The Larry Nassar Nightmare: Athletic Organizational Failures to Address Sexual Assault Allegations and a Call for Corrective Action

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I. INTRODUCTION*

A. Research Goal

Lawrence (Larry) Nassar, a once credible, respected physician – who treated thousands of premiere athletes – is now known as one of the most infamous individuals in American sports history. While building his professorial career as a doctor with USA Gymnastics (USAG), Michigan State University (MSU), and the United States Olympic Committee (USOC), Nassar was sexually assaulting hundreds of individuals under the guise of medical treatment. USAG, MSU, and the USOC all contributed to the flawed system that refused to listen to the athletes who reported Nassar in addition to help him maintain his status. Through the silence of numerous professionals among the listed institutions, Nassar’s sexual assault occurred for decades and his employment continued without consequence.

After hundreds of athletes came forward, and people finally listened, Nassar’s reign of sexual assault finally was exposed and came to an end. On December 7, 2017, Nassar was sentenced to 60 years in prison after being convicted of federal child pornography charges. On January 24, 2018 he was sentenced to an additional 40-175 years in prison for seven counts of criminal sexual assault. Lastly, on February 5, 2018, he was sentenced to another 40-125 years in prison after pleading guilty to three counts of criminal sexual conduct. These harsh and deserving sentences come after decades of Nassar’s sexual assault and will be served concurrently. If Nassar surpasses a normal life expectancy and exceeds the minimum 40-year imprisonment, then his time in in-state prison will be extended to 175 years.

This paper will discuss the inquires of how and why USAG, MSU, and the USOC failed to properly investigate and take corrective action as a result of Nassar’s actions. This will include a description of the powerful individuals who worked with or oversaw Nassar, how they received complaints of his sexual assault, and an explanation of the institutional environment that fostered a culture of silence and absolute obedience. To provide a comparative analysis, this paper will analyze other athletic organizations (such as USA Swimming and USA Diving) which are also overseen by the USOC in order to compare their previous cases and reactions to sexual assault. This will be followed by recommended corrective policies for athletic organizations if claims of sexual assault arise. These policies and procedures will aim to prevent sexual assault

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2 Levenson, supra note 1.

3 Alanna Vagianos, Larry Nassar Appeals Second Sexual Assault Sentence, HUFFINGTON POST (Aug. 9, 2018, 11:00 AM), https://www.huffpost.com/entry/larry-nassar-appeals-sexual-assault-sentence_n_5b6c3f82e4b0bddd06206ec8f


5 Athletic organization/organization- The term ‘athletic organization’ and ‘organization’ is used in this context to include athletic National Governing Bodies (NGBs), university athletic departments, the United States Olympic Committee (USOC), and other similar entities.
in the future, reduce any culture of silence and vulnerability within similar organizations, and hopefully be implemented throughout athletic organizations everywhere.

If an athletic organization confronts an issue of sexual assault amongst its personnel, it is critical that there be sound policies in place to assist in navigating this challenging situation. If USAG, MSU, and/or the USOC had such policies and properly implemented them, would the lives of hundreds of athletes who were sexually assaulted been different? Would Nassar have gotten away with his crimes? After all, Nassar’s sexual assault was reported as early as 1992 and continued until he was charged in 2016.\(^6\) Throughout his professional career, he was consistently promoted within USAG and MSU, regardless of the athletes that periodically reported their cases of sexual assault. Numerous professionals within these major organizations received various complaints regarding Nassar’s strange behavior, but corrective action was never utilized to put an end to the assaults. These stakeholders enabled an individual to continue employment by dismissing victim’s accusations, thus demonstrating a failure within these organizations.

In order to seek prevention of sexual assault in the future and hold individuals accountable for their actions or inactions, athletic organizations (especially when working with minors) must have policies in place for how to properly handle claims of sexual assault. The policies and procedures proposed herein will hopefully be a guideline of protection for all stakeholders involved within athletic organizations and eliminate the opportunity for sexual assault. My policies should educate administration on how to properly handle these intimidating situations as well as work as a verification system to keep athletes safe.

B. Research Methodology

In order to pursue research for this study, I was certified by Arizona State University’s Institutional Review Board (IRB) to conduct personal interviews. All interviews were pursuit to the conditions set by the IRB. With this approval, I conducted eight interviews with various gymnasts, former gymnasts, administrators, and a team physician. These individuals are listed in Appendix B. In addition to the individuals listed, I spoke with other gymnasts, former gymnasts, and an attorney who were initially very supportive and willing to be interviewed for this paper. Subsequently, due to various issues including but not limited to, anxiety and emotional distress that they have suffered from personal experiences with Nassar, on-going litigation, and other such challenges they declined to participate. In addition to conducting the interviews, I utilized literature research material such as articles, reports, one documentary, and one pamphlet.

II. BACKGROUND OF LARRY NASSAR

A. Career Overview

Larry Nassar graduated from University of Michigan in 1985 with his undergraduate degree in Kinesiology (the study of human movement).\(^7\) While in college, he volunteered at a

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high school and participated in charity work for his local church. Through this service, he began
to gain a credible reputation within the Lansing, Michigan community. In 1986, he became an
athletic trainer for USA Gymnastics (USAG), where he volunteered at major competitions such
as the Pan American Games in 1987 and the Olympic Trials in 1988.8 In 1988, Nassar continued
to work closely with gymnastics as he began working at a club gym, Great Lakes Gymnastics
Club (Great Lakes).9 Through his work at Great Lakes he began to work with gymnastics coach
John Gedderd, whom he met through their mutual friend, Kathie Klages.10 Klages and Gedderd
coached together and were known for producing high-performing gymnasts, some of whom
ended up competing competitively for Michigan State University (MSU) at the Division 1 level.
Therefore, it was no surprise in 1990 when Klages became the head coach of MSU Women’s
Gymnastics Team.11

Within Great Lakes, Nassar had his own treatment room in the back of facility. It was
hidden by the vault and balance beam behind a heavy metal door. Victims have since come
forward describing Nassar’s sexual assault within that treatment room.12 Nassar’s schedule
became hectic as he was enrolled as a medical student in MSU’s College of Osteopathic
Medicine in addition to his twenty hours of volunteer work at Great Lakes.13 Nassar worked at
Great Lakes so often that it even began to jeopardize his medical degree. After two semesters in
medical school, he was expelled, but Gedderd came to his aid. Gedderd wrote a letter to the dean
of MSU’s College of Osteopathic Medicine.14 Within the letter, Gedderd promised that he would
not allow Nassar to work at the gym until he completed medical school. Following the receipt of
this letter, Nassar was readmitted into MSU’s College of Osteopathic Medicine and was told he
could complete his degree in five years instead of four.15

Nassar graduated from MSU with his osteopathic medical degree in 1993.16 His
reputation was still building within the Michigan community because of his kind, helpful
appearance. This was rare and extremely helpful to athletes, coaches, and parents. Additionally,
his role with USAG began to grow. In 1996, he became the National Medical Coordinator for
USAG and attended his first Olympic Games in Atlanta, Georgia.

That same year, John and Kathryn Gedderd opened the esteemed Gedderd’s Twistars
Gymnastics Club in Lansing, Michigan where they allowed Nassar to have a treatment room in
the back of the facility to work on their injured athletes.17 In 1997, Nassar completed his sports

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8 John Barr & Dan Murphy, Nassar surrounded by adults who enabled his predatory behavior, ESPN (Jan. 16,
surrounded-enablers-abused-athletes-espn
9 Tim Evans, Joe Guillen, Gina Kaufman, Marisa Kwiatkowski, Matt Mencarini, & Mark Alesia, How Larry Nassar
abused hundreds of gymnasts and eluded justice for decades, INDY STAR (Apr. 4, 2018, 12:59 PM),
10 Barr & Murphy, supra note 8.
11 Id.
12 Id.
13 Id.
14 Id.
15 Id.
16 Kate Wells, Lawsuit: Nassar abused gymnast while he was still in medical school, MICH. RADIO (Apr. 17, 2017),
https://www.michiganradio.org/post/lawsuit-nassar-abused-gymnast-while-he-was-still-medical-school
17 Barr & Murphy, supra note 8.
medicine fellowship and became a team physician and assistant professor at MSU. At this
time, his professional career began to take off as he held significant roles at USAG, MSU, local
card gyms, and high schools. Nassar worked with USAG until he retired from the organization
in 2015. At this time, he was still employed by MSU and treating various individuals.

In August 2016, The Indianapolis Star published an investigation into USAG regarding
the organization’s handlings of sexual abuse complaints over a period of decades. Later that
month, sexual assault survivor Rachel Denhollander filed a criminal complaint against Nassar
with the MSU Police claiming that he sexually assaulted her in 2000 while treating her for lower
back pain. In September 2016, The Indianapolis Star and Rachel Denhollander publicly accused
Nassar of sexual assault. About one week later, he was fired from MSU. And then, it was the
awakening of the complaints, investigations, and charges of sexual assault against Nassar.

A congressional report that was recently released by Senator Jerry Moran (R-KS) and
Senator Richard Blumenthal (D-CT) confirmed that USAG, MSU, the USOC, and the FBI all
“knowingly concealed abuse by Nassar, leading to the abuse of dozens of additional amateur
athletes.” Further, the report detailed that for more than two decades over 300 athletes were
abused by Nassar because of ineffective oversight by Olympic organizations. “The Olympic
Committee, USA Gymnastics, and MSU all received reports about Nassar’s abuse more than a
year before anything was done.” In response to these findings, Senator Blumenthal and
Senator Moran have introduced the Empowering Olympic and Amateur Athletes Act, which
aims to improve protection of sexual assault and increase oversight for athletes.

The report confirmed that the FBI, USAG, and the USOC “had opportunities to stop
Nassar but failed to do so,” additionally, the FBI “failed to protect victims and enable their abuse
through institutional inaction.” More specifically, it describes how the FBI did not pursue the
investigation about Nassar with vigor and USAG concealed Nassar’s crimes. With that being
said, this thesis will focus on the institutions that employed Nassar to work with athletes or
students; USAG, MSU, and the USOC.

B. The Accusations, Trials, and Sentencings

In 2016, everything changed when Rachel Denhollander publicly accused Nassar of
sexual assault in a report published in The Indianapolis Star. The newspaper had previously

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18 Dwight Adams, Victims share what Larry Nassar did to them under the guise of medical treatment, THE INDY
did-his-patients/1065165001/
19 Barr & Murphy, supra note 8.
20 Eric Levenson, How the Indy Star and Rachel Denhollander took down Larry Nassar, CNN (Jan. 25, 2018, 5:27
21 Levenson, supra note 20.
22 Sarah Fitzpatrick, Tom Costello, & Adiel Kaplan, Congress: U.S. Olympic Committee, FBI failed to protect
athletes from Larry Nassar’s abuse, NBC News (July 30, 2019, 4:13 AM), https://www.nbcnews.com/politics/congress/congress-u-s-olympic-committee-fbi-failed-protect-athletes-larry-
n1035751
23 Fitzpatrick, Costello, & Kaplan, supra note 22.
24 Id.
25 Id.
26 Id.
27 Levenson, supra note 20.
published an article describing USAG and its failure to follow up on sexual assault complaints from coaches that had occurred for decades. In fact, the article asserted that the organization executed a massive cover up. Denhollander read the article and began to reflect on her experience with Nassar. For the first time, she felt like others might believe her for accusing Nassar of sexual assault, so she decided to share her story with The Indianapolis Star. She sent her story to Mark Alesia, a writer at The Indianapolis Star. More reporters for The Indianapolis Star began to interview more individuals, including Olympic Champion Jamie Dantzsch, who outlined a very similar story regarding her experience with Nassar. With multiple complaints, The Indianapolis Star published an article in September 2016, exposing Nassar for his abusive treatments in addition to accusing USAG for covering up allegations about his assaults.

On August 29, 2016, Denhollander filed a criminal complaint against Nassar. The next day, MSU relieved him of all clinical and patient duties. When investigators initially brought him in for questioning, Nassar defended himself and stated his confusion at these accusations. He described intravaginal penetration as a legitimate technique that he even lectured on as a credible physician.

One month later, MSU fired Nassar as an associate professor within the College of Osteopathic Medicine. By the end of November 2016, officials had received approximately fifty complaints regarding Nassar’s sexual assaults. Therefore, Nassar was charged in Ingham County, Michigan with three counts of first-degree sexual conduct. Facing life in prison, Nassar pleaded not guilty and posted $1 million bail. Initially, Nassar appeared to garner public support. Nassar’s attorney, Shannon Smith, stated: “There are hundreds of people that support him 100%. We have received countless emails from other doctors, physicians, physical therapists, ex-patients, and ex-coworkers,” Even some of his victims initially defended him because they truly believed that he cared for them and would never do anything to harm them. These individuals referred Nassar to their friends. They recalled discussing his treatments with one another by confirming that the intravaginal penetration was common and that he administered this treatment regularly. Following the posted bail, Nassar attempted to work with children at Holt High School as part of the school council.

On December 16, 2016, Nassar was indicted on federal pornography charges. Officials claimed that in 2004 he attempted to receive, or received, images of child pornography in

28 Id.
29 Id.
30 Id.
31 Id.
32 Id.
35 USA Today, supra note 34.
36 Id.
37 At the Heart of Gold, supra note 33.
38 Id.
39 Id.
addition to possessing more images between 2003 and 2016. An FBI agent later testified that he found 37,000 images/videos of child pornography within hard drives at Nassar’s home. During the sentencing, Judge Janet T. Neff explained the vast number of images found on his computer was unlike anything she had seen throughout her ten years as a judge. “I have a hard time considering Mr. Nassar a physician because he has so thoroughly violated the role of physician and healer,” stated Judge Neff.

After these images were found, the community’s reaction changed drastically. Prior to this finding, the Michigan community was divided between those who believed Nassar and those who believed his victims. Now, with the substantial evidence of child pornography images, Nassar’s twisted behavior was confirmed, and the public’s view of the once trustworthy doctor began to dissipate. On December 21, 2016, Nassar was denied bond. One month later, eighteen victims filed a federal lawsuit against Nassar, USAG, MSU, and Geddert’s Twistars Gymnastics Club for alleged sexual assault, molestation, harassment, and battery for the years between 1996 and 2016. After this lawsuit, Nassar’s medical license was suspended. Following, the police in Texas began its own sexual assault investigation. On February 7, 2017, federal officials added an additional charge against Nassar for destroying images of child pornography. Soon after, MSU suspended Kathie Klages after a woman testified in court that she notified Klages about Nassar in the late 1990s, but Klages discouraged her from filing a formal sexual assault complaint. The day after this testimony, Klages retired as MSU Gymnastics Head Coach after serving in the role for twenty-seven years. On March 17, 2017, an MSU Title IX Investigator completed an internal investigation which concluded that Nassar sexually assaulted a girl, thereby violating university policy. One month later, Nassar’s medical license was revoked by a state disciplinary board, requiring him to pay $100,000 before reapplying. By June 30, 2017, there were 119 lawsuits from girls and women against Nassar for sexual assault. On July 11, 2017, he pleaded guilty to three child pornography charges within a federal court in Grand Rapids, Michigan.

Later that year, federal lawsuits against Nassar, USAG, MSU, and Geddert’s Twistars entered a mediation phase. Nassar pleaded guilty to seven counts of first-degree criminal sexual conduct in Ingham County Circuit Court, Michigan as part of a plea agreement with the Michigan Attorney General’s Office. This deal dismissed other charges but included a minimum 25-40-year sentence and maximum sentence of life in prison. In a similar plea, Nassar pleaded guilty to three counts of first-degree criminal sexual conduct in Eaton County Circuit Court, Michigan as part of another plea agreement with the Michigan Attorney General’s Office.

40 USA Today, supra note 34.
41 Id.
43 Weidmayer and Miszak, supra note 42.
44 At the Heart of Gold, supra note 33.
45 USA Today, supra note 34.
46 Id.
47 Id.
48 Id.
49 Id.
50 Id.
51 Id.
52 Id.
This plea also dismissed other charges. Michigan Attorney General Bill Schuette then asked former MSU President Lou Anna Simon to release the institutions findings on its internal review investigation. On December 7, 2017, Nassar admitted to the child pornography charges and was sentenced to 60 years in federal prison. Later that month, Olympic champion McKayla Maroney filed a lawsuit which stated that USAG paid her in late 2016 to sign a non-disclosure agreement (NDA) to confirm that she would not speak about Nassar’s sexual assault. “They were willing to engage in a systematic cover-up of the entire matter,” announced John Manly, Maroney’s attorney.

