



UNIVERSITY OF TORONTO  
FACULTY OF PHYSICAL EDUCATION & HEALTH



CENTRE FOR SPORT POLICY STUDIES

## CENTRE FOR SPORT POLICY STUDIES POSITION PAPER

# REVISING CANADA'S POLICIES ON HARASSMENT AND ABUSE IN SPORT: A POSITION PAPER AND RECOMMENDATIONS

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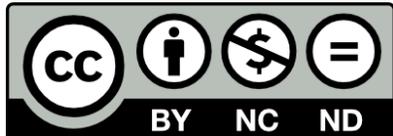
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## Foreword

We have been working on this *Position Paper* since the publication of our evaluation of current harassment and abuse policies in Canadian sport (Donnelly, Kerr, et al., 2016), taking into account current research and practices with regard to harassment and abuse from national and international sources, and using our critical findings as a starting point to recommend revisions to the current policies in place in Canada.

Admittedly, our work has proceeded at an ‘academic’ pace, but current events have caught up with us. The *Me Too* and *Time’s Up* movements have become widespread. In Canada, three different expert panels (Ontario, Federal/ Provincial/Territorial, and Federal) are currently examining issues regarding girls’ and women’s participation in sport, including gender-based violence. In the United States, the USA Gymnastics/ Michigan State cases, and the emerging USA Swimming cases of sexual abuse have received a great deal of media attention. And while the sexual abuse cases involving Gymnastics Canada and Alpine Canada have received less media attention, the latter has provoked a policy response.

Federal Sport Minister Kirsty Duncan announced on June 19, 2018, that: “national sporting organizations will lose their federal funding if they don’t immediately disclose to her office any allegations of abuse or harassment that occur within their ranks;” and “Effective immediately, funding agreements also require sporting associations to establish an independent third party to investigate all allegations of abuse and have mandatory prevention training in place as soon as possible and no later than April 1, 2020” (Rabson, 2018). One day earlier, Tricia Smith, President of the Canadian Olympic Committee [appointed following her predecessor’s dismissal for harassment of staff at the COC] published an editorial in the *Toronto Star* outlining steps that had been taken to prevent harassment at the COC, and noting that: “The COC supports the initiative of the Coaching Association of Canada, the Sport Dispute Resolution Centre of Canada, B2ten, the Canadian Centre for Child Protection, and the Sheldon Kennedy Respect

Group to establish standards and practices guidelines for an abuse free environment in sport for adoption by the federal and provincial governments and, critically, by all sports federations” (Smith, 2018).

Readers of this *Position Paper* and of the Donnelly, Kerr et al. (2016) research summarized here will note that the two measures announced by Minister Duncan [loss of funding<sup>1</sup>, and independent third party investigation] have essentially been in place as a policy requirement for Sport Canada funded sports since the late 1990s. As our research noted, these aspects of the policy have not been enforced.

We hope that this *Position Paper* represents a timely contribution to an active period of policy development, and that Sport Canada and the SDRCC-led group of organizations will find our recommendations, grounded in research, policy development initiatives in others sectors, and some 20 years of experience with harassment and abuse policy and investigation of cases in Canada, useful to their deliberations.

1. To our knowledge, the threat of withdrawal of funding has been in place as a sanction in Canada (and in England) for some 20 years and has never been enforced. It is a form of collective penalty that, if enforced, would serve to penalize both the guilty and the innocent: it would punish coaches and athletes who were never aware of the abuse, or who were – for reasons outlined in this *Position Paper* – too intimidated to step forward. Ideally, a policy that outlines clear steps for the safe reporting of abuse, due process in handling cases of abuse, and was independent of the individual sport organizations would be a more effective way to prevent abusive behaviour in Canadian sport.

## Executive Summary

By the late 1990s Canada had produced one of the most progressive examples in the world of a policy to deal with harassment and abuse in sport. Sport Canada's funding regulations required all national sport organizations (NSOs) in receipt of federal funding to have a policy: (a) to deal appropriately with incidents of harassment and abuse; (b) to have designated arm's length trained Harassment Officers (one male and one female) with whom athletes and/or their parents and others could raise queries, and to whom they could address complaints without fear of reprisal from coaches or other sport officials; and (c) to report annually their compliance with the policy in order to receive that funding.

Some 20 years later our research (Donnelly, Kerr et al., 2016) indicates that many NSOs have encountered difficulties in implementing the policy and that, in many cases, the policy is no longer being enforced. Recent revelations about abuse in, for example, Alpine Canada and Gymnastics Canada reinforces our research findings.

Building on these findings from our evaluation of current harassment and abuse policies in Canadian sport, we have taken into account from the last 20 years: the growing body of national and international research on harassment and abuse; the major civil and criminal cases concerning harassment and abuse that have been widely publicized; and the changes in policy and practices that have occurred in sport in other countries, and in sectors other than sport in Canada and internationally. We have added our own research and practice from over 20 years of experience with harassment and abuse policy, and with the investigation of cases in Canada.

Our aim has been to develop a set of recommendations, based this knowledge and experience, for distribution to the relevant policy communities at this time of active policy development in the area of harassment and abuse. We took the following considerations into account: to develop policy guidelines to enable the **safe** and **accessible** reporting of inappropriate or illegal behaviour in sport without those making

a report being intimidated, stigmatized or victimized for violating a *code* of silence; to develop policy guidelines that did not impose a burden, in terms of time or cost, to an already overburdened sport community; to develop policy guidelines that would be communicated widely to all in the sport community who were expected to follow the policy, guidelines that outlined clear steps to be taken, that were transparent, and that emphasized the principles of due process; and to develop policy guidelines that placed the greatest emphasis on the prevention of harassment and abuse.

Our recommendations are as follows:

1. Communicate and emphasize to everyone in sport communities that prevention of harassment and abuse is everyone's responsibility.
2. Establish and communicate clear and consistent policies and procedures.
3. Introduce and enforce the legal and moral *duty to report* for all sport organizations.
4. Develop an F/P/T sponsored system to cover harassment and abuse policy for all levels of sport in Canada (an example is included in Appendix A).
5. Make arm's length investigation and adjudication mandatory.
6. Establish pools of trained *Sport Welfare, Investigating and Hearings Officers* to implement the policies.
7. Shift the focus to prevention of harassment and abuse.

The fact that harassing and abusive behaviours are occurring in Canadian sport, and the fact that the current policies are unable to prevent them, makes attention to the data and recommendations outlined here a matter of urgency. Whenever we delay in taking action to create more effective policies and procedures regarding the maltreatment of young athletes and others in sport organizations, we should reflect on those who may be current or future victims of maltreatment, and how long they will be troubled as a result of our delays.

## Resumé

À la fin des années 1990, le Canada avait produit l'un des exemples les plus progressistes au monde de politique contre le harcèlement et l'abus dans le sport. Les règlements de financement de Sport Canada exigeaient que toutes organisations sportives nationales bénéficiant d'un financement fédéral aient une politique: (a) pour traiter adéquatement les cas de harcèlement et d'abus; (b) pour nommer des intervenants spécialisés en matière de harcèlement sexuel (un homme et une femme) auprès desquels les athlètes, leurs parents et autres puissent poser des questions et près desquels ils pourraient soumettre leurs plaintes sans crainte de représailles des entraîneurs ou autres officiels sportifs; et (c) faire rapport annuellement de leur conformité à la politique afin de recevoir ce financement.

Une vingtaine d'années plus tard, notre recherche (Donnelly, Kerr et al., 2016) indique que Sport Canada a modifié les exigences de la politique, que plusieurs organisations sportives nationales ont trouvé difficile de la mettre en œuvre et que, dans plusieurs cas, elle n'est plus mise en vigueur. Certaines révélations d'abus, en outre, chez Canada Alpin et Gymnastique Canada, confirment nos résultats.

