

October 18, 2023

Hon. H. Morgan Griffith, Chair  
House of Representatives  
Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations  
2125 Rayburn House Office Building  
Washington, DC 20515-6135

**RE: Timeout: Evaluating Safety Measures Implemented to Protect Athletes**

Dear Chair Griffith:

Thank you for inviting me to testify regarding the safety measures implemented to protect athletes in the Olympic system, including The U.S. Center for SafeSport (“SafeSport”) and the National Governing Bodies (“NGBs”). I am a constitutional scholar and Professor of Practice at the University of Pennsylvania and Founder and CEO of CHILD USA, which is a nonprofit 501(c)(3) organization and interdisciplinary think tank that conducts cutting edge social science and legal research to devise the best policies to effect systemic reform for institutions dealing with child sex abuse, among other child protection issues.<sup>1</sup> I have been researching and writing about the means of transforming institutions with numerous child sex abuse allegations into safer environments since 2002.

I commend the Subcommittee for addressing the ongoing need to institute more effective athlete abuse policies at SafeSport and the NGBs. It is well-documented that athletes perform at a higher level if their well-being is protected and particularly if they are not abused. The current system is not yet operating as well as it needs to for athlete safety.

The systems put into place to date need adjustment to ensure that those who have already been abused are given due process, offending coaches are removed in a timely manner, and all athletes in the system are protected by uniform, evidence-based standards that reflect the best practices for dealing with athlete victims and successful prevention.

## **I. The Facts About Athlete Abuse**

The following is a brief summary of the current data on athlete abuse. There are two sets of athletes to consider when it comes to abuse. There are (1) those who were abused in the past, who need trauma-informed treatment and who can identify threats to athletes, and (2) those who are in the system and deserving of a strong prevention program.

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<sup>1</sup> CHILD USA conducted the only independent, expert case study of the many systems that should have protected athletes from serial abuser Larry Nassar: *The Game Over Commission to Protect Youth Athletes*, which is available at <https://childusa.org/gameover/>

Child sex abuse is pervasive across U.S. society and victims are often unable to come forward for decades after it occurs. This means that there are likely many more victims in the Olympic system than have come forward to date and that dealing with past abuse is going to be an ongoing issue for SafeSport and the NGBs.

Athletes are particularly vulnerable to maltreatment due to the unique characteristics of the sports environment, which tends to emphasize winning at all costs and sacrifice by the athletes. A growing body of research on the potential for maltreatment of athletes in sports reveals a high occurrence of emotional, physical, and sexual abuse of both child and adult athletes.<sup>2</sup> A 2019 survey of U.S. Olympic athletes conducted by CHILD USA found that nearly **58% of elite athletes had experienced some form of abuse.**<sup>3</sup> **The study also revealed a significant overlap between the various types of maltreatment, with 95% of abused athletes experiencing more than one form of abuse.**<sup>4</sup> These findings are significant, as they highlight that various forms of maltreatment do not occur in isolation from one another: if an environment is conducive to one form of maltreatment, it is likely to be conducive to other forms as well.

#### A. *The Facts Regarding Athlete Sex Abuse and Assault*

At least **20% of girls and 8% of boys in the United States will be sexually abused before they turn 18.**<sup>5</sup> Despite its prevalence, an estimated **90% of victims never report the sexual violence they experience to law enforcement.**<sup>6</sup> Many sex abuse victims need decades to come forward and publicly name their perpetrator due to the shame, humiliation, and trauma effects that include psychological, physical, and emotional disease and disorders. An estimated **44.9% of male victims and 25.4% of female child sex abuse victims delay disclosure by more than twenty years following the abuse.**<sup>7</sup> That timeline may be even longer for victims of institution-based

