

“Vaulting into the End Zone”: How Lessons from the Senate’s USA Gymnastics Investigations Can Prevent the House from Fumbling its Washington Commanders Inquiry

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INTRODUCTION

Weeks after the United States Women’s Gymnastics Team won silver at the 2020 Tokyo Olympics,¹ decorated medalist Simone Biles sat near the end of a long witness table in the Hart Senate Office Building.² Biles, “the greatest gymnast of a generation,”³ was joined by her teammates and fellow abuse survivors: McKayla Maroney, Maggie Nichols, and Aly Raisman.⁴ “We suffered and continue to suffer because no one at FBI, USAG, or the USOPC did what was necessary to protect us,” she said.⁵ “We have been failed and we deserve answers.”⁶

These survivors’ testimonies before the Senate Judiciary Committee served as the most recent congressional hearing on sexual abuse within USA Gymnastics.⁷ Three years prior, Senators Jerry Moran (R-Kan.) and Richard Blumenthal

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1. See ICYMI: *Simone Biles Out as Team USA Earns Silver in Women’s Gymnastics Team Final at Tokyo Olympics*, ESPN (July 27, 2021), https://www.espn.com/olympics/story/_/id/31890675/icymi-simone-biles-team-usa-earns-silver-women-gymnastics-team-finals-tokyo-olympics [https://perma.cc/BRE9-46A7].

2. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021), <https://www.judiciary.senate.gov/meetings/dereliction-of-duty-examining-the-inspector-generals-report-on-the-fbis-handling-of-the-larry-nassar-investigation> [https://perma.cc/8UCS-YPHE].

3. Jane McManus, *Why Does it Always Come Down to the Victims Having to Do the Work?*, DEADSPIN (Sept. 16, 2021, 10:09 AM), <https://deadspin.com/why-does-it-always-come-down-to-the-victims-having-to-d-1847687194> [https://perma.cc/G7RY-M66D].

4. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

5. *Id.* (statement of Simone Biles).

6. *Id.* “USAG” stands for USA Gymnastics. *About USA Gymnastics*, USA GYMNASTICS (last visited Apr. 17, 2022), https://usagym.org/pages/aboutus/pages/about_usag.html [https://perma.cc/6MHD-FT93]. “USOPC” stands for “United States Olympic & Paralympic Committee.” *U.S. Olympic Committee Changes Name to U.S. Olympic & Paralympic Committee*, TEAM USA (last visited Apr. 17, 2022), <https://www.teamusa.org/media/news/usopc/062019-US-Olympic-Committee-changes-name-to-US-Olympic-and-Paralympic-Committee> [https://perma.cc/J4QD-QTCK]. Because the USOPC name changed after the first Senate investigation, this Note uses both acronyms. See *id.*

7. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

(D-Conn.) launched a bipartisan investigation into USA Gymnastics (USAG) and the U.S. Olympic Committee (USOC).⁸

On February 3, Congress heard from five more survivors—this time, former Washington Commanders employees who alleged “sexual harassment and verbal abuse within” the organization.⁹ Five months after the Senate Judiciary Gymnastics hearing, the House Oversight Committee held its first public roundtable during its investigation into the Washington Commanders’ “workplace misconduct.”¹⁰ The Oversight Committee’s inquiry followed the NFL’s failure to publish a report on its investigation into the team¹¹—which itself started after “[m]ore than a dozen women” accused former employees of harassment.¹² Survivors have called on Congress to release the NFL investigation findings.¹³

This Note argues that the House Oversight Committee can learn from the accomplishments and missed opportunities of the Senate USA Gymnastics investigations to achieve a Washington Commanders inquiry characterized by bipartisanship, dialogue, and accountability. Part I provides background on the Senate USA Gymnastics proceedings. Part II summarizes the Washington Commanders investigation details. Part III analyzes the lessons—accomplishments and missed opportunities—from the Senate USA Gymnastics investigations. Based on these lessons, Part IV recommends three takeaways for the Washington Commanders investigation: bipartisanship, hearings with survivors and NFL leadership, and accountability. Like USA Gymnastics, the Washington Commanders inquiry serves as a nationally-significant example of sexual misconduct’s stain on sports. Congress must use the lessons from the Senate Gymnastics investigations to promote accountability and women’s safety in sports.

8. See Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Demand Answers from USA Gymnastics, US Olympic Committee & Michigan State Univ. Regarding Systemic Failures to Protect Athletes from Sexual Abuse (Jan. 25, 2018), <https://www.moran.senate.gov/public/index.cfm/news-releases?ID=C5406CB7-E849-455B-B9A7-C7FE0236A447> [<https://perma.cc/7YYD-C8C3>].

9. See Press Release, H. Comm. on Oversight and Reform, Oversight Comm. to Hold Roundtable with Former Wash. Football Team Employees on Rampant Workplace Misconduct, Sexual Harassment (Jan. 27, 2022), <https://oversight.house.gov/news/press-releases/oversight-committee-to-hold-roundtable-with-former-washington-football-team> [<https://perma.cc/V7KW-EQMW>].

10. *Id.*

11. See Will Hobson & Liz Clarke, *Daniel Snyder Pledged Support for the NFL’s Investigation. His Actions Tell a Different Story.*, WASH. POST (Dec. 14, 2021, 2:55 PM), <https://www.washingtonpost.com/sports/2021/12/14/daniel-snyder-nfl-investigation/> [<https://perma.cc/HY2T-35TG>].

12. Will Hobson & Liz Clarke, *From Dream Job to Nightmare: More than a Dozen Women Allege Sexual Harassment and Verbal Abuse by Former Team Employees at Redskins Park*, WASH. POST (July 16, 2020), <https://www.washingtonpost.com/sports/2020/07/16/redskins-sexual-harassment-larry-michael-alex-santos/> [<https://perma.cc/GRC7-FM3F>].

13. Rachel Engleson, *The NFL Says It’s Protecting Women Like Me. It’s Only Protecting Dan Snyder’s Team.*, WASH. POST (Dec. 23, 2021, 6:00 AM), <https://www.washingtonpost.com/outlook/2021/12/23/wft-harassment-nfl-report/> [<https://perma.cc/4YTK-NPVD>].

I. THE SENATE INVESTIGATIONS: USA GYMNASTICS

The Senate began investigating USA Gymnastics in January 2018,¹⁴ after the sentencing of former USAG doctor Larry Nassar.¹⁵ Following *The Indianapolis Star*’s 2016 interviews with two victims, more than 150 survivors accused Nassar of sexual abuse.¹⁶ During Nassar’s sentencing, “nearly 200 girls and women” testified—describing “the tragedy that had unfolded, over almost three decades . . . in the heart of elite gymnastics, at the pinnacle of Olympic magnificence.”¹⁷

After Nassar was sentenced to 175 years imprisonment,¹⁸ the Senate engaged in two USA Gymnastics-related inquiries: (1) the eighteen-month Senate Commerce Subcommittee investigation and (2) the September 2021 Senate Judiciary hearing on the FBI response to abuse allegations.¹⁹

A. THE BIPARTISAN SENATE SUBCOMMITTEE CONDUCTED AN EIGHTEEN-MONTH INVESTIGATION INTO USA GYMNASTICS AND THE UNITED STATES OLYMPIC COMMITTEE

Senators Moran and Blumenthal, from the Senate Commerce Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security, launched the bipartisan USA Gymnastics investigation on January 25, 2018.²⁰ The Senators expressed concern with “systemic failures to protect athletes from sexual abuse and the reported filing of a non-disclosure agreement (NDA) to silence” McKayla Maroney.²¹ Over eighteen months, the Senators reviewed documents, conducted hearings, and spoke to dozens of survivors.²²

During the investigation, the Subcommittee held four hearings on abuse within USA Gymnastics and Olympic Sports.²³ The first hearing—the only one to

14. Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Demand Answers from USA Gymnastics, US Olympic Committee & Michigan State Univ. Regarding Systemic Failures to Protect Athletes from Sexual Abuse (Jan. 25, 2018).

15. See Tim Evans, Mark Alesia & Marisa Kwiatkowski, *Former USA Gymnastics Doctor Accused of Abuse*, INDIANAPOLIS STAR (Sept. 12, 2016, 3:46 PM; updated Jan. 24, 2018, 4:35 PM), <https://www.indystar.com/story/news/2016/09/12/former-usa-gymnastics-doctor-accused-abuse/89995734/> [<https://perma.cc/U2VE-AZ29>].

16. *Id.*

17. JOAN MCPHEE & JAMES P. DOWDEN, ROPES & GRAY, REPORT OF THE INDEPENDENT INVESTIGATION: THE CONSTELLATION OF FACTORS UNDERLYING LARRY NASSAR’S ABUSE OF ATHLETES 1 (2018).

18. Evans, Alesia & Kwiatkowski, *supra* note 15.

19. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION (2019); *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

20. Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Demand Answers from USA Gymnastics, US Olympic Committee & Michigan State Univ. Regarding Systemic Failures to Protect Athletes from Sexual Abuse (Jan. 25, 2018).

21. *Id.*

22. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 2 (2019).

