

# COVINGTON

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February 9, 2018

The Honorable Jerry Moran  
The Honorable Richard Blumenthal  
Subcommittee on Consumer Protection,  
Product Safety, Insurance, and Data Security  
United States Senate  
Washington, D.C. 20510

Dear Chairman Moran and Senator Blumenthal:

On behalf of our client, the United States Olympic Committee, this letter responds to your letter of January 25, 2018, to Scott Blackmun, the chief executive officer of the United States Olympic Committee. The Olympic Committee appreciates the opportunity to respond to your questions about the serious and troubling issues related to sexual abuse of Olympic athletes.

As you know, Mr. Blackmun met with your staff almost a year ago to discuss the Olympic Committee's efforts, over the past eight years, to improve dramatically the Olympic community's ability to detect, report, investigate, and resolve allegations of sexual and other abuses. Additionally, Mr. Blackmun submitted a letter and more than 300 pages of materials to Chairman Thune and Chairman Moran on these topics on March 15, 2017. Those materials provided a detailed timeline of the actions the Olympic Committee has taken to increase the structural and systemic protection of athletes, from the first working group convened in 2010, through the launch of the U.S. Center for SafeSport in March 2017. The Center addresses this difficult issue by providing a safe and independent path for reporting and investigating issues of abuse, and by requiring education of athletes, coaches, trainers, and anyone else involved in Olympic sports about the importance of identifying and reporting indications of abuse.

In the months since those discussions, we have unfortunately continued to see new and concerning revelations about the Olympic community's failure to protect athletes, particularly with respect to USA Gymnastics. In June 2017, Deborah Daniels issued a report that examined USA Gymnastics' bylaws, policies, procedures, and practices related to handling sexual misconduct matters. After conducting more than 160 interviews, Ms. Daniels recommended a number of structural and policy changes within USA Gymnastics. The USA Gymnastics board voted unanimously to accept her recommendations.

Most significantly, in January 2018, the entire Olympic community was shocked and horrified to hear the powerful statements from the victims of Larry Nassar. Mr. Blackmun issued an open letter to all Olympic athletes on January 24, 2018, announcing that the Olympic Committee would launch an independent investigation into the detection and reporting of Nassar. On January 25, 2018, Mr. Blackmun, on behalf of the entire board of the Olympic

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Committee, issued a letter to the board of USA Gymnastics outlining six specific steps that the Olympic Committee is requiring of USA Gymnastics. The Olympic Committee specifically indicated that completion of these actions was necessary for USA Gymnastics to retain its recognition as the national governing body for Olympic gymnastics. These letters are attached and discussed in further detail below.

On February 2, 2018, a special committee of the board of the Olympic Committee announced that it had hired the law firm Ropes & Gray LLP to conduct the independent investigation announced on January 24. The investigation will examine the decades-long abuse by Nassar to determine when individuals affiliated with USA Gymnastics or the Olympic Committee first became aware of any evidence of Nassar's abuse of athletes, what that evidence was, and what they did with it. The independent investigation is discussed in further detail below.

The following information responds to each of the nine questions in your letter.

### *Reporting Protocols*

The U.S. Center for SafeSport is responsible for investigating and resolving allegations of sexual abuse associated with the national governing bodies, which are the 49 independent entities recognized by the Olympic Committee to manage the training and development in each Olympic sport. The Center's activities are guided by a SafeSport Code, which covers everything from harassment and hazing to physical and sexual misconduct.<sup>1</sup>

The Olympic Committee requires each national governing body to participate in the Center as a condition of recognition by the Olympic Committee. Specifically, under section 8.7(l) of the Olympic Committee's bylaws, each national governing body must comply with the policies related to SafeSport and, additionally, the policies and procedures of the Center. As provided in section II.A.2. and II.A.4. of the SafeSport Practices and Procedures, all covered adults are required to report suspicions or allegations of child abuse promptly to both law enforcement and the Center. These sections also provide that no one should investigate or evaluate the credibility of such allegations before reporting. As provided in section II.E. of the SafeSport Code, these provisions apply to any adult who is in the governance or disciplinary jurisdiction of a national governing body (or seeking the same); any individual that a national governing body or the Olympic Committee "authorizes, approves or appoints to a position of authority" over an athlete or to have "frequent contact" with an athlete; and any individual a national governing body identifies as being within the jurisdiction of the Center. Notably, these requirements do not depend on employment by a national governing body or any other Olympic entity. For example, these requirements apply equally to a person who is employed by another institution and is authorized by a national governing body to have frequent contact, on a volunteer basis, with athletes.