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<sup>2</sup> Ohlert, J., et al., *Elite athletes' experiences of interpersonal violence in organized sport in Germany, the Netherlands, and Belgium*, 21(4) EURO. J. OF SPORT SCI. 604 (2021) (hereinafter "Ohlert, et al."); Parent, S., & Vaillancourt-Morel, M., *Magnitude and risk factors for interpersonal violence experienced by Canadian teenagers in the sport context*, 45 J. OF SPORT AND SOCIAL ISSUES 1-17 (2020) (hereinafter "Parent & Vaillancourt-Morel"); U.S. Center for SafeSport, *2020 Athlete culture and climate survey* (2020) (hereinafter "SafeSport climate survey"); Vertommen, T., et al., *Interpersonal violence against children in sport in the Netherlands and Belgium*, 51 CHILD ABUSE & NEGLECT 223 (2016) (hereinafter "Vertommen, et al."); Willson, E., Kerr, G., Stirling, A., & Buono, S., *Prevalence of maltreatment among Canadian National Team athletes*, 37 J. OF INTERPERSONAL VIOLENCE 21 (2022) (hereinafter "Wilson, et al.").

<sup>3</sup> Timon, C.E. et al., *Child Sexual Abuse of Elite Athletes: Prevalence, Perceptions, and Mental Health*, 31(6) J. CHILD SEX ABUSE 672 (2022) (hereinafter "Timon, et al.").

<sup>4</sup> *Id.*

<sup>5</sup> G. Moody et al., *Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018); M. Stoltenborgh et al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011); N. Pereda, et al., *The prevalence of child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV. 328, 334 (2009).

<sup>6</sup> D. Finkelhor et al., *Sexually Assaulted Children: National Estimates and Characteristics*, US Dept. of Justice, Office of Justice Programs (2008), <https://www.ojp.gov/pdffiles1/ojjdp/214383.pdf>.

<sup>7</sup> Patrick J. O'Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008).

abuse. For example, CHILD USA’s study of Boy Scouts of America victims shows that **over half of the victims reported their sex abuse after age 50.**<sup>8</sup>

As in the general population, athlete sexual abuse is common and significantly underreported. **Current research finds it affects an estimated 2% to 8% of all athletes.**<sup>9</sup> As articulated in the *International Olympic Committee Consensus Statement: Harassment and Abuse (non-accidental violence) in Sport*, the sports culture “ignores, denies, fails to prevent or even tacitly accepts” sexual harassment and abuse.<sup>10</sup>

There are several dynamics intrinsic to sports that place youth at risk for sexual abuse, including the power imbalance in the coach-athlete relationship and athletes’ separation from their peers.<sup>11</sup> In CHILD USA’s Elite Athlete Study, athletes reported that they were frequently isolated from the normal activities of their peers (70%), routinely missed normal activities like family vacations or proms (59%), and missed school (85%).<sup>12</sup> Perpetrators are able to exploit this isolation from parents, other protective adults, and peers and use the one-on-one time to gradually break down interpersonal boundaries and initiate abuse. The risks are compounded by the system, which can disempower athletes to control their own bodies. **This is reflected in responses to CHILD USA’s elite athlete survey which showed that 44% of current and former athletes became accustomed to touches from coaches to their bodies that felt uncomfortable or inappropriate in response.**<sup>13</sup>

CHILD USA’s survey of victims of Larry Nassar, which is included in the Game Over Commission Report of 2022 (note 1), highlights the culture of abuse in the Olympic system in need of reform. Of those victims surveyed:

- **100% had no knowledge of where to report** sexual assault or misconduct.
- **22% said no effort was made to make changes** that led to their abuse after reporting.
- **27% believed there would be repercussions against them if they reported** what happened.

These answers indicate how the system was skewed in the interest of the perpetrators, who were not reported and, therefore, could reach numerous victims while the victims were disempowered.

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<sup>8</sup> CHILD USA, *History of Child Sex Abuse Statutes of Limitation Reform in the United States: 2002 to 2021* 3 (June 21, 2022), <https://childusa.org/6-17-2022-2021-sol-report-final/>.

<sup>9</sup> Willson, et al. (2022).

<sup>10</sup> Mountjoy M, Brackenridge C, Arrington M, et al., *International Olympic Committee consensus statement: harassment and abuse (non-accidental violence) in sport*, 50 BRITISH J. OF SPORTS MED. 1019 (2016).

