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Nassar and Beyond: A Review of the Olympic Community's Efforts to Protect Athletes from Sexual Abuse

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Nassar and Beyond: A Review of the Olympic Community's Efforts to Protect Athletes from Sexual Abuse

Prepared by the Energy and Commerce Committee, Majority Staff

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I. Executive Summary

The International Olympic Committee was founded in 1894 and is responsible for protecting and promoting the Olympic Movement. The American Olympic Association was established in 1921, and in 1961 the name of the Association was changed to the United States Olympic Committee (USOC). The USOC was reorganized by the Ted Stevens Olympic and Amateur Sports Act (the Act), which establishes the USOC as the coordinating body for all Olympic-related activity in the United States. The Act also establishes National Governing Bodies (NGBs) for each Olympic sport and gives the USOC the general authority to review matters related to the recognition of NGBs and to resolve conflicts and disputes involving amateur athletes, NGBs, and amateur sports organizations.

Each NGB has their own governance structure and applicable bylaws and policies. The USOC provides NGBs with governance support, and in some instances, the USOC has required changes to a NGBs bylaws related to the Act or the USOC's bylaws. At the start of the Committee's investigation, 48 NGBs were recognized, and their memberships are vast. An NGB's members are not limited to those athletes and coaches that participate in the Olympic games, but also extend to any athletes that play on teams affiliated with an NGB or NGB-sponsored event, including youth sports leagues.

In recent years, reports have documented widespread instances of sexual abuse in the Olympic community dating back at least 30 years. In 2010, a 20/20 investigation revealed that not only had there been widespread sexual abuse in the USA Swimming community, but that USA Swimming was aware of the abuse.

Following the 2010 sexual abuse scandal, the USOC created a Working Group to develop a set of recommendations for promoting safe training environments and addressing misconduct in sport. As sexual abuse reports and allegations continued to come to light in swimming and other sports, the USOC continued to implement various policies and procedures, including requiring each NGB to adopt an athlete safety program by December 31, 2013. However, reports indicate that “[b]ecause USOC left the responsibility of reporting, investigating, and adjudication to the NGBs, implementation was all over the map.”¹

In 2016, media attention skyrocketed after a media report detailed how USA Gymnastics had failed to protect athletes from sexual abuse and seldom referred allegations of child abuse to law enforcement or child protective services. In addition, former gymnasts filed criminal complaints against Larry Nassar accusing him of sexually abusing young athletes. By 2018 it had been revealed that more than 300 girls and women were abused by Nassar.

The abuse and mistreatment associated with the Nassar case, as well as reports of abuse in other sports, most notably within Taekwondo and Swimming, prompted the Committee to open an investigation into sexual abuse in organized sport. In the course of the investigation, the Committee wrote to the USOC, all 48 NGBs, and Michigan State University, a former employer

¹ Rachel Strutz, *unprotected*, OUTSIDE (Nov. 2014), available at <https://www.outsideonline.com/2162781/unprotected>.

of Larry Nassar. The Committee requested detailed information and documents from each entity regarding its handling of sexual abuse allegations.

The Committee also spoke with dozens of survivors of sexual abuse, advocates, and other interested parties who provided information critical to this investigation. Their stories are far too similar, and routinely described a system that failed them—regardless of the sport. The Committee’s findings should be concerning not only to Olympic athletes, but also amateur athletes, parents, and anyone who has a loved one involved in amateur sports.

During the course of the year-long investigation, the Committee uncovered a number of failures and trends within the Olympic community that contributed to the widespread instances of sexual abuse. Perhaps most troubling of the Committee’s findings is the culture within the Olympic community which prioritizes reputation and image, rather than athlete safety. The Committee heard from numerous athletes and other stakeholders about concerns that the Olympic community prioritized “medals and money” at the expense of the safety and well-being of athletes. This sentiment was mirrored in documents reviewed by the Committee. Examples included an athlete safety policy that directed a review panel to consider “the effect on the USOC’s reputation” when making decisions about imposing sanctions following an investigation,² and an email between two USOC employees discussing whether to renew a contract with the Karolyi ranch in light of the abuse that had taken place there, that seemed to indicate that the employee was weighing the fact that the ranch was a “critical facility.”³

Another issue well-documented by the Committee’s investigation is the inconsistency in policies and procedures across NGBs. Despite the USOC’s efforts to establish minimum standards and an NGB Athlete Safety Policy, due to the differences in size and sport, each NGB continues to have its own governance structure and applicable bylaws and policies. As a result, each NGB is left to implement their own structure, policies, and procedures, resulting in inconsistent implementation across the Olympic community. Examples of inconsistent policies include the universe of individuals covered by an NGB’s policies and procedures; the implementation of background check requirements; the use of banned or suspended lists by NGBs for members that have been disciplined or banned from participation in the NGB, and whether those lists are made public; and policies to handle reports, complaints, or allegations of abuse to the USOC and law enforcement.

In addition to inconsistency in policies, the Committee found that historically some NGBs did not use preventative measures such as background checks, interim measures, and public banned lists, with some NGBs implementing such policies as late as 2015. Even when NGBs did have such measures in place, the policies have not always been appropriately or adequately enforced. For example, in 2017, Baker Tilly conducted audits of all NGBs and found that 27 of 48 NGBs had background check violations. Additionally, in a few instances where the

² United States Olympic Committee, Policy Name: Athlete Safety, Date of Issuance: 4-18-18, Policy Owner: Director of Athlete Safety, Applies to: BOD, USOC Staff, Others (as below) (2018), *available at* https://www.usasurfing.org/uploads/1/1/3/5/113568407/usoc_athlete_safety_policy_041818.pdf (last visited Dec. 4, 2018).

³ E-mail from Alicia McConnell, Staff, U.S. Olympic Committee, to Rick Adams, Staff, U.S. Olympic Committee (Jan. 6, 2017, 6:06:29 PM) (On file with Committee).

NGB has a publicly available banned or suspended list, the Committee found discrepancies between names included on the NGB's website and names included in the U.S. Center for SafeSport's (USCSS) searchable database.

Media attention since 2010 has helped bring light to some of these concerning practices across the Olympic community and encourage reforms. The Working Group established by USOC in 2010 resulted—seven years later—in the creation of the USCSS, which launched on March 3, 2017. Today, the USCSS oversees education programs for safe sport and investigates and adjudicates claims of sexual misconduct in the U.S. Olympic and Paralympic Movements' 47-member NGBs. Concerns have been raised to the Committee about the USCSS, however, including whether the USCSS has adequate funding to carry out their mission, and whether USCSS can maintain its independence from the USOC and NGBs.

While necessary reforms have been made, particularly in recent years, there are still many areas in which the Olympic community could take steps to improve the protection of athlete safety. This report concludes with a series of recommendations aimed to finally and definitively put athlete safety at the center of the USOC and each NGB's mission.

II. Table of Acronyms

Acronym	Description
AAC	Athletes' Advisory Council
ACA	American Canoe Association
CDC	Centers for Disease Control and Prevention
FBI	Federal Bureau of Investigation
GAO	U.S. Government Accountability Office
HPMO	High Performance Management Organization
IOC	International Olympic Committee
MSU	Michigan State University
NCSI	National Center for Safety Initiatives
NDA	Non-Disclosure Agreement
NGB	National Governing Body
NGBC	National Governing Body Council
SMART	Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
USAA	USA Archery
USABS	USA Bobsled & Skeleton
USADA	U.S. Anti-Doping Agency
USAG	USA Gymnastics
USA-NKF	USA National Karate-do Federation
USARS	USA Roller Sports
USAS	USA Shooting
USA Synchro	USA Synchronized Swimming
USAT	USA Taekwondo
USATF	USA Track & Field
USATH	USA Team Handball
USATT	USA Table Tennis
USAV	USA Volleyball
USA-WSWS	USA Water Ski & Wake Sports
USBA	U.S. Biathlon Association
USBC	U.S. Bowling Congress
USCSS	U.S. Center for SafeSport
USEF	U.S. Equestrian
USOC	U.S. Olympic Committee
US SKI	U.S. Ski & Snowboard Association
U.S. Soccer	U.S. Soccer Federation
USS	U.S. Speedskating
USTA	U.S. Tennis Association
WNBA	Women's National Basketball Association

III. Findings

- The culture within the Olympic community has prioritized reputation and image over athlete safety.
- As recently as 2016, the USOC maintained that it “[did] not have athletes” and that ensuring safety of athletes was a responsibility of the NGBs.
- USOC policies dating back to at least 2011, and as recent as April 2018, included “the effect on the USOC’s reputation” as a factor to be considered in imposing sanctions and granting access to USOC facilities.
- While most NDAs appear to prohibit a survivor from speaking about the details of the settlement agreement, but not from discussing the underlying details of the case, the Committee is aware of at least one NDA in which a survivor was not permitted to speak about the abuse itself.
- While the USOC has provided the NGBs with governance support and, in some instances, required changes to bylaws, NGBs have largely been left to create their own bylaws, policies, and procedures. This practice has resulted in inconsistent bylaws, policies, procedures, and implementation across the Olympic community.
- NGBs do not have a consistent definition of who is considered a “covered individual” and therefore is subject to their policies and procedures. This inconsistency has created a large variance across the Olympic community about who is covered by USOC and NGB policies.
- While the USOC and NGBs have made improvements to protect athlete safety in recent years by imposing background check requirements on members, the Committee found inconsistent application of background check policies across the NGBs, as well as issues with the enforcement of background check policies.
- Policies and procedures regarding how to report and handle reports, complaints, or allegations of sexual abuse varied across the Olympic community.
- While the USOC did not have a policy by which NGBs reported allegations of abuse to the USOC, almost half of the NGBs reported to the Committee that in certain, and in some cases all, instances they communicated or consulted with the USOC on reports of sexual abuse.
- The Committee found evidence that one NGB interpreted its own bylaws to not report allegations of sexual abuse to law enforcement.
- The application and implementation of interim measures varies across the Olympic community leading to inconsistent standards and enforcement.

- NGBs have different policies regarding whether they maintain lists of banned individuals, and if they do, whether they publicize the list. Many NGBs that do not maintain a public list have individuals affiliated with their sport included in the USCSS database, indicating that members have been banned or suspended for issues related to sexual abuse. Moreover, the Committee also found some discrepancies between a list published by an NGB, and the searchable database maintained by the USCSS.
- While the USOC has taken steps to reform aspects of the NGBs structures, policies, and procedures, it took almost seven years for the USOC to implement recommendations that a Working Group made in 2010.
- Until more recently, the USOC has provided conflicting responses when asked if they believe they are responsible for the safety and wellbeing of athletes, as well as whether they have authority over NGBs.
- Baker Tilly Virchow Krause found that 43 organizations, including the USOC and many NGBs, were not in compliance with the Athlete Safety Standards.
- The USOC replaced the Athlete Safety Standards with the NGB Athlete Safety Policy on June 20, 2017. Due to the timing of the Baker Tilly audits, the audits themselves and the accompanying fieldwork of the NGBs were conducted based on a policy that had already been updated.
- The USOC's audit by Baker Tilly Virchow Krause found deficiencies; however, the USOC did not have a follow-up report issued by the USOC's Audit Division until after the Committee's hearing.
- After incidents of sexual misconduct became public, several NGBs took steps to conduct review, audits, or investigations in an effort to improve their policies and procedures to better protect the safety of their athletes.
- The USCSS is, and will continue to be, relied upon to serve as the independent national safe sport organization and exercise jurisdiction over the USOC, each NGB, and each Paralympic sports organization with regard to safeguarding amateur athletes against abuse. However, concerns remain regarding the USCSS' resources, independence, policies and procedures, and whether or not the Olympic community has confidence in the USCSS.

IV. Background

A. The United States Olympic Committee and the Ted Stevens Olympic and Amateur Sports Act

The International Olympic Committee (IOC), which was founded in 1894 and is headquartered in Lausanne, Switzerland, is responsible for protecting and promoting the Olympic Movement.⁴ When the IOC was established, the two constituent American members of the IOC formed a committee to organize the participation of U.S. athletes in the first modern Olympic Games in Athens, Greece.⁵ The formal committee was then established in 1921 as the American Olympic Association.⁶ In 1961, the name of the Committee was changed to the United States Olympic Committee (USOC).⁷

The USOC was reorganized by the Ted Stevens Olympic and Amateur Sports Act (the Act), originally enacted in 1978 and amended as recently as 2018.⁸ The Act establishes the USOC as the coordinating body for all Olympic-related activity in the U.S. and gives the USOC exclusive jurisdiction, directly or through constituent members or committees, over “all matters pertaining to United States participation in the Olympic Games, the Paralympic Games, and the Pan-American Games, including representation of the United States in the games.”⁹ Under the Act, the USOC is responsible for, among other things, promoting amateur athletic activities¹⁰ and providing swift resolution of conflicts and disputes involving amateur athletes, National Governing Bodies (NGBs), and amateur sports organizations.¹¹

The Act establishes NGBs for each Olympic sport and gives the USOC the general authority to review matters related to the recognition of NGBs.¹² An amateur sports organization can be recognized as a NGB if, among other things, it is incorporated under the laws of a State of the United States or the District of Columbia as a non-profit corporation having as its purpose the advancement of amateur athletic competition, it submits an application to the USOC for

⁴ Team USA, *Structure*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Olympic-Movement/Structure> (last visited May 16, 2018).

⁵ Team USA, *History*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/History> (last visited May 16, 2018); Olympics.org, *Athens 1896 – Highlights of the Games*, available at <https://www.olympic.org/athens-1896> (last visited May 16, 2018).

⁶ Team USA, *History*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/History> (last visited May 16, 2018).

⁷ *Id.*

⁸ The Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act is discussed in Section VI(C) of this report.

⁹ 36 U.S.C. § 220501-3; *See also* Team USA, *About the USOC – Inside the USOC – History*, available at <https://www.teamusa.org/about-the-usoc/inside-the-usoc/history> (last visited May 16, 2018).

¹⁰ Under the Ted Stevens Olympic and Amateur Sports Act, an “amateur athlete” is defined as “an athlete who meets the eligibility standards established by the national governing body or Paralympic sports organization for the sport in which the athlete competes.” 36 U.S.C. § 220501(b).

¹¹ 36 U.S.C. § 220503. Under the Ted Stevens Olympic and Amateur Sports Act, an “amateur sports organization” is defined as a “non-profit corporation, association, or other group organized in the United States that sponsors or arranges an amateur athletic competition.” 36 U.S.C. § 220501(b).

¹² 36 U.S.C. § 220521-29.

recognition as a NGB, it agrees to submit to binding arbitration in certain controversies, and it demonstrates that it is autonomous in the governance of its sport.¹³ The USOC may “only recognize one national governing body for each sport for which an application is made and approved,” except there are some exceptions for Paralympic sports organizations.¹⁴ The Act provides for additional requirements and responsibilities of NGBs.¹⁵

NGBs’ memberships are not limited simply to those athletes that compete in the Olympics. Most of the athletes that make up an NGB participate through teams affiliated with an NGB or NGB-sponsored event, like little league teams. This means that each NGB may have thousands of members—both athletes and coaches—spread across the country.

The mission of the USOC is to “support U.S. Olympic and Paralympic athletes in achieving sustained competitive excellence while demonstrating the values of the Olympic Movement, thereby inspiring all Americans.”¹⁶ The USOC is a 501(c)(3) non-profit organization and does not receive federal financial support, except for select Paralympic military programs.¹⁷ According to the USOC’s 2016 tax disclosures, the USOC had about \$336 million in revenue in 2016.¹⁸ In the organization’s 2016 annual report, the USOC reported that it provided a total of \$84.7 million in grants to NGBs, Paralympic Organizations, and Athletes.¹⁹

Each NGB has their own governance structure and applicable bylaws and policies.²⁰ The USOC provides NGBs with governance support, and in some instances, the USOC has required changes to a NGBs bylaws related to the Act or the USOC’s bylaws.²¹ Over ten years ago, the USOC engaged in a governance reform effort and approved governance guidelines for NGBs.²² More recently, the USOC has engaged in a number of additional efforts to increase the requirements for NGBs.²³ In 2010, the USOC formed a Working Group for Safe Training Environments to develop a set of recommendations for consideration by the USOC Board of Directors.²⁴ The Working Group presented its recommendations to the USOC Board in

¹³ 36 U.S.C. § 220522.

¹⁴ 36 U.S.C. § 220521(a).

¹⁵ See generally 36 U.S.C. § 220521-29.

¹⁶ Team USA, *Mission and Culture*, available at <https://www.teamusa.org/careers/mission-and-culture> (last visited May 16, 2018).

¹⁷ Team USA, *Inside the USOC*, available at <https://www.teamusa.org/about-the-usoc/inside-the-usoc> (last visited May 16, 2018).

¹⁸ Team USA, *Finance – USOC Tax Disclosures (Form 990)*, available at <https://www.teamusa.org/Footer/Finance> (last visited May 16, 2018).

¹⁹ United States Olympic Committee, *2016 Annual Report* (2016), <http://2016annualreport.teamusa.org/>.

²⁰ See, e.g., USA Gymnastics, *Bylaws* (last revised May 22, 2018), available at <https://usagym.org/PDFs/About%20USA%20Gymnastics/Governance/usag-bylaws.pdf>; See also USA Taekwondo, *Bylaws of USA Taekwondo, Inc.* (last amended Jan. 24, 2017), available at <https://www.teamusa.org/usa-taekwondo/v2-resources/bylaws>.

²¹ Letter from Counsel to the United States Olympic Committee, to Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

²² *Id.*

²³ *Id.*

²⁴ Team USA, *About the USOC - SafeSport - Key Actions*, available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Key-Actions> (last visited May 16, 2018).

September 2010.²⁵ As a result, the USOC adopted a SafeSport Handbook in 2012, created a minimum standards policy, and required each NGB to adopt an athlete safety program by December 31, 2013.²⁶ In December 2015, the USOC amended its own bylaws to require that all NGBs participated in the U.S. Center for SafeSport (USCSS), and, in 2017, the USOC replaced the minimum standards with the NGB Athlete Safety Policy.²⁷ The results of the 2010 Working Group and the USCSS are discussed in more detail in Section VI(C).

The USOC can decertify an NGB, and the USOC decertified the U.S. Team Handball Federation in 2006²⁸ and the National Rifle Association in 1994.²⁹ Additionally, the USOC has placed NGBs on probation and/or discussed decertification with other NGBs.³⁰ More recently, the USOC filed a Section 8 complaint against USA Gymnastics (USAG) which would revoke USAG's recognition as the National Governing Body for gymnastics in the United States.³¹

B. Sexual Abuse³² in the Olympic Community

Sexual violence is a social and public health problem in the United States that affects millions each year. The Centers for Disease Control and Prevention's (CDC) statistics on sexual violence note that about one in three women experience sexual violence involving physical contact during her lifetime and about one in six men experience sexual violence involving physical contact during his lifetime.³³ Further, the CDC notes that sexual violence starts at an early age. One in three female rape victims experienced it for the first time between 11-17 years

²⁵ Working Group for Safe Training Environments, Recommendations to the USOC Board of Directors (Sept. 28, 2010), available at

http://assets.teamusa.org/assets/documents/attached_file/filename/31249/092810_USOC_Working_Group_Final_Recommendations_to_the_Board_of_Directors.pdf.

²⁶ Government Accountability Office, *Youth Athletes: Sports Programs' Guidance, Practices and Policies to Help Prevent and Respond to Sexual Abuse*, GAO-15-418 (May 2015), available at

<https://www.gao.gov/assets/680/670543.pdf>.

²⁷ Letter from Counsel to the United States Olympic Committee, to Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

²⁸ Team USA, *USOC Recognizes USA Team Handball*, available at <https://www.teamusa.org/USA-Team-Handball/News/2008/May/29/USOC-Recognizes-USA-Team-Handball> (last visited Dec. 4, 2018).

²⁹ Jere Longman, *Olympics; N.R.A. Heeds Olympic Call To End Team Affiliation*, THE NEW YORK TIMES (Mar. 14, 1994), available at <https://www.nytimes.com/1994/03/15/sports/olympics-nra-heeds-olympic-call-to-end-team-affiliation.html>.

³⁰ Letter from Counsel to the United States Olympic Committee, to Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

³¹ U.S. Olympic Committee, Section 8 Complaint against USA Gymnastics (Nov. 5, 2018) (On file with Committee).

³² In this investigation, the Committee has defined sexual assault to include "matters regarding sexual assault, sexual misconduct, sexual mistreatment, sexual harassment, or other sexual offenses." See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Susanne Lyons, U.S. Olympic Committee (Mar. 7, 2018).

³³ Centers for Disease Control and Prevention, *National Center for Injury Prevention and Control, Division of Violence Prevention, Preventing Sexual Violence* (2017), available at <https://www.cdc.gov/violenceprevention/pdf/sv-factsheet.pdf>.

old and one in nine reported that it occurred before age ten.³⁴ The person responsible for the violence is usually someone known to the victim.³⁵

There have been widespread instances of sexual abuse within the Olympic movement. Reports indicate that there have been cases of sexual abuse within the Olympic community for more than 30 years.³⁶ Given the prevalence not only of these reports, but also of sexual violence in society as a whole, the Committee assumes that sexual abuse has existed within the Olympic Community since its creation.

Below is a non-exhaustive list of some of the recent controversies regarding sexual assault in the Olympic movement and the associated concerns with the USOC and NGB's ability to protect the well-being of athletes. As discussed later in this report, the USOC and NGBs have taken steps to address some of the concerns that surfaced during these scandals.

USA Gymnastics

In September 2015, a former USAG team doctor of over 20 years, Larry Nassar, announced via Facebook that he was going to retire from his position at USAG.³⁷ In January 2018, Larry Nassar was sentenced to 40 to 175 years in prison for sexual abuse after more than 150 women and girls confronted him in court for having sexually abused them over the past two decades.³⁸ On May 16, 2018, Michigan State University (MSU) agreed to a \$500 million settlement with 332 of Larry Nassar's victims.³⁹

Questions have surfaced about when USAG and the USOC learned of Nassar's sexual abuse of young athletes and whether they adequately responded to the allegations.⁴⁰ Lawsuits have alleged that USAG and the USOC failed to protect young athletes. For example, a group of gymnasts recently sued the USOC alleging that the "organization failed to protect athletes and

³⁴ Centers for Disease Control and Prevention, *National Center for Injury Prevention and Control, Division of Violence Prevention, Preventing Sexual Violence* (2017), available at <https://www.cdc.gov/violenceprevention/pdf/sv-factsheet.pdf>.

³⁵ Centers for Disease Control and Prevention, *Violence Prevention, Sexual Violence* (last updated May 1, 2018), available at <https://www.cdc.gov/violenceprevention/sexualviolence/index.html>.

³⁶ See, e.g., Rachel Strutz, *unprotected*, OUTSIDE (Nov.2014), available at: <https://www.outsideonline.com/2162781/unprotected>; The Committee to Restore Integrity to the USOC (Feb. 4, 2018), available at <https://swimmingworld.azureedge.net/news/wp-content/uploads/2018/02/usoc-memo-congress-blackmun.pdf>.

³⁷ Mark Alesia, M. Kwiatkowski, and T. Evans, *Timeline: Former USA Gymnastics doctor Larry Nassar*, INDYSTAR (Sept. 20, 2016), available at <https://www.indystar.com/story/news/2016/09/20/larry-nassar-timeline/90733320/>.

³⁸ Eric Levenson, *Larry Nassar sentenced to up to 175 years in prison for decades of sexual abuse*, CNN (Jan. 24, 2018), available at <https://www.cnn.com/2018/01/24/us/larry-nassar-sentencing/index.html>.

³⁹ Matt Mencarini and Justin A. Hinkley, LANSING STATE JOURNAL, *Michigan State and 332 of Larry Nassar's victims reach 'historic' \$500 million settlement* (May 16, 2018), available at <https://www.lansingstatejournal.com/story/news/local/2018/05/16/larry-nassar-michigan-state-settlement-lawsuit/614502002/>.

⁴⁰ See, e.g., Rebecca Davis O'Brien, *Gymnast Aly Raisman Sues U.S. Olympic Committee Over Nassar Scandal*, THE WALL STREET JOURNAL (Mar. 2, 2018), available at <https://www.wsj.com/articles/gymnast-aly-raisman-sues-u-s-olympic-committee-over-nassar-scandal-1520027047>.

that top USOC officials lied about when they first learned of the matter.”⁴¹ Recent reports indicate that there are plans to continue settlement talks with USAG and the USOC.⁴² Similarly, concerns have been raised about the Federal Bureau of Investigation’s (FBI) response to the reports it received about sexual abuse allegations against Nassar, specifically, that the FBI failed to investigate the claims in a prompt manner, instead taking nearly a year to open a criminal investigation.⁴³

In response to the scandal, USAG hired former federal prosecutor Deborah Daniels to conduct an independent investigation of USAG’s bylaws, policies, procedures, and practices related to handling sexual misconduct matters.⁴⁴ Daniels released her extensive report in June 2017.⁴⁵ In February 2018, the USOC announced that a special committee of the USOC board of directors hired the law firm, Ropes & Gray, to conduct an independent investigation of the sexual abuse by Nassar and was charged with determining when USAG and USOC first became aware of any evidence relating to Nassar’s sexual abuse of athletes, what that evidence was, and what they did with it.⁴⁶ On December 10, 2018, Ropes & Gray released their report after a ten month investigation.⁴⁷

USA Swimming

In 2010, a 20/20 investigation detailed inappropriate relationships between USA Swimming coaches and minor athletes.⁴⁸ The report revealed that, as of 2010, USA Swimming

⁴¹ Rebecca Davis O’Brien, *Olympics Committee Failed to Act on Nassar’s Alleged Abuse for a Full Year*, THE WALL STREET JOURNAL (Feb. 1, 2018), available at <https://www.wsj.com/articles/olympics-officials-didnt-act-on-gymnasts-abuse-allegations-in-2015-1517484720>.

⁴² Matt Mencarini and Justin A. Hinkley, LANSING STATE JOURNAL, *Michigan State and 332 of Larry Nassar’s victims reach ‘historic’ \$500 million settlement* (May 16, 2018), available at <https://www.lansingstatejournal.com/story/news/local/2018/05/16/larry-nassar-michigan-state-settlement-lawsuit/614502002/>.

⁴³ Scooby Axson, *Report: FBI Opens Internal Review Into Handling of Larry Nassar Allegations*, SPORTS ILLUSTRATED (Mar. 1, 2018), available at <https://www.si.com/olympics/2018/03/01/fbi-larry-nassar-internal-probe>; Rebecca Davis O’Brien and Louise Radnofsky, *FBI Opens Internal Review of Handling of Gymnasts’ Sex-Abuse Allegations*, The Wall Street Journal (Mar. 1, 2018), available at <https://www.wsj.com/articles/fbi-opens-internal-review-into-handling-of-nassar-allegations-1519900321?mod=e2tw>.

⁴⁴ Deborah J. Daniels, with assistance from Praesidium, *Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes* (June 26, 2017), available at https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf.

⁴⁵ *Id.*

⁴⁶ Team USA, *USOC Announces Selection of Independent Investigator to Examine Larry Nassar’s Abuse of Athletes* (Feb. 2, 2018), available at <https://www.teamusa.org/Media/News/USOC/USOC-ANNOUNCES-SELECTION-OF-INDEPENDENT-INVESITGATOR-TO-EXAMINE-LARRY-NASSARS-ABUSE-OF-ATHLETES>.

⁴⁷ Joan McPhee and James P. Dowden, Ropes & Gray, *Report of the Independent Investigation The Constellation of Factors Underlying Larry Nassar’s Abuse of Athletes* (Dec. 10, 2018), available at <https://www.nassarinvestigation.com/en>.

⁴⁸ Megan Chuchmach and Avni Patel, *ABC News Investigation: USA Swimming Coaches Molested, Secretly Taped Dozens of Teen Swimmers*, ABC NEWS (Apr. 9, 2010), available at <https://abcnews.go.com/Blotter/abc-news-investigation-usa-swimming-coaches-raped-molested/story?id=10322469>.

had imposed a lifetime ban on 36 coaches due to instances of sexual misconduct or inappropriate sexual behavior and kept the list of banned coaches confidential.⁴⁹

Since the 2010 sexual abuse scandal, additional instances of sexual assault within the NGB have been revealed. As of February 15, 2018, USA Swimming had banned 89 individuals for sexual misconduct-related violations since the fall of 2010 and USA Swimming now releases the names of banned coaches through a publicly accessible list.⁵⁰ This year, the Southern California News Group published a report indicating that USA Swimming allegedly ignored or covered up hundreds of sexual abuse cases over several decades.⁵¹ Moreover, as recently as a few months ago, two top USA Swimming officials resigned following reports indicating that the organization had ignored sexual misconduct by coaches.⁵²

USA Taekwondo

Earlier this year, an Olympic taekwondo coach, Jean Lopez, was banned from USA Taekwondo (USAT) after the USCSS found him guilty of sexual misconduct with a minor.⁵³ According to press articles, USAT initiated the investigation into Jean Lopez about three years ago and the investigation was referred to the USCSS after it opened in March 2017.⁵⁴ Jean Lopez's brother, Taekwondo Olympian Steven Lopez, is also under investigation by the USCSS and he has been placed under an "interim measure-restriction" for sexual misconduct.⁵⁵ Although there were ongoing year-long active investigations into the brothers at the time, both attended the 2016 Rio Olympic Games.⁵⁶ Filings in a recent lawsuit accuse both Jean Lopez and Steven Lopez of sexually assaulting minors for years.⁵⁷

In addition to the ongoing controversy regarding the Lopez brothers, USAT has been involved in other public sexual abuse scandals. For example, in 2015, a USAT coach, Marc

⁴⁹ ESPN, *46 coaches on banned list*, ESPN.COM NEWS SERVICES (May 26, 2010), available at <http://www.espn.com/olympics/swimming/news/story?id=5220940>.

⁵⁰ Information provided to the Committee on Energy and Commerce, from USA Swimming (Feb. 15, 2018) (On file with Committee); USA Swimming, *List of Individuals Permanently Suspended or Ineligible for Membership* (updated May 9, 2018), available at <https://www.usaswimming.org/utility/landing-pages/safe-sport/banned-member-list--perm>.

⁵¹ Scott M. Reid, *100s of USA swimmers were sexually abused for decades and the people in charge knew and ignored it, investigation finds*, THE ORANGE COUNTY REGISTER (Feb. 16, 2018), available at <https://www.ocregister.com/2018/02/16/investigation-usa-swimming-ignored-sexual-abuse-for-decades/>.

⁵² Matt Stevens, *2 U.S.A. Swimming Officials Resign Amid Accusations of Ignored Abuse*, THE NEW YORK TIMES (Feb. 24, 2018), available at <https://www.nytimes.com/2018/02/24/sports/usa-swimming-resignations.html>.

⁵³ Nancy Armour and Rachel Axon, *Olympic taekwondo coach Jean Lopez banned for sexual misconduct with a minor*, USA TODAY (Apr. 4, 2018), available at <https://www.usatoday.com/story/sports/olympics/2018/04/04/olympic-taekwondo-coach-jean-lopez-banned-sexual-misconduct-minor/485501002/>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Jacey Fortin, *Lawsuit Accuses Taekwondo Olympian and His Coach, Who Are Brothers, of Sexual Abuse*, THE NEW YORK TIMES (May 6, 2018), available at <https://www.nytimes.com/2018/05/06/sports/lopez-taekwondo-sex-abuse.html>.

Gitelman, was convicted of sexually abusing a minor athlete and another individual.⁵⁸ Prior to this conviction, both USAT and the USOC had been aware of the sexual assault allegations yet failed to protect the athletes from the abuse. In a March 10, 2014 email regarding the allegations, then-USOC board member Ms. Susanne Lyons wrote: “Here we go again. This sounds like the same old BS... Allowing a potential sexual predator to continue to coach without having an appropriate investigation and conclusion is unacceptable.”⁵⁹

USA Volleyball

In 1995, USA Volleyball (USAV) banned one of its coaches, Rick Butler, due to claims that the coach had sexual relationships with underage athletes.⁶⁰ USAV partially lifted the ban just five years later in 2000.⁶¹ In January 2018, however, USAV permanently banned Rick Butler from coaching again.⁶² Additionally, recent lawsuits have been filed related to claims that Rick Butler sexually abused and raped minor athletes in the 1980s.⁶³

1. Efforts by the USOC and NGBs

As previously mentioned, in 2010, a 20/20 investigation detailed inappropriate relationships between USA Swimming coaches and minor athletes.⁶⁴ The report revealed that, as of 2010, USA Swimming had imposed a lifetime ban on 36 coaches due to instances of sexual misconduct or inappropriate sexual behavior and kept the list of banned coaches confidential.⁶⁵

Following the 2010 sexual abuse scandal, the USOC created a Working Group in 2010 to develop a set of recommendations for promoting safe training environments and addressing misconduct in sport. The Working Group and the steps that the USOC took to create the USCSS will be discussed in greater detail in Section VI(C). As sexual abuse reports and allegations continued to come to light in swimming and other sports, the USOC adopted a SafeSport

⁵⁸ Will Hobson and Steven Rich, *An athlete accused her coach of sex abuse. Olympic officials stayed on the sideline*, THE WASHINGTON POST (Feb. 14, 2017), available at https://www.washingtonpost.com/sports/olympics/an-athlete-accused-her-coach-of-sex-abuse-olympic-officials-stayed-on-sideline/2017/02/14/35a6fc76-d2eb-11e6-a783-cd3fa950f2fd_story.html?utm_term=.23e890c8fdac.

⁵⁹ *Id.*

⁶⁰ Jon Seidel and Michael O'Brien, *A Sun-Times Investigation – Net Pains: Volleyball Coach Rick Butler, His Players – and the Damage That's Been Done*, CHICAGO SUN-TIMES (Nov. 24, 2017), available at <https://chicago.suntimes.com/feature/coach-rick-butler-volleyball-players-damage-done/>.

⁶¹ Laura Wagner, *AAU Removes Volleyball Coach Rick Butler Following Years-Long Sex Abuse Investigation*, DEADSPIN (Feb. 12, 2018), available at <https://deadspin.com/aau-removes-volleyball-coach-rick-butler-following-year-1822940996>.

⁶² Christian Red, *Rick Butler officially receives lifetime ban from USA Volleyball for violating protective order*, NY DAILY NEWS (Jan. 10, 2018), available at <http://www.nydailynews.com/sports/more-sports/rick-butler-receives-lifetime-ban-usa-volleyball-article-1.3750125>.

⁶³ Christine Hauser, *Top Volleyball Coach Raped Teenage Athletes, Lawsuit Alleges*, THE NEW YORK TIMES (Mar. 2, 2018), available at <https://www.nytimes.com/2018/03/02/sports/volleyball-coach-rape-rick-butler.html>.

⁶⁴ Megan Chuchmach and Avni Patel, *ABC News Investigation: USA Swimming Coaches Molested, Secretly Taped Dozens of Teen Swimmers*, ABC NEWS (Apr. 9, 2010), available at <https://abcnews.go.com/Blotter/abc-news-investigation-usa-swimming-coaches-raped-molested/story?id=10322469>.

⁶⁵ ESPN, *46 coaches on banned list*, ESPN.COM NEWS SERVICES (May 26, 2010), available at <http://www.espn.com/olympics/swimming/news/story?id=5220940>.

Handbook in 2012, created a minimum standards policy, and required each NGB to adopt an athlete safety program by December 31, 2013.⁶⁶ Reports indicate that despite the December 31, 2013 deadline, some NGBs did not meet the minimum standards until May 2014 and “[b]ecause USOC left the responsibility of reporting, investigating, and adjudication to the NGBs, implementation was all over the map.”⁶⁷ In 2014, 19 swimmers said they were sexually abused by their coaches which led to the International Swimming Hall of Fame to rescind an invitation to the then Executive Director of USA Swimming, Chuck Wielgus.⁶⁸ In November 2014 *Outside* magazine reported about the ongoing occurrences of sexual abuse across the Olympic community, not just in Swimming, but in other sports such as Taekwondo, and Speedskating.

In May 2015, the U.S. Government Accountability Office (GAO) released a report examining the role of federal agencies in preventing and responding to sexual abuse of youth athletes as well as steps selected athletic programs aimed at high performance take to prevent and respond to such abuse.⁶⁹ The report touches on the USOC’s establishment of the SafeSport program and examined some policies that athletic clubs were implementing based on SafeSport, however “GAO did not assess the effectiveness of any of the selected athletic program’s policies.”⁷⁰ In December 2015, the USOC board amended its own bylaws to require that all NGBs participated in the USCSS.⁷¹ Under section 8.7(l) of the Olympic Committee’s bylaws, each NGB must comply with policies related to SafeSport and the policies and procedures of the USCSS.⁷² While the USOC bylaws were updated in 2015, the USCSS was not launched until 2017.

In 2016, a media outlet published a lengthy report detailing how USAG had failed to protect athletes from sexual abuse and seldom referred allegations of child abuse to law enforcement or child protective services.⁷³ In addition, former gymnasts filed criminal complaints against Larry Nassar accusing him of sexually abusing young athletes.⁷⁴ In 2017, the

⁶⁶ Government Accountability Office, *Youth Athletes: Sports Programs’ Guidance, Practices and Policies to Help Prevent and Respond to Sexual Abuse*, GAO-15-418 (May 2015), available at <https://www.gao.gov/assets/680/670543.pdf>.

⁶⁷ Rachel Strutz, *unprotected*, OUTSIDE (Nov.2014), available at <https://www.outsideonline.com/2162781/unprotected>.

⁶⁸ Kelly Whiteside, *Hall of Fame rescinds Chuck Wielgus’ invite amid sexual abuse allegations*, USA TODAY (June 2, 2014), available at <https://www.usatoday.com/story/sports/olympics/2014/06/02/chuck-wielgus-usa-swimming-hall-of-fame/9893275/>.

⁶⁹ Government Accountability Office, *Youth Athletes: Sports Programs’ Guidance, Practices and Policies to Help Prevent and Respond to Sexual Abuse*, GAO-15-418 (May 2015), available at <https://www.gao.gov/assets/680/670543.pdf>.

⁷⁰ *Id.*

⁷¹ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

⁷² *Id.*

⁷³ Marisa Kwiatkowski, M. Alesia, and T. Evans, *A blind eye to sex abuse: How USA Gymnastics failed to report cases*, INDYSTAR (Aug. 4, 2016), available at <https://www.indystar.com/story/news/investigations/2016/08/04/usa-gymnastics-sex-abuse-protected-coaches/85829732/>.

⁷⁴ Tim Evans, M. Alesia, and M. Kwiatkowski, *Former USA Gymnastics doctor accused of abuse*, INDYSTAR (Sept. 12, 2016), available at <https://www.indystar.com/story/news/2016/09/12/former-usa-gymnastics-doctor-accused-abuse/89995734/>; *Who is Larry Nassar?*, LANSING STATE JOURNAL AND INDYSTAR OF THE USATODAY NETWORK, available at <https://www.cincinnati.com/pages/interactives/larry-nassar-timeline/> (last visited May 16, 2018).

USOC replaced the minimum standards with the NGB Athlete Safety Policy.⁷⁵ Further, in March 2017, the USCSS was launched. In response to a letter from the Senate Committee on Commerce, Science, and Transportation inquiring about the delay between the 2010 Working Group and the anticipated launch of the USCSS in the first quarter of 2017, former USOC Chief Executive Officer (CEO), Mr. Scott Blackmun, stated that “[t]he process of designing from scratch, configuring, creating, enabling, funding, and launching the USCSS took more time and effort from more people than we expected.”⁷⁶

The Committee’s March 7, 2018 letter to the USOC inquired about the relaying of reports or allegations of sexual abuse between the USOC and the NGBs.⁷⁷ The USOC responded that “there was not a policy or practice of national governing bodies reporting such information to the Olympic Committee. Nonetheless, individual communications may occur in a number of contexts.”⁷⁸ As discussed in this report, NGBs seemingly had different expectations regarding whether they were expected to report complaints or allegations to the USOC. Most NGBs told the Committee that there was not a formal policy that required them to report complaints or allegations to the USOC unless the incident occurred at a USOC training facility or during an official Olympic event.⁷⁹ However, USA Weightlifting told the Committee:

While not a formalized or written policy, it has always been the understanding of the NGB to inform the US Olympic Committee when a complaint or allegation is raised against an individual in our membership. However, this has ceased to be the case since the US Center for SafeSport opened in 2017, where all sexual abuse cases are referred to the US Center for SafeSport.⁸⁰

Prior to the launch of the USCSS, NGBs were responsible for handling any reports of sexual misconduct. As discussed in this report, the policies and procedures for handling such reports varied dramatically. The USOC previously stated that it did not have the authority or was not responsible for handling reports of sexual abuse, with one official claiming this was because “[t]he USOC does not have athletes.”⁸¹ Despite this, some NGBs indicated to the

⁷⁵ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

⁷⁶ Letter from Mr. Scott Blackmun, CEO, USOC, to Hon. John Thune and Hon. Jerry Moran, Sen. Committee on Commerce, Science, and Transportation (Mar. 15, 2017), *available at* https://www.commerce.senate.gov/public/_cache/files/73ef68d5-062d-44e5-9d5a-6336cd692710/8FDD20DBE2B75ADA0AF9FCC6E2ACD537.usoc-response.pdf.