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<sup>1</sup> The SafeSport Code, along with the Center's practices and procedures and rules for arbitration, are available at <https://safesport.org/files/index/tag/policies-procedures>.

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To date, nearly all of the national governing bodies have amended their own bylaws to provide jurisdiction to the Center. Six national governing bodies are in the process of completing the necessary amendments. One national governing body (U.S. Ski & Snowboard) requires adherence to the SafeSport Code in its bylaws, but the Olympic Committee will require further changes to include an explicit jurisdictional reference.

In addition to the Center's exclusive authority within the Olympic community to investigate and resolve issues involving sexual misconduct, the Center has discretionary authority to assume responsibility for the investigation and resolution of other violations of the SafeSport Code. If that discretionary authority is not exercised, the applicable national governing body retains the authority and obligation to investigate and resolve the allegation. The Center operates independently of the Olympic Committee and the national governing bodies to ensure that it may investigate and resolve allegations without interference. Nonetheless, the Olympic Committee and the national governing bodies provide funding for the Center.

In addition to the SafeSport Code, the Center has adopted practices and procedures and procedural rules for arbitration that govern its investigation and resolution of alleged violations. These important procedural improvements centralize and clarify the process by which allegations of abuse are investigated and resolved. By adopting clear procedures that apply to all investigations by the Center, the Olympic community seeks to ensure a fair process that permits swift actions to protect children. Your letter asked about nondisclosure during an investigation. The SafeSport practices and procedures contain specific provisions related to confidentiality. These provisions permit confidential reports and outline the procedures related to notifying a national governing body in the case of interim measures, a full investigation, or a final decision.

In its leadership role within the Olympic community, the Olympic Committee is also auditing the national governing bodies to ensure that each organization is in compliance with the Olympic Committee's SafeSport requirements. Each national governing body must submit a compliance checklist and substantiating information. The checklist requires each national governing body to confirm it has the following in place: SafeSport provisions in its bylaws that provide jurisdiction to the Center; an athlete safety policy meeting the Olympic Committee's requirements; a grievance process that is materially free of bias and conflicts of interest for SafeSport allegations; a policy requiring criminal background checks, at least every two years, for individuals authorized to a position of authority over or to have frequent contact with athletes; and a policy requiring SafeSport education and training for this same group of individuals. Starting in 2018, the Olympic Committee will produce an annual, public compliance report that will include the audit of the SafeSport compliance checklist.

Recently, Congress passed the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act, which complements and further strengthens the reporting requirements of the Olympic Committee and the Center. The law imposes a mandatory reporting requirement on any adult authorized by a national governing body or member to interact with a minor or amateur athlete at an amateur sports organization facility or at an event sanctioned by a national governing body or member. The legislation also provides federal authorization for the Center. As you know, the Olympic Committee supported this legislation

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and worked with Congress on its passage. The legislation helpfully brings the force of federal law behind the mandatory reporting requirements of the Center's rules.

### *Settlements*

Your letter notes that McKayla Maroney has instituted a lawsuit in which she states that she was required to agree to certain confidentiality provisions in the context of a settlement between her and USA Gymnastics. As noted above, Ropes & Gray is now investigating all issues associated with the Nassar matter, and we expect that issues related to the settlement agreement will be addressed in that investigation. To the best of its current knowledge, the leadership of the Olympic Committee was not aware of the confidentiality provisions or the settlement agreement between Ms. Maroney and USA Gymnastics, and the Olympic Committee was not a party to the agreement. We are not aware of other settlement agreements related to sexual abuse of Olympic athletes that contain confidentiality agreements, but we believe it would be unlikely that the Olympic Committee would be aware of such agreements if they exist because the national governing bodies are separate entities from the Olympic Committee.

### *Actions Related to USA Gymnastics*

As noted above, on January 25, 2018, Mr. Blackmun, on behalf of the Olympic Committee and its board, informed USA Gymnastics of six specific steps that the Olympic Committee would require USA Gymnastics to complete as a condition of its continued recognition as a national governing body.

