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Chair: The Honourable Hedy Fry





## Standing Committee on Canadian Heritage

Monday, June 19, 2023

• (1105)

[*Translation*]

**The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)):** Hello, everyone.

This meeting is called to order.

Welcome to meeting number 89 of the Standing Committee on Canadian Heritage.

I wish to acknowledge that we are meeting on the unceded traditional territory of the Algonquin Anishinabe people.

Today's meeting is taking place in a hybrid format, pursuant to the House Order of Thursday, June 23, 2022.

[*English*]

While public health authorities and the Board of Internal Economy no longer require mask wearing, once again, given the pollution index in Ottawa at the moment and given that COVID is still with us, I would like to ask people to wear their masks to protect themselves and others.

I want to take the opportunity to remind all participants in this meeting that screenshots or taking photos of your screen is not permitted. The proceedings will be online and available on the House of Commons website.

Although this room is equipped with a powerful audio system, feedback events can cause problems for the interpreters. These can be extremely harmful to interpreters and cause serious injuries. The most common cause of sound feedback is an earpiece worn too close to a microphone. We therefore ask all participants to exercise a great deal of caution when handling the earpieces, especially when your microphone or your neighbour's microphone is turned on. In order to prevent incidents and safeguard the hearing health of the interpreters, I invite participants to ensure that they speak into the microphone into which their headset is plugged and to avoid manipulating the earbuds by placing them on the table, away from others.

Please, as soon as you are no longer speaking, mute yourselves, because that feedback also causes a loud noise in the room, at least for those of us connected virtually. We hear that loud noise, so I'm sure that the interpreters do as well.

Again, as everyone knows, for those of you who are virtual, there is a globe at the bottom of your screen. That is your interpretation. You can press it and get the audio in English or French.

You can speak only when the chair recognizes you, so please remember that, and again, please mute your microphone when you are not speaking. That's it, I think.

We're going to begin the meeting. Pursuant to Standing Order 108(2) and the motion adopted by the committee on Tuesday, September 20, 2022, the committee is meeting to continue its study on safe sport in Canada.

We have one witness for one hour. As an individual, we have Judge Rosemarie Aquilina, a circuit court judge from Michigan, U.S.A.

Judge Aquilina, you may now proceed with your five-minute opening statement. I will give you a shout-out when you have 30 seconds left, so that you can wrap up. If you don't get to finish all the things you want to say, that will come out in the wash when questions are asked by committee members. You can elaborate on what you want to say at that time.

Judge Aquilina, you have five minutes.

• (1110)

**Judge Rosemarie Aquilina (Circuit Court Judge, Michigan, United States of America, As an Individual):** Thank you.

During international crises and natural disasters, Canada supports refugees, has peace and stabilization operations, has disaster assistance and response teams, and acts quickly and appropriately when it receives a request for assistance from countries facing disasters, conflicts or acute food insecurity.

So, I have to ask you this: Why do your Canadian children have to reach across your borders to this judge to ask that child abuse stop in sports? Your Canadian athletes are asking for the 100% they give you. You are their Parliament parents, and they're asking you to protect, defend and provide for them. Their health, safety and welfare are in grave danger. They are at risk every single day they are performing with coaches who are untrained and uncaring and have a "win at all costs" attitude.

Athletes deserve and demand immediate and meaningful action and accountability. It will only happen with an independent judicial investigation where those athletes who are not tied to any body but who have come before you and are asking for help with their input... When will Canada hear its children and take this meaningful action to protect them from the pain, suffering and trauma they suffer in sport?

Canada should be celebrating and honouring the excellence of Canadian athletes and their well-being, not profiting from their abuse. Athletes have the absolute right to expect safe, positive, healthy training without physical and emotional abuse. The current culture allows aggressive coaches who overstep, blur lines and abuse children. If you want to maintain Canadian sports' integrity, you need to protect the sports and the players. Remember, all athletes begin as children, and what's happening now in sports is that they are suffering a lifetime of abuse that has become normalized in sports. Allowing abuse in sports is allowing and condoning child abuse. It is the murdering of the souls of the athletes, who pay the price for the rest of their lives while everyone else profits.

Science and psychology have proven that positive coaching always leads to better athletic outcomes compared to negative, abusive coaching, which leads to a lifetime of physical and emotional harm and trauma. Abuse cannot be mediated. Minimizing the risk is not enough. Eliminating the risk of abuse is the only answer. Non-disclosure agreements, NDAs, cannot be mandated. They cannot be tolerated because they hide the truth from parents, the public, the media, and even you.

Sports cannot—and it is proven—regulate themselves. They need you. They need your help. All governing bodies must have half of the seats with athletes. Again, independent athletes, those voices that have independently come before you and said “help us”.... You need to listen to them. Those are the dissenters, and “dissenters” is not a bad word. When you have a dissenter, that means you have an open discussion and you get the right answer. These children deserve the right answer. They deserve protection, and they deserve it now.

To end the culture of abuse, sports must be under the oversight of the health and human rights committee for protection of athletes, because being safe is a human right. It is not a question mark. It is an absolute right. Sport must rebrand itself with zero tolerance for abuse of any kind. Safety must be a priority, not an afterthought, not a cover-up, not a back seat to money and medals. Before any meaningful action can be taken, you must—I implore you; I beg you—have this independent judicial investigation, because without it, you will not reignite the trust that you have lost.

• (1115)

The current reporting and investigation process is so closely tied to the organizations that monitor the athletes' career that the athletes do not report out of fear that more harm will come to them.

**The Chair:** You have 15 seconds, please.

**Judge Rosemarie Aquilina:** Investigation and reporting procedures must be fully independent, with a safe reporting chain that eliminates the fear of retaliation. You need to flip the script and balance the power. Trust can only be ensured when there is a balance of power.

**The Chair:** Thank you very much for your testimony.

Now we're going to move to the question and answer period. This first round is for six minutes. That includes the questions and the answers. Once again, I'm asking everyone to be as concise as they can.