In a Nevada state court proceeding, Judge Rosemarie Aquilina permitted victim statements between January 16-24, 2018. What began as eighty-eight individuals willing to speak transformed into one hundred and fifty-six women who read their personal victim statements- one-by-one. The first victim statement came from Kyle Stephens. Stephens’ testimony was powerful as she described that Nassar’s began sexual assaulting her when she was just six years old. When she turned twelve, she told her parents about the sexual assault. Shockingly, her parents did not believe her because Nassar was a close family friend and credible doctor. When her parents brought the accusations to Nassar, he convinced them that she was a liar. They forced her to apologize to Nassar, which created a major divide within the family for years to come. When Stephens turned eighteen, she told them about the sexual assault again. This time, her parents believed her. Stephens revealed that her father apologized to her countless times and later committed suicide.

In the courthouse, Nassar’s victims described his intravaginal penetration treatments, how their parents were occasionally in the room during the sexual assault, and how they asked him to stop to no avail; ironically, some also shared that they had felt honored to be treated by the once prestigious doctor. They continued to explain how Nassar would talk throughout his treatment sessions, address his victims and their parents during the sexual assaults, get erections, and make grunting noises. Some of his victims believe that Nassar purposely did not properly treat their injuries so that they would keep coming to him in need of more treatment. Often, victims did not question if his methods worked because of his strong reputation for treating other successful athletes. In Nassar’s exam room, he had pictures hanging of other women that he had ‘treated’ and -as it turns out- sexually assaulted.
One parent, Randall Margraves, father of Laruen and Madison Margraves who were both sexually assaulted by Nassar, asked the judge to be locked in a room for a few minutes with Nassar shortly after they spoke. After the judge explained that she could not grant him that permission, he lunged at Nassar and attempted to attack him in the courtroom. He was handcuffed and led out of court, shouting towards the court to imagine if their children were sexually assaulted by Nassar and asking them how they would react.

The public trial forum fostered an atmosphere of dramatic proportions in the courtroom, all while the cameras rolled—spilling the scene into mass media. Court attendees cheered after victims read their statements and booed the defense attorneys. Nassar’s attorneys and their families received death threats throughout the trial. During the nine days of the victims’ statements, John Geddert was suspended from USAG on January 22, 2018. Hours later, Geddert released a letter to the families of his gym describing that he was preparing to retire.

Following the victims’ statements and prior to the sentencing, Nassar made a brief statement describing how his victims’ statements have impacted him deeply. “…Your words had a significant emotional effect on myself and has shaken me to my core. I also recognize that what I am feeling pales in comparison to the pain, trauma, and emotional destruction that all of you are feeling. There are no words that can describe the depth and breadth of how sorry I am for what has occurred. An acceptable apology to all of you is impossible to write and convey,” When speaking, Nassar occasionally turned around to address his victims, but Judge Aquilina demanded that he face her directly. Nassar also sent a letter to Judge Aquilina, further describing his perception of the case. This included how he felt victimized by the victims’ statements. After he finished his statement, Judge Aquilina read portions of this letter. “I was a good doctor because my treatments worked and those patients that are now speaking out were the same ones that praised and came back over and over and referred family and friends to see me. The media convinced them (his victims) that everything I did was wrong and bad…Hell hath no fury like a woman scorned,” The courtroom reacted in gasps and laughter. In his letter, Nassar also described how he was victimized throughout the trial and manipulated by both the Attorney General and Judge Aquilina. Judge Aquilina chose not to release the full letter and later sealed it, stating that it could hurt his victims as he wrote their names and blamed them.

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66 Keneally & Stone, supra note 65.
67 At the Heart of Gold, supra note 33.
68 At the Heart of Gold, supra note 33.
69 USA Today, supra note 34.
70 Id.
71 CNN Staff, This is Larry Nassar’s full statement before he was sentenced, CNN (Jan. 24, 2018, 11:17 PM), https://www.cnn.com/2018/01/24/us/larry-nassar-full-statement/index.html
72 CNN Staff, supra note 71.
73 At the Heart of Gold, supra note 33.
75 At the Heart of Gold, supra note 33.
When sentencing, Judge Aquilina watched to see if Nassar appeared sincere, searching for signs of remorse to decide if rehabilitation would eventually help him. Based on his comments, she saw no remorse as he could not comprehend the destruction he had done. After reading his statement, she asked Nassar if he wanted to withdraw his guilty plea, which he refused. “It was all about him, he wanted to be in control,” she described. Therefore, on January 24, 2018, she sentenced him to one sentence of 40-175 years in Michigan state prison on sexual assault charges. “I just signed your death warrant,” she proclaimed, affirming his sentence. The courtroom applauded with a standing ovation as Nassar was handcuffed and taken to prison.

The President of MSU, Lou Anna Simon, resigned that day, hours after the sentence. On January 31, 2018, Nassar’s sentencing hearing in Eaton County, Michigan began. This resulted in an additional sentence of 40-125 years in prison. Nassar was initially placed in an Arizona federal prison but transferred to a Florida prison after being assaulted in the Arizona prison. In August 2018, Nassar filed motions in state courts requesting new sentencing in Ingham, Michigan and Eaton, Michigan counties. His attorneys argued that his court hearing was unfair because it was dominated by testimony not directly related to his crimes in Eaton County, Michigan. He additionally filed a motion to disqualify Judge Aquilina and to appeal his sixty-year federal sentence in child pornography charges in Ingham County, Michigan. All requests were denied.

III. USA GYMNASTICS (USAG)

A. Background of USAG

Established in 1963 and based in Indianapolis, Indiana, USA Gymnastics (USAG) is the governing body for the sport of gymnastics. The main responsibility of USAG is to help encourage safe participation within the sport of gymnastics. USAG holds other responsibilities which include: “…sets the rules and policies that govern gymnastics in the United States; selects and trains the U.S. Gymnastics Teams for Olympic Games and World Championships, as well as other international competitions, promotes and develops gymnastics on both the grassroots and

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76 Id.
77 Id.
78 Cacciola and Mather, supra note 4.
79 USA Today, supra note 34.
81 USA Today, supra note 34.
82 The Associated Press, Larry Nassar loses another bid for new sentence in Michigan, The Seattle Times (Sept. 6, 2018, 12:16 PM)
83 USA Today, supra note 34.
84 Id.
85 USA Gymnastics will celebrate 50th anniversary at 2013 U.S. Championships; 2013 Hall of Fame Call announced, USA GYMNASTICS (Apr. 18, 2013), https://usagym.org/pages/post.html?PostID=11913
86 Code of Ethical Conduct, USA GYMNASTICS (July 2018)
national levels; and serves as a resource center for member clubs, fans and gymnasts throughout the United States.”87. The USAG Administration enforces these regulations, responsibilities, and overall culture of the organization.88

B. The Previous USAG Administration

USAG has completely altered its administration and board of directors since the public disclosure of Nassar’s sexual abuse. The previous administration has been publicly accused of failing to properly address sexual assault claims. Some of these key members include former USAG President and CEO Steve Penny, former USAG Senior Vice President Rhonda Faehn, and former USAG National Team Coordinator Martha Karolyi.

Steve Penny held the role of the President and CEO of USAG for twelve years.89 In March 2017, Penny stepped down from this position, one month after the United States Olympic Committee (USOC) requested for his resignation.90 Even though he lost his job, he received a $1 million payout.91 In June 2018, Penny was interviewed in a Senate subcommittee hearing, in which he asserted his Fifth Amendment right to not incriminate himself.92 Then, he left the hearing.93 By mid-October 2018, he was arrested on a third-degree felony for indictment of tampering with evidence.94 This indictment was based on testimony before the congressional hearing that claimed Penny ordered (and later deleted) documents that requested to remove Nassar from The Karolyi Ranch (USAG’s National Team’s Training Center and official U.S. Olympic Training Site).95 According to Penny’s attorney, Rusty Hardin, Penny “…did not receive the documents and has no idea where they are.”96 These documents were apparently delivered to Penny at USAG Headquarters in Indianapolis, but are currently missing. Penny pleaded not guilty to the charge. He later posted bail (set at $20,000) and was released from prison in late October 2018.97

Rhonda Faehn, the former Senior Vice President of USAG, worked directly under Penny. When club coach Sarah Jantzi overheard her gymnast, Maggie Nichols and Olympian Aly Raisman discussing Nassar’s bizarre treatments, Jantzi directly reported the incident to Faehn.

87 USA Gymnastics, supra note 85.
88 Id.
91 At the Heart of Gold, supra note 33.
92 Charlotte Carroll, Ex-USA Gymnastics President Pleads the 5th to Questions on Athlete Sexual Abuse at Hearing, SPORTS ILLUSTRATED (Jun. 5, 2018), https://www.si.com/olympics/2018/06/05/ex-usa-gymnastics-president-steve-penny-senate-hearing
93 Carroll, supra note 92.
95 Barron, supra note 94.
96 USA Today, supra note 34.
97 Barron, supra note 94.
Faehn then relayed this information to her boss, Steve Penny. Penny notified Faehn that he had alerted authorities and informed her to not discuss the allegations. After this, she chose not to notify law enforcement regarding the conversation about Nassar's sexual abuse. Faehn explained this in her written testimony at a congressional hearing: "He told me to not say anything or do anything because he was going to handle everything going forward...he told me he was going to report the concerns to proper authorities, which I assumed included law enforcement." However, under Indiana law, she was required to report any child abuse/neglect to the police or the Indiana Department of Child Services. Faehn's inaction seemingly frustrated Raisman, as she has explained: "I reported my abuse to Rhonda Faehn and so did Maggie Nichols, and I don't know what she did with that information, but I didn't get contacted by the FBI for over a year, and in that time fifty to one hundred gymnasts were molested...her and Steve Penny were fully aware of what's going on." Faehn was fired from USAG in May 2018.

Martha Karolyi was the U.S. National Team Coordinator; therefore, she was the head coach of the U.S. National Team. She and her husband, Bela Karolyi, owned the famous Karolyi Ranch where the U.S. National Team trained monthly. Martha Karolyi took over the head coaching position from her husband in 2001. She began to run monthly training camps to prepare the U.S. National Team for major international competitions such as the World Championships and Olympics Games. Martha was known for her harsh coaching style that bred greatness, which was proven by the dominant, powerhouse team that is USAG. However, this style was extremely intense- she closely monitored the gymnasts by watching how they trained and ate, occasionally restricting food. Even with this close monitoring, Martha and her husband Bela claim ignorance when asked if they were knowledgeable of Nassar's sexual assault. Yet, many blame the Karolyi's for Nassar's sexual abuse by enabling the culture of fear, silence, and vulnerability that allowed Nassar to prey on defenseless gymnasts. Others question their knowledge of the sexual assaults because of their close monitoring of the gymnasts.

99 Alesia, Kwiatkowski, & Evans, supra note 98.
100 Associated Press, *Former USA Gymnastics exec says she was told to keep quiet about Nassar allegations*, The N.Y. Post (Jun. 5, 2018, 11:40 PM), https://nypost.com/2018/06/05/former-usa-gymnastics-exec-says-she-was-told-to-keep-quiet-about-nassar-allegations/.
103 Zaccardi, supra note 102.
106 Benton, supra note 105.
107 Id.
C. The Karolyi Ranch

Located outside of Houston, Texas and owned by Marta and Bela Karolyi, The Karolyi Ranch was U.S. National Team’s Training Center and official U.S. Olympic Training Site for gymnastics.\textsuperscript{108} Better known as “The Ranch,” this training site was located in the middle of Sam Houston National Forest, which spans about two thousand acres of land. The Ranch facilities include: three gyms, sixty-six rooms (that can house up to three hundred gymnasts, coaches, and administrators), one cafeteria, dining areas, recreational areas, medical and rehab facilities, office space, and even Marta and Bela Karolyi’s personal residence.\textsuperscript{109} There was a tradition of success that surrounded The Ranch because of the numerous, world-class gymnasts who trained there, including: Nadia Comaneci, Mary Lou Retton, Kerri Strug, Nastia Liukin, Aly Raisman, and Simone Biles.\textsuperscript{110} Thus, there was a sense of magic that surrounded the site amongst gymnasts.

In 2000, The Ranch began training the U.S. National Team monthly.\textsuperscript{111} The U.S. National Team gymnasts would train at the Ranch for about one week every month under this system. Camps consisted of the U.S. National Team coaching staff and administration with the gymnasts’ local club coaches. USAG is known for producing some of the greatest gymnasts in the world because of the countless U.S. World and Olympic champions. Therefore, it was the responsibility of those within the Ranch to produce and maintain this high level. According to a booked titled, Gymnastics, after Mary Lou Retton won the Olympics in 1984, The Ranch attendee grew to 1,400 attendees.\textsuperscript{112}

D. Training at The Karolyi Ranch

The training at the Ranch was extremely intense. The Karolyis fostered a culture of fear within a toxic environment that encouraged verbal and emotional abuse.\textsuperscript{113} Their mindset constructed workouts with so much pressure that high-level competitions were arguably easier.\textsuperscript{114} The Karolyi mentality prepared gymnasts to handle the pressure of a real competition with ease. Gymnasts were trained to work like soldiers, not question authority, and do exactly as they are told. Every movement was watched, and one mistake could eliminate the opportunity to make a World or Olympic team.\textsuperscript{115} If a gymnast did not perform up to the expectation at The Ranch, one could feel the tension increase.\textsuperscript{116} The Karolyi’s made it crystal clear that glory came with a price, and that price was physical, emotional, and verbal abuse.\textsuperscript{117} Current University of Florida gymnast and former U.S. National Team Member Alyssa Baumann described the previous culture of USAG:

\begin{footnotesize}
\begin{enumerate}
\item\textsuperscript{108} Hannah Smothers, Everything You Need to Know About Karolyi Ranch, COSMOPOLITAN (Feb. 6, 2018), https://www.cosmopolitan.com/lifestyle/a15958460/karolyi-ranch/.
\item\textsuperscript{111} Alicia Park, Why It’s a Big Deal That USA Gymnastics Is Cutting Ties With the Karolyi Ranch, TIME (Jan. 18, 2018), https://time.com/5108887/usa-gymnastics-sexual-abuse-karolyi-ranch/.
\item\textsuperscript{112} Smothers, supra note 108.
\item\textsuperscript{113} Yan, supra note 110.
\item\textsuperscript{114} At the Heart of Gold, supra note 3.
\item\textsuperscript{115} Telephone Interview with Anonymous, (Sept. 7, 2019).
\item\textsuperscript{116} Telephone Interview with Anonymous, supra note 115.
\item\textsuperscript{117} Yan, supra note 110.
\end{enumerate}
\end{footnotesize}
“The previous culture of USAG consisted of fear and intimidation. Unnecessary pressure was placed on athletes to act and preform as robots with zero consideration of the athlete well-being. It was a culture in which money and medals were prioritized as opposed to the athletes and their safety.”

Former University of Oklahoma gymnast and U.S. National Team member McKenzie Wofford further described this culture:

“Personally, I would describe the previous USAG culture as toxic, manipulative, and abusive. The organization hired people who brainwashed their athletes and taught them that winning was everything no matter what the cost may be. For me, the words that come to mind when I think about The Ranch or get asked about it is that it was absolute hell. The tension in the gym was terrifying, the USAG coaches/administration had their eyes on us 24/7. It was expected to have complete focus in order to complete workouts no matter how sick or injured you were. If you wanted to be on top you had to just pretend nothing was wrong. I literally will get a smell of something in the air that smells like The Ranch and I get chills.”

Other coaches who attended training camps at The Ranch craved gymnastics success, therefore they mirrored this coaching standard. These coaching methods were then brought back to their local gyms and this mentality spread nationally. Baumann and Wofford explained their perspectives of the USAG coaches and administration:

“Overall, I do not feel that the staff and coaches were concerned with their athlete’s safety and mental/physical health. Fortunately, my personal coaches were not this way; however, many others I worked with were. Their priority was winning by any means necessary. They cared about results, not the athletes. They were willing to cover up injuries and abuse so they could maintain their fake image and continue to win.”