En nous basant sur ces constatations tirées de notre évaluation des politiques actuelles sur le harcèlement et l'abus dans le sport canadien, nous avons retenu des 20 dernières années: a) le nombre croissant d'études nationales et internationales sur le harcèlement et l'abus; b) les cas civils et pénaux concernant le harcèlement et l'abus qui ont été largement médiatisés; et c) les changements de politiques et de pratiques qui ont eu lieu dans le sport et dans des secteurs autres que le sport au Canada et à l'étranger. Nous nous sommes aussi inspirés de notre expérience de plus de 20 ans de recherche et d'action en matière de politique sur le harcèlement et l'abus, ainsi que de nos enquêtes de cas au Canada à titre d'intervenants en matière d'harcèlement sexuel.

Notre objectif a été de développer un ensemble de recommandations, basées sur ces connaissances et expériences, pour les distribuer aux groupes concernés étant donné le foisonnement actuel matière de politiques pour contrer le harcèlement et l'abus. Nous avons pris en compte les considérations suivantes: (a) élaborer des directives pour permettre un signalement sécuritaire et accessible des comportements inappropriés ou illégaux dans le sport sans que ceux qui font état se sentent intimidés, stigmatisés ou victimisés pour avoir enfreint un *code* de silence; (b) élaborer des directives qui n'imposent pas un fardeau, ni en temps ou en coûts, à une communauté sportive déjà surchargée; (c) élaborer des directives qui puissent être communiquées à tous les membres de la communauté sportive qui devraient suivre la politique fédérale en matière de harcèlement et d'abus, qui définissent clairement les étapes à suivre, qui sont transparentes et qui se basent sur une procédure établie; et d) élaborer des directives politiques mettant l'accent sur la prévention du harcèlement et des abus.

Nos recommandations sont les suivantes:

1. Communiquer et souligner à tous les membres de la communauté sportive que la prévention du harcèlement et de l'abus est la responsabilité de tous.
2. Établir et communiquer des politiques et des procédures claires et cohérentes.
3. Introduire et mettre en vigueur le *devoir* légal et moral de dénoncer tout cas de harcèlement et d'abus dans les organisations sportives.
4. Élaborer un système parrainé par les gouvernements fédéral, provinciaux et territoriaux F/P/T pour traiter de politiques en matière de harcèlement et d'abus à tous les niveaux du sport au Canada (un exemple se trouve dans l'annexe A).
5. Rendre obligatoires les enquêtes indépendantes et l'arbitrage.
6. Établir un groupe d'intervenants qualifiés à titre d'enquêteur et d'agent d'audience en matière de bien-être des athlètes pour mettre en œuvre ces politiques.
7. Faire un virage pour mettre l'accent sur la prévention du harcèlement et de l'abus.

Que des comportements de harcèlement et d'abus se produisent dans le sport canadien et que nos politiques actuelles ne soient pas en mesure de les prévenir, révèlent l'urgence des données et des recommandations ci-dessus. Lorsque nous tardons à prendre action pour élaborer des politiques et des procédures plus efficaces concernant les mauvais traitements infligés aux jeunes athlètes et à d'autres dans les organisations sportives, nous devrions penser victimes actuelles et futures de maltraitance, et à la durée des peines dont ils souffriront à cause de nos retards.

*There can be no keener revelation of a society's soul than the way in which it treats its children.*

Nelson Mandela (1995)

*If it takes a village to raise a child, it takes a village to abuse one.*

Mitchell Garabedian (2015)<sup>1</sup>

*All we needed was one adult to have the integrity to stand between us and Larry Nassar. If just one adult had listened, believed, and acted, the people standing before you on this stage would never have met him.*

Aly Raisman (2018)

## **Introduction**

By the late 1990s Canada had produced one of the most progressive examples in the world of a policy to deal with harassment and abuse in sport. In September, 1996, Sport Canada, in association with the Canadian Association for the Advancement of Women in Sport (CAAWS), developed a set of guidelines linking the receipt of federal funding by Canadian sport organizations under the Sport Funding and Accountability Framework, (SFAF) to having harassment policies and officers in place (CAAWS, 1994; Christie, 1996). The first workshop for training harassment officers – arm's length individuals to whom athletes and others could report concerns – was held in November, 1996.

The timing proved to be significant since three events immediately showed the range and complexity of the issue of harassment and abuse in sport. *First*, revelations about the sexual abuse of NFL player Sheldon Kennedy by his former Major Junior hockey coach, Graham James, reached the media at the beginning of January, 1997. *Second*, the arrest in February of former Maple Leaf Gardens (Toronto) equipment manager, Gordon Stuckless, preceded the announcement that a 'pedophile ring' had been operating at the Gardens between the mid-1970s and the early 1980s. *Third*, in May a male swimming coach at Simon Fraser University was fired after being charged with the sexual harassment of a female student [he was reinstated after further evidence

indicated that the coach had been subject to harassment by the student]. The first two involved criminal proceedings, which go beyond the level of sport policy. However, the existence of effective harassment and abuse policies in Major Junior Hockey (James) or in National Hockey League arenas in Canada (Stuckless) could have resulted in either prevention or an early end to the abuse of children and youth.

By 1997, 40 national sport organizations (NSOs) had joined what was then called the Harassment and Abuse in Sport Collective. Sport Canada's SFAF funding regulations required all NSOs in receipt of government funding to have a policy: (a) to deal appropriately with incidents of harassment and abuse; (b) to have designated arm's length trained Harassment Officers (one male and one female) with whom athletes and/or their parents and others could raise queries, and to whom they could address complaints without fear of reprisal from coaches or other sport officials; and (c) to report annually their compliance with the policy in order to receive that funding (Christie, 1997).<sup>2</sup> The federal initiatives began to spread to provincial ministries responsible for sport and to Provincial Sport Organizations (PSOs), and to be considered internationally. However, by the 2010s there were signs that the policies were proving to be less effective than they might be. They had not been up-dated in light of new information and research, or changes to harassment policies in sectors other than sport. Ongoing and current cases of sexual harassment and abuse in various sectors, including sport, raised questions about the extent to which sport organizations were adhering to the SFAF's funding regulations and whether sufficient attention was being devoted to prevention.

This position paper first outlines the results of a recent study of harassment and abuse policies in sport, then summarizes the current position with regard to the status of those policies and concludes with a set of recommendations for reforming the current policies. The epigrams at the start of this report, and many of the original (and current) policies that were developed to deal with harassment and abuse in sport tended to assume that young athletes and women athletes were the primary targets of

harassment and abuse and policies were framed to capture that assumption. The three cases from 1997 outlined above, and other more recent cases such as the harassment of staff at the Canadian Olympic Committee, and the ongoing bullying and abuse of referees and officials in sport suggest the need for a broader policy framework to regulate against the harassment, abuse and any other form of maltreatment of any person in sports organizations in Canada.

## **A Study of Canadian *Harassment and Abuse in Sport* Policies**

We conducted a research study in order to determine in a more systematic way the current status of harassment and abuse policies in national and provincial (Ontario) sport organizations (Donnelly, Kerr, et al., 2016). Our review of policies began with several questions. It was evident that ‘police checks’ of coaches and others who work with children and youth in sport – introduced by youth sport organizations as a result of the 1990s cases noted above – have been a necessary (and expensive) but not a sufficient response to harassment and abuse in sport.<sup>3</sup> Our study, and this *subsequent Position Paper* addresses the following guiding questions:

- 1) Are other aspects of the harassment and abuse policies introduced in the 1990s still working? At the Centre for Sport Policy Studies we are not aware of any cases where federal or provincial funding has been withdrawn from a sport organization because of non-compliance with this policy, so we must assume that all organizations are reporting annually that they are in compliance [see Note 2].
- 2) If the policy is working, can it be enhanced based on new research, policies developed in other sectors, and the accumulated experiences from harassment cases in sport during the last 20 years?