We begin with the Conservatives and Mrs. Thomas.

You have six minutes, please, Rachael.

**Mrs. Rachael Thomas (Lethbridge, CPC):** Thank you.

Thank you for being with us here today.

I'll get to my questions quickly, in the interest of time.

My first question has to do with testimony that we heard from Rachael Denhollander. She was here at this committee just a few weeks ago and, of course, you'll be familiar with her based on the Nassar case.

When she was here, she talked about how the same problems that exist in the U.S. exist here in Canada. She talked about our system with OSIC, which is the oversight body within the Government of Canada that's supposed to be investigating the complaints that arise. She pointed out the fact that the system doesn't work because there is a fear of reprisal and because people are ill-trained to look after these cases as they come forward. Furthermore, she said that it doesn't work because there are no “survivor protections” in place. She said that she sees the same things in the U.S. that she sees here.

I'm wondering if you can expand on that in terms of what you might see at play and how we might potentially tackle those challenges here in Canada in order to create safe sport for athletes here.

**Judge Rosemarie Aquilina:** Rachael is absolutely correct.

The coaches have to have the proper training, education and professional development, including clear policies that are in place, and this isn't just training that they get once and it's forgotten. In the military, I was trained every single year on safety, on terrorism and on whatever it was I needed to be trained on. It has to be continuing checks and balances and continuing training, and we don't have that.

There has to be an understanding of legal and ethical boundaries and the duty to report violations, including severe consequences for failures, and that includes criminal punishment, if needed. We have the same problem in the United States, where coaches are simply moved: They need to be removed. Then, if there is a violation that is found after an investigation, they need to be punished and not put back in sport. There needs to be an absolute ban, because when you keep putting the problem back, the problem gets worse, not better. They find new ways, new inroads, to harm the children they are supposedly there to help and to coach.

We have exactly the same problem, and we're having the same issues in terms of investigation, training and treatment. Rachael is absolutely correct, but you have an opportunity to be a leader here in how it's done right.

**Mrs. Rachael Thomas:** Further to that, I'm just going to jump on what you said with regard to coaches: They shouldn't just be moved but rather removed.

Now, of course, our justice system, as in the U.S., is based on the principle that you are innocent until proven guilty. Functioning on the premise that an individual is innocent, I guess I have two questions for you that have come forward from concerned individuals. How do you ensure that these coaches really are guilty? Second, to what extent is their reputation deserving of protection before they are proven guilty? How do you balance that with the care that is desired for athletes, of course, in making sure that their well-being is looked after?

• (1120)

**Judge Rosemarie Aquilina:** Well, hopefully it never gets to that, because they've done the right things with the training. You have to have a fair and impartial body that's doing the investigation. You need to not have leaks, but they need to be on the payroll and relieved of duties with the kids, the children. Then, if it's found to be a false allegation, they're returned. If not, they are simply removed.

Keep in mind that with sexual assault, with these kinds of assaults that we're seeing, the false reporting is no higher than with any other crime, so you are not talking about a lot of people. You're not talking about an athlete saying, "I have to get that coach because they didn't let me play." You're talking about children who need to be listened to. Why are they saying these things? What is going on there?

There needs to be an investigation. If you have a fair and impartial process, there is no fear for that coach's reputation. There shouldn't be a headline that so-and-so was removed and here are the allegations, because they will never get their reputation back. But we can have an investigation. Police don't open their files and say that someone has been accused and there is an ongoing investigation. They try to keep it closed so that they can do a proper investigation, and then it comes to court.

Have a system like the judicial system and protect everybody's rights until there is a decision.

**Mrs. Rachael Thomas:** Moving to a slightly different note, but still related, we've had multiple sport organizations here in Canada, whether it's Hockey Canada or Gymnastics Canada, etc., that have had significant allegations come against them. Most recently, with regard to Hockey Canada, there was a decision made by the government to remove funding until there is some cleanup done. That funding was then granted back, in my estimation, without the necessary cleanup or proof thereof.

To what extent should the government hold these national sport organizations to account?

**Judge Rosemarie Aquilina:** I would say, to the highest level. They should not fund child abuse. If they're not doing exactly what you said, which is removing the funding, then they are supporting

child abuse. That cannot be tolerated. It has to be cleaned up, and they should not get the money back until it is cleaned up.

This includes sponsors, whether it's Coca-Cola, Pepsi, Levi's or whoever. There should be no sponsor supporting sports where there's child abuse, because that's what they're doing. They're making money from child abuse. Clean it up.

Money is power. Sadly, that's how we see it—

**The Chair:** You have 30 seconds.

**Mrs. Rachael Thomas:** The 30 seconds are yours. Do you wish to make further statements?

**Judge Rosemarie Aquilina:** These children all grow up. It doesn't matter... These athletes who are now adults were children. They grew up through this process. They've been groomed and gaslighted to shut up and live in fear. We need to keep them safe, protected and heard.

Canada truly could be the leader. You have this moment. There is no country doing what you're doing, so hurry up and do it. Hear the children and do the right thing.

**The Chair:** Thank you very much.

We'll go to the Liberals and Anthony Housefather.

Anthony, you have six minutes, please.

**Mr. Anthony Housefather (Mount Royal, Lib.):** Thank you so much, Madam Chair.

Thank you, Judge, for being here with us today. I very much appreciate it.

I want to come back to the Larry Nassar case for a second, because probably nobody can speak to it as well as you can. In the end, we all talk about Larry Nassar—even the appeals court in Michigan talked about the inflammatory rhetoric that you used in your judgment—but Larry Nassar wasn't the only person involved or to blame in this entire thing. There were coaches, including the Karolyis, who were running the national training centre. There was USA Gymnastics.

Could you speak to the level of culpability of everyone in the process that you found when you did the trial of Mr. Nassar?

**Judge Rosemarie Aquilina:** Yes. If you go back and watch—I have not done it, but I remember very well—you'll see that the "sister survivors" and others testified in front of me. I heard 169 people testify, of whom 156 were sister survivors. I kept saying, "There's another crime, and there's another crime."