⁷⁷ Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Ms. Susan Lyons, Acting Chief Executive Officer, United States Olympic Committee (Mar. 7, 2018), *available at* <https://energycommerce.house.gov/news/letter/letters-u-s-olympic-committee-48-national-governing-bodies-michigan-state-university-sexual-abuse-organized-sports/>.

⁷⁸ Letter from Counsel to the United States Olympic Committee, to Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

⁷⁹ See Letter from Letter from Mr. Steve McNally, Executive Director, USA Taekwondo to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

⁸⁰ Letter from Phil Andrews, Chief Executive Officer, USA Weightlifting, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 9, 2018) (On file with Committee).

⁸¹ Will Hobson and Steen Rich, *An athlete accused her coach of sex abuse. Olympic officials stayed on the sideline.*, WASHINGTON POST (Feb. 14, 2017), *available at* <https://www.washingtonpost.com/sports/olympics/an->

Committee that prior to the launch of the USCSSS, they requested policy or procedural guidance on sexual abuse cases. For example, the U.S. Tennis Association told the Committee:

While there was no formal communications with the USOC SafeSport division on individual matters prior to the launch of the U.S. Center for SafeSport, the USTA periodically sought policy and/or procedural guidance on sexual abuse issues from the USOC.⁸²

While recent reports have focused on USA Swimming and USAG, other NGBs have been involved with public sexual abuse scandals, including but not limited to U.S. Figure Skating, U.S. Speedskating, and USA Water Polo. Between the USCSS' launch in 2017 and July 30, 2018, the USCSS received written and oral reports, complaints, and allegations regarding sexual abuse from 38 of the 48 NGBs.⁸³

Although allegations of sexual abuse are generally kept confidential, in recent years, many NGBs have been at the center of public sexual abuse scandals. Lawsuits involving sexual abuse have been filed against the USOC and multiple NGBs, including USAG, USA Swimming, USA Taekwondo, and more recently, USA Diving.⁸⁴

C. Background on the Committee's Investigation

On January 24, 2018, former USAG and Michigan State University (MSU) team doctor Larry Nassar was sentenced to 40 to 175 years in prison after more than 150 impact statements were read by victims and their family members during a seven-day sentencing hearing.⁸⁵ Roughly two dozen more written statements were submitted that weren't read aloud in court.⁸⁶ Nassar was convicted of sexually abusing hundreds of athletes under the guise of medical treatment, some of them as young as six years old.⁸⁷

The abuse and mistreatment associated with the Nassar case, as well as reports of abuse in other sports, notably the 2017 reports of sexual misconduct allegations in Taekwondo and the

athlete-accused-her-coach-of-sex-abuse-olympic-officials-stayed-on-sideline/2017/02/14/35a6fc76-d2eb-11e6-a783-cd3fa950f2fd_story.html?utm_term=.7354afdc5d7f.

⁸² Letter from United States Tennis Association, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (May 7, 2018) (On file with Committee).

⁸³ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce 115 Cong. (Response to questions for the record from the May 23, 2018 hearing).

⁸⁴ Tom Roeder, *USOC bosses 'tolerate and often facilitate' sexual abuse, new lawsuit against USA Diving claims*, THE GAZETTE (Oct. 2, 2018), available at https://gazette.com/news/new-lawsuit-claims-usoc-bosses-tolerate-and-often-facilitate-sexual/article_dfb331d6-c66d-11e8-866b-4bf2a708e56a.html.

⁸⁵ Dan Murphy via ESPN, *Michigan judge sentences Larry Nassar to 40 to 175 years in prison for sexually assaulting athletes*, ABC NEWS (Jan. 24, 2018), available at <https://abcnews.go.com/Sports/michigan-judge-sentences-larry-nassar-40-175-years/story?id=52583119>.

⁸⁶ *Id.*

⁸⁷ Carla Correa and Meghan Louttit, *More than 160 women say Larry Nassar sexually abused them. Here are his accusers in their own words.*, THE NEW YORK TIMES (Jan. 24, 2018), available at <https://www.nytimes.com/interactive/2018/01/24/sports/larry-nassar-victims.html?mtrref=www.google.com>.

2014 allegations of sexual abuse in Swimming, prompted the Committee to write to USA Gymnastics, the U.S. Olympic Committee, Michigan State University, USA Swimming, and USA Taekwondo.⁸⁸ The letter requested that the letter recipients provide a briefing to Committee staff to answer the questions regarding when each organization was first made aware of the reports and allegations of sexual abuse associated with their particular organization; if they were aware of other sexual abuse or misconduct allegations; and whether they have policies and procedures in place in order to properly report, handle, and investigate sexual abuse when it has been reported to them, among other questions.⁸⁹

The responses to the Committee's letters, along with media reports and information provided to the Committee by survivors and whistleblowers, raised concerns about a potentially systemic problem within the Olympic community and its ability to adequately protect its athletes from sexual abuse and mistreatment. This led the Committee to expand its probe, writing to the USOC, all 48 National Governing Bodies, and MSU,⁹⁰ with a series of detailed questions and document requests. The letter to the USOC requested:

- Copies of all policies and procedures produced, used, or required by USOC from 2005 to present, both internally and for the respective NGBs, regarding abuse prevention policies, including how to handle reports, complaints, or allegations of sexual abuse, including all documents or communications to or from the USOC, including with the respective NGBs, regarding changes to those policies and procedures;
- All documents and communications regarding policies, procedures, or guidance provided to the USOC by the U.S. Center for SafeSport regarding how to handle reports, complaints, or allegations of sexual abuse since the U.S. Center for SafeSport was launched in 2017;
- Detailed data to demonstrate the number of reports, complaints, or allegations of sexual abuse made to the USOC or of which the USOC was informed by an NGB or other source and USOC's handling of that information;
- All documents and communications to or from the USOC and any NGB from 2005 to present, regarding reports, complaints, or allegations of sexual abuse;

⁸⁸ Letters from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Ms. Kerry Perry (USAG), Mr. Scott Blackmun (USOC), Mr. Brian Breslin (MSU), Mr. Tim Hinchey (USAS), and Mr. Steve McNally (USAT) (Jan. 26, 2018), *available at* <https://energycommerce.house.gov/news/letter/letters-usa-gymnastics-u-s-olympics-committee-michigan-state-university-usa-swimming-usa-taekwondo-regarding-sexual-abuse-organized-sports/>.

⁸⁹ *Id.*

⁹⁰ Letters from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Ms. Susan Lyons (USOC), Mr. John Engler (MSU), Mr. Rod Menzer (USAA), et al. (Mar. 7, 2018), *available at* <https://energycommerce.house.gov/news/letter/letters-u-s-olympic-committee-48-national-governing-bodies-michigan-state-university-sexual-abuse-organized-sports/>.

- Copies of any independent audits, reviews, or investigations that have been conducted of the USOC, or of any NGB where the USOC received a copy, regarding sexual abuse or related policies and procedures from 2005 to the present; and
- For any non-disclosure agreements, settlements, or other forms of resolution regarding sexual abuse of which the USOC was a party or was made aware, please provide the number of such agreements, settlements, and other forms of resolution for each year from 2005 to the present, among other requests.⁹¹

The letters to each NGB similarly requested:

- Copies of all policies and procedures produced or used by your NGB from 2005 to present regarding abuse prevention policies, including how to handle reports, complaints, or allegations of sexual abuse, including all documents or communications to or from your NGB, including with the USOC, regarding changes to those policies and procedures;
- All documents and communications regarding policies, procedures, or guidance provided to your NGB by the U.S. Center for SafeSport regarding how to handle reports, complaints, or allegations of sexual abuse since the U.S. Center for SafeSport was launched in 2017;
- Detailed data to demonstrate the number of reports, complaints, or allegations of sexual abuse made to your organization and the handling of that information;
- Copies of any independent audits, reviews, or investigations that have been conducted of your NGB or on its behalf regarding sexual abuse or related policies and procedures from 2005 to present, including but not limited to the 2017 SafeSport audit; and
- For any non-disclosure agreements, settlements, or other forms of resolution regarding sexual abuse in which your NGB was a party or was made aware, please provide the number of such agreements, settlements, and other forms of resolution for each year from 2005 to present, among other requests.⁹²

The letters also posed questions to the USOC and each NGB regarding changes to bylaws, ban or suspension lists, the use of interim measures, and the use of background checks,

⁹¹ Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Susanne Lyons, U.S. Olympic Committee (Mar. 7, 2018) *available at* <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USOC-Letter.pdf>.

⁹² *See* Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Rod Menzer, USA Archery (Mar. 7, 2018) *available at* <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USA-Archery.pdf>.

among other questions.⁹³ Nearly 152,000 pages of documents were produced to the Committee in response to the March 7, 2018 letters.

On May 23, 2018, the Subcommittee on Oversight and Investigations held a hearing entitled, “Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse.”⁹⁴ Testifying at the hearing were:

- Ms. Susanne Lyons, Acting Chief Executive Officer of the United States Olympic Committee;
- Ms. Kerry Perry, President and Chief Executive Officer of USA Gymnastics;
- Mr. Tim Hinchey, President and Chief Executive Officer of USA Swimming;
- Mr. Steve McNally, Executive Director of USA Taekwondo;
- Mr. Jamie Davis, Chief Executive Officer of USA Volleyball; and
- Ms. Shellie Pfohl, President and Chief Executive Officer of the U.S. Center for SafeSport.

The purpose of the hearing was to examine the pervasiveness of sexual misconduct within the U.S. Olympic community, including whether there are adequate policies and procedures in place to protect athletes at all levels of sport, how to properly and effectively handle cases of sexual misconduct, how the Olympic community can learn from the past and examine opportunities to reform the system, and how to ensure better oversight, accountability and restore public confidence within the U.S. Olympic community.

⁹³ *Id.*

⁹⁴ H. Comm. On Energy and Commerce hearing, “*Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse*” (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/>.

V. Issues Contributing to Concerns about Athlete Safety

Sexual violence is a social and public health problem in the United States that affects millions each year. Unfortunately, there have been widespread instances of sexual misconduct within the Olympic movement that have involved most, if not all, of the sports that fall within the Olympic community. The Committee’s investigation has identified key areas that raise concerns about athlete safety, including but not limited to the culture within the Olympic community and the focus on reputation and image, rather than athlete safety; a lack of belief by the USOC that it has authority over NGBs; a lack of belief that the USOC has a responsibility to protect athletes; and inconsistent policies and procedures throughout the Olympic community. While this report is a non-exhaustive review of issues that have contributed to putting athlete safety at risk, all of these issues have contributed to a systemic failure across the Olympic community to adequately protect athletes, particularly with respect to the case management of instances involving sexual misconduct or abuse.

A. Culture within the Olympic Community and Focus on Reputation and Image

Finding: The culture within the Olympic community has prioritized reputation and image over athlete safety.

The Committee examined how the Olympic community’s response to concerns about athlete safety and reports of sexual abuse is impacted by the culture within the Olympic community. Over the course of the investigation, the Committee heard from numerous athletes and other stakeholders about concerns that the Olympic community prioritized “medals and money” at the expense of the safety and well-being of athletes. Some individuals, including but not limited to those who spoke with the Committee, shared their stories publicly. For instance, the head gymnastics coach at the University of California, Los Angeles, Valorie Kondos Field, wrote a January 21, 2018 essay criticizing the culture within USAG:

In listening to all of the brave women who have come forward in the courtroom to confront Nassar, I can’t escape the thought that while he is a mentally deranged pedophile, he is not the head of the monster. The monster is the Culture of USA Gymnastics. Abusive behavior is the example the Karolyis cultivated. The enabling environment they created is what USAG honored. Medals is all the U.S. Olympic Committee (USOC) cared for... not the athletes earning them. I have believed for many years the head of the monster is lead [sic] by our U.S. National Head Coach, Martha Karolyi; and before her Bela Karolyi; and before him Don Peters, who has been banned from coaching for his own sexual abuse allegations. For decades they established a culture of abuse that was widely accepted and mimicked by other club coaches because “we won medals.”⁹⁵

⁹⁵ Valorie Kondos Field, *Time’s Up USAG*, Official Miss Val (Jan. 21, 2018) available at <http://officialmissval.com/times-up-usag/> (ellipsis in original).

1. Athlete Safety Has Not Always Been a Top Priority

FINDING: As recently as 2016, the USOC maintained that it “[did] not have athletes” and that ensuring safety of athletes was a responsibility of the NGBs.

Documents reviewed by the Committee during its investigation demonstrate that, at times, certain individuals within the Olympic community focused on winning competitions rather than athlete safety. For example, in a September 2016 deposition of Mr. Gary Johansen, USOC’s then-Associate General Counsel, Mr. Johansen testified that “[t]he USOC has a lot of priorities, if you will. Chief among them is sending athletes to the Olympic, Pan American, and Paralympic games, and doing well at those games.”⁹⁶ When asked, “you want to protect your athletes from being sexually abused. That’s a top priority, right, sir?”⁹⁷ Mr. Johansen responded, “[t]he USOC does not have athletes.”⁹⁸ He testified:

15	Q. Okay. You would agree with me that the	02:12:59
16	safety of our athletes is the number one priority	02:13:01
17	for the U.S. Olympic Committee?	02:13:06
18	A. No. I believe that SafeSport is an issue	02:13:13
19	that's of concern to the United States Olympic	02:13:19
20	Committee and to society as a whole.	02:13:24
21	Q. All right. But you don't agree with me	02:13:28
22	that the safety of our athletes is the USOC's number	02:13:30
23	one priority?	02:13:33
24	A. It's a -- it -- it's a concern to the	02:13:35
25	USOC.	02:13:37

⁹⁶ *Gatt, et al., v. USA Taekwondo, et al.* Superior Court of California, County of Los Angeles, BC599321, Transcript, Video Deposition of Gary Johansen (Sept. 27, 2016), available at <https://www.scribd.com/document/384335706/Gary-Johansen-Transcript> (last visited Nov. 21, 2018).

⁹⁷ *Id.*

⁹⁸ *Id.*

1	The USOC has a lot of priorities, if you	02:13:40
2	will. Chief among them is sending athletes to the	02:13:43
3	Olympic, Pan American, and Paralympic games, and	02:13:47
4	doing well at those games.	02:13:51
5	Q. Yeah, but you want to protect your	02:13:52
6	athletes from being sexually abused. That's a top	02:13:54
7	priority, right, sir?	02:13:58
8	A. The USOC does not have athletes.	02:13:59
9	Q. Okay. Walk me through that. You -- you	02:14:02
10	send athletes to the Olympics, but they're not your	02:14:03
11	athletes?	02:14:07
12	A. That's correct.	02:14:08

Mr. Johansen further testified “[t]hat it would be one of the obligations of a National Governing Body; to insure [sic] that all participants, all of its members, have a safe environment.”⁹⁹ The deposition continued:

⁹⁹ *Id.*

13	Q. Okay. What -- I'm -- I'm obviously	02:14:09
14	ignorant in that area, so why -- why is it they're	02:14:10
15	not your athletes?	02:14:12
16	A. They're nominated by the National	02:14:15
17	Governing Bodies to the USOC. The USOC then enters	02:14:16
18	those athletes into the Olympic, Paralympic, or Pan	02:14:22
19	American games.	02:14:27
20	Q. Okay. And so is the USOC then relying	02:14:28
21	upon the NGBs to make sure our athletes are safe?	02:14:32
22	MS. HOLM: Well, it's an overbroad	02:14:43
23	question, and it calls for some speculation as to	02:14:44
24	the entirety of the US -- USOC.	02:14:47
25	If you can answer the question the way	02:14:49
1	it's been phrased.	02:14:51
2	A. Do you want to repeat it?	02:14:51
3	MR. ESTEY: You can...	02:14:53
4	(Last question read back.)	02:14:53
5	A. That would be one of the obligations of a	02:15:04
6	National Governing Body; to insure that all	02:15:05
7	participants, all of its members, have a safe	02:15:10
8	environment.	02:15:13
9	Q. And when I say safe, I'm -- I'm -- I'm	02:15:14
10	including an athlete, should we say, from -- from	02:15:15
11	being sexually abused by their coach. You	02:15:22
12	understood that when I'm talking about keeping the	02:15:25
13	athletes safe?	02:15:27
14	A. Yes.	02:15:31

15	Q. Okay. And how does the USOC then assess	02:15:32
16	the NGBs of keeping our athletes safe from being	02:15:37
17	sexually abused?	02:15:42
18	A. We're -- we're a different organization	02:15:49
19	than the National Governing Bodies. We provide	02:15:51
20	funding to our National Governing Bodies.	02:15:55
21	As you know, the USOC has now endeavored	02:15:58
22	to have a SafeSport program.	02:16:05
23	Q. And the SafeSport program is designed to	02:16:09
24	assist the NGBs in keeping our athletes safe from	02:16:11
25	being sexually abused by the coaches, correct?	02:16:16
1	A. Would you repeat that question?	02:16:20
2	MR. ESTEY: Sure.	02:16:21
3	Could you read it back, please.	02:16:21
4	(Last question read back.)	02:16:32
5	A. Depends on what do you mean by "assist"?	02:16:38
6	It's a -- a program that's designed to provide a	02:16:45
7	SafeSport environment for athletes that are	02:16:51
8	participating under the membership or under the	02:16:56
9	competition guidelines of a National Governing Body.	02:17:00

In addition, many NGBs did not make the safety of athletes a top priority. This is evidenced not only by the numerous media reports documenting athlete abuse in USA Gymnastics, USA Taekwondo, USA Swimming, and USA Volleyball, to name a few, but also documents reviewed by the Committee. For example, a letter contained in an email sent by Larry Nassar to Luan Peszek, the Women's Vice President of USA Gymnastics, on August 13, 2014 described how, according to Nassar, there was an understanding within USAG that athletes should not discuss their injuries because then they may be replaced with alternates during competitions:

I worked hard at keeping [Athlete 1] on the team with her hurt knee and pushed the envelope with Martha. I knew if I could buy enough time I could get her knee feeling well enough for her to be able to compete. Then

[Athlete 2] goes down with a broken ankle. I was told by Kathy Kellie to avoid Steve Penny and not tell him anything about injuries. The concern was that Steve would create pressure to replace gymnasts with the alternates. We as a team knew we had the best team even with the injuries and did not want to replace [Athlete 1] or [Athlete 2]. So because I listened to Kathy and Martha and did not tell anyone about the injuries, Steve was not happy with me. I continued to listen to them and would give information to the administration only if Kathy approved it. Then came 2012 Olympics and [Athlete 3] broke our code of silence and spoke up [about an injury]. Steve was shocked that he did not know about this again. We keep things as quite [sic] as possible so as not to distract from [sic] the mission of the team. The mission is about performance, not injury. The focus is on success, not the stress of injury. My work and the injuries stay hidden in the background to keep the focus on performance and success.¹⁰⁰

Luan Peszek responded to Nassar's email by thanking him for the information and letting him know that he is valuable to the women's program, and that both Luan and Martha had shared that information with Penny.¹⁰¹

Similarly, an email between USOC employees in January 2017 questioned the status of the Karolyi Ranch, despite awareness of Nassar's abuse. Specifically, the USOC staffer wrote: "Karolyi Ranch renewal- their renewal is up in April and is a partnership with USA Gymnastics. With the abuse scandal, are we considering renewing or not? Of course it is a critical facility, but wanted to get your feedback before we start having conversations with Steve and his staff."¹⁰² USAG had reached a deal to purchase the ranch less than a year earlier, in July 2016.¹⁰³

The Committee questioned Ms. Perry and Ms. Lyons at the May 2018 hearing about the decision to renew the contract with the Karolyi Ranch. Ms. Perry testified:

[Q.] Ms. Perry, Dr. Burgess asked a few questions about the abuse that had occurred at the hands of Nassar at the Karolyi Ranch. And you stated you did not want the athletes to have to return to such an emotionally painful place where they were abused. And so USA Gymnastics terminated its agreement with the Karolyi Ranch on January 18 of this year. I believe that was definitely the right decision to make. However, USA Gymnastics was aware of

¹⁰⁰ E-mail from Larry Nassar, to Luan Peszek, Women's Vice President, USA Gymnastics (Aug. 13, 2014, 10:29 AM) (On file with Committee).

¹⁰¹ E-mail from Luan Peszek, Women's Vice President, USA Gymnastics, to Larry Nassar (Aug. 13, 2014, 3:11:46 PM) (On file with Committee).

¹⁰² E-mail from Alicia McConnell, Staff, U.S. Olympic Committee, to Rick Adams, Staff, U.S. Olympic Committee (Jan. 6, 2017, 6:06:29 PM) (On file with Committee).

¹⁰³ Team USA, USA Gymnastics, *USA Gymnastics Agrees to Purchase Karolyi Ranch Gymnastics Facilities* (July 25, 2016), available at <https://www.teamusa.org/News/2016/July/25/USA-Gymnastics-Agrees-To-Purchase-Karolyi-Ranch-Gymnastics-Facilities> (last visited Dec. 7, 2018).

allegations against Nassar in 2015 and made the decision to renew its contract with the Karolyi Ranch in spring of 2017. Why was this agreement renewed in April of 2017 despite knowing about his abuse, sexual abuse, for years?

- A. Chairman Harper, I can't answer that question. It's a very important question. And, again, I think that many of these questions hopefully will be answered through the independent investigation with Ropes & Gray.¹⁰⁴

Ms. Lyons similarly testified:

- Q. Ms. Lyons, was the U.S. Olympic Committee involved in the decision to renew the contract for the Karolyi Ranch in April of 2017?

- A. No. There actually are two different contracts. The USOC had what I would call a marketing license with the Karolyi Ranch that allows them to be designated as a training site with the Olympic rings upon it. The actual lease of the property was a separate agreement to the USAG.

- Q. Okay. So my question was, was the USOC involved in the decision? Was the USOC even aware of the decision to open it back up?

- A. I don't know the answer to that. I would guess they probably would have known, at least the lease was coming due and that it might be under consideration. We do know that they were considering buying the ranch.¹⁰⁵

In a Question for the Record posed after the May 2018 hearing, the Committee asked USAG to provide further information about the apparent renewal of the Karolyi Ranch contract.¹⁰⁶ Ms. Perry responded:

My tenure at USA Gymnastics began on December 1, 2017. I was not with the organization in the spring of 2017 when it renewed the Karolyi Ranch lease; thus, I do not have personal knowledge about why that decision was

¹⁰⁴ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 119-120 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

¹⁰⁵ *Id.* at 120-121.

¹⁰⁶ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce 115 Cong. (Response to questions for the record from Kerry Perry, USA Gymnastics).

made. The Ropes & Gray independent investigation remains ongoing, and we anticipate reviewing the findings—including those related to the renewal of the Karolyi Ranch lease—when the investigation is complete.¹⁰⁷

The Committee subsequently learned that USAG did not renew the lease for the Karolyi Ranch, but did modify the lease agreement in August 2017 to allow for an early termination of the lease—two years after USAG and the USOC learned of Nassar’s abuse.¹⁰⁸

2. Use of “Reputation” in USOC Policies

FINDING: USOC policies dating back to at least 2011, and as recent as April 2018, included “the effect on the USOC’s reputation” as a factor to be considered in imposing sanctions and granting access to USOC facilities.

The Committee also examined the Olympic community’s emphasis on reputation and image, potentially at the expense of athlete safety. Documents reviewed by the Committee show that the USOC incorporated concerns about reputation into some of their official policy documents. For example, the USOC’s 2018 policy on “Athlete Safety” detailed how, when imposing sanctions following an investigation within the USOC’s jurisdiction, “in imposing a sanction, the Review Panel will consider,” among other things, “the effect on the USOC’s reputation.”¹⁰⁹ This policy is reproduced below, in relevant part:

The decision regarding the appropriate sanction shall be up to the Review Panel deciding each complaint. In imposing a sanction, the Review Panel will consider:

- whether the individual poses an ongoing concern for the safety of the USOC’s athletes and participants;
- the seriousness of the offense or act;
- the ages of the accused individual and alleged victim when the offense or act occurred;
- any information produced by the accused individual, or produced on behalf of the individual, in regard to the individual’s rehabilitation and good conduct
- the effect on the USOC’s reputation; and,
- any other information, which in the determination of the Panel, bears on the appropriate sanction.

Sanctions may range from a warning and a reprimand to suspension from sport involvement with the USOC or other sanctions. Suspensions may be temporary or permanent.

¹⁰⁷ *Id.*

¹⁰⁸ First Amendment to Lease Agreement, Aug. 15, 2017 (On file with Committee).

¹⁰⁹ United States Olympic Committee, Policy Name: Athlete Safety, Date of Issuance: 4-18-18, Policy Owner: Director of Athlete Safety, Applies to: BOD, USOC Staff, Others (as below) (2018), *available at* https://www.usasurfing.org/uploads/1/1/3/5/113568407/usoc_athlete_safety_policy_041818.pdf (last visited Dec. 4, 2108).

The USOC's 2017 SafeSport policy used similar language regarding the considerations a review panel will consider when imposing a sanction following an investigation or rendering a finding about whether to deny or place limitations from sport involvement with the USOC.¹¹⁰ This policy is reproduced below, in relevant part:

The decision regarding the appropriate sanction shall be up to the Review Panel deciding each complaint. In imposing a sanction, the Review Panel will consider:

- whether the individual poses an ongoing concern for the safety of the USOC's athletes and participants;
- the seriousness of the offense or act;
- the ages of the accused individual and alleged victim when the offense or act occurred;
- any information produced by the accused individual, or produced on behalf of the individual, in regard to the individual's rehabilitation and good conduct
- the effect on the USOC's reputation; and,
- any other information, which in the determination of the Panel, bears on the appropriate sanction.

Sanctions may range from a warning and a reprimand to suspension from sport involvement with the USOC. Suspensions from sport involvement with the USOC may be temporary or permanent.

The USOC's 2011 Training Center Access Protocol also included "the effect on the USOC's reputation" as being among the factors that the review panel "shall consider" when deciding whether to deny or place limitations on access to an individual.¹¹¹ This indicates to the Committee that such language has been included in policies for at least seven years. This policy is reproduced below, in relevant part:

¹¹⁰ United States Olympic Committee, U.S. Olympic Committee Policy, Policy Name: SafeSport, Date of Issuance: 6/20/2017, Policy Owner: Director of SafeSport, Applies to: BOD, USOC Staff and NGBs (2018), *available at* <https://www.teamusa.org/-/media/TeamUSA/Media/USOC-SafeSport-Policy-62917.pdf?la=en&hash=B42CA5E5BA920289F2EC98A7382B12472021A632> (last visited Dec. 4, 2018).

¹¹¹ United States Olympic Committee, USOC Training Center Access Protocol, Effective 12/01/2011, *available at* <https://www.teamusa.org/-/media/TeamUSA/Documents/Athlete-Ombudsman/Athlete-Rights/OTC-Policy.docx?la=en&hash=988CCA025B8125EA382B171B2A1486E56C9A5A15> (last visited Dec. 4, 2018).

The Review Panel has the discretion to deny or place limitations on access to any individual if it finds, in good faith, that an individual's conviction or activity may have a negative effect on the USOC's endeavors as outlined in Part 1. In rendering its finding, the Review Panel shall consider the following:

- a. the legitimate interest of the USOC in providing a safe environment for athletes and other individuals who reside, train or compete on USOC Training Centers;
- b. the seriousness of the criminal offense or act;
- c. the time which has elapsed since the occurrence of the criminal offense or act;
- d. the age of the person at the time of occurrence of the criminal offense or act;
- e. the bearing, if any, the criminal offense or act has on the individual's request to reside, train or compete at a USOC Training Center;
- f. any information produced by the individual, or produced on behalf of the individual, in regard to the individual's rehabilitation and good conduct;
- g. the specific request related to access to the USOC Training Center, such as whether the request is for residence, training or competition, the length of time of access and the scope of access;
- h. any voluntary restrictions on access proposed by the individual;
- i. any recommendation or information provided by the individual's National Governing Body;
- j. the effect on the USOC's reputation; and
- k. any other information, which in the determination of the Review Panel, would bear on whether or not the individual should have access to the USOC Training Center.

During the Committee's May 2018 hearing, Ms. Lyons was asked why a USOC policy on athlete safety issued in April 2018 included "the effect on the USOC's reputation" as a factor to be considered in deciding a complaint and imposing a sanction.¹¹² She testified:

- Q. So one of the concerns that the Committee has heard repeatedly from survivors is that the USOC is more concerned about its own reputation, about medals and money, than it is about athlete safety.

If you would please turn to Tab 3 in the binder, the exhibit binder. As you're finding that, I'll just mention this is a USOC policy document on athlete safety issued just last month... There is a list of six items that a review panel of USOC officials will consider, quote/unquote, in deciding a complaint and imposing a sanction.

¹¹² *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 58 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf> (emphasis added).

Can you explain why one of the factors to consider is, and I quote, “the effect on the USOC’s reputation”?

A. I have to admit to not having seen that before. And I have to say it does not belong on that list.¹¹³

Ms. Lyons further testified that the USOC would review the policies and act appropriately.¹¹⁴ In fact, after the Subcommittee’s May 2018 hearing the USOC issued an updated version of the “Athlete Safety” Policy” dated June 22, 2018.¹¹⁵ The updated policy removed the reference to reputation and is reproduced below.

The decision regarding the appropriate sanction shall be up to the Review Panel deciding each complaint. In imposing a sanction, the Review Panel will consider:

- whether the individual poses an ongoing concern for the safety of the USOC’s athletes and participants;
- the seriousness of the offense or act;
- the ages of the accused individual and alleged victim when the offense or act occurred;
- any information produced by the accused individual, or produced on behalf of the individual, in regard to the individual’s rehabilitation and good conduct; and
- any other information, which in the determination of the Panel, bears on the appropriate sanction.

Sanctions may range from a warning and a reprimand to suspension from sport involvement with the USOC or other sanctions. Suspensions may be temporary or permanent.

Ms. Shellie Pfohl, President and CEO of the USCSS, was asked about a SafeSport policy that included as a factor relevant to determining an appropriate sanction the “real or perceived impact on the incident on the reporting party, NGBs, or USOC.”¹¹⁶ Ms. Pfohl answered, “I believe what this is referencing is that if conduct is such that it reflects poorly on the sport and those that support the sport, then that can be used in terms of making an appropriate sanction.”¹¹⁷

¹¹³ *Id.*

¹¹⁴ *Id.* at 59.

¹¹⁵ United States Olympic Committee, U.S. Olympic Committee Policy, Policy Name: Athlete Safety, Date of Issuance: 6/22/2018, Policy Owner: Director of Athlete Safety, Applies to: BOD, USOC Staff, and Others (as below), available at <https://www.teamusa.org/Home/Team%20USA%20Athlete%20Services/Safe%20Sport> (last visited Sept. 25, 2018).

¹¹⁶ *Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 59 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

¹¹⁷ *Id.*

As was noted during the hearing, the verbiage used in a particular policy is critical. SafeSport, the USOC, and NGBs must ensure that their policies are clearly written to protect athlete safety and cannot be interpreted to protect the organization instead.

3. The Use of Non-Disclosure Agreements

FINDING: While most NDAs appear to prohibit a survivor from speaking about the details of the settlement agreement, but not from discussing the underlying details of the case, the Committee is aware of at least one NDA in which a survivor was not permitted to speak about the abuse itself.

Survivors have expressed to the Committee that the culture within the Olympic community broadly included efforts to prevent victims from speaking out. The existence of non-disclosure agreements (NDAs) is an issue that has been widely covered both in press reports and congressional hearings. In general, an NDA requires that the parties to a settlement keep certain, agreed-upon details of the settlement confidential. Some NDAs prevent the survivor from speaking about the details of the settlement agreement itself, such as the amount of any financial award, and do not prevent the survivor from discussing the underlying details of the case, including the abuse itself. Other NDAs, however, do prevent the survivor from speaking about the abuse, including the fact that the survivor was abused, where and when the abuse occurred, and the identity of the abuser.

NDAs that prevent a survivor from speaking out about the underlying details of a case prevent that person from alerting other athletes and parents to the dangers of abuse. They also mask the prevalence of abuse within sports and may contribute to a culture of silencing victims.

The most high-profile example of a survivor bound by such an NDA is Ms. McKayla Maroney, who signed an NDA as part of a settlement agreement with USAG in late 2016.¹¹⁸ In a 2017 lawsuit seeking to nullify the NDA, Ms. Maroney claimed that she was forced by USAG to sign the NDA; USAG claims that Ms. Maroney's attorney first introduced the idea of a confidentiality agreement.¹¹⁹ Ms. Maroney's NDA prevented her from speaking about the details of her abuse, and if enforced, would have prevented her from speaking at the sentencing hearing of Larry Nassar. Despite the existence of the NDA, USAG chose not to fine Ms. Maroney in January 2018 when she spoke at Nassar's sentencing. USAG issued the following statement:

USA Gymnastics has not sought and will not seek any money from McKayla Maroney for her brave statements made in describing her victimization and abuse by Larry Nassar, nor for any victim impact

¹¹⁸ Rebecca Davis O'Brien, *USA Gymnastics, McKayla Maroney Had Confidentiality Agreement to Resolve Abuse Claims*, THE WALL STREET JOURNAL (Dec. 20, 2017), available at <https://www.wsj.com/articles/usa-gymnastics-reached-settlement-over-abuse-claims-with-gold-medalist-mckayla-maroney-1513791179>.

¹¹⁹ Victor Mather, *McKayla Maroney says USA Gymnastics Forced Confidentiality in Sexual Abuse Settlement*, THE NEW YORK TIMES (Dec. 20, 2017), available at <https://www.nytimes.com/2017/12/20/sports/olympics/mckayla-maroney-usa-gymnastics-confidentiality-agreement.html>.

statements she wants to make to Larry Nassar at this hearing or at any subsequent hearings related to his sentencing. This has been her right and USA Gymnastics encourages McKayla and anyone who has been abused to speak out. USA Gymnastics remains focused on our highest priority — the safety, health and well-being of our athletes and creating a culture that empowers and supports them.¹²⁰

In April 2018, after negative press surrounding the use of NDAs by USAG, USAG released a statement asserting that it would “not endorse, agree, enforce, propose or otherwise support the use of non-disclosure or other similar forms of agreements that are intended to prevent survivors from speaking about their experiences in conjunction with any claims of abuse.”¹²¹

* * *

There now appears to be recognition within the Olympic community of the importance of prioritizing safety and the need to change the culture within the Olympic community. For example, the former acting CEO of the USOC, Ms. Susanne Lyons, testified that the USOC needed to change the culture within the organization by putting “safety much more front and center.”¹²² Ms. Lyons testified:

Q. I want to focus on whether the culture of winning above all else increases the risk of athlete abuse.... Ms. Lyons, according to The Washington Post, a U.S. Olympic Committee attorney was deposed in 2016. When asked about the Olympic Committee's priorities he stated: "The USOC has a lot of priorities. Chief among them is sending athletes to the Olympic, Pan American, and Paralympic Games, and doing well at those games." When asked whether protecting athletes was also a priority, this lawyer reportedly said: "The USOC doesn't have athletes," implying that the Olympic Committee is not responsible for athlete welfare. You're familiar with these remarks, correct?

A. I am familiar with them.

Q. So I firmly believe, as many do, that the Olympic Committee has a responsibility to protect the health and welfare of athletes. In

¹²⁰ Heather Tucker, *USA Gymnastics Says It Will Not Fine McKayla Maroney if She Speaks Out Against Larry Nassar*, USA TODAY (Jan. 16, 2018), available at <https://www.usatoday.com/story/sports/olympics/2018/01/16/usa-gymnastics-mckayla-maroney-larry-nassar/1039025001/>.

¹²¹ USA Gymnastics, *USA Gymnastics statement regarding non-disclosure agreements* (Apr. 17, 2018), available at <https://usagym.org/pages/post.html?PostID=21680> (last visited Dec. 7, 2018).

¹²² *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 61 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

February you released a statement outlining seven steps you intend to take to ensure a safe sports environment, including an effort to, quote, "implement a culture change at USA Gymnastics." What do you mean by this culture change? You have given us some specifics, but tell us really what you see, what does the future hold.

- A. Well, first I would like to say that, you know, in terms of performance, we believe that performance and safety go hand-in-hand. We don't believe that athletes can perform at their best unless they are in a safe, respectful, and supportive training environment and competitive environment. **In terms of what we need to change in the culture -- and I think it is across the entire movement**, not just within gymnastics, and Ms. Perry is doing a lot of work within her own organization -- **we have to, first of all, put that safety much more front and center.**¹²³

The Olympic community would benefit from ensuring that all members of the community prioritize safety and the well-being of athletes rather than winning medals or concerns about the Olympic community's image.

B. Inconsistent Policies and Procedures Across the Olympic Community

Finding: While the USOC has provided the NGBs with governance support and, in some instances, required changes to bylaws, NGBs have largely been left to create their own bylaws, policies, and procedures. This practice has resulted in inconsistent bylaws, policies, procedures, and implementation across the Olympic community.

Each NGB has their own governance structure and applicable bylaws and policies.¹²⁴ The USOC provides NGBs with governance support and, in some instances, the USOC has required changes to a NGBs bylaws related to the Act or the USOC's bylaws.¹²⁵ Over ten years ago, the USOC engaged in a governance reform effort and approved governance guidelines for NGBs.¹²⁶ More recently, the USOC has engaged in a number of additional efforts to increase the requirements for NGBs.¹²⁷ These reforms are discussed in more detail in Section VI(A).

Despite engagement by the USOC to establish minimum standards and an NGB Athlete Safety Policy, NGBs still all have their own governance structure and applicable bylaws and policies. As a result, and as discussed below, each NGB is left to implement their own structure,

¹²³ *Id.* (emphasis added).

¹²⁴ See, e.g., USA Gymnastics, *Bylaws* (last revised May 22, 2018), available at <https://usagym.org/PDFs/About%20USA%20Gymnastics/Governance/usag-bylaws.pdf>; See also USA Taekwondo, *Bylaws of USA Taekwondo, Inc.* (last amended Jan. 24, 2017), available at <https://www.teamusa.org/usa-taekwondo/v2-resources/bylaws>.

¹²⁵ Letter from Counsel to the United States Olympic Committee, to Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

¹²⁶ *Id.*

¹²⁷ *Id.*

policies, and procedures, which can result in inconsistent implementation across the Olympic community.

It is also unclear how far down into the organization and membership each NGB's policies and procedures apply. For example, are individuals who practice and/or compete at a member gym or facility subject to the NGB's policies and procedures? If so, who is responsible for implementing and enforcing those policies and procedures? Further, in the event those policies and procedures are not followed, does the NGB have the authority to sanction those individuals? If so, who within the NGB is responsible for sanctioning those found to be out of compliance and what does that sanction look like? These inconsistencies, particularly when it comes to policies directly linked to athlete safety, can put athletes at risk.

1. Covered Individuals

Finding: NGBs do not have a consistent definition of who is considered a “covered individual” and therefore is subject to their policies and procedures. This inconsistency has created a large variance across the Olympic community about who is covered by USOC and NGB policies.

NGBs do not consistently define who is considered to be a “covered individual” subject to their policies and procedures. According to the SafeSport Code, a covered individual is:

Any individual who: (a) currently is, or was at the time of a possible violation of the *Code*, within the governance or disciplinary jurisdiction of an NGB or who is seeking to be within the governance or disciplinary jurisdiction of an NGB (e.g. through application for membership), (b) is an Athlete or Non-Athlete Participant that an NGB or the USOC formally authorizes, approves or appoints to a position of authority over Athletes or to have frequent contact with Athletes or (c) an NGB identifies as being within the Office's jurisdiction.¹²⁸

When outlining the ‘prohibited conduct’ component that must be included in each NGB's athlete safety program, the USOC's NGB Athlete Safety Policy notes that “[t]he policy must account for the SafeSport Entity's person jurisdiction (as defined by the NGB's designated categories of “Covered Individuals” as that term is defined in the Code,) and the fact that all such individuals are subject to such jurisdiction, policies, and procedures, including by explicitly setting out that the policy applies to all Covered Individuals.”¹²⁹ The USCSS provides access to the current list of covered individuals by NGB that the USOC has granted the USCSS jurisdiction over and it includes the categories of covered individuals for each NGB recognized

¹²⁸ SafeSport Code for the U.S. Olympic and Paralympic Movement, U.S. Center for SafeSport, *available at* <https://safesport.org/what-we-do> (last visited Oct. 30, 2018).