23. *Id.* at 39-44.

include survivor testimony—created “a forum for survivors of abuse to discuss specific concerns.”²⁴ The hearing, watched over two-hundred thousand times on YouTube,²⁵ featured four survivors: Olympic gymnasts Jordyn Wieber and Jamie Dantzer, speedskater Bridie Farrell, and figure skater Craig Maurizi.²⁶ The second hearing, with testimony from former USA Gymnastics officials, evaluated how governing bodies failed to safeguard athletes.²⁷ Senator Moran released former USA Gymnastics President and CEO Steve Penny, who pled the Fifth Amendment.²⁸ The third hearing focused on the ways USOC and USA Gymnastics changed their processes.²⁹ The final hearing featured testimony from other Olympic Sports leaders—without any USA Gymnastics officials or survivors.³⁰

The investigation produced two deliverables: a report and legislation signed into law by then-President Trump.³¹ The report found USA Gymnastics and USOC’s “inadequate . . . reaction to credible accusations” enabled “hundreds of women and girls [to be] sexually abused.”³² The Committee also determined that “USAG hid the truth about Nassar and prioritized its image.”³³ The Committee recommended strengthening Congressional oversight and enhancing athlete representation, among other things.³⁴ These recommendations paved the way for the Senators to propose The Empowering Olympic, Paralympic, and Amateur Athletes Act,³⁵ which allows Congress to decertify United States Olympic bodies.³⁶ The Act “gives Congress a powerful role as a watchdog for these organizations.”³⁷

24. *Id.* at 39-40.

25. NBC News, *Team USA Gymnasts Testify Before Congress about Larry Nassar Abuse*, YOUTUBE (Apr. 18, 2018), <https://www.youtube.com/watch?v=FarGFzAb3AY> [<https://perma.cc/6HH8-75ZC>].

26. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 39-40 (2019).

27. *Id.* at 40-41.

28. *Id.*; *Preventing Abuse in Olympic and Amateur Athletics: Ensuring a Safe and Secure Environment for Our Athletes: Hearing Before the S. Comm. on Com., Sci., and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018), <https://www.commerce.senate.gov/2018/6/preventing-abuse-in-olympic-and-amateur-athletics-ensuring-a-safe-and-secure-environment-for-our-athletes> [<https://perma.cc/LN2R-NDPB>].

29. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 41-42 (2019).

30. *See id.* at 43-44.

31. *See id.* at 3; *Trump Signs U.S. Reform Bill into Law after Nassar Abuse Scandal*, REUTERS (Oct. 31, 2020, 5:26 PM), <https://www.reuters.com/article/us-olympics-usopc-reforms/trump-signs-u-s-reform-bill-into-law-after-nassar-abuse-scandal-idUSKBN27G0VZ> [<https://perma.cc/9VGZ-LWJP>].

32. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 4 (2019).

33. *Id.* at 7.

34. *Id.* at 18-20.

35. *See* S. 2330, 116th Cong. (2019).

36. Mark Conrad, *The COVID-19 Pandemic, the Empowering Olympic, Paralympic and Amateur Athletes Act, and the Dawn of a New Age of U.S. Olympic Reform*, 31 J. LEGAL ASPECTS SPORT 1, 1 (2021).

37. *Id.* at 29.

B. THE SENATE JUDICIARY COMMITTEE HELD A HEARING TO UNDERSTAND THE FBI MISHANDLING OF NASSAR ABUSE ALLEGATIONS

After the Department of Justice Office of the Inspector General (OIG) released its report on the FBI response to Nassar abuse, the Senate Judiciary Committee scheduled an oversight hearing.³⁸ The OIG found that “officials in the FBI Indianapolis Field Office failed to respond to the Nassar allegations with the utmost seriousness . . . , made numerous and fundamental errors . . . , and violated multiple FBI policies.”³⁹ The Committee sought to investigate the FBI’s “dereliction of duty . . . which enabled the continued abuse of dozens of victims.”⁴⁰

In September 2021, the Senate Judiciary Committee held a two-panel hearing with gymnast survivors and government leadership.⁴¹ The first panel, consisting of four gymnast survivors, exposed the pain Nassar’s victims endured from the FBI’s failure to act.⁴² Criticizing the prioritization of a sports program over her personal safety, Simone Biles asked: “How much is a little girl worth?”⁴³ McKayla Maroney revealed her frustrations with FBI mishandling of the investigation: “I was so shocked at the agent’s silence and disregard for my trauma. After a minute of silence, he asked ‘is that all?’”⁴⁴ The second panel, with witnesses Inspector General Michael E. Horowitz and FBI Director Christopher Wray, responded to survivors’ accounts and discussed procedural changes.⁴⁵ Senate Judiciary has not announced next steps.⁴⁶

II. THE NEXT CHAPTER IN SPORTS SEXUAL HARASSMENT INVESTIGATIONS: WASHINGTON COMMANDERS⁴⁷

In July 2020, fifteen women came forward with allegations of sexual harassment against Washington Commanders employees.⁴⁸ Fourteen women shared

38. Niels Lesniewski, *Judiciary Panel Plans Hearing on FBI Failure to Investigate Abuse of Olympic Gymnasts*, ROLL CALL (July 15, 2021, 8:24 PM), <https://rollcall.com/2021/07/15/judiciary-panel-plans-hearing-on-fbi-failure-to-investigate-abuse-of-olympic-gymnasts/> [<https://perma.cc/B7EJ-4MZZ>].

39. DEPT. OF JUST.: OFF. OF THE INSPECTOR GEN., NO. 21-093, INVESTIGATION AND REV. OF THE FED. BUREAU OF INVESTIGATION’S HANDLING OF ALLEGATIONS OF SEXUAL ABUSE BY FORMER USA GYMNASTICS PHYSICIAN LAWRENCE GERARD NASSAR iv (2021).

40. Press Release, S. Comm. on the Judiciary, S. Judiciary Comm. to Hold Oversight Hearing on FBI’s Dereliction of Duty in Larry Nassar Case (July 15, 2021), <https://www.judiciary.senate.gov/press/dem/releases/senate-judiciary-committee-to-hold-oversight-hearing-on-fbis-dereliction-of-duty-in-larry-nassar-case> [<https://perma.cc/3BSB-RNM5>].

41. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

42. *See id.*

43. *Id.* (statement of Simone Biles).

44. *Id.* (statement of McKayla Maroney).

45. *Id.*

46. *See* Brian Naylor, *Gymnasts Blast the FBI’s Mishandling of their Allegations About Larry Nassar*, NPR (Sept. 15, 2021, 2:55 PM), <https://www.npr.org/2021/09/15/1036968966/gymnasts-nassar-fbi-senate-hearing-simone-biles-aly-raisman-wray> [<https://perma.cc/ZDN2-25HP>].

47. This Note considers news related to the House Oversight Committee Washington Commanders investigation through February 15, 2022. Please note: the Washington Commanders were formerly known as the

their experiences anonymously because they remained afraid of “nondisclosure agreements with the team that threaten[ed] legal retribution.”⁴⁹ One woman who shared her identity, former marketing coordinator Emily Applegate, described her employment as “the most miserable experience of [her] life.”⁵⁰ Every day, Emily joined “a female co-worker in the bathroom during their lunch breaks . . . to . . . cry about the frequent sexual harassment and verbal abuse they endured.”⁵¹ The women accused employees of making “unwelcome overtures or comments of a sexual nature, and exhortations to wear revealing clothing and flirt with clients.”⁵² Over time, the women learned “their dream job of working in the NFL came with what they characterized as relentless sexual harassment and verbal abuse.”⁵³

A month later, *The Washington Post* published more allegations: a surreptitiously produced “lewd” video of cheerleaders for owner Dan Snyder.⁵⁴ This time, twenty-five women alleged sexual harassment while working for the franchise.⁵⁵ Harassment included male employees “commenting on their bodies and clothing, incorporating sexual innuendos into workplace conversation and making unwanted advances.”⁵⁶ Women created “an informal online ‘support group’ for former team employees”—and some women told the *Post* “they felt working for the team left them with post-traumatic stress disorder.”⁵⁷ *The Washington Post*’s article can be summarized by its striking revelation: “in his 21 years of ownership, Snyder has presided over an organization in which women say they have been marginalized, discriminated against and exploited.”⁵⁸

A. THE NFL FAILED TO PUBLISH A REPORT FOR ITS WASHINGTON COMMANDERS INVESTIGATION

Following *The Washington Post* reporting, Snyder hired Beth Wilkinson—“one of the country’s most well-connected and high-powered legal minds”—to

“Washington Football Team.” Nick Selbe, *Washington Football Team Announces Name Change to Commanders*, SI (Feb. 2, 2022), <https://www.si.com/nfl/2022/02/02/washington-football-team-name-change-announcement-commanders> [<https://perma.cc/Y7R3-EJYR>].

48. Hobson & Clarke, *supra* note 12.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. Will Hobson, Beth Reinhard, Liz Clarke & Dalton Bennett, *Lewd Cheerleader Videos, Sexist Rules: Ex-Employees Decry Washington’s NFL Team Workplace*, WASH. POST (Aug. 26, 2020), <https://www.washingtonpost.com/sports/2020/08/26/redskins-cheerleaders-video-daniel-snyder-washington/> [<https://perma.cc/2QWS-HU7Y>].