<sup>11</sup> Alexander, K., Stafford, A., & Lewis, R., *The experiences of children participating in organised sport in the UK*, NSPCC (2011) (hereinafter “Alexander, et al.”); Hartill, M., et al., *CASES: Child abuse in sport: European statistics project report*, Edge Hill University (2021) (hereinafter “Hartill, et al.”); Kerr, G., Willson, E. & Stirling, A., *Prevalence of maltreatment among current and former national team athletes*, University of Toronto (2019), available at [https://athletescan.ca/wpcontent/uploads/2014/03/prevalence\\_of\\_maltreatment\\_reporteng.pdf](https://athletescan.ca/wpcontent/uploads/2014/03/prevalence_of_maltreatment_reporteng.pdf) (hereinafter “Kerr, et al.”); Ohlert, et al. (2021); Parent & Vaillancourt-Morel (2020); SafeSport climate survey (2020); Vertommen, et al. (2016); Willson, et al. (2022).

<sup>12</sup> CHILD USA, *Game Over Commission Report: A Case-Study of Systemic Abuse in Sports Perpetrated by Larry Nassar* (“GOCO”) (Jan. 2022) (hereinafter “GOCO”).

<sup>13</sup> *Id.*

The results of the survey were published in the peer-reviewed journal, *The Journal of Child Sex Abuse*.<sup>14</sup>

As so many institutions have shown already, it is not easy to change the culture that puts youth at risk of sexual abuse and typically requires a series of adjustments over several years, thus the need for this hearing. The prevalence of youth sexual abuse and its negative effects necessitate the development and implementation of effective prevention programs.

### *B. The Facts Regarding Athlete Physical Abuse*

Physical abuse in sport refers to any deliberate and unwelcome act that causes trauma or injury such as, for example, slapping, kicking, punching, or choking.<sup>15</sup> Such acts can also consist of forced or inappropriate physical activity (e.g., when injured or in pain), forced alcohol consumption or performance-enhancing practices.<sup>16</sup>

Prevalence studies estimate that **anywhere between 11% and 44% of athletes experience physical abuse**.<sup>17</sup> A 2019 survey of U.S. Olympic athletes conducted by CHILD USA found the prevalence of physical assault (defined as slapping, punching, or choking) was 6.9%.<sup>18</sup> These studies indicate that most physical abuse experienced by athletes is perpetrated by coaches and peer athletes.<sup>19</sup> Some of the more common forms of physical abuse include:

- **requiring an athlete to perform a physical act that compromises established safety guidelines;**
- **failing to stop an activity where an athlete is clearly being subjected to physical harm;**
- **failing to provide appropriate medical care and attention to an injured athlete.**<sup>20</sup>

Responses from athletes surveyed for CHILD USA's Game Over Commission Report support these findings. Most athletes surveyed reported suffering extreme trauma to their bodies, which was normalized during their training. Of those surveyed:

- **all athletes reported sustaining an injury but nearly half sometimes opted not to report an injury;**
- **82% indicated that they were often fearful to report an injury to their coach;**

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<sup>14</sup> Timon, et al. (2022).

<sup>15</sup> GOCO (2022).

<sup>16</sup> *Id.*

<sup>17</sup> Alexander, et al. (2011); Hartill, et al. (2021); Kerr, et al. (2019); Ohlert, et al. (2021); Parent & Vaillancourt-Morel (2020); SafeSport climate survey (2020); Vertommen, et al. (2016); Wilson, et al. (2022).

<sup>18</sup> Timon, et al. (2022).

<sup>19</sup> Hartill et al. (2021); Willson et al. (2022).

<sup>20</sup> Timon, et al. (2022).