¹²⁹ US Olympic Committee Policy, NGB Athlete Safety Policy (Jan. 1, 2018), *available at* <https://www.teamusa.org/Home/Team%20USA%20Athlete%20Services/Safe%20Sport> (last visited Oct. 30, 2018).

by the USOC. The document notes that “categories will vary based on the NGB’s organizational structure and legal relationships with constituents.”¹³⁰

Organization	Covered Individuals ¹³¹
USA Archery	<ul style="list-style-type: none"> • Members • Staff • Non-members who may be serving on the board of directors or committees • Independent contractors • Volunteers
USA Badminton	<ul style="list-style-type: none"> • Members • Athletes • Club owners, directors, administrators, coaches • Tournament directors • Referees, umpires and line judges • Coaches and team managers • Staff, board members and interns
USA Baseball	<ul style="list-style-type: none"> • Full-time staff • Board members • Coordinators • National Team field staff and support staff (trainers, physicians/doctors, media/public relations personnel) • National Team Trials athletes • Various program task force who assist in events • Host families <p>* For avoidance of doubt, while USA Baseball’s member organizations are not subject to the jurisdiction of the U.S. Center for SafeSport, USA Baseball strongly encourages its member organizations to adopt and implement programs and policies modeled after SafeSport.</p>
USA Basketball	<ul style="list-style-type: none"> • Staff • Board members • Individuals USA Basketball formally authorizes, approves or appoints to a position of authority over, or to have frequent contact with minor athletes, including: • National Team coaches • Player support personnel and chaperones for teams with minor participants • All USA Basketball coach applicants and licensees • Any other individual participating in the activities or affairs of USA Basketball
U.S. Biathlon	<ul style="list-style-type: none"> • Staff • Members, including coaches, officials and athletes, but not to include supporting members or life members who are not active in the sport • Board members • Physiotherapists, trainers who U.S. Biathlon formally authorizes, approves or appoints to a position of authority over athletes or to have frequent contact with athletes • Medical personnel who U.S. Biathlon formally authorizes, approves or appoints to a position of authority over athletes or to have frequent contact with athletes • Volunteers and contractors who U.S. Biathlon formally authorizes, approves or appoints to a position of authority over athletes or to have frequent contact with athletes
USA Bobsled & Skeleton	<ul style="list-style-type: none"> • Staff • Coaches (USABS, ORDA and UOP) • Officials and volunteers (members of USABS) • Athletes • Medical staff

¹³⁰ U.S. Center for SafeSport, What We Do, Response and Resolution, Guides, ‘Covered individuals by National Governing Body,’ available at <https://safesport.org/what-we-do> (last visited Oct. 30, 2018).

¹³¹ *Id.*

	<ul style="list-style-type: none"> • Strength and conditioning coaches • Mechanics
U.S. Bowling Congress	<ul style="list-style-type: none"> • Athletes as defined in USBC Bylaws, Art. IX, § B • USBC high performance department employees • Employees serving operational roles at the USBC Team USA training center (ITRC) • USBC Team USA coaches
USA Boxing	<ul style="list-style-type: none"> • Coaches • Officials • Physicians • Athletes • Staff • Board members
USA Canoe/Kayak	<ul style="list-style-type: none"> • Staff • Volunteers and officials • Coaches • Clubs • Athletes
USA Curling	<ul style="list-style-type: none"> • Employees of USA Curling and employees of contractors engaged by USA Curling • U.S. Curling Association board members and other national and international representatives of the organization • Volunteers serving on committees, operational groups and selection panels recognized by the national organization • Volunteers for and participants in USA Curling events, camps and other USA Curling programs, including athletes, coaches, course conductors, ice makers, instructors, officials and organizers • Individuals who have been certified by USA Curling as a coach, instructor, official or ice maker and are functioning in that capacity <p>* To clarify, these policies do not directly apply to U.S. Curling Association member organizations and individual curlers within those organizations unless those individuals all into one of the classifications above. USA Curling encourages all member organizations to adopt similar SafeSport policies and procedures. Member organizations are also encouraged to reach out to USA Curling and/or the U.S. Center for SafeSport for assistance in cases of abuse or harassment within their organizations.</p>
USA Cycling	<ul style="list-style-type: none"> • Licensed athletes (including one-day licensees), coaches, mechanics, officials and race directors • UCI support license holders in the following categories: Soigneur, trainer, team doctor, team manager and team director • Collegiate conference directors • Committee members • Board members • Staff • Independent contractors USA Cycling formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with any athlete • Local association staff, board members and volunteers
USA Diving	<ul style="list-style-type: none"> • Coaches (members) • Staff • Board members • Medical staff, trainers and team consultants • Athletes (members) • Judges and officials • Meet directors and hosts • Volunteers who have direct contact in a supervisory role with minor athletes, or consistent and regular contact with covered persons as a part of team operations
U.S. Equestrian	<ul style="list-style-type: none"> • Athletes, including minors (riders, drivers, handlers, vaulters and longueurs participating in USEF licensed competition or USEF sanctioned events)

	<ul style="list-style-type: none"> • Coaches or trainers (adults who share responsibility for instructing, teaching, schooling, training or advising an athlete or horse in the context of equestrian sport) • USEF designees (staff, licensed officials, board members and individuals USEF formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with any athlete as defined above) • USEF participants (any USEF member, or any other individual, required to sign an entry blank in connection with a USEF licensed competition or USEF sanctioned event) • Any individual who: (a) currently is, or was at the time of a possible SafeSport violation, within the governance or disciplinary jurisdiction of USEF or who is seeking to be within the governance or disciplinary jurisdiction of USEF (e.g., through application for membership)
USA Fencing	<ul style="list-style-type: none"> • Any individual who currently is, or was at the time of the possible SafeSport Code violation, within the governance or disciplinary jurisdiction of USA Fencing, and/or who is seeking to be within the governance or disciplinary jurisdiction of USA Fencing, for example through application for membership • All individuals, both athletes and non-athletes, USA Fencing formally authorizes, approves or appoints (i) to a position of authority over athletes, or (ii) to have frequent contact with athletes • National office staff • Members • Volunteers • Contractors • Medical staff/trainers • Additional individuals USA Fencing identifies as being within the Center’s jurisdiction
USA Field Hockey	<ul style="list-style-type: none"> • Staff • Members – athletes and non-athletes – including USA Field Hockey staff, coaches, umpires and athletes) • Trainers • Medical personnel • Volunteers • Contractors • Club owners, directors and administrators
U.S. Figure Skating	<ul style="list-style-type: none"> • Members • Employees • Independent contractors • Individuals U.S. Figure Skating formally authorizes, approves or appoints to a position of authority over, or to have frequent contact with, athletes • Any individual who currently is, or was at the time of a possible SafeSport Code violation, within the governance or disciplinary jurisdiction of U.S. Figure Skating, and/or who is seeking to be within the governance or disciplinary jurisdiction of U.S. Figure Skating, for example through application for membership • Additional individuals U.S. Figure Skating identifies as being within the U.S. Center for SafeSport’s jurisdiction
USA Golf	<ul style="list-style-type: none"> • Board members • Staff • Athletes • Security
USA Gymnastics	<ul style="list-style-type: none"> • Any individual who currently is, or was at the time of a possible SafeSport Code violation, within the governance or disciplinary jurisdiction of USA Gymnastics or who is seeking to be within the governance or disciplinary jurisdiction of USA Gymnastics (e.g. through application for membership), including: • Current members (professional, junior professional, instructor, athlete, introductory athlete) • Applicants for membership

	<ul style="list-style-type: none"> • Individuals who were members of USA Gymnastics at the time of any suspected misconduct or prohibited conduct described in the U.S. Center for SafeSport’s SafeSport Code or USA Gymnastics SafeSport Policy • USA Gymnastics staff and board members • Any individual who is an athlete or non-athlete participant that USA Gymnastics formally authorizes, approves or appoints to a position of authority over athletes or to have frequent contact with athletes, such as persons compensated and/or appointed by USA Gymnastics to perform services at sanctioned activities run by USA Gymnastics National Office or its state and regional committees, such as camps, competitions and educational events, including for example: <ul style="list-style-type: none"> • Events staff (individuals with access to the field of play) • Medical personnel • Chaperones • Athlete Development Center support staff • Any other contracted individual working with or around athletes
USA Hockey	<ul style="list-style-type: none"> • Persons registered with USA Hockey as Registered Participant Members (players and coaches) and referees, and in the “Ice Manager/Volunteer” category • National staff • All persons serving as a member of USA Hockey’s board of directors, on a national level council, committee or section, or in any other similar positions appointed by USA Hockey • All coaches, officials or staff (e.g., trainers, physicians, equipment managers) for any USA Hockey team, camp or national level program • Any person that is elected or appointed by a USA Hockey Affiliate or Member Program to a position of authority over athletes or that have frequent contact with athletes
USA Judo	<ul style="list-style-type: none"> • Staff • Coaches • Officials & referees • Athletes • Medical personnel • Volunteers & contractors • Members • Board members
USA National Karate-Do Federation	<ul style="list-style-type: none"> • Board members • Staff • Interns • Contractors • Operational and Governance Committee members • Volunteer event staff • Event and National Team medical staff and trainers • Coach members • Referee members • Individuals with access to the competition floor • Athletes over 18 years of age • Volunteers over 18 years of age
U.S. Luge Association	<ul style="list-style-type: none"> • Staff • Coaches • Medical staff • Board members • Athletes • Chaperones
USA Modern Pentathlon	<ul style="list-style-type: none"> • Staff • Board members • National Team coaches and trainers • Members • Athletes

	<ul style="list-style-type: none"> • Medical personnel • Volunteers and contractors • Regional directors • Club volunteers and staff
USA Racquetball	<ul style="list-style-type: none"> • All state association board members • All instructor program members • Employees & contractors • High school board, coaches and commissioners • Collegiate council, coaches and commissioners
USA Roller Sports	<ul style="list-style-type: none"> • Team USA staff (to include coaches, managers and medical personnel) • Staff • Board members • Official USA Roller Sports coaches • Officials • Referees and non-skating officials • Athletes • Athletic trainers • Official team chiropractors and other team medical staff • Event volunteers and contractors
USRowing	<ul style="list-style-type: none"> • USRowing administrative and team support staff members • USRowing employed coaches • Seasonally contracted coaches and staff, whether volunteer or paid • Coaches and staff selected through trials, whether volunteer or paid • Board members • Standing Committee members • Licensed referees
USA Rugby	<ul style="list-style-type: none"> • Staff, interns and contractors • Certified coaches and officials • Board members • Operational and Governance Committee members • Registered members • USA Rugby training and education certification workforce • Contracted medical personnel at sanctioned events • Contracted medical personnel relating to USA Rugby National Teams • Volunteers acting on behalf of USA Rugby at sanctioned events • Volunteers acting on behalf of USA Rugby in conjunction with National Teams • Other individuals that the USA Rugby formally approves or appoints on an ad hoc or interim basis to a position of authority over or to have frequent contact with minor athletes
US Sailing	<ul style="list-style-type: none"> • Staff and interns • Board members • Olympic Sailing Committee • US Sailing team staff to include: <ul style="list-style-type: none"> • Coaches, contract coaches and US Sailing coach applicants • Support personnel, including but not limited to, medical, therapeutic and boat wrights • US Sailing certified race officials for US Sailing championships and other events for which US Sailing is the organizing authority, including PROS, umpires, judges and measurers • Committee chairs that are responsible for US Sailing championships • Educational personnel to include master trainers and instructor trainers • Members <p>* For the avoidance of doubt, these policies do not directly apply to US Sailing's organizational members; however, US Sailing strongly encourages its organizational members to adopt similar SafeSport programs and policies.</p>
USA Shooting	<ul style="list-style-type: none"> • Staff and national coaches • Named national assistant coaches

	<ul style="list-style-type: none"> • Named USA Shooting National Team athletes (junior squad, junior team, development team, national team) • USA Shooting supervised volunteers (e.g. competitions) • Officials/referees (e.g. competitions) • USA Shooting Certified Training Center coaches/volunteers • USA Shooting Coach Academy certified coaches (advanced and high performance coaches)
U.S. Ski & Snowboard Association	<ul style="list-style-type: none"> • Staff • Members holding a USSA coaching license • Members holding a USSA officials' license • Licensed USSA athletes (non-masters) • Members at USSA clubs whom the club formally designates to be in a position of authority over athletes • USSA governance board members
U.S. Soccer Federation	<ul style="list-style-type: none"> • Athletes who directly register with U.S. Soccer • Individuals who are appointed or authorized by U.S. Soccer to oversee athletes who have directly registered with U.S. Soccer, including coaches, administrators and medical personnel
USA Softball	<ul style="list-style-type: none"> • Organizational governing bodies • Board members • USA Softball Council members • National office staff • National Teams, including: <ul style="list-style-type: none"> • Staff • Coaches • Players • Athletic trainers • Medical personnel • Local association softball officials, including: <ul style="list-style-type: none"> • Board members • Commissioners • JO commissioners • Player representatives • Umpires-in-chief • Tournament directors • Local association members, including: <ul style="list-style-type: none"> • Players • Coaches • Umpires
U.S. Speedskating	<ul style="list-style-type: none"> • Members (first-year members, club competitors/recreational skaters, national-level competitors, USS coaches, USS officials, USS club officers, introductory two-month members and USS alumni members) • Staff, including office staff, trainers and National Team coaches • Board members • Volunteers and contractors, including medical personnel, massage therapists, event volunteers and committee members
U.S. Squash	<ul style="list-style-type: none"> • Staff • Athletes • National coaches • Regional coaches • National officials • Registered officials • National trainers
USA Swimming	<ul style="list-style-type: none"> • Coaches • Officials • Athletes

	<ul style="list-style-type: none"> • Meet directors • Team chaperones • USA Swimming Board members and national committee members • Individuals with any ownership interest in a member club • Individuals with password access to the USA Swimming SWIMS member database • Members of the USA Swimming House of Delegates • USA Swimming headquarters staff • Employees and volunteers of USA Swimming, Zones, LSCs and member clubs who interact directly and frequently with athletes as a regular part of their duties
U.S. Synchronized Swimming	<ul style="list-style-type: none"> • Staff • Board members • Support staff and consultants • National Team coaches (head coaches and assistants), volunteers, consultants and chaperones • National talent/national elite camp coaches (head coaches and assistants), volunteers, consultants and chaperones • National Team, international relations and LTAD committees (18 years of age and older) • Club teams – all volunteer, employed and contracted coaches; support staff to include dance, acrobatics, flexibility, swimming, etc., at any training facility; and chaperones • All judges (levels 1 through FINA A) • All approved club options/private invitations staff, including coaches, managers and adults traveling with the team
USA Table Tennis	<ul style="list-style-type: none"> • Committee members • Tournament directors, event organizers, referees, umpires and officials • Club owners and coaches working in USATT affiliated clubs • Board members • Headquarters staff • Anyone who has access to minors within USATT sanctioned competition or club Activity
USA Taekwondo	<ul style="list-style-type: none"> • Members • Medical staff • Employees • Board members • USA Taekwondo club owners • Referees • Officials • Registered coaches • Contracted employees • State organization officials
U.S. Team Handball Federation	<ul style="list-style-type: none"> • Board members • Staff • Coaches • Referees • Committee chairman and chairwomen • Member clubs • Members • Certified medical care providers
U.S. Tennis Association	(i) USTA-certified individuals; and (ii) individuals whom the USTA formally authorizes, approves, or appoints to a position of authority over or to have frequent contact with, minor athletes; and (iii) any other individual participating in activities or affairs of the USTA who are subject to the USTA’s Safe Play policies and disciplinary procedures (“Covered Individuals”). Covered Individuals include coaches and player support personnel, such as athletic trainers. For the avoidance of doubt, Covered

	Individuals include individuals within the remit of USTA Player Development Incorporated, the USTA National Tennis Center Incorporated, and the USTA Foundation Incorporated and does not apply to Sectional Associations and Organization Members to adopt similar USTA Safe Play policies and disciplinary procedures.
USA Track & Field	<ul style="list-style-type: none"> • Members • Staff • Board members • USATF registered coaches • USATF youth coaches/volunteers • USATF certified officials • USATF authorized agents • USATF independent contractors at the CVOTC • Team staff for international teams
USA Triathlon	<ul style="list-style-type: none"> • Staff • Board members • Certified coaches • Certified race directors • Technical officials • Regional council chairs • Interns • Contracted massage therapists • Contracted chiropractors • Contracted mechanics • Contracted employees • Members • Athletes
U.S. Olympic Committee	<ul style="list-style-type: none"> • Employees • Coaches • Contracted staff • Volunteers • Board members • Committee and task force members
USA Volleyball	<ul style="list-style-type: none"> • Registrants of USA Volleyball and the RVAs to include but not limited to: • Staff • Board members • Regional leadership • Committee members • Commission members • Athletes • Coaches • Officials • Tournament directors and staff
USA Water Polo	<ul style="list-style-type: none"> • Members, including athletes, coaches, officials, administrators and clubs • Staff • Board members • Contractors • Medical personnel • Volunteers • Event organizers
USA Water Ski	<ul style="list-style-type: none"> • Governance leaders • Officers and members of the board of directors of USA Water Ski • Officers and members of the board of directors of any and all of the nine sport disciplines under the USA Water Ski umbrella • Committee chairs and members of any USA Water Ski or sport discipline committee

	<ul style="list-style-type: none"> • Non-team coaches (any individual who accepts any form of payment for providing coaching expertise) • U.S. team staff (whether or not paid), including, but not limited to, coaches, managers and physicians • Clinic or certification instructors • Individuals appointed to any position of authority (including sport divisions and member clubs) • Tournament officials, including referees, scorers and judges • Tournament directors • Assigned medical personnel • Headquarters staff • Contracted employees • Volunteers who have frequent contact with minors
USA Weightlifting	<ul style="list-style-type: none"> • Staff • Board of directors • Committee members • Any member of USA Weightlifting – member categories are as follows: • USA Weightlifting staff • USA Weightlifting employed contractor coaches • Athletes (masters, senior, junior and youth) • Any person with a current coaching certification from USA Weightlifting; (there are occasions when a certification may over-run the course of their membership) • Referees and technical officials • Contractors • Any individual engaging in a USA Weightlifting sanctioned activity, at any time, at any location • Members of the USA Weightlifting Sports Medicine Society
USA Wrestling	<ul style="list-style-type: none"> • Members • Athletes • Coaches • Officials • Volunteers • Participants • Staff • Any person that is elected or appointed to a position of authority over athletes or who has frequent contact with athletes, including event staff, medical personnel, chaperones and any other contracted individual working with or around athletes

Accordingly, as demonstrated by the above list, who is included as a “Covered Individual” varies across NGBs. Taking into consideration that NGBs vary in size and characteristics and may categorize individuals a certain way (e.g. referees versus umpires), there are still inconsistencies with respect to the types of individuals that are included on each list. For example, some NGBs include officials, referees, or their NGB equivalent; chaperones; or board members, while others do not. In addition, some NGBs, such as USAA, may include “members” in their list of covered individuals, but do not specifically list “athletes,” and further, they do not specify whether “athletes” are considered part of the “members” classification. Conversely, other NGBs, such as USA Wrestling, list “members” and “athletes” separately in their list of covered individuals—clearly defining that both are considered covered individuals. All NGBs have athletes and members, therefore it is unclear why there are inconsistencies among NGBs lists of covered individuals and whether they list classifications such as athletes and members.

The inconsistencies among who NGBs consider to be covered individuals can have much broader ramifications given many of the policies apply to covered individuals. Therefore, if covered individuals are not clearly and consistently defined through the Olympic community, there will be a fractured application of the policies and procedures.

2. Background Checks

Finding: While the USOC and NGBs have made improvements to protect athlete safety in recent years by imposing background check requirements on members, the Committee found inconsistent application of background check policies across the NGBs, as well as issues with the enforcement of background check policies.

Background checks help prevent abuse by barring individuals convicted of certain criminal offenses from becoming members of an NGB, which can include serving as a coach or team doctor.

The Committee asked each NGB whether background checks or other vetting of its athletes or affiliates are required and performed.¹³² If so, the Committee also asked the USOC and each NGB to provide all policies and procedures produced or used related to background checks or other vetting of athletes or affiliates, as well as a description of any changes made to those policies and procedures from 2005 to the present, and to describe the results of a background check or other vetting that would disqualify an individual from participating in the organization. The Committee similarly asked the USOC whether it requires or expects NGBs to perform background checks or other vetting of their athletes or affiliates, and, if so, to describe any guidance or policies that the USOC provided to any of the NGBs, and any policies the USOC has regarding what would disqualify an individual from participating or being involved with the USOC or an NGB.¹³³

The Committee's review of these materials found that NGBs have made improvements to protect athlete safety in recent years by imposing background check requirements on members. However, the Committee also found inconsistent application of background check policies across the NGBs, as well as issues with the enforcement of background check policies.

i. Implementation of Background Checks by NGBs

NGBs have not always taken such precautions to prevent exposing athletes to potentially dangerous individuals. Prior to the USOC's 2014 adoption of minimum safety standards, NGBs

¹³² See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Rod Menzer, USA Archery (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USA-Archery.pdf>.

¹³³ Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Susanne Lyons, U.S. Olympic Committee (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USOC-Letter.pdf>.

were not subject to any standardized requirement with regard to conducting background checks, and NGBs imposed a variety of different requirements.

Some NGBs began requiring background checks on at least some members in the early to mid-2000s, including USA Diving,¹³⁴ USA Hockey,¹³⁵ and USA Volleyball¹³⁶ in 2004; USA Sailing in 2005;¹³⁷ and USA Badminton,¹³⁸ US Bowling,¹³⁹ USA Curling,¹⁴⁰ USA Cycling,¹⁴¹ and USA Soccer in 2006.¹⁴² Until 2007, USAG allowed members to self-certify as to their criminal background.¹⁴³ Ms. Perry testified about this self-certification:

- Q. Ms. Perry, USA Gymnastics practice in 2005 was to allow professional members to self-certify as to their criminal background. When did USAG begin to require an actual background check instead of the self-certification.
- A. I don't -- I'm not clear on that date. But I will tell you right now, for the last several years USA Gymnastics has required background checks for hiring of professionals, and in addition to that has other kinds of requirements as club owners and others are looking to hire individuals. And one of those is to make sure that they consult with our public-facing ineligible list and our suspended list online.¹⁴⁴

¹³⁴ Letter from Ms. Michele Mitchell, Chairman, Board of Directors and Mr. Lee W. Johnson, CEO, USA Diving to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹³⁵ Letter from Mr. Pat Kelleher, USA Hockey to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹³⁶ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 39, 111 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

¹³⁷ Letter from Mr. Jack Gierhart, CEO, US Sailing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹³⁸ Letter from Mr. Jeff Dyrek, USA Badminton to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹³⁹ Letter from Mr. Mike McAtee, Executive Director, USA Boxing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁴⁰ Letter from Mr. Rick Patzke, Chief Executive Officer, USA Curling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁴¹ Letter from Mr. Derek Bouchard-Hall, President & CEO, USA Cycling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (undated; received Mar. 26, 2018) (On file with Committee).

¹⁴² Letter from Daniel T. Flynn, Chief Executive Officer, Secretary General, United States Soccer Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁴³ Letter from Ms. Kerry J. Perry, President and CEO, USA Gymnastics to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁴⁴ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 108-109 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

Other NGBs did not begin requiring background checks until the late 2000s or even later, including USA Swimming¹⁴⁵ and USA Figure Skating in 2007,¹⁴⁶ USA Field Hockey in 2008,¹⁴⁷ USA Weightlifting in 2009,¹⁴⁸ USA Shooting in 2010,¹⁴⁹ and USA Fencing, which, until 2011, provided background checks that were “optional and encouraged for members who were coaching or in other leadership positions.”¹⁵⁰

However, prior to the 2014 implementation of the minimum safety standards, some NGBs did not require background checks at all.¹⁵¹ Several NGBs implemented background check requirements only after they became aware of efforts on the part of USOC to implement the minimum safety standards, including USA-NKF and USEF which implemented background check requirements in 2013, Taekwondo for all coaches, referees, and staff in 2014,¹⁵² and USRowing in 2014.¹⁵³

Even in 2018, USA Team Handball (USATH) is still in the process of implementing background checks. USATH told the Committee:

Due to the significant expenses and time involved [in conducting background checks] we have been phasing them in on a prioritized basis that we have discussed with the US SafeSport Center[.] Our Bylaws require background checks for members of the Board of Directors.... The expense of conducting background checks on all members would be astronomical and unaffordable.¹⁵⁴

¹⁴⁵ Letter from Mr. Tim Hinchey III, Chief Executive Officer, USA Swimming to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁴⁶ Letter from Mr. David Raith, Executive Director, U.S. Figure Skating to H. Comm. on Energy and Commerce, (Mar. 21, 2018) (On file with Committee).

¹⁴⁷ Letter from Mr. Simon Hoskins, Executive Director, USA Field Hockey to H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁴⁸ Letter from Mr. Phil Andrews, Chief Executive Officer, USA Weightlifting to H. Comm. on Energy and Commerce (undated; received Mar. 9, 2018) (On file with Committee).

¹⁴⁹ Letter from Mr. Keith Enlow, USA Shooting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁵⁰ Letter from Ms. Kris Ekeren, Executive Director, USA Fencing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁵¹ Memorandum from Malia Arrington, Director, Ethics & Safe Sport to Scott Blackmun, Chief Executive Officer (11 June 2012) (On file with Committee).

¹⁵² *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 110 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>; Letter from Mr. Steve McNally, Executive Director, USA Taekwondo to Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

¹⁵³ Letter from Mr. Patrick McNerney, CEO, USRowing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁵⁴ Letter from Mr. Michael D. Cavanaugh, CEO, USA Team Handball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

ii. Efforts by the USOC to Implement Background Checks

In September 2010, the Working Group for Safe Training Environments published a report entitled Recommendations to the USOC Board of Directors.¹⁵⁵ The report outlined six key areas in which the USOC should improve efforts to promote safe training environments, one of which was “background checks, screening, and information sharing.”¹⁵⁶ Specifically, the working group recommended that the USOC:

- (a) Establish a criminal background check “preferred provider network” that includes reputable vendors with proven track records within sport;
- (b) Standardize the set of background search criteria across sports;
- (c) Negotiate equitable volume discounts with preferred providers to ensure participants have access to the best rates and providers are being compensated for their services;
- (d) Standardize procedures for addressing violations found during the search process.¹⁵⁷

The working group also recommended that the USOC “continuously analyz[e] background check technologies to identify new and innovative methods for helping to screen the individuals that sports organizations employ.”¹⁵⁸

When USOC began pursuing background check requirements, not all NGBs were receptive to the change. In a 2012 memo from Ms. Malia Arrington, then USOC’s Director of Ethics & Safe Sport, to USOC’s former CEO, Mr. Scott Blackmun, the USOC discussed a request that NGBs provide feedback to the USOC “on the community’s reaction should the USOC insist on criminal background checks.”¹⁵⁹ Specifically, the USOC asked the NGBs four questions:

- (1) Does your NGB require criminal background checks?
- (2) If so, for which positions (board members, staff, coaches, volunteers, etc.)?
- (3) If not, are you planning to require them in the near future?

¹⁵⁵ The U.S. Olympic Committee, *Working Group for Safe Training Environments – Recommendations to the USOC Board of Directors* (Sept. 28, 2010), available at http://assets.teamusa.org/assets/documents/attached_file/filename/31249/092810_USOC_Working_Group_Final_Recommendations_to_the_Board_of_Directors.pdf.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Memorandum from Malia Arrington, Director, Ethics & Safe Sport to Scott Blackmun, Chief Executive Officer (11 June 2012) (On file with Committee).

(4) If not, what are the primary obstacles to doing so?¹⁶⁰

According to the memo, 10 NGBs never responded to the USOC's request.¹⁶¹ The memo does not specify why the 10 NGBs did not respond or if USOC made any follow up attempts to solicit a response. Of the 37 NGBs that did respond, 35 required some form of background check, and the "majority of NGBs" required those background checks for staff, coaches, and board members.¹⁶² The two primary obstacles cited by the memo were (1) cost; and (2) resistance from the NGB constituency.¹⁶³

In the Committee's May 2018 hearing, Ms. Lyons was questioned about this memo and the level of resistance from the NGB constituency. Ms. Lyons stated that there was "some pushback" and that NGBs were not "putting [background checks] at the highest part of their priority list[.]"¹⁶⁴ She testified:

Q. The memo referenced, 2012 memo in Tab 20, discusses a request that NGBs provide feedback to the USOC on the community's reaction should the USOC insist on criminal background checks. Ten NGBs apparently never responded. 35 of the 37 did respond, but required some -- that some form of background check at the time was required. The two most recently cited obstacles to requiring criminal background checks: one, costs; two, resistance from the NGB constituency. Ms. Lyons, how much resistance did the USOC receive from the NGB community on requiring background checks?

A. Well, I was not part of this program. I don't know precisely. There was some resistance, and I think for the reasons put there, people were not, perhaps, putting this at the highest part of their priority list. And there was some pushback.

Q. And so the fact that the USOC did not begin requiring NGBs to conduct background checks until 2014, 2 years after this memo, why was there a delay? Would your answer be that they didn't place a priority on it?

A. I think the reality would be that putting in the actual practical applications of doing the background checks did take some time.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong., *Preliminary Transcript* 108 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

Q. Any other reasons why it took 2 years?

A. It takes a long time to get 49 organizations to all consistently adhere to a new change.¹⁶⁵

In the Committee's May 2018 hearing, each of the NGB witnesses addressed the issue of background checks and the new policies enacted in recent years. Mr. Tim Hinchey, President and CEO of USA Swimming testified that USA Swimming conducts monthly background checks on its 50,000 nonathlete members.¹⁶⁶ Mr. Jamie Davis, CEO of USA Volleyball testified that USA Volleyball was one of the first NGBs to make changes to their background check policies, requiring background checks for some members as early as 2004.¹⁶⁷ As mentioned above, Ms. Kerry Perry, former CEO of USAG, was unable to provide details on the previous self-certification practice but did testify as to the current background check requirement.¹⁶⁸

However, even after the implementation of the 2014 requirement, not all NGBs have applied the requirement consistently. The "Minimum Standards Policy for Athlete Safety Programs" states:

Each NGB shall require criminal background checks for those individuals it formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes. For purposes of clarification, a NGB is considered to formally authorize, approve or appoint an individual in instances where the NGB has control over the appointment process.¹⁶⁹

The policy is silent on several key details, including how far into an individual's past the background check should extend and what findings would prevent participation. While the policy states that it applies to any individual that has authority over or frequent contact with athletes, as discussed in section V(B)(1), each NGB defines that universe of individuals differently. This has led to inconsistent application across NGBs.

Further, questions remain about the enforcement of the requirement. In 2017, Baker Tilly conducted an audit of all NGBs and, among the findings of noncompliance, background check

¹⁶⁵ *Id.* at 107-108.

¹⁶⁶ *Id.* at 33.

¹⁶⁷ *Id.* at 39.

¹⁶⁸ *Id.* at 108-109.

¹⁶⁹ U.S. Figure Skating, *USOC Minimum Standards Policy for Athlete Safety Programs*, available at <https://www.usfigureskatingusfsa.org/content/Minimum%20Standards%20Policy%20from%20USOC.pdf> (last visited Dec. 17, 2018).

violations were the most common type, finding that 27 of 48 NGBs were not properly conducting background checks.¹⁷⁰

Baker Tilly noted that while the Athlete Safety Standards requiring NGBs to conduct background checks was implemented in 2014, the USOC “did not begin verifying that the criminal background checks were completed until April 2017.”¹⁷¹ Further, the audit noted that the Athlete Safety Standards did not provide a timeliness requirement with regards to how quickly a background check should be conducted, such as within 30 days of a member’s start date, which “leads to inconsistent practices among each NGB.”¹⁷² The audit also found that many NGBs were “unable to effectively and/or efficiently determine accurate and complete populations of [individuals] required to comply with” the background check requirements.¹⁷³ Finally, the audit found that not all [NGBs] “have a consistent process for reviewing and assessing the results of a criminal background check... some [NGBs] follow a zero tolerance process and others have detailed procedures for reviewing and vetting potentially unfavorable outcomes.”¹⁷⁴

While the USOC and NGBs have taken steps toward expanding and implementing background check requirements, there are still changes that should be made to best protect athlete safety. For example, while many NGBs have made reforms to their background check policies such that members in positions of authority, like coaches and doctors, are subject to background checks, 47 of 48 NGBs do not perform background checks on their athletes. This is problematic because, according to information provided to the Committee by the USCSS in April 2018, athlete-on-athlete abuse is the second most frequent type of abuse after coach-on-athlete abuse, with nearly 25 percent of cases reported to SafeSport involving athlete-on-athlete abuse.¹⁷⁵ In comparison, nearly 50 percent of cases involve a coach and a minor athlete, and 18 percent of cases involve a coach and an adult athlete.¹⁷⁶

In 2018, USA Weightlifting implemented a selection procedure which “allows our selection committee voting unanimously, to remove an athlete from the delegation in the case that the health and safety of any other athlete on the team is compromised.”¹⁷⁷ While this could be a promising step toward protecting athletes against abuse by other athletes, extending the

¹⁷⁰ Team USA, *2017 Audit Reports*, available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports>.

¹⁷¹ United States Olympic Committee, United States Olympic Committee SafeSport Audit 5 (Oct. 2017), available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 7, 2018).

¹⁷² *Id.*

¹⁷³ United States Olympic Committee, United States Olympic Committee SafeSport Audit 6 (Oct. 2017), available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 7, 2018).

¹⁷⁴ United States Olympic Committee, United States Olympic Committee SafeSport Audit 7 (Oct. 2017), available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 7, 2018).

¹⁷⁵ Information provided by the US Center for SafeSport to the Committee (Apr. 13, 2018) (On file with Committee).

¹⁷⁶ *Id.*

¹⁷⁷ Letter from Mr. Phil Andrews, Chief Executive Officer, USA Weightlifting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (undated; received Mar. 9, 2018) (On file with Committee).

background check requirement to athletes could be a proactive, rather than reactive, step toward keeping athletes safe.

3. Reporting and Handling of Reports, Complaints, and Allegations Regarding Sexual Abuse

Finding: Policies and procedures regarding how to report and handle reports, complaints, or allegations of sexual abuse varied across the Olympic community.

a. Policies to Inform the USOC of Reports, Complaints, or Allegations of Sexual Abuse

Finding: While the USOC did not have a policy by which NGBs reported allegations of abuse to the USOC, almost half of the NGBs reported to the Committee that in certain, and in some cases all, instances they communicated or consulted with the USOC on reports of sexual abuse.

Prior to the creation of the USCSS, each NGB was responsible for investigating and adjudicating allegations or complaints of sexual abuse. The policies and procedures varied across the NGBs. To understand whether there was any centralized oversight or processing of sexual abuse allegations, the Committee asked each NGB to provide information regarding any policies to inform the USOC of reports, complaints, or allegations of sexual abuse.¹⁷⁸ As discussed below, NGBs differed in their response regarding their policies to inform the USOC of reports.

The Committee also asked the USOC whether it has policies and procedures in place in order to properly report, handle, and investigate sexual abuse when it has been reported to them,¹⁷⁹ if the USOC has ever relayed a report, complaint, or allegation of sexual abuse involving athletes or affiliates to an NGB, and for all documents and communications to or from the USOC and any NGB from 2005 to present, regarding reports, complaints, or allegations of sexual abuse.¹⁸⁰ The USOC's response to the Committee stated:

The Committee inquired about relaying of reports or allegations of sexual abuse between Olympic Committee and national governing bodies. **As discussed with you, there was not a policy or practice of national governing bodies reporting such information to the Olympic Committee. Nonetheless, individual communications may occur in a number of contexts.** As discussed with you, the Ted Stevens Act provides

¹⁷⁸ See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce to Rod Menzer, USA Archery (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USA-Archery.pdf>.

¹⁷⁹ Letter from Hon. Greg Walden, Chairman, H. Comm. On Energy and Commerce, et al., to Mr. Scott Blackmun, USOC (Jan. 26, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/01/012618-USOC-Sexual-Abuse.pdf>.

¹⁸⁰ See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al., to Ms. Susanne Lyons, USOC (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USOC-Letter.pdf>.

for an independent athlete ombudsman funded by the Olympic Committee. The athlete ombudsman generally provides independent advice to athletes on the policies and procedures related to resolving complaints. The communications with the ombudsman are confidential. The current ombudsman has indicated that athletes have contacted her office both before and after submitting complaints to a national governing body or the Center for SafeSport. Athletes have sought assistance submitting complaints or assistance resolving a complaint already submitted. Additionally, an athlete may contact Olympic Committee personnel directly or the Olympic Committee may become aware of a concern through public reports.¹⁸¹

While a large number of NGBs reported there was not a formal policy for their NGB to report any reports or allegations of sexual abuse to the USOC, almost half of the NGBs reported that in certain, and in some cases all, instances they communicated, and occasionally consulted, with the USOC in the event of a report, complaint, or allegation of sexual abuse. Such communications and consultations appeared to be between the NGB and the USOC, rather than between an athlete and the athlete ombudsman. For example:

- US Ski and Snowboard: “Prior to its official launch in March 2017, the U.S. Center for SafeSport operated informally under the umbrella of the USOC and from 2014 until 2017, US SKI routinely consulted with, and at times reported information to, that office. However, prior to March 2017, no formal policy required such reporting.”¹⁸²
- US Speedskating: “Up until the launch of the USCSS in 2017, there was no defined policy for USS to inform the USOC of reports, complaints or allegations of sexual abuse. However, USS would have consulted with the USOC on information concerning matters of sexual abuse related to speed skating if they had occurred. Currently, allegations of sexual abuse are immediately referred to the USCSS.”¹⁸³
- US Tennis Association: “Pursuant to USOC Bylaw 8.7, the USTA must report any matters pursuant to the SafeSport Code to the U.S. Center for SafeSport. Prior to this Bylaw being enacted, the USTA was not required to inform the USOC of reports, complaints, or allegations of sexual abuse. Nevertheless, prior to the U.S. Center for SafeSport opening its doors in March, 2017, the USTA would seek guidance of the USOC’s SafeSport division on matters of misconduct in sport.”¹⁸⁴

¹⁸¹ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018), (On file with Committee) (emphasis added).

¹⁸² Letter from Counsel to U.S. Ski & Snowboard, to Hon. Greg Walden, Chairman and Hon. Frank Pallone, Jr., Ranking Member, H. Comm. On Energy and Commerce (Mar. 21, 2018) (On file with Committee).

¹⁸³ Letter from Mr. Ted Morris, US Speedskating, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

¹⁸⁴ Letter from Mr. Gordon A. Smith, United States Tennis Association, to Hon. Greg Walden, Chairman and Hon. Frank Pallone, Jr., Ranking Member, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

- USA Archery: “While USAA does not have a formal policy regarding the reporting of reports, complaints, or allegations of sexual abuse to the USOC, USAA has communicated with the USOC on the three cases listed in Question 5. Much of this communication occurred before the Center for SafeSport was formally established to clarify SafeSport processes. In one case sexual misconduct occurred at the Olympic Training Center in Chula Vista, California and the USOC was notified accordingly.”¹⁸⁵
- USA Badminton: “USA Badminton does not have a formal policy regarding the reporting of reports, complaints, or allegations of sexual abuse to the USOC, but communicates with the USOC on a frequent basis on other matters. As mentioned in Question 5, USA Badminton did communicate with USOC to inform them of the receipt of a complaint.”¹⁸⁶
- USA Basketball: “USA Basketball does not have a formal policy on informing the USOC of reports, complaints, or allegations of sexual abuse. In one instance where a complaint had been filed with USA Basketball that could have had an impact on the USOC, USA Basketball notified the USOC and kept the USOC informed on any developments, although this matter did not end up involving disciplinary action. We will continue to keep the USOC informed of such matters in the future. Since the U.S. Center for SafeSport opened, reports of sexual abuse are made to the Center directly by reporting parties or forwarded to the Center by USA Basketball if the complaint is made to USA Basketball.”¹⁸⁷
- USA Bobsled and Skeleton: “USABS does not have a formal policy regarding the reporting of reports, complaints, or allegations of sexual abuse to the USOC, but communicates with USOC on a frequent basis on other matters. Thus, in the event of a report, etc. USABS would communicate that information to the USOC as well as SafeSport per the SafeSport Policy.”¹⁸⁸
- USA Curling: “All NGBs are required to abide by the SafeSport Code for the Olympic and Paralympic Movement. As the U.S. Center for SafeSport has exclusive authority to investigate cases involving potential sexual misconduct, USA Curling’s current policy concerning abuse and harassment directs individuals to report such cases to the Center. Should USA Curling receive information that falls under the definition in the Code, details would be promptly reported to the Center and to the appropriate authorities. Prior to the opening of the Center in 2017, USA Curling had a practice of keeping an open dialogue with the USOC in regard to SafeSport

¹⁸⁵ Letter from Mr. Rod Menzer, CEO, USA Archery, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁸⁶ Letter from Jeff Dyrek, USA Badminton to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁸⁷ Letter from Jim Tooley, Chief Executive Officer, USA Basketball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁸⁸ Letter from Mr. Darrin Steele, CEO, USA Bobsled and Skeleton to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

complaints. As demonstrated by the email communications produced for Item #1, advice was frequently sought from Malia Arrington when a complaint of any type was received by USA Curling.”¹⁸⁹

- USA Cycling: “From 2005-2013 it is unknown if there was a policy regarding notifying the USOC of reports, complaints, or allegations of sexual abuse. From 2013 to current, USA Cycling does not notify the USOC unless the report, complaint, or allegations involve the USOC or is alleged to have taken place upon USOC-owned property.”¹⁹⁰
- USA Field Hockey: “We report to the USOC Senior Director of Ethics and SafeSport on any allegations.”¹⁹¹
- USA Gymnastics: “On occasion, USA Gymnastics may have consulted with the USOC on a safe sport matter; however, whether that contact occurred and any related information to that contact was not tracked.”¹⁹²
- USA Judo: “I have not found any written policies pertaining to reporting complaints or allegations of sexual abuse to the USOC. There is documentation from the first 2008 case referenced above when the USOC was notified and participated in the investigation of that case. Since 2017, all reports or alleged sexual misconduct have been reported to the U.S. Center for SafeSport.”¹⁹³
- USA Karate: “USA-NKF has no documented policy; as needed we seek guidance from the USOC. We have always advised the USOC of the cases we have had. We recently sought guidance when an athlete who was to compete at our team trial was found to have had a criminal record of sexual misconduct. We sought this guidance in order to ensure that we were not violating the athlete’s right to compete while ensuring the safety of the other competitors. The athlete was not allowed to attend the team trial. This ultimately was adjudicated by the U.S. Center for SafeSport and the athlete received a 10-year suspension.”¹⁹⁴

¹⁸⁹ Letter from Mr. Rick Patzke, Chief Executive Officer, USA Curling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁹⁰ Letter from Mr. Derek Bouchard-Hall, President & CEO, USA Cycling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 2018) (On file with Committee).