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

investigate the team.⁵⁹ Although Wilkinson conducted more than 150 interviews, including two with Snyder,⁶⁰ the NFL assumed responsibility over the investigation.⁶¹ The NFL instructed Wilkinson to provide oral reports on the interviews—rather than written findings.⁶² Although the NFL found the Washington Commanders fostered a “highly unprofessional” workplace,⁶³ it declined to release a report.⁶⁴ The public continues to push for a report from the NFL, as one newspaper columnist noted that “[t]he same league office that gave us 139 pages about Deflategate . . . [and] conduct policies in response to Ray Rice’s domestic assault . . . suddenly went silent” after the Wilkinson investigation.⁶⁵ While Commissioner Roger Goodell claimed the NFL did not release a report due to victim privacy concerns,⁶⁶ survivor Rachel Engleson argues “the league is simply choosing not to release” a report.⁶⁷

B. THE NFL’S FAILURE TO RELEASE A REPORT LED THE HOUSE OVERSIGHT COMMITTEE TO START AN INVESTIGATION

Three months after the NFL released its findings, Representatives Chairwoman Carolyn Maloney and Raja Krishnamoorthi sent a letter to Commissioner Roger Goodell and launched the House Oversight Committee investigation.⁶⁸ The Committee asked for documents related to the Washington Commanders’ professional environment.⁶⁹ Furthermore, the Committee expressed its concern with “[t]he NFL’s lack of transparency about the problems it recently uncovered,” which creates “troubling precedent for other workplaces.”⁷⁰ Ultimately, the

59. Adam Kilgore, *Who is Beth Wilkinson? Lawyer Leading Washington NFL Team’s Investigation Has High-Profile History*, WASH. POST (July 17, 2020), <https://www.washingtonpost.com/sports/2020/07/17/beth-wilkinson-washington-nfl-investigation/> [https://perma.cc/D5UP-GUDH].

60. *NFL Announces Outcome of Washington Football Team Workplace Review*, NFL COMMUNICATIONS (2021), <https://nflcommunications.com/Pages/NFL-ANNOUNCES-OUTCOME-OF-WASHINGTON-FOOTBALL-TEAM-WORKPLACE-REVIEW.aspx> [https://perma.cc/U88N-EHHC].

61. Andrew Beaton, *Frustration Mounts Among NFL Owners over Washington Football Team Scandal*, WALL ST. J. (Oct. 28, 2021, 8:31 AM), <https://www.wsj.com/articles/nfl-owners-washington-football-team-scandal-emails-11635385955> [https://perma.cc/THT4-D9QR].

62. *Id.*

63. *NFL Announces Outcome of Washington Football Team Workplace Review*, NFL COMMUNICATIONS (2021), <https://nflcommunications.com/Pages/NFL-ANNOUNCES-OUTCOME-OF-WASHINGTON-FOOTBALL-TEAM-WORKPLACE-REVIEW.aspx> [https://perma.cc/U88N-EHHC].

64. Beaton, *supra* note 61.

65. Tara Sullivan, *When will the Washington Football Team be Held Accountable?* BOS. GLOBE (Jan. 9, 2022, 9:21 AM), <https://www.bostonglobe.com/2022/01/09/sports/when-it-comes-washington-football-team-theres-no-offseason-accountability/> [https://perma.cc/F3JN-U4G7].

66. Beaton, *supra* note 61.

67. Engleson, *supra* note 13.

68. Letter from Reps. Carolyn Maloney and Raja Krishnamoorthi, H. Comm. on Oversight and Reform, to Comm’r Roger Goodell, Nat’l Football League, (Oct. 21, 2021), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Final%202021-10-21.CBM%20RK%20to%20Goodell-NFL%20re%20WFT%20Investigation.pdf> [https://perma.cc/MF84-3EY2].

69. *Id.* at 1.

70. *Id.* at 3-4.

Committee stressed the investigation's importance, as "[t]he NFL has one of the most prominent platforms in America" with "national implications."⁷¹ The NFL did not submit all relevant documents by the November 4, 2021 deadline.⁷²

C. ALLEGATIONS OF OWNER DAN SNYDER'S INTERFERENCE IN THE NFL INVESTIGATION FORTIFIED CONGRESS' INTEREST IN THE WASHINGTON COMMANDERS

In December 2021, *The Washington Post* published an allegation that Dan Snyder tried to interfere with the NFL's investigation⁷³—a scathing report that "strengthened the Committee's commitment to uncovering the truth."⁷⁴ According to the *Post*'s reporting, Snyder's lawyers tried to prevent Wilkinson from speaking to a woman who accused Snyder of sexual misconduct.⁷⁵ The accuser's lawyer claimed Snyder's legal team "[offered her] more money beyond the \$1.6 million the team paid in 2009, if she agreed not to speak to anyone about her allegations against Snyder and her settlement."⁷⁶ Conversations between the lawyers served "as an attempt to 'silence' the 2009 accuser," according to Wilkinson's statements in court documents.⁷⁷ Court records and dozens of interviews indicate this served as "one of several instances in which lawyers and private investigators working on Snyder's behalf took steps . . . to interfere" with the investigation.⁷⁸

The report reinvigorated the House Oversight Committee's interest in the Washington Commanders investigation, with Chairwoman Maloney demanding the NFL to "honor Commissioner Goodell's promise to cooperate with Congress."⁷⁹ Subcommittee Chairman Krishnamoorthi stated the report "confirms our worst

71. *Id.* at 3 (citing Committee on Oversight and Government Reform, *Hearing on HGH Testing in the NFL: Is the Science Ready?*, 112th Cong. (Dec. 12, 2012) (online at <https://republicans-oversight.house.gov/hearing/hgh-testing-in-the-nfl-is-the-science-ready/>); Committee on Oversight and Government Reform, *Press Release: Issa, Cummings Warn NFLPA That Players May Be Called Before Committee* (Jan. 28, 2013) (online at <https://oversight.house.gov/news/press-releases/issa-cummings-warn-nflpa-that-players-may-be-called-before-committee/>); Committee on Government Reform, *Hearing on Steroid Use in Sports, Part II: Examining the National Football League's Policy on Anabolic Steroids and Related Substances*, 109th Cong. (Apr. 27, 2005) (www.govinfo.gov/content/pkg/CHRG-109hhrg21242/pdf/CHRG-109hhrg21242.pdf)).

72. *Id.* at 4; Zachary Zagger, *NFL Misses Deadline for Washington Team Investigation Docs*, LAW360 (Nov. 5, 2021, 7:13 PM), <https://www.law360.com/articles/1438382/nfl-misses-deadline-for-washington-team-investigation-docs> [<https://perma.cc/2NDC-ZFCK>].

73. Hobson & Clarke, *supra* note 11.

74. Press Release, H. Comm. on Oversight and Reform, Chairs Maloney and Krishnamoorthi Call on NFL to Produce Info. on WFT Owner Dan Snyder's Interference in Internal Investigation (Dec. 14, 2021), <https://oversight.house.gov/news/press-releases/chairs-maloney-and-krishnamoorthi-call-on-nfl-to-produce-information-on-wft> [<https://perma.cc/UXX9-8D9H>].

75. Hobson & Clarke, *supra* note 11.

76. *Id.*

77. *Id.*

78. *Id.*

79. Press Release, H. Comm. on Oversight and Reform, Chairs Maloney and Krishnamoorthi Call on NFL to Produce Info. on WFT Owner Dan Snyder's Interference in Internal Investigation (Dec. 14, 2021).

fears: Dan Snyder actively fought to undermine NFL’s investigation.”⁸⁰ The Committee demanded the NFL submit all relevant documents.⁸¹

D. THREE MONTHS AFTER LAUNCHING THE INVESTIGATION, HOUSE OVERSIGHT ANNOUNCED A ROUNDTABLE WITH FORMER WASHINGTON COMMANDERS EMPLOYEES

Following the December report,⁸² the House Oversight Committee announced a February 3, 2022, roundtable with former Washington Commanders employees.⁸³ Among them were marketing coordinator Emily Applegate, Director of Marketing and Client Relations Rachel Engleson, Director of Marketing Melanie Coburn, Coordinator of Business Development and Client Service Ana Nunez, Video Production Manager Brad Baker, and Marketing and Events Coordinator Tiffani Johnston.⁸⁴ The Committee did not invite NFL officials.⁸⁵ The roundtable’s timing, the day after Snyder revealed the team’s new branding,⁸⁶ sent a message: the franchise cannot rebuild without accountability for employees’ harassment allegations.

The roundtable participants demanded that the House Oversight investigation lead to accountability.⁸⁷ Former marketing coordinator Emily Applegate called for Commissioner Goodell’s resignation, arguing that “new leadership from the top of the NFL will create change throughout all thirty two teams.”⁸⁸ Ms. Johnston revealed new allegations against Snyder: inappropriate touching and an attempt to force her into his limousine.⁸⁹ After the hearing, the NFL announced an investigation into the new allegations—and pledged to release the findings.⁹⁰

80. *Id.*

81. *Id.*

82. Hobson & Clarke, *supra* note 11.

83. Press Release, H. Comm. on Oversight and Reform, Oversight Comm. to Hold Roundtable with Former Wash. Football Team Employees on Rampant Workplace Misconduct, Sexual Harassment (Jan. 27, 2022).

84. *Id.*; *Roundtable: Examining the Wash. Football Team’s Toxic Workplace Culture: Hearing Before the H. Comm. on Oversight and Reform*, 117th Cong. (2022), <https://oversight.house.gov/legislation/hearings/examining-the-washington-football-team-s-toxic-workplace-culture> [<https://perma.cc/P8VR-YZ9Z>].

85. Tisha Thompson & John Keim, *Former Washington Football Team Employees to Share Sexual Harassment Allegations with House Committee*, ESPN (Jan. 27, 2022), https://www.espn.com/nfl/story/_/id/33158822/former-washington-employees-share-sexual-harassment-allegations-house-committee [<https://perma.cc/87FF-VWUM>].

86. See Liz Clarke, *Congressional Committee to Hold Roundtable with Former WFT Employees on Toxic Workplace*, WASH. POST (Jan. 27, 2022, 2:11 PM), <https://www.washingtonpost.com/sports/2022/01/27/wft-congressional-roundtable/> [<https://perma.cc/56DX-8HKZ>]; John Keim, *Washington Selects Commanders as New NFL Team Name After Two-Season Process*, ESPN (Feb. 2, 2022), https://www.espn.com/nfl/story/_/id/33199548/washington-selects-commanders-new-team-name-two-season-search [<https://perma.cc/EF5D-M47T>].

