

May 21, 2018

TO: Members, Subcommittee on Oversight and Investigations

FROM: Committee Majority Staff

RE: Hearing entitled “Examining the Olympic Community’s Ability to Protect Athletes from Sexual Abuse.”

The Subcommittee on Oversight and Investigations will hold a hearing on Wednesday, May 23, 2018, at 10:00 a.m. in 2123 Rayburn House Office Building, entitled “Examining the Olympic Community’s Ability to Protect Athletes from Sexual Abuse.” The purpose of the hearing is to examine the pervasiveness of sexual misconduct within the U.S. Olympic community and whether there are adequate policies and procedures in place to protect athletes at all levels of sport.

I. WITNESSES

- Susanne Lyons, Acting Chief Executive Officer, United States Olympic Committee (USOC);
- Kerry Perry, President and Chief Executive Officer, USA Gymnastics (USAG);
- Tim Hinchey, President and Chief Executive Officer, USA Swimming (USA-S);
- Steve McNally, Executive Director, USA Taekwondo (USAT);
- Jamie Davis, Chief Executive Officer, USA Volleyball (USAV); and
- Shellie Pfohl, President and Chief Executive Officer, U.S. Center for SafeSport (USCSS).

II. 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.¹ 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

¹ Team USA, *Structure* (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/Olympic-Movement/Structure>.

Olympic Games in Athens, Greece.² The formal committee was then established in 1921 as the American Olympic Association.³ In 1961, the name of the Committee was changed to the United States Olympic Committee (USOC).⁴

The USOC was reorganized by the Ted Stevens Olympic and Amateur Sports Act (the Act), originally enacted in 1978 and amended as recently as 2018.⁵ The Act establishes the USOC as the coordinating body for all Olympic-related activity in the U.S. and gives the USOC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.”⁶ Under the Act, the USOC is responsible for, among other things, promoting amateur athletic activities⁷ and providing swift resolution of conflicts and disputes involving amateur athletes, National Governing Bodies (NGBs), and amateur sports organizations.⁸

The Act establishes NGBs for each Olympic sport and gives the USOC the general authority to review matters related to the recognition of NGBs.⁹ 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 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.¹⁰ 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.¹¹ The Act provides for additional requirements and responsibilities of NGBs.¹²

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

² Team USA, *History* (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/History>; Olympics.org, *Athens 1896 – Highlights of the Games* (last visited May 16, 2018), available at <https://www.olympic.org/athens-1896>.

³ Team USA, *History* (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Inside-the-USOC/History>.

⁴ *Id.*

⁵ The Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act is discussed in Section II.d of this memorandum.

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

⁷ 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).

⁸ 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).

⁹ 36 U.S.C. § 220521-29.

¹⁰ 36 U.S.C. § 220522.

¹¹ 36 U.S.C. § 220521(a).

¹² See generally 36 U.S.C. § 220521-29.

Movement, thereby inspiring all Americans.”¹³ The USOC is a 501(c)(3) non-profit organization and does not receive federal financial support, except for select Paralympic military programs.¹⁴ According to the USOC’s 2016 tax disclosures, the USOC had about \$336 million in revenue in 2016.¹⁵ 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.¹⁶

Each NGB has their own governance structure and applicable bylaws and policies.¹⁷ 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.¹⁸ Over ten years ago, the USOC engaged in a governance reform effort and approved governance guidelines for NGBs.¹⁹ More recently, the USOC has engaged in a number of additional efforts to increase the requirements for NGBs.²⁰ 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.²¹ The Working Group presented its recommendations to the USOC Board in September 2010.²² 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, 2013.²³ 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.²⁴ The results of the 2010 Working Group and the USCSS are discussed in more detail in Section II(d.)

The USOC can decertify an NGB, and the USOC decertified the U.S. Team Handball Federation in 2006 and the National Rifle Association in 1994. Additionally, the USOC has placed NGBs on probation and/or discussed decertification with other NGBs.²⁵

¹³ Team USA, *Mission and Culture* (last visited May 16, 2018), available at <https://www.teamusa.org/careers/mission-and-culture>.

¹⁴ Team USA, *Inside the USOC* (last visited May 16, 2018), available at <https://www.teamusa.org/about-the-usoc/inside-the-usoc>.

¹⁵ Team USA, *Finance – USOC Tax Disclosures (Form 990)* (last visited May 16, 2018), available at <https://www.teamusa.org/Footer/Finance>.