¹⁹¹ Letter from Mr. Simon Hoskins, Executive Director, USA Field Hockey to H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

¹⁹² Letter from Ms. Kerry Perry, President and CEO, USA Gymnastics to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 18, 2018) (On file with Committee).

¹⁹³ Letter from Mr. Keith Bryant, CEO/Executive Director, USA Judo to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

¹⁹⁴ Letter from Mr. Phil Hampel, Chief Executive Officer, USA Karate to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 9, 2018) (On file with Committee).

- USA Pentathlon: “Our policy is to inform the USOC immediately should we ever have such a report.”¹⁹⁵
- USA Roller Sports: “As of today, the policy is to direct all USARS Staff when receiving a report to upload the report through the SafeSport portal and to inform the Executive Director. This is also emphasized to all USARS members, parents, guardians, volunteers, coaches, officials, board and committee members. Though it should be noted that often times these reports are not sexually related in nature and the interpretation of a SafeSport report is not clearly defined and understood by the reporting party. Meaning by example, there may be a report made to SafeSport that could be around something totally irrelevant to the scope of what SafeSport does, and thus bog down the overall system. It is also the expectation of USARS that in the case of immediate danger, that the reporter by-pass the portal and report directly to the appropriate authorities. Prior to 2017 and the implementation of SafeSport all of these cases would have been handled on an individual basis and reported through a case by case basis and followed the guidelines laid out by the USOC to report.”¹⁹⁶
- USA Rugby: “Since joining the USOC in 2009, USA Rugby has reported incidents of sexual abuse to the USOC through the SafeSport program. USA Rugby did not have an incident of sexual abuse between 2009 and 2012 when SafeSport was first launched.”¹⁹⁷
- USA Shooting: “USAS does not have a formal policy regarding the reporting of reports, complaints, or allegations of sexual abuse to the USOC. That written, USAS has regular contact with the USOC on a myriad of issues (e.g. resident athlete issues, sport performance, team selection, etc.) and would communicate any such issue.”¹⁹⁸
- USA Softball: “As a general rule, the NGB has not historically reported to the USOC or involved the USOC with any complaints of sexual abuse against the NGB’s participants.”¹⁹⁹
- USA Table Tennis: “To the best of my knowledge, it has been USATT’s policy to inform the USOC (and subsequently the US Center for SafeSport) of reports, complaints, or allegations of sexual abuse. I can positively assert that since being

¹⁹⁵ Letter from Mr. Rob Stull, Managing Director, USA Pentathlon to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 20, 2018) (On file with Committee).

¹⁹⁶ Letter from Mr. Eric Steele, Executive Director, USA Roller Sports to H. Comm. on Energy and Commerce, (Mar. 20, 2018) (On file with Committee).

¹⁹⁷ Letter from Mr. Dan Payne, Chief Executive Officer, USA Rugby to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

¹⁹⁸ Letter from Mr. Keith Enlow, USA Shooting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

¹⁹⁹ Letter from Mr. Craig Cress, Executive Director, USA Softball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

hired as CEO in 2014, the USOC (and subsequently the US Center for SafeSport) have been informed on all such matters.”²⁰⁰

- USA Taekwondo: “USA Taekwondo has not had a policy of informing the USOC of reports, complaints, or allegations of sexual abuse from 2005 to the present unless the individual may be representing the United States on a team fielded by the USOC (Pan-American Games, Olympics, etc.), or may have been involved in supporting an athlete on that team.”²⁰¹
- USA Team Handball: “During my tenure as CEO and during my tenures as Executive Director, my policy (as supported by the Board) was, is and always will be to report all such matters, as well as other potential crises or complaints (including doping or other problems), to the USOC as soon as possible. However, no sex abuse claim arose that I would have reported.”²⁰²
- USA Volleyball: “It is USA Volleyball’s policy to inform the USOC of reports, complaints, or allegations of sexual abuse when and if USA Volleyball receives those reports, complaints, or allegations of sexual abuse during a USOC protected competition, i.e. Olympic Games, Paralympic Games, Pan American Games, Parapan American Games, or Youth Olympic Games. USA Volleyball is not aware of having received any such report, complaint, or allegation.”²⁰³
- USA Weightlifting: “While not a formalized or written policy, it has always been the understanding of the NGB to inform the US Olympic Committee when a complaint or allegation is raised against an individual in our membership. However, this has ceased to be the case since the US Center for SafeSport opened in 2017, where all sexual abuse cases are referred to the US Center for SafeSport.”²⁰⁴
- USA Wrestling: “USA Wrestling’s policy is (and has been) to inform the USOC of reports, complaints, or allegations of sexual abuse when the individual may be representing the United States on a team fielded by the USOC (Pan-American Games, Olympics, etc.) or the individual is an Olympic Training Center resident or athlete.”²⁰⁵

²⁰⁰ Letter from Mr. Gordon B. Kaye, CEO, USA Table Tennis to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁰¹ Letter from Mr. Steve McNally, Executive Director, USA Taekwondo to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁰² Letter from Mr. Michael D. Cavanaugh, CEO, USA Team Handball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

²⁰³ Letter from Mr. Jamie Davis, CEO, USA Volleyball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁰⁴ Letter from Mr. Phil Andrews, Chief Executive Officer, USA Weightlifting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 2018) (On file with Committee).

²⁰⁵ Letter from Mr. Rich Bender, Executive Director, USA Wrestling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

As showcased by the various responses above, while there was not a formal policy instituted by the USOC to report any reports, complaints, or allegations of sexual abuse to the USOC, many of the NGBs made it their own policy, or informally reported and/or consulted with the USOC when they were made aware of any reports, complaints, or allegations of sexual abuse. The difference in the responses from the NGBs highlights that, due to a lack of a formal policy or consistent practices, there were inconsistencies throughout the Olympic community when it came to informing or consulting the USOC of such reports. This fractured practice of reporting among the NGBs likely resulted in inconsistencies with how such reports were handled and investigated.

ii. Policies to Inform Other Authorities of Reports, Complaints, or Allegations of Sexual Abuse

Finding: The Committee found evidence that one NGB interpreted its own bylaws to not report allegations of sexual abuse to law enforcement.

In addition to inconsistencies in whether an NGB reported an allegation of sexual abuse to the USOC, the Committee also found evidence indicating that one NGB interpreted its own bylaws to not report allegations of sexual abuse to law enforcement.

In several instances, USAG declined to investigate or refer reports of abuse to law enforcement authorities, not based on the veracity of the claims, but based on an interpretation of their bylaws in place at the time. Despite the fact that nothing stopped USAG from reporting allegations to the police or investigating further to ensure no other athletes were at risk, USAG took no action and failed to follow up on multiple instances of sexual misconduct or abuse.

From 1988 until 2013, Ms. Kathy Kelly served as Women’s Program Director and then Vice President of the Women’s Program at USAG.²⁰⁶ In 2014, Ms. Kelly testified in a deposition that in her capacity in those positions, if USAG received a complaint about misconduct associated with the women’s program, then she made the decision on how to handle a complaint.²⁰⁷ When asked how she had been trained to handle such complaints, Ms. Kelly stated that “Basically I was bound by the bylaws of the organization and just followed the bylaws” and that USAG never sent Kelly to any training seminars on handling sexual misconduct complaints.²⁰⁸

Based on deposition transcripts provided to the Committee, it appears that, as of 2014, USAG had adopted the practice of declining to address or report to law enforcement allegations of abuse if they did not meet the criteria laid out in Article X of USAG’s bylaws. Article X stated:

Any athlete, professional member or organization that is a member of the corporation (The “Complainant”), and believes himself/herself/itself to be aggrieved by any action of the corporation or one of its members, may file

²⁰⁶ *Doe v. USA Gymnastics*, Deposition of Kathy Kelly 19-23, Oct. 19, 2014 (On file with Committee).

²⁰⁷ *Id.* at 54.

²⁰⁸ *Id.* at 55.

a complaint with the corporation (the “Complaint”). To be considered for resolution through the corporation’s grievance procedure, the Complaint must:

- a. be submitted in writing to the President of the corporation at the corporation’s principal place of business,
- b. be signed by the Complainant, and
- c. include a concise statement of the Complaint, the individual or organization responsible for the Complaint and the relief sought. If the Complaint occurs at an event or competition sanctioned by the corporation and the subject matter of the Complaint may be the subject of the protest procedures described in governing rules and policies, then those protest procedures must be exhausted prior to the filing of a Complaint. Failure to exhaust those protest procedures precludes resort to this Grievance Procedure.²⁰⁹

Ms. Kelly summarized these requirements, stating “Article 10 of the bylaws...instructs me that I have to have a written complaint from an athlete member, if underaged, her parent on behalf of the athlete member, or another professional member who has suffered some grievance because of the professional member in question.”²¹⁰

If those criteria were not met, Ms. Kelly testified that “I just don’t do anything with [a report of abuse] if it doesn’t hit the criteria.”²¹¹ When asked specifically if anything in the bylaws prevented her from bringing information about allegations of sexual abuse to law enforcement, she reiterated, “I assumed if I couldn’t process the complaint because it didn’t meet the criteria, that I couldn’t do anything.”²¹²

According to Ms. Kelly’s understanding of the bylaws in place at the time, a report from one member that another member was abusing an athlete would not be sufficient to open an investigation. Instead, according to Ms. Kelly, she had to have “letters from the aggrieved party or parent on behalf of the aggrieved party.”²¹³ She clarified on a second occasion that she had to have “information from the athlete” and that information from a witness would not suffice.²¹⁴

According to Ms. Kelly, it “wasn’t an option” to be more aggressive because they were restricted by the bylaws.²¹⁵ She testified, “the bylaws restrict us. And if we don’t follow the

²⁰⁹ *Id.* at 58.

²¹⁰ *Id.* at 82.

²¹¹ *Id.* at 86.

²¹² *Id.* at 87.

²¹³ *Id.* at 84.

²¹⁴ *Id.* at 59.

²¹⁵ *Id.* at 59-60.

bylaws, as written, then, as an NGB, we are in violation of our own documents that are—and under the jurisdiction of the Olympic Committee.”²¹⁶

In another instance, Ms. Kelly testified USAG did not pursue a claim of sexual assault because the alleged victim was not a member athlete, but was instead a cheerleader.²¹⁷ According to Ms. Kelly, the victim would need to be a member of USAG and bring an allegation against another member of USAG before USAG would investigate.²¹⁸ In that instance, USAG also did not make an attempt to ascertain whether member athletes were also being abused by the alleged abuser, such as by calling the survivor to ask questions about the alleged abuse.²¹⁹ In fact, according to Ms. Kelly, the bylaws actually prevented her from asking for additional information from the alleged victim.²²⁰ Ms. Kelly did acknowledge that but for the criteria not being met, USAG would have investigated in that situation.²²¹

Contrary to Ms. Kelly’s testimony that USAG was prevented from investigating reports of abuse that did not conform to the exact criteria laid out in the bylaws, former USAG President Mr. Steve Penny testified in 2014 and 2015 that USAG did have the authority to investigate allegations that do not meet the criteria of Article 10. However, his testimony on whether USAG had the authority to report allegations to the police, and whether USAG indeed did report allegations to police, seemed at times contradictory.

In 2014, Mr. Penny testified that it was not USAG’s practice to report allegations of abuse to law enforcement, though they would encourage those involved to contact law enforcement.²²² He stated, “depending on the nature of the claim, we would encourage those involved to contact law enforcement if we felt like a crime had been committed and/or we would comply with the state-by-state reporting requirements that sort of govern these types of instances.”²²³ He then clarified, “[w]e don’t necessarily turn over, to answer your question directly, we don’t turn over a case to law enforcement.”²²⁴ In fact, when directly asked “[i]f you receive a complaint of sexual misconduct, whether it be by a professional member or anyone that has a membership with USAG, do you turn it over to local authorities,” Mr. Penny answered “[n]o”.²²⁵

However, later in the same deposition, Mr. Penny also testified that USAG’s response to allegations of abuse would be to report the allegations to the police, and that USAG would have the authority to investigate and discipline the alleged abuser, even if the criteria laid out in Article 10 of the bylaws was not met.²²⁶ When specifically asked if a non-USAG member witness reported allegations of sexual misconduct, and in direct contradiction to what Ms. Kelly

²¹⁶ *Id.* at 60.

²¹⁷ *Id.* at 90, 91, 96.

²¹⁸ *Id.*

²¹⁹ *Id.* at 97-98.

²²⁰ *Id.*

²²¹ *Id.* at 122.

²²² *Doe v. USA Gymnastics*, Deposition of Stephen Penny, Jr. 48-49, Nov. 19, 2014 (On file with Committee).

²²³ *Id.* at 48.

²²⁴ *Id.* at 48-49.

²²⁵ *Id.* at 49.

²²⁶ *Id.* at 119-120.

stated, Mr. Penny testified that his “first response would be to call the police” and that USAG could investigate, and then suspend or terminate the coach on the basis of USAG’s investigation.²²⁷

However, and again during the same deposition in 2014, Mr. Penny stated first that he did not believe that USAG had the power to investigate an allegation by a non-member and/or discipline a member based on an allegation by a non-member, and then, when asked why USAG did not investigate an allegation of abuse brought by a non-member, stated, “I honestly don’t feel like I can answer that question.”²²⁸

The next year, in a 2015 deposition, when asked “[w]hat prevents USAG from turning over any complaint of sexual misconduct against a Member Coach directly to the local authorities,” Mr. Penny answered, “[n]othing.”²²⁹

Ms. Kelly and Mr. Penny seemed unclear on the authority of USAG to investigate claims of abuse that did not conform exactly to the criteria in Article 10 of the bylaws. In the course of the depositions, both acknowledged that USAG was made aware of allegations of abuse by a member of USAG, declined to investigate further or report the allegations to the police, and that the accused individual went on to abuse more athletes in the wake of their inaction.

4. Interim Measures

Finding: The application and implementation of interim measures varies across the Olympic community, leading to inconsistent standards and enforcement.

NGBs have also sought to protect athletes from abuse through the implementation of interim measures. When an allegation is made against an individual, NGBs may implement an interim measure—such as a temporary suspension—while investigating the claim.

At the Committee’s May 2018 hearing, Ms. Shellie Pfohl of the USCSS testified that when an allegation is reported, if the USCSS determines that an individual could be in danger, the Center will “immediately impose an interim measure or interim suspension.”²³⁰

Prior to the creation of the USCSS, there was no uniform requirement by which NGBs were bound with regards to interim measures, but most NGBs told the Committee they took interim measures, such as suspending a member’s participation, in the event of an investigation.

²²⁷ *Id.* at 120-121.

²²⁸ *Id.* at 130-133.

²²⁹ *Doe v. USA Gymnastics*, Deposition of Stephen Penny, Jr. 50-51, Dec. 9, 2015 (On file with Committee).

²³⁰ H. Comm. On Energy and Commerce hearing, *Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse*, 115th Cong., *Preliminary Transcript* 68 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

However, two NGBs, USAS²³¹ and USAG²³² did not implement interim measures policies until 2017, and USA Roller Sports²³³ did not have an interim measure policy implemented at the time of the letter. USA Water Polo stated that it did not have a policy to implement interim measures, but that it would enforce any interim measures implemented by the USCSS.²³⁴

The Committee asked each NGB whether it took interim measures, including but not limited to a suspension, to prevent an individual from having contact with NGB athletes during the pendency of an investigation into that individual’s conduct by law enforcement, the USCSS, the NGB, or others, as well as whether the practice had changed over time.²³⁵ The Committee also asked the USOC about any guidance, information, or assistance the USOC provided to NGBs regarding the imposition of interim measures.²³⁶ The responses from the NGBs and the USOC varied, as indicated below.

Organization	Response ²³⁷
American Canoe Association	“ACA requests physical social separation 10a) It has not changed” ²³⁸
USA Archery	“USAA does not have a written policy allowing it to take interim measures, but if it is believed that the safety of its athletes was at risk, a violation of its SafeSport policy or a violation of Federal or State law was at issue, USAA would assess the issue and respond accordingly. a. This practice has not changed over time, nor has written policy changed [sic].” ²³⁹
USA Badminton	“USA Badminton’s SafeSport Policy allows USA Badminton to take an interim measure and/or suspend the accused individual to prevent ongoing physical or emotional harm pending final resolution of the complaint.... a. This practice has not changed since the adoption of the policy.” ²⁴⁰
USA Baseball	“In response to Question No. 10, USA Baseball responds that yes, USA Baseball will issue an interim suspension to prevent an individual from having contact with USA Baseball athletes during the pendency of any investigation into that individual’s conduct by law enforcement,

²³¹ Letter from Mr. Keith Enlow, USA Shooting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²³² Letter from Ms. Kerry J. Perry, President and CEO, USA Gymnastics to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²³³ Letter from Mr. Eric Steele, Executive Director, USA Roller Sports to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²³⁴ Letter from Mr. Christopher Ramsey, Chief Executive Officer, USA Water Polo to H. Comm. on Energy and Commerce (undated; received Mar. 29, 2018) (On file with Committee).

²³⁵ See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, to Rod Menzer, USA Archery (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USA-Archery.pdf>.

²³⁶ Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, to Susanne Lyons, U.S. Olympic Committee (Mar. 7, 2018), available at <https://energycommerce.house.gov/wp-content/uploads/2018/03/03.07.18-USOC-Letter.pdf>.

²³⁷ The Committee has also made public the narrative responses from each NGB. For the full answers to this and other questions from each NGB, please see energycommerce.house.gov.

²³⁸ Letter from American Canoe Association to H. Comm. on Energy and Commerce, et al. (May 2018) (On file with Committee).

²³⁹ Letter from Mr. Rod Menzer, CEO, USA Archery to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁴⁰ Letter from Mr. Jeff Dyrek, USA Badminton to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

	<p>the SafeSport Center or USA Baseball. If any USA Baseball athletes, NMO Members, affiliates or third parties bring to USA Baseball’s attention a possible sexual abuse claim of any individual involved with USA Baseball, USA Baseball would likewise immediately issue an interim suspension, suspending that individual from participating in any USA Baseball activities or events.</p> <p>a. In response to Question No. 10 a., USA Baseball responds that while it has never had to issue a permanent, temporary or interim suspension in the past, USA Baseball’s Bylaws amended in 2017 did include language specifically stating that USA Baseball would issue interim suspensions in its discretion and under appropriate circumstances.”²⁴¹</p>
USA Basketball	<p>“Yes, USA Basketball has the authority to hold an expedited, emergency hearing to take immediate action on two fronts. First, in the case of a matter involving SafeSport violation of a sexualized nature, the U.S. Center for SafeSport would have mandatory jurisdiction over such a matter, and the Center has a process for an interim suspension. For an alleged SafeSport violation that is not under the Center’s jurisdiction, USA Basketball’s SafeSport Hearing Panel has the ability to hold an expedited hearing and issue an interim suspension under its SafeSport policies, as described in the SafeSport Program Handbook.</p> <p>The ability of USA Basketball to take emergency action has not changed in recent memory, except when the Center opened and took over jurisdiction for certain SafeSport complaints, and when, in 2017, USA Basketball moved to a SafeSport Hearing Panel for SafeSport hearings, rather than an ad hoc panel.”²⁴²</p>
US Biathlon Association	<p>“USBA’s SafeSport Policy allows USBA to take an interim measure (such as suspension) to prevent an individual from having contact with USBA athletes during pendency of an investigation into such individual’s conduct by law enforcement, USCSS, USBA or others. Further, USBA Bylaws (Chapter 14 and 31) allow for USBA to take interim measures if it believed that the safety of its athletes, a violation of a USBA policy or a violation of Federal or State law was at issue.</p> <p>a. This practice has not changed since adoption of the policy.”²⁴³</p>
USA Bobsled and Skeleton	<p>“In the event an allegation of misconduct, USABS’ SafeSport Policy allows USABS to immediately remove that individual from his/her duties with USABS until the allegation has been investigation by the appropriate entity and suspend or change the assignment of a Covered Individual. However, such a measure may be challenged under various documents including the Ted Stevens Olympic and Amateur Sports Act, USOC Bylaws and USABS’ Bylaws.”²⁴⁴</p>
US Bowling Congress	<p>“Yes. As outlined in USBC’s policy related to Youth Predators/Child Endangerment, and as discussed above in response to Request 5, USBC will take interim steps and suspend individuals from participation USBC’s Youth Programs pending a law enforcement investigation. While USBC’s investigation could not identify an exact start date of this policy, it has been in place since at least ten years.</p> <p>a. The launch of the U.S. Center for SafeSport in 2017 gives the Center exclusive authority over USBC covered individuals in matters related to sexual abuse.”²⁴⁵</p>

²⁴¹ Letter from Mr. Paul Seiler, Executive Director/CEO, USA Baseball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁴² Letter from Gen. (R) Martin Dempsey, Chairman, USA Basketball and Mr. Jim Tooley, Chief Executive Officer, USA Basketball to H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

²⁴³ Letter from Mr. Max Cobb, President & CEO, US Biathlon Association, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁴⁴ Letter from Mr. Darrin Steele, CEO, USABS to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁴⁵ Letter from Mr. Chad Murphy, Executive Director, United States Bowling Congress, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 26, 2018) (On file with Committee).

USA Boxing	<p>“Yes. After I was hired the decision was made that any person with a possible SafeSport violation, ongoing criminal investigation and/or criminal indictment or complaint that comes to our attention would be immediately placed on administrative leave. This policy change was based upon 25 years of experience as a Police Detective (retired), 2.5 years specializing in the sexual abuse investigation of children. USA Boxing’s practice is to always err on the side of the child when it comes to “right to participate” issues covered under the Ted Stevens Amateur and Olympic Sports Act.”²⁴⁶</p>
USA Curling	<p>“When USA Curling investigates a SafeSport complaint, a SafeSport Coordinator sends the parties and potential witnesses (as applicable) separate emails informing them of the existence of a complaint and providing them with information about the investigator. In these emails, all parties are asked to refrain from contacting anyone who may be involved with the allegations during the investigation process. Should USA Curling staff deem anyone to be in immediate danger from an accused, a temporary suspension of involvement in USCA events can be implemented as an interim sanction. In addition, automatic suspension of coaches is possible under certain circumstances.</p> <p>a. The <i>USA Curling SafeSport Handbook</i>, which was adopted in 2013, updated the reporting process and implemented the possibility of interim sanctions.”²⁴⁷</p>
USA Cycling	<p>“USA Cycling takes interim measures, such as suspension, to prevent an individual from having contact with NGB athletes during the pendency of an investigation into that individual’s conduct by law enforcement. Please see Policy III, Section 21 for “Criminal Conduct by Members”. USA Cycling is currently considering a revised broader interim measures policy that may be enforced during the pendency of an investigation by the U.S. Center for SafeSport, USA Cycling, or others.”²⁴⁸</p>
USA Diving	<p>“As noted above, USA Diving has and can suspend a member pending the outcome of an investigation under certain specified circumstances or the presence of delineated factors as provided in USA Diving’s by-laws. Prior to SafeSport assuming exclusive jurisdiction over these types of matters, and due to the lack of reports and complaints generally speaking, a suspension did not occur until the outcome of an investigation, with one exception in the past. One key reason for this approach was to not interfere with a law enforcement or prosecutorial investigation or activity. After the creation of SafeSport, it has exclusive jurisdiction over such matters and USA Diving is directed not to undertake its own investigation or measures, but under a very narrow exception, however, USA Diving has recently immediately suspended a member in at least one situation while a SafeSport investigation is pending.</p> <p>a. Recently, and after the enactment of SafeSport, USA Diving has on at least one occasion immediately suspended a member on its own initiative.”²⁴⁹</p>
US Equestrian	<p>“Yes, USEF does take interim measures, which are referred to as temporary suspensions in the USEF rules, to prevent an individual from having contact with USEF athletes during the pendency of an investigation into that individual’s conduct by law enforcement, the U.S. Center for Safe Sport, USEF, or others. This mechanism is in place to ensure that there is no risk of harm while the investigation is on-going. For example, a few years ago, we received a report that a veterinarian was indicted in SC and MS for sexual abuse involving different victims. USEF placed the veterinarian on a temporary suspension, pending the outcome of the criminal proceedings. He served a temporary suspension from January 16, 2-014-May 31,</p>

²⁴⁶ Letter from Mr. Mike McAtee, Executive Director, USA Boxing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁴⁷ Letter from Mr. Rick Patzke, Chief Executive Officer, USA Curling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁴⁸ Letter from Mr. Derek Bouchard-Hall, President & CEO, USA Cycling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (undated; received Mar. 26, 2018) (On file with Committee).

²⁴⁹ Letter from Ms. Michele Mitchell, Chairman, Board of Directors and Mr. Lee W. Johnson, CEO, USA Diving to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

	2016 at which time the temporary suspension was lifted due to his acquittal of all counts in both jurisdictions.” ²⁵⁰
USA Fencing	“Yes. USA Fencing takes interim measures, such as suspension, if the reported complaint indicates that an individual’s continued membership or participation poses a risk of ongoing harm. USA Fencing may suspend the accused individual pending final resolution of the complaint in an effort to ameliorate any danger to an athlete, sport participant or other individual. USA Fencing also complies with any interim measures that are imposed by the U.S. Center for SafeSport.” ²⁵¹
USA Field Hockey	Within Bylaws 4.5 of the USA Field Hockey bylaws we are able to suspend a membership to prevent an individual from having contact with NGB athletes. We also rely on the U.S. Center for SafeSport to issue an interim measure if there is a case that they are investigating. a. Yes, with the opening of the U.S. Center for SafeSport and the adoption by the Center of their Guidelines, matters of a sexualized nature are now handled by the Center and are subject to their policies and procedures.” ²⁵²
US Figure Skating	“Yes. In cases where a member is criminally charged or there is the risk of immediate threat to the well-being of others, U.S. Figure Skating suspends members accused of child abuse or sexual misconduct immediately pending the completion of the grievance process in order to protect its athletes and eliminate the potential for future or ongoing violations. a. Yes. U.S. Figure Skating’s suspension procedures have been in place since May 2000. As of 2017, the U.S. Center for SafeSport has exclusive jurisdiction over matters involving allegations of sexual misconduct. However, U.S. Figure Skating continues to utilize its same procedures regarding suspensions, as the U.S. Center for SafeSport’s practices and procedures allow for interim measures by NGBs, including immediate suspension of a member, under appropriate circumstances.” ²⁵³
USA Golf	“To date, USA GOLF has received no reports, complaints, or allegations of sexual abuse or the handling of such information, therefore USA GOLF has not been required to take interim measures, suspend, or prevent an individual from having contact with USA GOLF athletes. However, pursuant to the complaint procedure set forth in USA GOLF’s Bylaws, USA GOLF has the right to suspend, prevent or take interim measures in the even it is deemed necessary under the Policy.” ²⁵⁴
USA Gymnastics	“As of December 2017, Interim Measures were added as Article 10.5 of USA Gymnastics Bylaws to ensure the safety and well-being of the gymnastics community or where an allegation is sufficiently serious that an Adverse Party’s continued participation could be detrimental to the sport or its reputation. We are continuing to look into the historical practice and will further apprise the Committee of any additional information.” ²⁵⁵
USA Hockey	“Yes, USA Hockey has long had a policy of taking an interim measure (called a “Summary Suspension” in USA Hockey Bylaws) during the pendency of an investigation into allegations involving sexual abuse, physical abuse or other criminal conduct or threats to harm another

²⁵⁰ Letter from Ms. Sonja S. Keating, Senior Vice-President & General Counsel, US Equestrian Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁵¹ Letter from Ms. Kris Ekeren, Executive Director, USA Fencing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁵² Letter from Mr. Simon Hoskins, Executive Director, USA Field Hockey to H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁵³ Letter from Mr. David Raith, Executive Director, U.S. Figure Skating to H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

²⁵⁴ Letter from Mr. Andrew B. Levinson, Executive Director, USA GOLF Federation, Inc. to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁵⁵ Letter from Ms. Kerry J. Perry, President and CEO, USA Gymnastics to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

	<p>person. Although some might argue that a Summary Suspension was not permissible under the Amateur Sports Act, it has been USA Hockey’s position that it must take immediate action when circumstances warrant to protect USA Hockey’s participants. We are not aware of any instance where a person has challenged a Summary Suspension based on it being in violation of the Amateur Sports Act.</p> <p>a. The specific language in USA Hockey’s Bylaws authorizing a Summary Suspension has changed somewhat over time, but the general policy and practice of issuing a Summary Suspension when appropriate to protect USA Hockey participants has not changed. The Summary Suspension provisions appear as part of USA Hockey’s Disciplinary Procedures in USA Hockey Bylaw 10, and provide a specific exception to the normal requirement that USA Hockey, its Affiliates and programs must provide a hearing prior to issuing a suspension.”²⁵⁶</p>
USA Judo	<p>“In looking through historical documents I have found that individuals who were under investigation by law enforcement have been suspended during the pendency of an investigation.</p> <p>a. I have not seen that this practice has changed over time. In my 19 months in this role, I have submitted two cases to the U.S. Center for SafeSport. The first did not warrant a suspension based on the information I received. The second was for a previously investigated case and the person in question is no longer a member of USA Judo and would need to be reviewed by the Board of Directors should he ever want to reapply for membership.”²⁵⁷</p>
USA Karate	<p>“USA-NKF immediately suspends the membership of the individual and, if the individual is a club owner, their club pending the outcomes of any investigation by law enforcement or the U.S. Center for SafeSport. USA-NKF does not conduct any investigations. This policy is in place to err on the side of caution if a complaint of sexual abuse or misconduct is made in order to protect other athletes should the claim be determined valid. Should the legal system or the U.S. Center for SafeSport determine that the claim is invalid, then we remove the suspensions and reinstate the member and the club if the club was also suspended.</p> <p>a. No, this policy has not changed.”²⁵⁸</p>
USA Luge	<p>“USA Luge has never had occasion to suspend and individual under such circumstances.</p> <p>a. Prior to SafeSport, USA Luge would have handled such matters pursuant to its internal due process procedures.”²⁵⁹</p>
USA Pentathlon	<p>“Should we have a case, our NGB would use all lawful means to limit the contact that the accused would have for contact with athletes or the community.”²⁶⁰</p>
USA Racquetball	<p>“Yes, to ensure the safety of our members.</p> <p>a. No.”²⁶¹</p>
USA Roller Sports	<p>“To first answer is it has changed over time...the answer most certainly would be yes. As incidents such as what is occurring with the US Gymnastics, Penn State University and the Catholic Church unfold, policies and most importantly culture change have clearly lined our an emphasis to change. USARS has taken all and any incidents on a case by case basis and</p>

²⁵⁶ Letter from Mr. Pat Kelleher, USA Hockey to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁵⁷ Letter from Mr. Keith Bryant, CEO/Executive Director, USA Judo to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

²⁵⁸ Letter from Mr. Phil Hampel, Chief Executive Officer, USA National Karate-do-Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁵⁹ Letter from Mr. Jim Leahy, Chief Executive Officer, USA Luge to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 22, 2018) (On file with Committee).

²⁶⁰ Letter from Mr. Rob Stull, Managing Director, USA Pentathlon to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 20, 2018) (On file with Committee).

²⁶¹ Letter from USA Racquetball to H. Comm. on Energy and Commerce (undated; received Mar. 28, 2018) (On file with Committee).

	used the guidelines in place at the time to decide through our membership eligibility committee the proper action. However, there is no formal system in place to suspend contact with others while an investigation is underway. Our goal is for this and other policies to be changed with our upcoming bylaws vote in April and to be approved at that time to meet the standards required for today’s needs around this subject manner [sic].” ²⁶²
USRowing	<p>“Yes. USRowing has always been focused on protecting its athletes, and other members of the USRowing community from all forms of misconduct – sexual, physical, emotional, bullying, harassment, or hazing. Since at least January 2014, USRowing has implemented specific SafeSport policies and procedures to further those goals.</p> <p>As indicated in the US Rowing Sexual Abuse Data Table above, in 2014 USRowing suspended an individual under investigation by law enforcement and involved with a legal matter. This suspension continued until such time as the matter was resolved and the individual was cleared. Currently, USRowing – in partnership with Center for SafeSport – has identified two individuals which, because of pending legal investigations relating to sexual abuse, are suspended from membership in USRowing.</p> <p>Within the last four years, USRowing has taken several steps to improve transparency, efficiency and effectiveness in our reporting mechanisms for all forms of misconduct, by consolidating many of the SafeSport functions and procedures within the SafeSport program. Also, since the establishment of the Center for SafeSport in 2017, USRowing has taken steps to ensure that the Center for SafeSport has exclusive authority to investigate and resolve allegations of sexual misconduct. The Program includes a full time SafeSport Compliance Officer reporting directly to the CEO and President of the USRowing Board of Directors. The Compliance Officer’s responsibilities include:</p> <ul style="list-style-type: none"> • Updating and maintaining SafeSport policies and procedures; • Compliance and monitoring of all “Covered Individuals” for SafeSport training and background checks; • Communication and outreach of USRowing SafeSport policies and procedures with athletes, employees, coaches, USRowing members and USRowing Organizational Members; • Intake of reports of misconduct, investigation, mediation, hearing procedures, and adjudication; and • Interactions with the Center for SafeSport, including notification of issues of sexual misconduct.”²⁶³
USA Rugby	“USA Rugby has policies around mandatory interim suspension according to the kind of abuse or misconduct reported. This is outlined within our USA Rugby Safesport handbook, and includes criminal conduct of any kind and any form of abuse or misconduct involving a minor. USA Rugby’s policy has not changed since the inception of Safesport program and our first draft of our policies accordingly.” ²⁶⁴
US Sailing	“We do not take interim measures towards athletes during the pendency of an investigation. US Sailing is bound by the policies of the U.S. Center for SafeSport which provides the Center with full jurisdiction and requires US Sailing to follow its decisions and prescribed actions. Prior to the introduction of the U.S. Center for SafeSport US Sailing never faced the issue of need for interim measures.” ²⁶⁵

²⁶² Letter from Mr. Eric Steele, Executive Director, USA Roller Sports to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁶³ Letter from Mr. Patrick McNerney, CEO, USRowing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁶⁴ Letter from Mr. Dan Payne, Chief Executive Officer, USA Rugby to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁶⁵ Letter from Mr. Jack Gierhart, CEO, US Sailing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

USA Shooting	<p>“USAS’ SafeSport Policy allows USAS to take an interim measure of suspension or termination of the accused if it receives credible and specific allegations of child abuse or other serious misconduct to ensure participant safety.</p> <p>a. This practice was adopted on March 11, 2017 and has not changed since such adoption.”²⁶⁶</p>
US Ski and Snowboard	<p>“It has always been US SKI’s policy to take interim measures during the pendency of an investigation to protect athletes if US SKI believes that the individual under investigation poses a risk to athletes. However, it should be noted that Section IV(A) of the Code now grants the U.S. Center for SafeSport exclusive jurisdiction over the investigation of sexual misconduct and specifically prohibits NGBs from conducting investigations or taking enforcement actions in these cases.”²⁶⁷</p>
US Soccer	<p>Where U.S. Soccer has a reason to believe that an individual presents a potential risk to an athlete or any other individuals participating in soccer programs affiliated with U.S. Soccer, we place the individual on temporary risk management hold, pending investigation, or take other actions reasonably necessary to prevent contact with athletes while the matter is investigated. U.S. Soccer evaluates each issue on a case-by-case basis, attempting to balance the rights of individuals to participate with the seriousness of the allegations made against them, pending investigation. This has been the standing practice of U.S. Soccer.²⁶⁸</p>
USA Softball	<p>NGB rules allow for certain offices to impose interim suspensions where appropriate. This allowance for interim suspension was originally put in place in 2011 in the 2011 ASA Code, and the interim suspension provisions have remained since that time and been modified from time to time thereafter.²⁶⁹</p>
US Speedskating	<p>“It is the policy of USS to suspend individuals during the pendency of an investigation by law enforcement, USCSS and/or USS.</p> <p>a. USS is not aware of nor is it able to find any records relating to this policy having changed over time.”²⁷⁰</p>
US Squash	<p>“This circumstance has not been encountered by US Squash.”²⁷¹</p>
USA Swimming	<p>“USA Swimming’s rules permit an emergency hearing to be held after an initial investigation has been completed to determine if a member should be suspended pending the outcome of a full hearing.</p> <p>a. USA Swimming rules have provided for an emergency hearing since at least 2005.”²⁷²</p>
USA Synchronized Swimming	<p>“USA Synchro’s policies regarding what measures shall be taken upon a report or complaint of abuse have changed over time as outlined above. USA Synchro has changed its policies to implement any and all SafeSport recommendations. USA Synchro has not needed to take any interim measures, however, because USA Synchro has not received any complaints regarding</p>

²⁶⁶ Letter from Mr. Keith Enlow, USA Shooting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁶⁷ Letter from Counsel to US Ski & Snowboard to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁶⁸ Letter from Daniel T. Flynn, Chief Executive Officer, Secretary General, United States Soccer Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁶⁹ Letter from Mr. Craig Cress, Executive Director, USA Softball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

²⁷⁰ Letter from Mr. Ted Morris, Executive Director, U.S. Speedskating to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

²⁷¹ Letter from Mr. Kevin D. Klipstein, President & CEO, US Squash to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 16, 2018) (On file with Committee).

²⁷² Letter from Mr. Tim Hinchey III, Chief Executive Officer, USA Swimming to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

	sexual abuse. Therefore, no investigations have been necessary to this point. Under USA Synchro’s Administrative Rules, individuals may face suspension. ²⁷³
USA Table Tennis	<p>“If the allegation, complaint, or investigation indicates that an individual’s continued employment, membership or participation poses a risk of ongoing physical or emotional harm, “USATT may suspend the accused individual pending final resolution of the complaint to eliminate any danger to an athlete, sport participant or other individual.</p> <p>In such instances, USATT will provide the individual with notice and offer her/him an opportunity to contest the suspension.</p> <p>USATT may suspend the accused individual where there is a reasonable belief that the individual has committed emotional, physical or sexual misconduct. Evidence which may be found sufficient to support a reasonable belief includes, at a minimum:</p> <ul style="list-style-type: none"> • The suspension or termination of employment or membership by a national governing body or other sport organization; • An Incident Report Form with specific and credible information; and/or • Other legal documentation or report supporting a reasonable belief that the individual has committed emotional, physical or sexual misconduct, including abuse of a child (e.g., a criminal indictment); and/or <p>For the purposes of this Policy, a suspension from sport involvement shall mean that for the duration of the period of suspension, the accused individual may not participate in any capacity or in any role in the business, events, or activities of USATT, including events or activities sanctioned by USATT.</p> <p>a. This policy was instituted in 2013. While the phraseology has been refined in subsequent years, the substance of the policy has remained intact.” ²⁷⁴</p>
USA Taekwondo	<p>“USA Taekwondo issues interim suspensions under the circumstances described above in response to question 6.b. USA Taekwondo only takes action when it is apprised of facts that led to an investigation, as a consequence of which there may be investigations that USA Taekwondo hears about but for which USA Taekwondo is unable to obtain sufficiently specific information. For example, if a complaint goes to the U.S. Center for Safe Sport or an independent law enforcement agency, there is a very good chance that the investigation will not be disclosed to USA Taekwondo until some interim relief is issued, in which case USA Taekwondo is not in a position to act. However, if someone reports sufficiently egregious facts to USA Taekwondo, then USA Taekwondo will suspend the individual pending further investigation even if the law enforcement agency or Center for Safe Sport does not specifically keep USA Taekwondo up to date on the progress of their investigations.</p> <p>a. USA Taekwondo’s practices changed significantly with the opening of the U.S. Center for SafeSport, as the Center now has exclusive jurisdiction over sexual assault claims. In those cases in which the Center has informed USA Taekwondo that it is exercising jurisdiction, USA Taekwondo leaves the question of interim relief to the Center for SafeSport and strictly enforces any interim relief handed down by the Center.”²⁷⁵</p>
USA Team handball	<p>“During my tenure as CEO there have been no, and prior to such time I am not aware of any, sexual abuse complaints made to or handled by USATH and thus we have no actual situation to which we could cite. However, we would follow all SafeSport processes, and USOC or</p>

²⁷³ Letter from Ms. Linda Loehndorf, USA Synchronized Swimming to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 23, 2018) (On file with Committee).