87. See *Roundtable: Examining the Wash. Football Team’s Toxic Workplace Culture: Hearing Before the H. Comm. on Oversight and Reform*, 117th Cong. (2022).

88. *Id.*

89. *Id.*

90. Brian McNally, *NFL Hires Attorney Mary Jo White to Investigate Commanders’ Owner Dan Snyder*, NBC4 WASH. (Feb. 18, 2022), <https://www.nbcwashington.com/news/sports/nbcports/nfl-hires-attorney-mary-jo-white-to-investigate-commanders-owner-dan-snyder/2977806/> [<https://perma.cc/2PR2-VL4U>].

Despite this announcement, House Oversight still awaits additional NFL documents and threatened “further action” if the League does not comply.⁹¹

III. LESSONS LEARNED: CONGRESS’ USA GYMNASTICS INVESTIGATION

Moving forward, the House Oversight Committee can use the lessons learned from the Senate Commerce and Judiciary USA Gymnastics investigations to structure its Washington Commanders inquiry. The Senate’s bipartisanship, connection of survivor stories to national concern over sexual abuse, and comprehensive investigation enabled concrete results: a report and legislation. Yet, the House Oversight Committee can learn from the Senate’s shortcomings, which include restricting survivor testimony, giving speeches instead of listening to victims, and failing to hold all leadership involved accountable.

A. THE SENATE COMMERCE GYMNASTICS INVESTIGATION FEATURED SEVERAL TOOLS THAT FACILITATED A BIPARTISAN REPORT AND LEGISLATION

1. BIPARTISANSHIP EMPOWERED THE COMMERCE SUBCOMMITTEE TO SEND A MESSAGE: THE SENATE STANDS UNITED IN COMBATting SEXUAL ABUSE IN SPORTS

The Senate Commerce Subcommittee’s investigation included a hallmark of successful congressional investigations: bipartisanship. Collaboration across the aisle serves as “[a] key dynamic in virtually every congressional investigation,” with the potential for “joint . . . document requests, . . . press releases, . . . [and] a report.”⁹² Because “some issues . . . should transcend politics,” bipartisanship enhances investigations.⁹³

In the Senate, Republican Senator Moran and Democratic Senator Blumenthal’s teamwork served as “[a] key dynamic.”⁹⁴ The Senators released joint requests for information,⁹⁵ published joint press releases,⁹⁶ and worked together to release

91. Jonathan Franklin, *House Panel Reviews New Material in its Investigation into the Washington Commanders*, NPR (Feb. 15, 2022, 10:20 PM), <https://www.npr.org/2022/02/15/1080983185/house-panel-investigation-washington-commanders-nfl-sexual-harassment> [https://perma.cc/8BRY-G66A]; Liz Clarke, *Congressional Panel Threatens ‘Further Action’ if NFL Doesn’t Fulfill Documents Request*, WASH. POST (Feb. 15, 2022, 4:27 PM), <https://www.washingtonpost.com/sports/2022/02/15/nfl-commanders-congress-documents/> [https://perma.cc/9XCU-4QEJ].

92. Former Sen. Carl Levin & Elise J. Bean, *Defining Congressional Oversight and Measuring its Effectiveness*, 64 WAYNE L. REV. 1, 14, 19-21 (2018).

93. PROJECT ON GOVERNMENT OVERSIGHT, *THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT* 6 (Danni Downing ed., 2d ed.), <http://www.pogoarchives.org/m/coi/pogo-the-art-of-congressional-oversight-handbook.pdf> [https://perma.cc/8TMY-C84Y].

94. See Levin & Bean, *supra* note 92, at 14.

95. See, e.g., Letter from Jerry Moran and Richard Blumenthal, Subcomm. Chairman and Ranking Member, Sen. Comm. on Com., Sci., and Transp. to Kerry Perry, USA Gymnastics (Jan. 25, 2018), https://www.moran.senate.gov/public/_cache/files/7/3/738ae5d9-703b-49ca-b73b-0cc2ff16241b/A3F10DCAA7A069B57A47FF8ECA272664.01.25.2018-letter-to-usag.pdf [https://perma.cc/782A-NNKH].

96. See, e.g., Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Introduce Sweeping US Olympic Committee Reform Legislation, Following 18-Month Investigation into System Abuse (July 30, 2019),

the investigation’s final report.⁹⁷ This bipartisanship continued through joint media interviews.⁹⁸ When asked by an ESPN anchor why the Senators decided to pursue bipartisanship during “today’s political climate,” Senator Moran emphasized: “[w]hat brings . . . Republicans and Democrats together . . . are the survivors.”⁹⁹ Investigating without bipartisanship, he shared, “would be a terrible response.”¹⁰⁰ This bipartisanship drove the investigation’s legislation, The Empowering Olympic, Paralympic, and Amateur Athletes Act, to pass the House¹⁰¹ and Senate.¹⁰² Bipartisanship, especially on issues like abuse, served as a highlight of the Senate investigation.¹⁰³

2. THE SUBCOMMITTEE CONNECTED THE INVESTIGATION TO THE NATIONAL CONVERSATION ON SEXUAL ABUSE AND GAVE SURVIVORS A PLATFORM

By inviting gymnasts to testify at a Commerce and Judiciary hearing, the Senate provided survivors with a platform to share their experiences in a national crisis: sexual abuse. Successful congressional investigations “address[] issues of importance to the public.”¹⁰⁴ This tool, together with compelling storytelling, may capture “attention from policymakers and the public.”¹⁰⁵ Committees can pursue this storytelling effectively by including “a panel of witnesses who can

<https://www.moran.senate.gov/public/index.cfm/2019/7/sens-moran-blumenthal-introduce-sweeping-u-s-olympic-committee-reform-legislation-following-18-month-investigation-into-systemic-abuse> [https://perma.cc/62QD-4RXT].

97. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION (2019).

98. See 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, 7:13 AM), <https://www.nbcnews.com/politics/congress/congress-u-s-olympic-committee-fbi-failed-protect-athletes-larry-n1035751> [https://perma.cc/45ZF-LUA5] (joint *Today Show* appearance); Jerry Moran, *Sens. Moran, Blumenthal Detail Investigation into Abuse of Olympic Athletes on MSNBC’s Morning Joe*, YOUTUBE (July 30, 2019), <https://www.youtube.com/watch?v=mFZEIwFY2-c> [https://perma.cc/ZSM4-95LP].

99. Jerry Moran, *Sens. Moran & Blumenthal Join ESPN’s Outside the Lines to Discuss Olympic Abuse Investigation*, YOUTUBE (July 31, 2019), <https://www.youtube.com/watch?v=sq4s91aZcHI> [https://perma.cc/UAK7-R5JT].

100. *Id.*

101. *U.S. Olympic Reform Bill Approved by Congress, Awaits Trump Signature*, REUTERS (Oct. 1, 2020, 6:03 PM), <https://www.reuters.com/article/us-olympics-usopc-reforms/u-s-olympic-reform-bill-approved-by-congress-awaits-trump-signature-idUSKBN26M7L0> [https://perma.cc/9GEH-A3EJ].

102. Rick Maese, *Bill Aimed at Reshaping U.S. Olympic and Paralympic Committee Passed by Senate*, WASH. POST (Aug. 4, 2020), <https://www.washingtonpost.com/sports/2020/08/04/bill-aimed-re-shaping-us-olympic-paralympic-committee-passed-by-senate/> [https://perma.cc/CE6A-V7AH].

103. Bipartisanship also instilled “a sense of trust” between the gymnasts and the Senate Judiciary. Republicans and Democrats working together allowed the gymnasts to believe, “for the first time,” that “something will be different.” Telephone Interview with Julie Tsirkin, Capitol Hill Unit Rep. and Producer, NBC News (Jan. 30, 2022).

104. Levin & Bean, *supra* note 92, at 18.

105. *Id.* at 18-19; see Donald A. Ritchie, *What Makes a Successful Congressional Investigation?* 12 OAH MAG. HIST. 20, 25 (1998) (“Investigators need to demonstrate a degree of showmanship to hold press and public attention.”).

relate individual stories that exemplify the problem.”¹⁰⁶ Essentially, impactful investigations convey personal survivor stories within a broader conversation on the country’s most critical public concerns.

Here, the Senate connected its purpose in investigating USA Gymnastics to broader conversations on sexual assault, an issue “of importance to the public.”¹⁰⁷ During a joint appearance on *Morning Joe*, Senator Moran stressed: “if somebody brings us a story of sexual abuse, of emotional abuse—particularly these young women . . . we all have a moral and legal responsibility to respond.”¹⁰⁸ This emphasis on action in the wake of sexual harassment underscores the necessity of lawyers’ duty to maintain “special responsibility for the quality of justice” and combat wrongdoing.¹⁰⁹ Moran and Blumenthal’s focus on the urgency of combating sexual harassment claims continued in the Committee report, as the Senators expressed that, like “so many across the nation,” they “were shocked by the Nassar case.”¹¹⁰ Senators’ description of the Gymnastics investigation within a broader context, therefore, made the proceedings relevant on a national scale.

Furthermore, Congress gained the public’s attention during the first Senate Committee and September Judiciary hearings by including a panel of survivors that shared their personal accounts that embody the national conversation on sexual abuse.¹¹¹ During the first Senate Commerce hearing, Gold Medalist Jordyn Wieber sat next to her “sister survivor” Bronze Medalist Jamie Dantzcher.¹¹² The Senate Judiciary Committee, furthermore, gave a platform to women who had “for years been referred to by initials or numbers: ‘Athlete B,’ ‘Gymnast 1,’ ‘Athlete A,’ and ‘Gymnast 3.’”¹¹³ This allowed gymnasts to powerfully declare: “I want everyone to know that this did not happen to Gymnast Two or to Athlete

106. PROJECT ON GOVERNMENT OVERSIGHT, *THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT* 23 (Danni Downing ed., 2d ed.).

