasf.net/about> (last visited Oct. 29, 2021); see also About – USA Cheer, <https://www.usacheer.org/about> (last visited Oct. 29, 2021).

⁴⁰ See Professional Responsibility Code, U.S. All Star Federation, https://usasfmain.s3.amazonaws.com/Membership/docs/USASF_PRC_2021-2022.pdf (last visited Oct. 29, 2021); see also USA Cheer Safe Sport Program & Athlete Protection Policies, USA Cheer, <https://www.usacheer.org/safesport> (last visited Oct. 29, 2021).

⁴¹ See About the USASF, *supra* note 39.

⁴² See Sexual Assault Allegations In Cheerleading, Newsome Melton (Nov. 3, 2020), <https://www.newsomelaw.com/blog/sexual-assault-allegations-in-cheerleading/>.

⁴³ *Id.*

⁴⁴ See Kwiatkowski & Nadolny, *supra* note 1.

of oversight by the governing institution.⁴⁵ Despite the stereotype that cheerleading merely consists of pretty girls in sparkly uniforms, cheerleading is evolving from a sideline activity at football games into a competitive sport consisting of about 4.5 million athletes.⁴⁶

Currently, cheerleading is gaining the public's attention and appreciation due to the strenuous training.⁴⁷ Unfortunately, a recent Netflix documentary, *Cheer*, reveals a darker side of the sport.⁴⁸ Shortly after the release of *Cheer*, one of the show's stars, Jerry Harris (Harris), is arrested by the FBI for producing child pornography.⁴⁹ Harris admits to having a sexual encounter with a fifteen-year-old while at a competition and sending explicit text messages to other minors.⁵⁰ After his arrest, a separate lawsuit is filed against Harris, alleging that USASF and USA Cheer hires officials who are known to be dangerous.⁵¹ The growing public attention around sexual misconduct within cheerleading merely scratches the surface of systemic sexual abuse.⁵²

⁴⁵ See generally Edelman & Pacella, *supra* note 13.

⁴⁶ See James Pasley, How cheerleading evolved from one man yelling in Minnesota to 4.5 million leaping cheerleaders, *Bus. Insider* (Jan. 31, 2020, 3:16 PM), <https://www.businessinsider.com/evolution-of-cheerleading-in-photos-2020-1>.

⁴⁷ See Laura Anne Grindstaff, cheerleading, *Britannica* (Jan. 15, 2020), <https://www.britannica.com/sports/cheerleading> (“The decline of cheerleading was short lived, however, and it soon rebounded to become more popular and more profitable than ever before. The reasons for its recovery included the increasingly athletic nature of cheerleading and the adoption of sportlike elements such as competitions, summer training camps, and rigorous practice schedules.”).

⁴⁸ See Jessica Taylor Price, Jerry Harris Cheer Lawsuit Brings Claims That the Sport Is Rife for Sexual Abuse, *Teen Vogue* (Oct. 20, 2020), <https://www.teenvogue.com/story/jerry-harris-cheer-lawsuit> (“[P]art of the sentiment of *Cheer* was correct: ‘It showed how the sport absolutely can change someone’s life.’ At the same time, ‘It definitely missed this darker side of the sport that is absolutely a hundred percent right there with it.’”).

⁴⁹ *Id.*

⁵⁰ See Tricia L. Nadolny et al., Jerry Harris from ‘Cheer’ charged with producing child porn. He admitted receiving explicit photos from minors, court records show, *USA Today* (Sept. 18, 2020, 1:45 PM), <https://www.usatoday.com/story/news/2020/09/17/jerry-harris-cheer-charged-production-child-pornography/3482276001/>.

⁵¹ See Price, *supra* note 48.

⁵² See *id.* (“But new information appears to show that Harris’s alleged actions may be only a symptom of a much larger problem in the world of cheerleading. Allegations from a recently filed lawsuit against Harris as well as a new *USA Today* investigation suggest that the national governing bodies that organize cheer competitions and supervise member gyms are not doing nearly enough to protect the almost 4 million athletes involved in the sport.”).