3) If the policy is not working, how might it best be revised such that it serves to protect athletes and others in sport organizations while not constituting a burden (in terms of cost or workload) for those organizations?

4) Are we able to develop a policy that focuses on prevention of harassment and abuse, together with provisions for dealing appropriately with incidents, rather than the reported 'crisis management' approach to implementing policy that then (2014) appeared to exist?

## **Methods**

Donnelly, Kerr, et al. (2016) randomly selected 42 NSOs and their Ontario PSO counterparts for analysis to determine the extent to which they were in compliance with the regulations established under the SFAF in 1996. Specifically, we questioned whether: (a) if a protection/harassment policy was publicly accessible on the organization's website; and (b) if the policy included the name(s) and contact information of protection/harassment officer(s) were provided. Where available, all relevant documents and Harassment Officer information were recorded. Where it was not available, the organization was contacted to request access to this information. All of the relevant documents found online or obtained were analyzed as follows: (a) the policy documents were analyzed and summarized in terms of each of the subsections included in the document and compared to an ideal template that included all necessary items<sup>4</sup> (see Tables 1-3); (b) note was made of all attached documents, such as incident report forms; and (c) name(s) and contact information for protection/ harassment officer(s) were recorded.

## Findings<sup>5</sup>

Policies were discovered under a variety of headings on the organizations' web sites and were sometimes difficult to find. Because policies are created and implemented at the discretion of each individual organization, policy titles varied among organizations (e.g., "Harassment Policy", "Code of Conduct", "Code of Ethics", "Operating Manual", etc.) and, where available, they were sometimes situated at various locations on organizations' web sites and not always easily accessible (e.g., part of the policy may be addressed in a *code of conduct*, while the remainder may be in a *code of ethics*).

Of the 42 provincial and national sport organizations, policies were available for 30/42 (71%) of the PSOs and 36/42 (86%) of the NSOs. [We chose not to include in our calculations the organizations where no policy was made available to us; however, if we had assumed that policies not available to us were also not available to members of the organization, the data presented below would have looked even more negative.] The following analyses are based on these 30 PSOs and 36 NSOs. From the organizations where data were available, 100% of PSOs and 100% of NSOs identified either harassment or abuse in their policies while 93% and 100% respectively provided definitions of one or both of these terms. Furthermore, sexual abuse/harassment was identified and defined more frequently than the other forms of maltreatment; over 70% of all of the policies identified, defined and provided examples of sexual abuse/harassment. Physical and emotional harassment/abuse were not addressed as frequently in the policies. Only 20% of PSO policies and 14% of NSO policies identified neglect; 13% and 8% respectively gave examples. Some 30% of PSOs and 33% of NSOs included bullying and/or hazing behaviours in their policies, but only 10% (PSOs) and 6% (NSOs) gave definitions and examples. Only 33% of PSOs and 17% of NSOs addressed the inappropriateness of sexual relations between a coach and an of-age athlete (Table 1).

Table 1. Behaviours Defined and Addressed in Harassment/Abuse Policies

	Number of PSOs (n=30/42)	Percentage of PSOs	Number of NSOs (n=36/42)	Percentage of NSOs
<b>Identified</b>				
Harassment/Abuse	30	100%	36	100%
Sexual Harassment/Abuse	25	83.3%	34	94.4%
Physical Harassment/Abuse	6	20.0%	6	16.7%
Emotional Harassment/Abuse	7	23.3%	6	16.7%
Neglect	6	20.0%	5	13.9%
Bullying/Hazing	9	30.0%	12	33.3%
<b>Defined</b>				
Harassment/Abuse	28	93.3%	36	100%
Sexual Harassment/Abuse	22	73.3%	31	86.1%
Physical Harassment/Abuse	5	16.7%	4	11.1%
Emotional Harassment/Abuse	4	13.3%	4	11.1%
Neglect	5	16.7%	3	8.3%
Bullying/Hazing	3	10.0%	2	5.6%
<b>Provided Examples</b>				
Sexual Harassment/Abuse	22	73.3%	34	94.4%
Physical Harassment/Abuse	23	76.7%	30	83.3%
Emotional Harassment/Abuse	25	83.3%	30	83.3%
Neglect	4	13.3%	3	8.3%

Bullying/Hazing	3	10.0%	2	5.6%
Coach-Athlete Sexual Relations				
Addresses Sexual Relations	10	33.3%	6	16.7%

Less than half of the harassment policies examined described the roles of the sport organization (43% PSOs; 47% NSOs) and less than 40% (27% PSOs; 39% NSOs) outlined the roles of harassment officers in the complaint procedures. While 63% of the PSOs and 75% of the NSOs addressed confidentiality, far fewer discussed the rights of each party in the complaint process. Particularly important is the very low percentage (7% of PSOs and 8% of NSOs) of policies that addressed the rights of the respondent in the complaint procedures. Just over 60% of the policies (63% PSOs; 68% NSOs) outlined the complaint procedures in a step-by-step manner (Table 2).

Table 2. Analysis of Complaint Procedures Contained in Harassment/Abuse Policies

	Number of PSOs (n=30/42)	Percentage of PSOs	Number of NSOs (n=36/42)	Percentage of NSOs
<b>Roles and Responsibilities</b>				
Outlines Role of Sport Organization	13	43.3%	17	47.2%
Outlines Role of Harassment Officer	8	26.7%	14	38.9%
<b>Complaint Procedures</b>				
Addresses confidentiality	19	63.3%	27	75.0%
Discusses complainant's rights	5	16.7%	12	33.3%
Discusses respondent's rights	2	6.7%	3	8.3%
Provides step-by-step explanation of process	19	63.3%	24	66.7%
Identifies potential outcomes of investigation	16	53.3%	23	63.9%
Discusses appeal process	17	56.7%	26	72.2%

Only 27% of PSO and 39% of NSO policies mentioned a harassment officer (Table 3). Far fewer stated that these positions included one male and one female and that the harassment officers were trained, as recommended in the original CAAWS (1994) document. Of particular note is that none of the PSO and NSO policies identified the harassment officer as being at 'arm's-length' to the sport organization. The data in Table 3 are particularly important as they highlight the gap between policy and practice. For example, although 27% (PSO) and 39% (NSO) of the policies mentioned a harassment officer, only 10% of the PSOs and 14% of the NSOs actually identified a harassment officer. In a number of cases, the CEO or another staff member of the sport organization was identified as a recipient of harassment/abuse concerns, contrary to the

policy directives to have neutral, third party individuals receive concerns. Similar differences between policy and practice also existed with respect to gender balance.