“I feel like there were a select few (USAG coaches and administrators) that had some of our best interest at heart, but for the most part they did not. All the coaches and administrators cared about was pleasing Martha. They would do whatever it took to ensure that they themselves and their athletes were on top, even if it put others in danger. I believe that many of them knew what was going on, but like we are taught with everything else they would tell people to not say anything or they would lose their spot and never have a shot at making the team.”

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118 Email from Alyssa Baumann, Student-athlete, University of Florida (Sept. 3, 2019, 08:54 AM PT) (on file with author).
119 Email from McKenzie Wofford, Former student-athlete, University of Oklahoma (Oct. 9, 2019, 06:04 PM PT) (on file with author).
120 At the Heart of Gold, supra note 33.
121 Email from Alyssa Baumann, supra note 118.
122 Email from McKenzie Wofford, supra note 119.
As the success of gymnastics grew within the country, the level heightened. The culture within The Ranch continued and began to thrive on the idea of “Athlete Darwinism”. 123 This is the idea that if one gymnast can’t handle the intense training (mentally or physically), another one would take their spot and they would never return to The Ranch. 124 The intensity required at The Ranch demanded gymnasts to push past any adversity in order to achieve their lifelong gymnastics dreams.

The gymnasts were completely removed from civilization at The Ranch in order to keep them focused on gymnastics. There was no cell phone service, no outsiders of this intense gymnastic’ community, and ultimately no witnesses. 125 It was in such a remote area that one would need a helicopter to get to the closest hospital. 126 If a gymnast had any issues, there was no one they could talk to. 127 Additionally, the living conditions at The Ranch were below standard. Raisman has stated that athletes were not given water, the showers were dirty, the bunk beds were crawling with bugs, and the bathrooms often lacked soap. 128 The culture of fear instilled within the gymnasts at The Ranch was so extreme that they were petrified to even ask for basic necessities. 129 The intimidation within The Ranch was so intense that gymnasts were terrified to say anything or take any action because it may jeopardize athletic opportunities. 130

While training at The Ranch, gymnasts were discouraged to go to their club coaches for help and were not allowed to speak with their parents. 131 Parents were not allowed to stay with their child at camps or international competitions and were denied basic rights to see their children. 132 This separation between gymnasts and the outside world was initially meant to keep athletes focused on the sport and distance them from any distractions. However, this intense lack of transparency resulted in zero protection for the gymnasts, ultimately paving the way for an authority figure adult, like Nassar, to get away with molesting the gymnasts training at The Ranch. 133 Baumann trained at The Ranch regularly and described her experience:

“The Karolyi Ranch was a toxic environment that allowed and facilitated abuse for years. It was located in the woods in a place that few knew about so that those in positions of authority were able to bypass rules and abuse their power. There was no cell service, so athletes were unable to stay in contact with their parents. Living conditions were extremely poor, from mold in the showers to food that was barely edible. Practices lasted more than seven hours per day, at an intensity that was far too high. During those practices, every athlete was afraid to make any mistake because they made it clear that everyone was replaceable. The Karolyi Ranch

123 At the Heart of Gold, supra note 33.  
124 Id.  
125 Yan, supra note 110.  
126 Id.  
127 Telephone Interview with Anonymous, supra note 115.  
129 Adams, supra note 128.  
130 Telephone Interview with Anonymous, supra note 115.  
131 At the Heart of Gold, supra note 33.  
132 Adams, supra note 128.  
133 Yan, supra note 110.
stripped the joy from the sport by creating an environment that prohibited athletes from having fun and simply being kids.”

The treatment for the gymnasts at The Ranch was so horrific that former UCLA gymnast Mattie Larson stated that she suffered a self-inflicted head injury in order to avoid attending one of the camps at The Ranch. Larson stated:

“I was taking a bath when I decided to push the bathmat aside, splash water on the tiles, get on the floor, and bang the back of my head against the tub hard enough to get a bump, so it seemed like I slipped. I was willing to physically hurt myself to get out of the abuse that I received at The Ranch.”

Since all of these athletes were training together, they went through similar experiences which formed a bond. This bond became exceptionally tight, as they even discussed Nassar’s treatments with one another. For instance, Baumann described:

“There were a couple times where I talked about it with the other gymnasts, but we never understood what exactly he was doing. One of the times I talked about it with two other National Team members at camp, a coach overheard us and immediately told those in authority, but nothing was done. I learned later that someone was supposed to come see me and ask me questions about it, but no one ever did.”

The Karolyis continued to deny having any knowledge of Nassar’s sexual assault at The Ranch. They blame USAG and the USOC for “failing to put in place (or enforce) rules which would protect young gymnasts from potential predators such as USAG’s agent Larry Nassar”. For many, this is a disappointing response coming from the two individuals who led the culture of fear within the most prestigious gymnastics facility in the nation which enabled Nassar’s sexual assault for years.

In 2016, USAG announced that it would purchase The Ranch from the Karolyis. After the downfall of USAG, it backed out of the sale in May 2017. In 2018, USAG terminated its arrangement with The Ranch, stating that the organization would no longer use the facility as its

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134 Email from Alyssa Baumann, supra note 118.
135 Yan, supra note 110.
136 Id.
137 Email from Alyssa Baumann, supra note 118.
139 USA Gymnastics agrees to purchase Karolyi Ranch gymnastics facilities, USA GYMNASTICS (Jul. 25, 2016), https://usagym.org/pages/post.html?PostID=18960
National Training Center. This resulted in The Ranch’s closing. The Karolyis then filed a lawsuit against USAG and the USOC seeking damages for the cancelation of the sale of the Ranch. They claimed that they were not liable for the actions of Nassar and the market value of the facility declined drastically resulting from the stigma surrounding it.

Texas Law Enforcement Officials have since cleared the Karolyis of criminal wrongdoing and instead blame USAG for failing to protect gymnasts from Nassar while training at The Ranch. Walker County assistant district attorney Stephanie Stroud and others within her office have considered whether or not others who worked for USAG at The Ranch “could or should be charged”, but the statute of limitations for failure to report has passed. Since then, the Senate’s committee on state affairs in Texas has passed a bill which doubles the statute of limitations, giving child victims of sexual assault up to thirty years after their eighteenth birthday to sue their molester and the organization they believe is accountable for the assault (House Bill 3809). Now, the bill must go before the full Senate and back to the house, but is strongly believed to be passed because of its’ massive support.

E. Larry Nassar’s Role at The Ranch

Nassar was USAG’s Team Physician; therefore, he attended every camp, practice, and managed every treatment session for the gymnasts. Gymnasts appreciated Nassar because his charismatic personality was the opposite of the typical, harsh USAG coaches and administrators. Within his treatment sessions, he would listen to the gymnasts and offer support or encouragement. He would even sneak them snacks or water into their dorm rooms because he knew that they were hungry. Often, these gymnasts were minors with zero sexual experience, so they were brainwashed by his charming personality. Adding to his credibility, the National Team staff adored Nassar because he consistently told them he could get their injured athletes back to their elite abilities, regardless of the severity of the injury. His reputation within USAG was strong because athletes, coaches, parents, and administrators all

141 Levenson, supra note 140.
143 Rachel Axon & Nancy Armour, Martha and Bela Karolyi sue USA Gymnastics, USOC over failed ranch sale, lawsuit, USA TODAY (May 1, 2018, 6:01 PM), https://www.usatoday.com/story/sports/olympics/2018/05/01/martha-bela-karolyi-sue-usa-gymnastics-usoc-over-failed-ranch-sale-lawsuits/570699002/
144 Axon & Armour, supra note 143.
146 Axon & Armour, supra note 145.
148 At the date of finalization, November 2019.
149 Woodard, supra note 147.
150 At the Heart of Gold, supra note 33.
151 Id.
152 Id.
153 Id.
appreciated his kindness and intelligence for helping gymnasts achieve their athletic goals—so it seemed. Baumann has described how he manipulated her:

“...I did not know I was being assaulted at the time, only that I was uncomfortable. Nassar was able to gain enough trust from me so that I would never assume that he would do something to hurt me. At one point I was so uncomfortable that I considered telling someone, but I knew that if I caused any problems, they would push me to the side and use the next athlete for the upcoming competition.”

Similarly, Wofford did not understand that she was sexually assaulted by Nassar at the time she received his perceived medical treatments:

“I had no clue. I thought it was a procedure that was normal and was going to help me. I trusted he was the best doctor.”

Nassar’s reputation was so credible that he was granted access to treat the gymnasts in their dorm rooms. “The fact that Nassar was fine working on us in our beds without a table, that 100% should’ve been a red flag to USA Gymnastics,” explained Aly Raisman. Most of the gymnasts were used to coaches touching them daily when spotting them in gymnastics, therefore his physical manipulation did not seem bizarre to them. Even if they questioned his therapy, these gymnasts were taught to never question authority, so why would these gymnasts question a credible doctor who supported them?

At The Ranch, Nassar had an Athletic Trainer, Debbie Van Horn, who worked alongside him and attended various treatment sessions. Van Horn was a USAG Athletic Trainer for thirty years, who has since been arrested on one charge of second-degree sexual assault of a child for “acting as a party” with Nassar. During Nassar’s sentencing in January 2018, Mattie Larson stated in court that Van Horn was in the room while Nassar sexually assaulted her. An additional gymnast made the same statement, explaining that Van Horn took no action. Therefore, these gymnasts unfortunately believed that Nassar was performing legitimate medical treatment because there was a third-party observing the session. Van Horn has since entered a plea of not guilty and her court date has not been released.

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154 Email from Alyssa Baumann, supra note 118.
155 Email from McKenzie Wofford, supra note 199.
156 Adams, supra note 128.
157 Id.
158 At the Heart of Gold, supra note 33.
160 Vagianos, supra note 3.
161 Dan Murphy, Former USAG trainer Debra Van Horn, who worked with Larry Nassar, arrested, ESPN (Sept. 8, 2018), https://www.espn.com/olympics/gymnastics/story/_/id/24614530/former-usag-trainer-debra-van-horn-worked-larry-nassar-arrested
162 At the date of finalization, November 2019.
163 Brown, supra note 159.
F. Larry Nassar’s Role at Geddert’s Twistars Gymnastics Club

In 1996, John and Kathryn Geddert opened the esteemed Geddert’s Twistars Gymnastics Club in Lansing, Michigan where they also allowed Nassar to have a treatment room in the back of the facility to work on their injured athletes.164 John Geddert and Larry Nassar built a strong business and personal relationship through this environment as John Geddert coached the young gymnasts and Nassar treated them for their injuries. The two were inseparable; they attended each other’s weddings and worked together daily for more than twenty-five years.165

Geddert was considered charismatic and good-looking, but his coaching style was harsh, based on fear and intimidation.166 He was often in a horrible mood, screaming at his gymnasts, throwing objects at them, and even denying them water until they performed to his standard.167 His former gymnasts have described him as “The Devil”.168 Unfortunately, this coaching mentality was, and still is, common within gymnastics. Through this harsh system, like the Karolyi method, gymnasts often became successful as they could handle intense pressure at tough competitions. Geddert became one of the most prominent, successful coaches, was named the Head Coach of the 2012 Olympic Team (which won gold), was the most decorated women’s gymnastics coach in Michigan, and coached more than fifty U.S. National Team members.169 However, Geddert’s career was not as perfect as it may appear. He was accused of assault and battery in two separate incidents, both at Twistars, during the months before and after the 2012 Olympic Games.170 The first incident included a parent of a gymnast who trained at Twistars and was a coach at the club gym. She told state police that after an argument, Geddert followed her into parking lot and physically assaulted her.171 The second incident included a gymnast who claimed Geddert, “stepped on her toe, grabbed her arm, and pushed her into the wall”.172 Following the second incident, Nassar texted the gymnast’s grandmother begging her to drop the charges and explained that Geddert had implemented new policies at Twistars to ensure protection for the gymnasts and coaches. These policies would not allow staff members to be alone with an athlete and staff members were not allowed to be in a room alone with an athlete unless the door was open.173 It is unclear if these policies were ever implemented at Twistars and they never applied to Nassar.

Ironically, this behavior made Geddert and Nassar the perfect pair. Nassar was the complete opposite. He was everyone’s friend because he was kind, slightly awkward, listened to the girls, and treated them for their injuries.174 A former gymnast and sexual assault victim described him as “A Labrador puppy, the sweetest guy…safe.”175 Geddert’s fiery mentality and unsympathetic ways often broke girls down, forcing them to use Nassar as a crutch. “Larry was the one to calm the girls down when they had a bad practice with John,” explained former office

164 Barr & Murphy, supra note 8.
165 Id.
166 Id.
167 Id.
168 At the Heart of Gold, supra note 33.
169 Barr & Murphy, supra note 8.
170 Id.
171 Id.
172 Id.
173 Id.
174 Id.
175 Id.
manager of Geddert’s Twisters, Priscilla Klintigh.\textsuperscript{176} Geddert’s cruelty built great gymnasts but broke them down mentality, emotionally, and physically. This enabled Nassar to be there for them and treat them. Nassar was the “good cop” to Geddert’s “bad cop”; always smiling and providing an outlet for Geddert’s gymnasts.

In 2014, USAG paid Lansing private investigator, Don Brooks to investigate the complaints about Geddert.\textsuperscript{177} He interviewed gymnasts who described Geddert’s accused physical assault and turned his findings over to USAG. USAG and Brooks declined to comment on the investigation, and it is uncertain how the investigation concluded.\textsuperscript{178}

Nassar understood Geddert’s harsh coaching style, but what is unknown is how much Geddert knew about Nassar’s sexual assaults.\textsuperscript{179} One woman has testified that Geddert walked into Nassar’s treatment room within Twisters while Nassar was penetrating her with his fingers. When Geddert appeared, he simply made a joke that she must not be too injured.\textsuperscript{180} USAG suspended Geddert in 2018 and he is currently being investigated by the Michigan Attorney’s General office.\textsuperscript{181} Geddert’s gym, Twisters, reached a settlement with the sexual assault victims for $2.125 million.\textsuperscript{182}

G. The Initial Complaint to USAG of Larry Nassar’s Sexual Assault

During a National Team Training Camp at The Karolyi Ranch in 2015, visiting club coach Sarah Jantzi overheard a disturbing conversation between her gymnast, Maggie Nichols and Olympian Aly Raisman.\textsuperscript{183} Nichols had been explaining bizarre treatment sessions she had encountered with Nassar, which alarmed Jantzi. Jantzi reported the conversation to Nichols parents and former USAG Senior Vice President, Rhonda Faehn. Faehn reported the conversation to former USAG President and CEO Steve Penny.\textsuperscript{184}

One day after Jantzi’s report to USAG, Penny called Maggie Nichols’ mother, Gina Nichols.\textsuperscript{185} Penny told her, “We need to keep this quiet. It’s very sensitive. We don’t want this to get out,”.\textsuperscript{186} One year before the 2016 Olympic Games, Gina Nichols was in an uncomfortable position. She and her husband, John Nichols, both worked in the medical field; she is a nurse and he is a physician.\textsuperscript{187} Penny appeared to hold her daughter’s Olympic dreams like a carrot over their heads. Gina explained how Penny “…Was in a position of authority over me and my husband. Our whole family gave up everything so we could put (Maggie) on this

\begin{thebibliography}{99}
\bibitem{176} Id.
\bibitem{177} Id.
\bibitem{178} Id.
\bibitem{179} Id.
\bibitem{180} Id.
\bibitem{181} Ray Sanchez & Linh Tran, \textit{Michigan attorney general takes over investigation of ex-US gymnastics coach with ties to Larry Nassar}, CNN (Feb. 21, 2019, 1:59 PM), \url{https://www.cnn.com/2019/02/21/us/michigan-john-geddert-investigation/index.html}
\bibitem{182} John Barr, \textit{Gymnastics club settles Nassar suit for $2.1M}, ESPN (Apr. 24, 2019), \url{https://www.espn.com/olympics/story/_/id/26596680/gymnastics-club-settles-nassar-suit-21m}
\bibitem{183} Barr & Murphy, \textit{supra} note 8.
\bibitem{184} Id.
\bibitem{185} Id.
\bibitem{186} Id.
\bibitem{187} Id.
\end{thebibliography}
By confronting Penny and USAG about Nassar’s abuse, Gina and John could be jeopardizing their daughter’s spot on an Olympic Team. They understood that as medical professionals they are required to report child abuse immediately to law enforcement but feared that this action would harm Maggie’s lifelong dreams of making an Olympic Team. So, they remained quiet. They trusted Penny because he assured them that Nassar was being taken care of.