A. Internal Issues

The issue of sexual misconduct in cheerleading is similar to the struggles facing USAG.⁵³ Similarly, the sport of cheerleading is plagued by a culture of silence and structural power.⁵⁴ USASF and USA Cheer assumes no responsibility for the recent sexual abuse allegations while failing to create clear organizational policies directly dealing with sexual harassment and abuse.⁵⁵ According to the lawsuit against Harris, USASF, USA Cheer, and Varsity Spirit received notice of the harassment and molestations of minors; yet, the evidence appears to demonstrate the absence of any attempts to investigate any of the claims.⁵⁶

Some cheerleading organizations do not seem to have a straightforward process for adding a coach to the banned list.⁵⁷ For example, a former cheerleading coach and mother in California, Dana Moore Storms, expresses concerns that the organization is not providing education on the proper way to file a sexual harassment report.⁵⁸ Meanwhile, USASF and USA Cheer defends their safety policies by releasing a statement highlighting their safety protocols' expansion over several years.⁵⁹

USASF has a webpage directing members on how to report abuse.⁶⁰ However, many members and parents are expressing concerns about the time it takes USASF and USA Cheer to deal with these allegations.⁶¹ One of the safety policies that the organizations defend is a mandatory background check for prospective members.⁶² However, some people seem to believe that

⁵³ See Price, *supra* note 48; see also Edelman & Pacella, *supra* note 13.

⁵⁴ See *id.* ("To some, it isn't surprising that a sport like cheerleading could be rife with abuse, according to Nancy Hogshead-Makar, the CEO of Champion Women. 'It's like any other youth-serving organization,' she says. 'Wherever you find two ingredients, you're going to find sexual harassment and abuse. One is children. The other is power.' Putting policies in place to protect minors, and enforcing those policies, is 'expensive, it's time consuming, it costs relationships and strife within an organization. But it has to be done.'").

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ See Price, *supra* note 48.

⁵⁹ See Kwiatkowski & Nadolny, *supra* note 1.

⁶⁰ USASF SafeSport Code & Athlete Protection Policies, U.S. All Star Federation, <https://www.usasf.net/safesport> (last visited Oct. 24, 2021).

⁶¹ See Price, *supra* note 48.

⁶² See USASF SafeSport Code & Athlete Protection Policies, *supra* note 60.

the policy is not strong enough because only those considered “members” under the guidelines undergo a background check.⁶³

Apparently, the problem may stem from USASF and USA Cheer putting the responsibility of conducting background checks into the hands of the cheerleading gym owners with no oversight to ensure the adults are passing the background checks.⁶⁴ For instance, as previously mentioned, an investigation uncovered that a USASF gym owner is a registered sex offender. For years, the owner’s tactics leave them undetected by the USAAF’s oversight by registering the gym under her sister’s name.⁶⁵ While the organizations claim to have proper reporting mechanisms that thoroughly investigate sexual misconduct allegations, the above incident clearly shows a lack of systematic oversight amongst the governing organizations.

Varsity Spirit (Varsity), an entity that controls the entire cheerleading industry, is the parent company of USASF and USA Cheer.⁶⁶ Varsity is a for-profit company known for “monopolizing the sport of cheerleading.”⁶⁷ Various class action antitrust lawsuits have been filed against Varsity, claiming the company uses its influence over the governing bodies to restrict the cheerleading business.⁶⁸

Varsity appears to exert complete control over the sport, which it uses to maximize its profits and market power.⁶⁹ Many argue that with all this power, Varsity can control the issue of sexual abuse.⁷⁰ However, Varsity takes the position that the governing bodies are responsible for regulating athletes’ safety.⁷¹

However, after implementing the SafeSport Act in 2018, Varsity and the governing bodies neglected to enforce the safety

⁶³ Id.