107. See Levin & Bean, *supra* note 92, at 18.

108. Jerry Moran, *Sens. Moran, Blumenthal Detail Investigation into Abuse of Olympic Athletes on MSNBC’s Morning Joe*, YOUTUBE (July 30, 2019), <https://www.youtube.com/watch?v=mFZEIwFY2-c> [<https://perma.cc/ZSM4-95LP>].

109. MODEL RULES OF PROF’L. CONDUCT pmbl. (AM. BAR ASS’N 2018) [hereinafter MODEL RULES].

110. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 2 (2019).

111. See PROJECT ON GOVERNMENT OVERSIGHT, *THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT* 23 (Danni Downing ed., 2d ed.).

112. *Olympic Abuse: The Role of National Governing Bodies in Protecting Our Athletes: Hearing Before the S. Comm. on Com., Science, and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018), <https://www.commerce.senate.gov/2018/4/olympic-abuse-the-role-of-national-governing-bodies-in-protecting-our-athletes> [<https://perma.cc/27PD-2NCA>].

113. Louise Radnofsky, *Star Gymnasts Give Senators an Unsparing Account of FBI’s Failures in Larry Nassar Investigation*, WALL ST. J. (Sept. 15, 2021, 2:42 PM), <https://www.wsj.com/articles/simone-biles-mckayla-maroney-aly-raisman-senate-fbi-investigation-11631723958> [<https://perma.cc/3BQ3-PMDA>]; see *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

A. It happened to me.”¹¹⁴ This “spotlight on the victims,” according to NBC Capitol Hill Reporter Julie Tsirkin, sent a message: “pass the microphone over to the folks who don’t usually” have a voice.¹¹⁵

3. THE SENATE SUBCOMMITTEE’S COMPREHENSIVE INVESTIGATION, FROM DOCUMENT REVIEWS TO HEARINGS, PROPELLED THE REPORT AND LEGISLATION

The Senate Subcommittee, from document requests through hearings, conducted a thorough investigation with two deliverables: a bipartisan report and a new law.¹¹⁶ Effective investigations “use . . . appropriate investigative techniques” and “produce a consensus on the facts.”¹¹⁷ Moreover, meaningful investigations create “changes in policy or practice” and can be considered “credible” by “experts, policymakers, and the public.”¹¹⁸ Congressional investigators, therefore, should use their resources to discover facts and provide an avenue for reform.

The Senate employed several “appropriate investigative techniques” to unearth the USA Gymnastics facts.¹¹⁹ The Committee received “thousands of documents” from its requests, “held four hearings,” and performed “more than dozens” of interviews.¹²⁰ Subsequently, the Committee created its report, which determined that gymnastics officials “fundamentally failed to uphold their purposes and duties to protect amateur athletes.”¹²¹

Furthermore, the investigation served as a catalyst for The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2019, of which gymnasts approved.¹²² McKayla Maroney praised the Act: “This bill recognizes that USOC failed us.”¹²³ Jamie Dantzcher, furthermore, expressed the Act’s “message from Congress to our athletes. We care about you. You have a voice.”¹²⁴ The

114. *Derelection of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021) (statement of Maggie Nichols).

115. Telephone Interview with Julie Tsirkin, Capitol Hill Unit Rep. and Producer, NBC News (Jan. 30, 2022).

116. *See generally* SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION (2019); S. 2330, 116th Cong. (2019).

117. Levin & Bean, *supra* note 92, at 18.

118. *Id.* at 21-22.

119. *See id.* at 18.

120. SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 2 (2019).

121. *Id.* at 4.

122. S. 2330, 116th Cong. (2019); Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Introduce Sweeping U.S. Olympic Committee Reform Legislation, Following 18-Month Investigation into Systemic Abuse (July 30, 2019); *see* Levin & Bean, *supra* note 92, at 21-22.

123. Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Introduce Sweeping U.S. Olympic Committee Reform Legislation, Following 18-Month Investigation into Systemic Abuse (July 30, 2019).

124. *Id.*

Subcommittee's thorough investigation, therefore, produced a bipartisan report and legislation with which gymnasts agreed.

B. DESPITE THE USA GYMNASTICS INVESTIGATIONS'
ACCOMPLISHMENTS, THE SENATE MISSED OPPORTUNITIES TO HOLD
WRONGDOERS ACCOUNTABLE

While the Senate investigation achieved bipartisanship, national relevance, a report, and legislation, it fell short of its goal: guaranteeing that “perpetrators are held accountable and prevented from harming others.”¹²⁵ Specifically, the Senate missed three opportunities: emphasizing survivor testimony, fact-finding during witness questioning, and using Congressional power to hold specific wrongdoers accountable. If the Senate engaged in these opportunities, the investigation could have led to the firing of specific individuals and set a precedent for future sexual harassment investigations in sports. Simply, the Senate's missed opportunities could have sent a message: Congress has an obligation to ensure sexual harassment never stains sports again.

1. BECAUSE ONLY ONE SUBCOMMITTEE HEARING INCLUDED GYMNAST TESTIMONY,
THE INVESTIGATION MINIMIZED SURVIVOR EXPERIENCES

By only featuring victim testimony at the first of four hearings—and merely including two gymnasts on a four-person panel¹²⁶—the Subcommittee muted the survivors' experiences. To amplify survivors' testimony, hearings can include a witness panel, followed by “validators—organizations or entities that can affirm that the individual stories . . . are indicative of a larger problem.”¹²⁷ Afterwards, committees can “bring in the top people responsible for the problem . . . and present them with the documents and testimony against them.”¹²⁸ Grounding hearings in information from the first witness panel, therefore, retains focus on the survivors and their allegations.

Rather than frame each hearing through survivors' perspectives, the investigation only featured two gymnasts' testimonies.¹²⁹ Despite revealing in the final report that the investigation included interviews with Michigan State University gymnast Larissa Boyce, Aly Raisman, and McKayla Maroney, the Subcommittee

125. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 3 (2019).

126. See *id.*; *Olympic Abuse: The Role of National Governing Bodies in Protecting our Athletes: Hearing Before the S. Comm. on Com., Sci., and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018).

127. PROJECT ON GOVERNMENT OVERSIGHT, THE ART OF CONGRESSIONAL OVERSIGHT: A USER'S GUIDE TO DOING IT RIGHT 23 (Danni Downing ed., 2d ed.).

128. *Id.*

129. *Olympic Abuse: The Role of National Governing Bodies in Protecting our Athletes: Hearing Before the S. Comm. on Com., Sci., and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018).

did not feature them at hearings.¹³⁰ Furthermore, the Subcommittee hearings only included one “validator,”¹³¹ Athletes Advisory Council Chairman Han Xiao, at the third hearing.¹³² Confining survivor testimony to the first hearing indicated that victim testimony launched the investigation—but became less important as the investigation continued. For attorneys working on congressional investigations, continuing without hearing from survivors suggests a lapse in legal duties: pursuing all “lawful and ethical measures . . . required to vindicate a client’s cause or endeavor.”¹³³ Without hearing from survivors, the Senate did not demonstrate the “commitment and dedication” required by attorneys.¹³⁴ By refraining to hear from victims, Committee attorneys failed in their obligations to focus on clients “with reasonable diligence.”¹³⁵

The focus on victims diminished over subsequent hearings. During the second hearing, the Subcommittee heard from one survivor only: a gymnast watching the hearing who shouted “shame!” as former USA Gymnastics President and CEO Steve Penny left the room after pleading the Fifth.¹³⁶ Moreover, during the third hearing, when recognizing the “hundreds of survivors” who received the ESPYS Arthur Ashe Courage award,¹³⁷ Chairman Moran said: “I’m glad to have so many of them with us this afternoon.”¹³⁸ Senators continued to talk about survivors without inviting them to speak.¹³⁹ For example, Senator Blumenthal prefaced a question given to him by a survivor with the statement that “she would ask [the question] if she were sitting” in the Committee chairs.¹⁴⁰ This revealed a key

130. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 45-47 (2019). Although Aly Raisman and McKayla Maroney later testified at the September 2021 Senate Judiciary, they did not speak at any Senate Commerce hearings. See *Dereliction of Duty Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

131. See PROJECT ON GOVERNMENT OVERSIGHT, THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT 23 (Danni Downing ed., 2d ed.).

132. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 41-42 (2019).

133. See MODEL RULES R. 1.3 cmt. 1.

134. See MODEL RULES R. 1.3 cmt. 1.

135. See MODEL RULES R. 1.3.

136. *Preventing Abuse in Olympic and Amateur Athletics: Ensuring a Safe and Secure Environment for our Athletes: Hearing Before the S. Comm. on Com., Sci., and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018); *Former USA Gymnastics Boss Pleads the Fifth Repeatedly in Hearing*, NBC NEWS (June 5, 2018), <https://www.nbcnews.com/video/former-usa-gymnastics-president-steve-penny-pleads-the-fifth-repeatedly-in-congressional-hearing-1249006659643> [<https://perma.cc/4WMH-BJ4H>].

137. ‘Sister Survivors’ of Larry Nassar’s Sexual Abuse Honored with Arthur Ashe Courage Award, ESPN (July 18, 2018), https://www.espn.com/espy/story/_/id/24134624/2018-espy-arthur-ashe-courage-award-goes-survivors-larry-nassar-sexual-abuse [<https://perma.cc/URZ5-B6MK>].

