

## Canada Requires a Royal Commission into Abuse in Sport

Given the power wielded by various sport actors in Canada, there is an immediate need for a Royal Commission to understand how existing sport structures have created a systemic culture of child and athlete abuse. The call for a national judicial inquiry into the Canadian sport system emanates from athletes sharing their traumatic lived experiences of psychological, emotional, verbal and sexual abuse in sport. In addition to this testimony, research by members of Safe Sport International and Canadian academics has demonstrated that there has been a collective failure to protect young athletes in our sport system. Worldwide, there is a growing call to governments to develop better prevention strategies, policies, education and practices to safeguard the current and long-term well-being of athletes. It is time for Canada to answer this call.

### **Supra-Parental Responsibility and Duty of Care:**

Leaders of youth-serving sport organizations are legally and ethically bound to ensure that children and youth have their psychological, emotional and physical needs met when they participate in sport programming. The Supreme Court of Canada has set out that for youth serving organizations, and particularly for those overseeing gymnastics, there is an expectation on all parties to observe their **supra-parental** responsibilities. As such, the appropriate standard of care for board members, staff, coaches, and club administrators must have the **prudent and careful concern of a parent** while simultaneously exercising the **technical expertise** that is demanded of a sports instructor or experienced leader in the sports community. See: *Myers v. Peel (County) Board of Education*, 1981 CanLII 27 (SCC) and *Thornton v. Prince George Board of Education*, 1975 CanLII 919 (BCSC).

Likewise, it stands to reason that Canadian government actors, responsible for overseeing the sport system, are ethically, morally, and legally obligated to ensure the physical and emotional safety of those participating in sport, especially child athletes.

### Royal Commissions and Commissions of Inquiry

A **Royal Commission** is appointed under Part 1 of the *Public Inquiries Act* (the “Act”) by the Governor in Council. Its findings are reported to Cabinet but are independent of government influence. Royal Commissions are generally broader in scope than any other form of governmental inquiry, holding cross-country public hearings and broadly conducting research into specific issues.

A **Commission of Inquiry** is similar to a Royal Commission and initiated in the same manner but is generally less broad in scope and holds fewer public hearings.

In either type of inquiry, the *Act* conveys broad powers onto the Commission to compel witnesses and order disclosure of relevant documents, to apply to court to direct a person to comply with a summons, and to hold public hearings. While portions of the report may be withheld in accordance with the *Freedom of Information and Protection of Privacy Act*, it is otherwise disclosed publicly before the Legislative Assembly.

Prominent examples of Royal Commissions and Commissions of Public Inquiry include:

- The Truth and Reconciliation Commission
- National Inquiry into Missing and Murdered Indigenous Women and Girls
- Dubin Inquiry
- Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182
- Commission of Inquiry on the Blood System in Canada

### **Why a Royal Commission or Inquiry for Sport?**

The permeation of doping in Canadian sport led to the Dubin Inquiry, which ultimately revolutionized the anti-doping regime both domestically and internationally. It was recognized that allowing sport to regulate itself in this regard would never solve the problem and, as such, the issue of doping was removed from the realm of sport entirely. Although sport is, in part, provincially regulated, it was also acknowledged that the issue of doping involved criminal and quasi-criminal activity that engaged both the Justice and Health departments of the government and, as such, Federal jurisdiction was established over tackling those issues.

In a similar way, it has become increasingly evident that a crisis of abuse exists within sport that is endemic across Canada. Rather than falling within any provincial jurisdiction of sport regulation, these are human rights abuses and criminal acts being carried out within the sport context. Once again, sport cannot regulate itself in these matters and these issues must be examined externally from the sport system, by human rights experts and investigators.

Furthermore, as Canadian sport is made up of a multitude of national and provincial sport organizations, which are largely autonomous from government, any investigation into abuse in this context must carry with it the full weight and power of the Federal government to compel testimony and disclosure. Just as the Catholic Church and other actors involved in the Residential School system were reluctant to disclose the full measure of their participation in atrocities against Indigenous children, necessitating the Truth and Reconciliation Commission, so too will sport organizations be unmotivated to participate in any process designed to uncover abuses that have been ongoing for decades. The power to compel documents and testimony is critical in this regard, and it is only through a Federal Inquiry or Commission that this can be accomplished.

### **Case in Point - Gymnastics**

Many other countries have conducted comprehensive studies into their gymnastics and other sport organizations. As such, there is significant international precedent for the national inquiry that is sought. Furthermore, there are important learnings that can be gleaned from these various reports, which point to some of the systemic failures that have contributed to abusive sports systems throughout the world and can inform best practices for creating a Royal Commission.