¹⁶ United States Olympic Committee, *2016 Annual Report* (2016), <http://2016annualreport.teamusa.org/>.

¹⁷ See, e.g., USA Gymnastics, *Bylaws* (last revised December 2017), 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>.

¹⁸ Information provided to the Committee on Energy and Commerce, from the United States Olympic Committee (May 16, 2018) on file with the committee.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Team USA, *About the USOC - SafeSport - Key Actions*, (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Key-Actions>.

²² 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.

²³ Government Accountability Office, *Youth Athletes: Sports Programs’ Guidance, Practices and Policies to Help Prevent and Respond to Sexual Abuse*, GAO-15-418 (May 2015).

²⁴ Information provided to the Committee on Energy and Commerce, from the United States Olympic Committee (May 16, 2018) on file with the committee.

²⁵ *Id.*

b. Sexual Assault

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 experienced sexual violence involving physical contact during her lifetime and about one in six men experienced sexual violence involving physical contact during his lifetime.²⁶ 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 old and one in nine reported that it occurred before age ten.²⁷ The person responsible for the violence is usually someone known to the victim.²⁸

c. Sexual Assault in the Olympic Movement

Unfortunately, there have been widespread instances of sexual abuse within the Olympic movement. Indeed, from the USOC's launch in 2017 to April 13, 2018, the Center received written and oral reports, complaints, and allegations regarding sexual abuse from 35 of the 48 NGBs.²⁹ Although allegations of sexual abuse are generally kept confidential, in recent years, many NGBs have been at the center of public sexual abuse scandals. These scandals have raised concerns about the USOC and NGBs' ability to adequately oversee the safety of athletes in organized sport. 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 in the next two sections of this memorandum, 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 USA Gymnastics team doctor of over 20 years, Larry Nassar, announced via Facebook that he was going to retire from his position at USA Gymnastics.^{30*} About a year later, a media outlet published a lengthy report detailing 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.³¹ In 2016, former gymnasts filed

²⁶ 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>.

²⁷ *Id.*

²⁸ 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>.

²⁹ Information provided to the Committee on Energy and Commerce, from the U.S. Center for SafeSport (Apr. 13, 2018) on file with the committee.

³⁰ 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/>.

* In an earlier version of this memorandum Larry Nassar was incorrectly listed as a coach.

³¹ 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/>.

criminal complaints against Nassar accusing him of sexually abusing young athletes.³² 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.³³ On May 16, 2018, Michigan State University agreed to a \$500 million settlement with 332 of Larry Nassar's victims.³⁴

Questions have surfaced about when USA Gymnastics and the USOC learned of Nassar's sexual abuse of young athletes and whether they adequately responded to the allegations.³⁵ Some lawsuits have alleged that USA Gymnastics and the USOC failed to protect young athletes. For example, recently, gymnasts have sued the USOC alleging that the "organization failed to protect athletes and that top USOC officials lied about when they first learned of the matter."³⁶ Recent reports indicate that there are plans to continue settlement talks with USA Gymnastics and the USOC.³⁷ Similarly, concerns have been raised about the Federal Bureau of Investigation's response to the reports it received about sexual abuse allegations against Nassar.³⁸

In response to the scandal, USA Gymnastics hired an investigator, former federal prosecutor Deborah Daniels, to conduct an independent investigation of USA Gymnastics' bylaws, policies, procedures, and practices related to handling sexual misconduct matters.³⁹ Daniels released her extensive report in June 2017.⁴⁰ In February 2018, USA Gymnastics announced that the law firm Ropes & Gray is also conducting an independent investigation of the sexual abuse by Nassar and is charged with determining when USA Gymnastics and USOC first became aware of any evidence relating to Nassar's sexual abuse of athletes.⁴¹

³² 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/>; USA Today Network, *Who is Larry Nassar?* (last visited May 16, 2018), available at <https://www.cincinnati.com/pages/interactives/larry-nassar-timeline/>.

³³ 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>.

³⁴ Matt Mencarini and Justin A. Hinkley, *Lansing State Journal*, *Michigan State and 332 of Larry Nassar's victims reach 'historic' \$500 million settlement*, (last visited May 17, 2018), available at <https://www.lansingstatejournal.com/story/news/local/2018/05/16/larry-nassar-michigan-state-settlement-lawsuit/614502002/>.

³⁵ 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>.