138. *Strengthening and Empowering U.S. Amateur Athletes: Moving Forward with Solutions: Hearing Before the S. Comm. on Com., Sci., and Transp. Subcomm. on Consumer Prot., Prod. Safety, Insurance, and Data Sec.*, 115th Cong. (2018), <https://www.commerce.senate.gov/2018/7/strengthening-and-empowering-u-s-amateur-athletes-moving-forward-with-solutions> [<https://perma.cc/5R2L-MDJN>].

139. *Id.*

140. *Id.* (opening statement of Sen. Richard Blumenthal).

reality: during most hearings, Committee members spoke about—or perhaps even *for*—survivors. Rather than fact-finding and listening, the Senators appeared more interested in showing their prowess over the record.

One could contend that the Committee, rather than precluding survivors from speaking, followed a story arc: listening to victims, hearing from leadership to understand “past processes,” evaluating changes, and analyzing concerns across Olympic sports.¹⁴¹ This strategy, however, does not allow the Committee to fully “understand the alarming and dysfunctional systems that allowed a monster like Larry Nassar to thrive.”¹⁴² More survivor testimony would have enabled Members to better understand victims’ unique experiences and expectations for reform.

2. ALTHOUGH THE INVESTIGATION PROVIDED SURVIVORS WITH A PLATFORM,
SENATORS’ SPEECHES DURING HEARINGS HAMPERED VICTIMS’ VOICES FROM
BEING HEARD

When Senate Commerce and Judiciary held hearings with survivors as witnesses, the committees underperformed in a congressional oversight cornerstone: fact-finding. Unsurprisingly, many Senators “with an eye on the T.V. camera, and his or her own legislative or political agenda, will use the allotted time to make a mini-speech.”¹⁴³ Nevertheless, staffers should encourage Senators to avoid these speeches as they are “not usually the most compelling or news-making part” of hearings.¹⁴⁴ Instead, Committee members should ask open-ended questions to earn witnesses’ trust.¹⁴⁵ Particularly in sexual abuse investigations, members can ask questions typically given to trauma victims—starting with open-ended inquiries about the survivors’ “experience” and “feelings.”¹⁴⁶ These questions help make witnesses feel comfortable, while revealing critical facts.¹⁴⁷

Specifically, the September Judiciary hearing demonstrated the need for open-ended questions to facilitate fact-finding.¹⁴⁸ During her opening statement, McKayla Maroney pleaded with the Senate Judiciary panel: “I ask you all to hear my voice. I ask you, please do all that is in your power to ensure that these

141. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 39-44 (2019).

142. *Id.* at 3.

143. James Hamilton, Robert F. Muse & Kevin R. Amer, *Congressional Investigations: Politics and Process*, 44 AM. CRIM. L. REV. 1115, 1170 (2007).

144. PROJECT ON GOVERNMENT OVERSIGHT, THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT 51 (Danni Downing ed., 2d ed.) (quoting WALL ST. J. reporter Anna Mathews).

145. Bill Corboy, Guest Speaker at Georgetown University Law Center Congressional Investigations Seminar (Oct. 21, 2021).

146. Jeff Nolan, *#MeToo, SCOTUS, and Trauma: New Investigation Methods for our Times*, 23 No. 9 VT. EMP. L. LETTER 1, 2-3 (2018).

147. See *id.*; Bill Corboy, Guest Speaker at Georgetown University Law Center Congressional Investigations Seminar (Oct. 21, 2021).

148. See *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

individuals are held responsible.”¹⁴⁹ However, “[f]or more than an hour of opening and closing statements, the politicians talked . . . [a]nd injected their favorite letter—’I’—into the women’s ghastly reality.”¹⁵⁰ Senator Cory Booker, one of the few committee members to ask the gymnasts anything, articulated a vital question: What would you like Americans to know?¹⁵¹ In a deeply personal response, Aly Raisman described the long-term effects of Nassar’s abuse:

I don’t think people realize how much it affects us, how much the PTSD, how much the trauma impacts us . . . I can remember when I first shared my story publicly, for a very, very long time, I didn’t even have the energy to stand up in the shower . . . I’ve often wondered am I ever going to feel better? . . . In the last couple of years, I’ve had to be taken in an ambulance because I pass out and I’m so sick from just the trauma.¹⁵²

Senator Booker’s open-ended question provided Raisman an opportunity to respond candidly and powerfully. By asking open-ended questions, Senator Booker, a law school graduate,¹⁵³ exemplified lawyers’ “public citizen” obligations to “seek improvement of the law” and “the administration of justice.”¹⁵⁴ Without more of these questions, however, the Senate missed an opportunity to gather critical facts. With this insight, the Senate could have been equipped to understand the urgency of holding accountable all involved in the gymnasts’ abuse—and securing justice for all victims.

3. DESPITE THE SENATE COMMERCE SUBCOMMITTEE’S REPORT AND LEGISLATION, THE INVESTIGATION DID NOT HOLD SPECIFIC USA GYMNASTICS OR USOC WRONGDOERS ACCOUNTABLE

While the Senate Subcommittee produced a report and legislation, USA Gymnastics and USOC officials have not been held sufficiently accountable.¹⁵⁵ Although successful congressional inquiries can have a “policy impact” through “recommendations” or “new laws,”¹⁵⁶ the investigation failed to meet its purpose: to “ensure perpetrators are held accountable and prevented from harming

149. *Id.* (opening statement of McKayla Maroney); see also Candace Buckner, *At a Quiet Senate Hearing, Four U.S. Gymnasts Made Sure the Truth was Loud and Uncomfortable*, WALL ST. J. (Sept. 15, 2021; updated Sept. 16, 2021, 8:16 PM), <https://www.washingtonpost.com/sports/2021/09/15/simone-biles-aly-raisman-mckayla-maroney-hearing/> [<https://perma.cc/72MF-4QZJ>].

150. Buckner, *supra* note 149.

151. *Derelection of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021).

152. *Id.*

153. CORY BOOKER, *About Cory* (last visited Apr. 17, 2022), <https://www.booker.senate.gov/about-cory> [<https://perma.cc/L7CA-DZUG>].

154. MODEL RULES pmbl.

155. See Bonnie D. Ford & Alyssa Roenigk, *The Gymnastics Factory: The Rise and Fall of the Karolyi Ranch*, ESPN (July 14, 2020), https://www.espn.com/espn/feature/story/_/id/29235446/the-karolyi-ranch-where-us-women-gymnastics-gold-was-forged-price [<https://perma.cc/67Y2-WEZ9>].

156. Levin & Bean, *supra* note 92, at 21-22.

others.”¹⁵⁷ Although Senator Blumenthal pledged “[n]o more medals and money above morals,”¹⁵⁸ former USA Gymnastics President and CEO Steve Penny has not yet gone to trial.¹⁵⁹ Furthermore, former USA Gymnastics coaches Bela and Marta Karolyi “were never charged with a criminal offense” and live “out of public view, maintaining their innocence and ignorance.”¹⁶⁰ Only Nassar has been held criminally accountable for the abuse.¹⁶¹

This inaction defies the pleas of the survivors who shared their stories with Congress. During September’s Senate Judiciary hearing, Maggie Nichols emphasized that while the Senate Subcommittee and OIG Report found wrongdoing, “no accountability has occurred.”¹⁶² This lack of accountability remains striking, as the Judiciary hearing provided “one of [the gymnasts’] last opportunities to get justice.”¹⁶³

Following the September Senate Judiciary hearing, “calls for accountability . . . seem[ed] to be growing louder, not softer.”¹⁶⁴ On October 13, 2021, Simone Biles, McKayla Maroney, Maggie Nichols, and Aly Raisman sent a letter to Senators Blumenthal and Moran: “dissolve” the USOC.¹⁶⁵ The gymnasts’ letter came “after years of patience, deliberation, and unrequited commitment to learn from [their] suffering.”¹⁶⁶ While Senators Blumenthal and Moran acknowledged the gymnasts’ “continued demand for justice and accountability,” they admitted the Act “requires that Congress develop procedures to appoint a new board before

157. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION 3 (2019).

158. Jerry Moran, *Sens. Moran, Blumenthal Detail Investigation into Abuse of Olympic Athletes on MSNBC’s Morning Joe*, YOUTUBE (July 30, 2019), <https://www.youtube.com/watch?v=mFZEIwFY2-c> [<https://perma.cc/ZSM4-95LP>].

159. Tim Evans & Dana Hunsinger Benbow, *Larry Nassar, Steve Penny, and More: Where are the Key Players in USA Gymnastics Scandal Now?*, INDIANAPOLIS STAR (July 23, 2021, 6:01 AM), <https://www.indystar.com/story/news/investigations/2021/07/23/usa-gymnastics-larry-nassar-steve-penny-maggie-nichols-rachael-denhollander/8025353002/> [<https://perma.cc/58A4-S9UW>].

160. Ford & Roenigk, *supra* note 155.

161. *See id.*

162. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (2021) (opening statement of Maggie Nichols).

163. *Id.*

164. See Olivier Knox, *U.S. Gymnasts Show Why Congress’s Oversight Role is So Desperately Needed*, WASH. POST (Sept. 16, 2021, 11:59 AM), <https://www.washingtonpost.com/politics/2021/09/16/us-gymnasts-challenge-congress-fbi-accountability-abuse/> [<https://perma.cc/89CX-EG86>].