Although conducted in the U.S., the following report can easily be applied to Canadian sport organizations and clubs. Many, if not all, of the problematic institutional practices detailed below

also occur in Canadian sport. We see striking parallels between the findings of this report and the current operation of Gymnastics Canada, the provincial sport bodies, and Sport Canada.

**Ropes & Gray Report** is a 233-page report following a ten-month investigation by the law firm Ropes and Gray, commissioned by USA Gymnastics (USAG), to determine what USAG and US Olympic Committee (USOC) officials knew about the sexual abuse of hundreds of US gymnasts by former national team doctor and convicted sexual offender, Larry Nassar. The report exposed systemic deficiencies, failures of oversight, organizational factors and cultural conditions that enabled predators to flourish and damage the health and well-being of athletes for decades.

Gymnasts who grow up in the culture of gymnastics are inherently vulnerable. Embedded cultural norms and unique features of gymnastics warrant consideration and attention from those in a position to influence the sport in a positive way. These norms and features of the sport, noted in the Ropes and Gray Report, include:

1. Demands of obedience and deference to authority (makes it difficult for athletes to speak up even when things are not ok)
2. Normalization of intense physical pain (weak, faking or exaggerating pain out of laziness)
3. Social isolation
4. Exclusion or discouragement of parental involvement (no or limited viewing, limited coach contact)
5. Spotting/physical touch between child and adult
6. Young age at which large number of training hours are required
7. Slow rate at which organizations are adopting child protective policies
8. Misguided sense of "loyalty" that prevents peer feedback and/or reporting of misconduct
9. Fear of reprisal
10. Lack of resources to implement safeguarding practices

#### **Excerpts from the Ropes and Gray Report - Dec. 10, 2018**

##### **USAG Actions Criticized by the Report:**

- During Nassar's sentencing hearing, a survivor poignantly stated: "this is what it looks like when the adults in authority do not respond properly to disclosures. This is what it looks like when institutions create a culture where a predator can flourish unafraid and unabated, and this is what it looks like when people in authority refuse to listen, put friendships in front of the truth, fail to create or enforce proper policy, and fail to hold enablers accountable."

- USAG is guided by 3 principles: medals, growth and visibility.

- USAG adopted a role primarily as a **resource-provider rather than an enforcer** to its member clubs. Despite USAG's **unique position to take effective action**, USAG restricted its response to allegations of misconduct due to a constrained view of its role, a mistaken perception of due

process limitations and, ultimately, an unwillingness to become involved in complicated matters of misconduct.

- USAG failed to exert its authority over its membership and adopted practices that served as an impediment to addressing credible allegations of abuse, while maintaining a public reputation as a leader in protecting athletes

- Given its position in the sport, USAG was uniquely situated to provide its membership with educational material, develop and enforce protocols and policies to ensure a safer gymnastics experience, learn of abusive coaches and improper conduct by other members, take effective action that could prevent such predators from moving from gym to gym, and otherwise build a positive culture conducive to promoting the safety of athletes.

- Mr. Penny, CEO of USAG, expressed the position that “[w]e can promote and encourage best practices, but we are not an enforcement agency.”

- USAG stated that it “is not responsible for actions or inactions that may occur at any local gymnastics club . . . [because] it does not . . . have any control or authority over what happens at the local level.”

- USAG, however, had the power, if the leadership chose to exercise it, to mandate and enforce child-protective measures as a condition of membership. USAG’s ability to withhold its brand and its exclusive authority to sanction elite gymnastics events afforded it significant power within the sport.

- “Although neither organization purposefully sought to harm athletes, both adopted general governance structures and specific policies concerning abuse that had the effect of allowing abuse to occur and continue without effective intervention. As the USOC evolved toward a more traditional corporate governance model, it did not meaningfully involve athletes in decisions or policy-making; nor did it provide an effective avenue for athletes to raise and resolve complaints involving misconduct matters.”

- Patterns of inadequate policies and practices emerged, including overly formalized complaint processes, lack of sufficient training for employees handling sexual abuse matters, and inadequate attention to the risk of retaliation against athletes and others for raising complaints

- The USOC did not view itself as a youth-oriented organization and was delayed in recognizing the need to adopt global child-protective measures.

- USAG was also processing complaints of misconduct in a manner that permitted abusive adults to continue to have access to young children. The disconnect between USAG’s public actions and private handling of complaints, between its asserted cutting-edge protective policies and its haphazard and disorganized approach when confronted with concrete reports of abuse, resulted

from a cramped perspective of USAG's ability to take effective action combined with an unwillingness to take necessary steps.