- **85% reported that they hid injuries from coaches or teammates;**
- **11% indicated that when they *did* report an injury it was not taken seriously;**
- **more than half were denied medical attention after reporting an injury;**
- **93% percent reported that it was common practice to continue to perform when injured.<sup>21</sup>**

These findings underscore the importance of prevention, as physical abuse can have lasting impacts on athletes. Athletes who experience physical abuse are more likely to suffer from pain, with an estimated 63% experiencing pain daily.<sup>22</sup> **Eighty-five percent have long lasting injuries due to their sport.**<sup>23</sup> There are also long-term emotional and psychological effects as well. For example, in CHILD USA’s Elite Athlete Study, **almost half (48.4%) of those reporting physical assault had a received at least one psychiatric diagnosis with the majority (60%) of these reporting multiple diagnoses.**<sup>24</sup> **The most common diagnoses reported by physical assault victims were anxiety (22.6%), depression (16.1%), and PTSD (16.1%).**<sup>25</sup>

#### *B. The Facts Regarding Athlete Emotional Abuse*

Emotional abuse is an underreported, but common form of abuse that occurs across all levels of sport from amateur to elite athletics. Within the sport science research, emotional abuse is defined as “a pattern of deliberate non-contact behaviors by a person within a critical relationship role that has the potential to be harmful.”<sup>26</sup> Emotionally abusive behaviors may be physical (e.g., displays of anger and aggression or throwing objects without contacting the athlete), verbal (e.g., ostracizing, humiliating, name-calling, or demeaning players), and/or acts of denying attention and support (e.g., rejecting, isolating, and ignoring).<sup>27</sup> Behaviors aimed at humiliating, belittling, or threatening the athlete are generally referred to as acts of “intimidation.”<sup>28</sup>

Prevalence studies reveal that **emotional abuse is the most frequently experienced form of athlete maltreatment with an estimated 25-75% of competitive young athletes reportedly experiencing emotionally abusive coaching practices, which is a practice that becomes more common as athletes advance to higher levels of competition.**<sup>29</sup> In CHILD USA’s Elite Athlete Study, intimidating behaviors, including verbal harassment, were the most prevalent emotionally abusive behaviors experienced by athletes in the study sample.<sup>30</sup> These findings are consistent with earlier

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<sup>21</sup> GOCO (2022).

<sup>22</sup> Willson, et al. (2022).

<sup>23</sup> *Id.*

<sup>24</sup> Timon, et al. (2022).

<sup>25</sup> *Id.*

<sup>26</sup> Stirling, A.E. & Kerr, G., *Defining and categorizing emotional abuse in sport*, 8 EURO. J. OF SPORT SCI. 173 (2008) (hereinafter “Stirling & Kerr”).

<sup>27</sup> Garbarino, J., *The Incidence and Prevalence of Child Maltreatment*, 11 CRIME & JUSTICE 219 (1989).

<sup>28</sup> Stirling & Kerr (2008).

<sup>29</sup> See e.g., Kerr, et al. (2020); Stirling & Kerr (2008).

<sup>30</sup> Timon, et al. (2022).

studies, which indicate that these intimidation behaviors by coaches constitute the most common form of emotional abuse in elite sport.<sup>31</sup>

The high rates of emotional abuse endured by athletes at all levels is concerning, because research demonstrates that emotional abuse is associated with a myriad of negative outcomes both in the short and long-term, such as:

- **feelings of worthlessness;**
- **anger, embarrassment, and shame;**
- **decreased self-esteem;**
- **anxiety;**
- **depression;**
- **obsessive-compulsive behaviors (e.g., eating disorders, trichotillomania);**
- **PTSD symptomatology.**<sup>32</sup>

Research also indicates that, for athletes who have been emotionally abused, these negative effects increase as their careers progress.<sup>33</sup> CHILD USA's Elite Athlete Study highlights the gravity of these effects. Among those reporting emotional abuse **38.1% had been diagnosed with at least one psychological disorder**, most frequently, anxiety (20.5%), depression (20.9%), and/or PTSD (6.6%).<sup>34</sup> Research also demonstrates that systemic factors, such as pressure from a coach, play a significant role in athletes' adoption of unhealthy eating behaviors, and in extreme cases, can lead to eating disorders. **For example, one study found that a significant number of gymnasts (44%) reported that their coaches made negative comments about their bodies and these individuals were significantly more likely to engage in disordered eating than their counterparts who did not receive comments.**<sup>35</sup>

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<sup>31</sup> See e.g., Gervis, M., et al., *Perceptions of emotional abuse in the coach-athlete relationship in youth sport: The influence of competitive level and outcome*, 11 INT'L J. OF SPORTS SCI. & COACHING 772 (2016); Kerr, et al. (2020).