165. Scott M. Reid, *Gymnasts Biles, Maroney, Raisman, and Nichols Ask Congress to Dissolve Olympic Committee’s Board of Directors*, ORANGE COUNTY REGISTER (Oct. 13, 2021, 1:59 PM, updated Oct. 14, 2021, 7:33 AM), <https://www.ocregister.com/2021/10/13/olympic-gymnasts-call-on-congress-to-replace-usopc-board-of-directors/> [<https://perma.cc/229B-KLY8>].

166. Louise Radnofsky, *Gymnastics Stars Call for Ouster of U.S. Olympic Directors*, WALL ST. J. (Oct. 13, 2021, 9:13 PM), <https://www.wsj.com/articles/gymnastics-stars-call-for-ouster-of-u-s-olympic-directors-11634160090> [<https://perma.cc/MQB7-74DZ>].

dissolving the old one.”¹⁶⁷ Dissolving the Board, therefore, requires approval “by the House and Senate before being signed by the President.”¹⁶⁸

Failing to act upon survivors’ pleas for USOC dissolution—a power Congress now maintains through The Empowering Olympic, Paralympic, and Amateur Athletes Act¹⁶⁹—demonstrates a “systemic unwillingness to hold people accountable.”¹⁷⁰ The lack of accountability for the leadership during Nassar’s abuse serves as a significant missed opportunity, as “anything less than taking a blowtorch to these failed systems won’t suffice.”¹⁷¹

In sum, the Senate Gymnastics investigations provide a cautionary tale: a committee’s accomplishments can be diminished by minimizing survivor voices, making speeches instead of listening to victims, and failing to hold specific individuals accountable.

IV. CONGRESS’ SECOND CHANCE: THE WASHINGTON COMMANDERS INVESTIGATION

Following the House Oversight Roundtable, Congress has a new opportunity to hold wrongdoers accountable in the latest sports sexual harassment chapter: the Washington Commanders investigation.¹⁷² Before applying the USA Gymnastics lessons, one must understand the investigation’s “political realities.”¹⁷³ National, local, and sports media coverage abounds.¹⁷⁴ Furthermore, with the Chairwoman’s stated commitment to “the fight against workplace discrimination and harassment”¹⁷⁵ and five Members’ representation of Washington Commanders constituents,¹⁷⁶ all eyes are on the Committee. The investigation

167. Reid, *supra* note 165.

168. *Id.*

169. S. 2330, 116th Cong. § 220551-52 (2019).

170. See McManus, *supra* note 3.

171. *Id.*

172. See Roundtable: Examining the Wash. Football Team’s Toxic Workplace Culture: Hearing Before the H. Comm. on Oversight and Reform, 117th Cong. (2022).

173. Hamilton, Muse & Amer, *supra* note 143, at 1151-52.

174. See e.g., Oversight Committee to Discuss Washington Football Team, ASSOCIATED PRESS (Jan. 27, 2022), <https://apnews.com/article/washington-football-team-nfl-sports-business-football-a004e1f3ef419180764ad1312b6f53af> [<https://perma.cc/L74L-HBAT>] (national news); Jenny Gathright, *Congress Will Hear From Former WFT Employees as Part of Probe into ‘Toxic Workplace Culture,’* DCIST (Jan. 27, 2022, 3:46 PM), <https://dcist.com/story/22/01/27/washington-football-team-congress-investigation/> [<https://perma.cc/VR3Q-YU49>] (local news); Thompson & Keim, *supra* note 85 (sports outlet); see Hamilton, Muse & Amer, *supra* note 143, at 1151 (noting the importance of understanding “[w]here is the media on the issue”).

175. Press Release, H. Comm. on Oversight and Reform, Oversight Comm. to Hold Roundtable with Former Wash. Football Team Employees on Rampant Workplace Misconduct, Sexual Harassment (Jan. 27, 2022).

176. H. COMM. ON OVERSIGHT AND REFORM, *Oversight and Reform Members*, <https://oversight.house.gov/members> [<https://perma.cc/A7CP-ZD3B>] (last visited Apr. 17, 2022). Members include Reps. Eleanor Norton (District of Columbia), Gerald Connolly (Virginia), Jamie Raskin (Maryland), Kweisi Mfume (Maryland), and John Sarbanes (Maryland). See Hamilton, Muse & Amer, *supra* note 143, at 1151 (describing the importance of evaluating “what members are on the committee”).

presents an opportunity for Congress to apply the lessons learned from USA Gymnastics: (1) bipartisanship; (2) amplification of survivor voices; and (3) accountability.

A. FOLLOWING THE SENATE COMMERCE SUBCOMMITTEE EXAMPLE,
HOUSE OVERSIGHT MUST LEAD A BIPARTISAN INVESTIGATION

To achieve a full “political and legislative” impact¹⁷⁷ in a nationally-significant investigation, the House Oversight Committee must “rise above partisanship.”¹⁷⁸ Through joint document requests, press releases, and coordinated media, the Senate Subcommittee showed the impact of bipartisanship: producing reports and legislation.¹⁷⁹ The Subcommittee underscored the importance of cooperating, as Republicans and Democrats, for survivors.¹⁸⁰ USA Gymnastics, thus, highlights the need for Congressional bipartisanship during harassment investigations.

The House Oversight Committee, however, already faces challenges with bipartisanship in the Washington Commanders investigation. Unlike the Senate Subcommittee investigation, two Democrats lead this inquiry.¹⁸¹ News sources and press releases cite the Committee Democrats as authority on the investigation.¹⁸² Furthermore, the Committee’s ranking Republican, Rep. James Cromer, described “the roundtable as a ‘misuse of this Committee’s resources.’”¹⁸³ This division could lead the investigation to be defined by partisan squabbles rather than results achieved for survivors. Before proceeding, therefore, House

177. McKay Smith & Alan Wehbe, *A Bipartisan Vehicle for Change: Proposing a Novel Investigative Framework Designed to Improve and Empower Congressional Investigations*, 29 STAN. L. & POL’Y REV. 237, 240 (2018).

178. Ritchie, *supra* note 105, at 25.

179. See e.g., Letter from Jerry Moran and Richard Blumenthal, Subcomm. Chairman and Ranking Member, Sen. Comm. on Com., Sci., and Transp. to U.S. Olympic Comm. (Jan. 25, 2018), https://www.moran.senate.gov/public/_cache/files/4/f/4f611d7a-8b72-42b7-8cee-8242dbe37e92/A63D497021943BCB3F93337B464A0B48.01.25.2018-letter-to-usoc.pdf [<https://perma.cc/TNJ7-6HKB>]; Press Release, Sen. Jerry Moran, Sens. Moran, Blumenthal Demand Answers from USA Gymnastics, US Olympic Committee & Michigan State Univ. Regarding Systemic Failures to Protect Athletes from Sexual Abuse (Jan. 25, 2018); Jerry Moran and Richard Blumenthal, *We Investigated Nassar Abuse of Gymnasts. Here’s How to Make Sure it Never Happens Again*, USA TODAY (July 30, 2019, 4:00 AM), <https://www.usatoday.com/story/opinion/2019/07/30/empower-athletes-stop-future-nassar-abuse-scandals-moran-blumenthal-column/1852988001/> [<https://perma.cc/4S3W-D9SK>].

180. Jerry Moran, *Sens. Moran, Blumenthal Detail Investigation into Abuse of Olympic Athletes on MSNBC’s Morning Joe*, YOUTUBE (July 30, 2019), <https://www.youtube.com/watch?v=mFZEIwFY2-c> [<https://perma.cc/ZSM4-95LP>].

181. See Press Release, H. Comm. on Oversight and Reform, Chairs Maloney and Krishnamoorthi Launch Investigation into the NFL’s Handling of Washington Football Team’s Hostile Workplace Culture (Oct. 21, 2021); see also H. COMM. ON OVERSIGHT AND REFORM, *Oversight and Reform Members*, <https://oversight.house.gov/members> [<https://perma.cc/A7CP-ZD3B>] (last visited Apr. 17, 2022).

182. See e.g., Press Release, H. Comm. on Oversight and Reform, Chairs Maloney and Krishnamoorthi Call on NFL to Produce Information on WFT Owner Dan Snyder’s Interference in Internal Investigation (Dec. 14, 2021); Thompson & Keim, *supra* note 85 (writing that Democrats informed ESPN of the investigation’s goals and members’ “interest in Snyder’s role within the overall workplace culture”).

183. Thompson & Keim, *supra* note 85.

Oversight should enlist Republican Committee members to join them, united against harassment.

B. HOUSE OVERSIGHT SHOULD HOLD MULTIPLE HEARINGS WITH
SURVIVORS AND NFL LEADERSHIP, INCLUDING ROGER GOODELL AND
DAN SNYDER, AS WITNESSES

House Oversight’s roundtable presented a good start to the investigation’s public stage, but the Committee should hold multiple public hearings as the inquiry progresses with survivors and NFL leadership speaking at each session.¹⁸⁴ Because the NFL did not release a report, “[h]earings [would] . . . build the public record.”¹⁸⁵ These hearings would enable the Committee to strive towards an important goal of congressional investigations: “to bring to light social conditions that require corrections.”¹⁸⁶ Thus, holding public hearings may influence NFL officials to “correct[] program deficiencies.”¹⁸⁷

According to *The Washington Post*, the Committee will continue its investigation into “the NFL’s handling of the allegations after committee members gather first-hand information about the team’s workplace.”¹⁸⁸ Unlike the Senate Gymnastics investigation, House Oversight should not forego survivor testimony as the investigation progresses.¹⁸⁹ Listening to survivors at hearings will hold wrongdoers accountable—in the moment—by forcing leaders to respond and base discussions in the investigation’s cause: harassment and management failures.