People were not charged. Their crimes were not charged fully. Bystanders and enablers who were complicit were not charged, which sends a message that the only culpable person was Nassar. There were a whole lot of people—hundreds of people—who really should have been investigated, and they were not.

The harsh words I said to Nassar... He behaved horribly in my court. You may not have seen it, but he behaved horribly.

Those sister survivors had the strength to tell their story, and their story is one that never should have been told in front of me. Thirty years ago, if one person had listened and done the right things, hundreds of girls would have been spared.

That's the opportunity you have now. You have heard from these children who are now adults—some are still children. Do the right thing now.

That's what was missing in the Nassar case. The right things were not done 30 years ago and then, even when the testimony came in front of me, the FBI failed. The investigation with the Karolyis failed. There were so many investigative pieces that failed our own.... Meridian Township failed to listen to a survivor and then paid for them to come to testify in front of me because of that failed investigation.

There were so many failures, and that's what really came in front of me. It wasn't just Nassar, but a whole broken legal system, a whole broken sports system and the fact that nobody listens to children. Why would children bring up this kind of abuse? There has to be something. Why would they know about this? Those are the biggest failures.

Bystanders and enablers need to be investigated, and there has to be some accountability, because if they're complicit in the perpetrator's act, they are equally punishable. They are co-conspirators.

In the Nassar case, there are a lot of documents and other things that were either hidden or destroyed. They have not come forward, so we may never know. I wish they would release the documents that they have so that we would know, and it would be an educational tool for all of us.

Again, that's why, when we have these investigations and when something happens, there has to be a full and complete investigation, so that we use these as teachable moments and we can continue to safeguard our children for future generations.

• (1125)

**Mr. Anthony Housefather:** That's why I wanted to raise that, because I think that part of the passion you're demonstrating for a national inquiry in Canada is because the United States never did a national inquiry. What I saw in the Nassar case was that, as a result of not having done something like that, you had all of these people who were equally culpable or partially culpable—I guess I can't say “equally”, but they were complicit in the culpability and knowledge and they did nothing—yet they seem to have been ignored.

Let me ask another question, Judge.

I know that Congress, in 2017, following the Nassar case, adopted the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017. Can you talk to us about that act, and how that has changed sports in the United States?

**Judge Rosemarie Aquilina:** I don't know all the nuances about it, but I can tell you that the United States is still not a leader, because it has not changed enough. We still don't look at the enablers and bystanders. Although we have certain protections and training that have to come forward with sports to protect children, it is not enough. It's a nice attempt, but did they listen to the athletes? No.

What we have in the United States, from Congress on down to every state, is band-aid approaches, even with Michigan State University and U of M. They have made changes. They have change facilities, and they've done all sorts of things. If you read the headlines, it's a pretty bandage, but when you look behind the scenes, it is another false step.

Whether it's Congress or any other agency in the United States, the failure is not listening to athletes. It is not enough protection. It doesn't go far enough. It does not get to the enablers and bystanders, and it does not act quickly enough, nor are the checks and balances enough, because when you have false numbers and there's no double-checking, you think you're doing a great thing, but the score card is wrong.

I don't think Congress did enough.

**Mr. Anthony Housefather:** Madam Chair, do I have any time left?

**The Chair:** You have 42 seconds, Anthony.

**Mr. Anthony Housefather:** Thank you.

I have one last question, Judge. You understand the multi-jurisdictional issues in Canada, where the federal government has responsibility for our national teams and our national federations, but the vast majority of abuse occurs under our provincially governed systems.

Based on your experience, how should the national government, or the national Parliament, resolve that issue, where we don't have jurisdiction but want to enforce things on the provinces?

**Judge Rosemarie Aquilina:** I think we said it earlier: Money talks. Stop the money until the problem is corrected, and it will be cleaned up really quickly.

**The Chair:** Thank you very much, Anthony.

I would like to go to the Bloc Québécois and Sébastien Lemire for six minutes, please.

[*Translation*]

**Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ):** Thank you, Madam Chair.

Judge Aquilina, it is a great honour to meet you today. Your presence here today caps off more than a year's work on this issue.

Sport is not a topic that is easily put forward in Parliament. We had to be creative. This debate was the subject of motions in the House of Commons. Moreover, in three days, on June 22, it will be a year since I proposed a motion that was anonymously adopted by all parliamentarians to hold a public inquiry into abuse and mistreatment in hockey, particularly within Hockey Canada.

Since then, things have of course evolved. We did some remarkable work thanks to a consensus. All the political parties agreed to get to the bottom of what is happening in hockey. I wanted to mention that.

The matter then moved on to the Standing Committee on the Status of Women to talk about the status of athletes, and then it came back to us at the Standing Committee on Canadian Heritage.

We have heard testimony from athletes. Many athletes told us about what they had experienced. The interesting thing is that we also offered them a framework that gave them some protection, which is essential for people to speak freely.

We are now waiting for the Minister of Sport, Pascale St-Onge, to announce an independent, public inquiry to investigate all abuse in sport.

You are encouraging us to conduct that public inquiry, in particular to make Canada a leader internationally in this regard.

Why is it important for the United States and all the countries that are watching us right now to receive that strong message in support of a paradigm shift in the world of sports to promote the health and safety of our young athletes?

• (1130)

[English]

**Judge Rosemarie Aquilina:** I totally agree: Whistle-blowers need to be protected. There needs to be a fundamental change in all sports, but, again, it begins at the top. It begins with listening to the athletes. If we don't listen to the athletes, if we don't bring in those whistle-blowers and ask what prompted them, what the roadblocks were and how we can help them, then we have not done enough. Without that, it's like going to the emergency room and having a patient with a ruptured appendix. If you remove the appendix but you leave the poison, the patient will die.