Table 3. Information Provided Regarding Harassment Officers' Responsibilities

	Number of PSOs (n=30/42)	Percentage of PSOs	Number of NSOs (n=36/42)	Percentage of NSOs
Policy Document				
Policy includes Harassment Officers	8	26.7%	14	38.9%
Policy identifies one male and one female officer	5	16.7%	10	27.8%
Policy states that Harassment Officers will be trained	4	13.3%	8	22.2%
Policy states that Harassment Officers are "arm's-length" to sport organization	0	0%	0	0%
Operationalization of Policy				
Organization has Harassment Officers	3	10.0%	5	13.9%
Organization Provides one male and one female officer	1	3.3%	3	8.3%
Organization provides contact information for officers	1	3.3%	3	8.3%
Organizations specify that officers are "arm's-length" to organization	0	0%	0	0%

## The current situation

A number of features of organized sport tend to create a potential for the maltreatment<sup>6</sup> of athletes [there is less research on the maltreatment of officials, coaches and other staff in sport organizations, but some of these features may also be involved in the larger climate of maltreatment]:

*First*, the **culture** of organized sport: sport tends to see itself as an essential force for good which can only have positive outcomes for the development of children, youth, and young adults in terms of physical and mental health, character, and so on (see Coakley, 2015). That culture can sometimes lead to ‘willful blindness’ – a refusal to see or admit to problems. And it can lead to a *code* of silence about inappropriate or illegal behaviour (“what happens in the locker room....”). Another aspect of the culture is its authoritarian nature – young athletes quickly learn unquestioning obedience if they want to progress in a sport. And, as US women gymnasts have recently reminded us, together these aspects of the culture of organized sport create an ideal context for abuse.

*Second*, sport organizations at all levels have consistently asserted their **autonomy**, a right of self-governance and exemption from oversight by governments and judiciaries. Such control is evident, for example, in the fact that our research did not find one sport organization that retains a completely independent, arm’s length Harassment Officer. Instead, control is maintained by having Officers as employees of the organization, or by potentially controlling the information received by an Officer.

*Third*, this autonomy has the potential to place sport organizations in a situation of **conflict of interest**. They are supposed to monitor and control incidents of inappropriate and illegal behaviour in their own organizations; organizations that are often working with volunteer labour, and with limited budgets (from membership fees, government support, and corporate sponsorships) that may be contingent on achieving continued success. Negative publicity associated with, for example, a case of sexual harassment, could lead to loss of membership, loss of volunteers, loss of key personnel

who are crucial to the competitive success (and consequent financial stability) of the organization. As a consequence, and as has been evident in many sport organizations where incidents of harassment/abuse have eventually been exposed, there is frequently evidence that at least some members of the organization were aware of those incidents but chose to ignore them, or to more actively cover them up.

*Fourth*, cases such as Graham James (Canada), Larry Nassar (USA), and Barry Bennell (UK) that involve so many victims across so many years could only occur in the context of others knowing of or at least suspecting the abusive conduct. The existence of complicit bystanders raises questions about whether stakeholders in sport are aware of their legal **duty to report** child abuse or suspicions of child abuse, and how the barriers to reporting may be alleviated.

As a consequence:

1. The sport organization policies in Canada that were originally developed in the 1990s appear to be no longer working for many sport organizations in the way they were originally intended. Recent and ongoing cases of abuse in Canada in, for example, Alpine skiing, gymnastics, the Canadian Olympic Committee and the continuing case of Graham James in hockey (e.g., Gilhooly, 2018), are an important indication of a policy in need of renewal. Some organizations have tweaked the original policy in response to specific circumstances (e.g., the Responsible Coaching Movement's 'rule of 2' that no coach may be alone with an athlete, which may help to prevent sexual abuse but is likely to have no effect on the prevention of many emotionally and physically abusive behaviours that are normalized in sport), but a larger policy overhaul is warranted.

2. Some NSOs and PSOs appear to have found that establishing and maintaining an accessible policy and designating arm's length Harassment Officers is a burden in an already over-burdened sport organization; and it is possible that some may find themselves in the untenable position of misreporting to Sport Canada that they are in compliance with the policy in order to continue to receive funding.

3. It appears that some athletes and others in sports organizations have found that they have no clear avenue of recourse if they are experiencing harassment or abuse (maltreatment), other than: reporting to their parents (unlikely, based on various reports); reporting to a sport organization that may have a vested interest in failing to apply appropriate procedures in the face of such complaints, or even 'blaming the messenger' and potentially ending, for example, an athlete's opportunity to participate; reporting to the police (also unlikely); continuing to suffer the harassment or abuse as a 'cost' of participating; or leaving the sport. Recently, major sexual abuse cases in USA Swimming, USA Gymnastics, Gymnastics Canada, Alpine Canada and British soccer are an indication that, even where sport organizations were aware of athletes' complaints, nothing was done.

4. Some sport organizations feel that they are under pressure to maintain a costly policy and designated Harassment Officers when they believe that there is no reason for such because they are not aware of any cases in their sport. Although this may certainly be the case, the view fails to take into account that there may be no reports precisely because there are no means available for athletes to safely report maltreatment concerns in their sport.

5. Representatives of sport organizations whom we have interviewed are also concerned that current policies focus almost exclusively on addressing complaints and do not deal effectively with prevention.

## **Summary**

The key issue that emerges from our research is: how to develop a policy to enable the **safe** and **accessible** reporting of inappropriate or illegal behaviour in a sport without those making a report being stigmatized for violating a *code* of silence? An environment characterized by safe reporting is one in which concerns are heard and respected, where those reporting the concerns are not themselves victimized (by a coach or other

officials in the sport; or by other parents who, for various reasons, do not wish to see complaints brought against (an)other responsible adult(s) in the sport); and where clear procedures are in place that respect due process and attempt to resolve the complaint in an appropriate and timely manner, one that respects and forms a parallel process to relevant legislation.

To ensure that accessible reporting, policies and procedures are made available to all stakeholders in sport, including athletes, parents, coaches, sport administrators, officials and volunteers, stakeholders would know where and how to lodge concerns, and barriers to reporting would be minimized. Ideally, if all responsible adults in sport organizations are aware of their responsibility for the best interests and safety of children, and their *duty to report*, and if clear policy and procedures are in place regarding appropriate behaviour by and toward all persons involved in sport organizations, the situation becomes much more transparent. Coaches and other officials are better protected from the possibility of false accusations, and young athletes are not victimized for reporting inappropriate or illegal behaviour by or maltreatment at the hands of other athletes or responsible adults.

The consequences of being unprepared, of not having effective policies and procedures in place, is that a concern can easily become a crisis, blowing up in the face of a sport organization. Serious cases of sexual abuse may be unreported, or confined within an organization, but they do not go away and may come back years later to haunt an organization, as was the case for the Boy Scouts of Canada, the Catholic Church, and as is the case in a number of sport organizations. Crisis management is not an effective way to deal with such issues. Effective policies and procedures can help to prevent such incidents and help a sport organization to get out in front of an issue if prevention has not worked. And it can prevent the continuing abuse of children and youth, something that has occurred in far too many cases as a result of failures of policy in sport organizations.

## Recommendations

The following recommendations are intended as discussion points. They are also intended to provide a means to address the issues as outlined above in a fair and safe manner while not constituting an undue burden (economic, or time demands) for provincial or national sport organizations. To that end, we recommend a widespread declaration of responsibility, the establishment of *clear policies and procedures* to ensure the safeguarding of children and adults in sport organizations, and to ensure that sports programmes for children and youth, and for adults, are organized in the best interest of all participants; enforcement of the *duty to report*; arm's length investigation and adjudication; and a common and pan-Canadian system under one policy (with minor and sport specific variations) for all levels of sport. We also recommend that there be an increased focus on *prevention and education*, and an attempt to *disrupt* the more harmful aspects of the *culture of sport*.

### **1. "Everyone's responsibility:" A Clear Assertion that Prevention is the Responsibility of All Members of the Organizations**

A recent *Toronto Star* editorial stated: "Everyone in the sport system has a role to play in making sure that's [protecting others] the case" (*Star* Editorial Board, 2018). The principle that safeguarding in sport organizations was "everyone's responsibility" emerged in the English sport system with the founding of the Child Protection in Sport Unit (CPSU) in 2001. However, it seems that the existence of policies, and structures such as the CPSU and dedicated child protection officers in sport organizations may potentially enable responsibility to be transferred to others.