USAG responded to Maggie’s complaint by hiring a workplace harassment investigator who interviewed her and Raisman. This investigator did not find “reasonable suspicion that sexual abuse had occurred,” therefore the organization waited to contact federal authorities. Not until after a third gymnast, Olympian McKayla Maroney, was interviewed by the workplace harassment investigator did USAG contact federal authorities. USAG waited forty-one days after Maggie Nichols’ initial complaint to contact the FBI.

Months after Nichols’ initial report Nassar was fired by USAG, but USAG publicly announced that Nassar was retiring. In a written Facebook post Nassar explained how “…It has come time for me to retire…” USAG did not notify MSU of the complaints. Nassar continued to treat athletes at MSU. USAG later explained that they “…Kept the matter confidential because of the FBI’s directive not to interfere with the investigation…USA Gymnastics cooperated fully with the FBI, including the agents’ July 29, 2015 request to not do anything that might interfere with their investigation.”

In July 2016, an FBI agent contacted Nichols about Nassar’s sexual assault. This was one month before the Olympic Games. Nichols was not selected for the 2016 Olympic Team. Nichols became known as “Athlete A”, who is believed to be the first gymnast to report Nassar’s sexual assault to USAG. Raisman did not speak with an FBI agent until September 2016, a couple months after serving as team captain on Team USA’s 2016 gold-medal winning Olympic Team. Raisman had disappointing interactions with Penny regarding meeting with the FBI, “Steve Penny was trying to control when I was going to be interviewed by the FBI. He was trying to control every part of it. The biggest priority was to make sure I kept it quiet, so they’d have a good Olympics. It’s disgusting.” Penny attempted to sit in Raisman’s meetings with the FBI agent. Raisman would not allow him in the room.

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188 Id.
189 Id.
190 Id.
192 Connor & Fitzpatrick, supra note 191.
193 Id.
194 Barr & Murphy, supra note 8.
195 Id.
196 Connor & Fitzpatrick, supra note 191.
197 Barr & Murphy, supra note 8.
198 Connor & Fitzpatrick, supra note 191.
199 Barr & Murphy, supra note 8.
200 Id.
201 Id.
H. Bankruptcy, Investigations, Settlements, and New Policies

Since the wake of the Nassar scandal, USAG has struggled to reestablish its organization. In January 2018, the USOC threatened to decertify the organization if it failed to meet six conditions. In an attempt to avoid decertification, the entire USAG board resigned, and a new fifteen-member board took over in June 2018. In December 2018, USAG filed bankruptcy in the wake of the USOC’s vote to decertify the organization, in addition to hoping to “Expedite an equitable resolution of the claims made by the survivors of sexual abuse perpetrated by Larry Nassar”. Even though the organization filed bankruptcy, its daily operations continue. The organization has been through four presidents in the past two years.

Commencing in the summer of 2017, USAG has been in mediation talk with Nassar’s victims. This process consists of negotiations with former gymnasts and insurers who claim that the organization failed to protect the gymnasts from Nassar and that they deserve compensation.

The Ropes and Gray law firm recently constructed their own investigation into USAG to see if anyone within the organization knew about the athletes’ complaints and didn’t report them, in addition to evaluating systematic failures which enabled the abuse. This investigation could impact any settlements moving forward. The organization is expected to pay between $75 million and $150 million to the victims.

In June 2019, USAG updated its Safe Sport policy by defining types of abuse and detailing abuse prevention efforts. The previous policy only defined sexual misconduct. Now, with the input from athletes, parents, coaches, club owners, and survivors of Nassar’s sexual assault the policy has jurisdiction over various misconduct and abuse. This includes emotional and physical abuse, bullying and hazing, and more. Current President and CEO of USAG, Li Li Leung has specified the actions that USAG has taken to prevent sexual assault in the future. The organization has, “already made numerous changes designed to prevent the opportunity for abuse to occur. We have made it our top priority to become an athlete-centric

202 Rachel Axon & Nancy Armour, USOC gives USA Gymnastics board six days to resign or federation will be decertified, USA TODAY (Jan. 25, 2018, 10:31 PM), https://www.usatoday.com/story/sports/2018/01/25/usoc-gives-usa-gymnastics-board-six-days-resign-federation-decertified/1068099001/
204 Yan, supra note 203.
205 Id.
206 USA Today, supra note 34.
209 USA Today Sports, USA Gymnastics expects to pay $75 million to $150 million to victims of Larry Nassar, USA TODAY (Nov. 8, 2018, 7:09 PM), https://www.usatoday.com/story/sports/olympics/2018/11/08/usa-gymnastics-expects-pay-75-million-150-million-victims-larry-nassar/1936451002/
211 Axon & Armour, supra note 210.
organization that keeps athlete safety and well-being at the forefront of all that we do.” The organization also has plans to implement the majority of recommendations received from an independent investigative review regarding their safe sport policies and procedures.

IV. MICHIGAN STATE UNIVERSITY (MSU)

A. Larry Nassar’s Roles at MSU

After receiving his medical degree from MSU in 1993, Nassar held roles at the university for decades as a team doctor, who worked with numerous sports, and as an assistant professor.

Starting in 1997, Nassar began employment at MSU. As an employee, Nassar worked frequently and directly with all MSU sports but had direct connections to MSU Women’s Gymnastics because of his personal relationship with Head Coach Kathie Klages. Nassar held these roles at MSU until 2016.

B. The Title IX Complaint

Once his secret was unmasked, Nassar was struck with a barrage of legal complaints by his victims and their families at various formality levels. The first woman to file a formal Title IX complaint against Nassar was Amanda Thomashow in 2014. She reported that, during an appointment at MSU, Nassar sent his resident out of the room, then fondled her breasts and touched her vagina despite her protests. Following the assault, Nassar would not let her leave until she made a follow-up appointment with him (which she later canceled). Thereby, Nassar violated the school’s sexual harassment policy in addition to breaking the law. Thomashow chose not to report the incident to the police because she worried that they would not know how to handle the case. Therefore, she told another MSU doctor, Dr. Jeffery Kovan, about the incident. He elevated her report to be filed with the MSU Title IX Office and the MSU Police Department.

212 Fitzpatrick, Costello, & Kaplan, supra note 22.
213 Id.
214 USA Today, supra note 34.
215 Notably, Nassar’s sexual assault was reported prior to his hiring at MSU, while he was a medical student, yet he was still brought on as a team doctor for the sports teams at MSU. The first accusation of rape by Nassar dates back to 1992, according to a lawsuit filed in 2018. Erika Davis, a former MSU field-hockey player accused Nassar of drugging and raping her, then having a cameraman film the assault. She reported the incident to her coach, who then relayed the information to sports administrators, which included the then- Athletic Director George Perles. The lawsuit alleges that Perles covered up the incident. See Caroline Kitchener and Alia Wong, The Moral Catastrophe at Michigan State, THE ATLANTIC (Sept. 12, 2018), https://www.theatlantic.com/education/archive/2018/09/the-moral-catastrophe-at-michigan-state/569776/.
216 USA Today, supra note 34.
218 Casarex, Grinberg, & Moghe, supra note 217.
219 Id.
221 Biolchini, supra note 220.
Two weeks later, Thomashow received a call from Kristen Moore, the Title IX investigator in MSU’s Office of Institutional Equity (who currently serves the General Council of MSU) and a police officer. MSU continued by conducting an internal investigation constructed of four individuals. All four were hand-picked by Nassar and Dr. William Strampel, the former Dean of MSU College of Osteopathic Medicine who served as Nassar’s boss. They choose four of Nassar’s closest colleagues within the institution. Strampel later emailed Nassar and explained, “Good luck, I’m on your side…”.

During the investigation, various detectives interviewed Thomashow and Nassar. Nassar admitted to touching her as part of the procedure and explained that he was, “The body whisperer” and “…obviously did a poor job of explaining to the patient what I was doing…I definitely have to completely change my treatment for sure.” They concluded that Nassar simply failed to communicate his procedure, no sexual assault had occurred, and Nassar’s methods were “medically appropriate”.

The Title IX findings report concluded: “We cannot find that the conduct was of a sexual nature. Thus, it did not violate the sexual harassment policy. However, we find the claim helpful in that it allows us to examine certain practices at the MSU Sports Medicine Clinic.” This report further explained that Thomashow misinterpreted Nassar’s procedure. It left out Nassar’s erection and the fact that Thomashow had to push Nassar off of her during the appointment. Thomashow felt embarrassed, unimportant, and worthless. Both Thomashow and Nassar received the Title IX report findings, but Nassar’s report was different. It was one page longer, which Thomashow did not know. This additional page stated:

“Procedures such as these invasive, sensitive procedures, is opening the practice up to liability and is exposing patients to unnecessary trauma based on the possibility of perceived sexual misconduct. In addition, we find that the failure to obtain consent from patients prior to the procedure is likewise exposing the practice to liability.”

This additional page explained that those who investigated this case understood that Nassar’s treatments were opening the institution to possible legal issues. Nassar was placed on leave and was temporarily prevented from seeing patients at MSU. However, he continued to see patients for USAG, Twistars, and Holt High School. In 2018, MSU spokesperson, Jason

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222 Kitchener and Wong, supra note 215.
224 At the Heart of Gold, supra note 33.
225 Wells, supra note 223.
226 Casarex, Grinberg, & Moghe, supra note 217.
227 Id.
228 Id.
229 At the Heart of Gold, supra note 33.
230 At the Heart of Gold, supra note 33.
231 Casarex, Grinberg, & Moghe, supra note 217.
232 Id.
233 Id.
234 Biolchini, supra note 220.
Cody, stated that MSU did not notify the other organizations because, “The complaint was not a gymnast or a minor, nor did the complaint involve allegations of penetration.”

In July 2014, Nassar returned to work at MSU after being cleared by Title IX Investigator Kristine Moore. Nassar went on to sexually assault at least twenty more patients. Even though MSU cleared Nassar, the MSU Police forwarded the case to the Ingham County Prosecutor’s Office with a recommendation for a charge of fourth-degree criminal sexual conduct. This included misconduct by a medical professional with a misdemeanor that involves a two-year prison sentence. Surprisingly, the prosecutor’s office declined to prosecute the case because Nassar was performing a “…Very innovative and helpful manipulation of a ligament.”

Upon Nassar returning to MSU after leave, Strampel wanted Nassar to follow basic protocols when conducting his treatments. This included the following: there must be a third party in the room during the procedure, he should limit skin-to-skin contact, and he should obtain informed consent from the patient. However, Strampel never shared these protocols with Nassar’s supervisors or other members of the Sports Medicine Clinic. Strampel also failed to enforce these protocols. He has since been sentenced to up to one year in jail for neglect of duty and misconduct in office for allegations that he sexually harassed students.

Following Thomashow’s Title IX investigation in 2015, MSU and the U.S. Department of Education Office for Civil Rights (DOE) reached a resolution agreement related to MSU’s handling of sexual assault complaints from two students. Prior to signing this agreement, the DOE had no previous knowledge of the Nassar allegations. This agreement required the institution to report sexual assault allegations to the DOE. However, MSU did not disclose Thomashow’s report to the DOE.

The DOE has since begun federal monitoring over MSU for violating Title IX policies when handling sexual assault cases on campus. In 2017, MSU continued to defend its’ handling of Nassar, and Deputy General Counsel Kristine Zayko asked the DOE to end its monitoring of the institution because they had altered its’ Title IX guidance. However, federal officials firmly rejected this request because, “MSU failed to provide respond appropriate to two complaints filed by female students who alleged they had been sexually assaulted”. MSU believes differently, as Patrick Fitzgerald, an external consultant for MSU affirmed, “We believe...
the evidence will show that no MSU official believed that Nassar committed sexual abuse prior to the newspaper reports in the late summer 2016.”

C. The Previous MSU Faculty and Administration

In 2017, the Michigan Attorney General’s Office began an investigation into university officials who may have enabled Nassar’s sexual assault. Strampel was the first person charged since this investigation. In December 2017, Strampel stepped down as the Dean of the MSU College of Osteopathic Medicine for “medical reasons”. As part of a settlement with MSU, in July 2018, Strampel formally retired from the university and paid $175,000. In August 2019, Strampel was convicted of neglect of duty and misconduct in office for claims of sexually harassing students. He was ordered to serve up to one year in jail. The conviction of willfully neglecting a duty came from his failure to monitor Nassar after “protocols were put in place requiring that a third person be present in the exam room for sensitive procedures and limiting skin-to-skin contact.” Even with these charges, he was acquitted of the more severe criminal sexual conduct charge. For a felony misconduct conviction, Strampel faced up to five years in prison for accusations that stated, “he used his public office to sexually harass, demean and proposition students who met with him to discuss academic issues.” A court affidavit contends that he stored nude selfies of students on his computer. Evaluations from his female faculty members state that he often made comments about women’s appearances or asked them to wear low-cut shirts to meetings.

In 1997, Nassar was working at MSU in addition to his roles at USAG and local Lansing, Michigan gym clubs and schools. One of these gyms included Klages’ club gym, Spartan Youth Gymnastics. An anonymous young gymnast who attended Spartan Youth Gymnastics, and former gymnast Larissa Boyce, reported to Klages that Nassar sexually assaulted them. Klages questioned the girls, asked them who they had told, instructed them to not speak of incident, and never inform their parents of the sexual assault. Klages indicated to Boyce that she must be misinterpreting Nassar. “I was silenced. I just wasn’t going to say anything else,” Boyce stated, as she hoped Klages, a trusted adult, would properly handle the incident. Instead, Klages told Nassar about the complaint. Nassar made Boyce feel guilty by explaining that he was helping her. After conversation, Boyce felt lucky to work with such an admired physician and later apologized to Nassar. At Nassar’s sentencing hearing, Boyce stated, “This could have stopped in 1997. But instead of notifying authorities or even my parents, we were interrogated. We were led to believe we were misunderstanding a medical technique…I told an

247 Casarex, Grinberg, & Moghe, supra note 217.
249 Id.
250 Kitchener and Wong, supra note 215.
251 Associated Press, supra note 242.
252 Id.
253 Id.
254 Id.
255 Kitchener and Wong, supra note 215.
256 Barr & Murphy, supra note 8.
257 Id.
258 At the Heart of Gold, supra note 33.
259 Barr & Murphy, supra note 8.
260 At the Heart of Gold, supra note 33.
adult. I told Michigan State University.” In 1998, another student-athlete at MSU reported to trainers and coaches her concerns regarding Nassar’s sexual assault. However, the institution took no action following these complaints. Once again in 2000, a student-athlete at MSU reported concerns about Nassar’s sexual assaults to trainers and coaches. According to a lawsuit in 2017, the institution once again took no disciplinary actions.

Dating back two decades, various individuals claim that they notified Klages of Nassar’s sexual assaults. These individuals all claim the same story- university professionals reacted with lack of action and stressed that the young athletes should feel privileged to have worked with the renowned Team USA doctor. After Nassar’s secrets were uncovered years later, Klages began to receive punishment. On February 13, 2017, Klages was suspended by MSU after a woman in court claimed that Klages discouraged her from filing a sexual assault complaint against Nassar in the 1990’s. The next day, Klages announced her retirement, and a second gymnast stated in court that Klages discouraged her from reporting Nassar’s sexual assault. In August 2018, the Michigan Attorney General’s Office charged Klages with two counts of lying to a police officer when asked about the connection to the investigation of Nassar. One charge is a felony, while the other is a misdemeanor. If convicted, Klages faces up to four years in prison and her bond was set at $5,000 with $500 to be posted for her release. In a recent motion regarding Klages’s trial, a judge declined to dismiss the felony charge for lying to the police.