I applaud all of your efforts. I've been watching the hockey issues and some of the coaches who have been removed and put back, and all of that. I think the whistle-blower piece, which was part of your question, is key and critical, as long as there are protections. Right now, sport is operating in fear. Take the fear out. When you take the fear out, you will find that you have these human beings, and all they want to do is represent Canada and give you their best. They are asking for your best.

[Translation]

**Mr. Sébastien Lemire:** Through your leadership and your position, you are creating a framework that encourages people to speak freely.

You have witnessed the many strategies that federations use to protect their image and their reputation. Independent organizations do conduct investigations in some cases. There is a risk, however, from a legal perspective, that the evidence may be contaminated. I would like to hear your thoughts on that.

What mechanisms would help us protect the victims who are brave enough to speak out?

[English]

**Judge Rosemarie Aquilina:** Contaminated evidence is a huge issue, even in the United States. There has to be protection of the chain of custody. There has to be some education about what we need to gather, how we gather it and where it goes before it's lost, destroyed or contaminated, because that is also a huge problem in the United States. That was a problem in the Larry Nassar case. This case was so old that by the time there was the investigation, things got shredded, lost and destroyed. It will take education, and it will also take penalty, because that's tampering with evidence.

The legal system must partner with you to look at where they can be helpful, and then you need to follow through. You may not want to jail a coach, but if they are a bad actor, why not jail them like the rest? Just because they wear the hat of a coach, that doesn't mean they shouldn't be in front of a judge and possibly go to prison.

We need to look at evidence and even train athletes. Athletes should know where to go, how to protect evidence, how to protect themselves and how to report. If we start with education on all of that, you will find less contamination, more reporting and a cleaner system.

[Translation]

**Mr. Sébastien Lemire:** In March 2022, people from the gymnastics community sent a letter complaining about abuse in their federation. You gave them your support publicly, which was very bold, coming from someone in your position.

Why is it important for you to offer your support to Canadian athletes and send a message across the border?

• (1135)

[English]

**Judge Rosemarie Aquilina:** If you don't speak up, you're part of the problem. I would always rather be part of the solution and pave a new road. Paving a new road means that we can make sure people are safe and we can fully explore the options. Going on the same tired road means that we are not looking at the forest or the trees. We're not protecting anybody, and we're not looking at the issues. So, yes, I'm going to speak out. I don't care about the consequences to me.

I think it's important that we all partner together in one voice for safety. To do anything different means we are joining together in abusing children and others, and I will never stand for that. I will always take the road less travelled, regardless of the consequence to me. Yes, there are people who don't like my voice. Oh well, pour my coffee, I don't care.

[Translation]

**Mr. Sébastien Lemire:** Thank you very much.

[English]

**The Chair:** Thank you very much.

Now I go to Peter Julian for the New Democrats.

Peter, you have six minutes, please.

[*Translation*]

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** Thank you, Madam Chair.

[*English*]

Thank you so much, Judge Aquilina. You're a hero of ours. This is some of the most important testimony that we're going to hear. As some of my colleagues have mentioned, we embarked on this process about a year ago now. We are coming to the point where we're going to have to produce our conclusions and recommendations, so your testimony comes at just the right time.

You said a couple of things that really struck me. First, there's the power of the fear of retaliation, which silences victims when there isn't a balance of institutions to allow those voices of the victims to be heard. You also talked about bystanders, about people doing nothing. If I'm quoting you properly, you said that potentially hundreds of people allowed Larry Nassar to be a serial abuser, victimizer and rapist, with no one speaking up until he was brought to justice.

I'd like you to talk about those two points. First, how do we counter the fear of retaliation? In the Larry Nassar case, so many people did nothing, even though they may have been aware of the abuse that was taking place. How do we stop that? How do we build a culture where people speak out because they understand that to not speak out is wrong?

**Judge Rosemarie Aquilina:** Right now you have a culture of gaslighting and grooming that has become normalized. People don't speak up, out of fear. They've seen that they're not going to play the next game. Their friends are going to make fun of them. They're going to be kicked off. They're going to be bullied. They won't get their scholarship or whatever it is. There are lots of things. They are fearful of this retaliation.

We have to start anew. We need to teach people that it is positive to report abuse and to keep people safe. Then we need to have safe places to report and safe people to report to. You cannot report a coach who's abusing to the assistant coach, who then may be retaliated against by the coach. It takes a long time to remove coaches.

Is there another channel? In the military, we have a chain of command. What's the chain of command for reporting? I'll bet if you asked an athlete, they wouldn't know a safe chain of command for reporting. Some of them report to their parents, and their parents say, "Well, I'll report, but understand, you might not be able to play." Then the child, or athlete of any age, says, "I want to play. That's my life."

We don't have safe places to report. We don't have a chain that is known or that is safe and where action is then taken immediately. If you report an abuser and the abuser stays, and you still have to travel or be in the locker room with that abuser, have you really reported in a safe place? No. You are fearful that someone has told that abuser.

We need to make it very clear that you are a hero when you report, and to always be the voice, and that there's no retaliation or retribution. If there is, whoever retaliates or takes any action against

you is out. They are out, not you. They are out. There have to be clearly defined and articulated rules that are trained and that are followed—that are not just on paper but followed.

• (1140)

**Mr. Peter Julian:** You have been working with members of Congress to try to develop a safe sport system in the United States. You've been working, I believe, with a number of members of Congress who have been looking to the U.S. Olympic committee and making changes.

Can you maybe talk about some of the successes or some of the disappointments you've seen in that process as you've been talking with members of Congress? Obviously, those members are struggling with what we're struggling with as members of Parliament, on how to make recommendations that change the system.

**Judge Rosemarie Aquilina:** I've spoken nationally and locally in Michigan and in other states. There are some common problems. First, you have to acknowledge that there is a problem. A lot of people don't want to acknowledge that there's a problem, because then it's a loss of money.

One of the successes we've had is that they were able to put 50% of athletes on a governing body. We'll have to be able to see in the long term how that works, but it was not done before. Nancy Hogshead-Makar, an Olympic gold medallist in swimming, several times over, was really spearheading that. That was very successful.