³⁶ 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>.

³⁷ See, *Supra* note 41.

³⁸ 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>.

³⁹ Deborah J. Daniels, J.D., *Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes*, KRIEG DEVAULT (Jun. 26, 2017).

⁴⁰ *Id.*

⁴¹ 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>.

USA Swimming

In 2010, a 20/20 investigation detailed inappropriate relationships between USA Swimming coaches and minor athletes.⁴² 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.⁴³ 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 sport⁴⁴ and, in 2013, USA Swimming contracted with a program of Gunderson Health System to conduct an independent assessment of USA Swimming's Safe Sport Program.⁴⁵

Since the 2010 sexual abuse scandal within USA Swimming, 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 Fall 2010 and USA Swimming now releases the names of banned coaches through a publicly accessible list.⁴⁶ This year, the Southern California News Group published a report indicating that USA Swimming may have ignored or covered up hundreds of sexual abuses cases over several decades.⁴⁷ 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.⁴⁸

USA Taekwondo

Earlier this year, an Olympic taekwondo coach, Jean Lopez, was banned from USA Taekwondo after the USCSS found him guilty of sexual misconduct with a minor.⁴⁹ According to press articles, USA Taekwondo initiated the investigation into Jean Lopez about three years ago and the investigation was referred to the USCSS after it opened in March 2017.⁵⁰ Jean Lopez's brother, Taekwondo Olympian Steven Lopez, is also under investigation by the USCSS

⁴² 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>.

⁴³ 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>.

⁴⁴ The U.S. Center for SafeSport is discussed in Section II.d of this memorandum.

⁴⁵ Gunderson National Child Protection Training Center, *USA Swimming Report* (Jan. 27, 2014), available at <http://www.gundersenhealth.org/ncptc/trainings-education/publications/usa-swimming-report/>.

⁴⁶ Information provided to the Committee on Energy and Commerce, from USA Swimming (Feb. 15, 2018), on file with the 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>.

⁴⁷ 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/>.

⁴⁸ 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>.

⁴⁹ 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/>.

⁵⁰ *Id.*

and he has been placed under an “interim measure-restriction” for sexual misconduct.⁵¹ Although there were ongoing year-long active investigations into the brothers at the time, both attended the 2016 Rio Olympic Games.⁵² Filings in a recent lawsuit accuse both Jean Lopez and Steven Lopez of sexually assaulting minors for years.⁵³

In addition to the ongoing controversy regarding the Lopez brothers, USA Taekwondo has been involved in other public sexual abuse scandals. For example, in 2015, a USA Taekwondo coach, Marc Gitelman, was convicted of sexually abusing a minor athlete and another girl.⁵⁴ Prior to this conviction, both USA Taekwondo 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 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.”⁵⁵

USA Volleyball

In 1995, USA Volleyball banned one of its coaches, Rick Butler, due to claims that the coach had sexual relationships with underage athletes.⁵⁶ USA Volleyball partially lifted the ban just five years later in 2000. In January 2018, however, USA Volleyball permanently banned Rick Butler from coaching again.⁵⁷ Additionally, recent lawsuits have been filed related to claims that Rick Butler sexually abused and raped minor athletes in the 1980s.⁵⁸

In addition, multiple 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. As mentioned at the start of this section, USCSS has received written and oral reports, complaints, and allegations regarding sexual abuse from 35 of the 48 NGBs between its launch in March 2017 and April 13, 2018.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Jacey Fortin, *Lawsuit Accuses Taekwondo Olympian and His Coach, Who Are Brothers, of Sexual Abuse*, THE NEW YORK TIMES (May 6, 2018), <https://www.nytimes.com/2018/05/06/sports/lopez-taekwondo-sex-abuse.html>.

⁵⁴ 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.

⁵⁵ *Id.*

⁵⁶ 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/>.

⁵⁷ 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>.

⁵⁸ 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>.

d. U.S. Center for SafeSport

The 2010 sexual abuse controversy in USA Swimming was exposed with a two-part 20/20 report in April 2010. A few months later, Scott Blackmun, who stepped down as CEO of the USOC in February 2018, informed the Board at the USOC's June 28, 2010 Board Meeting⁵⁹ 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.⁶⁰ 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.⁶¹ The Working Group recommended that: (1) "the USOC should play a leadership role in promoting safe training environments;" (2) "the USOC should lead by example in promoting safe training environments;" (3) "the 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) "the 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) "the USOC should work with NGBs to centralize and standardize the delivery of services designed to promote safe training environments;" and (6) "the 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."⁶²

Following the Working Group's recommendations, the USOC launched its SafeSport initiative in 2012.⁶³ The program was designed to improve the safety of athletes by providing information, training, and resources.⁶⁴ 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."⁶⁵ In October 2013, Malia Arrington, the then-Director of Ethics and Safe Sport, presented the Board

⁵⁹ 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>.