- "USAG implemented an array of sexual misconduct policies that ranged from the proactive and well-intentioned to the convoluted and detrimental. USAG was aware of the risk of sexual abuse in gymnastics, took high-level steps to help protect gymnasts, and promoted itself as a leader in athlete protection. But despite this branding, USAG repeatedly declined to respond adequately to concrete reports of specific misconduct, and instead erected a series of procedural obstacles to timely investigation and effective response, even in the face of serious, credible allegations..."

- Mr. Penny confidently remarked, "We have policies and procedures that I rely on every step of the way[.] . . . And if you're asking yourself 'What's the right thing to do?' you go back to the policy and say you followed the policy." Yet...despite the external statements and the surface appearance of thoughtful policies, USAG's process for handling complaints of misconduct failed to help protect athletes and contributed to additional harm.

- USAG's employees, who lacked proper expertise, enforced numerous policies that stifled appropriate responses to reports of misconduct.

- "Nassar was allowed to control the narrative of his departure..."

- "This Part reviews the choices that the USOC and USAG made to adopt self-limiting governance structures, which led to a marked disconnect at both institutions between adopted policies and effective action. This disconnect in turn permitted the unchecked growth of policies, practices and cultural norms that were not reflective of a child-first approach and led to the absence of effective, on-the-ground protective measures. The effects of the USOC's self-limiting governance structure extended beyond USAG, and likewise permitted other NGBs to implement policies and practices that failed adequately to address the risk of athlete abuse, resulting in patterns of deficiencies in complaint processes across Olympic sports."

- "Nassar thrived in this loose governance model. The USOC had minimal interactions with him and deferred to USAG, which in turn permitted Nassar to create a personal fiefdom where he wrote the rules and set the tone for the medical treatment of the women's gymnastics program for close to 20 years."

- "Institutions and individuals ignored red flags, failed to recognize textbook grooming behaviors, or in some egregious instances, dismissed clear calls for help from girls and young women..."

- "USAG instead appears to have been preoccupied with confidentiality within the gymnastics community. (i) narrowly confining the group of USAG personnel with knowledge of the Nassar concerns to a small handful of employees, thereby compromising USAG's ability to monitor Nassar's compliance with USAG's no-contact order; (ii) limiting knowledge of the Nassar concerns to only a few board members, thereby precluding oversight by the full board; (vi) failing to

disclose the serious, credible allegations against Nassar to all youth-serving organizations with which Nassar was known to have affiliations”

Ropes and Gray Report:

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiK2tvb4\\_r7AhVIHjQIHWYZDjUQFnoECA4QAQ&url=https%3A%2F%2Fwww.ropesgray.com%2F-%2Fmedia%2FFiles%2FUSOC%2Fropes-gray-full-report.pdf&usg=AOvVaw3uv0Y3BgVmaiHuq3hAgVg7](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiK2tvb4_r7AhVIHjQIHWYZDjUQFnoECA4QAQ&url=https%3A%2F%2Fwww.ropesgray.com%2F-%2Fmedia%2FFiles%2FUSOC%2Fropes-gray-full-report.pdf&usg=AOvVaw3uv0Y3BgVmaiHuq3hAgVg7)

Other Resources:

<https://www.theglobeandmail.com/opinion/article-gymnastics-canada-has-a-culture-of-cruelty-and-nothing-will-change-if/>

### **CONCERNS REGARDING FEWO WITNESS TESTIMONY**

In addition to calling for a Royal Commission, we wish to identify concerns that we have regarding the testimony of several witnesses during the FEWO hearings. These are detailed below.

#### **Marie-Claude Asselin (OSIC/SDRCC) – December 5, 2022**

##### ***On the OSIC/SDRCC Handling Abuse Complaints:***

Ms. Asselin gave evidence that the SDRCC has not handled cases of abuse prior to June 2022, with the creation of the OSIC:

“We have been doing this for many years but the focus was on team selection and funding of athletes and other issues and so we pushed along with Allison (Forsythe) here and other people and Minister Duncan for the [SDRCC] to have a mandate of play in this realm (abuse) because we did not have that until June 2022. So, we’ve been only in this area for 6 months and this is why you haven’t seen us in action yet.”

“I disagree it is not working. It just started 6 months ago, and it hasn’t been tested yet.”