²⁷⁴ Letter from Mr. Gordon B. Kaye, CEO, USA Table Tennis to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁷⁵ Letter from Mr. Steve McNally, Executive Director, USA Taekwondo to Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

	SafeSport directives and guidance in such a situation. We have discussed and preliminarily determined that, with respect to any complaints about bullying (which SafeSport leaves to the NGB and, if asked by the NGB, then could take jurisdiction over) that we would request SafeSport jurisdiction and handling. I do believe that our Bylaws provide the ability to undertake interim actions, and in any event believe that we would exercise it as a matter of executive authority in the proper situation. I am confirming this with our legal and governance expert who is helping to revise the Bylaws, and we will ensure that such power is more clearly delineated (to the extent not already in the SafeSport policies or otherwise) in the Bylaws.” ²⁷⁶
US Tennis	“In order to preserve the safety of the participants in USTA programs and events, the USTA reserves the right to and does suspend when warranted any individual who is the subject of an investigation whether said investigation is by law enforcement, the U.S. Center for SafeSport, or the USTA. The practice of taking interim measures has been consistent. This practice has evolved only to the extent that: i) the categories of individuals who the USTA has deemed subject to Safe Play policies and process has greatly expanded since 2009; and ii) the USTA complies with interim measures requested by the U.S. Center for Safe Sport arising out of the Center’s investigations of individuals in sports other than tennis.” ²⁷⁷
USA Track and Field	“As noted in the response to question 6 above, USATF does take interim measures, such as a suspension, to prevent an individual from having contact with USATF athletes during the pendency of an investigation into that individual’s conduct by law enforcement and/or the Center.” ²⁷⁸
USA Triathlon	<p>“To date, USA Triathlon has not received any SafeSport complains involving minors or other offenses that have warranted an interim suspension while an investigation is being conducted. However, USAT has the authority to hold an expedited, emergency hearing to take immediate action on two fronts. First, in the case of a matter involving SafeSport violation of a sexualized nature, the U.S. Center for SafeSport would have mandatory jurisdiction over such a matter, and the Center has a process for an interim suspension. For an alleged SafeSport violation that is not under the Center’s jurisdiction, USA Triathlon’s Hearing and Appeals Committee has the ability to hold an expedited hearing and issue an interim suspension under Article XIV of the USAT Bylaws.</p> <p>a. The ability of USA Triathlon’s Hearing and Appeals Committee to take emergency action has not changed based on current staff’s direct knowledge and after researching the issue, except when the Center launched and assumed jurisdiction for certain SafeSport complaints.”²⁷⁹</p>
USA Volleyball	<p>“Yes, USA Volleyball will take interim measures, including restricting or limiting a member’s participation in activities pending an investigation by law enforcement, the U.S. Center for SafeSport, or USA Volleyball. These types of interim measures are used for the protection of all parties pending the outcome of the investigation.</p> <p>a. USA Volleyball has utilized the practice of imposing interim measures for quite some time.”²⁸⁰</p>
USA Water Polo	“The Center has exclusive jurisdiction over allegations involving sexual misconduct. Thus, any interim measures, such as suspension, involving those matters must originate from the

²⁷⁶ Letter from Mr. Michael D. Cavanaugh, CEO, USA Team Handball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

²⁷⁷ Letter from Mr. Gordon A. Smith, Chief Executive Officer & Executive Director, U.S. Tennis Association to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

²⁷⁸ Letter from Mr. Max Siegel, CEO, USA Track & Field to H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

²⁷⁹ Letter from Mr. Rocky Harris, Chief Executive Officer, USA Triathlon to H. Comm. on Energy and Commerce, et al. (undated; received Mar. 21, 2018) (On file with Committee).

²⁸⁰ Letter from Mr. Jamie Davis, CEO, USA Volleyball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

	<p>Center. In the event that the Center suspends and individual, USA Water Polo enforces that suspension.</p> <p>As to matters not involving sexual misconduct that are not referred to the Center, 36 U.S.C. § 220522(a)(8) prevents USA Water Polo from suspending a member prior to affording the member with “fair notice and opportunity for a hearing.” Thus, USA Water Polo does not have a practice of issuing interim suspensions during the pendency of an investigation.</p> <p>a. The only change has resulted from the establishment of the Center.”²⁸¹</p>
USA Waterski	<p>“YES. If a member is under investigation, the member will be issued a temporary suspension until the matter is resolved. The USA-WSWS Judicial Committee has handled these issues prior to the launch of the Center for SafeSport. Now that the Center has been launched, we rely on the Center to administer temporary suspensions and investigate and determine a final decision.</p> <p>a. Change has been as a result of the launch of the Center for SafeSport. Previous to that, the USA-WSWS Judicial Committee was responsible for addressing these matters. The USA-WSWS bylaws had assigned jurisdiction to the Judicial Committee.”²⁸²</p>
USA Weightlifting	<p>“In our 2013-2017 policy, interim measures for allegation around SafeSport were compulsory for our National Governing Body. However, we never had cause to use these measures during that period. Since 2017 we have referred and deferred interim measures to the US Center for SafeSport. Prior to 2013, our ethics code did include sexual abuse, and there was through our Judicial Committee the ability to take interim measures (subject to a hearing) against a given individual through that code. However, to my knowledge and the knowledge of those consulted, such action was not taken in any case.”²⁸³</p>
USA Wrestling	<p>“USA Wrestling issues interim suspensions under the circumstances described above in response to question 6.b. USA Wrestling takes action when it is apprised of specific facts that lead to an investigation, as a consequence of which there may be investigations that USA Wrestling hears about but for which USA Wrestling is unable to obtain specific information. For example, if a complaint goes to the U.S. Center for Safe Sport or an independent law enforcement agency, there is a chance that the investigation will be kept secret until some interim relief is issued, in which case USA Wrestling will not be in a position to suspend a member pending the investigation. On the other hand, if someone reports sufficiently egregious facts to USA Wrestling, then USA Wrestling will suspend the individual pending further investigation even if the law enforcement agency or Center for Safe Sport does not specifically keep USA Wrestling abreast of their investigation.</p> <p>a. USA Wrestling’s practice changed only with the creation of the Center for Safe Sport. Since the opening of the Center, the Center it has maintained exclusive jurisdiction over sexual assault claims. In those cases in which the Center has informed USA Wrestling that it is exercising jurisdiction, USA Wrestling leaves the question of interim relief to the Center and enforces any interim relief handed down by the Center.”²⁸⁴</p>

However, NGBs have not always implemented or enforced interim measures appropriately. USA Taekwondo, for example, has several times failed to implement or enforce interim measures despite ongoing investigations. USA Taekwondo first began investigating

²⁸¹ Letter from Mr. Christopher Ramsey, Chief Executive Officer, USA Water Polo to H. Comm. on Energy and Commerce (undated; received Mar. 29, 2018) (On file with Committee).

²⁸² Letter from Mr. Robert T. Crowley, Executive Director, USA Water Ski & Wake Sports to H. Comm. on Energy and Commerce (Mar. 19, 2018) (On file with Committee).

²⁸³ Letter from Mr. Phil Andrews, Chief Executive Officer, USA Weightlifting to H. Comm. on Energy and Commerce (undated; received Mar. 9, 2018) (On file with Committee).

²⁸⁴ Letter from Mr. Rich Bender, Executive Director, USA Wrestling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

athlete Steven Lopez and coach Jean Lopez in 2015 after allegations that the pair had sexually assaulted multiple women over the course of more than a decade.²⁸⁵ Despite the ongoing investigations, the Lopez brothers were both allowed to compete in the 2016 Olympic games, and interim measures were not implemented against Steven Lopez until June 19, 2017.²⁸⁶ Despite the interim measure, Steven Lopez competed in the 2017 world championships which took place on June 24, 2017, and the 2018 U.S. Open and national team trials.²⁸⁷ In April 2018, Jean Lopez was banned from USA Taekwondo after the USCSS found him guilty of sexual misconduct with a minor.²⁸⁸

In another example, USA Taekwondo's Executive Director, Mr. Keith Ferguson, lifted a temporary suspension to allow an athlete to compete, despite the fact that Ferguson did not have authority to lift such a ban.²⁸⁹ On March 13, Mr. Ferguson was made aware that athlete Mr. David Metz, at the time age 37, had two prior criminal convictions, one from 2001 and the other from 2009.²⁹⁰ Mr. Ferguson referred the matter to the Ethics Committee and on June 1, 2017, USA Taekwondo temporarily suspended Mr. Metz.²⁹¹ Within five days, Mr. Ferguson held a hearing with Mr. Metz and lifted his temporary ban, allowing him to compete in the national championships later that month.²⁹² Mr. Ferguson did not have authority to hold or participate in such a hearing.²⁹³

5. Banned and Suspended Lists

Finding: NGBs have different policies regarding whether they maintain lists of banned individuals, and if they do, whether they publicize the list. Many NGBs that do not maintain a public list have individuals affiliated with their sport included in the USCSS database, indicating that members have been banned or suspended for issues related to sexual abuse.

²⁸⁵ Nancy Armour and Rachel Axon, *Lopez Brothers, Olympic Taekwondo Royalty, Hit With Sex Abuse Allegations*, USA TODAY (June 8, 2017), available at <https://www.usatoday.com/story/sports/olympics/2017/06/08/lopez-brothers-olympic-taekwondo-royalty-hit-sex-abuse-allegations/102630358/>.

²⁸⁶ *Id.*; Nancy Armour and Rachel Axon, *Olympic Taekwondo Coach Jean Lopez Banned For Sexual Misconduct With a Minor*, USA TODAY (Apr. 4, 2018), available at <https://www.usatoday.com/story/sports/olympics/2018/04/04/olympic-taekwondo-coach-jean-lopez-banned-sexual-misconduct-minor/485501002/>; H. Comm. On Energy and Commerce hearing, *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*, 115th Cong., *Preliminary Transcript* 84 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

²⁸⁷ Nancy Armour and Rachel Axon, *Olympic Taekwondo Coach Jean Lopez Banned For Sexual Misconduct With a Minor*, USA TODAY (Apr. 4, 2018), available at <https://www.usatoday.com/story/sports/olympics/2018/04/04/olympic-taekwondo-coach-jean-lopez-banned-sexual-misconduct-minor/485501002/>.

²⁸⁸ *Id.*

²⁸⁹ Nancy Armour and Rachel Axon, *USA Taekwondo Ignored Own Rules to Allow Felon to Compete*, USA TODAY (July 11, 2017), available at <https://www.usatoday.com/story/sports/olympics/2017/07/11/usa-taekwondo-allowed-felon-compete-after-ignoring-its-own-rules/464801001/>.

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.*

Moreover, the Committee also found some discrepancies between a list published by an NGB, and the searchable database maintained by the USCSS.

NGBs have different policies regarding whether they maintain lists of banned individuals, and if they do, whether they publicize the list. The Committee asked each NGB whether the NGB maintained a list of individuals banned or suspended from participation with the NGB, and if so, whether the list was publicly available.²⁹⁴ In response to the question, and as discussed in detail below, the Committee received a variety of responses including, but not limited to, that:

- (1) The NGB does not maintain a suspension/ban list;
- (2) There are no individuals who are banned from the NGB and the NGB therefore does not currently have a list of such persons;
- (3) The NGB does have a list of banned individuals, but does not make the list publicly available; and
- (4) The NGB does have a list of banned individuals and does make the list publicly available.

More specifically, the Committee received the following responses from the 48 NGBs and the USOC when it asked the organizations whether they maintained a list of individuals who are banned and suspended from participation with their organization; to describe any such lists that they maintained and when they began maintaining any such list(s); what circumstances would result in a name being added to any such list; if the list(s) was publicly available, and if so when the list(s) were became publicly available, or if the list(s) were not made publicly available, why not; how often the list(s) are updated; and how many people were on each of the lists because of a matter related to sexual abuse. The Committee found wide variation in how each NGB handles banned or suspended lists. The NGBs and the USOC reported, in part:

Organization	Maintains List?²⁹⁵	List is Public?²⁹⁶	Circumstances and Availability of List²⁹⁷
American Canoe	Yes	No	“A list starts when the ACA receives a violation contact form or call http://www.americancanoe.org/?page=ReportingMisconduct[.] ” The list is “generally” not available, “but if an individual is found guilty in the

²⁹⁴ See Individuals Letters from the Committee on Energy and Commerce to each of the 48 NGBs (Mar. 7, 2018), available at <https://energycommerce.house.gov/news/letter/letters-u-s-olympic-committee-48-national-governing-bodies-michigan-state-university-sexual-abuse-organized-sports/>.

²⁹⁵ The answer each NGB provided to the Committee is indicated in this column. Several NGBs have subsequently made changes to their banned or suspended lists since the date of their response to the Committee. Where applicable, this is indicated in a footnote.

²⁹⁶ The Committee asked each NGB whether the banned or suspended list is “publicly available.” For purposes of this column, the Committee considers “publicly available” to mean that the list is available online to the general public.

²⁹⁷ This column does not include the full response from each NGB. The Committee has also made public the narrative responses from each NGB. For the full answer to this and other questions from each NGB, please see energycommerce.house.gov

Association (ACA)			court of law then ACA would mirror other government watchdog sites.” ²⁹⁸
U.S. Biathlon Association (USBA)	No	N/A	“In the event USBA had any individuals who had been banned or suspended from participation, it would maintain a list. However, USBA does not have any individuals that meet such qualification.” ²⁹⁹
U.S. Bowling Congress (USBC)	Yes	No	“Since its inception in 2005, USBC has maintained: (i) a suspended member list; and (ii) a list of members prohibited from holding office.” “The lists have been publicly available to USBC’s state and local associations since USBC’s inception.” ³⁰⁰
U.S. Equestrian (USEF)	Yes	Yes	“Yes. USEF maintains a list of individuals who are permanently banned, temporarily suspended, suspended for a certain time, and expelled from participation with USEF.” “Yes, the lists are publicly available. They have been publicly available since prior to 2005. For a brief period of time in 2017/2018, the suspension list was available to the membership only and not the public. However, the banned list has always been made available publicly.” ^{301,302}
U.S. Figure Skating	Yes	Yes	“U.S. Figure Skating began maintaining a list of individuals banned or suspended individuals in 2001. This list is posted on the U.S. Figure Skating website and is available at: http://www.usfigureskating.org/story?id=84071&menu=memberservices .” ³⁰³
USRowing	No	N/A	“USRowing does not maintain a list of individuals banned or suspended from participation in USRowing sanctioned events or other activities.” “The U.S. Center for Safe Sport does maintain a list of individuals under investigation and/or sanctioned by the Center (including suspensions). The Center distributes that list to USRowing periodically.” ^{304,305}

²⁹⁸ Letter from American Canoe Association to H. Comm. on Energy and Commerce, et al. (May 2018) (On file with Committee).

²⁹⁹ Letter from Mr. Max Cobb, President & CEO, US Biathlon Association, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁰⁰ Letter from Mr. Chad Murphy, Executive Director, United States Bowling Congress, to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 26, 2018) (On file with Committee).

³⁰¹ Letter from Ms. Sonja S. Keating, Senior Vice-President & General Counsel, US Equestrian Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁰² These lists are available at <https://www.usef.org/compete/resources-forms/rules-regulations/safe-sport-sanctions>. In addition, USEF submitted a supplemental response to the Committee on May 25, 2018, concerning whether USEF’s list of individuals who are banned or suspended from participation with USEF is publicly available. “All **non-equestrian** banned or suspended members are no longer published publicly due to the U.S. Center for SafeSport’s notification that such information must be removed. The equestrian individuals are still published publicly, and the non-equestrian list is published to the membership behind a secure wall that cannot be accessed by the public.” Letter from Ms. Sonja S. Keating, Senior Vice-President & General Counsel, US Equestrian Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (May 25, 2018) (On file with Committee).

³⁰³ Letter from Mr. David Raith, Executive Director, U.S. Figure Skating to H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

³⁰⁴ Letter from Mr. Patrick McNerney, CEO, USRowing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁰⁵ Since submitting its response to the Committee, USRowing has posted a list of “Persons Permanently Banned from Membership in USRowing” as of August 27, 2018. This list contains current or former USRowing members permanently banned by the U.S. Center for SafeSport for participation in any NGB. It does not include individuals who have an interim measure in place, such as a suspension. USRowing, *Persons Permanently Banned from*

US Sailing	No	N/A	“We do not currently maintain a formal list of individuals banned or suspended from participating in the sport of sailing in the U.S., however we are taking steps to formalize such a list, even though at present US Sailing is not aware of any individuals who have been the subject of any such final sanction.” ^{306,307}
U.S. Ski and Snowboard (US SKI)	No	N/A	“While US Ski does not maintain a “banned list” <i>per se</i> , it publishes a membership search tool that allows any member of the general public to determine whether a particular individual has met US SKI’s standards (including passing our criminal background checks) to serve the organization. This search tool is updated each time a prospective member in a position of authority applies for membership.” ^{308,309}
U.S. Soccer Federation (U.S. Soccer)	Yes	No	<p>“Pursuant to our Bylaws and Policies, U.S. Soccer maintains a list of individuals disqualified from participating in U.S. Soccer events or those of its organization members.”</p> <p>“The list is available to U.S. Soccer and its members, but it is not made available to the general public, in part because there are many reasons an individual could be disqualified that have nothing to do with allegations of sexual abuse (for example, but not limited to, non-sexual physical assault of a referee). U.S. Soccer currently does not maintain a subset list of individuals placed on the risk management list for a specific reason.”</p> <p>“Separate from its risk management list, U.S. Soccer also refers cases of alleged sexual misconduct to the U.S. Center for SafeSport (the “Center”) for investigation. Prior to the referral, in instances where U.S. Soccer has a reasonable believe that a temporary disqualification could prevent potential future harm, U.S. Soccer adds the individual to the U.S. Soccer risk management disqualification list on a temporary basis, pending the review by the Center.”³¹⁰</p>

Membership in USRowing (Aug. 27, 2018), available at <http://www.usrowing.org/wp-content/uploads/2018/08/BannedList-082718-1.pdf> (last visited Dec. 7, 2018). On November 21, 2018, the U.S. Center for SafeSport’s searchable database included the name of individuals affiliated with USRowing who had interim measures (suspensions) in place.

³⁰⁶ Letter from Mr. Jack Gierhart, CEO, US Sailing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁰⁷ Since submitting its response to the Committee, US Sailing has created a page on its website entitled, “Sanctioned Individuals and Athletes.” The page did not include any names as of November 21, 2018. The page states, “US Sailing does not post publicly the names of minors who have been sanctioned. Should you have any questions please contact our SafeSport Department at 401-342-7966 or safesport@ussailing.org.” US Sailing, *US Sailing & SafeSport: Sanctioned Individuals and Athletes*, available at <https://www.ussailing.org/competition/resources/safesport-us-sailing/sanctioned-individuals-and-athletes/> (last visited Nov. 21, 2018). On December 7, 2018, the U.S. Center for SafeSport’s searchable database did not include the names of any individuals affiliated with US Sailing.

³⁰⁸ Letter from Counsel to US Ski & Snowboard to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁰⁹ The background screening lookup is available at <https://my.ussa.org/background-screening-lookup/search>. U.S. Ski’s Background Screening Lookup does not show whether an individual has an interim measure in place, such as a suspension. On October 11, 2018, the U.S. Center for SafeSport’s searchable database contained the name of an individual affiliated with U.S. Ski, demonstrating that individuals have been banned or suspended from the sport. However, the Background Screening Lookup showed the individual as being in compliance with U.S. Ski.

³¹⁰ Letter from Daniel T. Flynn, Chief Executive Officer, Secretary General, United States Soccer Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

U.S. Speedskating (USS)	Yes	No	<p>“USS does maintain a list of individuals banned or suspended from participation in our Organization.”</p> <p>“USS maintains a list of banned / sanctioned coaches and members. The list was created in June of 2015.”</p> <p>“The list is not publicly available, but it is available upon request to the USS Executive Director. To the extent that decisions made by USS are generally not made by a state or federal courts, USS does not make the list publicly available in order to avoid being embroiled in costly and protracted litigation of defamation claims. Such litigation also risks further public naming and harm to victims of abuse.”^{311,312}</p>
U.S. Squash	Yes	No	<p>“Yes. We have a list of banned people...maintained by a staff member who administers our conduct committee work. The list was started in 2014 when we banned our first player.”</p> <p>“The list is not public as it was determined that non-participation was adequate. The list is updated when new people are banned. No one is banned from US Squash participation due to sexual abuse.”³¹³</p>
U.S. Paralympics	Yes	No	<p>“For the Paralympic sports internal to the Olympic Committee, U.S. Paralympic keeps records regarding ineligible individuals. Within the past two months, the Paralympic sports organizations have had their first suspensions. As a result, the Olympic Committee is in the process of providing public access to its own list of ineligible individuals.”^{314,315}</p>
U.S. Tennis Association (USTA)	Yes	No	<p>“Individuals not in compliance with USTA’s Safe Play background screen requirements as outlined in the USTA’s Safe Play background screen policy...are added to the red light list maintained by the USTA; this list also includes individuals who have not been convicted of crimes of a sexual nature.”</p> <p>“We do not make these lists public; however, the USTA is currently re-evaluating its ability to do so. That said, specific to issues relating to athlete safety, we currently publish a list of individuals in compliance with the USTA Safe Play background screen requirements which can be</p>

³¹¹ Letter from Mr. Ted Morris, Executive Director, U.S. Speedskating to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

³¹² Since submitting its response to the Committee, U.S. Speedskating has made a ‘List of Permanently Banned Coaches’ publicly available on their website. This list was updated on May 26, 2018. U.S. Speedskating, *Banned Individuals List*, available at <https://www.teamusa.org/us-speedskating/about/safesport> (last visited Nov. 21, 2018).

³¹³ Letter from Mr. Kevin D. Klipstein, President & CEO, US Squash to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 16, 2018) (On file with Committee).

³¹⁴ Letter from Counsel to the United States Olympic Committee to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

³¹⁵ Since submitting its response to the Committee, the U.S. Olympic Committee has made lists for ‘Suspended Individuals’ and ‘Permanently Ineligible Individuals’ publicly available on their website. U.S. Olympic Committee, List of Individuals Under Suspension, available at <https://www.teamusa.org/Team-USA-Athlete-Services/Safe-Sport/Suspended-Individuals> (last visited Nov. 21, 2018); U.S. Olympic Committee, List of Individuals Permanently Ineligible, available at <https://www.teamusa.org/Team-USA-Athlete-Services/Safe-Sport/Permanently-Ineligible-Individuals> (last visited Nov. 21, 2018).

			found here: https://www.usta.com/en/home/about-usta/who-we-are/national/USTA-Safe-Play-Background-Screening-Results.html . ^{316,317}
USA Archery (USAA)	Yes	Yes	<p>“USAA maintains a list of individuals that have been banned or suspended from participation.”</p> <p>“The list is available on our website at: www.usarchery.org. We began posting the list on November 20, 2015.”^{318,319}</p>
USA Badminton	No	N/A	<p>“Up to the date of this letter, USA Badminton has not had any suspended or banned individuals. Thus, it does not keep such a list.”</p> <p>“USA Badminton would create and maintain such a list if the individual was banned or suspended as set forth under the USCSS Code, or USA Badminton SafeSport Policy and/or other USA Badminton policies and Bylaws.”^{320,321}</p>
USA Baseball	No	N/A	<p>“USA Baseball responds that it intends to maintain a list of any individuals banned or suspended from participation with USA Baseball; however, at present, there are no individuals that USA Baseball has banned from USA Baseball.”</p> <p>“USA Baseball will maintain a list on its website listing any individuals it may ban, whether permanently, temporarily, or on an interim basis, from participation in USA Baseball activities as a result of a finding by the SafeSport Center, or USA Baseball’s own dispute resolution procedures, or by USA Baseball’s own actions upon learning of any actions involving any individual involved with baseball who has been convicted of a felony crime, a crime involving a minor, or a crime of a sexual nature.”³²²</p>
USA Basketball	Yes	Yes	<p>“USA Basketball maintains two public lists, one for banned and suspended individuals (https://www.usab.com/youth/safesport/disciplinary-records.aspx), and one searchable list whereby the public can confirm whether an individual</p>

³¹⁶ Letter from Mr. Gordon A. Smith, Chief Executive Officer & Executive Director, U.S. Tennis Association to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³¹⁷ As of December 7, 2018, the U.S. Tennis Association has not provided a publicly available list of banned or suspended individuals on their website. However, on December 7, 2018, the U.S. Center for SafeSport’s searchable database contained the names of individuals affiliated with the U.S. Tennis Association, demonstrating that individuals have been banned or suspended from the sport.

³¹⁸ Letter from Mr. Rod Menzer, CEO, USA Archery to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³¹⁹ USA Archery’s list is available, specifically, at: <https://www.teamusa.org/USA-Archery/About-USA-Archery/Suspensions>. On November 21, 2018, there were no names listed on USA Archery’s Suspensions page, however multiple individuals associated with USA Archery were included in the U.S. Center for SafeSport’s searchable database, demonstrating that individuals have been banned or suspended from the sport.

³²⁰ Letter from Mr. Jeff Dyrek, USA Badminton to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³²¹ Since submitting their response to the Committee, USA Badminton has made a ‘Sanctioned Members’ list publicly available on their website. USA Badminton, *Sanctioned Members*, available at <https://www.teamusa.org/usa-badminton/invisible/1014/sanctioned-members>, (last visited Nov. 21, 2018).

³²² Letter from Mr. Paul Seiler, Executive Director/CEO, USA Baseball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

			has a current and valid coach license (https://community.usab.com/searches/coach).” ³²³
USA Bobsled and Skeleton (USABS)	No	N/A	“Up to the date of the letter, USABS has not had any suspended or banned individuals. Thus, it does not keep such a list.” “USABS would create and maintain such a list if the individual was banned or suspended as set forth under the USCSS Code, or USABS SafeSport Policy and/or other USABS polices and Bylaws.” ³²⁴
USA Boxing	Yes	No	“USA Boxing has maintained membership data and suspension records, “lists,” in their membership database since 1984.” “The “lists” or membership statuses are readily available 24 hours a day, seven days a week to all 53 USA Boxing Local Board of Directors and all 49 State Boxing Commissions.” ^{325,326}
USA Curling	Yes	No	“USA Curling officially began tracking sanctioned individuals when the first sanction was handed down under the USA Curling SafeSport program. Such lists allow SafeSport Coordinators to track completion of requirements for anyone who had received a sanction. The information is shared with staff internally on an as-needed basis.” “The lists are not publicly available at the present time. As noted in the <i>USA Curling SafeSport Handbook</i> , ‘The USCA’s primary concern is the safety of our members. When warranted, the USCA reserves the right to inform relevant members of the public of the alleged incident (e.g. parents of children who attended an event at which an accused individual coached, members of the club at which the incident took place, president of regional association)...Public notification may also be warranted based on the arrest or subsequent conviction of an individual.’” ^{327,328}
USA Cycling	Yes	No	“USA Cycling does maintain a list of individuals who are “not authorized to ride/suspended members.”

³²³ Letter from Gen. (R) Martin Dempsey, Chairman, USA Basketball and Mr. Jim Tooley, Chief Executive Officer, USA Basketball to H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

³²⁴ Letter from Mr. Darrin Steele, CEO, USABS to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³²⁵ Letter from Mr. Mike McAtee, Executive Director, USA Boxing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³²⁶ As of December 7, 2018, USA Boxing has not provided a publicly available list of banned or suspended individuals on their website. However, on December 7, 2018, the U.S. Center for SafeSport’s searchable database contained the names of individuals affiliated with the USA Boxing, demonstrating that individuals have been banned or suspended from the sport.

³²⁷ Letter from Mr. Rick Patzke, Chief Executive Officer, USA Curling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³²⁸ USA Curling has a ‘Disciplinary Records Search’ page on its website, however there is not a list of names provided on that page. The page contains language encouraging clubs search in the U.S. Center for SafeSport’s Disciplinary Records Database and provides a link to the U.S. Center for SafeSport’s searchable database. USA Curling, *Disciplinary Records Search*, available at <https://www.teamusa.org/USA-Curling/Sport-Education/SafeSport/Disciplinary-Records-Search> (last visited Dec. 7, 2018). As of December 7, 2018, there are individuals affiliated with USA Curling included in the U.S. Center for SafeSport’s searchable database, demonstrating that individuals have been banned or suspended from the sport.

			<p>“This list is not publicly available, however, it is viewable by USA Cycling staff members and USA Cycling licensed officials. USA Cycling is currently considering making this list publicly available.”^{329,330}</p>
USA Diving	Yes	Yes	<p>“Yes. USA Diving does maintain a list of permanently ineligible members and suspended members.”</p> <p>“The list of permanently ineligible members is publicly available on USA Diving’s website and was made public in 2015, when USA Diving banned its first member. A suspended member list is also publicly available.”³³¹</p>
USA Fencing	Yes	Yes	<p>“Yes. USA Fencing maintains a list of individuals banned or suspended from participation.”</p> <p>“Yes, all lists are public and found on our website. The current member list has been on our website for several years, the Safe Sport compliant list was implemented in 2013 and the banned and suspended list was added to the website in 2016.”³³²</p>
USA Field Hockey	Yes	Yes	<p>“We have a Suspended Member list within our Membership Database. We began this list in 2012 when SafeSport was created.”</p> <p>“The list is posted: https://www.teamusa.org/usa-field-hockey/programs/safesport.”^{333,334}</p>
USA Golf	No	N/A	<p>“In the event USA Golf is presented with a determination by the U.S. Center for SafeSport (USCSS) of a suspension or ban of an individual due to a violation of the Policy, USA Golf will establish, maintain, and make public a list of such persons suspended or banned.”</p> <p>“However, USA GOLF will make public any list it maintains of individuals banned or suspended from participation with USA GOLF.”³³⁵</p>
USA Gymnastics (USAG)	Yes	Yes	<p>“USA Gymnastics began maintaining a list of permanently ineligible members in 1990.... The list may be found at: https://usagym.org/pages/aboutus/pages/permanently_ineligible_members.html.”</p> <p>“The Suspended List reflects the names of individuals currently suspended, and it is not intended to be a historical record of members</p>

³²⁹ Letter from Mr. Derek Bouchard-Hall, President & CEO, USA Cycling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (undated; received Mar. 26, 2018) (On file with Committee).

³³⁰ As of December 7, 2018, USA Cycling has not provided a publicly available list of banned or suspended individuals on their website. However, there are individuals affiliated with USA Cycling included in the U.S. Center for SafeSport’s searchable database, demonstrating that individuals have been banned or suspended from the sport.

³³¹ Letter from Ms. Michele Mitchell, Chairman, Board of Directors and Mr. Lee W. Johnson, CEO, USA Diving to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³³² Letter from Ms. Kris Ekeren, Executive Director, USA Fencing to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³³³ Letter from Mr. Simon Hoskins, Executive Director, USA Field Hockey to H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³³⁴ USA Field Hockey also has a publicly available banned list which is *available at* <https://www.teamusa.org/USA-Field-Hockey/PROGRAMS/SafeSport/Banned-Members> (last visited Dec. 7, 2018).

³³⁵ Letter from Mr. Andrew B. Levinson, Executive Director, USA GOLF Federation, Inc. to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

			<p>who have been suspended previously, nor names of minors serving suspensions. For this reason, the list is not exhaustive, and should be used to supplement research. See: https://usagym.org/pages/aboutus/pages/suspended_members.html.”</p> <p>“The permanently ineligible member list has been available since 1990. The suspended list was made public in 2018.”³³⁶</p>
USA Hockey	Yes	No	<p>“Yes. USA Hockey maintains a record in its database of former members that have been deemed ineligible for registration with or participation in USA Hockey programs.”</p> <p>“USA Hockey has not made lists of ineligible persons publicly available primarily because its internal controls for participant registration prohibit a person on the banned list from being eligible to participate in any USA Hockey program.”^{337,338}</p>
USA Judo	Yes	Yes	<p>“Yes, USA Judo keeps a public list of individuals banned or suspended from participation with not only USA Judo, but also with two additional U.S. Judo Organizations; United States Judo Association (USJA) and United States Judo Federation (USJF) as part of a reciprocal agreement since they share many of the same members between the three organizations.”</p> <p>“The list of banned and suspended individuals can be found at the following URL: https://www.teamusa.org/usa-judo/about-us/governance/disciplinary-actions.”³³⁹</p>
USA National Karate-do Federation (USA-NKF)	Yes	No	<p>“USA-NKF maintains two lists relative to SafeSport issues. A list of members whose membership is terminated or suspended due to SafeSport Violations and a list of exceptions for members whose NCSI Background Check red light was overridden to allow them to be compliant with SafeSport. Overrides can occur when the red light incident is old, no further incidents have occurred, and the incident does not involve sexual abuse or misconduct.”</p> <p>“USA-NKF does not publish any banned member lists. Since the U.S. Center for SafeSport assumed jurisdiction for cases of sexual misconduct individuals that they establish their ineligibility are publicly available on the SafeSport.org website.”^{340,341}</p>

³³⁶ Letter from Ms. Kerry J. Perry, President and CEO, USA Gymnastics to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³³⁷ Letter from Mr. Pat Kelleher, USA Hockey to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³³⁸ As of November 21, 2018, USA Hockey has not provided a publicly available list of banned or suspended individuals on their website. However, on December 7, 2018, there were individuals affiliated with USA Hockey included in the U.S. Center for SafeSport’s searchable database, demonstrating that individuals have been banned or suspended from the sport.

³³⁹ Letter from Mr. Keith Bryant, CEO/Executive Director, USA Judo to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

³⁴⁰ Letter from Mr. Phil Hampel, Chief Executive Officer, USA National Karate-do-Federation to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 9, 2018) (On file with Committee).

³⁴¹ As of December 7, 2018, USA Karate has not provided a publicly available list of banned or suspended individuals on their website. However, as of December 7, 2018, there are individuals affiliated with USA Karate included in the U.S. Center for SafeSport’s searchable database, demonstrating that individuals have been banned or suspended from the sport.

USA Luge	No	N/A	“No” ³⁴²
USA Pentathlon	No	N/A	“We do not maintain a list at this time because we have had zero cases. Should we have need for a list, one would be created and maintained.” “Should we have need to create a list, such list would be public.” ³⁴³
USA Racquetball	Yes	No	“Yes.” “We asked during our 1st incident if this needed to be made public and were advised by SafeSport that we should not change our current procedures. Due to the nature of SafeSport, our Board is now considering making a suspended list public.” ^{344,345}
USA Roller Sports (USARS)	No	N/A	“Currently lists have not been created specific to this subject. But as a result of this request and in moving forward, USARS has been diligently reviewing all historical documents to establish a working list that will be able to be shared as needed.” “Previously, USARS use[d] to list ineligible members through a magazine publication. As of today, there is no list published via our website or other mediums. Pending Executive Board approval in April, this policy will change and be posted via our website and other appropriate mediums.” ^{346,347}
USA Rugby	Yes	No	“USA Rugby utilizes two lists to track the information on individuals prevented from participating due to misconduct or abuse.” “The first list is the USOC SafeSport list of banned individuals provided to each of the NGBs. This list is kept current with banned and suspended individuals across all NGB organizations.” “The second list is the USA Rugby list of denied individuals due to background check failure. This is a list we keep internally in our membership database system to prevent those individuals from registering with USA Rugby in the future, or at least until they are eligible for membership. USA Rugby has kept this list since their inception of the background check program in 2011.”

³⁴² Letter from Mr. Jim Leahy, Chief Executive Officer, USA Luge to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 22, 2018) (On file with Committee).

³⁴³ Letter from Mr. Rob Stull, Managing Director, USA Pentathlon to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Apr. 20, 2018) (On file with Committee).

³⁴⁴ Letter from USA Racquetball to H. Comm. on Energy and Commerce (undated; received Mar. 28, 2018) (On file with Committee).

³⁴⁵ As of December 7, 2018, USA Racquetball has a ‘SafeSport Disciplinary Records’ page on its website, however there is not a list of names provided on that page. The page provides a link to the U.S. Center for SafeSport’s searchable database, which as of December 7, 2018 includes individuals affiliated with USA Racquetball, demonstrating that individuals have been banned or suspended from the sport. USA Racquetball, *SafeSport Disciplinary Records*, available at <https://www.teamusa.org/USA-Racquetball/Instructors/SafeSport/SafeSport-Disciplinary-Records> (last visited Dec. 7, 2018).

³⁴⁶ Letter from Mr. Eric Steele, Executive Director, USA Roller Sports to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁴⁷ As of December 7, 2018, USA Roller Sports’ website contains a ‘Banned and Suspended Members’ tab, under the ‘Active Members/Clubs’ tab, USA Roller Sports main website, available at <https://www.teamusa.org/USA-Roller-Sports> (last visited Dec. 3, 2018), which redirects to the U.S. Center for SafeSport’s searchable database. On December 7, 2018, the U.S. Center for SafeSport’s database includes individuals affiliated with USA Roller Sports, demonstrating that individuals have been banned from the sport.

			“The background check failure list is not publicly available to protect the individuals on the list from further recourse professionally. Many of the background check failures are due to items like a DUI or other non-abuse or misconduct related situations.” ^{348,349}
USA Shooting (USAS)	No	N/A	“USAS is currently in the process of creating a list of individuals banned or suspended from participation with USAS and will add people to such list when cases re complete (i.e. all appeals are final).” “The list will be available to all NGBs via the USCSS Adjudication Log.” ³⁵⁰
USA Softball	Yes	No	“Yes. we maintain an internal list of members who are ineligible to participate with USA Softball based on our background check policy.” “No, the lists are not available publicly, however, our State and Metro association administrators have access to view members who are ineligible to participate with USA Softball.” ^{351,352}
USA Swimming	Yes	Yes	“USA Swimming has maintained a <i>List of Individuals Permanently Suspended or Ineligible for Membership</i> (https://usaswimming.org/utility/landing-pages/safe-sport/banned-member-list---perm), since 2010 and a <i>List of Individuals Suspended or Ineligible – Specific Date</i> (https://www.usaswimming.org/utility/landing-pages/safe-sport/banned-member-list---temp) since 2016.” “Yes, the lists are publicly available on USA Swimming’s website and have been publicly available since they were first maintained (2010 and 2016, respectively).” ³⁵³
USA Synchronized Swimming (USA Synchro)	No	N/A	“There are no individuals currently suspended or banned from participation with USA Synchro due to sexual abuse or harassment (as there have not been any such allegations at US Synchronized Swimming), and therefore USA Synchro does not have a list of individuals who are currently ineligible.” ³⁵⁴
USA Table Tennis (USATT)	Yes	No	“USATT currently maintains an internal list of banned or suspended members.”

³⁴⁸ Letter from Mr. Dan Payne, Chief Executive Officer, USA Rugby to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁴⁹ As of December 7, 2018, USA Rugby’s website contains a link to “Search the Database of Suspended & Banned Individuals,” link, which redirects to the U.S. Center for SafeSport’s searchable database. USA Rugby, *SafeSport, available at* <http://usarugbysafesport.com/> (last visited Nov. 21, 2018). On December 7, 2018, the U.S. Center for SafeSport’s database includes individuals affiliated with USA Rugby, demonstrating that individuals have been banned from the sport.

³⁵⁰ Letter from Mr. Keith Enlow, USA Shooting to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁵¹ Letter from Mr. Craig Cress, Executive Director, USA Softball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 19, 2018) (On file with Committee).

³⁵² Since submitting its response to the Committee, USA Softball has made an ‘USA Softball Ineligibility List’ publicly available at <https://www.teamusa.org/USA-Softball/Resources/SafeSport/USA-Softball-Ineligibility-List> (last visited Dec. 7, 2018).

³⁵³ Letter from Mr. Tim Hinchey III, Chief Executive Officer, USA Swimming to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁵⁴ Letter from Ms. Linda Loehndorf, USA Synchronized Swimming to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 23, 2018) (On file with Committee).