⁶⁴ See Kwiatkowski & Nadolny, *supra* note 1.

⁶⁵ See *id.*

⁶⁶ Daniel Connolly, *Cheer Empire: A for profit company built competitive cheer, pay s people who make its rules*, USA Today (Sept. 18, 2020, 5:00 AM), <https://www.usatoday.com/in-depth/news/2020/09/18/cheer-empire-profit-company-created-cheerleading-regulators-pays-salaries/3468551001/>.

⁶⁷ See Matt Stoller, *Cheerleading, Monopolies and Sexual Predators*, BIG (Sep. 27, 2020), <https://mattstoller.substack.com/p/cheerleading-monopolies-and-sexual>.

⁶⁸ See Connolly, *supra* note 66.

⁶⁹ See Stoller, *supra* note 67.

⁷⁰ See Connolly, *supra* note 66.

⁷¹ See *id.*

policies to the full extent of other sports.⁷² Experts attribute the negligence to Varsity's primary goal of maintaining market power and maximizing profits.⁷³ Sadly, athletes' safety, it seems, is compromised to further Varsity's corporate interests.

III. POLICIES AND ENFORCEMENT TO PREVENT FURTHER SEXUAL ABUSE IN CHEERLEADING

The similarities of the culture and structure between gymnastics and cheerleading allow for the undetected and widespread sexual abuse found in USAG to bleed into cheerleading.⁷⁴ Although SafeSport may help prevent another sexual abuse scandal, it may not help the sport of cheerleading without the proper infrastructure to help with abuse among varying organizations.⁷⁵ Even so, cheerleading and other sports have the opportunity to reform and enforce sexual misconduct policies to prevent further sexual abuse. It seems that a reformation of rules and policies is needed to prevent further sexual misconduct in cheerleading. Proposing stricter SafeSport guidelines and individualized changes to existing policies will lay the foundation for more effective policies.

A. Policies

An essential component of USASF and USA Cheer's structural reform is implementing new SafeSport guidelines.⁷⁶ Although both organizations have SafeSport policies in place, the policy enforcement is not of a specific consequential nature that keeps offenders away from athletes.⁷⁷ USASF and USA Cheer have policies mandating reporting any suspected physical or sexual abuse or misconduct by "covered individuals" to the governing bodies.⁷⁸ In addition, USA Cheer's reporting policy requires

⁷² See Connolly, *supra* note 66.

⁷³ *Id.*

⁷⁴ See Misiura and Paiva, *supra* note 4.

⁷⁵ *Id.*

⁷⁶ See USASF SafeSport Code & Athlete Protection Policies, *supra* note 60.

⁷⁷ See Misiura and Paiva, *supra* note 4.

⁷⁸ See Reporting Violations, U.S. All Star Federation, <https://www.usasf.net/reporting> (last visited Apr. 6, 2022).

individuals to report suspected abuse to law enforcement officials within twenty-four hours.⁷⁹

The policy places the responsibility on USA Cheer to investigate and resolve any issues regarding an individual's failure to report or instances of retaliation against any participant involved in the investigations.⁸⁰ Furthermore, the organization states that its policies "shall be the same as the applicable policies of the U.S. Center for SafeSport ("USCSS")."⁸¹ Many of the provisions followed by the USCSS lack enforcement in the sport of cheerleading.⁸² For example, the "Jurisdiction Over Covered Individuals" provision defines "covered individuals" in a way that removes responsibility from USA Cheer.⁸³ This provision only requires USA Cheer registered members such as owners, coaches, event producers, and affiliate member-owners to comply with the guidelines, not the governing bodies themselves.⁸⁴

Another issue in the existing SafeSport code is the investigative policy. The investigative policy states that USA Cheer's "jurisdiction to investigate shall not supersede local, state, or federal reporting requirements or jurisdiction."⁸⁵ While the USAF conducts preliminary inquiries into allegations and local law enforcement decides whether or not to act, the reported members for sexual misconduct continue to work in gyms and are still considered eligible under USASF membership guidelines.⁸⁶