First, the Olympic Committee required all members of the USA Gymnastics board to resign. That process was completed on January 30, 2018. Second, the Olympic Committee required USA Gymnastics to seat an interim board, consistent with its current bylaws, with all new membership (except that the athletes may reelect their representative) by February 28, 2018. Third, USA Gymnastics must create a new permanent board within one year. Fourth, for the next year, an Olympic Committee representative must participate in each board meeting of USA Gymnastics, the board must discuss and report on progress instituting reforms, and USA Gymnastics must cooperate with the independent investigation, among other requirements. Fifth, all USA Gymnastics staff and board members must complete SafeSport training within three months. And, sixth, all USA Gymnastics staff and board members must complete ethics training within six months.

The Olympic Committee took these unprecedented actions because it concluded that an entirely new leadership structure was needed to rebuild USA Gymnastics. The Olympic Committee offered to assist USA Gymnastics with its rebuilding effort. Indeed, officials of the Olympic Committee have been working closely with USA Gymnastics' new CEO, Kerry Perry, on the selection and seating of new board members and other reforms required by the Olympic Committee. Notably, the Olympic Committee explicitly stated that if USA Gymnastics fails to implement these reforms, the Olympic Committee will pursue termination of USA Gymnastics' designation as a national governing body.

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### *Investigation of Nassar Abuse*

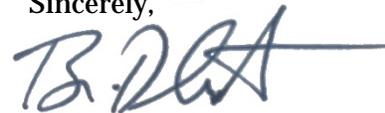
As noted above, on February 2, 2018, the Olympic Committee selected Ropes & Gray to conduct an independent investigation into the abuse by Nassar to determine when individuals affiliated with USA Gymnastics or the Olympic Committee first became aware of any evidence of Nassar's abuse of athletes, what that evidence was, and what they did with it. Joan McPhee and James Dowden, both former federal prosecutors, will lead the investigation. The investigators will have full discretion to conduct the investigation and may make any findings they deem appropriate. The Olympic Committee directed Ropes & Gray to prepare and issue a public written report at the conclusion of the investigation. The Olympic Committee pledged its full support to the investigation, including access to relevant documents and witnesses. USA Gymnastics has also confirmed its cooperation.

The Nassar abuse reveals the weaknesses of the Olympic community's reporting and response structure before the launch of the Center for SafeSport in March 2017. Because the allegations of abuse occurred before the existence of the Center, the investigation and reporting of the allegations fell to USA Gymnastics, which we now know was a flawed approach. The Center corrects this weakness by providing a separate and independent entity as a safe place for reporting, and by ensuring that allegations are handled by professionals who have the skills and experienced necessary to investigate allegations of sexual abuse.

Although the Olympic Committee expects to learn more from the independent investigation by Ropes & Gray, its current understanding is that the Olympic Committee first learned of the abuse in late July 2015, when Steve Penny, then the head of USA Gymnastics, informed the Olympic Committee about allegations of abuse. At that time, Mr. Penny informed Mr. Blackmun that there were reports from three athletes concerning a USA Gymnastics physician, and that the issue was being reported to law enforcement. Mr. Blackmun agreed that the matter needed to be reported immediately to law enforcement, which was consistent with the Olympic Committee's policies and guidance at the time.

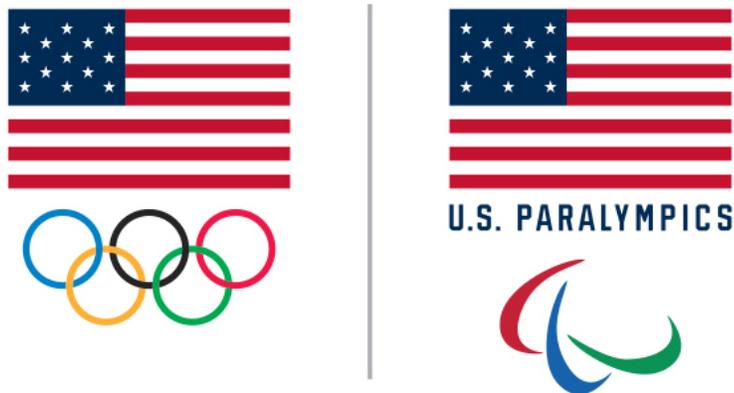
The Olympic Committee is committed to creating and overseeing a system in which victims, peer athletes, and adults have a safe and clear path to report abuses, and the Olympic community has the tools, personnel, and resources to detect abuses and respond swiftly and decisively to stop them. The Olympic Committee has made significant progress to strengthen the protections of athletes, but our collective efforts to improve athlete safety must never cease.