			“However, given the current circumstances, USATT is in the process of creating such a list, which is projected to list individuals suspended or banned without regard for the reason that the person is on the list....Such a list will be made publicly available on the association’s website.” ³⁵⁵
USA Taekwondo (USAT)	Yes	Yes	“USA Taekwondo maintains lists of a) individual members who are banned or suspended from USAT activities for ethical, judicial, or SafeSport reasons, and b) a Competition Suspension List for athletes/coaches/referees who are suspended from competitions for competition related infractions (cheating, etc.). List a has been maintained since 2010, list b has been maintained since 2016. Both are published on the Team USA website.” “USA Taekwondo makes the lists publicly available and has done so since 2010 in the case of ethical, judicial or SafeSport related suspensions, and 2016 in the case of competition related suspensions.” ³⁵⁶
USA Team Handball (USATH)	No	N/A	“We do not have a list of banned or suspended individuals for sexual abuse because, up to this point in time, no one has ever been charged and thus not banned or suspended for sexual abuse allegations/convictions. However, if this did occur then we would, in addition to following SafeSport policy, publish a list of such individuals. This list would be maintained on our website for public viewing and it would be reviewed and updated on a regular and as needed basis.” ³⁵⁷
USA Track and Field (USATF)	Yes	Yes	“Yes. USATF does maintain a list of individuals banned or suspended from participating within USATF. Right now, there are two lists – a disciplinary list (see http://www.usatf.org/About/SafeSport/Disciplinary-Records.aspx) and a doping suspension list (see http://www.usatf.org/About/Anti-Doping/Doping-Suspensions.aspx).” ³⁵⁸
USA Triathlon	Yes	Yes	“USA Triathlon publishes a list of banned members (https://www.teamusa.org/USA-Triathlon/USAT-for-Me/Athlete-Resources/SafeSport/Permanently-Banned-List). Those members are flagged in USA Triathlon’s membership database and if the person is a coach, USA Triathlon also has a banned coach list.” ³⁵⁹
USA Volleyball (USAV)	Yes	Yes	“USA Volleyball maintains a list of those individuals who have been suspended from participation in USA Volleyball.” “The list is publicly available on the USA Volleyball website since January 2018.” ^{360,361}
USA Water Polo	Yes	No	“USA Water Polo’s membership database reflects whether a member is “active” or “suspended.” This “list” has been maintained since 2006.”

³⁵⁵ Letter from Mr. Gordon B. Kaye, CEO, USA Table Tennis to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 21, 2018) (On file with Committee).

³⁵⁶ Letter from Mr. Steve McNally, Executive Director, USA Taekwondo to Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

³⁵⁷ Letter from Mr. Michael D. Cavanaugh, CEO, USA Team Handball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce (Mar. 21, 2018) (On file with Committee).

³⁵⁸ Letter from Mr. Max Siegel, CEO, USA Track & Field to H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁵⁹ Letter from Mr. Rocky Harris, Chief Executive Officer, USA Triathlon to H. Comm. on Energy and Commerce, et al. (undated; received Mar. 21, 2018) (On file with Committee).

³⁶⁰ Letter from Mr. Jamie Davis, CEO, USA Volleyball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁶¹ USA Volleyball’s publicly available list is *available at* <https://www.teamusa.org/usa-volleyball/about-us/safesport/suspended-list> (last visited Dec. 7, 2018).

			<p>“The “list” of suspended members is available on the Center’s website through the publicly available “search” function on that website. USA Water Polo members may search USA Water Polo’s database using the name of an individual to determine if an individual is a current USA Water Polo member.”^{362,363}</p>
USA Water Ski & Wake Sports (USA-WSWS)	Yes	Yes	<p>“The list of suspended individuals that was kept internally by USA-WSWS until it was posted on the USA-WSWS website in February, 2017. The suspended list was published in <i>The Water Skier</i>, the official publication of USA-WSWS, in the March/April 2017 issue and annually thereafter.”^{364,365}</p>
USA Weightlifting	Yes	Yes	<p>“Yes, our NGB does maintain a combined public list of sanctioned individuals where those sanctions are finalized and not under arbitration. That can be navigated to under both the Anti-Doping and SafeSport headings for the NGB’s website. The web address for said listing is here: https://www.teamusa.org/usa-weightlifting/membership/sanctioned-members.”</p> <p>“Our list was first made public in 2016.”³⁶⁶</p>
USA Wrestling	Yes	Yes	<p>“USA Wrestling has always maintained lists of individuals who are banned or suspended from USA Wrestling activities.”</p> <p>“USA Wrestling made the list publicly available in February 2018.”^{367,368}</p>
U.S. Olympic Committee	Yes	No	<p>“For the Paralympic sports internal to the Olympic Committee, U.S. Paralympic keeps records regarding ineligible individuals. Within the past two months, the Paralympic sports organizations internal to the Olympic Committee have had their first suspensions. As a result, the Olympic Committee is in the process of providing public access to its own list of ineligible individuals.”</p> <p>“Finally, the Olympic Committee has additional responsibilities with respect to the Olympic Training Centers that it operates in Colorado</p>

³⁶² Letter from Mr. Christopher Ramsey, Chief Executive Officer, USA Water Polo to H. Comm. on Energy and Commerce (undated; received Mar. 29, 2018) (On file with Committee).

³⁶³ As of December 7, 2018, USA Water Polo has not made a list of banned and suspended individuals publicly available on their website; rather, USA Water Polo’s website refers to the USCSS searchable database. USA Water Polo’s SafeSport page states, “[s]hould you wish to use the Center’s website, please note that it may not contain records for the time period prior to the Center’s establishment (Mar. 2017) and that, because the website is maintained by the Center, not USA Water Polo, USA Water Polo cannot warrant that the website is complete or current.” USA Water Polo, *SafeSport*, available at <http://www.usawaterpolo.org/resources/safe-sport.html> (last visited Dec. 7, 2018). In addition, on December 7, 2018, the U.S. Center for SafeSport’s database includes individuals affiliated with USA Water Polo, demonstrating that individuals have been banned from the sport.

³⁶⁴ Letter from Mr. Robert T. Crowley, Executive Director, USA Water Ski & Wake Sports to H. Comm. on Energy and Commerce (Mar. 19, 2018) (On file with Committee).

³⁶⁵ The link provided in USA Water Ski & Wake Sports response did not work, however the ‘Suspended Member List’ is available at <http://www.usawaterski.org/graphics/downloads/USAWSWSuspendedMembers.pdf> (last visited Dec. 7, 2018).

³⁶⁶ Letter from Mr. Phil Andrews, Chief Executive Officer, USA Weightlifting to H. Comm. on Energy and Commerce (undated; received Mar. 9, 2018) (On file with Committee).

³⁶⁷ Letter from Mr. Rich Bender, Executive Director, USA Wrestling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁶⁸ USA Wrestling’s list is publicly available at <https://www.teamusa.org/usa-wrestling/membership/ineligible-members> (last visited Dec. 7, 2018).

			Springs and Lake Placid. For these sites, the Olympic Committee maintains a “no access list” that restricts certain individuals from accessing the training centers. ^{369,370}
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The Committee also asked the USCSS to provide information about banned or suspended lists. The USCSS told the Committee that the USCSS maintains information on individuals banned or suspended in three formats:

- A publicly-searchable database of adult individuals who have been banned or suspended since the Center opened in March 2017 from participating in any NGB, and which includes any matter investigated and resolved by the USCSS;
- An Adjudication Log of individuals banned or suspended from participating in any NGB, which is circulated to the athlete protection contacts at the USOC and each NGB every two weeks; and
- A link to any similar list maintained by an NGB, which is made available to the public through the Center’s website.³⁷¹

As shown in the above table, there is wide variation in the approaches that different entities in the Olympic community take regarding banned and suspended lists. As indicated above, some NGBs create and maintain a historical list of banned individuals accessible to the general public; however, these NGBs are the exception, and not the norm. Other NGBs reported to the Committee that they share banned or suspended lists with their members, but do not publicly post those lists; have banned lists, but only share it with certain officials; maintain a searchable database of members in good standing, from which you can infer when a member is not in good standing; or have not banned or suspended any individuals, but would make a list public if they were to do so.

Several NGBs pointed the Committee toward the USCSS searchable database in lieu of creating and/or publicizing their own list of banned and suspended individuals. While the USCSS maintains a searchable database including decisions, interim actions, administrative holds, and stipulated resolutions from March 2017 to present, and a page that links to certain NGB’s public lists of banned and/or suspended individuals that were publicly available pre-

³⁶⁹ Letter from Counsel to the United States Olympic Committee to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

³⁷⁰ Since submitting its response to the Committee, the U.S. Olympic Committee has made lists for ‘Suspended Individuals’ and ‘Permanently Ineligible Individuals’ publicly available on its website. U.S. Olympic Committee, List of Individuals Under Suspension, *available at* <https://www.teamusa.org/Team-USA-Athlete-Services/Safe-Sport/Suspended-Individuals> (last visited Dec. 7, 2018); U.S. Olympic Committee, List of Individuals Permanently Ineligible, *available at* <https://www.teamusa.org/Team-USA-Athlete-Services/Safe-Sport/Permanently-Ineligible-Individuals> (last visited Dec. 7, 2018).

³⁷¹ Letter from U.S. Center for SafeSport to H. Comm. on Energy and Commerce (Apr. 13, 2018) (On file with Committee).

March 2017,³⁷² it is not a comprehensive or historical list of all banned and suspended individuals.

In addition to a lack of consistency in whether NGBs maintain their own banned or suspended lists and whether they make those lists public, there is a lack of consistency in what circumstances would result in an individual being added to a banned or suspended list for an organization. For example, for the NGBs who rely on the USCSS' decisions alone to determine whether to add an individual to their banned or suspended lists and/or don't have their own publicly available banned or suspended list and rely on the USCSS' searchable database, the only individuals listed are those banned or suspended lists are for misconduct of a sexual nature from March 2017 to present. Some NGBs, like USA Volleyball (USAV), have individuals on their banned and suspended list for additional reasons (including, for example, violations of USAV's Code of Conduct, Coaches Code of Conduct, and Bylaws).³⁷³ Other NGBs, such as USA Cycling, have not made their lists public, but include individuals on their banned and suspended lists for reasons other than those related to SafeSport (including, for example, financial obligations such as unpaid fines, bad credit card, and insufficient funds; suspensions issued by the U.S. Anti-Doping Agency (USADA) for use of banned or chemical substances; suspensions from other national federations; code of conduct violations; and SafeSport policy violations).³⁷⁴

In a few instances where the NGB has a publicly available banned or suspended list, the Committee found discrepancies between names included on the NGB's website and names included in the USCSS' searchable database. For example, on October 11, 2018 when Committee staff reviewed USAA's public suspensions page, no names were listed on this page. However, on the same day the USCSS' searchable database included the names of individuals affiliated with USAA. Similarly, on October 11, 2018, when Committee staff examined the USOC's "Suspended Individuals" page, two names appeared on the list. However, those two names did not appear in the USCSS' searchable database. Most, if not all NGBs that maintain publicly available lists noted that they update their lists as soon as a decision is made to either add or remove an individual from the banned or suspended list and/or when their ban or suspension has expired. Therefore, it is unclear if these types of discrepancies are indicators of inconsistencies between the USCSS and the NGBs and USOC or whether the individuals' sanctions were over and the NGBs and USOC simply had not updated their lists.

While there have been improvements to the availability of banned and suspended lists since the Committee's letters to all 48 NGBs and the USOC, weaknesses still exist since not all NGBs maintain a banned or suspended list that is publicly available and there is no centralized and historical database with all banned and suspended individuals.

³⁷² U.S. Center for Safe Sport, Disciplinary Records, *available at* <https://safesport.org/userviolations/search> (last visited May 17, 2018).

³⁷³ *See chart above*; Letter from Mr. Jamie Davis, CEO, USA Volleyball to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (Mar. 20, 2018) (On file with Committee).

³⁷⁴ *See chart above*; Letter from Mr. Derek Bouchard-Hall, President & CEO, USA Cycling to Hon. Greg Walden, Chairman, H. Comm. on Energy and Commerce, et al. (undated; received Mar. 26, 2018) (On file with Committee).

During the May 2018 hearing, Ms. Lyons was asked about the lack of a centralized database including all individuals historically banned from participating in an NGB.³⁷⁵ Ms. Lyons testified that there needs to be consistency across the NGBs:

Q. All right. So let me ask you this. Would those cases, if something happened and somebody was banned or there was disciplinary action, show up on the Center's website where you can go check to see if somebody has been disciplined?

A. **I think that our banned lists are very incomplete today.** And I'm very glad you brought it up, because it is one of the first things we need to do. We have to have consistency against the NGBs collecting that information. To the extent that we have cases, we have to collect it. **It all needs to be ultimately put together in one database where everyone will have transparency to it. That does not exist today.**³⁷⁶

Ms. Lyons expanded upon the importance of a transparent and centralized database of banned and suspended individuals:

[Q.] First of all, I would like to start off by saying that as a mother of four whose kids played local organized sports growing up, this is a difficult hearing topic. It is really upsetting to think that my kids and their teammates could have been coached by someone who had a history of misconduct, and even more disturbing to think that I and the rest of the parents would not have known if that was the case because, as we've recently learned, in most cases lists containing the names of banned or suspended coaches isn't public information. NGBs have different policies regarding whether they maintain a list of banned coaches, and if they do, whether they publicize the list. The committee asked all 48 NGBs and the USOC whether or not they maintained a list of individuals banned or suspended from participation with the NGB, and if so, whether the list was publicly available. Only 18 NGBs have a banned or suspended list that is available to the general public. Other NGBs reported to the committee that they shared banned or suspended lists with their members but do not publicly post those lists, have banned lists but only share it with certain officials, maintain a searchable database of members in good standing, or have not been banned or suspended any individuals but would make a list public if they were to do so. As you

³⁷⁵ H. Comm. On Energy and Commerce hearing, *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*, 115th Cong., *Preliminary Transcript* 72-73 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>

³⁷⁶ H. Comm. On Energy and Commerce hearing, *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*, 115th Cong., *Preliminary Transcript* 72-73 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf> (emphasis added).

can see, there's a wide variation in whether and how the NGBs and USOC make their banned or suspended list publicly available. There are clear benefits to having a publicly available list. Ms. Lyons, why hasn't it the USOC mandated that all NGBs maintain a list, and, further, that they make this list publicly available?

A. We will be working with our NGB partners. I think that we will probably all be in agreement that we need to find a good way to do this so that that information is available, transparent, and all in one centralized place where people can find it. It doesn't exist today, but we will make that a priority for us all to make that happen.

Q. So then you will consider mandating that all NGBs publish a public list of all banned or suspended individuals?

A. Yes, I think there's a number of things that will end up getting on the new compliance list that have not been there before as we exercise some more authority in this area.³⁷⁷

A centralized, comprehensive, and publicly available list of individuals that have been banned or suspended from participating in NGBs would help improve transparency, enhance accountability, and reduce the risk to athlete's safety within the Olympic community. In addition, such a list could increase the safety of athletes who participate in sport not only at the highest levels of sport, but also at the youth and club level because organizations, clubs, teams, coaches, parents, and athletes who are outside of the Olympic community would have access to this information. This is important because, particularly at the youth level, a person who is banned from one sport could be a youth coach or employee in another sport. The Olympic community would also benefit from increased uniformity across the NGBs regarding whether an individual is added to the list of banned or suspended individuals.

It would also be beneficial to the Olympic community if the USCSS added historical bans, pre-March 2017, to their database so that the USCSS' searchable database is a truly centralized and historical place for everyone in the Olympic community, and those involved at all levels of sport, to go to determine whether an individual is banned from sport. According to recent reports, "the USOC in late May required for the first time that governing bodies share information on people they had banned. SafeSport is now working to add those banned for sexual misconduct before March 2017 to the center's database. CEO Ms. Shellie Pfohl said the goal is to complete that in early 2019."³⁷⁸ While the USCSS' searchable database is a step in the right direction, it is also important that all of the NGBs consider making their banned and suspended lists public in addition to the USCSS' searchable database given that the USCSS' database does not include names prior to March 2017, and even if the USCSS did include

³⁷⁷ *Id.* at 98-100.

³⁷⁸ Nancy Armour, Rachel Axon, and Brent Schrottenboer, *Banned from the Olympic movement for sexual misconduct, these men are still coaching kids*, USA Today (Dec. 13, 2018), available at <https://www.usatoday.com/story/sports/2018/12/13/olympic-sports-scandal-coaching-kids-after-sexual-misconduct-ban/2196969002/>.

historical bans pre-March 2017, it only includes bans and suspensions that are related to SafeSport violations.

Lastly, the respective bodies within the Olympic community need to notify all the appropriate bodies of any bans or suspensions once a determination has been made on sanctioning an individual and follow through on enforcing any bans or suspensions—regardless of whether the ban or suspension is made by an NGB or the USCSS. Reports indicate that individuals who have been banned or suspended from the Olympic movement have continued to be involved in sport by continuing to coach, have ownership or affiliation with a member gym, and/or work at events or facilities affiliated with the NGB that is supposed to be enforcing their ban.³⁷⁹ While it is important to centralize and publicize any bans or suspensions, it is equally important for the Olympic community to enforce those bans, otherwise they are continuing to put athlete safety at risk.

³⁷⁹ *Id.*

VI. The Olympic Community’s Response to Recent Issues Relating to Sexual Abuse

A. Efforts Undertaken by the U.S. Olympic Committee Since 2010

1. Updating Policies and Procedures

Finding: While the USOC has taken steps to reform aspects of the NGBs structures, policies, and procedures, it took almost seven years for the USOC to implement recommendations that a Working Group made in 2010.

Over the years, the USOC periodically took steps to reform various aspects of the NGBs’ governance structures, policies, and procedures. For example, around 2005, the USOC “undertook a governance reform effort and subsequently approved governance guidelines for national governing bodies. The recommended reforms included reducing the size of national governing bodies’ boards, adding more independent directors to the boards, more clearly defining the roles and responsibilities of management, and providing financial and operational transparency.”³⁸⁰ While reforms did occur prior to 2010, the majority of the efforts to reform policies that relate to athlete safety appear to have happened in more recent years and seem to be reactionary, rather than proactive.

The 2010 sexual abuse controversy in USA Swimming was exposed with a two-part ABC News investigation on “20/20” in April 2010³⁸¹ In the aftermath of these allegations, former USOC CEO, Mr. Scott Blackmun informed the USOC Board at the USOC’s June 28, 2010, board meeting³⁸² that the USOC had established a Working Group for Safe Training Environments to develop a set of recommendations for promoting safe training environments and addressing misconduct in sport.³⁸³

The Working Group, chaired by then-Vice Chair of the Athletes’ Advisory Council (AAC) Ms. Nina Kemppl, had “four primary objectives: 1) to assess how real the problem of sexual and physical abuse is in sport; 2) to examine best practices already in place across sport (both within and outside the Olympic family); 3) to work with the NGBs and athletes through

³⁸⁰ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

³⁸¹ Megan Chuchmarch and Avni Patel, *ABC News Investigation: USA Swimming Coaches Molested, Secretly Taped Dozens of Teen Swimmers*, ABC NEWS (Apr. 9, 2010), available at: <https://abcnews.go.com/Blotter/abc-news-investigation-usa-swimming-coaches-raped-molested/story?id=10322469>.

³⁸² Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2010 – June 28, 2010 – Approved Minutes* (June 28, 2010), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2010>.

³⁸³ Team USA, *About the USOC – SafeSport – Key Actions*, available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Key-Actions> (last visited May 16, 2018).

direct outreach in order to best understand the actual needs that exist regarding this issue; and 4) to develop a set of recommendations for the USOC Board to consider.”³⁸⁴

The Working Group “reached out to coaches, NGB executives, athletes, parents, and other youth organizations. In addition, the Group engaged the CDC and several other organizations exploring similar issues in other contexts. The Group also received a great deal of unsolicited input from athletes across many different sports. Ultimately the Group determined that focus needed to be on six key areas: 1) background checks, screening and information sharing; 2) reporting systems and requirements; 3) clubs and grassroots engagements; 4) practices, policies and audits; 5) behavioral standards and definitions of abuse; and 6) training and education.”³⁸⁵

After a five-month review of sexual and physical misconduct Ms. Kempel presented the Working Group’s findings to the USOC Board. The Working Group released a report to the USOC Board of Directors on September 28, 2010, detailing six key recommendations.³⁸⁶ The Working Group recommended that:

- (1) “[T]he USOC should play a leadership role in promoting safe training environments;”
- (2) “[T]he USOC should lead by example in promoting safe training environments;”
- (3) “[T]he USOC should develop and provide a centralized set of training and education materials focused on sexual and physical misconduct that can be adopted by NGBs, clubs and grassroots sports organizations;”
- (4) “[T]he USOC should develop a centralized online toolkit that provides a set of resources addressing various issues pertaining to sexual and physical misconduct in sport that can be used by NGBs, clubs and grassroots sports organizations;”
- (5) “[T]he USOC should work with NGBs to centralize and standardize the delivery of services designed to promote safe training environments;” and
- (6) “[T]he USOC should encourage NGBs to adopt policies, practices, programs and tools to address sexual and physical misconduct, and NGBs should, in turn, encourage clubs and other grassroots organizations in its sport to adopt similar measures.”³⁸⁷

³⁸⁴ Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2010 – September 24-25, 2010*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2010> (last visited Aug. 30, 2018).

³⁸⁵ *Id.*

³⁸⁶ Team USA, *Safe Training Environments Working Group Issues Report* (Sept. 28, 2010), available at <https://www.teamusa.org/News/2010/September/28/Safe-Training-Environments-Working-Group-Issues-Report>.

³⁸⁷ The U.S. Olympic Committee, *Working Group for Safe Training Environments – Recommendations to the USOC Board of Directors* (Sept. 28, 2010), available at http://assets.teamusa.org/assets/documents/attached_file/filename/31249/092810_USOC_Working_Group_Final_Recommendations_to_the_Board_of_Directors.pdf.

In addition to presenting the six key areas identified by the Working Group, the Board meeting minutes state that the Group “determined that the issue of sexual abuse is very real in sport and that a call to action is needed. The Group believes that the USOC is in the right position to take a leadership role in this area, and suggests that the Board adopt a strong policy statement indicating that abuse is unacceptable in sport...To do so, the USOC should include guidance on the issue of sexual and physical abuse in all of its policies and code of conduct forms.”³⁸⁸ The Board’s meeting minutes also noted, however, that, since the NGBs are separate from the USOC, the USOC should encourage, though not require, NGBs to adopt policies, procedures, programs, and tools to address sexual and physical misconduct.³⁸⁹

As the NGBs are separate entities from the USOC, the Working Group determined that the USOC should encourage (though not require) NGBs to adopt policies, practices, programs and tools to address sexual and physical misconduct and that the USOC should encourage NGBs, in turn, to encourage their clubs and other grassroots organizations in their sport to do the same.

While the NGBs are separate entities from the USOC it is not clear from the meeting minutes how or why the Working Group came to the determination that the USOC should encourage, though not require, NGBs to adopt these policies, procedures, programs, and tools to address sexual and physical misconduct, especially when it felt that the USOC was in the right position to take a leadership role in this area.

Based on the 2010 Working Group for Safe Training Environments report, “the USOC hired a director of safe sport in 2011 charged with developing a robust program to address misconduct in sport by providing information, training and resources.”³⁹⁰ It wasn’t until two years after the Working Group was convened, in 2012, that the Olympic Committee adopted the SafeSport Handbook.³⁹¹ Following the Working Group’s recommendations, the USOC launched its SafeSport initiative in March 2012.³⁹² The program was designed to improve the safety of athletes by providing information, training, and resources.³⁹³

A June 2012 memorandum from Ms. Malia Arrington, then-Director of Ethics & Safe Sport at the USOC, to Mr. Scott Blackmun, then-CEO of the USOC provided a SafeSport Update after the Board meeting. The memorandum described the status of the USOC’s

³⁸⁸ Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2010 – September 24-25, 2010*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2010> (last visited Aug. 30, 2018).

³⁸⁹ *Id.*

³⁹⁰ Team USA, *U.S. Olympic Committee launches Safe Sport program* (Mar. 16, 2012), available at <https://www.teamusa.org/Media/News/USOC/US-Olympic-Committee-launches-Safe-Sport-program>.

³⁹¹ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

³⁹² Team USA, *U.S. Olympic Committee launches Safe Sport program* (Mar. 16, 2012), available at <https://www.teamusa.org/Media/News/USOC/US-Olympic-Committee-launches-Safe-Sport-program>.

³⁹³ Team USA, *USA Weight Lifting, CEO Appointed to Safe Sport Working Group* (Aug. 1, 2013), available at <https://www.teamusa.org/USA-Weightlifting/Features/2013/August/01/CEO-Appointed-to-Safe-Sport>.

SafeSport initiative; and to address the two issues raised during the March 2012 Board meeting that were identified for further discussion: 1) working with the NGBs to get a sense for the NGB community's reaction should the USOC insist on criminal background checks, and 2) providing the Board with some concepts around athlete resources.³⁹⁴ The memo included results from a survey soliciting NGB feedback on four questions concerning criminal background checks. In sum, 37 of the then 47 NGBs responded. Of the NGBs that responded, 35 required some form of criminal background check, 2 did not conduct criminal background checks at all.

In August 2013, USOC established a SafeSport Working Group on Investigation, Adjudication, and Sanctions. The purpose of the working group was to “survey the resources currently available to NGBs, look at various models for investigating and enforcing misconduct in sport, and make a recommendation to the USOC on a clear way forward.”³⁹⁵

In September 2013, the Safe Sport Working Group for Case Management Models was created to “deliver an informed recommendation to the U.S. Olympic Committee concerning possible models to manage the investigation and resolution of safe sport cases.”³⁹⁶ The Preliminary Recommendation noted that “NGBs strongly support centralizing all case management measures, including investigation, resolution and disciplinary measures, and voiced the strongest support for centralizing cases involving sexual misconduct.”³⁹⁷ The Working Group had six key recommendations regarding model, governance, jurisdiction, authority, procedures, and participation.³⁹⁸ Of note was recommendation six of the 2013 Safe Sport Working Group for Case Management Models Preliminary Recommendation to the U.S. Olympic Committee Chief Executive Officer which addressed the issue of participation noting that the Working Group believed full NGB participation was critical to the success of effective case management for safe sport and recommended that the USOC bylaws be amended to require participation.³⁹⁹

³⁹⁴ USOC SafeSport Update Memorandum from Malia Arrington, Director, Ethics & Safe Sport, USOC, to Scott Blackmun, Chief Executive Officer, USOC (June 11, 2012) (On file with Committee).

³⁹⁵ Team USA, USA Weight Lifting, *CEO Appointed to Safe Sport Working Group* (Aug. 1, 2013), available at <https://www.teamusa.org/USA-Weightlifting/Features/2013/August/01/CEO-Appointed-to-Safe-Sport>.

³⁹⁶ 2013 Safe Sport Working Group for Case Management Models, Preliminary Recommendation to the U.S. Olympic Committee Chief Executive Officer (Sept. 30, 2013) (On file with Committee).

³⁹⁷ *Id.*

³⁹⁸ *Id.*

³⁹⁹ *Id.*

Recommendation #6: Participation

To ensure a strong, effective and credible system for addressing safe sport cases, participation by Olympic and Pan-American NGBs and Paralympic Sports Organizations should be mandatory.

The working group agrees that full NGB participation is critical to the success of effective case management for safe sport. The working group recommends the USOC bylaws be amended to require participation as follows:

An Olympic, Pan-American or Paralympic Sport Organization, to fulfill its membership obligations and to be considered a member in good standing with the USOC, shall comply with the safe sport policies of the USOC and with the policies and procedures of the independent safe sport entity designated by the USOC to enhance safe sport practices, investigate and resolve safe sport violations, and abide by and enforce any matter addressed by the safe sport entity. No exceptions to such procedures shall be allowed, unless granted by the CEO, or his or her designee, after allowing the NGB or PSO to present the reasons for such exception.

On January 1, 2014, the USOC implemented a Minimum Standards Policy for Athlete Safety Programs.⁴⁰⁰ According to the USOC, “[t]he policy required national governing bodies to create comprehensive safety policies. As the Olympic Committee was implementing the recommendations, it concluded that the community needed an independent entity dedicated to athlete safety, and it began the process of launching the Center.”⁴⁰¹ In June 2014, the USOC approved the creation of the USCSS.⁴⁰² In December 2015, the USOC board amended its bylaws to make participation in the USCSS a requirement for all NGBs.⁴⁰³

The USOC further described the requirements of each NGB to comply with the USCSS’s policies and procedures:

Under section 8.7(1) of the Olympic Committee’s bylaws, each national governing body must comply with the policies related to SafeSport and, additionally, the policies and procedures of the Center. In 2017, the Olympic Committee replaced the minimum standards with the NGB Athlete Safety Policy. The NGB Athlete Safety Policy requires national governing bodies to maintain an athlete safety program that contains certain minimum standards, including prohibiting misconduct (emotional, physical, and sexual misconduct, including bullying, hazing, and harassment), requiring criminal background checks at least every two years for individuals who have authority over or frequent contact with athletes, implementing education training and requirements, establishing a reporting procedure, and

⁴⁰⁰ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

⁴⁰¹ *Id.*

⁴⁰² Team USA, *Safe Sport About*, available at <https://www.teamusa.org/Home/Team%20USA%20Athlete%20Services/Safe%20Sport> (last visited Dec. 4, 2018).

⁴⁰³ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

establishing enforcement procedures. The Olympic Committee, in its NGB Athlete Safety Policy, requires that national governing bodies mandate that covered individuals come under the jurisdiction of the Center.⁴⁰⁴

Between 2010 and 2017 the USOC established various working groups to assess the problem of sexual and physical abuse in sport, examine best practices already in place, and develop recommendations for the USOC to improve policies and procedures across the Olympic community. While it is encouraging that the USOC created these working groups and made incremental changes, it is concerning that it took the USOC seven years between establishing the initial working group which “determined that the issue of sexual abuse is very real in sport and that a call to action is needed”⁴⁰⁵ and when the USOC moved to centralize the case management for safe sport related issues and make participation by the NGBs mandatory.

2. The USOC’s Authority Over the NGBs

Finding: Until more recently, the USOC has provided conflicting responses when asked if they believe they are responsible for the safety and wellbeing of athletes, as well as whether they have authority over NGBs.

Over the years the USOC has provided conflicting responses when asked whether they are responsible for the safety and wellbeing of athletes, as well as whether they have authority over the NGBs. In a September 2016 deposition, then-Senior Director of Ethics and SafeSport at the USOC Ms. Malia Arrington was asked, in the context of concern over athlete safety, if the USOC “has the authority to tell its National Governing Body to do something.”⁴⁰⁶ She stated in response that the USOC does not have such authority over an NGB, citing the Ted Stevens Act.⁴⁰⁷ She testified:

⁴⁰⁴ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

⁴⁰⁵ Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2010 – September 24-25, 2010*, available at: <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2010> (last visited Aug. 30, 2018).

⁴⁰⁶ *Gatt, et al., v. USA Taekwondo, et al.*, Superior Court of California, County of Los Angeles, BC599321, Transcript, Video Deposition of Malia Arrington (Sept. 27, 2016) available at <https://www.scribd.com/document/384339594/Malia-Arrington-transcript> (last visited Nov. 21, 2018).

⁴⁰⁷ *Id.*

4	Q. Well, if -- if you were concerned about	10:17:46
5	the safety of the athletes after Gitelman was	10:17:47
6	coaching following suspension, what did the USOC do	10:17:53
7	to prevent him from continuing to coach?	10:17:55
8	A. The USOC does not have the authority to do	10:17:59
9	anything.	10:18:02
10	Q. But it has the authority to tell it's	10:18:02
11	National Governing Body to do something, correct?	10:18:03
12	A. No. Not correct.	10:18:07
13	Q. Why not?	10:18:08
14	MS. HOLM: Well, it's objected.	10:18:10
15	Objection. Argumentative as phrased.	10:18:10
16	I instruct you not to answer the "why	10:18:10
17	not."	10:18:15
18	A. Sorry. Is -- is the question why doesn't	10:18:17
19	the USOC have that authority?	10:18:20
20	Q. (By Mr. Estey) Yeah.	10:18:23
21	A. Again, I think it goes back to the Ted	10:18:23
22	Stevens Act and the autonomy that National Governing	10:18:26
23	Bodies have over their own processes.	10:18:28
24	Q. What portion of the Ted Stevens Act are	10:18:32
25	you referring to?	10:18:34
1	A. I don't know. I mean, I'd have to --	10:18:35
2	there -- it's a pretty thick document. I'd have to	10:18:36
3	look at it.	10:18:38

Similarly, in a September 2016 deposition of Mr. Gary Johansen, USOC's then-Associate General Counsel, Mr. Johansen testified that he did not believe that the USOC had any power or control over the NGBs, though he did acknowledge that the USOC has the ability to decertify NGBs.⁴⁰⁸

⁴⁰⁸ *Id.*

2	Q.	Does the USOC have any power or control	01:51:29
3		over the NGBs?	01:51:33
4	A.	No.	01:51:35
5	Q.	None at all?	01:51:35
6	A.	No.	01:51:36
7	Q.	Does the USOC have the ability to	01:51:37
8		decertify an NGB?	01:51:42
9	A.	Yes.	01:51:44

Further, at least some of the NGBs believed that they lacked the authority to exert influence and control over their membership – whether that be clubs or individuals. For example, the June 2017 *Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes* conducted by Deborah J. Daniels, found that there was a belief by USAG that it lacked the ability to exert influence and control over clubs.⁴⁰⁹ The report stated:

Because of the fact that USA Gymnastics member clubs are private, independent businesses, USA Gymnastics has long held the belief that while it can exhort member clubs to enforce Safe Sport policies, it cannot require them to do so.⁴¹⁰

The same report also found that clubs were not required to report physical or sexual abuse to USAG or to law enforcement authorities. Under the Participant Welfare Policy, which was in effect as of mid-June 2017, members “may” notify USAG of suspected abuse, but were not required to do so.⁴¹¹ The policy stated:

[A]ny person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws.⁴¹²

The belief that USAG lacked the authority to exert influence or control over their membership also extended to requiring training regarding the current code of ethical conduct or

⁴⁰⁹ Deborah J. Daniels, with assistance from Praesidium, Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes 40 (June 26, 2017), available at https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf.

⁴¹⁰ *Id.*

⁴¹¹ *Id.* at 42.

⁴¹² *Id.*

the Participant Welfare Policy,⁴¹³ screening volunteers,⁴¹⁴ and reporting of violations of the code that fall short of actual suspected abuse.⁴¹⁵

At the Subcommittee's May hearing, Ms. Susanne Lyons was questioned about whether the USOC sees itself as responsible for overseeing and enforcing policies that keep athletes safe. She testified:

Q. Does the USOC see itself as responsible for overseeing and enforcing policies that keep athletes safe?

A. Yes, I think that we do view ourselves as responsible. And I think if we have had a failing, it is that we have not adequately exercised our authority in that manner.

Q. My question was, is that your responsibility? And you've answered yes.

A. Yes, I believe it is.

Q. Is it a top priority for the USOC?

A. It is a top priority.

Q. The article references a deposition in a 2016 lawsuit in which a Taekwondo athlete alleged that she was raped by her coach at the USOC's Olympic Training Center. USOC's lawyer, Gary Johansen, was asked whether protecting athletes from abuse was a top priority for the USOC. His response: "The USOC does not have athletes." Does the USOC believe that it has the authority to require NGBs to implement policies and procedures?

A. Yes, I believe the act does grant us that authority. And I think a change we need to make is for us to exercise that authority more thoroughly.⁴¹⁶

Ms. Lyons was also asked the ability the USOC has to enforce those policies and procedures. She testified:

⁴¹³ *Id.* at 75.

⁴¹⁴ *Id.* at 48.

⁴¹⁵ *Id.* at 87.

⁴¹⁶ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong., Preliminary Transcript 51 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.*

Q. What ability does the USOC have to enforce policies and procedures?

A. I think the act grants us a great deal of authority. I think one of the areas that we most need to look at and this is why we have introduced a governance review is that we have two main levers, we can take away funding or we can decertify. Our main activity is to decide if an NGB is certified.⁴¹⁷

Finally, Ms. Lyons was asked about the USOC's authority, pursuant to the Ted Stevens Act, to mandate that NGBs take action regarding athlete safety. She testified:

Q. Ms. Lyons, there appears to be a history of the USOC knowing about allegations of sexual abuse and doing nothing. Over the years, the USOC has taken a number of positions on how much authority it has to protect athletes. USOC officials have said they, quote, "don't have athletes," close quote, that the Ted Stevens Act doesn't you the authority to mandate that the NGBs take action on this issue. As recently as 2016 USOC officials said in a deposition that they don't have the authority to, quote, "do anything," close quote, if the USOC was concerned about the safety of athletes. So I want to ask you a simple question. What precisely is the authority of the USOC when it comes to protecting athletes?

A. I think the act gives us a much broader authority than we have exercised in the past.⁴¹⁸

While policies and procedures have improved, the USOC still takes a permissive approach with NGBs, including on issues related to athlete safety. For example, the USOC's 2018 Policies & Rates for the Olympic Training Centers states:

The USOC, at its discretion, **may** require that any individual who requests access, or who has been provided access, to a USOC Training Center undergo an authorized background check, conducted by the National Center for Safety Initiatives ("NCSI") or any other entity the USOC chooses to retain.⁴¹⁹

The use of the word "may" rather than "must" reflects that the USOC's own policies reflect a reluctance to require something that would likely improve athlete safety.

⁴¹⁷ *Id.*

⁴¹⁸ *Id.* at 57-58.

⁴¹⁹ USOC, Olympic Training Centers, 2018 Policies & Rates *available at* https://www.teamusa.org/-/media/USA_Bobsled_Skeleton/Documents/OTC-Policy-and-Rates-2018.pdf?la=en&hash=02812D3A863E07C4AB81D55A267F9C6352A55F09 (emphasis added).

More recently, the USOC has begun to reevaluate what authorities it has over the NGBs. For example, participation in USCSS is now a condition of continued membership in the USOC.⁴²⁰ In addition, in June 2018, the USOC announced that it would be forming an Athlete & NGB Engagement Commission, to be chaired by the Women’s National Basketball Association (WNBA) President Lisa Borders.⁴²¹ The purpose of the Athlete & NGB Engagement Commission is to “evaluate the structure of the U.S. Olympic and Paralympic community” and “review how the USOC interacts with and oversees the 49 diverse National Governing Bodies, and how the organization can better engage with the athletes it serves.”⁴²² The Athlete & NGB Engagement Commission has been seated with nine individuals and is expected to have its first meeting in September. It is expected that the Athlete & NGB Engagement Commission will have findings and make recommendations in 2019 regarding any changes that are needed to the Amateur Sports Act, the USOC and NGB bylaws, or other policies and procedures.⁴²³

In addition to the USCSS and the Athlete & NGB Engagement Commission, the USOC has begun to exercise its authority over the NGBs. On November 5, 2018, the USOC filed a complaint against USAG under Section 8 of the USOC’s Bylaws.⁴²⁴ Section 8.1 of the USOC Bylaws, effective September 21, 2018, authorizes the USOC to take appropriate action to terminate membership in the USOC and to revoke the recognition of an amateur sports organization as a NGB. As such, the complaint seeks to revoke USAG’s recognition as a member NGB of the USOC. The complaint filed by the USOC cites the relevant factors as to why the complaint was filed, which include: 1) ongoing implementation of Daniels Report recommendations; 2) managerial deficiencies; 3) financial uncertainty; and 4) loss of athlete and public trust.⁴²⁵ The USOC’s requested remedies are that USAG immediately and voluntarily surrender its membership in the USOC as an Olympic Sports Organization and its recognition as the NGB for the sport of Gymnastics.⁴²⁶ If USAG does not voluntarily surrender, USAG’s membership in the USOC as an Olympic Sports Organization is terminated and USAG’s recognition as the NGB for the sport of Gymnastics is revoked.⁴²⁷ Additionally, the USOC requested that USAG resign its membership in the Federation Internationale de Gymnastique, effective immediately.⁴²⁸

⁴²⁰ Team USA, *Safe Sport*, available at <https://www.teamusa.org/about-the-usoc/safe-sport> (last visited May 16, 2018).

⁴²¹ Team USA, News, U.S. Olympic Committee Establishes Athlete & NGB Engagement Commission To Evaluate Structure Of U.S. Olympic And Paralympic Community, available at <https://www.teamusa.org/News/2018/June/14/US-Olympic-Committee-Establishes-Athlete-NGB-Engagement-Commission-Lisa-Borders-WNBA> (last visited Sept. 20, 2018).

⁴²² *Id.*

⁴²³ E-mail from Staff, U.S. Olympic Committee, to Staff, H. Comm. on Energy and Commerce (Sept. 18, 2018) (On file with Committee)

⁴²⁴ Team USA, USOC Statement Regarding Action To Revoke USA Gymnastics’ Recognition As Member National Governing Body (Nov. 5, 2018), available at <https://www.teamusa.org/News/2018/November/05/USOC-Statement-Revoke-USA-Gymnastics-Recognition-As-Member-National-Governing-Body>.

⁴²⁵ U.S. Olympic Committee, Section 8 Complaint against USA Gymnastics (Nov. 5, 2018) (On file with Committee).