<sup>32</sup> Gervis, M., Pickford, H., & Hau, T., *Professional footballers' association counselors' perceptions of the role long-term injury plays in mental health issues presented by current and former players*, 13(3) J. CLINICAL SPORT PSYCH. 451 (2019); Alexander, K.N, Adams, K.V., & Dorsch, T.E., *Exploring the Impact of Coaches' Emotional Abuse on Intercollegiate Student-Athletes' Experiences*, 32(9) J. OF AGGRESSION, MAL. & TRAUMA 1285 (2023); Kavanagh, E., Brown, L., & Jones, I., *Elite athletes' experience of coping with emotional abuse in the coach-athlete relationship*, 29(4) J. APP. SPORT PSYCH. 402 (2017); Gervis, M. & Godfrey, R., *Emotional abuse in sport: A case study of trichotillomania in a prepubescent female gymnast*, 3(4) J. CLIN. CASE REPORTS (2013), available at <http://www.open.edu/openlearn/health-sportspsychology/ethical-considerations-sport-and-exercisestettings/content-section-0>; Abrams, M. & Bartlett, M. L., *SportToo: Implications of and best practice for the METOO movement in sport*, 13(2) J. CLIN. SPORT PSYCH. 243 (2019); Battaglia, A.V., Kerr, G., & Stirling, A.E., *Youth athletes' interpretations of punitive coaching practices*, 29(3) J. APP. SPORT PSYCH 337 (2017); Smith, L.R., & Pegoraro, A., *Media framing of Larry Nassar and the USA gymnastics child sex abuse scandal*. 29(4) J. CHILD SEXUAL ABUSE 373 (2020).

<sup>33</sup> Stirling & Kerr (2008).

<sup>34</sup> Timon, et al. (2022).

<sup>35</sup> Kerr, G., Berman, E., & De Souza, M., *Disordered eating in women's gymnastics- Perspectives of athletes, coaches, parents, and judges*, 18 J. APPLIED SPORT PSYCH. 28 (2006).

Identifying and implementing effective prevention strategies as well as appropriate athlete support are critical steps toward shifting the sports culture's focus on winning at all costs to athlete well-being, which in turn improves athletic performance.<sup>36</sup>

## II. NEEDED SYSTEMIC CHANGES TO FURTHER BUILD A CULTURE OF ATHLETE SAFETY

The foregoing statistics confirm that there is an urgent need to increase athlete protection from abuse. While major steps forward have taken place over the last decade, largely driven by high-publicity scandals, there is still significant work to do to ensure athletes' safety. **We recommend three significant adjustments to the current system to deal with abuse claims and to institute meaningful prevention: (1) a narrowing of SafeSport's jurisdiction to the most serious sex abuse claims; (2) the removal of arbitration, to be replaced with an Expert Panel; and (3) the adoption of a uniform, evidence-based set of standards across the entire system. These three initiatives alone will powerfully advance the safety of all athletes.**

### A. For the U.S. Center for SafeSport to Improve Its Efficiency and Efficacy

#### 1. Narrowing Original Jurisdiction to Focus on the Most Serious Sex Abuse Cases

The current SafeSport system contains elements of effective case-handling and prevention but is hobbled by an overwhelming case load and an opaque system that is impeding the removal of dangerous perpetrators and disserving athletes' due process. Attention also needs to be paid to the need to address multiple audiences to create the culture of safety that should be the goal. The current uneven system of protection needs to be transformed into one that produces positive and measurable improvement across the system.<sup>37</sup>