Bobsled athlete Kallie Humphries’ case dealing with abuse and harassment was handled through the SDRCC, with an initial decision rendered in July 2021. At that time, the SDRCC ordered an investigator from the SDRCC’s Investigation Unit to re-investigate Kallie’s abuse allegations against Bobsled Canada. We understand the SDRCC has a long history of investigating and adjudicating cases involving allegations of abuse and harassment. It is, therefore, not correct that the SDRCC has only been handling cases involving abuse since June 2022.

Link attached is the arbitrator's initial decision in the Humphries case, dated July 15, 2021:  
[http://www.crdsc-sdrcc.ca/resource\\_centre/pdf/English/974\\_SDRCC%2019-0421.pdf](http://www.crdsc-sdrcc.ca/resource_centre/pdf/English/974_SDRCC%2019-0421.pdf)

***On Confidentiality:***

When asked about whether athletes would be silenced during the SDRCC/OSIC process, Ms. Asselin stated:

“Athletes and their personal experience belongs to them and they have the right to talk about it. Where we are careful with confidentiality is where we have to protect other athletes, witnesses, vulnerable people who could be a part of an investigation but yes we have rules for confidentiality but the athlete who is victim of abuse is not muzzled.”

When asked about making athletes sign NDA's:

“No, the confidentiality agreement is to protect the information they receive through the investigation process but their story is theirs and they have the right to talk about it.”

However, the OSIC confidentiality policies say otherwise. Below is an excerpt taken from OSIC's policy documents, located on its website.

**DOCUMENT TITLE: OSIC CONFIDENTIALITY POLICY**

ISSUANCE DATE: JUNE 2022

COMES INTO EFFECT ON: JUNE 20, 2022

DOCUMENT DISTRIBUTION: OSIC WEBSITE

**4. CONFIDENTIALITY PROVISIONS**

b. participants in the OSIC process may disclose information on an 'as needed' and confidential basis:

- i. as directed by OSIC personnel, agents and/or delegates;
- ii. as required by law or an order of the courts;
- iii. to a legal professional for the purpose of obtaining legal advice;
- v. to a qualified counsellor for the purpose of obtaining counselling service;

and/or

- vi. to trusted persons in private conversations for the purpose of seeking emotional support. The trusted person is expected to keep confidential all information shared with them as indicated at section 4.iv. above.

vii. Breach of the confidentiality obligations outlined above may lead to disciplinary consequences, in accordance with the relevant Policies & Procedures.

viii. As a general practice, persons involved in a Complaint as parties, sport organizations, or potential witnesses should not discuss or disclose the Complaint, allegations, investigation or details thereof with anyone (including on social media or publicly), except as directed by OSIC and/or DSO (in accordance with its applicable policies & procedures), as otherwise required by law, or as noted in the exceptions above. Disclosing any such information to, or discussing it

with, parties or potential witnesses may interfere significantly with the Complaint management process, including with any investigation or assessment related thereto.

Policy link: [CONFIDENTIALITY-POLICY-2022-06-20.pdf \(sportintegritycommissioner.ca\)](https://www.sportintegritycommissioner.ca/CONFIDENTIALITY-POLICY-2022-06-20.pdf)

***Position on Judicial Inquiry:***

Ms. Asselin was asked if she supports a Judicial Inquiry. Her response: “I would say my only condition is because the commission is going to take several years, several months like the Dubin Commission took more than a year and a half, in the meantime victims need a place to stay.”

The following are internal discipline cases still ongoing at Gymnastics Canada:

- **Michel Arsenault:** coach- Suspension start date: 2017-12-07. Suspended pending GymCan Internal Review. **TOTAL YEARS SO FAR:** 5 years.
- **Marcel Dubroy:** Coach- Suspension start date: 2019-05-21. Suspended pending GymCan internal review. **TOTAL YEARS SO FAR:** over 3 years.
- **Elvira Saadi** - Coach- Suspension start date: 2020-10-27. Suspended pending GymCan internal review. (Saadi was suspended for multiple months before GymCan added her to the list). **TOTAL YEARS SO FAR:** over 2 years.

**The Dubin Inquiry took less than 1 year, considerably less time than the 3 examples above.** Survivors are more than willing to have the time taken for a comprehensive, thorough investigation into sport done. That a national inquiry will take time to complete is not a reason not to do it. Rather, we expect a national inquiry can be finished in less time than the current internal disciplinary procedures require.

***On OSIC's Ability to Consider Historical Complaints:***

Ms. Asselin stated: “Historical cases are not excluded from the mandate of the commissioner. There will be an analysis and these historical complaints will be taken into account.”