⁴²⁶ *Id.*

⁴²⁷ *Id.*

⁴²⁸ *Id.*

In light of the complaint filed by the USOC, the USOC's new CEO, Ms. Sarah Hirshland, wrote an open letter to the gymnastics community in the U.S. explaining the action taken by the USOC as well as addressing what it might mean for the gymnastics community.⁴²⁹ Ms. Hirshland's letter notes that "[u]ntil the process is completed and a final determination on USAG's status is made, we will work to ensure that gymnastics training and competitions will continue as usual," and that the USOC is "developing both a short- and longer-term plan and will communicate it as soon as we can," and questions remain in the gymnastics community as to how athletes will continue to be supported throughout this process.⁴³⁰ On November 21, 2018, the USOC announced that it is moving forward with the process to revoke USAG's NGB status after USAG refused to voluntarily give up its status.⁴³¹ On December 5, 2018, USAG filed for bankruptcy, citing the lawsuits that the organization is facing as the primary reason for seeking protection from creditors in federal bankruptcy court in Indianapolis.⁴³² Not only could the filing halt the litigation while the process unfolds in bankruptcy court, but also it could freeze the USOC's attempt to remove USAG's status as an NGB.⁴³³ The USOC is reviewing the effect of the bankruptcy filing on its complaint.⁴³⁴

Historically, the USOC has taken the position that it has limited authority over the NGBs and its ability to sanction the NGBs is limited to decertification or defunding. The Olympic community would benefit from a comprehensive reevaluation of what authorities are available to the USOC in order for it to adequately and appropriately oversee the NGBs. Additionally, the Olympic community would benefit from the USOC considering what additional sanctions might be appropriate to reprimand an NGB. While decertification and defunding can be effective tools, the Olympic community has expressed concerns throughout the Committee's investigation that these two forms of sanctions have a direct negative impact on the athletes.

3. Baker Tilly Audits

Finding: Baker Tilly Virchow Krause found that 43 organizations, including the USOC and many NGBs, were not in compliance with the Athlete Safety Standards.

Finding: The USOC replaced the Athlete Safety Standards with the NGB Athlete Safety Policy on June 20, 2017. Due to the timing of the Baker Tilly audits, the audits themselves and the accompanying fieldwork of the NGBs were conducted based on a policy that had already been updated.

⁴²⁹ Team USA, USOC Statement Regarding Action To Revoke USA Gymnastics' Recognition As Member National Governing Body (Nov. 5, 2018), available at <https://www.teamusa.org/News/2018/November/05/USOC-Statement-Revoke-USA-Gymnastics-Recognition-As-Member-National-Governing-Body>.

⁴³⁰ *Id.*

⁴³¹ Nancy Armour and Rachel Axon, *USA Gymnastics won't give u governing body status, USOC is starting revocation process*, USA TODAY (Nov. 21, 2018), available at <https://www.usatoday.com/story/sports/olympics/2018/11/21/us-olympic-committee-starts-process-revoke-usa-gymnastics-status/2079315002/>.

⁴³² Joseph Ax, *USA Gymnastics, reeling from abuse claims, files for bankruptcy*, REUTERS (Dec. 5, 2018), available at <https://www.reuters.com/article/us-gymnastics-usa/usa-gymnastics-reeling-from-abuse-claims-files-for-bankruptcy-idUSKBN1O42NK>.

⁴³³ *Id.*

⁴³⁴ *Id.*

Per the USOC Bylaws and Performance Partnership Agreements, the USOC has the right to conduct audits of NGBs and High Performance Management Organizations (HPMO).⁴³⁵ The USOC engaged Baker Tilly Virchow Krause (hereinafter referred to as “Baker Tilly”) to assist the USOC in the completion of audits to assess compliance with safe sport policies and procedures at the USOC and all its NGBs and HPMOs.⁴³⁶

The audits began in April 2017 and the initial audit reports for each organization were issued in October 2017.⁴³⁷ Some of the organizations were found to be in compliance with the SafeSport policies and procedures and didn’t have any observations, but 43 organizations—including the USOC—were found to have deficiencies. Following the initial audit in October 2017 each organization, including the USOC, was given 90 days to correct remaining deficiencies.⁴³⁸ The NGBs and HPMOs that were found to have deficiencies had their corrective actions reviewed by the USOC’s Audit Division, which issued any necessary follow-up reports on the status of any recommendations that were made.⁴³⁹ At the time of the Committee’s review, some organizations had more than one follow-up report.⁴⁴⁰ The USOC’s Audit Division’s methodology in the follow-up reports was limited to communication with the respective organization and a review of various policies provided by that organization.⁴⁴¹ The Audit Division did not perform additional audit work to verify action was taken but noted in the follow-up reports that SafeSport will be tested during the routine audit process going forward.⁴⁴²

The Baker Tilly audits were useful in identifying areas for improvement within each NGB and the USOC to ensure compliance, as well as highlighting how all NGBs are different and therefore may implement policies and procedures differently. However, effective June 20, 2017, the USOC replaced the Athlete Safety Standards with the NGB Athlete Safety Policy. Of note in the USOC and NGB’s Baker Tilly audits, due to the timing of their audits, fieldwork was performed in accordance with the Athlete Safety Standards.⁴⁴³ Therefore, the Baker Tilly audits, and therefore fieldwork of the NGBs were conducted based on a policy that has already been updated. Additionally, concerns have been raised that the scope of the audits may have been too narrow with respect to the number of documents reviewed, the number of personnel interviewed,

⁴³⁵ Team USA, Safe Sport Audit Reports, United States Olympic Committee (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴³⁶ Team USA, Safe Sport Audit Reports, *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴³⁷ Team USA, Safe Sport, 2017 Audit Reports (2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 5, 2018).

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ Subsequent to the Committee’s review, it appears that, in instances where an NGB had multiple follow-up reports, all but one follow-up report was removed from the website.

⁴⁴¹ Cover Letters in Follow-Up Reports from Bridget Toelle, Senior Director, Audit and Ellen Senf, Staff Auditor, to each NGB that received a Follow-Up Report from the USOC’s Audit Division, *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 5, 2018).

⁴⁴² *Id.*

⁴⁴³ Team USA, Safe Sport Audit Reports, United States Olympic Committee (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

and the size of the samples selected to test compliance with background checks were performed and education and training was completed for each NGB.

i. USOC's Audit

Finding: The USOC's audit by Baker Tilly Virchow Krause found deficiencies; however, the USOC did not have a follow-up report issued by the USOC's Audit Division until after the Committee's hearing.

At the time of the Subcommittee's hearing, the USOC was the only organization audited by Baker Tilly that was found to have deficiencies in its initial audit but did not have a follow-up report issued by the USOC's Audit Division. Ms. Lyons was questioned about whether or not the USOC planned to conduct a follow-up audit given the other NGBs with deficiencies had follow-up audits.⁴⁴⁴ She testified:

Q. The audit of the USOC itself also found a number of deficiencies for USOC. If you could turn to Tab 2 in your notebook there.

In Tab 2, you'll see that audit. And these included a lack of guidance and specific requirements on anonymous or confidential reporting by survivors, training, and background checks, to name a few.

Unlike the NGBs with deficiencies, however, there doesn't appear to have been a follow up audit of the USOC. Do you plan to conduct a follow up audit?

A. Let me just have a moment to review this.

Q. Yes, ma'am.

A. Yes. Having looked at this, I think to any extent where we have deficiencies it is required that we should do exactly the same thing that we expect of the NGBs, we should have a follow up audit and ensure that we are, ourselves, in compliance.⁴⁴⁵

On July 17, 2018, a follow-up audit report of the USOC was issued by the USOC's Audit Division.⁴⁴⁶ While the USOC's Audit Division conducted the follow-up reviews of all of the NGBs that required follow-up from the October 2017 Baker Tilly audits, it is unclear why the

⁴⁴⁴ *The U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong., Preliminary Transcript 51* (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

⁴⁴⁵ *Id.*

⁴⁴⁶ Team USA, Safe Sport Audit Reports, United States Olympic Committee Follow-up Report (July 17, 2018), available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Safe-Sport-Audit-Reports> (last visited Aug. 8, 2018). The link to the USOC's Follow-up Report has since been removed from the USOC's website.

USOC's own Audit Division conducted the follow-up review for itself, rather than having an independent entity conduct the follow-up. The follow-up review found that two of the testing recommendations were implemented and considered closed, but one testing recommendation was still in-process.⁴⁴⁷ The outstanding testing recommendation from the October 2017 Baker Tilly audit is that:

Games, Medical Staff, and Paralympics must require that individuals it formally authorizes, approves, or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes complete education and training requirements in a timely manner and before they have contact with athletes to provide assurance that they are educated on the requirements of the Athlete Safety Standards. Games, Medical Staff, and Paralympics must consistently track and verify education and training requirements are met for all required individuals. Compliance with these requirements must be completed within 90 days of receipt of the final audit report.⁴⁴⁸

The USOC's response to the recommendation was:

We agree with the condition and recommendation. Before the audit report was issued and on its own initiative, the USOC updated its SafeSport Policy to require individuals it formally authorizes, approves, or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes complete safe sport awareness training and education. Additionally, the USOC implemented processes to track and verify all required individuals take safe sport training and education for Games, Medical Staff and Paralympics.⁴⁴⁹

However, the July 2018 follow-up report conducted by the USOC's Audit Division noted that while the recommendation has been implemented for Medical Staff, the recommendations for the Games and Paralympic were still considered in process.⁴⁵⁰

Games - the Olympic and Paralympic Delegation for the Games in Korea was required to take SafeSport training. Follow up testing showed that 3% of the Delegation did not complete SafeSport Training. This recommendation is in process and will be retested in October 2018 after the Youth Olympic Games.⁴⁵¹

...

⁴⁴⁷ *Id.*

⁴⁴⁸ Team USA, Safe Sport Audit Reports, United States Olympic Committee (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁴⁹ *Id.*

⁴⁵⁰ Team USA, Safe Sport Audit Reports, United States Olympic Committee Follow-up Report (July 17, 2018), *available at* <https://www.teamusa.org/About-the-USOC/Safe-Sport/Safe-Sport-Audit-Reports> (last visited Aug. 8, 2018). The link to the USOC's Follow-up Report has since been removed from the USOC's website.

⁴⁵¹ *Id.*

Paralympic – starting in 2017 Paralympics updated its contracts to include a SafeSport training requirement. Auditor tested contracts in 2017 and 90% of contracts included the required language. One contract was an old template that did not include SafeSport training requirements. This recommendation is considered in process since not all the contracts included SafeSport training requirements. This will be retested in October 2018.⁴⁵²

In addition to the testing recommendations, six of the process improvements were implemented and are considered closed, but one process improvement is considered in-process as the USOC gathers feedback from athletes and the NGBs.⁴⁵³ The outstanding process improvement deficiency is that:

The USOC should consider updating the Athlete Safety Standards to indicate the policy applies to athletes and include requirements for athlete-specific criminal background checks and education and training.

If there are concerns related to requiring athletes to undergo background checks, then we suggest that athletes, whether they are adults or minors, are required to disclose any misdemeanors and felonies committed to allow the NGB/HPMO to determine what action to take and hold athletes accountable in an incident is revealed that they have not disclosed.

Additionally, if the USOC determines that the Athlete Safety Standards should not include athletes, then it should address athlete peer to peer abuse, criminal background checks, and education and training in a separate standard that NGBs/HPMOs will be required to comply.⁴⁵⁴

The USOC's response to the recommendation was:

We agree with the condition and believe that the recommendation will provide clarity for the NGBs and HPMS. The USOC intends to conduct a review of the NGB Athlete Safety Policy in 2018.⁴⁵⁵

In the July 2018 follow-up report conducted by the USOC's Audit Division this process improvement was considered to still be in process.⁴⁵⁶ The USOC indicated that the follow-up action is:

⁴⁵² *Id.*

⁴⁵³ *Id.*

⁴⁵⁴ Team USA, Safe Sport Audit Reports, United States Olympic Committee (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁵⁵ *Id.*

⁴⁵⁶ Team USA, Safe Sport Audit Reports, United States Olympic Committee Follow-up Report (July 17, 2018), *available at* <https://www.teamusa.org/About-the-USOC/Safe-Sport/Safe-Sport-Audit-Reports> (last visited Aug. 8, 2018). The link to the USOC's Follow-up Report has since been removed from the USOC's website.

The USOC has determined this recommendation requires further discussion within the USOC and with the NGB Council and Athlete Advisory Council. The USOC is in the process of gathering feedback and this recommendation is in process and a decision regarding athlete-specific background checks and education and training will be determined by December 31, 2018.⁴⁵⁷

The report noted that “[t]he Audit Division will continue to follow-up with the appropriate individuals until the in-process recommendations are implemented.”⁴⁵⁸

B. Efforts Undertaken by the NGBs

Finding: After incidents of sexual misconduct became public, several NGBs took steps to conduct review, audits, or investigations in an effort to improve their policies and procedures to better protect the safety of their athletes.

Over the years when various NGBs have had incidents of sexual misconduct within their organization some have taken steps to review and improve their policies and procedures in order to better protect the safety of their athletes. While improvements have been made, challenges remain among the NGBs. The section below discusses some of the actions that have been taken by NGBs in the wake of sexual misconduct reports, complaints, allegations, or findings.

1. NGB Audits, Reports, and Investigations

i. NGB Baker Tilly Audits

As previously stated, 43 organizations—including the USOC—were found to have deficiencies. The deficiencies found in the various audits show that despite the USOC’s policy that each National NGB adopt a Minimum Standards Policy for Athlete Safety Programs (Athlete Safety Standards) by December 31, 2013, the NGBs’ interpretations of how to adopt and implement such policies varied.

The audits, which focused on compliance with the USOC’s Athlete Safety Standards, showed that while the USOC had a policy “that each NGB adopt a Minimum Standards Policy for Athlete Safety Programs (Athlete Safety Standards) by December 31, 2013,”⁴⁵⁹ interpretation and application of those standards was inconsistently interpreted, and therefore implemented among NGBs. Further, despite NGBs being required to adopt minimum standards by December 31, 2013, audits conducted nearly four years later found such inconsistencies.

The audits showed that some NGBs created their policies in a way that were inconsistent with the requirements listed in the Athlete Safety Standards. For example, the Baker Tilly audits of NGBs such as USA Volleyball and USATF found that those NGB’s applications of the

⁴⁵⁷ *Id.*

⁴⁵⁸ *Id.*

⁴⁵⁹ Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit 5 (Oct. 2017), available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

Athlete Safety Standards—Application of the SafeSport Policy (Minors) policy “was inconsistent with the requirements listed in the Athlete Safety Standards and may be focused too narrowly on minors. The Athlete Safety Standards do not limit these activities to include only minors.”⁴⁶⁰ Similarly, U.S. Figure Skating’s audit found that U.S. Figure Skating’s policy did not specifically state all of the required stakeholders must complete SafeSport training and did not specifically state individuals that are required to take these trainings.⁴⁶¹ Rather, U.S. Figure SafeSport Handbook, dated July 17, 2014, used language such as “strongly encouraged,” and “highly encouraged” rather than required.⁴⁶²

For other NGBs, the Baker Tilly audits found opportunities to enhance the design, or implementation, of the NGB’s compliance with the Athlete Safety Standards. For example, some NGBs’ SafeSport-related documentation and administrative materials did not specifically define and/or prohibit bullying, hazing, harassment (including sexual harassment) emotional misconduct, physical misconduct, or sexual misconduct (including child sexual abuse).⁴⁶³ In addition, the Baker Tilly audits of NGBs, such as USRowing, USA Luge, and USA Taekwondo, found that there were opportunities to enhance the design of the NGBs’ compliance with respect to criminal background checks and education and training testing.⁴⁶⁴ Specifically, Baker Tilly found that requiring criminal background checks and education and training were not consistently enforced by those NGBs.⁴⁶⁵

During the Subcommittee’s May 2018 hearing, Ms. Susanne Lyons discussed the results of the Baker Tilly audits of the NGBs. She acknowledged lessons learned from the audits and noted that all of the NGBs found to have deficiencies have now come up to standard and stated that the USOC planned to repeat the audit process on a rotating basis to ensure that NGBs maintain their compliance with the safe sport standards.⁴⁶⁶ She testified:

Q. Routine audits are essential to promote athlete safety and to ensure that athlete safety policies are implemented correctly. Last year the

⁴⁶⁰ Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit of USA Volleyball; United States Olympic Committee SafeSport Audit of USA Track and Field (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁶¹ Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit of U.S. Figure Skating (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁶² Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit of USA Volleyball; United States Olympic Committee SafeSport Audit of US Figure Skating (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁶³ Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit of USA Luge (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁶⁴ Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit of USRowing; United States Olympic Committee SafeSport Audit of USA Luge; United States Olympic Committee SafeSport Audit of USA Taekwondo (Oct. 2017), *available at* <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).

⁴⁶⁵ *Id.*

⁴⁶⁶ *Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong., Preliminary Transcript 51 (May 23, 2018), available at* <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

Olympic Committee retained consulting firm Baker Tilly to conduct an audit of the U.S. Olympic Committee and all national governing bodies to assess their implementation of the new SafeSport requirements. Rick Adams, the committee's chief of Paralympic sports and national governing body organizational development, told the Senate judiciary committee last year that they were unique one time audits. Ms. Lyons, the October 2017 audit recommended that the Olympic Committee address 10 areas in need of improvement. I believe they're referenced in exhibit 2. Very briefly, what did you learn from having those audits conducted and implementing these recommendations? Was it a useful process?

- A. Yes, it's a very useful process, and I think audits will be a bigger part of what we do going forward. What we learned and part of this was as we were putting in new processes and procedures is that it is all NGBs are different. Some have better capabilities to very quickly adopt change, others require more help. I am glad to say that all of the NGBs that had deficiencies through that audit process have now come up to standard. And we will be repeating that audit process on a rotating basis to ensure that we continue compliance.⁴⁶⁷

The Olympic community would benefit from repeating the audit process on a rotating basis, as Ms. Lyons indicated, to ensure that there is continued compliance with safe sport standards. This practice would help ensure that all organizations within the Olympic community create, implement, and enforce comprehensive and uniform standards to ensure athlete safety. It is important to conduct continued audits, especially given how often the standards, policies and procedures have been changed or updated over the years. For example, the Baker Tilly audits conducted in 2017 were performed in accordance with the Athlete Safety Standards, but, effective June 20, 2017, the USOC replaced the Athlete Safety Standards with the NGB Athlete Safety Policy.⁴⁶⁸ Additionally, the Olympic community would likely benefit from an independent party, such as Baker Tilly, conducting the continued audits. While the USOC has its own Audit Division, having an independent third party conducting the audit eliminates any concerns of bias.

ii. Additional Actions Taken: NGB Reviews, Audits, Reports, and Investigations

In addition to the Baker Tilly Audits conducted of all the NGBs, additional audits, reports, and investigations have been conducted of some of the NGBs in the wake of sexual misconduct or abuse incidents affiliated with that NGB. Not all of these reviews have been

⁴⁶⁷ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong., Preliminary Transcript 51 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.*

⁴⁶⁸ *See Baker Tilly Audit at Footnote 2, Team USA, Safe Sport Audit Reports, United States Olympic Committee SafeSport Audit (Oct. 2017), available at <https://www.teamusa.org/Footer/Legal/Safe-Sport/2017-Audit-Reports> (last visited Dec. 17, 2018).*

made fully public, however, making it difficult for athletes and the public to determine whether an NGB made adequate—or any—changes to its policies to improve athlete safety.

USA Swimming: Safe Sport Program

In the wake of the 2010 sexual abuse controversy in USA Swimming that was exposed with a two-part ABC News investigation on “20/20” in April 2010⁴⁶⁹ USA Swimming took steps to launch “a comprehensive Safe Sport Program,” the first in the Olympic movement, “to respond to and prevent instances of abuse and misconduct within the sport of swimming.”⁴⁷⁰ In that same year, USA Swimming partnered with The Child Welfare League of America to review and make recommendations to expand its athlete protection efforts; updated their Code of Conduct and Safe Sport Best Practices were released; Athlete Protection Policies, including rules regarding travel boundaries, and grooming behaviors, were adopted; reporting policies, including mandatory reporting and anti-retaliation, were adopted; USA Swimming launched its online reporting form, which allows for anonymous and confidential reporting; the national Safe Sport Committee is appointed and charged with review of athlete protection policies, guidelines, educational programs, reporting and adjudication procedures; and USA Swimming hired a Director of Safe Sport.⁴⁷¹

USA Swimming: Vieth Report

Only three years later, in 2013, “USA Swimming commissioned Victor Vieth, Executive Director of the National Child Protection Center, to conduct a comprehensive assessment of USA Swimming’s Safe Sport Program.”⁴⁷² The four month review resulted in a January 2014 report that contained 39 recommended actions to USA Swimming’s Board of Directors.⁴⁷³ As a result of the Vieth Report, the Safe Sport Program Review Task Force was created to evaluate and prioritize the recommendations, as well as create a plan for implementation. While the Vieth Report outlined 39 recommendations, the Task Force added additional recommendations characterized as “sub-recommendations,” bringing the total number of recommendations to 54.⁴⁷⁴ Of the 54 recommendations, “the Task Force recommended implementation for 52 items, agreed with the Vieth Report not to implement one item...and did not recommend implementation for one item.”⁴⁷⁵ The September 2017 Vieth Report Progress Update noted that 28 of the 52 recommendations have been implemented; the Safe Sport Committee and staff are

⁴⁶⁹ Megan Chuchmarch and Avni Patel, *ABC News Investigation: USA Swimming Coaches Molested, Secretly Taped Dozens of Teen Swimmers*, ABC NEWS (Apr. 9, 2010), available at <https://abcnews.go.com/Blotter/abc-news-investigation-usa-swimming-coaches-raped-molested/story?id=10322469>.

⁴⁷⁰ USA Swimming, *Learn About Safe Sport*, available at <https://www.usaswimming.org/articles-landing-page/2017/02/10/protect> (last visited Dec. 5, 2018).

⁴⁷¹ USA Swimming Briefing materials provided to Comm. Staff, H. Comm. On Energy and Commerce (Feb. 9, 2018) (On file with Committee).

⁴⁷² USA Swimming, *Vieth Report Progress Update* (Sept. 2017), available at <https://www.usaswimming.org/docs/default-source/safe-sportdocuments/safe-sport-basics/vieth-report---2017-update.pdf> (last visited Dec. 5, 2018).

⁴⁷³ *Id.*

⁴⁷⁴ *Id.*

⁴⁷⁵ *Id.*

currently working on 13 of the remaining 24 items; six items have been identified as tasks better suited for the USCSS; and five items remain for the future.⁴⁷⁶

US Speedskating: Sidley Austin’s Andy Gabel Investigation

In March 2013, U.S. Speedskating announced that it planned to investigate charges of sexual misconduct that were brought against Andy Gabel, who was a three-time Olympian, U.S. Speedskating’s president from 2002 to 2006, and remained on U.S. Speedskating’s board of directors until 2010.⁴⁷⁷ One year later, in March 2014, the Sidley Austin law firm’s investigation was complete however U.S. Speedskating’s Executive Director, Mr. Ted Morris, declined to discuss the report’s findings, citing attorney-client privilege.⁴⁷⁸ Morris noted that he and an attorney met with Sidley Austin attorneys to hear the firm’s recommendations, “all of which were already worked into the federation’s Safe Sport policies that were adopted” in late 2013.⁴⁷⁹ To date, Andy Gabel does not appear on US Speedskating’s ‘List of Permanently Banned Coaches’ or in the USCSS’ searchable database.⁴⁸⁰

USA Gymnastics: Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes

In the wake of the abhorrent abuses by USAG team doctor Larry Nassar, USAG “engaged Deborah J. Daniels of Krieg, Managing Partner of Indianapolis-based Krieg DeVault LLP and a formal federal prosecutor, to conduct an independent review of USA Gymnastics’ bylaws, policies, procedures and practices related to handling sexual misconduct matters.”⁴⁸¹ The report was released on June 26, 2017 and contains the historical perspective of competitive gymnastics in the United States as well as findings and recommendations related to culture; board structure and duties; administrative management of USAG; member requirements and enforcement; screening and selection of coaches, volunteers and other adults with access to athletes; process for filing reports of misconduct; education, training and athlete support; encouraging reporting of suspected violations; national team training center; and national team selection process. Some examples of the historical perspectives, findings, and recommendations include:

⁴⁷⁶ *Id.*

⁴⁷⁷ Kelly Whiteside, *US Speedskating to investigate Gabel sex abuse charges*, USA TODAY (Mar. 4, 2013), available at <https://www.usatoday.com/story/sports/olympics/2013/03/04/former-olympic-speedskater-andy-gabel-steps-down/1962893/>.

⁴⁷⁸ Jared S. Hopkins, *US Speedskating completes Gabel investigation*, CHICAGO TRIBUNE (Mar. 24, 2014), available at <https://www.chicagotribune.com/sports/ct-xpm-2014-03-24-chi-andy-gabel-us-speedskating-20140324-story.html>.

⁴⁷⁹ *Id.*

⁴⁸⁰ Team USA, US Speedskating, *SafeSport, Banned Individuals List*, available at <https://www.teamusa.org/us-speedskating/about/safespor> (last visited Dec. 5, 2018); U.S. Center for SafeSport, Disciplinary Records, Searchable Database, available at <https://safesport.org/userviolations/search> (last visited Dec. 5, 2018).

⁴⁸¹ Deborah J. Daniels, with assistance from Praesidium, Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes (June 26, 2017), available at: https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf.

- “USA Gymnastics currently lacks systems to ensure that member clubs adhere to their membership requirements. In addition to creating systems to monitor compliance, USA Gymnastics must require members to report violations; and, when USA Gymnastics does learn of a violation, it must respond swiftly. Specifics will be provided throughout the report; but one of the primary changes in practice must be that membership of USA Gymnastics is recognized as a privilege that can and will be revoked if the standards (as revised) are not maintained.”⁴⁸²
- “While USA Gymnastics has not felt during all these years that it had the authority to require the individuals and private member clubs to follow any but the most basic of requirements in order to hold the privilege of membership, it sought to provide information, training and templates to assist the clubs in protecting young athletes from harm.”⁴⁸³
- “While there is also a significant emphasis on protecting children, as indicated in the following sections, most of the emphasis appears to be on educating the field and encouraging them to be vigilant, while taking the position that USAG has no authority to require the clubs to take specific action – including the reporting of suspected child abuse. The overall impression received externally is that the athlete protection function is, at best, secondary to the primary focus: winning medals.”⁴⁸⁴
- “Require Greater Accountability of Child Protection Function to Board [:] It has been suggested elsewhere in this report that the Board take on a more assertive role with respect to accountability.”⁴⁸⁵
- Member Requirements and Enforcement Findings: “Belief By USA Gymnastics That It Lacks Ability to Exert Influence and Control Over Clubs [:] Because of the fact that USA Gymnastics member clubs are private, independent businesses, USAG has long held the belief that while it can exhort member clubs to enforce Safe Sport policies, it cannot require them to do so.”⁴⁸⁶
- “The Participant Welfare Policy, as of mid-June 2017, recommends but does not require certain actions. It provides definitions of abuse and discusses legal reporting requirements. Under the section on Reporting Suspected Abuse, the policy provides that “any person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws.”⁴⁸⁷

⁴⁸² *Id.*

⁴⁸³ *Id.*

⁴⁸⁴ *Id.*

⁴⁸⁵ *Id.*

⁴⁸⁶ *Id.*

⁴⁸⁷ *Id.*

Ms. Daniels presented her report and recommendations to the USAG Board of Directors and the Board unanimously voted to accept the recommendations.⁴⁸⁸ In addition to the Daniels Report, the USOC wrote to USAG in January 2018 with conditions that USAG had to meet in order to avoid being terminated as the NGB for the sport – one of which was that “at each USAG board meeting, USAG must substantively discuss progress and plans for continued implementation of the findings in the Daniels Report.”⁴⁸⁹ As previously mentioned, on November 5, 2018, the USOC filed a complaint against USAG under Section 8 of the USOC’s Bylaws.⁴⁹⁰ The complaint filed by the USOC cites the relevant factors as to why the complaint was filed, which includes, among other reasons, the ongoing implementation of Daniels Report recommendations.⁴⁹¹ The USOC’s requested remedies are that USAG immediately and voluntarily surrender its membership in the USOC as an Olympic Sports Organization and its recognition as the NGB for the sport of Gymnastics.⁴⁹² If USAG does not voluntarily surrender, USAG’s membership in the USOC as an Olympic Sports Organization is terminated and USAG’s recognition as the NGB for the sport of Gymnastics is revoked.⁴⁹³ Additionally, the USOC requested that USAG resign its membership in the Federation Internationale de Gymnastique, effective immediately.⁴⁹⁴

USA Gymnastics: Ropes & Gray Investigation

The USOC hired Ropes & Gray,⁴⁹⁵ to conduct “an independent investigation into the decades-long abuse of athletes by Dr. Larry Nassar, including not only “who knew what when” and what was done in response, but also the circumstances that contributed to and allowed for Nassar’s abuse to continue for such an extended period of time.”⁴⁹⁶

On December 10, 2018, Ropes & Gray released their report after a ten-month long investigation⁴⁹⁷ “According to Ropes & Gray, the investigators interviewed more than 100

⁴⁸⁸ USA Gymnastics, *About USA Gymnastics, Recommendations contained in “Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes” by Deborah Daniels*, available at <https://usagym.org/pages/aboutus/pages/recommendations.html> (last visited Dec. 5, 2018).

⁴⁸⁹ Letter from Mr. Scott Blackmun, Chief Executive Officer, USOC to Board of Directors, USA Gymnastics re: USA Gymnastics NGB Status (Jan. 25, 2018), available at https://usagym.org/PDFs/Home/usoc_012518.pdf (last visited Dec. 5, 2018).

⁴⁹⁰ Team USA, USOC Statement Regarding Action To Revoke USA Gymnastics’ Recognition As Member National Governing Body (Nov. 5, 2018), available at <https://www.teamusa.org/News/2018/November/05/USOC-Statement-Revoke-USA-Gymnastics-Recognition-As-Member-National-Governing-Body>.

⁴⁹¹ U.S. Olympic Committee, Section 8 Complaint against USA Gymnastics (Nov. 5, 2018) (On file with Committee).

⁴⁹² *Id.*

⁴⁹³ *Id.*

⁴⁹⁴ *Id.*

⁴⁹⁵ USA Gymnastics, *Safe Sport, Individuals with relevant information are encouraged to speak with independent USOC investigator*, available at <https://usagym.org/pages/education/safesport/usocinvestigation.html> (last visited Dec. 5, 2018).

⁴⁹⁶ Ropes & Gray, Statement, available at https://www.ropesgray.com/-/media/Files/USOC/Statement-from-Ropes-Gray_3_19.pdf?la=en&hash=C839EDB2EFE4F02890FC44A5F763C68548F58739 (last visited Dec. 5, 2018).

⁴⁹⁷ Joan McPhee and James P. Dowden, Ropes & Gray, *Report of the Independent Investigation The Constellation of Factors Underlying Larry Nassar’s Abuse of Athletes* (Dec. 10, 2018), available at <https://www.nassarinvestigation.com/en>.

witnesses, had access to more than 1.3 million documents and publicly available information, including information from the USOC, USAG, survivors and others.”⁴⁹⁸ The report detailed how Nassar “acted within an ecosystem that facilitated his criminal acts. Numerous institutions and individuals enabled his abuse and failed to stop him, including coaches at the club and elite level, trainers and medical professionals, administrators and coaches at Michigan State University (“MSU”), and officials at both United States of America Gymnastics (“USAG”) and the United States Olympic Committee (the “USOC”).”⁴⁹⁹

In response to the release of the report, the USOC put out a statement noting that the “USOC has already implemented a number of reforms and initiatives, including instituting new leadership and stronger accountability measures; starting the process to revoke USAG’s recognition and determine the best path forward for gymnastics in the United States; launching, supporting and strengthening the U.S. Center for SafeSport and other athlete safety programs, policies and procedures; empowering athletes’ voices in shaping key USOC and NGB policies; and evaluating and reforming how the USOC engages with NGBs and athletes.”⁵⁰⁰ USAG also put out a statement in response to the release of the report noting that “[t]hroughout the investigation, USA Gymnastics fully cooperated with Ropes & Gray. Once we comprehensively review and understand the findings of the Ropes & Gray report, we will provide an update to all members. USA Gymnastics and the gymnastics community have made meaningful changes to help ensure athlete safety and well-being, and we may suggest more changes depending on the learnings from the report.”⁵⁰¹

This list of reviews, investigations, and reports is non-exhaustive list of actions that have been taken over the years by the USOC and NGBs, but rather is meant to be a sample of both proactive and reactive actions taken by various organizations when they have faced instances of sexual misconduct within their sport. In addition to the aforementioned reviews, investigations, and reports some NGBs have taken additional proactive steps to review their own policies and procedures and make changes, despite not being mandated to do so by the USOC. For example, while not mandated by the USOC, as previously discussed in the report, some NGBs have made their banned and suspended list public, even prior to the USCSS’ searchable publicly searchable database was created.

⁴⁹⁸ Team USA, *U.S. Olympic Committee Responds to Independent Investigation Report* (Dec. 10, 2018), available at <https://www.teamusa.org/Media/News/USOC/121018-USOC-Responds-to-Independent-Investigation-Report>.

⁴⁹⁹ Joan McPhee and James P. Dowden, Ropes & Gray, *Report of the Independent Investigation The Constellation of Factors Underlying Larry Nassar’s Abuse of Athletes 2* (Dec. 10, 2018), available at <https://www.nassarinvestigation.com/en>.

⁵⁰⁰ *Id.*

⁵⁰¹ USA Gymnastics, *A message to USA Gymnastics members and community from the USA Gymnastics Board of Directors* (Dec. 10, 2018), available at <https://usagym.org/pages/post.html?PostID=23034>.

C. U.S. Center for SafeSport

As previously mentioned, the 2010 sexual abuse controversy in USA Swimming was exposed with a two-part ABC News investigation on “20/20” in April 2010.⁵⁰² A few months later former-USOC CEO Mr. Scott Blackmun informed the USOC Board at the USOC’s June 28, 2010, board meeting⁵⁰³ that the USOC had established a Working Group for Safe Training Environments to develop a set of recommendations for promoting safe training environments and addressing misconduct in sport.⁵⁰⁴ After a five month review of sexual and physical misconduct, the Working Group released a report to the USOC Board of Directors on September 28, 2010, detailing six key recommendations.⁵⁰⁵ The Working Group recommended that:

- (1) “[T]he USOC should play a leadership role in promoting safe training environments;”
- (2) “[T]he USOC should lead by example in promoting safe training environments;”
- (3) “[T]he USOC should develop and provide a centralized set of training and education materials focused on sexual and physical misconduct that can be adopted by NGBs, clubs and grassroots sports organizations;”
- (4) “[T]he USOC should develop a centralized online toolkit that provides a set of resources addressing various issues pertaining to sexual and physical misconduct in sport that can be used by NGBs, clubs and grassroots sports organizations;”
- (5) “[T]he USOC should work with NGBs to centralize and standardize the delivery of services designed to promote safe training environments;” and
- (6) “[T]he USOC should encourage NGBs to adopt policies, practices, programs and tools to address sexual and physical misconduct, and NGBs should, in turn, encourage clubs and other grassroots organizations in its sport to adopt similar measures.”⁵⁰⁶

⁵⁰² Megan Chuchmarch and Avni Patel, *ABC News Investigation: USA Swimming Coaches Molested, Secretly Taped Dozens of Teen Swimmers*, ABC NEWS (Apr. 9, 2010), available at: <https://abcnews.go.com/Blotter/abc-news-investigation-usa-swimming-coaches-raped-molested/story?id=10322469>.

⁵⁰³ Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2010 – June 28, 2010 – Approved Minutes* (June 28, 2010), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2010>.

⁵⁰⁴ Team USA, *About the USOC – SafeSport – Key Actions*, available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Key-Actions> (last visited May 16, 2018).

⁵⁰⁵ Team USA, *Safe Training Environments Working Group Issues Report* (Sept. 28, 2010), available at <https://www.teamusa.org/News/2010/September/28/Safe-Training-Environments-Working-Group-Issues-Report>.

⁵⁰⁶ The U.S. Olympic Committee, *Working Group for Safe Training Environments – Recommendations to the USOC Board of Directors* (Sept. 28, 2010), available at http://assets.teamusa.org/assets/documents/attached_file/filename/31249/092810_USOC_Working_Group_Final_Recommendations_to_the_Board_of_Directors.pdf.

Following the Working Group’s recommendations, the USOC launched its SafeSport initiative in 2012.⁵⁰⁷ The program was designed to improve the safety of athletes by providing information, training, and resources.⁵⁰⁸ In 2013, USOC established a SafeSport Working Group on Investigation, Adjudication, and Sanctions. The purpose of the working group was to “survey the resources currently available to NGBs, look at various models for investigating and enforcing misconduct in sport, and make a recommendation to the USOC on a clear way forward.”⁵⁰⁹ In October 2013, Ms. Malia Arrington, then-Director of Ethics and Safe Sport at the USOC, presented the Board with the recommendations of the Safe Sport Working Group on investigations and adjudications.⁵¹⁰ According to the approved Board minutes, the Working Group recommended:

[T]hat case management for sexual misconduct cases should be consolidated under a new, independent entity with an independent board of directors. The new entity would focus on sexual misconduct (and any related behaviors) and have the authority to investigate, make findings and issue disciplinary measures. The entity would be focused on an investigation-based procedure rather than a criminal type process.... Further, as Ms. Arrington explained, in order to ensure consistency and efficiency, the Group believes that NGB participation should be required through the USOC’s Bylaws.⁵¹¹

One NGB, the U.S. Tennis Association (USTA), did not believe that was the best approach to the issue.⁵¹² The USOC’s then CEO, Mr. Scott Blackmun, invited representatives from USTA and the NGB Council (NGBC) to the USOC’s Board of Directors Meeting in September 2014.⁵¹³ Mr. Gordon Smith, USTA’s Executive Director and (Chief Operating Officer (COO), spoke to the Board regarding USTA’s perspective on the USOC’s proposed SafeSport initiative.⁵¹⁴

⁵⁰⁷ Team USA, *U.S. Olympic Committee launches Safe Sport program* (Mar. 16, 2012), available at <https://www.teamusa.org/Media/News/USOC/US-Olympic-Committee-launches-Safe-Sport-program>.

⁵⁰⁸ Team USA, USA Weight Lifting, *CEO Appointed to Safe Sport Working Group* (Aug. 1, 2013), available at <https://www.teamusa.org/USA-Weightlifting/Features/2013/August/01/CEO-Appointed-to-Safe-Sport>.

⁵⁰⁹ *Id.*

⁵¹⁰ Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2013 – October 10, 2013 – Approved Minutes* (Oct. 10, 2013), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2013>.

⁵¹¹ *Id.*

⁵¹² U.S. Olympic Committee, *Minutes, Board of Directors Meeting (September 25-26, 2014)*, available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2014> (last visited Aug. 27, 2018).

⁵¹³ *Id.*

⁵¹⁴ *Id.*

Mr. Gordon Smith, USTA Executive Director and Chief Operating Officer, spoke to the Board regarding USTA's perspective on the USOC's Safe Sport initiative. He expressed USTA's support for Safe Sport efforts generally, but explained that USTA does not believe that a single mandatory national entity is the best way to approach the issue. He shared his reasoning and concerns with the Board and recommended that the initiative move forward in a manner that enables a National Governing Body to opt out of the centralized structure if that entity independently meets specified stringent Safe Sport related standards on its own.

At the same meeting Mr. Rich Bender, joined by Mr. Steve Penny and Mr. Doug Beal, shared the NGBC's perspective. They "confirmed that the NGBC is strongly in support of the creation of a centralized independent entity to address safe sport issues, and believe it is critical that there be 100% NGB participation."⁵¹⁵

The USOC approved the creation of the USCSS in June 2014 and USCSS launched on March 3, 2017.⁵¹⁶ USCSS was established as a wholly independent entity designed to oversee education programs for safe sport and investigate and adjudicate claims of sexual misconduct in the U.S. Olympic and Paralympic Movements' 47-member NGBs. Participation in USCSS is a condition of continued membership in the USOC.⁵¹⁷ USCSS has exclusive authority to investigate and resolve alleged violations of the SafeSport Code for the U.S. Olympic and Paralympic Movement (the Code) involving sexual misconduct by a Covered Individual and misconduct that is reasonably related to an underlying allegation of sexual misconduct.⁵¹⁸ Moreover, at the request of an NGB or the USOC, the USCSS may accept discretionary authority over alleged violations involving any form of misconduct as set forth in the Code.⁵¹⁹ While the USCSS has exclusive authority to investigate and resolve alleged violations of the SafeSport Code for the Olympic and Paralympic community, if the incident pre-dates the effective date of the SafeSport Code, the USCSS applies the relevant NGB's policies and procedures that were applicable at the time of the alleged conduct.

USCSS' board consists of nine independent board members that meet four times per year.⁵²⁰ Most of the funding for USCSS comes from the USOC and the NGBs.⁵²¹ On February 28, 2018, the USOC announced that it planned to double the amount of funding it provides to

⁵¹⁵ *Id.*

⁵¹⁶ Team USA, *U.S. Olympic Committee Announces Formation of U.S. Center for Safe Sport Advisory Council* (Feb. 9, 2015), available at <https://www.teamusa.org/News/2015/February/09/US-Olympic-Committee-Announces-Formation-Of-US-Center-For-Safe-Sport-Advisory-Council>; Team USA, *About the USOC – Inside the USOC – Meetings – Board of Directors – 2014 – June 10, 2014 – Approved Minutes* (Jun. 10, 2014), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Meetings/Board-of-Directors/2014>.

⁵¹⁷ Team USA, *Safe Sport*, available at <https://www.teamusa.org/about-the-usoc/safe-sport> (last visited May 16, 2018).