Currently, the Center has exclusive jurisdiction to "investigate and resolve reports of sexual misconduct, including without limitation child sexual abuse and any misconduct that is reasonably related to an underlying allegation of sexual misconduct . . . and other inappropriate conduct."<sup>38</sup> It may also take discretionary jurisdiction over other forms of abuse, including bullying, harassment, and emotional abuse.<sup>39</sup> As it has turned out, this broad agenda has left the Center overwhelmed, which is no criticism of the Center's intent, but rather the heavy load laid on its shoulders by the original design. **As of 2019 average, the organization receives 239 new reports each month and has approximately 1,300 open cases at any given time.<sup>40</sup> More recent data from SafeSport indicates that 11,184 reports were received 2021-23.** All of its cases involve sexual abuse and assault despite its larger jurisdiction, because SafeSport cannot possibly get to the other

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<sup>36</sup> Mountjoy, M., *Safeguarding the Child Athlete in Sport: A Review, a Framework and Recommendations for the IOC Youth Athlete Development Model*, 49 BR. J. SPORTS MED. 883 (2015).

<sup>37</sup> An example of the need to expand audiences lies in the fact that there is training for coaches, trainers, volunteers, and athletes over the age of 18, but other audiences also need specifically designed trainings, including athletes under 18, those with disabilities, parents, and team physicians.

<sup>38</sup> U.S. Center for SafeSport, *Frequently Asked Questions*, <https://uscenterforsafesport.org/about/faqs/> (last visited Sep. 14, 2023).

<sup>39</sup> *Id.*

<sup>40</sup> Rick Maese, *This Group Is Supposed to Handle Olympic sex abuse complaints. A Report shows its limits*, WASH. POST, (Sep. 19, 2019), available at [https://www.washingtonpost.com/sports/olympics/sex-misconduct-report-on-water-ski-champ-shows-limits-of-safesports-reach/2019/09/19/17696572-d8bb-11e9-ac63-3016711543fe\\_story.html](https://www.washingtonpost.com/sports/olympics/sex-misconduct-report-on-water-ski-champ-shows-limits-of-safesports-reach/2019/09/19/17696572-d8bb-11e9-ac63-3016711543fe_story.html)

categories of abuse. The vast majority of cases are administratively closed without any meaningful investigation into the alleged misconduct, can take years, and often end with no report to the victim, according to many victims who have made reports.<sup>41</sup> The scope of its jurisdiction is so broad that it is simply beyond the Center’s capacity to properly investigate allegations of abuse, to provide a fair process including notice and hearing to the victims, and to remove the coaches that threaten athletes.

CHILD USA recommends that the jurisdiction over SafeSport be adjusted so that it is required to address the most serious sexual abuse claims, which we would define as those that constitute a crime and/or would be subject to a mandatory report. In this way, the Center can focus on the most serious sex abuse threats to athletes and act more efficiently and effectively to remove the most dangerous coaches putting athletes at risk. In light of the sex abuse prevalence statistics above, SafeSport will still have many claims to handle including those that deal with recent sex abuse and those that involve abuse years ago where the accused coach remains in place. Narrowing its original jurisdiction will make it more likely these serious cases can be moved along more expeditiously and create an opportunity for a full and fair process of notice and hearing for the victims.

## 2. Eliminate Arbitration and Replace It with an Expert Panel

Once SafeSport reaches its conclusion regarding sanctions for a coach, under current practices, the parties can appeal to an arbitration process. An arbitration process, while appropriate for contract, settlement, and other business disputes, is inappropriate when the issue is removal of a coach to protect athletes from sex abuse. SafeSport’s assigned mission is to remove coaches putting athletes at risk, not to reach a middle ground between an abuser and an alleged perpetrator.

The Center has released conflicting information on the efficacy of arbitration. A Center official in 2022 told ESPN and NBC reporters that 42% of the cases that had been resolved on appeal were either overturned by an arbitrator, modified the Center’s initial sanctions, or “the center issued an administrative closure before the before the arbitrator's decision was issued.”<sup>42</sup>

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<sup>41</sup> U.S. CENTER FOR SAFESPORT, “Response Resolution Data,” (last visited Aug. 16, 2023), available at [https://uscenterforsafesport.org/wp-content/uploads/2023/06/AnnualReport\\_DataPage.pdf](https://uscenterforsafesport.org/wp-content/uploads/2023/06/AnnualReport_DataPage.pdf).