For example, a government body responsible for sport (e.g., Sport Canada, Sport England), by establishing an agency such as the CPSU, may then assume that child protection is being dealt with. But the mandate of the CPSU is to advise and build the

capacity of sport organizations funded by Sport England to deal with child protection in their own organizations. If the only monitoring is an annual checklist, where organizations note that they have a policy and an officer dedicated to safeguarding (as is the case in England and in Canada), and that they are abiding by other guidelines and standards (e.g., CPSU, 2013), it is possible to determine that designated aspects of the policy are being followed. But there are no means to determine if this checklist implementation has any impact on, for example, child welfare, coaches' knowledge, club or league practices, and so on. In other words, it is quite difficult to determine if safeguarding is occurring, and if the principle of safeguarding as 'everyone's responsibility' is in place. Similarly, the appointment of safeguarding officers/harassment officers could lead others in an organization to assume that the officer(s) is/are solely responsible for prevention, thereby undermining the principle of 'everyone's responsibility' and the goal of embedding safeguarding within sport (e.g., Hartill and Lang, 2014).

If an autonomous (sport-based) system of safeguarding all members from maltreatment is to be effective, all members of sport organizations must take responsibility for ensuring the safeguarding of others. This is likely to need an ongoing system of education and monitoring backed up by sound policies that ensure safe reporting.

## **2. Establish and Communicate Clear and Consistent Policies and Procedures**

Appropriate policies and procedures to deal with and prevent harassment and abuse in sport are a matter of sport governance, and sport governance is currently a matter of considerable concern for sport organizations in general. The Sport Dispute Resolution Centre of Canada, the federally constituted agency established in 2003 (the *Physical Activity and Sport Act*) to provide an alternative legal dispute resolution mechanism that retained the autonomy of sport, has been addressing the issue of governance for sport organizations in Canada ([www.crdsc-sdrcc.ca](http://www.crdsc-sdrcc.ca)). Their advice, summarized in the *Guide to*

*Administrative Fair Play* ([www.crdsc-sdrcc.ca/eng/governance](http://www.crdsc-sdrcc.ca/eng/governance)) is invaluable for the development of fair and transparent policies and procedures.

SDRCC's general advice regarding *discipline* is entirely relevant to harassment and abuse concerns in sport organizations:

Sport organizations may have to make decisions to sanction members for unacceptable behaviors, whether they be athletes, coaches, officials, team managers, volunteers, etc....

Sport organization members should know what behaviors are acceptable or not through the publication of codes of ethics, codes of conduct or other such rules. These rules must be communicated widely to those expected to follow them. Unfortunately, when such codes and rules exist, it is often the case that they sit on a shelf **or are hidden somewhere on the sport organization's website**. It is important that the individuals to whom these rules apply are well aware of them, and they understand especially the consequences of not respecting them. In cases where behavior standard breaches are alleged, disputes may arise when the disciplinary procedure is not followed correctly, as outlined in the relevant policies. Sport organizations can also see their decisions challenged or overturned if their disciplinary processes are not respectful of the principles of natural justice.

When sanctions are imposed, they should be justifiable, coherent with the seriousness of the violation, and consistent with previous cases of similar nature. Ideally, the rules governing behavior in an NSO should provide guidelines for the determination of sanctions to ensure consistency (<http://www.crdsc-sdrcc.ca/eng/discipline> -- emphasis added to highlight one of the findings in Donnelly, Kerr, et al., 2016).

It appears from our research that several sport organizations that have harassment and abuse policies are still basing their policies and procedures on the model policy developed in 1994 (CAAWS, 1994). In many cases, the good advice outlined in that model has morphed into something that is more convenient for the sport organization but may have devolved some way from due process.

**It is not necessary for each sport organization to have its own policy.** The guidelines above, and templates that are already available, suggest that it is not necessary for each

NSO and PSO to develop a policy. The same essential features of a policy apply to all sport organizations, and the only areas of difference may relate to sport-specific concerns (such as 'spotting' in gymnastics). The policy should be readily accessible, and all who are covered by the policy need to be aware of it, and their rights and responsibilities with regard to the various aspects of maltreatment covered by the policy.

**While the policy concerns all persons in a sport organization, it should distinguish, where appropriate, between children and adults.** Provincial legislation regarding the age of children (usually those under the age of 18 years), the legal age for having sexual relations (usually a minimum age, and a sliding scale for age differences and positions of power between participants), the different legal interpretation of the *duty of care* as it relates to children and adults, and the fact that the *duty to report* maltreatment or suspected maltreatment is a legal obligation where children are concerned [see Recommendation 3], all need to be taken into consideration when developing a policy.

**Ideally, complaints regarding harassment and/or abuse (maltreatment) by a member of a sport organization should be subject to a three-step process:**

*First*, a complainant (the person making the complaint – most often athletes, but any person within a sport organization) must have a safe and secure person to whom to *disclose* a complaint.<sup>7</sup> This person must be trained, and at arm's length to the sport organization. Her/his position might be identified as a *Sport Welfare Officer*, and their work is to: hear a complaint; provide any necessary counselling and support to a distressed complainant or refer the complainant to an appropriate professional (psychological, clinical and/or legal); determine with the complainant whether the complaint constitutes maltreatment; if the complainant is 16 years of age or older, determine whether or not he or she wishes to submit a formal report; outline the steps involved in going forward to report the complaint; and answer any questions about the process and the complainant's options.

*Second*, if the complainant decides to go forward and *report* the complaint it must be investigated by a trained, arm's length *Investigating Officer*, who interviews the complainant and the respondent (the person who is the subject of the reported complaint), and any other witnesses to the behaviour [see Note 7]. The *Investigating Officer* also decides whether the case should be adjudicated within the sport community, or be referred to external legal agencies such as the police or Children's Aid Societies.

*Third*, based upon her/his findings, the *Investigating Officer* may recommend dismissal of the case, informal mediation, or a referral to an independent (again arm's length) disciplinary committee, tribunal, or independent adjudicator (who may be referred to as *Hearings Officers*). In the latter case, the committee would hear submissions from the *Investigating Officer*, the person making the complaint and/or his/her representatives and witnesses, and the respondent and/or his/her representatives and witnesses. The *Hearings Officer(s)* then decide(s) whether penalties are warranted, which may range from mandatory remedial education to suspension or expulsion. Depending on the perceived severity of the case, the involvement of external agencies should also be an option at every stage of the process.

### **3. Emphasize/Disseminate the *Duty to Report* for All Sport Organizations, and Introduce Appropriate Sanctions for Failing to Report**

It is widely acknowledged that incidents of maltreatment in sport are rarely reported officially, at least in the first instance. From the perspective of athletes, particularly young athletes, there are a number of potentially intersecting reasons for failing to report their experiences of maltreatment. These include shame, embarrassment, threats and other forms of intimidation, and the fact that certain forms of maltreatment (e.g., verbal or emotional abuse) may have become normalized. One frequently

reported form of intimidation (whether it is overt or implicit) concerns athletes' fears that reporting maltreatment will jeopardize their (and/or other's) future in the sport. There are even examples where this fear regarding their child's future participation has been taken up by parents, who have sometimes failed to report suspected or known maltreatment of their son or daughter (cf., Donnelly, 1993; Kerr and Stirling, 2012). However, responsible adults have a *duty to report* even the suspicion that children under the age of 16 years (Ontario *Child, Youth and Family Services Act*, 2018) are being maltreated, even in the absence of evidence or 'proof' of maltreatment, and they are protected from penalty should the concern be later proven unfounded.