⁵¹⁸ U.S. Center for SafeSport, *Policies & Procedures*, available at <https://safesport.org/files/index/tag/policies-procedures> (last visited May 16, 2018).

⁵¹⁹ *Id.*

⁵²⁰ U.S. Center for SafeSport, *Who We Are*, available at <https://safesport.org/who-we-are> (last visited May 16, 2018); U.S. Center for SafeSport, *Bylaws*, available at <https://safesport.org/files/index/tag/bylaws> (last visited May 16, 2018).

⁵²¹ Eddie Pells, *Sports organizations double funding to SafeSport Center*, THE KANSAS CITY STAR (Sept. 21, 2018), available at: <https://www.kansascity.com/sports/article218832935.html>; Cecelia Townes, *Q&A with Shelli Pfohl, CEO of the U.S. Center for SafeSport*, ESPN (Apr. 6, 2017), available at <http://www.espn.com/espnw/voices/article/19082380/qa-shellie-pfohl-ceo-us-center-safesport>.

USCSS.⁵²² At the Subcommittee's May 23rd hearing, the President and CEO of the USSC, Ms. Shellie Pfohl, testified that the annual budget for the USSC is a little over \$4.6 million and the USSC employed five full-time investigators, three additional support staff and seven contracted investigators—totaling roughly 12 or 13 investigators.⁵²³ According to information provided to the Committee by USSC, USSC projected it would have 26 staff by July 1, 2018.⁵²⁴ According to recent reports, the USSC now has 24 full-time employees and plans to reach 50 by Fall 2019.⁵²⁵ In addition to staffing increases, in September 2018, USOC's new CEO, Ms. Sarah Hirshland, announced that the NGBs had committed to provide more funding for the USSC.⁵²⁶ The organizations voted to add nearly \$1 million in funding for the USSC, which will result in the NGBs now giving approximately \$2 million a year to the USSC.⁵²⁷ In addition to USOC and NGB funding, outside investors have also announced additional funding for the USSC. For example, in July 2018 ESPN announced a \$100,000 grant awarded to the USSC.⁵²⁸

USSC has received a significant number of reports to USSC since opening in March 2017. Data provided to the Committee indicates that, in 2017, USSC received 227 written and oral reports, complaints, and allegations regarding sexual abuses.⁵²⁹ As of April 13, 2018, USSC had received 261 written and oral reports, complaints, and allegations regarding sexual abuses in 2018.⁵³⁰ Combined, between the USSC's opening in March 2017 through April 13, 2018, the USSC received 488 written and oral reports, complaints, and allegations regarding sexual abuse.⁵³¹ Between March 2017 and April 13, 2018, USSC resolved 156 cases and investigations.⁵³² In 120 of these 156 instances the individual became permanently ineligible to participate in the organization.⁵³³ At the Subcommittee's May 2018 hearing, Ms. Pfohl testified

⁵²² Team USA, *U.S. Olympic Committee announces significant changes to further protect athletes* (Feb. 28, 2018), available at <https://www.teamusa.org/Media/News/USOC/022818-USOC-announces-significant-changes-to-further-protect-athletes>; Brian Murphy, *As scandals rock youth sports, this group has taken hundreds of calls in its first year*, THE NEWS & OBSERVER (Mar. 5, 2018), available at <http://www.newsobserver.com/sports/article203579369.html>.

⁵²³ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations 55-56 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

⁵²⁴ Information provided to the Committee on Energy and Commerce, from the U.S. Center for SafeSport (Apr. 13, 2018) (On file with Committee).

⁵²⁵ Eddie Pells, *Sports organizations double funding to SafeSport Center*, THE KANSAS CITY STAR (Sept. 21, 2018), available at: <https://www.kansascity.com/sports/article218832935.html>.

⁵²⁶ Eddie Pells, *Incoming CEO, outgoing chair address USOC abuse head-on*, THE ASSOCIATED PRESS (Sept. 21, 2018), available at: <https://apnews.com/4b7d109ee5f44d998f252626424695bd>.

⁵²⁷ Eddie Pells, *Sports organizations double funding to SafeSport Center*, THE KANSAS CITY STAR (Sept. 21, 2018), available at <https://www.kansascity.com/sports/article218832935.html>.

⁵²⁸ Belen Michelis, *ESPN Announces a \$100,000 Grant to U.S. Center for SafeSport to Protect, Strengthen and Support the Next Generation of Athletes*, ESPN (July 23, 2018), available at <https://espnmediazone.com/us/press-releases/2018/07/test-14/>.

⁵²⁹ Information provided to the Committee on Energy and Commerce, from the U.S. Center for SafeSport (Apr. 13, 2018) (On file with Committee).

⁵³⁰ *Id.*

⁵³¹ *Id.*

⁵³² *Id.*

⁵³³ *Id.*

that the USCSS had received over 800 total reports.⁵³⁴ Subsequent to the hearing, the USCSS reported that “[a]s of July 27, 2018, the Center has received 975 reports involving some form of sexual misconduct.”⁵³⁵ In addition, the USCSS reported that “[t]here are currently 398 open matters. 223 of the reports have been resolved (i.e., investigated and adjudicated) through the Center’s process since it opened in March 2017.”⁵³⁶ When asked during the Subcommittee’s May 2018 hearing if Ms. Pfohl believed that 12 or 13 investigators was sufficient with the increase in complaints to thoroughly investigate every complaint she responded “[n]o.”⁵³⁷

Congress recently designated the USCSS to serve as the independent national safe sport organization and exercise jurisdiction over the USOC, each NGB, and each Paralympic sports organization with regard to safeguarding amateur athletes against abuse through enactment of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act.⁵³⁸ This act provides that, among other things, adults authorized to interact with certain minors and amateur athletes must report evidence of child abuse, and clarifies that the USCSS is the independent national safe sport organization responsible for developing training, oversight practices, policies, and procedures to prevent the emotional, physical, and sexual abuse of amateur athletes participating in amateur activities through NGBs and Paralympic sports organizations.⁵³⁹ In Questions for the Record for the May 2018 hearing, the USCSS reported that “all NGBs will be required to offer and provide training annually to minor athletes with parent/legal guardian consent. The Center is currently developing minor athlete training resources, which will be launched and made available to NGBs in October 2018.”⁵⁴⁰

Shortly after the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act was signed into law, Congress passed an appropriations bill that included \$2.5 million in grant money, which could be available to the USCSS through a competitive grant award.⁵⁴¹ In order to receive the money, the USCSS must apply for the grant through the Attorney General’s Office. The grant was released on May 23, 2018, and all applications were

⁵³⁴ H. Comm. On Energy and Commerce hearing, “*Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse*,” (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/>.

⁵³⁵ Response to Questions for the Record, U.S. Center for SafeSport, *Attachment-Additional Questions for the Record* (July 30, 2018) (On file with Committee).

⁵³⁶ *Id.*

⁵³⁷ H. Comm. On Energy and Commerce hearing, “*Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse*,” (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/>.

⁵³⁸ S. 534 Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017 (enacted Feb. 14, 2018), available at <https://www.congress.gov/bill/115th-congress/senate-bill/534/text?format=txt>.

⁵³⁹ *Id.*

⁵⁴⁰ Response to Questions for the Record, U.S. Center for SafeSport, *Attachment-Additional Questions for the Record* (July 30, 2018) (On file with Committee).

⁵⁴¹ H.R. 1625 Consolidated Appropriations Act, 2018 (enacted Mar. 23, 2018), available at <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>; and Melissa Nann Burke, *Spending bill funds program to fight abuse in sports*, THE DETROIT NEWS (Mar. 22, 2018), available at <https://www.detroitnews.com/story/news/politics/2018/03/22/spending-bill-funds-program-fight-abuse-youth-sports/33180301/>.

due on June 25, 2018.⁵⁴² Through this grant, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) expects to make one award of up to \$2,267,000, with a 36-month period of performance, to begin on October 1, 2018.⁵⁴³ “The SMART office may, in certain cases, provide additional funding in future years to awards made under this solicitation, through continuation awards.”⁵⁴⁴

The Protecting Young Victims from Sexual Abuse and Safe Sport Authorization, enacted in February 2018, requires the USCSS to include in its policies and procedures:

[O]versight procedures, including regular and random audits conducted by subject matter experts unaffiliated with, and independent of, a national governing body or a paralympic sports organization of each national governing body and paralympic sports organization to ensure that policies and procedures developed under that section are followed correctly and that consistent training is offered and given to all adult members who are in regular contact with amateur athletes who are minors, and subject to parental consent, to members who are minors, regarding prevention of child abuse.⁵⁴⁵

In Questions for the Record for the May 2018 hearing, the USCSS stated that “the Center is currently creating a compliance department, which will have the responsibility for developing, implementing, and executing on the audit requirement.”⁵⁴⁶ At the time of the USCSS’ response to the Questions for the Record, the Director of Compliance position had been posted, and the USCSS anticipated filling that role by September.⁵⁴⁷ In addition, that Director will hire two additional compliance staff. According to the USCSS’ response, the “Director of Compliance will work to monitor historical remediation as it prepares to evaluate the NGBs for compliance with Center policies on a moving forward basis.”⁵⁴⁸

1. Concerns about the U.S. Center for SafeSport

Finding: The USCSS is, and will continue to be, relied upon to serve as the independent national safe sport organization and exercise jurisdiction over the USOC, each NGB, and each Paralympic sports organization with regard to safeguarding amateur athletes against abuse through the enactment of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act. However, concerns remain regarding the USCSS’ resources,

⁵⁴² SMART FY 2018, Keep Young Athletes Safe, U.S. Dept. of Justice, Funding Opportunity Number: SMART-2018-14502, available at <https://www.smart.gov/pdfs/SMARTFY18KeepSafe.pdf>.

⁵⁴³ *Id.*

⁵⁴⁴ *Id.*

⁵⁴⁵ S. 534 Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017 (enacted Feb. 14, 2018), available at <https://www.congress.gov/bill/115th-congress/senate-bill/534/text?format=txt>.

⁵⁴⁶ *Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong.* (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/> (Response to Questions for the Record, U.S. Center for SafeSport).

⁵⁴⁷ *Id.*

⁵⁴⁸ *Id.*

independence, policies and procedures, and whether or not the Olympic community has confidence in the USCSS.

While the USCSS is, and will continue to be, relied upon to serve as the independent national safe sport organization and exercise jurisdiction over the USOC, each NGB, and each Paralympic sports organization with regard to safeguarding amateur athletes against abuse through the enactment of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act, concerns remain regarding the USCSS' resources, independence, policies and procedures, and whether or not the Olympic community has confidence in the USCSS.

Multiple individuals raised concerns to the Committee regarding USCSS' sources of funding, specifically, that the funding is inadequate and/or provided by entities with an interest in the USCSS. As previously stated, at the Subcommittee's May 23rd hearing, Ms. Pfohl, testified that the annual budget for the USCSS is a little over \$4.6 million. The funding sources for the USCSS include the USOC, all of the NGBs, as well as private funding. In addition, as previously mentioned, Congress passed an appropriations bill that included \$2.5 million in grant money, which could be available to the USCSS through a competitive grant award.⁵⁴⁹ In comparison, the U.S. Anti-Doping Agency annual budget for their Olympic programs in 2017 was over \$14.1 million.⁵⁵⁰ The USCSS is actively seeking additional sources of funding. The Committee has also heard differing opinions about the USOC and NGBs being two of the major funding sources for the USCSS: (1) accepting funding from the USOC and NGBs creates a perception of not being truly independent; and (2) accepting funding from the USOC and NGBs shows true buy in from those organizations as well as helps support the work of the USCSS, which is to serve as the independent national safe sport organization and exercise jurisdiction over the USOC, each NGB, and each Paralympic sports organization with regard to safeguarding amateur athletes against abuse.

USCSS must have adequate resources to meet the demands placed on the entity to investigate allegations of sexual misconduct. As previously stated, as of July 27, 2018 the USCSS had received 975 reports involving some form of sexual misconduct. At the Committee's May 2018 hearing, Ms. Pfohl, testified that, at that time, they had 12 or 13 investigators, including five full-time investigators and three additional support staff, as well as seven external contracted investigators,⁵⁵¹ and that was not sufficient to handle the increase in complaints. While the USCSS anticipated increasing the number of employees, concerns remain as to whether or not the anticipated increase in staffing would be enough to account for the

⁵⁴⁹ H.R. 1625 Consolidated Appropriations Act, 2018 (enacted Mar. 23, 2018), *available at* <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>; and Melissa Nann Burke, *Spending bill funds program to fight abuse in sports*, THE DETROIT NEWS (Mar. 22, 2018), *available at* <https://www.detroitnews.com/story/news/politics/2018/03/22/spending-bill-funds-program-fight-abuse-youth-sports/33180301/>.

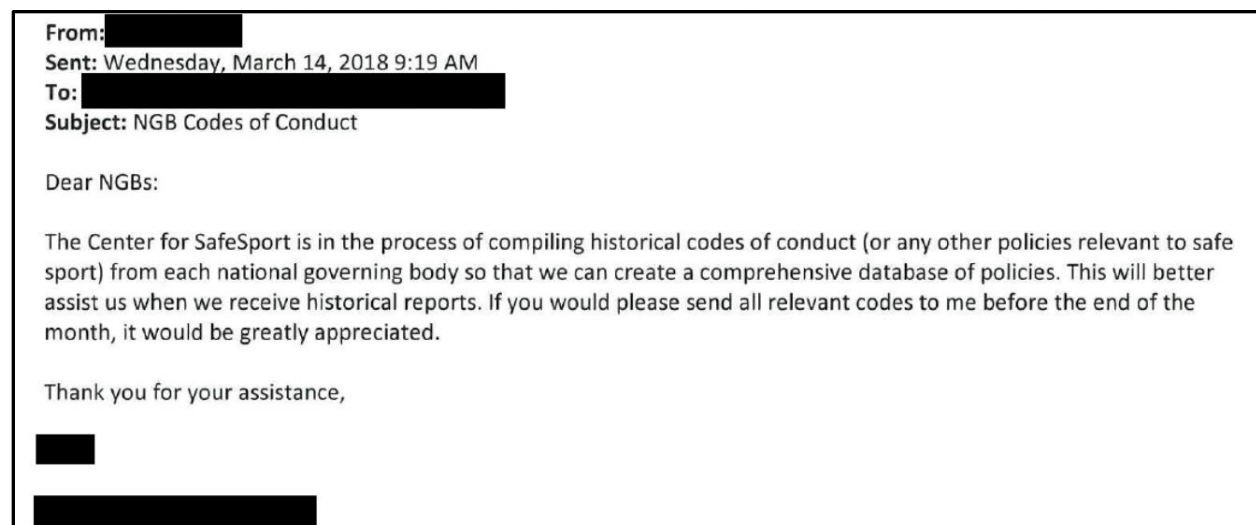
⁵⁵⁰ U.S. Anti-Doping Agency, USADA Annual Report (2017), *available at* https://www.usada.org/wp-content/uploads/2017_annual_report.pdf.

⁵⁵¹ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong.* (May 23, 2018), *available at* <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/>.

increasing number of reports they have received and will likely continue to receive. As previously stated, according to information provided to the Committee by USCSS, USCSS projected it would have 26 staff by July 1, 2018, but it is unclear whether the USCSS has fulfilled that staffing projection.

Concerns have also been raised regarding USCSS employees, including contract employees, and what background and experience they may or may not have with respect to handling and investigating cases involving sexual misconduct. As previously mentioned, and as Ms. Pfohl stated at the Committee's May 2018 hearing, the USCSS utilizes external contracted investigators.⁵⁵² This helps the USCSS manage the number of reports it has received; however it is unclear who the USCSS is contracting with to help fulfill the staffing needs and what, if any, background or experience the contractors may have in handling and investigating sexual misconduct cases. The Committee has also heard from survivors that USCSS contract employees do not always identify themselves as reaching out on behalf of the USCSS, causing confusion and concern about whether someone is, in fact, reaching out to a survivor on behalf of the USCSS.

Additionally, as previously mentioned, the USCSS investigates and adjudicates each case based on the respective NGB's policies and procedures in effect at the time that the alleged incident occurred. The Committee's investigation found that despite the USCSS opening in March 2017, the USCSS did not request that each NGB provide the USCSS with historical codes of conduct until March 14, 2018.⁵⁵³

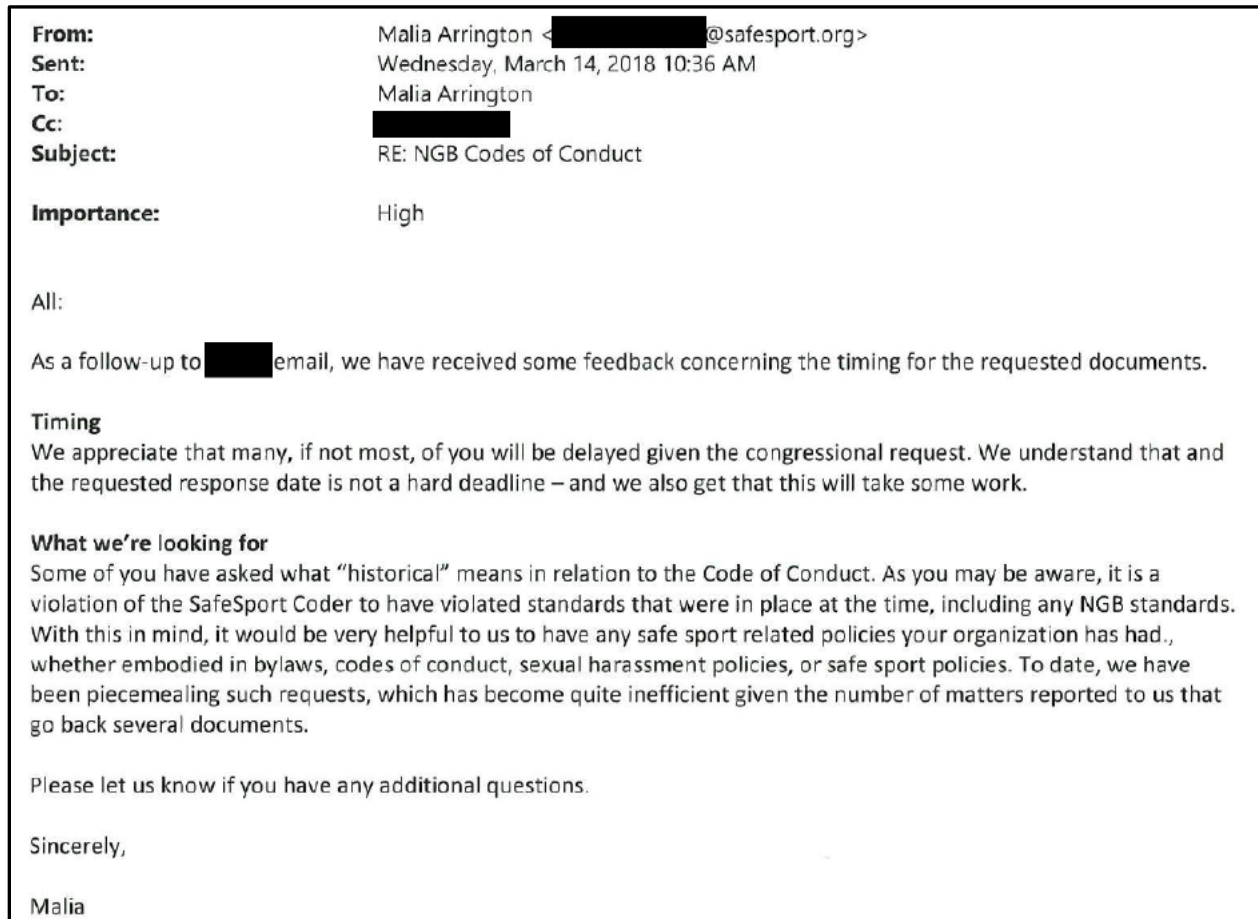


In response to Questions for the Record for the May 2018 hearing, the USCSS told the Committee that, prior to requesting and compiling all historical policies, it had requested any applicable policies from an NGB if and when it received allegations of sexual misconduct that

⁵⁵² *Id.*

⁵⁵³ E-mail from [Staff], USCSS to [Staff], USCSS, *NGB Codes of Conduct* (Mar. 14, 2018, 9:19 a.m.) (On file with Committee).

pre-dated the SafeSport Code.⁵⁵⁴ If the USCSS did not have a policy in its database, it would request the applicable policy or policies from the relevant NGB on a case-by-case basis. While the USCSS told the Committee that it had a database where it kept policies, documents produced to the Committee, such as the one below, show that the USCSS was “piecemealing” requests, which they acknowledged had “become quite inefficient given the number of matters reported to [them] that go back several documents.”⁵⁵⁵



Throughout the Committee’s investigation, athletes, family members, and advocates have voiced concerns to the Committee regarding the USCSS’s independence from the USOC and NGBs. Some individuals who have contacted the Committee shared that the majority of individuals who they have spoken with, who have experienced sexual misconduct within the Olympic community, have concerns about reporting their experiences to the USCSS and as a result, have not utilized the USCSS. Some of these concerns stem from the fact that the USCSS

⁵⁵⁴ *Examining the U.S. Olympic Community’s Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong.* (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/> (Response to Questions for the Record, U.S. Center for SafeSport).

⁵⁵⁵ E-mail from [Staff], U.S. Center for SafeSport, to [Staff], U.S. Center for SafeSport (Mar. 14, 2018, 10:36 a.m.) (On file with Committee).

was created by the USOC and two individuals who have and/or currently work at the USCSS were formerly employed by the USOC.

In March 2017, USCSS' CEO, Ms. Pfohl addressed concerns of independence reported in an article by the *Indy Star*, noting that the USCSS does employ two staff members, one of whom was until recently the COO and the other in communications and outreach, who came from the USOC, however she insisted that neither would be involved in investigations or determining sanctions.⁵⁵⁶ Additionally, at the SafeSport board meeting in March 2017, when discussing the USCSS conflict of interest policy, former USOC employee and former USCSS COO Ms. Malia Arrington, expressed that, "given the need for independence, a two-year waiting period should be implemented before an investigator who was previously affiliated with an Olympic or Paralympic organization can perform investigative services for USCSS."⁵⁵⁷ However, in the USCSS' organizational chart produced to the Committee,⁵⁵⁸ the Director of Investigations, the Director of Intake & Program Services, the Director of NGB Audit, the Director of Legal Affairs, the Director of Education & Outreach, and the Chief Marketing & Business Development Officer all report to the COO of the USCSS, formerly Ms. Malia Arrington, who is one of the former USOC employees. Further, in additional documents and communications produced to the Committee, Ms. Arrington is included in communications regarding specific reports of abuse or misconduct reported to the USCSS.

Additionally, the Committee has heard concerns over whether or not the Board of Directors is, in fact, independent, per the USCSS' Bylaws. Article II, Section 2 of the USCSS' Bylaws addresses the USCSS' Board of Directors' Qualifications, Number, Election and Tenure.⁵⁵⁹ The qualifications section states that "[e]ach director shall be "independent" within the meaning of Section 2.2(a)(i) and (ii)."⁵⁶⁰ Section 2.2(a)(i) states:

(i) A person is "independent" under these Bylaws if he or she has no material affiliation or relationship, directly or indirectly, with any National Governing Body ("NGB"), any Paralympic Sports Organization ("PSO"), the Athletes Advisory Council of the USOC ("AAC") or the United States Olympic Committee (the "USOC"), a federally chartered corporation organized pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501 – 220529 and such person is free of any other direct or indirect relationships, including with the Corporation, that could reasonably be expected to interfere with the exercise of independent judgment of such person. Persons who are required by these Bylaws to be independent shall provide to the Corporation all information requested to assist in making such determination. The Nominating and Governance Committee or the Board of Directors may from time to time adopt categorical standards to guide the determination of independence.

⁵⁵⁶ Tim Evans, Marisa Kwiatkowski and Mark Alesia, *SafeSport Center: Is it the answer to athlete sex abuse?* INDY STAR (Mar. 22, 2017), available at <https://www.indystar.com/story/news/2017/03/08/safesport-center-answer-athlete-sex-abuse/98775554/>.

⁵⁵⁷ Minutes, United States Center for SafeSport (Mar. 10, 2017), available at <https://assets.documentcloud.org/documents/4615637/SafeSport-Minutes-03-10-2017.pdf> (last visited Oct. 5, 2018).

⁵⁵⁸ Information provided to the Committee on Energy and Commerce, from the U.S. Center for SafeSport (Apr. 13, 2018) (On file with Committee).

⁵⁵⁹ U.S. Center for SafeSport Bylaws, available at <https://safesport.org/files/index/tag/bylaws> (last visited Aug. 22, 2018).

⁵⁶⁰ *Id.*

Section 2.2(a)(ii) states:

(ii) The Nominating and Governance Committee, Board of Directors may determine that while a prospective candidate does not strictly meet all of the criteria of the foregoing subparagraph (i) for independence, such person nonetheless, under all the facts and circumstances, does not have any relationship that would interfere with, or appear to interfere

with, such person's independent judgment, and thus such person may be deemed independent for purposes of these Bylaws. The Nominating and Governance Committee will only nominate candidates it determines to be independent for election by the Board of Directors pursuant to Section 2.2(c). The Nominating and Governance Committee shall review at least annually the independence of all persons who are required by these Bylaws to be independent.

Despite these independence qualifications, only three out of the nine current Board of Directors have no prior association with the USOC or NGBs.⁵⁶¹ The other six directors have former associations with the USOC or NGBs within the past three to six years. These associations include, but are not limited to, being a former athlete or member of an NGB, serving on the Board of Directors for an NGB or the USOC, serving on a Nominating and Governance Committee for an NGB, serving on Foundation Boards for NGBs, serving as a volunteer on the 2013 SafeSport Working Group, or working for a firm that is a registered lobbying firm of the USOC.⁵⁶²

As previously mentioned, the USOC Board approved the creation of the USCSS in June 2014. Further, in December 2015, the USOC board amended its own bylaws to require that all NGBs participate in the USCSS, which under section 8.7(l) of the Olympic Committee's bylaws required each NGB to comply with policies related to SafeSport and the policies and procedures of the USCSS.⁵⁶³ However, while the USOC bylaws were updated in 2015, the USCSS was not launched until March 2017. Given the lapse in time between when the bylaws were changed and when the USCSS officially launched, Committee staff asked the USCSS whether they handled any cases prior to the USCSS' launch in March 2017. The USCSS indicated that they did not handle any cases prior to the USCSS' launch in 2017. This raises concerns about whether there were clear policies or guidelines about whether the NGBs, USOC, or the USCSS were supposed to be handling, investigating, and adjudicating cases involving sexual misconduct during the period between the bylaws being changed and the USCSS' official launch.

Documents produced to the Committee show that some NGBs did not have adequate guidance from the USOC regarding who was responsible for handling reports of sexual misconduct between December 2015, when the bylaws required NGBs to participate in the USCSS, and March 2017 when the USCSS officially launched. For example, a senior individual affiliated with U.S. Ski & Snowboard Association (US SKI) emailed Ms. Malia Arrington, then-

⁵⁶¹ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse: Hearing before the H. Comm. on Energy and Commerce, Subcomm. on Oversight and Investigations, 115th Cong.* (May 23, 2018), available at <https://energycommerce.house.gov/hearings/examining-the-olympic-communitys-ability-to-protect-athletes-from-sexual-abuse/> (Response to Questions for the Record, U.S. Center for SafeSport).

⁵⁶² *Id.*

⁵⁶³ Letter from Counsel to the United States Olympic Committee, to Committee Staff, H. Comm. on Energy and Commerce (May 16, 2018) (On file with Committee).

Senior Director of Ethics and Safe Sport for the USOC in May 2016 noting that they received a call from someone alleging historic abuse within their sport.⁵⁶⁴ US SKI also noted that “[a]s directed, USSA amended its bylaws in 2015 to abdicate responsibility for reviewing these types of claims to the Center. That was done in anticipation of the Center being up and operating in Q1.”⁵⁶⁵ Given the inconsistency between the NGB’s updated bylaws and the USCSS not being operational, US SKI asked Ms. Arrington for guidance.⁵⁶⁶

From: [REDACTED]@ussa.org]
Sent: Friday, May 27, 2016 9:18 AM
To: Malia Arrington <[REDACTED]@usoc.org>
Subject: USCSP reporting?

Hello malia. I received a call this morning from someone alleging historic (25 years ago) abuse within our sport. As directed, USSA amended its bylaws in 2015 to abdicate responsibility for reviewing these types of claims to the Center. That was done in anticipation of the Center being up and operating in Q1. What are my next steps?

[REDACTED]

U.S. Ski & Snowboard Association

Ms. Arrington responded to that email stating that she would “[n]eed to think through this a bit.”⁵⁶⁷ The email exchange continues with US SKI providing Ms. Arrington with additional information about the requirements and Article 9.⁵⁶⁸

From: Malia Arrington <[REDACTED]@usoc.org>
Date: Friday, May 27, 2016 at 9:22 AM
To: [REDACTED]@ussa.org>
Subject: RE: USCSP reporting?

Need to think through this a bit. Do you happen to have the amendment handy?

⁵⁶⁴ E-mail from [Staff], U.S. Ski and Snowboard Assoc., to Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee (May 27, 2016 9:18 a.m.) (On file with Committee).

⁵⁶⁵ E-mail from [Staff], U.S. Ski and Snowboard Assoc., to Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee (May 27, 2016 9:18 a.m.) (On file with Committee).

⁵⁶⁶ *Id.*

⁵⁶⁷ E-mail from Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee, to [Staff], U.S. Ski and Snowboard Assoc. (May 27, 2016 9:22 a.m.) (On file with Committee).

⁵⁶⁸ E-mail from [Staff], U.S. Ski and Snowboard Assoc., to Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee (May 27, 2016 9:34 a.m.) (On file with Committee).

From: [REDACTED]@ussa.org]
Sent: Friday, May 27, 2016 9:34 AM
To: Malia Arrington <[REDACTED]@usoc.org>
Subject: Re: USCSP reporting?

Page 7 speaks to ongoing requirement of members to subject themselves to ussa oversight. Article 9 in various places exempts ussa from appellate responsibility for those things within the USCSS jurisdiction. I made sure that the complainant denied having any knowledge or suspicion of any ongoing conduct.

[REDACTED]
U.S. Ski & Snowboard Association

Ms. Arrington and US SKI continued to discuss the allegation, but when Ms. Arrington inquired about details that US SKI did not have, US SKI responded that they were “consciously avoiding asking him for details as in trainings we have been directed not to investigate so as not to become witnesses or contaminate the investigation.”⁵⁶⁹ Ms. Arrington responded noting the sensitivity, but advised US SKI on how to “manage this particular issue given the timing and structural challenges[.]”⁵⁷⁰

From: [REDACTED]@ussa.org>
Sent: Tuesday, May 31, 2016 7:08:02 AM
To: Malia Arrington
Subject: Re: USCSP reporting?

I consciously avoiding asking him for details as in trainings we have been directed not to investigate so as not to become witnesses or contaminate the investigation. Would you like me to ask for names?

Regards,

On May 31, 2016, at 12:56 PM, Malia Arrington <[REDACTED]@usoc.org> wrote:

I appreciate the sensitivity -- and I think to manage this particular issue given the timing and structural challenges, it would be best if we can determine whether the alleged perpetrator is still involved with at-risk individuals (depending on the behavior). Potentially two ways to go about this: (1) ask the caller without asking for the name and/or (2) ask for the name and see what you can determine and/or (3) a combination thereof.

The above and subsequent emails showed that Ms. Arrington and US SKI continued to talk about this specific case. Given that the case fell within the window after the USCSS was authorized but before it opened, it demonstrates the confusion that existed within the Olympic community regarding who should handle cases involve allegations of sexual abuse—and how those cases should be handled—before the USCSS officially launched in March 2017.

⁵⁶⁹ E-mail from [Staff], U.S. Ski and Snowboard Assoc., to Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee (May 31, 2016 7:08 a.m.) (On file with Committee).

⁵⁷⁰ E-mail from Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee, to [Staff], U.S. Ski and Snowboard Assoc. (May 31, 2016 12:56 p.m.) (On file with Committee).

Similarly, a senior individual at USA Water Ski & Wake Sports (USA-WSWS) emailed Ms. Arrington in October 2016 after USA-WSWS had changed its bylaws preparing for the launch of the USCSS, but before the USCSS opened, inquiring about “classic Safe Sport situation.”⁵⁷¹ USA-WSWS provided Ms. Arrington with an overview of the situation and inquired as to whether or not the USCSS or the NGB should handle the allegation.⁵⁷²

⁵⁷¹ E-mail from [Staff], USA Water Ski, to Malia Arrington, Senior Director for Ethics and SafeSport, U.S. Olympic Committee (Oct. 20, 2016, 2:47 p.m.) (On file with Committee).

⁵⁷² *Id.*

From: [REDACTED]@usawaterski.org]
Sent: 10/20/2016 2:47:01 PM
To: Malia Arrington [REDACTED]@usoc.org]
CC: [REDACTED]
Subject: Center for Safe Sport
Flag: Flag for follow up

Good Morning, Malia,

I am copying our legal advisor, [REDACTED] with this e-mail.

I received a call this morning from one of our club presidents in Wisconsin with a classic Safe Sport situation. He was so pleased to have found our Safe Sport Manual on our website and called immediately to discuss. Here is the overview of the situation.

- 25 year old male coach/co-director of a Water Ski Show Team
- 16 year old female athlete on the team
- Sexual encounter(s) where the coach used his position of authority to convince the girl this encounter(s) was okay. Probably began when she was 15.
- Anonymous complaint provided to Club President
- Police are investigating – victim has not decided if to press charges (fear of embarrassment with peers)
- Defendant's story apparently lines up with the complaint, admits to the encounter(s) but is pressing victim to not file charges

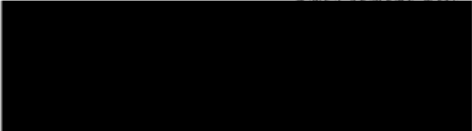
The Club wants to immediately get the coach banned from interacting with any U-18 members of the team. I'm sure there is more to this situation.

My question to you, Malia, is if the Center for Safe Sport in is a position to deal with this issue or if our NGB should handle it? I appreciate your advice.

[REDACTED]
[REDACTED]@usawaterski.org
[REDACTED]



USA Water Ski



#lifeonthewater
LIVE IT. BREATHE IT. SHARE IT.

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The Committee does not know what advice, if any, Ms. Arrington provided in response to this email.

In the course of this investigation, the Committee heard from many individuals within the Olympic community with concerns about the USCSS. Most individuals' concerns related to whether the USCSS had adequate resources or was sufficiently independent from the USOC and the NGBs. Other individuals raised concerns regarding the interactions they had with the

USCSS, and whether the entity was sufficiently transparent with reporting parties. These issues caused individuals to question whether the USSCS is adequately prioritizing athlete safety, or whether it protects their responding party. Some athletes who shared their experiences with the Committee stated that other athletes who experienced sexual abuse have not made a report to the USSCS because they don't have confidence in the USSCS to adequately and appropriately handle their case. Other concerns stem from how individuals who have interacted with the USSCS feel they were treated throughout the process of reporting an incident and their interactions with the USSCS throughout the investigation. Some individuals have expressed to the Committee that during their interactions with the USSCS they felt attacked, re-victimized, or as if they were being interrogated. In addition, some noted feeling as though the USSCS was not transparent with them throughout the process with respect to what to expect throughout the process itself; what was expected of them in terms of interviews or providing evidence; providing parties with information or documentation; or keeping them apprised of the status of the ongoing investigation.

While concerns have been raised to the Committee regarding the USSCS, it remains the centralized entity to address SafeSport issues for all NGBs, which is a need that was identified for the Olympic community through the various working groups, recommendations, and board discussions. As Ms. Pfohl stated during the Committee's hearing "[t]he safety and well-being of those we serve is our priority."⁵⁷³ She went on to say that "[t]he volume of reports speaks to the critical need of the Center. We know how hard it is for victims to come forward. Our goal is to continue building trust while establishing a culture where everyone feels safe, supported, and empowered to report, with the ultimate objective to end all forms of abuse."⁵⁷⁴ The USSCS was stood up at a time where instances of sexual misconduct and abuse were being publicly reported with higher frequency, both with the #MeToo movement and within the Olympic community, and moral and trust was at an all-time low, but the USSCS has made efforts to increase their resources and meet the needs of the Olympic community.

⁵⁷³ *Examining the U.S. Olympic Community's Ability to Protect Athletes from Sexual Abuse*: hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy and Commerce, 115 Cong. *Preliminary Transcript* 45 (May 23, 2018), available at <https://docs.house.gov/meetings/IF/IF02/20180523/108356/HHRG-115-IF02-Transcript-20180523.pdf>.

⁵⁷⁴ *Id.* at 46.

VII. Conclusion

The Olympic movement has been in existence for over one hundred years and inspires and unites us every two years as we cheer for our respective country's athletes. However, the system of organized sport in the United States, led by the USOC and the 48 NGBs, is much more expansive than the Olympic Games and includes millions of athletes that will never get the opportunity to compete at the highest levels. When athletes practice, compete, and pursue their dreams, at all levels, they have frequent contact with coaches, athletes, doctors, trainers, officials, and volunteers who are responsible for more than just helping athletes achieve excellence in their chosen sport—they are responsible for the safety and well-being of those athletes.

After a year-long investigation, the Committee is both encouraged and discouraged by its findings. There is no doubt that the Olympic community has made great strides when it comes to athlete safety and protecting athletes from sexual abuse and misconduct and particular. However, the community still has a long way to go. For too long, the policies and procedures adopted and implemented by NGBs have fallen short.

The culture of the Olympic community must change. The days of “medals and money” must be pushed to the past. It is critical that the USOC, the NGBs, and all those involved in organized sport recognize that the protection of athletes—the vast majority of whom are minors—must be the top priority.

The USOC and the NGBs should work to harmonize policies regarding athlete safety. The Committee found that the inconsistency in policies and procedures starts at the very beginning with the definition of a “covered individual.” Some NGBs broadly—and rightly, in the opinion of the Committee—include wide categories of athletes, coaches, staff, and other participants as covered individuals. When broadly applied, a larger group of people are subject to the policies and procedures of an NGB, including those intended to protect athletes. Other NGBs, however, take a much narrower view of covered individuals, which results in fewer people being covered by their policies and procedures—such as background check policies.

The Committee's findings regarding the publication—or lack thereof—of banned and suspended lists should also give pause to the Olympic community, including athletes, parents, and others. Particularly given that so many youth and amateur sports run up into the umbrella of the NGBs and the USOC, it is critical that athletes and parents have a central database through which they can determine when a coach, athlete, or another individual affiliated with an NGB has been banned from a sport. It is not hard to imagine a scenario where a coach was banned from one sport for sexual abuse issues, but began coaching another sport in a youth league, putting young children directly at risk.

The Olympic community has made strides in the last decade to improve athlete safety, including through the use of the Baker Tilly audits and the creation of the USCSS. These efforts have not gone unnoticed. However, vulnerabilities in the system still exist. It is imperative that the USOC, NGBs, and USCSS are proactive to ensure that their policies and procedures, above all else, prioritize athlete safety, and are consistent, followed, and enforced.

VIII. Recommendations

- Congress should evaluate whether updates are needed to the Ted Stevens Act to ensure athlete safety.
- The USOC should thoroughly utilize their authorities under the Ted Stevens Act to ensure athlete safety.
- The USOC should develop additional options for sanctions other than to decertify or defund NGBs, as these can directly impact the athletes.
- The Olympic community should promote an open dialogue surrounding issues of sexual abuse and should not use non-disclosure agreements, or other means, to inhibit such dialogue.
- The USOC, NGBs, and U.S. Center for SafeSport should not consider reputation when imposing sanctions, settlements, or other enforcement mechanisms.
- The USOC and NGBs should ensure that there are comprehensive and consistent policies and procedures across the Olympic community.
- The USOC should develop a consistent definition of a “covered individual” to be applicable across all NGBs.
- NGBs should have consistent policies regarding background checks, including who must undergo a background check, the length and depth of the background check, and the reasons for which an individual would fail a background check and become ineligible for participation in an NGB.
- The USOC should seek to develop a database or other tool by which NGBs can share information regarding individuals who do not pass background checks, including the reason why the individual did not pass a background check.
- All NGBs should maintain and post their banned and suspended lists such that they are available to the general public.
- The U.S. Center for SafeSport should compile historical bans and suspensions in a publicly available and comprehensive database.
- Independent audits should be conducted regularly of the USOC and NGBs to ensure that the all organizations are in compliance with the most updated policies and procedures.
- The USOC and NGBs should take steps to ensure that in appropriate circumstances, interim measures are implemented in a timely fashion, and identify individuals within the USOC and NGBs responsible for the enforcement of such measures.

- The Olympic community should clearly delineate roles and responsibilities regarding enforcement actions, such as the implementation of sanctions.
- The U.S. Center for SafeSport should continue to work to improve their rapport with those in the Olympic community; including but not limited to improving transparency with individuals who file reports with the U.S. Center for SafeSport throughout the investigatory and adjudication process.