The statute of limitations has changed, so the reporting has been extended. It varies throughout the States, but that has helped bring some of this to the forefront. That remains in discussion throughout the United States. Some states have eliminated the statute of limitations completely and some have just elongated it. That has really helped to bring some of these old issues to the forefront. Now they can be investigated and you can do what you're doing here, which is to look at how we got here. That, I think, is a huge success.

**Mr. Peter Julian:** In the United States, there hasn't been that type of public inquiry. There have been other types of investigations into abuses in sports and making sports safe.

Is it fair to say that we can learn from each other on both sides of the border so that, hopefully, right across North America, we can make sports safer for everyone?

**Judge Rosemarie Aquilina:** Not only should we learn from each other, but we should also partner together. In the Olympics, we should partner together for safety. If America sees something Canada is doing right or wrong, we should talk about it. It's the same thing if Canada sees something America is doing right or wrong. We should talk about it. We should get at these core problems so that, together, we solve the problem. That's because we're all partnered together. We're all human beings. We all suffer the same.



Let's protect children across every border.

**The Chair:** Thank you.

Peter, your time is up.

As you well know, we have 30-minute bells. We need to have our in camera meeting soon, but I think we still have time for one round. I'm cutting the round down to four minutes and two minutes.

We'll begin with Kevin Waugh and the Conservatives for four minutes.

**Mrs. Rachael Thomas:** I'm sorry. I have a point of order here, Madam Chair.

We don't have bells here, and I don't see an email coming in to that effect. My understanding is that we have a vote scheduled for about one o'clock.

There's been some conversation in the room. We're curious about whether we might agree to do an entire round. Since we got started 10 minutes late, perhaps we could go until 10 minutes past 12 o'clock in order to complete the next round.

Would that be possible?

**The Chair:** Is that the wish of the committee? Would anyone disagree with that, or is everyone in agreement?

**Mr. Peter Julian:** It's an excellent suggestion, Madam Chair, because the vote will not be until slightly before one o'clock, or just after.

**The Chair:** Okay. Thank you.

We have bells at 12:30 p.m., so let's go back to the five-minute round.

We'll start with Kevin Waugh.

Kevin, you have five minutes.

**Mr. Kevin Waugh (Saskatoon—Grasswood, CPC):** Thanks, Madam Chair.

Welcome, Judge Aquilina.

We started this because there were sexual assault allegations over a function Hockey Canada held in June 2018, five years ago today, in London, Ontario. It was five years ago. Let that sink in.

This past weekend, I read that several of the players on that junior team are getting upset because they weren't at the function, yet they have been tied to the function and can no longer represent Canada in any world competition. Is that fair to them? It's been five years and ticking. We still have not heard from the London, Ontario police force.

That's the issue we have in this country. Everybody is waiting for the investigation. Nobody knows when. You said the police investigation.... They should close it and bring it out. They could take five more years to bring it out. I don't know. Nobody knows.

What should we do with this? That's where this safe sport study started. This incident was reported a year and a half after it happened, by someone at TSN looking at the court dockets: "Oh, look what I see."

• (1145)

**Judge Rosemarie Aquilina:** You have to impose time frames. If you have an investigation for 10 years, is there any evidence? After 10 years, if you don't have any evidence, what's going on? You need to have some kind of evidence.

Also, when there's a case against people, take those people out so the rest can move forward. It shouldn't affect generations of hockey.

There has to be an analysis that goes forward. You can't just say, "Oh, I'm going to continue this investigation for years and years", and then stall hockey, its players and generations. That's unconscionable. It's also very unsportsmanlike. There's a clock in every game, isn't there? Where is the time out for law enforcement? Either they have a case or they don't. I dismiss cases in front of me all the time. If they have a case, they can build it against those few, and the rest should go forward.

They should clean it up. There have to be clear policies, reporting procedures and time limits, and there has to be an understanding of ethical and legal boundaries and time frames.

**Mr. Kevin Waugh:** We have an organization called Sport Canada. All it does is hand out money. It never disciplines anybody until, all of a sudden, the shit hits the fan, if you don't mind my saying it. Now Hockey Canada gets all its funding back. We still don't know what happened; it was five years ago today. They get their money, and the federal government says, "We recommend Hockey Canada get its money."

Here's our problem. We have too many bureaucrats involved. We have Sport Canada, and now, a year ago, we started this OSIC.

Let me read you a letter, because I talked to someone from Ontario over a month ago who had a problem with his daughter being harassed at the Canada Soccer National Development Centre in Markham, Ontario. He filed a complaint with OSIC. He filed it. Why wouldn't you? I told him that's the procedure, and he did so. He was told he was going to get a response in seven days. Ten days later, he followed up, and three weeks later, there was still no response. A month later, there's still no response.

Do you see the problem we're having? It's bureaucracy: Sport Canada and now OSIC a year later. They told him, "We're going to look into this", but a month later—crickets.

**Judge Rosemarie Aquilina:** Again, money talks. In the United States, if I make a Freedom of Information Act complaint or request, they have to respond within so many days. They can ask for an extension. If they don't comply, there's money attached. If they don't comply again, they can come to court.

Why aren't you having deadlines? If they're going to respond to a letter, they should have seven or 10 days, or whatever it is. If they don't, they have to have an explanation or they have to ask for an extension, and then if they don't, they cough up the money. If they keep paying, money eventually talks. Why is the federal government handing out money for abuse? They're partnering with abuse, and they need to be called out on that abuse.

**Mr. Kevin Waugh:** Thank you.

My time's up, but I appreciated your comments here this morning.

**The Chair:** Thank you, Kevin.

Now we will go to the Liberals and Lisa Hepfner.

Lisa, you have five minutes, please.

**Ms. Lisa Hepfner (Hamilton Mountain, Lib.):** Thank you, Chair.

I would like to thank our witness here today.