Other MSU authorities were also revealed as facilitators of Nassar’s crimes. For example, former MSU President, Lou Anna Simon, resigned hours after Nassar was sentenced, despite receiving requests from students, faculty members, and others pleading for her to resign for months prior to his sentencing. Simon stated, “I can never say enough that I am so sorry that a trusted, renowned physician turned out to be an evil predator, and I am sorry that we did not discover his crimes and remove him from our community sooner.” When speaking to Michigan State Police in May 2018, it was discovered that Simon made false and misleading

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262 USA Today, supra note 34.
263 Id.
265 Barr & Murphy, supra note 8.
266 USA Today, supra note 34.
267 Id.
270 At the date of finalization, November 2019. Banta, supra note 268.
271 Kitchener and Wong, supra note 215.
272 Id.
statements, which included that she was unaware of the 2014 complaint that prompted the Title IX investigation. However, Simon has since publicly stated that she was notified of the Title IX complaint and police report, but was unaware that it was Nassar who was being accused because the complaint had been filed against an unnamed physician. She has since been charged by the Michigan Attorney General’s Office for lying to police, racking up two felony counts and two misdemeanors. Simon will stand trial for these four charges.

Also, Mark Hollis, who served as MSU’s Athletic Director for ten years, resigned in January 2018. This resignation also came days after Nassar was sentenced to 40 to 175 years in prison. Additionally, Hollis’ resignation came shortly after the NCAA began to investigate MSU for its’ handlings of the Nassar allegations. Hollis has stated that he was unaware of any sexual assault accusations against Nassar prior to the Indianapolis Star’s published article in 2016. The list of complaints that Hollis claims he was unaware of include: Thomashow’s Title IX Complaint in 2014, any police investigations, and any complaints made to former faculty members such as former MSU Gymnastics Head Coach Kathie Klages and multiple athletic trainers.

D. MSU and NCAA Investigations, Reports, and Settlements

MSU launched its independent investigation into the school’s handling (or mishandling) of the Nassar case. However, the investigation was assigned to internal university lawyers, who are also responsible for defending MSU against civil lawsuits. The NCAA also conducted its own investigation and concluded that the university did not violate any of the NCAA’s regulations. Specifically, NCAA Vice President Jonathon Duncan stated, in a letter to MSU, that the NCAA found no violations upon review of MSU’s response to complaints of Nassar’s sexual assaults while he was the university’s doctor.

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275 Mencarini, Berg, & Wolcott, supra note 273.
278 Solari, supra note 277.
279 Kyle Austin, Mark Hollis says he didn’t know of Nassar allegations until 2016, defends decision-making, M LIVE (Jan. 26, 2018), https://www.mlive.com/spartans/2018/01/mark_hollis_says_he_didnt_know.html
280 Austin, supra note 279.
281 Kitchener and Wong, supra note 215.
283 Murphy, supra note 282.
The U.S. Department of Education (DOE) completed a report on MSU’s actions (and lack thereof) of Nassar’s destructive tenure within the institution. MSU has been fined $4.5 million (the largest Clery Act fine to date) directly because of the institutions “systemic failure to protect students from sexual abuse.” More specifically, the DOE has stated that:

“Michigan State will now pay for its failures and will be required to make meaningful changes for how it handles Title IX cases moving forward. No future student should have to endure what too many did because concerns about Larry Nassar and William Strampel were ignored.”

The report found that a total of eleven girls and women told university officials or campus security about Nassar’s sexual assaults. These incidents involved minors, who reported Nassar’s abuse to trusted coaches or athletic trainers at MSU. Additionally, the report found that MSU did not maintain proper statistics of crimes, provide warnings to campus, or notify safety authorities. The DOE report states:

“The university’s persistent failure to take swift and decisive action to detect and stop Nassar’s two-decade long predatory and abusive behavior indicates a lack of institutional control, especially in the light of credible information reported to institutional officials at several points of many years.”

The DOE is now requiring that MSU provide accommodations for victims (such as counseling), in addition to placing the university on a five-year period of special compliance monitoring. In response to this report, MSU must conduct internal reviews and changes to procedures, such as providing accurate and complete crime statistics. MSU is currently working on these remediations and the school spokeswoman, Emily Guerrant, conveyed that this process would take up to several months to finish.

Recently (February 2019), MSU has won a bid to disqualify the Nichols Law Firm PLLC from representing Nassar plaintiffs. In previous cases, the firm represented a former MSU employee who defended Nassar’s conduct, therefore a federal judge ruled that this created a conflict of interest. Nichols worked for Lisa DeStefano who was a doctor in MSU’s College of

286 Wallace & Levenson, supra note 285.
287 Wallace & Levenson, supra note 285.
288 Wallace & Levenson, supra note 285.
289 Wallace & Levenson, supra note 285.
290 Wallace & Levenson, supra note 285.
291 Associated Press, supra note 284.
292 Id.
Within an interview in 2014, Dr. DeStefano pronounced that in a case of alleged abuse, Nassar’s conduct was medically appropriate. She later disavowed her statements from MSU investigators, but it was after Nichols sued MSU. Therefore, U.S. District Judge Gordon J. Quist of Michigan’s Western District announced this was too late, “Nichols was in a position to learn confidential information from Dr. DeStefano – an employee of MSU and a physician who was consulted during MSU’s internal investigation into Nassar’s conduct – that could be used against her employer, MSU, in suing MSU.” The firm plans on appealing the ruling.

Additionally, MSU has reached a $500 million settlement with Nassar’s victims. This is believed to be the largest settlement of sexual assault claims reached involving an American university, dwarfing the sexual assault cases within Pennsylvania State University and the Roman Catholic Church. “When you pay half a billion dollars, it’s an admission of responsibility,” stated John Manly, a lawyer of many of Nassar’s victims. MSU’s credit rating has since decreased and the university has not indicated how it intends to pay the settlement. Unfortunately, taxpayers and MSU students are likely to absorb some of the costs.

V. THE UNITED STATES OLYMPIC COMMITTEE (USOC)

A. The Intent and Structure of the USOC

The United States Olympic Committee (USOC) is the National Governing Body (NGB) for both the National Olympic Committee and the National Paralympic Committee. It is responsible for empowering, supporting, and protecting America’s top athletes. Founded in 1894 and headquartered in Colorado Springs, Colorado, the USOC is a non-profit organization that provides performance grants, training facilities, sports medicine, coaching education, health insurance, education services, travel/apparel, and safe sport and anti-doping programming. The USOC is led by a CEO and governed by a board of directors which consists of sixteen individuals who meet four times per year. There are three constituent councils, which serve as sources of opinion and advice to the board. These individuals include: The Athlete’s Advisory Council, National Governing Bodies Council, and Multi-Sport Organizations Council. Both the Athletes’ Advisory Council and the National Governing Bodies Council consist of three representatives, while the other six members are independent. The USOC directly oversees

294 LaSusa, supra note 293.
295 Id.
296 Id.
298 Id. & Hartocollis, supra note 297.
299 Id.
300 Id.
302 Team USA, supra note 301.
304 Team USA, supra note 303.
USAG, as it promoted USAG as the sport’s national governing body since it was the member organization which produced the U.S. Olympic gymnasts.

**B. Scott Blackmun and Alan Ashley**

Longtime USOC leaders, Scott Blackmun and Alan Ashley, have received much of the public scrutiny for the USOC’s lack of action when handling complaints of Nassar’s sexual assault. Blackmun and Ashley were the highest paid individuals within the USOC, and received bonuses based on Americans successfully competing at the Olympic Games.305

Blackmun first joined the USOC as General Counsel and Director of Legal Affairs in 1998. He then moved to Senior Managing Director in 2000, which was followed by his role as acting CEO from November 2000 to October 2001.306 He left the organization and returned in January 2010 as CEO, which ended with an unexpected resignation in 2018, following public backlash after the Nassar case. The USOC announced that Blackmun resigned due to medical reasons as he had struggled with “ongoing health issues from prostate cancer”.307 The timing of Blackmun’s resignation was unfortunate because of his critical role in the organization that supported USAG. The board continues to support Blackmun, but others discredit and blame him for the sexual assault scandals within the USOC’s member institutions (e.g., USA Gymnastics, USA Swimming, and USA Diving).308

Alan Ashley also held a high-profile role within the USOC. His responsibilities included supervising the USOC’s divisions that provides resources and support for the national governing bodies.309 Ashley worked on funding services for sports medicine, sports science, coaching, and on-site operations which support athlete’s performance at the Olympics.310 Ashley was fired by the current USOC CEO, Sarah Hirshland immediately after an independent report proved Ashley failed to act properly after receiving information about Nassar’s sexual abuse.311

It is important to note that in 1999, former USAG President, Bob Calarasi, wrote a letter to the USOC raising concerns about how the organization handled various cases of abuse by coaches.312 This included physical, sexual, and emotional abuse. Within the letter, he stated that USAG’s then-current system was not effective enough and that it would get them in trouble. Copied on the letter was Scott Blackmun, the at the time General Counsel and Director or Legal

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309 Brennan, supra note 305.
310 *Id.*
312 At the Heart of Gold, *supra* note 33.
Affairs for the USOC. All in all, as far as back as 1999, there is written proof that the USOC had knowledge of USAG’s flawed system yet failed to improve…and the rest is painful history.313

C. The USOC Receives Complaint from USAG about Larry Nassar

In February 2018, the USOC hired the law firm of Ropes and Gray to investigate when the USAG and USOC administrators first became aware of Nassar’s abuse and their response after receiving that information.314 The law firm’s independent 233-page report described the lack of action of USAG’s and the USOC’s highest leaders - Penny, Blackmun, and Ashley.315 In part, the law firm’s report revealed that during a phone call in July 2015, Penny reported to Blackmun and Ashley that there had been allegations of Nassar’s sexual assault.316 Throughout the conversation, Penny relayed that the FBI was investigating Nassar’s allegations. Penny wanted to avoid “sending shockwaves through the community,”.317 Remarkably, Penny is described throughout the report as repeatedly attempting to engage the FBI to further investigate Nassar.318 Unfortunately, the case appeared to have died down within the FBI’s Detroit office. USAG then attempted to take the investigations to the FBI’s Los Angeles office, but it was too late because The Indianapolis Star report was published before any real action could be taken.319 As a result, young girls and women continued to be sexually assaulted by Nassar between the time of the phone conversation in 2015 and the publication of the article in The Indianapolis Star in 2016.320

It turns out that Blackmun and Ashley were aware of Nassar’s abuse prior to the article in The Indianapolis Star, but failed to share this information with anyone within the USOC.321 In an email that was later deleted by Blackmun and Ashley, Penny notified the administrators that Nassar had retired from USAG in September 2015.322 After conducting interviews with more than one hundred witnesses and reviewing over 1.3 million documents, the Ropes and Gray report concluded that Nassar took advantage of the environment that was fostered within Olympic sports, such as gymnastics, because the atmosphere was beneficial for his criminal behavior.323 As the Ropes and Gray report asserts, Nassar’s sexual assault concluded as “A manifestation of the broader failures at USAG and the USOC to adopt appropriate child-protective policies and procedures to ensure a culture of safety for young athletes.”324

313 Id.
314 Brennan, supra note 305.
317 Pells, supra note 315.
318 Id.
319 Id.
320 Pingue, supra note 311.
321 Id.
322 Pells, supra note 315.
323 Pingue, supra note 311.
324 Id.
D. New Policies at the USOC

The USOC has begun to implement new reforms and initiatives that include new leadership and more stringent accountability measures. Some of these reforms include: counseling and other services for Olympic and Paralympic athletes recovering from abuse, an advisory board comprised of abuse survivors, psychologists, and advocates, review of its existing structure between the USOC and the sports it oversees, and doubling the funding for the U.S. Center for Safe Sport (also known as Safe Sport).

Based in Denver, Colorado, Safe Sport is intended to protect and ensure safety within the U.S. Olympic and Paralympic community regarding emotional, physical, and sexual assault. Safe Sport is the “….only national organization of its kind focused on ending all forms of abuse in sport.” Any allegations of emotional, physical, sexual abuse, and sexual misconduct about an individual within the U.S. Olympic or Paralympic organizations must be reported to Safe Sport. The organization provides prevention techniques, policies, best practices, and educational programs focused on ending abuse within sports. It is funded by the U.S. Olympic and Paralympic Committee, as well as donations from the Department of Justice. All of the USOC member National Governing Bodies are under the jurisdiction of Safe Sport (including USAG).

In February 2018, President Trump signed the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act into law which requires organizations under the USOC to report cases of abuse to The U.S. Center of Safe Sport. Inspired by the Nassar scandal, several of Nassar’s victims help create this act. It has three prongs including: requiring all coaches, trainers, and others to report any sexual abuse allegations to the police within a 24-hour period, it extends the statute of limitations to up to 10 years after a victim realizes he/she was abused, and it limits athletes under the age of 18 from being alone with an adult who isn’t their parent. Specifically, this Act “changes the civil statute of limitations to 10 years from the date the victim reasonably discovers the violation or injury (currently, 10 years from the date the cause of action arose). The bill also extends the statute of limitations for a minor victim of human trafficking or federal sex offense to file a civil action to 10 years (currently, 3 years) from the date such individual reaches age 18.” Anyone who has been sexually assaulted manages differently, therefore their timeline is different as well. This has

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325 Id.
326 Perez, supra note 308.
328 U.S. Center for SafeSport, supra note 327.
331 Perez, supra note 308.
332 Vagianos, supra note 3.
333 Id.
been portrayed by the numerous victims of Nassar’s assaults that continue to come out publicly. Baumann explained the importance of this revision on the statute of limitations:

“Everyone has their own timeline when it comes to speaking up about their experience. It is a traumatic event, and many do not realize what happened until much later.”

Therefore, this Act goes far enough in accomplishing an acceptable timeline for victims to form a complaint under the law.

VI. OTHER SEXUAL ASSAULT CASES WITHIN MEMBER INSTITUTIONS OF THE USOC

A. USA Swimming

Hundreds of coaches/officials within USA Swimming have been accused of sexual assault, and the lack of consequences within the organization are disappointing. An investigative report from the Southern California News Group found that for decades USA Swimming encountered hundreds of cases of sexual abuse, yet the organization covered them up or simply ignored them. The report states that USA Swimming enabled sexual predators within the sport, as most of those accused were authority figures such as coaches and top officials. Similar to USAG, the culture fostered in USA Swimming has been described as abusive. However, one of the main differences between the sexual assault scandals with USAG and USA Swimming is that in USA Swimming, it was socially acceptable that coaches had sexual relationships with their underage athletes. Furthermore, as former Olympic swimmer and founder of the advocacy group Champion Women, Nancy Hogshead-Maker, described that marriages between top coaches and swimmers were normal and problematic within the organization.

One example of sexual assault comes from former Olympic swimmer Ariana Kukors Smith who has accused her former coach Sean Hutchison of grooming her at a young age, then sexually assaulting her. Smith has stated that Hutchison began grooming her in 2003 when she was thirteen, sexually molesting her when she was sixteen, then engaging in intercourse when she turned eighteen. More specifically, she described that he kissed, fondled, and performed oral sex on her, but waited until she turned eighteen to engage in direct intercourse. On the other side, Hutchison claimed that they were in a “committed relationship” after the 2012 Olympics (which lasted more than one year), but has denied other allegations. “I absolutely

335 Email from Alyssa Baumann, supra note 118.
337 Vagianos, supra note 336.
338 Alanna Vagianos, Olympic Swimmer Says Former USA Swimming Coach Sexually Abused Her For Years, THE HUFFINGTON POST (Feb. 8, 2018, 10:00 AM), https://www.huffpost.com/entry/olympic-swimmer-ariana-kukors-former-usa-swimming-coach-sexually-abused-her_n_5a7c4c6de4b044b38219f016
340 Grinberg, supra note 339.
341 Vagianos, supra note 338.
deny having any sexual or romantic relationship with her before she was old enough to legally make those decisions for herself…prior to that time, I did nothing to ‘groom’ her.”

Hutchison has since been permanently banned from coaching swimming for life, which has been posted on Safe Sport’s public website.