<sup>42</sup> Dan Murphy & Pete Madden, *U.S. Center for SafeSport, Olympic Movement's misconduct watchdog, struggles to shed 'paper tiger' reputation*, [ESPN.COM](https://www.espn.com/olympics/story/_/id/33348656) (Feb. 23, 2022), available at [https://www.espn.com/olympics/story/\\_/id/33348656](https://www.espn.com/olympics/story/_/id/33348656) (ESPN and ABC News conducted an 18-month investigation into the Center for SafeSport which raised significant concerns about the Center’s secretive arbitration process that repeatedly failed to remove dangerous individuals from the system. In response to questions from ESPN and ABC News, Dan Hill, the official spokesperson for the Center, stated that “reversals of its decisions in arbitration are rare,” initially claiming that of the “more than 900 sanctions eligible for appeal, less than 1% of sanctions have been reversed in arbitration.” At the time Hill provided those statistics, the Center’s public database showed that 73.5% of all sanctions adjudicated by the Center included some type of criminal disposition which should have triggered a “near-automatic discipline by the center that would be difficult to appeal” under the Center’s own policies. When pressed further, Hill stated that 42% of the cases that had been resolved on appeal were overturned by an arbitrator, modified the Center’s initial sanctions or “the center issued an administrative closure before the before the arbitrator's decision was issued.”



More recently, the Center has stated that the arbitrator agreed with the Center there was a Code violation and imposed sanctions in 82% of the cases, but then qualified its new number by stating it includes cases where there is modification in the sanction. But this new figure represents only those cases that involved an arbitrator issuing a determination and leaves out the number of cases administratively closed by the Center. Further, in 18% of the cases reviewed on appeal by arbitration, the arbitrator did not find the Respondent in violation of the SafeSport Code and, therefore, no sanction was issued despite the Center's findings. Without more transparency or public report, it is impossible to fully assess how well the Center and arbitration are hitting the mark of protecting athletes from sex abuse.<sup>43</sup>

The arbitration process is also problematic in that its reasoning and conclusions are not made public. The Code makes the Center's investigative and arbitration documents "confidential," which has blocked release to the public of information necessary for accountability and safety. SafeSport defends the requirement on the ground that it protects the witnesses and others involved, but that concern can be satisfied with redaction, which is routinely done in child sex abuse legal cases. Experience with widespread sex abuse problems in other institutions shows that overcoming the patterns of sex abuse requires transparency that in turns instills accountability.

The public needs access to the reasoning and conclusion of the appellate determination and the Olympic system needs transparency to repair broken trust. As so many other organizations have learned, as long as an organization avoids transparency, it cannot fully deal with the problems involving sex abuse.

The SafeSport Code at page 27 states that victims may "discuss the incident, their participation in the Center's process, or the outcome of that process," but they are not permitted to use the official investigation and determination to buttress their claims. That unfairly puts victims who speak publicly at greater risk of defamation lawsuits or other retaliatory lawsuits that intend to silence the victim. It also opens the door to shaming by a public that does not have the facts to reach the most accurate conclusions. Moreover, many victims have stated that when SafeSport makes an administrative determination to close an investigation with no conclusion, they receive no notice. These victims, thus, don't even have a final determination result to share and are at the most serious risk of retaliation for speaking publicly about their abuse from the perpetrator.

While the Code requires the selection of arbitrators with trauma-informed experience, there is no requirement that they come from the sex abuse prevention community as opposed to the defense side. Many of the victims that have gone through the process do not experience the process as one that is trauma-informed in the interest of the victims. The lack of (1) a mandated timeline for investigation, (2) routine notice to the parties about progress, and (3) publication of a redacted report combine to let victims feel further disempowered by a process intended to protect athletes. When these omissions are added to SafeSport's uneven practice with respect to revealing the

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<sup>43</sup> U.S. Center for SafeSport, *2022 Annual Report*, available at [https://uscenterforsafesport.org/wp-content/uploads/2023/06/AnnualReport\\_DataPage.pdf](https://uscenterforsafesport.org/wp-content/uploads/2023/06/AnnualReport_DataPage.pdf)

names of victims--according to the victims themselves--the arbitration process has been re-traumatizing.