Sincerely,



Brian D. Smith

BY SCOTT BLACKMUN, U.S. OLYMPIANS AND PARALYMPIANS ASSOCIATION | JAN. 24, 2018, 12:48 P.M. (ET)



To Team USA:

The athlete testimony that just concluded in the Nassar hearings framed the tragedy through the eyes of the victims and survivors, and was worse than our own worst fears. It was powerful because of the strength of the victims, survivors and parents, who so eloquently and forcefully told their stories and so rightfully demanded justice. The USOC should have been there to hear it in person, and I am deeply sorry that did not happen.

The purpose of this message is to tell all of Nassar's victims and survivors, directly, how incredibly sorry we are. We have said it in other contexts, but we have not been direct enough with you. We are sorry for the pain caused by this terrible man, and sorry that you weren't afforded a safe opportunity to pursue your sports dreams. The Olympic family is among those that have failed you.

I know this apology is not enough. We have been working on taking steps at the USOC and mandating changes among National Governing Bodies to ensure this does not happen again. Our next steps will be these:

**1. We Must Change the Culture of the Sport.** This was the primary recommendation of the independent Deborah Daniels Report on USA Gymnastics and the athlete testimony underlined its importance. We heard athletes describe being unsure or unaware of how to report abuse and to whom, and sometimes even what constitutes abuse. We heard athletes describe being afraid or discouraged from reporting abuse. We heard athletes describe feeling hurt, betrayed, discounted and alone. Since October of last year, we have been engaged in direct talks with USAG leadership on this fundamental point. New leadership at the board level is critical and you recently saw three USAG board resignations. Further changes are necessary to help create a culture that fosters safe sport practice, offers athletes strong resources in education and reporting, and ensures the healing of the victims and survivors. This includes a full turnover of leadership from the past, which means that all current USAG directors must resign.

**2. We Must Change the Governance Structure of the NGB.** We need to help USA Gymnastics better support its mission, which is to provide the best resources and safest environment for athletes to train and compete. We have strongly considered decertifying USAG as a National Governing Body. But USA Gymnastics includes clubs and athletes who had no hand in this and who need to be supported. We believe it would hurt more than help the athletes and their sport. But we will pursue decertification if USA Gymnastics does not fully embrace the necessary changes in their governance structure along with other mandated changes under review right now.

**3. We Must Know Who Knew What and When.** The USOC has decided to launch an investigation by an independent third party to examine how an abuse of this proportion could have gone undetected for so long. We need to know when complaints were brought forward and to who. This investigation will include both USAG and the USOC, and we believe USAG will cooperate fully. We will make the results public.

**4. We Must Support Safe Sport Victims and Survivors.** Team USA safe sport assault victims and survivors need access to testing, treatment and counseling. The USOC will devote substantial funds to help provide these resources to victims and survivors. We are working on the details of how this funding will become available to athletes and will communicate them soon.

I hope that all members of Team USA remember that the USOC ombudsman office is always available to provide free, independent and confidential help to athletes with concerns or questions about safe sport or other matters. Contact information, along with other helpful athlete resources, are [here](#).

In order to bring even more focus and urgency to these important points, the USOC board of directors has mobilized a board-level working group chaired by independent board member Susanne Lyons. Susanne can be reached at [susanne.lyons@usoc.org](mailto:susanne.lyons@usoc.org).

Finally, I invite any member of Team USA to communicate with me or Ms. Lyons directly if there is more that you think the Olympic family can or should be doing for you and your families.

Sincerely,



Scott Blackmun  
Chief Executive Officer  
United States Olympic Committee

— — —  
An open letter from the U.S. Olympians and Paralympians Association to athletes everywhere:

We hear you.