Smith’s lawsuit claimed that officials engaged in cover-ups to protect Hutchison from any consequences. Specifically, Susan Woessner, former director of Safe Sport for USA Swimming, resigned after admitting to an “intimately personal relationship with Hutchison, who had been the focus of a sexual abuse investigation in 2010-11 overseen by Woessner.” Further, background screenings of coaches, such as Hutchison, were manipulated to hide complaints lodged against certain coaches. This type of action allowed coaches to abuse young athletes within a culture of turning a blind eye. The lawsuit also claimed that, at the time of the abuse, Smith was unable to recognize the abuse because of Hutchison’s controlling position within the organization.

The Southern California News Group investigation established five principal claims. Top USA Swimming executives, officials, and coaches knew of multiple sexual predators in coaching positions for years and did nothing to stop it. Since 1997, there have been at least 590 alleged victims of sexual assault with 252 coaches/officials arrested, charged, or disciplined by USA Swimming for sexual misconduct or sexual assault with athletes under age 18. At least 30 coaches/officials have been accused of or arrested by law enforcement for sexual assault or child pornography. The organization spent money settling sexual assault cases prior to the public’s finding of these incidents, and they (USA Swimming) spent over $75,000 (to lobbying firms) to organize against California legislation that would have made it easier for sexual assault survivors to sue their attacker or the organization they worked for in civil suits. The report concluded that the organization has been “unwilling to take on its coach-centric power base and obsessed with protecting its image and brand.”

This report conclusively found that complaints of sexual abuse were not handled appropriately because of “…inadequate oversight, many local coaches, and a failure to report inappropriate contact they witnessed,” throughout the organization.

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342 Grinberg, supra note 339.
344 Grinberg, supra note 339.
346 Vagianos, supra note 338.
347 Vagianos, supra note 336.
348 Id.
349 Id.
B. USA Diving

Class action lawsuits against USA Diving and an Indiana diving school accused the organization of not protecting its’ athletes from coaches who sexually abused them. Several coaches at RipFest, a diving club in Indiana, have been accused in a lawsuit which was enabled by “a culture that tolerated sexual harassment, objectification, assault, and abuse.” Some of the coaches accused of sexual assault include former coaches Johel Ramirez and Will Bohonyi.

Ramirez was accused of touching a diver outside of her swimsuit dozens of times while stretching her. Ripfest has stated that after receiving knowledge regarding Ramirez’s allegations they, “immediately removed him from our program, instructed him not to return to our facility pending the outcome of the investigated and terminated him.” However, former divers at Ripfest explained in the lawsuit that they complained to Coach John Wingfield about Ramirez’s strange behavior. Wingfield allegedly responded by explaining how Ramirez is “Venezuelan and that’s just how they are.” In September 2018, Ramirez was convicted of battery and sentenced to more than a year and a half in jail.

Bohonyi was accused of coercing and forcing two former divers into having sex. Former Ohio State diver Estee Pryor has accused Bohonyi of pressuring her into sex, beginning when she was 16 years old. She also accused of Bohonyi of videotaping and taking photos of the sexual acts. “It started through talking about my personality, telling me I was the most honest and mature and kind girl he’s ever met. It became sexual very fast,” explained Pryor. Bohonyi has since been sentenced to four years in prison for sexual assault at Ohio State. During sentencing, Bohonyi admitted to the charge, explained that he tried to hide his criminal behavior, and apologized to Pryor. Robert Allard, Pryor’s attorney has stated that USA Diving knew about Bohonyi’s sexual interactions with Pryor for seven months, then banned him from the organization. He believes that USA Swimming, Ohio State University, and the USOC should have done more sooner to protect divers from sexual predators. “By no means is this case unique in the Olympic movement. The medals and the money priority that the USOC places on matters has to change. We need to put that safety of children first and foremost especially when they’re being raped and sexually assaulted by their coaches.”

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352 Axson, supra note 351.
353 Id.
354 Id.
355 Id.
356 Id.
357 Hayley Miller, Former USA Diving Coach Pleads Guilty To Sexual Battery of Teen Diver, THE HUFFINGTON POST (May 23, 2019, 4:02 PM), https://www.huffpost.com/entry/william-bohonyi-estee-pryor_n_5ce6d5b2e4b05c15dea8ce9d2
358 Miller, supra note 357.
360 Negley, supra note 359.
361 Miller, supra note 357.
362 Id.
VII. CORRECTIVE POLICIES

A. The Need for a New Approach

Since the Nassar scandal, USAG has agreed to make numerous reforms and policy changes. Now, USAG requires mandated SafeSport training for all members of the organization. Additionally, USAG does not handle any cases of sexual abuse, because they all go through the U.S. Center for SafeSport. “All members are required to report any suspected sexual misconduct to legal authorities and the US Center for SafeSport.” Gymnasts who are minors are no longer allowed to be alone with an adult. For example, adults cannot communicate, travel, or provide medical treatment one-on-one with a gymnast. Additionally, “Any adult who has been kicked out of a club will be tracked in a database to make sure he or she doesn’t endanger athletes in other clubs.” USAG has also updated its SafeSport policy in order to more specifically define various forms of abuse in addition to explain prevention efforts. Previously, the policy only defined sexual misconduct.

The current President of USAG, Li Li Leung, has also worked to implement a culture shift within USAG. She is more transparent, wants to connect with the community at all levels of the sport, build trust, and allow gymnasts to have a voice, which has not been the case in the past. Leung is aware of horrific incidents that have occurred in the past, and does not want to suppress their (the gymnasts) voice in any fashion. For example, Simone Biles, arguably the top gymnast in the world, has publicly declared her disappointment in USAG’s response to the Nassar scandal: “We’ve done everything they asked [of] us, even when we didn’t want to. And they couldn’t do one damn job. You had one job. You literally had one job, and you couldn’t protect us.”

With that being said, there is still a long way to go in regard to an improvement in corrective policies for athletic organizations. Gymnasts for USAG still fear that if they form a complaint, they could be harmed by an intense workout or loss of competition. Additionally, the organization appears to have scurried to implement policies. Now, coaches are terrified that if an allegation is made, their careers will be over. They do not feel protected by the organization and are considering making a career shift.

363 Telephone Interview with Anonymous, supra note 115.
364 Id.
366 Telephone Interview with Anonymous, supra note 115.
367 Yan, supra note 365.
368 Id.
370 Telephone Interview with Anonymous, supra note 115.
371 Id.
373 Telephone Interview with Anonymous, supra note 115.
374 Id.
As shown by the USA Swimming and USA Diving experiences, sexual assault of young athletes is not merely a gymnastics issue. It is important for all organizations involved with young athletes to implement and follow policies to help identify and stop predators.

This section discusses ways in which athletic organizations, such as USAG, MSU, and the USOC, could and should develop and implement corrective policies to address sexual assault in athletic organizations.

B. A Case Study: Arizona State University’s Resources for Sexual Violence

As a former student-athlete at Arizona State University (ASU), I have researched ASU’s current policies about sexual violence to better understand established policies. ASU offers various resources of support for individuals within the ASU community (including students, staff, faculty, and possibly affiliates) when reporting cases of sexual violence. These resources are dedicated to prioritizing the health, safety, and well-being of these individuals. Students may report sexual violence to any ASU staff, faculty, teaching assistants, and student employees, who are all mandatory reporters. ASU Health Services, ASU Counseling, the ASU Police Victim Advocate, and the ASU Hotline are all confidential resources.

For incidents of sexual assault, specific resources include: the ASU Dean of Students, Student Rights and Responsibilities (SRR), the Office of Equity and Inclusion (OEI) (name recently changed to the Office of University Rights and Responsibilities), and ASU Police or local police. The SRR can be utilized by students filing a complaint against another ASU student. Initially following a report, the SRR offers students protection such as: academic adjustments, room assignment changes, no contact orders, and counseling services. Through the SRR, the Student Advocacy and Assistance provides reporting options and additional support services such as: assistance when completing a Code of Conduct complaint, assistance with absence letters, attendance, enrollment options, advocacy for changes in on-campus living arrangements, and referrals to campus and community resources. Following the completion of an investigation, both the complainant and respondent are notified of the results and have the option to appeal the deciding judgment (deciding judgement could include expulsion or suspension).

If an incident involves ASU faculty, staff, coach, or administrator, students are encouraged to make a report with the Office of University Rights and Responsibilities (URR). Throughout this process, the URR initially begins with an interview. During the review process, the URR may implement temporary changes, such as: work or location adjustments, zero contact orders, and counseling. Following the investigation, the URR concludes if there was a policy

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375 Interview with Sara Trower, Associate General Counsel, Arizona State University (Aug. 23, 2019).
376 SEXUAL ASSAULT AND RESOURCE GUIDE FOR ARIZONA STATE UNIVERSITY (Arizona State University, 2016).
377 Mandatory Reporter- An individual who is required to report abuse to proper authorities due to his/her profession.
378 Confidential Resource- Depending on state and federal laws, these individuals do not share information unless given permission from the complainant.
379 Arizona State University, supra note 376.
380 Id.
381 Id.
382 Id.
383 Id.
violation. These findings are accepted or rejected by an ASU executive designee. This decision is communicated to the reporting party, the accused, and the appropriate university administration.  

If reporting sexual assault to the ASU Police or local police departments, a victim is not obligated to press charges against the accused.  It is important to note that reporting’s to the SRR or the URR can be done in addition to a police report. Police reports begin with an interview which includes a forensic exam, witness statements, and collection of evidence.  Depending on the case, the police may make referrals to institution or community resources. If prosecuted, there will be a preliminary hearing, court date, and ultimately a verdict.

In addition to the resources listed above, ASU provides Title IX Coordinators and Sun Devil Support, which both work as peer advisors. Title IX Coordinators maintain a significant role with regard to sexual violence because they oversee all complaints by or against ASU students, student-athletes, faculty, staff, and visitors. Additionally, Title IX Coordinators oversee ASU’s response to Title IX complaints, develop training and education programming for students, faculty, and staff, and monitors trends and effectiveness of this educational programming.

Students also have the option of receiving confidential support to help with any legal, medical, psychological, or academic support. Confidential support providers are not mandatory reporters; therefore, they do not report any information shared and keep it intimate unless otherwise instructed. There are services both on and off campus which include: ASU Counseling Services, ASU Police Department Victim Advocate, Employee Assistance Office (EAO), National Sexual Assault Hotline and Website, and ASU Health Services. This support can also assist with reviewing options for the next step in the reporting process.

VIII. RECOMMENDED CORRECTIVE POLICIES

A. The organization should treat all allegations of sexual violence seriously and respond quickly

At USAG, MSU, and the USOC, athletes were stifled and put off when raising concerns about Nassar’s sexual assaults. For example, in 2015, when Maggie Nichols filed a formal complaint with USAG regarding Nassar’s sexual assaults, administrators within the organization failed to take proper action. This inaction included not notifying the proper authorities in a timely manner (it took USAG 41 days to notify law enforcement), failing to remove Nassar from working with other gymnasts, and inadequately processing her complaint. At MSU, numerous employees were notified for decades about Nassar’s sexual assault. MSU’s inaction allowed Nassar to continue his abuse for years. Because of MSU’s consistent inaction, students feared

384 Id.
385 Id.
386 Id.
387 Id.
388 Id.
389 Id.
390 Id.
391 Connor & Fitzpatrick, supra note 191.
that their complaints would not be handled appropriately and did not know who they could report to in order to receive proper attention to the problem. Specifically, when Amanda Thomashow made her formal Title IX complaint in 2014 against Nassar, she chose not to notify the police because she feared that they would not be equipped to handle the case.\footnote{392} Similarly, at the USOC, after receiving allegations of Nassar’s sexual assaults in 2015, top-paid administrators within the USOC never notified anyone within the organization (until the Indianapolis Star article was published in 2016).\footnote{393}

Time and time again, top individuals within the noted organizations selfishly prioritized their own role instead of protecting the individuals they were responsible for. Taking action requires the admission of an internal misstep, which is a step that none of these organizations chose to take. The athletes must be the number one priority; therefore, their safety is imperative. To learn from previous mistakes, a complete culture shift of protecting athletes first and foremost is required.

Development of a culture based on athletic safety should create a more comfortable environment for athletes to file reports of sexual assault and have confidence that the organization will provide protection and support. Hopefully, with this requirement, athletic organizations would “spread the word that the protection of athletes is the expected norm,”\footnote{394} Deborah J. Daniels, a partner of Krieg DeVault LLP, along with assistance from Praesidium, has recommended a similar policy in her report to USAG. Her recommendation is entitled:\footnote{395}

1. “Err on the Side of Protecting the Athlete in All Situations”

B. Mandatory education on sexual violence for everyone within the athletic organization (athletes, coaches, athletic trainers, team physicians, administrators, etc.)

1. SafeSport Education - The U.S. Center for SafeSport is required by federal law to provide consistent training to all adult members who are in regular contact with minors and athletes who are minors (subject to parental consent) under the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017\footnote{396}. The specific individuals required to take this training are: “…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…”.\footnote{397} Organizations that are a part of the U.S. Olympic and Paralympic Committee are under the jurisdiction of SafeSport and are given for this training through their sport’s NGB.\footnote{398} This course includes a 90-Minute SafeSport Core training while providing additional required refresher trainings after one year. These trainings explain mandatory reporting, sexual misconduct

\footnote{392} Biolchini, supra note 220.
\footnote{393} Pells, supra note 315.
\footnote{394} DEBORAH J. DANIELS, REPORT TO USA GYMNASTICS ON PROPOSED POLICY AND PROCEDURAL CHANGES FOR THE PROTECTION OF YOUNG ATHLETES, 61, 68, 71, 74, 79-81, 95 (Krieg Devault LLP, 2017), https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf
\footnote{395} Daniels, supra note 394, at 68.
\footnote{398} Team USA, supra note 329.
awareness education, and emotional and physical misconduct.\textsuperscript{399} Outside individuals or organizations of the NGBs are offered this education as well, but there is a monetary requirement and it is not obligatory.\textsuperscript{400} Additionally, this legislation requires The U.S. Center for SafeSport to develop oversight procedures which include regular and random checks of NGBs to ensure that the Center’s policies are being met and guarantee athlete safety.\textsuperscript{401} With that being said, the institution should still monitor the behavior of its’ staff to ensure they are in compliance with the organization’s policies against sexual violence.

2. NCAA Education- On August 8, 2017, the NCAA Board of Governors adopted the \textit{NCAA Policy to Combat Campus Sexual Violence}, which aims to prevent sexual violence within NCAA member institutions.\textsuperscript{402} The main requirement of the policy is that the school president or chancellor, athletics director, and Title IX coordinator attest that everyone in the athletic department received education regarding sexual violence prevention.\textsuperscript{403} Specifically, there are three outlined requirements that these individuals must attest to:

a) “The athletics department is informed on, integrated in, and complaint with institutional policies and processes regarding sexual violence prevention and proper adjudication and resolution of acts of sexual violence.”\textsuperscript{404}

b) “The institutional policies and processes regarding sexual violence prevention and adjudication, and the name and contact information for the campus Title IX coordinator\textsuperscript{405}, are readily available within the department of athletics, and are provided to student-athletes.”\textsuperscript{406}

c) “All student-athletes, coaches, and staff have been educated each year on sexual violence prevention, intervention and response, to the extent allowable by state law and collective bargaining agreements.”\textsuperscript{407}

“Further, the athletics department will cooperate with college or university investigations into reports and matters related to sexual violence involving

\textsuperscript{399} \textit{Training and Educational Services}, U.S. CENTER FOR SAFE SPORT (2019), \url{https://uscenterforsafesport.org/training-and-education/training-and-education-services/}

\textsuperscript{400} U.S. Center for SafeSport, \textit{supra} note 399.


\textsuperscript{402} N\textsc{caa}A Board of Governors Policy on Campus Sexual Violence, NCAA (Aug. 8, 2017), \url{http://www.ncaa.org/sport-science-institute/topics/ncaa-board-governors-policy-campus-sexual-violence}

\textsuperscript{403} Interview with Deana Garner-Smith, Senior Associate Athletic Director, Senior Women’s Administrator, Title IX Coordinator, Arizona State University (Aug. 13, 2019).

\textsuperscript{404} NCAA, \textit{supra} note 402.