CHILD USA recommends improving the SafeSport appeal process through replacement of the arbitration system with an Expert Panel. The Panel, with 5-7 members, should be required to be trauma-informed and its members should be drawn from a pool of experienced medical, psychological, and legal experts in the field of youth sex abuse, preferably from the side of the victim. The Expert Panel would have the final say on a coach's removal and should be required to issue an appropriately redacted, publicly available report.

## *B. For the National Governing Bodies*

### 1. Building Trust in the NGBs

By narrowing SafeSport's jurisdiction to the most serious sex abuse claims, the remaining claims—for less serious sex abuse claims, sexual harassment, and physical and emotional abuse—would need to start at the NGBs. The challenge at this time, however, is that many of the NGBs are not currently trusted to handle abuse cases. It is our view that this is a result of the pre-existing coverups, current lack of transparency, and the hodgepodge of policies across the NGBs. Some have specific policies that are a result of sex abuse case settlements while others have adopted trainings but lack other elements needed to create a culture of safety. Whatever the cause, rebuilding trust requires adoption of objective, evidence-based, transparent standards for all NGBs. Such guardrails are needed to improve safety and trust of the NGBs on these issues.

It is a fact that institutions, especially those that are revered and trusted, can struggle to transform their policies that are protective of their interests even in response to sex abuse claims. If sex abuse were an uncommon occurrence, the many institutions dealing with the issue could deal with the particular case and then move forward without adjustment. As the facts above make clear, though, sex abuse is common, and the reported cases are the tip of the iceberg. That means that institutions that have had inadequate policies and, therefore, failed to protect minors from sex abuse must consciously shift to change policies permanently and do the hard work of taking on the burden of instituting numerous changes to prevent liability and harm in the future. When they do make changes, the new policies need to be objectively based on the best available science. They also need to be treated as permanent requirements, not temporary adjustments.

To achieve the change needed in the Olympic system, it needs to adopt evidence-based, mandatory policies for SafeSport and all NGBs. Regardless of the sport an athlete plays, child sex abuse and other abuse policies should be strong and uniform, not discretionary. Prevention policies further need to be evidence-based and capable of measurement to gauge progress. Without clear, evidence-based policies for every NGB, the Olympic system is creating unnecessary liability and endangering athletes with preventable abuse. It is also signaling that NGBs should be trusted to adopt their chosen policies without adopting proven, rigorous standards.

CHILD USA has engaged in broad-ranging and years-long social science research to develop an evidence-based, objective, and quantitative set of sex abuse prevention policies that cover hiring, training, and how to deal with victims in a trauma-informed way, among many other necessary elements. It is called the Gold Standard for CSA Prevention. We recommend adoption across all

NGBs, with annual updates. If adopted, each NGB would receive a score for their current policies and explicit guidance on the areas that need work. With uniform, objective standards, which are regularly updated, the NGBs can start to turn the corner on the scandals that prompted the creation of the SafeSport system and the current distrust.

## 2. Institute Expert Panels for NGB Determination Appeals

As with SafeSport, the appeal of an NGB determination should be made to a trauma-informed Expert Panel that releases a report with the proper redactions to increase accountability and transparency.

Thank you for inviting me to testify today. Please do not hesitate to ask for clarification and/or further information on the protection of children now or in the future.

Sincerely,



Marci A. Hamilton  
Professor of Practice  
Department of Political Science  
University of Pennsylvania  
[marcih@sas.upenn.edu](mailto:marcih@sas.upenn.edu)  
(215) 539-1906 (office)

Founder and CEO  
CHILD USA  
3508 Market Street  
Philadelphia, PA 19104