We have heard your many stories detailing the sexual and emotional abuse you endured while training and competing in pursuit of your goals and your dreams. We applaud your individual and collective courage and conviction in coming forward and telling all...and calling out those who abused your trust.

We are both appalled by the actions of those who hurt you and deeply saddened by your suffering. For those whose stories we haven't heard (and may never hear), we respect your decision and your privacy...but also acknowledge the pain you feel in silence.

We are united in saying that there is no place for abuse in sport – at any age, at any level, in any venue. As Olympic and Paralympic alumni, we want you to know we are a family that stands strong for the ideals of the Olympic and Paralympic movements.

When we, as athletes, returned from past Games, we shared an understanding that “The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.” Now we must ask how can athlete dignity be preserved when the responsible institutions fail so in their oversight?

So what shall we do? We shall continue to advocate for education and safe sport, to teach young boys and girls to recognize the signs of abuse and provide a safe place to speak without repercussion. Parents, coaches and trainers need to be educated to recognize the signs and learn how to behave properly in coaching situations. We shall support Title IX, the U.S. Center for SafeSport and pending federal legislation to protect our athletes.

For any of you who are currently in need (or know someone who is), the newly created and independent U.S. Center for SafeSport is available for confidential 24/7 reporting and crisis support:

SafeSport.org

24/7 SafeSport Crisis Helpline: 866-200-0796

We know the power of commitment to a belief and to goals; our goal is that your experiences are never repeated. Together, we shall seek to create a way of life based on the joy of effort.

Together in sport,

United States Olympians and Paralympians Association Executive Committee

President Dick Fosbury – Track and Field, 1968

Willie Banks – Track and Field, 1980/1984/1988

Allison Baver – Speedskating, 2002/2006/2010

Carol Brown – Rowing 1976/1980/1984

Candace Cable – Paralympic Track and Field, 1980/1988/1992/1996; Alpine Skiing, 1992; Nordic Skiing, 1994/1998/2002/2006

Caryn Davies – Rowing, 2004/2008/2012

Gary Hall Sr. – Swimming, 1968/1972/1976

Micki King – Diving, 1968/1972

Carol Lewis – Track and Field, 1980/1984/1988

John Naber – Swimming, 1976

Bill Toomey – Track and Field, 1968

Iris Zimmerman – Fencing, 2000



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scott.blackmun@usoc.org

**SCOTT BLACKMUN**  
Chief Executive Officer

January 25, 2018

VIA E-MAIL

Board of Directors  
USA Gymnastics  
130 E. Washington St., Suite 700  
Indianapolis, IN 46204

Re: USA Gymnastics NGB Status

Ladies and Gentlemen:

This letter is to set forth the position of the USOC Board of Directors on USA Gymnastics' status as a US National Governing Body, to set out certain steps USAG must take in order to safeguard that status, and to offer assistance in that regard.

As you know, under the US Ted Stevens Olympic and Amateur Sports Act the USOC is responsible for recognizing sport organizations as National Governing Bodies, for implementing the Act's NGB eligibility requirements, and for enforcing these requirements. Section 8 of the USOC Bylaws set out the USOC's specific terms for this, including the means for terminating NGB recognition.

The shocking and tragic stories surrounding Larry Nassar's years-long abuse of vulnerable athletes are now well known to all of us and the recently concluded Nassar sentencing hearings served to drive home the impact on individual victims in a way we will never forget. We must take further action to ensure that it cannot happen again.

As part of the USOC's work in this regard, the USOC Board of Directors has formed a Board-level working group chaired by independent Board Member Susanne Lyons. That working group has begun efforts in several areas and is available to work with USAG as a resource and day-to-day liaison. Ms. Lyons can be reached at [Susanne.lyons@usoc.org](mailto:Susanne.lyons@usoc.org).

In the case of USA Gymnastics, the USOC Board and our new working group believe that necessary action includes implementing governance reform. We note that USAG has



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made very good progress in this area, most recently via substantial bylaw amendments last month. We acknowledge and support these positive steps, as they build on the good work in the June 26, 2017 independent investigation report by Deborah Daniels and in the hiring of USAG's new CEO Kerry Perry. We are also aware of the recent resignations of USAG board chair Paul Parilla and three other board members.