\textsuperscript{405} For international members and schools that do not receive federal funding, or are otherwise exempt from Title IX, the signature should be from the Title IX coordinator or institutional staff member with comparable responsibilities. \textit{Id.}

\textsuperscript{406} \textit{Id.}

\textsuperscript{407} \textit{Id.}
student-athletes and athletics department staff in a manner compliant with institutional policies for all students.\textsuperscript{408}

The institution’s president or chancellor, athletics director, and Title IX coordinator have a set date to turn in the signed document.\textsuperscript{409} After this deadline, a report is presented to the NCAA Board of Governors that lists the schools who have completed and failed to complete the requirements of this policy. Following the approval of this list, the names of the school are published on the NCAA website.\textsuperscript{410} Additionally, if an institution cannot attest to the listed requirements above, the institution “…Will be prohibited from hosting any NCAA championship competitions for the next applicable academic year.”\textsuperscript{411} This policy requiring education did not pass until 2017, after the public disclosure of Nassar’s sexual assaults.

In 2015, former USAG Senior Vice President Rhonda Faehn was notified of Maggie Nichols complaint regarding Nassar’s sexual assault. As a mandatory reporter, she notified her boss, former President and CEO of USAG Steve Penny.\textsuperscript{412} Penny assured Faehn that he was going to handle the situation. Therefore, Faehn did not notify law enforcement.\textsuperscript{413} However, under Indiana law, she had an obligation as a mandatory reporter to report any child abuse /neglect to the police or the Indiana Department of Child Services.\textsuperscript{414} State and federal law takes precedence over any organizations’ internal policy.\textsuperscript{415} Faehn incorrectly followed the bylaws of USAG and not the laws of Indiana. The laws for mandatory reporters to notify law enforcement regarding child abuse vary by state. “In some states, anyone who works with a child is required to report suspected abuse. In other states, the person with direct knowledge of the abuse is required to report; while in still other states, the report may be made by a supervisor.”\textsuperscript{416} Athletic organizations must outline the legal requirements that mandatory reporters must follow when reporting an incident.

Previously, USAG did not provide or require education on sexual violence for their gymnasts. Some victims of Nassar’s assaults at USAG did not understand that they were sexually assaulted by Nassar. These gymnasts had little to no sexual experience, therefore many were unaware that abuse had occurred. For example, Olympian Tasha Schwikert Moser and her sister, Jordan Schwikert, were both sexually assaulted by Nassar.\textsuperscript{417} At the time of the assaults, Tasha was fifteen, and did not understand the various forms of sexual violence. She thought that sexual violence was only classified as rape and perceived it as how movies portray the violent act.\textsuperscript{418} Nassar did not fit under that description. Therefore, she did not think she was being sexually assaulted, and was under the impression that she was receiving legitimate medical

\textsuperscript{408} Id.
\textsuperscript{410} NCAA, supra note 409.
\textsuperscript{411} Id.
\textsuperscript{412} Alesia, Kwiatkowski, & Evans, supra note 98.
\textsuperscript{413} Id.
\textsuperscript{414} Kwiatkowski & Evans, supra note 101.
\textsuperscript{415} Interview with Deana Garner-Smith, supra note 403.
\textsuperscript{416} Daniels, supra note 394, at 74.
\textsuperscript{417} Interview with Tasha Schwikert Moser, Associate Attorney, Munck Wilson Mandala LLP (Sept. 15, 2019).
\textsuperscript{418} Interview with Tasha Schwikert Moser, supra note 417.
treatment that would help her train at a high level.\textsuperscript{419} The Schwikert sisters never even discussed Nassar’s treatments with one another because they did not know they were being sexually assaulted.\textsuperscript{420} Nassar utilized the culture at USAG that fostered vulnerability by brainwashing gymnasts into believing he cared for them, when in reality he sexually assaulted them through the guise of medical treatment. It is important to note that USAG now requires all adult (age 18 and up) professionals, instructors, and athletes within the organization take the SafeSport course on misconduct.\textsuperscript{421}

One can see how this lack of education at USAG and MSU for athletes and administrators likely contributed to the overall culture that allowed Nassar’s assaults to continue for years. As such, it appears clear that all athletic organizations, especially those involving youth, should require education for all involved in the organization which includes: athletes, coaches, administrators, athletic trainers, team physicians, and parents (if athlete within organization is minor). For national organizations that consist of athletes of all ages, there should be different levels of education depending on the age of the athlete.\textsuperscript{422} This programming should be often, relevant, and retained by the individual taking the course.\textsuperscript{423}

Daniels has recommended similar policies in her report to USAG. Her recommendations are entitled:\textsuperscript{424}

1. Implement a Strategic, Comprehensive Abuse Prevention Training Plan for Members, Parents, and Athletes

2. Create Standalone Course in “Preventing Child Abuse in Gymnastics”

3. Revise and Expand the Current “Preventing Child Abuse in Gymnastics” Course to Include the Following, at a Minimum: Content and examples specific to gymnastics, Updated Section on Reporting, and Information about other types of sexual abuse

4. Ensure that USA Gymnastics Consistently Reinforces the Revised Training Content Through Annual Training Requirements

5. Create a Required, Annual Safe Sport Training for All Members Regarding USA Gymnastics’ Revised Abuse Prevention Policies, Procedures, and Reporting Mechanisms

6. Include Mandatory Plenary Session for All National Congress Attendees on Safe Sport Requirements and Abuse Prevention Information

7. Require All Member Clubs to Host Annual Training for Coaches, Athletes, and Parents (All Together) Regarding the Revised Code of Ethical Conduct and Revised Safe Sport Policy

\textsuperscript{419} Id.

\textsuperscript{420} Id.


\textsuperscript{422} Telephone Interview with Anonymous, \textit{supra} note 115.

\textsuperscript{423} Id.

\textsuperscript{424} Daniels, \textit{supra} note 394, at 79-81.
8. Consider Creating a Safe Sport Certification for Clubs

9. Provide Parents with Information about USA Gymnastics Abuse Prevention Policies and Procedures and How to Protect their Children from Abuse on an Annual Basis

10. Provide Athletes with Age Appropriate Abuse Prevention Education on an Annual Basis

C. Impose significant consequences for mandatory reporters and their athletic organization if they fail to take appropriate action after receiving a complaint or report

Throughout the entirety of Nassar’s tenure within the various organizations, mandatory reporters failed to take corrective action after receiving complaints. After receiving a complaint or report, there are necessary steps that mandatory reporters are required to take. If there is an allegation, the institution should have in place policies that the mandatory reporter follows. This action does not mean that there has been a violation, it simply means that if a complaint or report is received, then appropriate action will take place.

Moving forward, governing bodies of athletic organizations should outline and establish severe penalties if proper action does not take place after mandatory reporters receive a complaint. Such consequences would establish the seriousness of the role of mandatory reporting, in addition to help ensure that proper action will take place after a complaint is made. Depending on the severity of the inaction, penalties such as suspension, termination, or revocation of championships could seek fit.

D. Mandatory reporters should have an alternative means reporting

An alternative means of reporting would allow mandatory reporters to properly report complaints without having to go through a chain of authority, because the offender may be in this chain. Specifically, if the accused is the mandatory reporter’s supervisor, there should be an alternate route for the mandatory reporter to report up the chain of authority. The institution should specify this alternative route for the mandatory reporter to report.

The chain of authority obtains a role of power and control which is highly impactful. For example, when Maggie Nichols mother, Gina Nichols, received a phone call from Steve Penny regarding Maggie’s complaint against Nassar, Penny used his role and Maggie’s Olympic dreams to intimidate her action moving forward. Penny told her to keep the complaint quiet, and they would handle the complaint. Nichols’ parents remained quiet entrusting in Penny and USAG. Nichols parents felt they had no other way to report Maggie’s complaint since they had notified the President and CEO of USAG, Steve Penny. A similar example was demonstrated by MSU. Former MSU dean who oversaw Nassar, William Strampel, was recently sentenced to up to one year of jail for neglect of duty and misconduct in office, which came from allegations that he sexually harassed students. During the trial, many medical students testified that he made sexual comments and innuendo throughout individual meetings. They

425 Barr & Murphy, supra note 8.
426 Id.
never reported the incidents because of the power he held within the medical field, and the impact that power could have on their future professional careers. With an alternate means of reporting that acts independently, such as a hotline or Title IX Coordinator, individuals such as Nichols parents would have been able to report out in addition to the conversation they had with Penny.

Additionally, an alternative means of reporting would provide an outlet for mandatory reporters if the offender is an authority figure within the mandatory reporter’s chain of authority. Without this option, the mandatory reporter would have no way to properly report the complaint without notifying the offender. If the complaint is made through this chain of authority, the offender may disregard the complaint entirely. Therefore, athletic organizations must provide a centralized reporting sector. Once again, services that act independently would be equipped to further complaints of sexual violence while also eliminating the offender’s power within the organization.

E. Require mandatory reporters to document in writing all complaints they receive

USAG failed to track complaints of sexual assault throughout Nassar’s tenure. “USAG does not have the comprehensive records indicating when it made reports to proper authorities.” Policies within the organization appear to have influenced when and if USAG employees filed reports of complaints with the police. Employees within USAG have claimed that it was their belief that the “duty to report lies with those who have first-hand knowledge.” Prior to reporting Nassar to the FBI, it is estimated that USAG only made “five or six reports to proper authorities.” With this understanding, one can assume that numerous complaints of sexual assault went unreported because of this ignorance.

Similarly, MSU also failed to track the complaints that were made during Nassar’s tenure. The U.S. Department of Education (DOE) has completed a report into MSU regarding Nassar’s employment at the institution. They concluded that MSU, “…Regularly failed to meet its requirements to ensure campus safety and welfare.” Additionally, MSU violated the Clery Act, “…A 1990 law requiring colleges and universities that participate in federal student aid programs to report safety concerns and crime statistics to the public.” MSU did not maintain records of sex crimes, which includes complaints made about Nassar from 2008-2016. Campus security authorities and university employees all failed to take the proper action when receiving notification of Nassar’s sexual assaults.

By mandating written, documented reports, athletic organizations would be expected to obtain details of each complaint such as dates, who the allegation is against, and who took the

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428 Associated Press, supra note 427.
430 McPhee & Dowden, supra note 429, at 192.
431 Id.
432 Id.
434 Nichols, supra note 433.
435 Id.
report. The institution should provide each mandatory reporter with forms they can use to make their report. It should not be a random piece of paper. This document should have standard information such as date, time, location, a copy of who was reported to, and who received the report. Written documents of complaints would protect the person writing the report as well as their supervisor who receives it. Complainants should be granted the option to remain anonymous. That way, the complainant would be able to further investigate if they choose to pursue an investigation. However, it should be noted that it is difficult to pursue investigations where the complainant is anonymous. In order to pursue investigation, at some point the identity would have to be disclosed to the accused or else it would be challenging to pursue the complaint. Specifically, if investigation were to proceed, and in particular if it is substantiated, the accused would have the opportunity to defend themselves. At that point, the accused and their lawyer would ask for the name of the individual making the complaint.

Documentation would help track mandatory reporters’ steps of action after receiving an allegation, avoiding an opportunity for he said-she said. “These things need to be brought into the light because if they’re not, then who’s going to double-check on them? To cut down on repeat offenders, you need to know.”

F. Athletic organizations should maintain an internal centralized database for all reports of sexual violence

Every complaint (including anonymous reports) of sexual violence that is reported to an athletic organization should be posted in an internal database. An internal database would allow each organization to properly track how each complaint was received, the investigation (if pursued), and the conclusion. Additionally, it would help organizations better identify specific patterns of sexual violence and provide proper services. For example, if an individual is accused of sexual violence numerous times but does not break any violations from a policy or legal perspective, this database would allow the organization to identify this behavior and take proper action. Without a database of each report, it would be difficult for organizations to track complaints, recognize patterns of behavior, and ultimately prevent sexual violence, which was evident at USAG and MSU as they failed to keep track of criminal statistics. It is important to note that it may not be possible to keep such databases confidential within specific organizations. Specifically, public institutions, which are subject to Freedom of Information Act requests, may have to disclose redacted versions of their data.

G. The NCAA and the USOC should maintain a centralized database of completed investigations of individuals who have been found to have engaged in sexual violence

USAG, MSU, and the USOC all failed to properly communicate with one another about complaints raised against Nassar. This lack of communication allowed Nassar to continue assaulting hundreds, as Maggie Nichols described:

436 Telephone Interview with Anonymous, supra note 115.
437 Id.
438 Interview with Sara Trower, supra note 375.
439 Interview with Deana Garner-Smith, supra note 403.
440 Anonymous Report- A complaint of abuse in which the complainant chooses to not disclose their identity or the identity of the offender.
441 McPhee & Dowden, supra note 429, at 192; Wallace & Levenson, supra note 285.
“I later found out that Michigan State University had ignored complaints against Larry Nassar from other girls going back 20 years and had investigated him for sexual assault in 2014…They never told USA Gymnastics. If they had, I might never have met Larry Nassar and I would never have been abused by him.”

The NCAA and the USOC should maintain a centralized database focused on listing individuals who have been found to been engaged in some form of sexual assault. This would protect athletes from recurring offenders attempting to work in other athletic organizations, especially if attempting to switch sports entirely. When hiring, an athletic organization could check the database to see if a candidate has any previous investigations. This would provide athletic organizations to communicate simply without direct contact. Daniels has recommended a similar policy in her report to USAG entitled:

1. Create Database of Persons Dismissed from Member Gyms

H. Require mandatory reporters to take action after they receive complaints from second-hand notifiers, anonymous victims, and unsigned complaints

USAG did not pursue complaints of sexual violence if they came from second-hand notifiers, unsigned complaints, or anonymous victims:

1. Second-Hand Notifiers- USAG only pursued allegations that came from the victim or the parent of the victim.

2. Unsigned Complaints- If USAG received an unsigned complaint, they would not pursue an investigation until the victim signed the complaint. Throughout multiple examples, USAG refused to pursue allegations of sexual violence because the complaints employees received were unsigned, regardless of the details of the complaint. The organization would not begin an investigation or take action until the complaint was signed by the victim.

3. Anonymous Complaints- If a complaint was made anonymously, previous USAG bylaws restricted employees from taking action. Anonymous complaints were particularly troublesome with USAG because, if the gymnast remained anonymous, USAG would not investigate the complaint of abuse. For example, USAG received a complaint from a former gymnast describing her coach’s sexual abuse. USAG notified the coach that they had received allegations, but because the gymnast remained anonymous, the organization would not pursue an investigation. Gymnasts often submitted anonymous complaints because of the fear of possible retaliation (loss of

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442 Connor & Fitzpatrick, supra note 191.
443 Daniels, supra note 394, at 61.
444 McPhee & Dowden, supra note 429, at 186-88.
445 Second-Hand Notifier- An individual who informs their supervisor of assault but did not hear about the assault from the victim or the parent of the victim. Id. at 186.
446 Id. at 186.
447 Id. at 187.
448 Id. at 188.
449 Id. at 189-89.
450 Id. at 188.
This fear of retaliation is intense, as it even intimidates the parents of the athlete. For instance, after Maggie Nichols made her formal complaint regarding Nassar’s sexual assaults, her parents (as medical professionals) did not contact authorities because they feared that this would jeopardize Nichols’ lifelong athletic goals of making the 2016 Olympic team.452

Complaints received from second-hand notifiers, unsigned complaints, and anonymous complaints should be taken as serious as a complaint from a potential victim because of the nature of this transaction. Potential victims may not be willing to come forward on their own, and they may have found somebody else who they feel comfortable with to disclose this information. If a mandatory reporter receives this information, they should pursue it like any other complaint made about sexual violence.