When planning hearings, House Oversight should “[o]rganize . . . for maximum impact”¹⁹⁰ by featuring a panel for survivors before listening to NFL leadership. Starting with a survivor panel “will put a human face on the problem.”¹⁹¹ As learned during the Senate Gymnastics hearings, Committee members must ask survivors open-ended questions to elicit and respond to victim’s unique experiences.¹⁹² For example, these questions can empower Rachel Engleson to further describe “the team’s culture of rampant harassment . . . everywhere and anywhere there was a team executive.”¹⁹³ Chastity Evans can provide insight into how leadership “viewed [cheerleaders] as replaceable objects,” rather

184. See *supra* Section III.B.1.

185. THOMAS P. CARR, CONG. RSCH. SERV., RL30539, HEARINGS IN THE H. REP.: A GUIDE FOR PREPARATION AND PROC. 3 (2006).

186. Hamilton, Muse & Amer, *supra* note 143, at 1118.

187. THOMAS P. CARR, CONG. RSCH. SERV., RL30539, HEARINGS IN THE H. REP.: A GUIDE FOR PREPARATION AND PROC. 14 (2006).

188. Clarke, *supra* note 86.

189. See SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION, 39-44 (2019).

190. PROJECT ON GOVERNMENT OVERSIGHT, THE ART OF CONGRESSIONAL OVERSIGHT: A USER’S GUIDE TO DOING IT RIGHT 52 (Danni Downing ed., 2d ed.).

191. *Id.*

192. See Bill Corboy, Guest Speaker at Georgetown University Law Center Congressional Investigations Seminar (Oct. 21, 2021); Nolan, *supra* note 146.

193. Engleson, *supra* note 13.

than “people.”¹⁹⁴ The “former cheerleader [who] accused Snyder of humiliating her by suggestively asking her to join his friend in a hotel room” can further describe her account.¹⁹⁵ These women, in the absence of an NFL report, provide essential insight. The Committee must let them speak first.

Subsequently transitioning from survivors to NFL leadership—including Goodell and Snyder—will compel officials to directly react to survivor testimony without hiding behind talking points. Because the House Oversight Committee still awaits documents from the NFL,¹⁹⁶ the Committee may need to subpoena Goodell and Snyder. Like USA Gymnastics and Michigan State University witnesses in the second Senate Subcommittee hearing, Goodell and Snyder can also be subpoenaed.¹⁹⁷ Both hold the keys to understanding “past processes” and organizational failures.¹⁹⁸ To gain a full picture of the NFL’s investigation, the Committee can invite Beth Wilkinson to testify in between the survivor and leadership panels. Featuring all investigation stakeholders at each hearing conveys that the Committee understands the swiftness with which it must discover the truth—which fosters justice for survivors.

C. HOUSE OVERSIGHT MUST RELEASE A REPORT AND HOLD WRONGDOERS ACCOUNTABLE

The House Oversight Committee must apply a critical lesson from the Senate Subcommittee investigation: release a report and administer accountability. Like Senate Commerce,¹⁹⁹ House Oversight must release a report with findings. Following months of League silence, the Committee plays a vital role in uncovering anything “the NFL [is] hiding.”²⁰⁰ By publishing a report, House Oversight can assuage the public’s frustration—particularly “when the issue is workplace harassment and abuse perpetrated by men against women in a post-Me Too era.”²⁰¹ Failure to release a report will keep

194. Beth Reinhard, Liz Clarke, Alice Crites & Will Hobson, *Ex-Washington Cheerleaders Shaken by Lewd Videos: ‘I Don’t Think they Viewed us as People,’* WASH. POST (Oct. 16, 2020), <https://www.washingtonpost.com/sports/2020/10/16/washington-cheerleaders-video-lawsuit/> [https://perma.cc/KZ66-ESVZ].

195. Hobson & Clarke, *supra* note 11.

196. Liz Clarke & Mark Maske, *Congressional Leaders Unsatisfied by NFL’s Initial Response to WFT Document Request*, WASH. POST (Nov. 5, 2021, 5:26 PM), <https://www.washingtonpost.com/sports/2021/11/05/house-oversight-nfl-washington-football-workplace-investigation/> [https://perma.cc/8VHV-2256].

197. *See* SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION, 40-41 (2019); Clarke, *supra* note 86 (confirming the Committee “can issue subpoenas to compel the production of documents and information not willingly provided”).

198. *See* SENS. JERRY MORAN & RICHARD BLUMENTHAL, 116TH CONG., S. OLYMPICS INVESTIGATION: THE COURAGE OF SURVIVORS: A CALL TO ACTION, 40-41 (2019).

199. *See id.*

200. Sullivan, *supra* note 65.

201. Chris Cioffi, *NFL Wants to Move Past Washington’s Scandal, House Oversight Says Not So Fast*, ROLL CALL (Nov. 3, 2021, 6:00 AM), <https://rollcall.com/2021/11/03/the-nfl-wants-to-move-past-washingtons-scandal-house-oversight-says-not-so-fast/> [https://perma.cc/ZT7Q-NGZM] (quoting University of Toledo Sports Law Professor Geoffrey Rapp).

“fans and former employees” ignorant “about whether the actions the NFL has taken are enough to force change.”²⁰²

With the Washington Commanders investigation, House Oversight can complete what the Senate Gymnastics investigations could not: holding wrongdoers accountable. As survivor Rachel Engleson stated, “a written report would be just the starting point.”²⁰³ The Committee’s findings carry significant weight: they “can induce resignations, firings, and . . . question major policy actions.”²⁰⁴ If the Committee remains dedicated to “ensuring that every American—no matter where they work—is safe from workplace harassment,”²⁰⁵ it must make recommendations about Goodell and Snyder’s employment. An investigation that does not hold culpable employees accountable sends the message that survivors’ “experiences do not matter to the NFL—especially if those experiences potentially expose the misdeeds of a very wealthy owner.”²⁰⁶

D. DESPITE ARGUMENTS QUESTIONING THE OVERSIGHT COMMITTEE, THE WASHINGTON COMMANDERS INQUIRY—LIKE THE GYMNASTICS INVESTIGATION—IS A NATIONAL ISSUE

Although Ranking Member Rep. James Cromer argues the roundtable serves as “a ‘misuse of this Committee’s resources,’”²⁰⁷ the Washington Commanders investigation carries national significance. As “one of the most prominent platforms in America,” the NFL’s “decisions can have national implications.”²⁰⁸ Rather than a local story, the aforementioned behavior by “this country’s wealthiest sports monolith” comprises a flagrant “coverup”²⁰⁹ for the team that represents the Nation’s Capital. Allowing allegations of harassment within the NFL to go unchecked “sets a dangerous precedent for other workplaces.”²¹⁰ With the Washington Commanders—like the USA Gymnastics inquiry—Congress must

202. Engleson, *supra* note 13.

203. *Id.*

204. CONG. RSCH. SERV., RL30240, CONGRESSIONAL OVERSIGHT MANUAL 53 (2020).

205. Press Release, H. Comm. on Oversight and Reform, Oversight Comm. to Hold Roundtable with Former Wash. Football Team Employees on Rampant Workplace Misconduct, Sexual Harassment (Jan. 27, 2022).

206. Will Hobson, *WFT Offered Money in Exchange for Public Silence about Workplace, Former Employees Say*, WASH. POST (Oct 13, 2021, 5:02 PM), <https://www.washingtonpost.com/sports/2021/10/13/wft-ndas-women-employees-workplace/> [<https://perma.cc/LD5P-7RK2>] (citing a letter by former employees).

207. Thompson & Keim, *supra* note 85.

208. Press Release, H. Comm. on Oversight and Reform, Chairs Maloney and Krishnamoorthi Launch Investigation into the NFL’s Handling of Wash. Football Team’s Hostile Workplace Culture (Oct. 21, 2021).

209. John Feinstein, *It’s Time for the NFL to Come Clean About its WFT Investigation*, WASH. POST (Oct. 15, 2021, 8:21 AM), <https://www.washingtonpost.com/sports/2021/10/15/washington-football-team-cover-up/> [<https://perma.cc/G5B9-LUNB>].

210. Press Release, H. Comm. on Oversight and Reform, Oversight Comm. to Hold Roundtable with Former Wash. Football Team Employees on Rampant Workplace Misconduct, Sexual Harassment (Jan. 27, 2022).

investigate misconduct against women in sports, or else “the abuse will only grow and fester in the darkness of inattention.”²¹¹

CONCLUSION

As the Washington Commanders investigation continues, Congress faces pressure to release a report and hold officials accountable. The House Oversight Committee can use lessons from the most recent sports sexual abuse proceeding—the Senate Gymnastics investigations—to achieve an inquiry defined by bipartisanship, survivor stories, and accountability. For years, fans began their weeks by asking: “are you ready for some football?”²¹² Now, as House Oversight starts public proceedings, the question becomes: “Congress, are you ready for some football?” If the Committee applies lessons from the Senate Gymnastics investigations, it just might be.

211. See Katelyn Burns, *Women's Soccer Reminds us of the Fragile State of Professional Women's Sports*, MSNBC (Oct. 12, 2021, 5:45 PM), <https://www.msnbc.com/opinion/women-s-soccer-reminds-us-fragile-state-professional-women-s-n1281121> [<https://perma.cc/U9CJ-6MZF>].

212. Hank Williams Jr., *Monday Night Football Song (Are You Ready for Some Football)*, YOUTUBE (Jun. 25, 2008), <https://www.youtube.com/watch?v=pXyzuVk7SoI> [<https://perma.cc/R8T2-XCYC>] (posted by YouTube user Hayley Harris).