OSIC's mandate is confined to program signatories, after the adoption of the UCCMS. There is no clear mechanism by which OSIC could exercise jurisdiction over any complaint falling outside of that mandate. OSIC's website states that, “If you are not sure if your complaint or report can be addressed through this process, the OSIC will determine whether it has the authority to accept your complaint or report once it is submitted.” We expect that this will mean that a survivor who finally finds the courage to call or submit a complaint to OSIC may be turned away and sent back to the NSO, which in turn could potentially turn the survivor away and back to the PSO. This is extremely harmful and reduces the likelihood of that survivor continuing with any process.

A survivor recently reported to Gymnasts for Change Canada: “I called the OSIC hotline and was told I would be unable to put in a complaint until the NSO became a program signatory. The person I spoke with was unable to confirm whether they would accept a historical complaint. I was directed to call back after the NSO becomes a program signatory. At the end of our call, the



person wished me 'good luck' in a cheery voice. Having a person tell a survivor to 'call back' and 'good luck' after not being able to answer one question is extremely harmful towards survivors. If that had happened to me a few years ago I would have never brought forward my complaint and I am an adult. This is not how a survivor, let alone a child survivor, should be treated."

### **Debra Gassewitz (SIRC) – December 12, 2022**

Ms. Gassewitz stated that SIRC does not distribute grants to organizations for safe sport initiatives. However, please see the enclosed link: <https://sirc.ca/news/sirc-awards-community-activation-grants-to-champion-safety-in-sport/>

We also provide the correspondence below, which addresses this funding:

[Redacted]

To: Debra Gassewitz <debrag@sirc.ca>

[Redacted]

Subject: Confidential - Gymnastics Independent Inquiry  
Importance: High

Dear Debra,

I've been contemplating this email ever since my daughter and I saw the announcement that grants were given to community members for safe sport purposes. <https://sirc.ca/news/sirc-awards-community-activation-grants-to-champion-safety-in-sport/>

While I am both personally and professionally grateful to SIRC for stepping in to financially support safe sport education, I feel obliged to offer a perspective regarding how giving a platform to recipients (i.e. Brett MacAulay) may impact victims of their abuse or negligence.

My daughter attended the Calgary Gymnastics Centre for 5 years, She was the top 10 yr old in Western Canada, but that was not enough to prevent her from experiencing emotional, verbal and physical maltreatment. She had burns the size of loonies on both arms when a coach punished her with 100 repetitions of a skill because she was scared to do it, then worse, she was made to do the punishment again 3 days later, which ripped off the scabs (see photo below). The other photo shows her in the ER with a severe fracture to her growth plate caused by overuse and neglectful coaches who said she was lazy and faking the pain. She was casted for 4 months. She no longer does gymnastics, but now 3 years later is facing 2 surgeries because the pain won't go away. Some of her teammates experienced far worse.

All of this occurred, not at the hand of, but under the watch of MacAulay. When confronted by multiple parents, he chose to advance institutional complicity and take retaliatory actions against the families. There has never been any accountability or acknowledgement of wrongdoing to the dozens of children affected.

The SIRC funding announcement had my (now 14 yr old) daughter in tears of frustration. "Why does he keep being made to look like a good guy, when he lets coaches destroy kids. I just wanted to do the sport I loved."



These experiences and my personal experience as a gymnast for 16+ years, led me to seek appointment on the GymCan board of Directors. After 3 years, I recently resigned. The delivery of gymnastics is steeped in toxicity, cruelty and self serving agendas. As Chair of the Safe Sport Committee, I felt my personal safety and my integrity was compromised by my inability to overcome a system that endangers the health and well being of children.

From: Debra Gassewitz <debrag@sirc.ca>  
Date: September 20, 2021 at 10:09:12 AM MDT

Subject: RE: Confidential - Gymnastics Independent Inquiry

Hello [REDACTED]

Sorry for my delay in responding. Thank you for your email and for sharing the background. It is awful to hear of anyone, especially a child being hurt.

Safety in sport is and should be a priority, and we are trying to encourage education at all levels of sport. I was not aware of the challenges going on at the Club in Calgary. I'm glad you have reached out to SDRCC as they host the Safe Sport Hotline and have been named the new Independent Mechanism to administer Safe Sport.

Thanks for your offer to discuss, I would be pleased to learn more about the task force and study going forward.

Regards,  
Debra

**Debra Gassewitz**  
President & CEO | Présidente et DG

[See More](#)

### The Sport System: a Visual Representation

The chart below outlines the current sport system, the various ways in which each aspect influence the others, and the various issues, gaps, and pitfalls we have observed in each that have contributed to athlete abuse:



Respectfully submitted on behalf of Gymnasts for Change Canada - December 15, 2022.

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