I. Following a complaint or report, the victim should be notified of the organization’s actions

During my research I interviewed an athlete who had been assaulted by Nassar. She advised me that while training for USAG, a mandatory reporter overheard a conversation she was having about her assault. The mandatory reporter then properly reported this conversation up the chain of authority. However, this athlete was never told what the organization did in response to this report. “A coach overheard us and immediately told those in authority, but nothing was done. I learned later that someone was supposed to come see me and ask me questions about it, but no one ever did.”453

Therefore, I recommend that, when requested, a complainant should be notified and kept informed of the organization’s next steps following a complaint. Specifically, if an investigation is pursued, the complainant should be so informed, unless the complaint was file anonymously and the complainant wants to remain anonymous. If this recommendation is adopted, the individual who made the complaint or report would understand that the organization received their complaint or report and is taking proper action. Further, this provides is an option: A complainant who wants to preserve their anonymity can do so, yet a complainant who wants to know what action the organization has taken in response to the complaint, can be kept apprised of such action. Thus, the organization should have a system in place to notify the complainant of the progress and results of an investigation if that is what the complainant requests.

J. Following a complaint or report, the accused should not select, be associated with, or connected to the individuals conducting the investigation

After Amanda Thomashow filed the first formal Title IX complaint against Nassar in 2014, Nassar and his supervisor, William Strampel, handpicked the four individuals who conducted the internal investigation.454 These individuals were all employed by MSU and had personal connections to Nassar. Following the conclusion of the investigation, Thomashow and Nassar received different copies of the report with the investigative findings. Nassar’s copy was

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451 Id. at 188-89.
452 Barr & Murphy, supra note 8.
453 Email from Alyssa Baumann, supra note 118.
one page longer and described that he should look into altering his intravaginal procedures because it was opening up the institution to possible liabilities. However, the report also concluded that there was no evidence of sexual misconduct and Nassar’s procedures were “medically appropriate.”455 Following this investigation, he was allowed to continue to treat students and student-athletes at MSU for the next two years, subjecting these individuals to Nassar’s sexual assault disguised as medical treatment.456 One can assume that personal biases were a factor in this investigation. The findings and conclusion of the investigation protected Nassar’s employment and reputation within the institution and MSU’s reputation. To protect athletes from offenders, the accused cannot have any current personal affiliation with the investigators of the allegation.

K. Throughout an investigation, the accused should be placed on administrative leave with pay or reassigned to activities that do not include the type of activity which gave rise of the complaint, until the investigation is completed

The fact that an allegation has been made does not prove anything, and it certainly does not prove that the accused has committed a violation. However, during Nassar’s tenure at USAG and MSU, complaints about his sexual assaults were made, but he was allowed maintain his role as a medical physician, and thereby continue to treat athletes. For example, when Maggie Nichols made a formal complaint against Nassar at USAG, Nassar was allowed to continue to work with gymnasts.457 This was allowed for five more weeks, until USAG contacted the FBI and fired Nassar (even though he released a statement that said he was retiring).458 Similarly, at MSU, during the investigation of Amanda Thomashow’s Title IX complaint, Strampel allowed Nassar to treat students and student-athletes before the investigation was concluded.459 By granting Nassar permission to perform medical treatments during investigations, numerous individuals were subjected to Nassar’s assaults. To protect athletes, the accused should be placed on administrative leave, suspended, or reassigned to activities that do not include the type of activity which gave rise of the complaint until the investigation is complete.

In the past, USAG has struggled to follow up on sexual assault complaints as well as mandate a proper investigation.460 For example, in 2011, a complaint was made that requested USAG investigate a coach after being terminated from a club gym for his “involvement with a minor gymnast.”461 It took four years for USAG to take action, get the review audited, then report it to the Texas Department of Family and Protective Services. USAG did not suspend the coach until 2018, seven years following that initial complaint.462 In a similar example, a USAG coach was accused of having a romantic relationship with a 13-year-old gymnast and kissing a 14-year-old cheerleader in 2002.463 USAG did not appear to take action until 2006 when the coach had been rehired at his original gym, which prompted another complaint to USAG. After

455 Kitchener, supra note 454.
456 Id.
457 Connor & Fitzpatrick, supra note 191.
458 Id.
461 Id.
462 Id.
463 Id.
waiting nine months for the coach’s response to the complaint, USAG placed him on probation for one year.\textsuperscript{464} This action went without evaluating the 2002 investigators report. Additional action did not come until 2017 when USAG and the coach reached an agreement that stated the coach could not renew his USAG membership but would never be named on a public list.\textsuperscript{465}

When USAG, MSU, and the USOC ignored complaints or did not pursue investigations, assaults continued. To keep athletes safe, the accused should be placed on administrative leave with pay or reassigned to activities that do not include the type of activity which gave rise of the complaint, until the investigation is completed.

L. \textbf{Team physicians should be considered mandatory reporters}

The Health Insurance Portability and Accountability Act Privacy Rule, established to protect patient health information, allows patients to waive client confidentiality to permit healthcare providers to exchange specified information. To protect the patient or others, this act allows these disclosures.\textsuperscript{466}

Currently in NCAA member-institutions, team physicians are either employed by the Campus Health Center/university medical school or an external medical practice (such as a hospital). Therefore, team physicians are under the guidelines of their employer. Within institutions such as ASU, team physicians are employed by Campus Health Centers (known as ASU’s Health Services). With this structure, ASU team physicians are not mandatory reporters because they are considered confidential support within ASU Health Services.\textsuperscript{467} Therefore, if a student-athlete makes a complaint to a team physician regarding sexual violence, that team physician does not have to report the complaint. This current policy should be altered.

In the NCAA Division 1 Manual, NCAA Bylaw 17.1.5 titled \textit{Mandatory Medical Examination}, states:

“Prior to participation in any practice, competition, or out-of-season conditioning activities (or in Division I, permissible voluntary summer conditioning or individual workouts, or permissible required summer athletic activities in basketball and football), student-athletes who are beginning their initial season of eligibility and students who are trying out for a team shall be required to undergo a medical examination or evaluation administered or supervised by a physician (e.g., family physician, team physician)....In following years, an updated history of the student-athlete’s medical condition shall be administered by an institutional medical staff member (e.g., sports medicine staff, team physician) to determine in additional examinations (e.g., physical, cardiovascular, neurological) are required.”\textsuperscript{468}

\textsuperscript{464} \textit{Id.}
\textsuperscript{465} \textit{Id.}
\textsuperscript{466} 45 C.F.R. § 164.502(b) (2013); 45 C.F.R. § 164.512(j)(4) (2016).
\textsuperscript{467} Arizona State University, \textit{supra} note 376.
\textsuperscript{468} NCAA Academic and Membership Affairs Staff, NCAA Division I Manual, 216 (NCAA, 2019).
Under this bylaw in the NCAA Division I Manual, all student-athletes must be medically cleared by a physician before they are allowed to train or participate in athletic activity.\textsuperscript{469} If a team physician administers the medical examination or evaluation, that team physician understands a student-athlete’s medical history prior to the start of his/her collegiate career, immediately creating a special relationship. Further, per this bylaw, updated medical exams are required to be updated every year by an institutional staff member (such as an individual within the sports medicine staff or a team physician).\textsuperscript{470} Through honest conversations regarding health, a close-knit relationship is often developed and maintained throughout the student-athlete’s career. One can assume that team physicians are the people whom an athlete is most likely to confide in regarding sexual assault because of this strong relationship that has been built on the health and wellness of the student-athlete.

One can assume that athletes training for private organizations trust their team physicians to an extent similar to how student-athletes trust their collegiate team physicians. An organization may have a great team physician that athletes feel comfortable with. Athletes might only tell their team physician about sexual assault they have experienced.\textsuperscript{471} Team physicians should become mandatory reporters because they usually understand the health of the athlete better than anyone else. Additionally, by gaining the responsibility of being mandatory reporters, they are keeping other individuals safe from repeat offenders.

In college athletics, some medical information must be shared with coaches, athletic trainers, and those on a need to know basis in order to protect the student-athlete as it pertains to athletic training and participation. At ASU, student-athletes sign a consent form and fill-in blank spaces to specify who is allowed to receive their medical information.\textsuperscript{472} By signing different sections on this form, student-athletes have the option to allow or deny others the right to receive their medical information.

In the NCAA Division 1 Manual, NCAA Bylaw 12.7.4.1 titled Consent and Purpose under 12.7.4 Student-Athlete Health Insurance Portability and Accountability Act (HIPPA) Authorization/Buckley Amendment Consent Form- Disclosure of Protected Health Information under Consent and Purpose which impacts how student-athletes health information is shared with others:

“Each academic year, a student-athlete may voluntarily sign a statement in a form maintained by the Committee on Competitive Safeguards and Medical Aspects of Sports and approved by the Legislative Committee in which the student-athlete authorizes/consents to the institution’s physicians, athletic directors and health care personnel to disclose the student-athlete’s injury/illness and participation information associated with the student-athlete’s training and participation in intercollegiate athletics to the NCAA and to its Injury Surveillance Program (ISP), agents and employees for the purpose of conducting research into the reduction of athletics injuries.”\textsuperscript{473}

\textsuperscript{469} NCAA, \textit{supra} note, 468.
\textsuperscript{470} \textit{Id.}
\textsuperscript{471} Telephone Interview with Anonymous, \textit{supra} note 115.
\textsuperscript{472} \textit{ARIZONA STATE UNIVERSITY HEALTH SERVICES SPORTS MEDICINE, CONSENT FORMS} (Arizona State University, 2019).
\textsuperscript{473} NCAA ACADEMIC AND MEMBERSHIP AFFAIRS STAFF, NCAA DIVISION I MANUAL, 52 (NCAA, 2019).
With a signature, this bylaw permits student-athletes health information to be shared with the NCAA and its Injury Surveillance Program in order to conduct research to decrease athletic injuries. If all of this information directly related to the health and well-being of student-athletes is allowed to be shared with numerous individuals, why would reporting sexual assault be withheld by team physicians?

Finally, most of the athletes I interviewed were under the impression that all team physicians were already mandatory reporters, especially when receiving complaints of sexual assault. They recommend that team physicians everywhere hold that responsibility.

“They [Team Doctors] have such intimate conversations and activities involving young people that are vulnerable. I don’t understand why they should be exempted from reporting the information. If you have people who are reluctant to report, and also, they’re reluctant to get the care that they need, I think that’s a problem because then that preparator is out there and they’ve been told this is happening, so there is not investigatory activity as a result of not moving it.”

M. At their request, the athlete should have the right to have an additional individual of their choice in the room while they are receiving medical treatment

In taking corrective action, new rules must be implemented regarding the supervision of medical treatment for athletes. At their request, the individual athlete should have the right to have an additional individual of their choice in the room while they are receiving medical treatment. This recommendation should create a safer environment of protection for the athlete and the individual conducting the medical treatment.

This recommendation would hopefully combat some of the incidents that were evident throughout the Nassar case. Within club gyms in Lansing, Michigan, Nassar often conducted treatments in his own training room completely alone with an athlete. Victims have since come forward describing that Nassar assaulted them in that room. Similarly, at The Ranch, Nassar was allowed to treat gymnasts alone, even in the gymnasts’ dorm rooms or his personal hotel room. Once again, victims have since stated that Nassar sexually assaulted them in these environments. This isolation provided less protection for the athletes and more opportunities for Nassar to sexually assault them. By providing the athlete with this option, organizations would help protect the athlete and the medical physician conducting treatment by providing a more transparent environment.

N. Require athlete representation within the governance structure of athletic organization

Athletic organizations should mandate that athlete representatives are part of their governance structure in order to facilitate deeper understanding of the athletes’ concerns.

There are also already some mechanisms of this nature:

474 Interview with Deana Garner-Smith, supra note 403.
475 Barr & Murphy, supra note 8.
476 Id.
477 Id.
1. **Student-Athlete Advisory Committee (SAAC)**- Within the NCAA, SAAC provides student-athletes with a voice in order to provide insight on the student-athlete experience. Through SAAC, student-athletes communicate with sport administrators by providing input on policies and regulations that impact them.

2. **Pac-12 Student-Athlete Leadership Team (SALT)**- SALT is comprised of Pac-12 student-athletes whose intent is to incorporate the student-athlete perspective into the conference’s official voting governance structure. SALT discusses issues and legislation pertaining to the student-athlete welfare at a conference and NCAA level, reviews Conference policies and initiatives, and has one vote in the Council voting process. SALT members meet twice a year alongside the other members of their institution, including the Athletic Director, Faculty Athletics Representative, and Senior Woman Administrator. The Pac-12 is the first and only conference (of the major conferences) to integrate student-athletes into its’ governance structure.

Throughout Nassar’s tenure at USAG, gymnasts felt as if they did not have a voice within the organization. “[Nassar], picked the perfect system to be a predator in,” according to Robert Andrews, MA, LMFT, and Sports Performance Coach. The culture encouraged gymnasts to remain quiet under all circumstances. “When gymnasts reach a certain stage in their sports career, these impressionable athletes and their parents put their total trust in the coaches, trainers, and doctors like Nassar, who are supposed to support them and teach them to become stars.” Gymnasts are trained to act like soldiers and report to coaches and trainers in order to achieve success within the sport. Unfortunately, this culture contributed to Nassar’s ability to sexually assault hundreds because gymnasts had no incentive and little opportunity to raise concerns on topics such as sexual violence.

The USOC indirectly contributed to this culture of vulnerability through its’ governance structure. Passed in 1978, the Ted Stevens Act requires key governance provisions within the USOC, such as the Athletes Advisory Council, which purpose is to “ensure communication” between USOC athletes and administrators. Through this council, “…Athletes hold at least 20% of the voting seats on both the USOC and the NGB boards.” However, the intent of this act is broad, as it requires fourteen purposes that range from establishing national goals to improving sports medicine. Historically, the act improved the governance structure because athletes obtained a “huge voice” and “significant presence” within the governance of the organization. Unfortunately, this structure shifted and the USOC began working like a modern, professional non-profit during Nassar’s tenure. “The USOC placed heightened

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479 Id.
480 Id.
482 Id., supra note 481.
483 McPhee & Dowden, supra note 429, at 142.
484 Id.
485 Id.
486 Id. at 145.
487 Id.
emphasis on earning medals and generating revenue.”488 These goals were necessarily connected as athletic success attracts sponsors, who in turn provide the private funding necessary to support the athletes of Team USA. Alongside these developments, however, “…The USOC did not incorporate effective policies and structures to provide athletes with either a strong role in governance or an effective avenue for raising complaint.”489

The combination of the fear instilled within USAG and the USOC’s governance structure demonstrated how little these organization valued their athletes’ voice. With lack of representation, athletes had limited ability to raise concerns about important topics like sexual misconduct.490 In order to attain a complete culture shift that values the athlete entirely, athletic organizations should provide athlete representation within their governance structure. There should be basic requirements for the athlete representatives; for example, they should be current athletes of the organization, be voted into the position by other athletes, and hold a role specific to athlete concerns.491 Specifically, the athlete representative should be involved in decisions that pertain to the athlete well-being, not major decisions such as the opportunity to compete or the selection of a team. Through this structure, athletes have opportunities to raise concerns, provide input on their experience, and evaluate rules and regulations. In return, the organization has an improved understanding on the athletes’ experience because of this communication. It is imperative for the athletes to understand that they are valued within the athletic organization and can raise important issues that could improve their overall experience. Daniels has recommended a similar policy in her report to USAG entitled:492

1. Formularize the Role of the Athlete Representative and Ensure This Individual Does Not Continue to Sit on the Selection Committee

IX. CONCLUSION

It is unacceptable that those who were responsible for keeping minors safe allowed and enabled Nassar to sexually assault hundreds of young girls. If organizations do not have proper policies, they must institute corrective policies to be better prepared to act upon claims of sexual assault. With clear policies to specifically address sexual assault complaints, there must also be training of employees to know what action they must take if a complaint is made. An enhancement of corrective policies for athletic organizations are essential, as the safety of future generations depend on them. Athletic organizations should adopt the corrective policies recommended in this paper in order to generate a culture shift focused on the athletes’ safety and well-being, thereby taking precedent over winning, medals, and wealth.

488 Id.
489 Id.
490 Id. at 147.
491 Email from Alyssa Baumann, supra note 118.
492 Daniels, supra note 394, at 95.
“I believe that changing policy needs to go hand in hand with changing the culture and atmosphere. Athletes cannot be afraid of being overlooked or pushed to the side if they speak up about an injury or something making them uncomfortable.”  

My hope is that athletic organizations everywhere adopt the noted recommended corrective policies to protect athletes from sexual violence.

493 Email from Alyssa Baumann, supra note 118.