Safeguarding children and youth is a matter of provincial legislation, and each province and territory has its own version. In Ontario, the *duty to report* is in Section 125 of the 2018 *Child, Youth and Family Services Act* (<https://www.ontario.ca/laws/statute/17c14>). "The paramount purpose of this Act is to promote the **best interests, protection** and **well being** of children" (Section 1(1); *emphasis added*). Section 125(1) states that:

"Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall immediately report the suspicion and the information on which it is based to a [Children's Aid] society..."

"The following" includes various forms of neglect, bullying, and physical, sexual and emotional harm and/or abuse. As an indication of changes in attitude about the seriousness of the offence, the penalty for failing to "report" was increased in 2018 from "a fine of not more than \$1,000" in the preceding *Act* to "a fine of not more than \$5,000" (Section 125(9)).<sup>8</sup>

The comprehensive definition of a "child in need of protection" in the *Act* (Section 74(2)) includes many situations that are encountered in organized sports. However, while schoolteachers and some camp counselors are usually trained quite specifically with regard to their *duty to report* (and the consequences for failing to report) because

failure to report is an offence, that *duty* is far less likely to be made clear to coaches (even paid coaches), parents, athletes, volunteers, officials and administrators (even paid administrators) in children's and youth sports. Although Section 125 of the *Act* refers to the *duty* of “**a person**, including a person who performs professional or official duties with respect to children” (*emphasis added*) to report maltreatment or the suspicion of maltreatment, the *Act* subsequently limits penalties for the offence of failing to report “to every person who performs professional or official duties with respect to children” (Section 125(6)). And while “youth and recreation worker[s]” are identified specifically as having professional or official duties with respect to children in the *Act* (5(b)), in a 1999 amendment to the previous *Act* (Section 72(6)) which has been retained in the current *Act* it is pointed out that “‘youth and recreation worker’ does not include a volunteer” (Section 125(7)).

Thus, it can be argued that paid coaches, referees/officials and sport administrators who perform “professional or official duties with respect to children,” should be subject to training about their responsibilities under the *Act* and the consequences of failing to report. And, given the power of coaches and administrators over the future development of an athlete, and the widely reported abuse of that power in attempts to prevent reports of the maltreatment of children and youth in organized sports, it should also be noted that the *Act* also states that, “This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with this section [i.e., reporting abuse or the suspicion of abuse] unless the person acts maliciously or without reasonable grounds for the suspicion” (Section 125(10)). Also, the fact that volunteer coaches and administrators, athletes and parents will not be charged with an offence for failing to report does **not** mean that they do not have a moral and legal *duty to report*. Information and training in this regard should become mandatory in all organized sports involving children and youth.

Parents, and their children, have a right to expect that when children are registered in organized sport programmes, they will enjoy the same protections that are in place when children are registered in school or a camp. Those in care of children in organized sports, whether they are paid or volunteer, have a responsibility to act in the best interests of children, youth and adults [see *duty of care* in Note 12], and sport organizations have a responsibility to use their autonomy wisely by establishing an appropriate system of child protection. While carrying out the study on which these recommendations are based (Donnelly, Kerr, et al., 2016) we heard frequent reference to parents and others who claimed that they “knew” something was happening (when a case of maltreatment is brought to a hearing). This is perhaps the clearest indication that parents, coaches, athletes and volunteers have not been made aware, by the sport organization, that the best interests of children are everyone’s responsibility and that the avenues for safe reporting have been made clear and easily accessible. It is important to reflect on the amount of suffering that might have been prevented if there were clear communications, policies and procedures in place for those who “knew” or suspected that something inappropriate or illegal was happening.

**In a revised harassment and abuse (maltreatment) policy, the legal and moral duty to report should be a key feature, and those developing the policy will need to consider: (a) whether the duty to report should be extended to include suspected victims who are over 15 years of age [the current *Act* does not make the *duty to report* mandatory for older children (Section 125(4))]; (b) whether penalties in parallel with provincial legislation should be imposed for those in paid positions who fail to report; and (c) whether consequences for failing to report should also be introduced for those in volunteer positions, parents, and athletes.**

The existence of a parallel reporting and disciplinary system in sport does not imply that the *duty to report* does not or should not exist in sport. The standards for safeguarding children and youth in sports in Canada are covered by and should be parallel with the equivalent of Ontario’s *Child, Youth and Family Services Act* in each province and territory. And while the *Act* requires reporting to the Children’s Aid Society in a

province/territory, the autonomy of sport raises the question of why sport organizations themselves, rather than the police or Children's Aid Societies, are dealing with cases of illegal and inappropriate behaviour in children's sports.

One respondent (Donnelly, Kerr, et al., 2016) outlined why the autonomy of sport is permitted in cases of child maltreatment, and why the Children's Aid Society (in Ontario) has not become involved. *First*, there is an implicit acceptance of the autonomy of sport, and a recognition that organized sports (like universities) supposedly maintain their own parallel reporting and disciplinary system. *Second*, the overburdened Children's Aid Societies can ignore sport because of the apparent existence of a parallel system of regulation. And *third*, there appears to be an implicit belief by some in Children's Aid Societies that child maltreatment in sport is not as serious or as deserving of attention as the cases they more typically deal with. With regard to this last point, it should be noted that the UK equivalent of the [Canadian] Children's Aid Societies, the National Society for the Prevention of Cruelty to Children (NSPCC) has, in partnership with Sport England, established a Child Protection in Sport Unit (CPSU) which, while not violating the autonomy of sport, at least provides information/advice, establishes national standards, and maintains a direct presence in relation to sport (<https://thecpsu.org.uk/>). This is an important model for Canada.

Finally, we note that if an investigation in sport reveals criminal, or suspected criminal behaviour, that behaviour should immediately be reported to the police and/or a Children's Aid Society. Ideally, those reports would be entered in a single database that includes a record of the setting or context in which the alleged abuse took place. There are limits to parallel, autonomous systems and sport organizations should not attempt to impose quasi-judicial disciplinary measures for illegal behaviour. There are far too many incidents in sport of individuals being dismissed for illegal behaviour, only to appear at another sport organization where they have continued their illegal behaviour. Reporting illegal behaviour in an appropriate way is perhaps the only way to prevent continuing abuse of young athletes.

#### **4. Develop an F/P/T Sponsored System to Cover Harassment/Abuse/ Maltreatment Policy for All Levels of Sport Across Canada**

Since entrusting individual federal and provincial/territorial sport organizations to develop and enforce a policy to prevent and penalize harassment and abuse in their organization has been inefficient and ineffective; and since, as we have argued above, the essential features of a new policy should be consistent for all sport organizations; it would be most efficient to have a common agency funded by all levels of sport and under the jurisdiction of the Federal/Provincial/Territorial Ministers of Sport to manage a harassment and abuse system across Canada. The Sport Dispute Resolution Centre of Canada is sometimes involved in harassment and abuse cases for Sport Canada funded National Sport Organizations. If the mandate for harassment and abuse were to be extended to cover all levels of sport, the experience and expertise available at SDRCC would be a major asset.

However, any pan-Canadian system would have to take into account different provincial/territorial legislation across the country. Affiliation with provincial/territorial Ombudspersons and/or provincial/territorial Child Advocates<sup>9</sup> would be an ideal connection for sport organizations. Affiliation with SDRCC's proposed Sport Ombudsperson, or the development of a group of regional Athlete Advocates are possibilities to consider. [In Appendix A we outline one way in which a pan-Canadian system of harassment and abuse policy education, development and enforcement might be organized.]