I was among, I'm sure, many people around the world who were absolutely horrified by the Larry Nassar case. There's some evidence that I don't think will ever leave my head. I really appreciate your work during that time. I think it was a decision of yours to hear from so many survivors. I don't think the trial necessarily had to unroll that way. Please tell us why you made that decision and what you learned from it.

• (1150)

**Judge Rosemarie Aquilina:** I've been a judge going on 20 years in January. I have done that in every single case. I always listen to everyone in the case because of that backstory. It's similar to what I'm asking all of you to do. The backstory is really what drives my decision.

When I learned about the Larry Nassar case, I didn't know the athletes, and I didn't know him. When I learned about it, I decided that everybody who was affected by him—not just the survivors but everybody—could testify so that I would be informed and would be able to make a decision based on what happened.

Also, with the healing effect of victims who testify—sometimes it's even families of defendants who testify in front of me—that healing that happens doesn't happen anywhere else. That's also why I talk to victims and tell them “You matter” and “You're a hero” and all of that. It's the power of robe, and I think that is what we're all responsible for—to serve the public in many ways. I am not a therapist or a healer, but I do listen, and I want them to know it's their courtroom and it's their moment. I've heard them, and I will take the appropriate action.

I listened for seven days. I would have listened for seven months if that's what it took. That backstory is important. It also tells the story of how we go forward. I didn't know the whole world would listen and we'd still be talking about it five years later, but I handled it no differently than any other case. That backstory is a teachable moment each and every time, and it does heal people when they tell their stories and when they have their moments.

I'm asking you, here, to listen to the athletes, and to heal them and to give them their moment.

**Ms. Lisa Hepfner:** Right. I'm sure you are aware that our sport minister has said that we will be having some sort of national inquiry into safe sport in this country. I think, at this point, it's more about how it will look and about who will lead it. I think the work we've been doing at this committee will really inform that inquiry.

I have a quick question. You said that the United States hasn't done an inquiry on safe sport, and other countries haven't done that. Do you think that, if we lead in this, other countries would follow

suit? What do you think some of the recommendations should be to inform such an inquiry?

**Judge Rosemarie Aquilina:** Absolutely. Other countries will follow suit, if only because they are shamed into doing the right thing. I think you are doing the right thing. You could be the leader and—similar to what, unknowingly, I did with Nassar—catapult the whole world into doing the right thing. Part of your inquiry should be what I did with Nassar: just listen, take notes, ask questions, and make a safe space for victims to listen and speak their truth. It is their truth; it is not yours. It is theirs, whatever they have to say. Take what they say, and use those as teachable moments, and ask, “How did we get here? How can we fix this?” Ask them.

When you do this inquiry, you will be as surprised as the world was with how Larry Nassar happened. You'll be surprised, and the fixes will come forward very clearly and loudly to you. You will become the leader in the world.

**Ms. Lisa Hepfner:** You said that Canada and the U.S. should talk about things. If things are happening, we should talk about it. Can you expand on that a bit more? Do you think other countries and the U.S. are watching the Canadian Parliament to see what we're doing here?

**Judge Rosemarie Aquilina:** I can't speak for any other legislators. I can tell you that I'm watching. I know athletes are watching, and parents are watching.

Canada and the United States.... I have family here. We are not so different. We may have borders, but I always feel that Canada is also part of my home. I don't think Canada and the United States are that different. We should partner together and show the world. If you're the leader, the United States will hop on board your train and say, “Thanks for doing it. How can we help? How can we join?” At least that's what I hope our government would do.

The United States, like Canada, has always had a welcoming, open-arms policy to help and to be there. As I said in my opening remarks, Canada helps during a crisis, and so does the United States. We partner in that. Why don't we partner together for safety in sports, protect children and be their voice? You can be the leader, and the United States will join in.

• (1155)

**Ms. Lisa Hepfner:** All right. We'll hold you to that, Judge.

Thank you.

**The Chair:** Thank you.

I would like to go now to Sébastien Lemire.

Sébastien, you have two and a half minutes, please.

[*Translation*]

**Mr. Sébastien Lemire:** Thank you, Madam Chair.

Thank you, Judge Aquilina. Your passion is so powerful. You want to give our children a future, and I thank you for that.

I would like to ask you a specific question, drawing on your expertise. One of the problems in sport, especially at the international level, is how Olympic committees and other sport organizations operate. There are a lot of conflicts of interest, people protect themselves, the machine protects itself, and the reputation of the sport and individuals takes precedence over that of the athletes.

Can you tell us more about this?

What mechanisms could help us stop the way the machine protects itself?

[English]

**Judge Rosemarie Aquilina:** First of all, if you have rules in place, the reporting and all the safety and training, that is a good start, but when you take the money out of it and put safety first, you will get better outcomes with your athletes. You will also really be the leader. We have to take the money out: safety first, and then the money and the medals. You have to flip that script. Without that, you have not made any changes. You're just doing rhetoric, talking and having more meetings.

Meetings don't matter; change does. Take the money out. Protect the athletes, and the money and medals will come. The performance will be better. These athletes will outperform. What you think today is fantastic, they will outperform.

[Translation]

**Mr. Sébastien Lemire:** I agree with you. I have the same values.

I would like to hear your thoughts on one of the recommendations that has come up several times in our work: taking sports out of Canadian Heritage. Grants are currently provided on the basis of performance and the pursuit of gold medals. Would moving sports to Health Canada not be part of the long-term solution?

Health Canada could promote healthy lifestyles and make sports safe and accessible for our children. That would enable us to focus on infrastructures.

What do you think?

[English]

**Judge Rosemarie Aquilina:** When it's safe, the money and medals will come. There's just no question. The parents will bring their athletes. The athletes will want to perform. They'll be safe. They'll be free to be who they are. Science has proven that when there is safety, when there is positive coaching, you're going to have super athletes.

What's going on now? They'll perform, because there's a bit of money and a bit of fame. They all want those little moments, but you're going to have a lot of moments, a lot of performance, and you will be the best that you can be. Flip the script and put safety first. The rest will come.