⁶⁰ Team USA, *About the USOC – SafeSport – Key Actions* (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Key-Actions>.

⁶¹ 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>.

⁶² 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.

⁶³ 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>.

⁶⁴ 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>.

⁶⁵ *Id.*

with the recommendations of the Safe Sport Working Group on investigations and adjudications.⁶⁶ 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.⁶⁷

The USOC approved the creation of the USCSS in June 2014 and USCSS launched on March 3, 2017.⁶⁸ 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.⁶⁹ 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.⁷⁰ Moreover, at the request of an NGB or the USOC, USCSS may accept discretionary authority over alleged violations involving any form of misconduct as set forth in the Code.⁷¹

USCSS' board consists of nine independent board members that meet four times per year.⁷² Most of the funding for USCSS comes directly from the USOC and the NGBs.⁷³ On February 28, 2018, the USOC announced that it planned to double the amount of funding it provides to USCSS, and in March 2018, it was reported that the USCSS had an annual budget of \$4.3 million and employed nine full time staff and several contract investigators.⁷⁴ According to

⁶⁶ 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>.

⁶⁷ *Id.*

⁶⁸ 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>.

⁶⁹ Team USA, *Safe Sport* (last visited May 16, 2018), available at <https://www.teamusa.org/about-the-usoc/safe-sport>.

⁷⁰ U.S. Center for SafeSport, *Policies & Procedures* (last visited May 16, 2018), available at <https://safesport.org/files/index/tag/policies-procedures>.

⁷¹ *Id.*

⁷² U.S. Center for SafeSport, *Who We Are* (last visited May 16, 2018), available at <https://safesport.org/who-we-are>; U.S. Center for SafeSport, *Bylaws* (last visited May 16, 2018), available at <https://safesport.org/files/index/tag/bylaws>.

⁷³ 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-shelli-pfohl-ceo-us-center-safesport>.

⁷⁴ 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>

information provided to the Committee by USCSS, USCSS projects it will have 26 staff by July 1, 2018. There have been a significant number of reports to USCSS since it opened last year. Data received by the Committee indicates that, in 2017, USCSS received 227 written and oral reports, complaints, and allegations regarding sexual abuses.⁷⁵ As of April 13, 2018, USCSS received 261 written and oral reports, complaints, and allegations regarding sexual abuses in 2018. Moreover, between March 2017 and April 13, 2018, USCSS resolved 156 cases and investigations.⁷⁶ In 120 of these 156 instances the individual became permanently ineligible to participate in the organization.⁷⁷

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.⁷⁸ This act provides that, among other things, adults authorized to interact with certain minors and amateur athletes must report evidence of child abuse and the USCSS is the independent national safe sport organization and is 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.⁷⁹ Shortly after the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act was signed into law, Congress passed additional legislation that created a \$2.5 million grant program to protect young athletes from emotional, physical, and sexual abuse in sports.⁸⁰

e. Additional Recent Actions to Address Allegations of Sexual Abuse and Remaining Challenges

While the USOC and NGBs have made efforts to improve their policies and procedures, challenges remain. The USOC engaged Baker Tilly Virchow Krause to conduct audits of the USOC and all of the NGBs and High-Performance Management Organizations to assess their compliance with safe sport policies and procedures. These audits began in April 2017, which included reviews and testing and the reports for each organization were issued in October 2017.⁸¹ Some of the organizations were found to be in compliance with the SafeSport policies and

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>.

⁷⁵ Information provided to the Committee on Energy and Commerce, from the U.S. Center for SafeSport (Apr. 13, 2018) on file with the committee.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ 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>.

⁷⁹ *Id.*

⁸⁰ H.R. 1625 Consolidated Appropriations Act, 2018 (enacted Mar. 23, 2018), available at <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>; 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/>.