Seemingly, the policy is problematic. In one instance, a mother reported sexual misconduct of her sons to USASF, and the accused member is allowed to work in the gym for months after the initial report.⁸⁷ USASF's defense for inaction is a simple statement referencing the organization's compliance with its reporting policy.⁸⁸

⁷⁹ See USA Cheer Safesport Code, USA Cheer, <https://www.usacheer.org/wp-content/uploads/2020/07/USA-Cheer-SafeSport-Code-Final-7.9.2020.pdf> (last visited Apr. 6, 2022).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² See Misiura and Paiva, *supra* note 4.

⁸³ See USA Cheer Safesport Code, *supra* note 79.

⁸⁴ See *id.*

⁸⁵ *Id.*

⁸⁶ See USA Cheer Safesport Code, *supra* note 79.

⁸⁷ See Kwiatkowski and Nadolny, *supra* note 1.

⁸⁸ See *id.*

Another issue within both organizations seems to be the banned list. USASF and USA Cheer have published lists of individuals that have violated the terms of membership in their SafeSport guidelines.⁸⁹ Although USASF and USA Cheer have updated these lists in light of recent investigations and lawsuits,⁹⁰ there are still holes in the process that allow sexual predators to thrive in cheerleading gyms. Banned lists need to be complete in order to be effective. Similar to the reporting guidelines, changing the definition of members would allow the banned lists to be complete and accurate, ensuring that individuals who have previously been convicted of sexual crimes are not allowed access to minors in the sport. Although this would, on its face, improve the policy requirements, proper enforcement of the policies is required to ensure the safety of the athletes.

B. Enforcing Policies

Proper enforcement of these policies is crucial to ensure they will be effective. USA Cheer's Sexual Abuse and Misconduct Policy states that the organization is responsible for investigating and resolving reports or allegations of a covered individual's failure to report a violation.⁹¹ Nevertheless, the organizations are failing to assume responsibility for enforcing these policies.⁹²

USASF and USA Cheer should create oversight committees to ensure that sexual misconduct and violations are adequately dealt with in their member gyms. Such oversight will ensure that gyms perform stricter background checks on all individuals working with athletes. Another solution is creating USASF and USA Cheer audits for member gyms to ensure they comply with the sexual misconduct guidelines. The audits will help place sanctions upon member gyms if they are guilty of not following the policies.

Implementing specific committees to oversee these policies would properly hold them accountable. Thus, Varsity could no longer claim that the governing organizations are solely responsible for dealing with these instances. Ultimately, it is up to the

⁸⁹ See Unified Ineligibility List, U.S. All Star Federation, <https://www.usasf.net/suspended-ineligible-members> (last visited Oct. 31, 2021).

⁹⁰ See Kwiatkowski & Nadolny, *supra* note 1.

⁹¹ See Unified Ineligibility List, *supra* note 89.

⁹² See Kwiatkowski & Nadolny, *supra* note 1.

organizations implementing these guidelines to establish a zero-tolerance policy on sexual misconduct and change the existing culture. The organizations must set the tone so that member gyms and individuals are put on notice that they will be held accountable for their actions.

IV. CONCLUSION

The systemic abuse of athletes in the United States shines a bright light on many issues within governing sports organizations. Ongoing sexual abuse appears to lay silent in the organizations' decision-maker's minds. The USAG scandal accentuates the need for athletic governing bodies to change their internal processes relating to sexual abuse. While Congress's implementation of SafeSport helps protect young athletes, the sport of cheerleading needs greater protection for its athletes. It is ultimately up to USASF and USA Cheer to implement appropriate policies and oversight to protect their athletes. Until both organizations assume responsibility and take action, the public will almost certainly see another athletic sexual abuse scandal dominate the headlines.