[Translation]

**Mr. Sébastien Lemire:** Thank you so much, Judge.

[English]

**The Chair:** Thank you.

Now I will go to Peter Julian.

Peter, you have two and a half minutes, please.

**Mr. Peter Julian:** Thanks, Madam Chair.

You spoke about the fear of retaliation. You also mentioned in your introduction the use of non-disclosure agreements. In a sense, those are two sides of the same coin. Fear of retaliation leads people potentially not to speak out, for the reasons you very eloquently described, that sometimes—often—it means the kids are punished. The athletes are punished rather than the perpetrators.

In Canada, we have seen a number of cases where national sport organizations have used non-disclosure agreements to muzzle the victims after the fact, so there's fear of retaliation before they speak out. They raise concerns, and then they are muzzled permanently by a legal framework that does not allow them to speak their truth.

To what extent have you seen that in the United States? Are practices starting to change where there's an understanding that non-disclosure agreements are muzzling victims rather than helping them?

**Judge Rosemarie Aquilina:** Yes, the practice is starting to change. People are speaking out and saying, "We're not going to sign an NDA." The problem isn't just silencing the victim—that is a huge problem—but also protecting the abuser, because when you have an NDA, all you're doing is saying, "Yes, you were abused, but now we're going to keep that coach. We're going to keep that doctor. We're going to keep that person in place because no one's going to know about it." All that the NDAs do—and that's the conversation in the United States—is protect the abuser, so NDAs have to go away.

We need to protect whistle-blowers. We need to protect those people who report. Stop the fear and start putting the fear in the abusers. Let them get help. Let them walk out into a different career. Let them do something else. Let's punish them, but let's stop the fear in the athletes. They are your assets. Why are they in fear?

● (1200)

**Mr. Peter Julian:** Thank you.

You spoke eloquently about the balance of power.

I have only a few seconds left.

Are there any other recommendations you can give to us that will help establish that balance of power in Canada so that athletes and the public are protected from abusers and perpetrators? It's been a system that has worked for the abusers up until now. We need a system that works to prevent victims.

**Judge Rosemarie Aquilina:** There should be no ban on parents being there. The parents have the constitutionally protected right over the child, not the coach, and when parents are banned, then the child loses their voice, and now it's the coach's voice. That is an imbalance of power right there, and that should never legally happen, ever. Why is a parent banned? Why am I banned from my child in the name of sports?

You should have a therapist, like a camp counsellor or a school counsellor, who is there so that a child can feel safe going to them and is not questioned, "Why did you go see the counsellor?" Just do the daily mental health checks. We have children and adults who are suicidal, who are cutting or addicted. There are all sorts of things due to this trauma, so what we need is that early intervention to make sure that they are safe, that we can rebalance the power and that there is no fear, but rather there is safety, and the fear is in the coach.

**The Chair:** Thank you.

I will now go to the Conservatives.

Mr. Shields, you have five minutes, please.

**Mr. Martin Shields (Bow River, CPC):** Thank you, Madam Chair.

I'll be splitting my time with Mr. Martel.

Thank you for being here today; it is appreciated.

You talked about NDAs. Has there been success anywhere in the U.S. in eliminating those? Are you familiar with them being eliminated at all?

**Judge Rosemarie Aquilina:** No, because in the United States people are free to contract, so, with the freedom to contract, people are free to enter into an NDA, but there is a lot more conversation saying, "You don't have to do that. You don't have to settle for this. Make it part of the deal that there will not be an NDA signed, or there's no deal, and you will go to court, go to the media and go public."

We find more resolution that is palatable and that is safe when you do not sign an NDA. When you sign an NDA, you are keeping abuse silent, and we cannot stand for that in any country.

**Mr. Martin Shields:** We've talked about a registry in the sense that that's the biggest challenge. Is there any success in a registry being built anywhere state-wise or organization-wise in the U.S.?

**Judge Rosemarie Aquilina:** Not that I'm aware of. When there is an abusive coach, there should be some kind of registry. There isn't, but that needs to happen—not a public registry, but there should be a registry so that a coach can't move from gym to gym or state to state. That is being talked about, and there is sort of an undercurrent of that, but officially, no.

Should there be? Absolutely. We have sex offender registries. Why don't we have coaches who are on registries when they abuse children? Unless they're on the sex offender registry, there is no registry, but we should have a registry of coaches who are abusive.

**Mr. Martin Shields:** Thank you.

You talked about organizations starting over. Do you have any examples where organizations have said, "Let's start over. We need to redo this totally and rebrand"?

**Judge Rosemarie Aquilina:** Of course not. Nobody wants to start over when there's money involved. Take the money out of it and put the safety in, and the money and medals will come.

**Mr. Martin Shields:** Thank you.

Go ahead, Mr. Martel.

[*Translation*]

**Mr. Richard Martel (Chicoutimi—Le Fjord, CPC):** Thank you very much.

Thanks to the witnesses for being with us today.

Judge Aquilina, you said earlier that an adult should be present. That is interesting because it has often been said that parents had no business there.

As to Hockey Canada, we know that an inquiry is still ongoing. It takes time, as my colleague just said. At the start of the inquiry, when the government recognized all this abuse, it withdrew funding from Hockey Canada. A bit later, it reinstated that funding without seeing the results of the inquiry.

I am wondering whether, in doing that, the government is not somewhat complicit, especially since a very small part of Hockey Canada's funding comes from the government while the majority is from major sponsors. I do not understand why the government reinstated its funding without getting to the bottom of things.

What do you think?

• (1205)

[*English*]

**Judge Rosemarie Aquilina:** I totally agree. I think they are complicit.

If, for whatever reason, they needed to re-fund them, it should have gone along with a string of "Let's have training and education. Let's have a reporting process and let's do the right things." However, if they simply gave the money back, saying, "Enough time has passed and we haven't seen anything", then they are complicit. They are co-conspirators, and the sponsors should be pulled out. If it's Coca-Cola or whoever that supported them, don't buy Coca-Cola. The public has to speak out as well.