⁸¹ Team USA, *About the USOC – Safe Sport – Safe Sport Audit Reports*, (last visited May 16, 2018), available at <https://www.teamusa.org/About-the-USOC/Safe-Sport/Safe-Sport-Audit-Reports>.

procedures and didn't have any observations, but 43 organizations had deficiencies including, but not limited to, the application of policies being inconsistent with the requirements listed in the Athlete Safety Standards; inconsistent enforcement of requiring criminal background checks; inconsistencies in tracking education and training requirements; and a lack of guidance and/or requirements from the USOC, which leads to inconsistencies with how each NGB chooses to implement a requirement. Each organization was given 90 days to correct any deficiencies while the USOC's Audit Division monitored and reviewed the corrective actions and issued SafeSport follow-up reports to the NGBs that were found to have deficiencies. Some organizations required a second follow-up report, the most recent of which was only issued in April 2018. The findings in the Baker Tilly Audits suggest that challenges remain with respect to the USOC and NGBs implementation of the Athlete Safety Policy, which could put athletes at SafeSport-related misconduct risk.

NGBs have different policies regarding whether they maintain lists of banned coaches, and if they do, whether they publicize the list. In the March 7, 2018 letter that the Committee on Energy and Commerce (the committee) sent to all 48 NGBs, the committee asked each NGB whether or not the NGB maintained a list of individuals banned or suspended from participation with the NGB, and if so, whether the list was publicly available.⁸² In response to the question, 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.⁸³ The USCSS maintains a searchable database and a website that links to the NGB lists of banned and/or suspended coaches that are publicly available.⁸⁴ Currently, 18 NGBs have a banned or suspended list that is available to the general public.⁸⁵ 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; or have not banned or suspended any individuals, but would make a list public if they were to do so.⁸⁶

Although the Olympic community continues to examine vulnerabilities for athlete safety and adopt reforms to improve the community's responsiveness to allegations of sexual abuse, it remains unclear whether these reforms will adequately protect athletes. According to a February 2018 statement from USOC's interim CEO, Susanne Lyons, the organization is currently "evaluating the USOC's role and oversight of all the National Governing Bodies, considering potential changes to the Olympic structure and aggressively exploring new ways to enhance

⁸² See Individuals Letters from the Committee on Energy and Commerce to each of the 48 NGBs (March 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/>.

⁸³ Information provided to the Committee on Energy and Commerce, from recipients of the Committee on Energy and Commerce's March 7, 2018 letter to NGBs (2018) on file with the committee.

⁸⁴ U.S. Center for Safe Sport, Disciplinary Records (last visited May 17, 2018), available at <https://safesport.org/userviolations/search>.

⁸⁵ See *supra*, note 83.

⁸⁶ These are examples of disclaimers provided by NGBs, but it is not an exhaustive list.

athlete safety and help prevent and respond to abuse.”⁸⁷ The actions that the USOC plans to adopt include, but are not limited to: (1) “Launching a review of the USOC and NGB governance structure as defined by the Ted Stevens Amateur Sports Act, including seeking input from safe sport advocacy groups, the NGB Council, the Athletes’ Advisory Council, current athletes and policymakers to consider clarifications and changes to this structure;” (2) “Revisiting USOC SafeSport procedures to determine what measures are necessary to ensure allegations of abuse are reported to the USCSS, in addition to law enforcement, and that necessary follow-ups occur;” and (3) “Forming an advisory group to bring together survivors, advocates, child psychologists and other medical professionals to guide the USOC on stronger safeguards against abuse throughout the Olympic community, and effective support for victims.”⁸⁸

III. ISSUES

The following issues will be examined at the hearing:

- How we can learn from the past and examine opportunities to reform the system to ensure the investigation process is thorough, unbiased, and effective;
- Whether existing policies and procedures are adequate to ensure the safety of athletes;
- The challenges currently facing the Olympic community regarding how to properly and effectively handle cases of sexual misconduct; and
- How to ensure better oversight, accountability, and restore public confidence within the US Olympic community.

IV. STAFF CONTACTS

If you have any questions regarding the hearing, please contact Brittany Havens, Brighton Haslett, or Natalie Turner at (202) 225-2927.

⁸⁷ Team USA, *U.S. Olympic Committee Announces Significant Changes to Further Protect Athletes* (Feb. 28, 2018), available at <https://www.teamusa.org/News/2018/February/28/US-Olympic-Committee-Announces-Significant-Changes-To-Further-Protect-Athletes>.

⁸⁸ *Id.*