Now that these steps have been completed, USAG must build on them with a categorically fresh start at the board level. Thus, while the USOC encourages USAG to think and act broadly on reforming its culture, we also believe that reform must start with an entirely new board continuing to pursue implementation of the Daniels Report recommendations. Specifically, we believe that USAG must take at least the following additional steps in its efforts on governance reform:

1. All current members of the USAG board of directors must resign
2. An interim board must be seated, consistent with USAG's current bylaws. Athlete representatives on this new board must be selected by athlete constituent groups as contemplated in the USAG bylaws, and may include athletes who have resigned from the USAG board under 1, above. No other USAG board member who has resigned in number 1 above may be included in the newly configured board.
3. Within the next 12 months, new board members must be seated to replace interim directors, consistent with USAG's current bylaws and the nominating processes of constituent bodies. The requirement as to resigned board members in 1 above applies here as well.
4. During at least the next 12 months:
  - a. A USOC-designated liaison must be invited to attend each USAG board meeting
  - b. At each USAG board meeting, the board must substantively discuss progress and plans for continued implementation of the findings in the Daniels Report
  - c. After each USAG board meeting, USAG must report such progress and plans to the USOC board
  - d. The USAG Chair and CEO must attend at least one USOC board meeting during the first six months to discuss these and other issues
  - e. USAG must cooperate with an independent investigation of exactly who knew and who should have known of USAG athlete reports of abuse by Dr. Nassar (and when) and did not report these allegations appropriately, and of what systemic failures may have contributed to these failures to report
5. Within three months, USAG must confirm that all staff and board members have completed SafeSport training offered by the US Center for Safe Sport



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6. Within six months, USAG must confirm that all staff and board members have completed a comprehensive ethics training unit

We do not base these requirements on any knowledge that any individual USAG staff or board members had a role in fostering or obscuring Nassar's actions. Our position comes from a clear sense that USAG culture needs fundamental rebuilding. This was the overarching finding in the Daniels report and it was demonstrated again in the recent testimony of Nassar's victims. Every athlete connected in any way with USAG must feel safe, supported, and encouraged to speak freely about threats to their safety whether SafeSport-related or otherwise. USAG culture's must foster this in all ways.

If USAG cannot or does not achieve steps 1 through 6 above promptly and clearly, the USOC will have no choice but to pursue termination of USAG's NGB status. Please refer to Section 8.20 of the USOC Bylaws for details on how that would occur. In order to avoid immediate termination proceedings, USAG must complete all the steps set out above, including achieving step 1 by January 31, 2018 and step 2 by February 28, 2018.

We note that USAG has already made progress on certain of the steps while others will require substantial work and care. With that in mind, the USOC would like to provide resources to assist USAG.

Specifically, the USOC is willing to offer the following:

- A. USOC and/or external resources to assist with the board search and seating process and board transition
- B. Assistance with access to SafeSport and ethics training as needed
- C. Assistance with developing improved ombuds or other avenues for athlete feedback and input
- D. Assistance with driving implementation of the Daniels Report findings down into the larger USAG organization (clubs, etc.)
- E. Full cooperation in the independent investigation in 3.e above
- F. General assistance to Ms. Perry and the new USAG Board Chair as appropriate

Please understand that the circumstances that led to this crisis demand our attention and intervention. Our common focus and motivation needs to be athlete support and protection. These steps are intended to help USAG create a culture that protects and supports its athletes in the way I know we all want to do. USAG has shown resolve in its work on addressing its current issues. The USOC stands ready to help USAG further this job.



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Finally, we have heard concerns that the victims and survivors of Nassar's sexual assault may not be aware that they may want to consult their family physician about whether to seek tests for STDs or other possible conditions, such as the HPV virus, that could possibly result from sexual assault. Relevant information can be found [here](#). We have no information of a particular risk related to Nassar, but this information needs to be provided to his victims and survivors. As you know, we don't have contact information for Nassar's victims. Will you please confirm that USAG will take all available steps to communicate this information as soon as possible.

We are happy to discuss the specifics of this letter and the entire matter and will make ourselves available to do so. In the meantime, please confirm to me or Ms. Lyons that you have reviewed and understand its contents at your first opportunity.

Sincerely,

A handwritten signature in blue ink that reads "S.A. Blackmun". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Scott Blackmun

Cc: Kerry Perry  
Susanne Lyons