#### **5. The Need for Arm's Length Investigation and Adjudication**

To ensure due process in the investigation of and rulings on cases of maltreatment, *Sport Welfare, Investigating and Hearings Officers*, and any other relevant positions, must be independent of/at arm's length from specific sport organizations. In the past, where harassment/abuse/maltreatment issues have been dealt with internally in autonomous organizations such as the Boy Scouts, the Catholic Church and sport

organizations, the outcomes have been far from ideal.<sup>10</sup> Most emphasis appears to have been on protecting the organization rather than the victims, and disciplinary procedures (e.g., dismissing offenders without publicity or open records) has frequently resulted in individuals beginning to re-offend in another location.

Under the current policies in sport, not only is there the possibility that *Officers* are open to unfair influence because of, for example, their standing relationships with individuals in the organization, but also if complainants recognize the relationship between an *Officer* and the organization they may be more reluctant to bring forth a complaint. We recognize that, under a revised policy, individual *Officers* may be associated with specific sports, but no *Officer* should be designated to engage in hearing disclosures or investigating and adjudicating reports that involve his/her own sport. The designated *Officer(s)* may consult with another *Officer* who may be from that sport if there are any sport specific issues that need to be understood.

## **6. Establish Pools of Trained *Sport Welfare, Investigating and Hearings Officers***

Just as it is **not** necessary for each sport organization to develop its own policy, it is also **not** necessary for each sport organization to have its own *Officers*. This is particularly important in order to avoid the conflicts of interest that are introduced by not having officers at arm's length to the organization. Our research shows that it is clearly an inefficient and unnecessary burden under the current policies for each PSO and NSO to have its own Harassment Officer, and to search for Hearings Officers whenever the need arises (Donnelly, Kerr, et al., 2016).

A more effective solution is to appoint independent pools of qualified and trained *Officers* [as described in Recommendation 2] who may be called upon by athletes and other complainants, and by sport organizations. Up to date training and information is more easily assured with a small pool of individuals, and regular meetings will help to

ensure the sharing of knowledge and best practices. It is expected that such *Officers* will be knowledgeable about sport and may even have worked with a specific sport organization. Such officers would be part-time, available on an on-call basis and may be designated on a regional basis (see Appendix A).

Trained *Officers* could, in turn, provide training to coaches, athletes, administrators, officials/referees, volunteers and parents with regard to policy and procedures for safeguarding children and youth and others in sport organizations; and they are also in an ideal position to make recommendations – based on a growing body of knowledge and experience – regarding policy amendments and prevention practices.

## **7. Shift the Focus to Prevention**

Preventing the maltreatment of athletes begins with education about the behaviours that constitute maltreatment. Only when stakeholders in sport are able to recognize or identify maltreatment will they be able to express their concerns through disclosure or reporting. And, while most attention has been devoted to sexual abuse, the most frequently experienced and most commonly accepted form of maltreatment is emotional abuse. Further, little attention in scholarly and public domains has been devoted to physical abuses and neglect. Educational initiatives should also address the *duty to report* maltreatment or suspected maltreatment (and consequences for failing to report), the distinction between disclosure and reporting, and the policies and procedures pertaining to harassment and abuse. While educational initiatives currently exist in Canadian sport, they lack a comprehensive perspective and congruence with the knowledge gained through research, and they have yet to be evaluated for their efficacy.

We also recommend that cases from the past 20 years in Canadian sport (i.e., since the first introduction of harassment and abuse policies), and the collective experiences of Harassment and Hearings Officers, be brought together to develop a set of best

practices and procedures for preventing harassment/abuse/maltreatment, and for dealing fairly and effectively with complaints of maltreatment.

Critical to prevention is the disruption of aspects of the culture of sport that may encourage maltreatment, and which increases the vulnerability of persons in sport organizations to maltreatment. In various parts of the world, and especially in Europe, the autonomy of sport is under threat from governments. This is a result of poor governance in sport organizations, and various examples of corruption, criminal, and unethical behaviour which includes the maltreatment of athletes and other violations of their rights. It is becoming increasingly evident that, if the autonomy of sport is to survive, it will have to involve good and responsible governance of sport organizations.<sup>11</sup> Some steps are being taken in that direction (e.g., *Play the Game's Sports Governance Observer*, and the new *National Sports Governance Observer*). Good governance principles will help to overcome the widespread conflicts of interest, the codes of silence, the lack of democratic and transparent behaviour, and the continuing failure to address ongoing problems in organized sport.

Furthermore, we advocate a shift of focus in the culture of organized sport to broaden the discussion through the lens of an *ethic of care* for all sport participants.<sup>12</sup> The goal of an *ethic of care* would be to maximize the well-being of athletes through an athlete-centered model. In the most general sense, such a strategy views caring as “everything we do to maintain, continue, and repair our “world”, so we can live in it as well as possible” (Tronto 1993, p. 103). In sport, an ethic of care would prioritize values such as respect, responsiveness and responsibility, and act as a framework upon which to build sport policy. If an ethic of care is the starting point for sport policies, the values that support healthy relationships among athletes, coaches, officials and administrators become the foundation for behaviours at all levels of the organization.

## Conclusion

Our research has shown that the aims of harassment and abuse policies introduced by sport organizations in Canada in the late 1990s are no longer being met. This *Position Paper* is intended to advocate for a renewed policy – one that takes into account more recent research and policy changes regarding harassment and abuse in non-sport institutions. We had three main concerns when developing the policy recommendations in this Paper:

- 1) To establish an environment where prevention is the key, through education and effective policy;
- 2) To develop a safe and effective reporting /disclosure mechanism that will not result in retaliation against or re-victimization of victims;
- 3) To develop an appropriate system (due process) that, by whatever valid means, prevents continued harassment or abuse.

A revised policy is intended to assure the rights of all athletes and others involved in sport organizations. But since young athletes have been frequent victims of the most widely publicized cases of serial abuse in sport, a revised policy should include recognition of the specific duties owed to children in the care of coaches and sport administrators.<sup>13</sup> The recently developed concept of childism (Young-Bruehl, 2011), defined as any behaviour towards children by adults that is not in the best interests of the child -- might be taken as a starting point. For example, it may be determined that all persons, and especially young athletes and officials, should not be subject to:

- racist, sexist or homophobic treatment, or actions that are derogatory to their religion, as a result of their participation in a sport;
- bullying, neglect, physical abuse (including physical exercise intended as punishment), emotional abuse, and sexual harassment and/or abuse (i.e., behaviours proscribed under the Child and Family Services Acts); these have no place in organized sports for children and youth, or for adults;

- unreasonable exclusions based on age, disability, gender/sexuality or other characteristics; these have no place in organized sports for children and youth, or for adults.

Almost half of the 42 Articles in the UN Convention on the Rights of the Child outline children's rights that have been, at one time or another, violated in the name of sport – these would make an ideal starting point for considering child protection as part of a revised policy.

The ongoing and troubling effects of harassment, abuse and bullying are now well-established in research; and accounts by current and former athletes such as Gilhooly (2018) and the testimony of gymnasts at the recent Nassar trials in the U.S. are heartbreaking. The fact that such behaviours are occurring in Canadian sport, and the fact that the current policies are unable to prevent them, makes attention to the data and recommendations outlined here a matter of urgency. Whenever we delay in taking action to create more effective policies and procedures regarding the maltreatment of young athletes and others in sport organizations, we should reflect on those who may be current or future victims of maltreatment, and how long they will be troubled as a result of our delays.

Since we started with the words of Aly Raisman, American gymnast and sexual abuse survivor, it is fitting to close with her powerful and disturbing words:

*1997, 1998, 1999, 2000, 2004, 2011, 2013, 2014, 2015, 2016. These were the years we spoke up about Larry Nassar's abuse. All those years we were told, 'you are wrong', 'you misunderstood', 'he's a doctor', 'it's OK', 'don't worry', 'we've got it covered', 'be careful, there are risks involved'. The intention, to silence us in favour of money, medals, and reputation (Raisman, 2018).*

## Notes

1. 'Mitch' Garabedian is a Boston lawyer who represented a number of victims of Catholic church sexual abuse. The words in this quote, referring to the code of silence in the Catholic church, were spoken by actor Stanley Tucci, who played Garabedian in the 2015 film, *Spotlight*.