[*Translation*]

**Mr. Richard Martel:** In other words, we could say that money rules sports. There is a lot of money involved.

Sponsors play an important role. When Hockey Canada executives realized they were losing major sponsors, they started taking things seriously. So the sponsors have a direct impact on what is happening.

Should the sponsors also be included in the reprimands? There are part of the system, after all.

[*English*]

**Judge Rosemarie Aquilina:** I agree that they're associated with the abuse. I don't know how you would make them responsible, except that the media is the watchdog. The media should be saying, "These are the sponsors. Don't support them until this gets cleaned up." In that way, that is a big enough sanction. When people stop buying and say, "I'm going to buy the other brand, because this brand abuses our children, our athletes and our country", they will take notice. Money talks, sadly.

[*Translation*]

**Mr. Richard Martel:** That's interesting.

I have one last question for you.

You said earlier that deadlines have to be set for inquiries. In some cases, it can take 5 to 10 years to complete them.

How can we set deadlines when the organizations don't set any themselves?

[*English*]

**Judge Rosemarie Aquilina:** Get more investigators. Where's the money? If you need more investigators.... If you have five and you need 10, get 10 or 20 or whatever it is. If it boils down to money, fund the investigation. Do it properly and get it done. Have a timeline. What's the excuse? Are there only two investigators? Is that why it takes five years? Let's get more investigators, and let's get the job done.

[*Translation*]

**Mr. Richard Martel:** Thank you.

[*English*]

**The Chair:** Thank you very much.

Now I go to the Liberals for the final question.

Chris Bittle, you have five minutes, please.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you so much.

Thank you, Your Honour, for being here today.

I think one of the reasons the committee wanted to hear from you was your trauma-informed approach to the evidence you heard, which, unfortunately, is absent in typical courtroom processes. I was wondering if you could speak to that, because I know the minister has said that it's not a matter of whether there will be an inquiry, but how. Can you speak to how important it is for it to be trauma-informed?

**Judge Rosemarie Aquilina:** Yes. If you are not trauma-informed, you are not going to have people speak their truth. They need to feel that there is a safe place to speak.

For me, I have the gavel. I try to be the good witch and not the bad witch. I try to be the healer and the hammer. I think what you have to be is the healer, to listen and find out, like a doctor, what's going on with the patient. You'll then have to make the tough decisions.

Without listening and without open-ended questions like "What would you like me to know?" or "How can I help?" or "What do you think should happen?"—make them part of the equation—you will never get at the truth, and isn't that what we're here for? We're here for the truth of the matter and to once and for all clean up sports.

**Mr. Chris Bittle:** Absolutely. I think we're all in agreement on that.

Would you agree with me, though, that it is going to take a very specific individual to lead this inquiry and it shouldn't be a matter of taking existing judicial inquiry rules and putting this on safety in sport, because it's a different process?

**Judge Rosemarie Aquilina:** Right. I can tell you that, with my approach, even attorneys will ask to approach the bench and they'll say, "Your Honour, how did you get this information out of my client when I've met with them half a dozen times and I never learned that?" I say it's the open-ended questions. You have to listen. You have to believe. You have to tell them you are willing, no matter what they say, to hear their truth. It's not your story. I create that and I can tell you that over 20 years I have heard things that astonish people, that I got that information. I hope that's what you do.

I did that in my practice. I did it in my 20 years in the military. I've done it on the bench. These open-ended questions, listening, eye-to-eye contact, paying attention and giving them uplifting.... I tell them, "Thank you for being here. Your story is so important. You matter. I know it's difficult to come forward, but I want you to know you are the superhero. You speak for so many who cannot have a voice and who do not have a voice. Thank you for being their voice."

They come to me and they write me letters across the world saying, "I heard what you said; I'm not committing suicide today. I heard what they said; they spoke my words. I'm going to get help."

That's what you need in sport. Listen, be the voice, be the healer and be the hammer.

● (1210)

**Mr. Chris Bittle:** I'd like to go back to some earlier comments to clarify.

On the one hand, you were discussing the statute of limitations in terms of victims and survivors being able to tell their stories. At the same time—not through you, but perhaps from some of the questions—there's a veiled criticism of the London Police Service's investigation into the Hockey Canada incident. To clarify, I think the reopened investigation has been going on for less than a year.

Given the difficulty of cases involving sexual assault, should there be a time limit on police investigations? Doesn't that fit into saying that there should be a statute of limitations? It doesn't exist in cases of what we would call indictable offences—you would call them felonies.

**Judge Rosemarie Aquilina:** You're talking about two different things. The statute of limitations is for a victim who's traumatized and who may not even remember they were assaulted because the body does not let them. The body says, "I'm going to save my life first." They may not remember or be able to come forward with their trauma.

When we're talking about an investigation, there has to be some finality or some closure. There has to be something, so if they're stopping a hockey team from performing or they're investigating a person, they're not stopping their lives completely. They're really apples and oranges.

If the time limit is, for example, five years, why not put more officers on it? Why not put a bigger investigative team? If they find nothing, maybe there's nothing to find and they can close it. If there's more evidence, they can reopen it. Why are you pulling funding, stopping hockey and doing all these things to the whole team? If there's a bad egg who's being investigated, pull them out, pay them or do what needs to be done there and continue the team with a different coach.

There are lots of options. I don't know why those options have not been explored. Why would you do that to a whole team that hasn't been involved in this? I think the options there have not been fully explored as to how they can go forward with an investigation in a timely manner and still have the sport continue.

**Mr. Chris Bittle:** Thank you so much.

**The Chair:** Thank you very much.

I think we've come to the end of the session. I want to thank Judge Aquilina for her testimony and her very inspiring words.

I would like to suspend the meeting so we can go in camera and speak to the analysts about drafting instructions for the report.

Thank you again.

*[Proceedings continue in camera]*

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