2. Since 1996 SFAF has gone through several iterations which have moderated the requirements. The version in force when the data for the research on which this Position Paper is based (Donnelly, Kerr, et al., 2016) outlined the harassment and abuse requirements as follows:

A16: The NSO has a formal policy on harassment and abuse, including procedures for the reporting and for the investigation of complaints.

ANNEX A16: NSOs must demonstrate their formal commitment to an environment free of harassment and abuse through their policies. Their policy(ies) should apply to staff or other individuals acting on their behalf with respect to their dealings with each other, its membership or between its own or other coaches, athletes, or other athlete support personnel. The policy should also explain the formal process to report and investigate such complaints. This policy may be part of a larger policy/document (such as a dispute resolution document). NSOs must provide to Sport Canada a copy of their Harassment and Abuse policy.

Communication with Sport Canada suggests that there is a lack of oversight and accountability to ensure that the requirements are being fulfilled:

Funded NSOs [are required] to have an abuse and harassment policy. Through this process, Sport Canada verifies that a policy is in place, but Sport Canada does not approve or ratify policies. Organizations are advised to seek expert counsel to develop policies that are functional for their particular structure and context. For [the] abuse and harassment standard at the fully met level, the NSO is expected to have harassment and abuse specialists available on an as-needed basis (personal communication, 2011).

In a more recent communication (2014) it was pointed out that submitting policies for SFAF is an 'eligibility criterion' [for funding], but that the collection of policies was quadrennial, not annual [funding is annual].

3. The police checks appear to be effective within a province, but there are questions about how well they work interprovincially or across national borders. In addition, the *Kids Help Phone* was widely advertised in the late 1990s as a useful avenue of help for children and young people experiencing harassment or abuse in organized sports. That is now much less prominent, and the *Kids Help Phone* web site no longer carries any materials specifically relating to sport – nor have we found examples of sport organization web sites that refer children and young people to the *Kids Help Phone*.

4. The criteria from this ideal template were generated from the 1996 regulations and relevant research.

5. The following findings were previously published by Donnelly, Kerr, et al., 2016.

6. Although the terms of abuse and harassment are typically used in the Canadian sport system and associated policies, we have chosen to add the term “maltreatment” as a more accurate and all-encompassing description. It refers to all forms of abuse (sexual, physical and emotional) as well as neglect, harassment and bullying/hazing.

7. The positions identified here as *Sport Welfare Officers* and *Hearings Officers* are combined in existing policies as *Harassment Officers*. However, their focus is primarily investigative with few, if any, responsibilities for complainant welfare. More recent research has recognized the need for a safe and secure initial possibility to disclose a complaint before proceeding to formally report a complaint. Disclosing concerns the sharing of information regarding a potential incident of maltreatment for the purpose of accessing supports and not for the purpose of engaging in a formal complaint process. Reporting, on the other hand, is the sharing of information with the intention of initiating a formal process as outlined in the Harassment and Abuse Policy. This distinction is generally specified to acknowledge the autonomous decision-making of those 18 years of age and older. In the case of children, all concerns must be reported.

8. For an interim period during the former *Child and Family Services Act* (1990) the penalty was raised to “a fine of not more than \$50,000” or to imprisonment for a term of not more than two years, or to both” (Section 75(6)).

9. For example, the Canadian Council of Child and Youth Advocates indicates that there is an Advocate in every province except Prince Edward Island, and every territory except the Northwest Territories: [ccya.ca](http://ccya.ca).

10. A current critique of WADA and anti-doping in sport concerns the fact that there is no arm’s length independent anti-doping system, and that anti-doping has been abused as a result of having national and international sport organizations administer their own anti-doping systems.

11. Bruce Kidd (2017) draws an important analogy between the autonomy of sport and the autonomy of universities (i.e., self governance and academic freedom) using the concept of ‘transparent and responsible autonomy’. He notes that: “ultimately, sports bodies as well as universities have to be accountable to public law” (p. 13). It is a tragedy that in the James, Nassar, Bennell, Pennsylvania State University, and so many other cases, so many children continued to suffer because of a failure to involve public law in a timely way.

12. Canadian jurisprudence recognizes the *duty of care* that individuals have toward each other. That duty is enhanced when there are power differences between individuals, when individuals are expected to behave in a ‘reasonable’ way to ensure the safety and well-being of others – a duty that sometimes seems to be ignored in sport. When the *duty of care* concerns children, there is a much higher onus on adults to behave responsibly.

13. As Article 42 of the UN Convention on the Rights of the Child points out, “All children have the right to learn about their rights.” A Sport Ombudsperson or Child Advocate would assure that that is the case for young athletes and children involved in other positions in sport organizations.

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## **APPENDIX A**

## Example of a system and procedures for implementing a revised harassment and abuse policy for sport

Given that in the Canadian confederation, where much of the relevant legislation is at the provincial/territorial level, we are not likely to be able to institute a joint Sport Canada/ Children's Aid Societies system such as the Child Protection in Sport Unit (UK);

And given that some of the wealthier sport organizations are starting to hire Safety Officers who are already feeling that they do not have the expertise needed;

The following represents an example of a system and procedures for implementing a revised harassment and abuse policy for sport in Canada:

- Develop a regionalized system under the leadership of five Sport Advocates (SAs):
  - (1) BC, AB, YT; (2) SK, MB, NWT, NU; (3) ONT; (4) QC; (5) NS, NB, PEI, NF/L
- SAs could be based in a provincial Child Advocate's or Ombudsperson's Office;
- SAs are paid positions funded by provincial governments and sport organizations;
- SAs act as filters for athletes' (and others in sport organizations) disclosures/ reports/ complaints/ concerns regarding maltreatment
- SAs direct reports/complaints to appropriate agents (it has been pointed out that many of the reports/complaints heard by current Harassment Officers are not actually about maltreatment);
- SAs, ideally, would maintain and monitor a hotline for initial disclosures or reports under the *duty to report*, and for queries regarding whether behaviours constitute maltreatment;
- SAs coordinate on-call, arm's length professional expertise (ideally 4-6 per Officer positions for each SA region);
- Develop pools of professional, trained, arm's length experts for each SA, working in an on-call part time capacity [travel expenses? fees? retainers?] as follows:
  - Sport Welfare Officers (SWOs: first responders providing social-emotional support and determining next steps, if any, on disclosures, reports and complaints; follow up on hotline calls that warrant concern);

- Investigating Officers (formerly Harassment Officers) who carry out investigations as directed by the SA (often following information from an SWO);
  - Hearings Officers (convene and adjudicate formal hearings and impose sanctions where warranted).
- Training and ongoing development of best practices would be co-ordinated by the SAs collectively, and information would be shared across Canada and internationally in an attempt to maintain equivalent standards, and to prevent the re-appearance and re-employment of sanctioned individuals.
  - SAs and Officers would develop educational programs for all involved in sport organizations, focusing on what constitutes maltreatment, and the duties and responsibilities of all involved in those organizations.
  - This proposed structure takes the process out of the hands of individual sport organizations (which means that they give up a certain amount of control, which some may not like); this establishes and maintains a conflict-free, basic and important level of fairness, due process, and a safe place for athletes and others to express their concerns and make reports.
  - We recommend ongoing monitoring of effectiveness of the structure and process, and the educational programs.

**APPENDIX B**

## **A Sample of Canadian Writing on Harassment and Abuse in Sport**

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