

A panoramic view of a city skyline at dusk. The sky is a deep blue with some clouds. Several skyscrapers are visible, some with lights on. In the foreground, there are lower buildings and a street with some cars. The overall scene is a mix of modern and classical architecture.

Beyond the Courtroom: Preventing and Responding to Child Abuse and Sexual Harassment

**National Association of Women Judges
45th Annual Conference – October 7, 2023**

Presented by:

Deborah J. Daniels

Background

- Many years in prosecution
 - State, federal
 - Focus on service to victims of crime
 - Focus on child protection
 - Protection of the most vulnerable
 - Public service as a calling
- Frustration likely also felt by judges
 - Reactive role
 - Damage done prior to intervention
 - Inability to prevent harm

Background (cont'd)

- Private practice
 - Health care and mental health
 - Focus on vulnerable populations
 - Internal investigations
 - Reviews of potential wrongdoing in corporate settings
 - Advisory work:
 - Repairing damage, holding perpetrators accountable
 - Board responsibilities to protect organization and those it serves
 - How to prevent future wrongdoing by taking precautions
 - Receivership: financial collapse of anti-sexual assault entity (2014-2015)
 - Payment of debtors, continue service to survivors
 - How to structure for benefit of assault survivors

USA Gymnastics Investigation

- Late 2016: Allegations in Indianapolis Star
 - Abuse of athletes by various coaches
 - Eventually: allegations regarding then-Dr. Larry Nassar
 - NOTE: Abuse rampant, widespread – not just Nassar
- Approached by USA Gymnastics then-CEO
- Conditions of internal investigation
 - Not for defense against allegations
 - Full access to records
 - No control over interviews
 - No editorial control over report
 - Must share report with full Board, public



USA Gymnastics Investigation (cont'd)

- Purpose of investigation
 - Prevention of/response to abuse
 - Review of policies/practice
 - How do policies play out in practice?
 - Example: Larry Nassar in athletes' rooms constantly
 - Recommendations for improving protection of athletes in future

Overarching Recommendation

- Complete cultural shift
 - Change in focus
 - Medals vs. safety
 - USOPC Funding formula
 - Desire by USAG to win at all costs
 - Not a binary choice



USA Gymnastics: Specific Recommendations

Tone from the top: Board Responsibilities

- **Accountability**
 - Administrative staff to board
 - Member clubs to organization
 - Board and staff to the athletes
- **Athletes-first mentality**
 - Mission: wellness/safety first
 - Clear code of conduct/prohibited behaviors
 - Aggressive enforcement
 - Require immediate reporting
 - Ease of reporting – including anonymous
 - Default: trust athletes – not suspected abusers
 - Membership as leverage: require club compliance with protection policies

USA Gymnastics: Specific Recommendations (cont'd)

Structural changes to prevent conflict of interest

- USAG President does not control reporting process
- Athlete liaison does not have voice in team selection process

Improved hiring process

- Screening for predators

Mandatory training to raise awareness of

- What constitutes abuse
- Classic grooming activities
- Boundaries
- Prohibited activities
- How to report concerns

USA Gymnastics: Specific Recommendations (cont'd)

- Improved approach to enforcement
 - Offenders strongly sanctioned by organization
 - Prompt attention internally to reported abuse
 - Require member gyms to comply
 - Failure to report or act on reports risks membership status
 - No “winking” at abuse by coaches, others
 - Strict--and strictly enforced—rules prohibiting actions conducive to abuse
 - Example: one-on-one contact

USA Gymnastics: After the Scandal

- CEO terminated 2017
- Entire Board terminated 2017
- False starts 2017-2018
- December 2018: Bankruptcy filing
 - Hundreds of individual lawsuits by Nassar victims
- Li Li Leung hired as CEO February 2019
- Pledged to use “Daniels Report” as blueprint for improvement
 - Two audits commissioned (2020, 2022)
 - Nearly full compliance as of mid-2023



Bankruptcy Settlement

- Bankruptcy settlement December 2022
 - \$380 million settlement
 - Reorganization plan includes process improvements (“non-monetary commitments”)
 - Developed in collaboration with survivors’ committee

Bankruptcy Settlement (cont'd)

- Specifics include:
 - Board
 - Streamlined structure
 - 8 of 15 directors are independent (not affiliated with USAG)
 - ≥ 1 sexual assault survivor on:
 - Board
 - USAG Safe Sport Committee
 - USAG Health and Wellness Council

Bankruptcy Settlement (cont'd)

- Adoption of Daniels Report Recommendations
 - Updated policies
 - Prevention of conditions that permit/foster abuse (e.g., one-on-one contact)
 - New athlete protection policies and expanded enforcement capability
 - Compliance with policies as condition of membership
 - Improved – and mandatory – training/education
 - Improved outreach to athletes throughout system (including gyms)
 - Streamlined reporting process

Bankruptcy Settlement (cont'd)

- Greater voice in process for athletes
- All sponsorship deals incorporate athlete wellness
- Far greater transparency
- Creation of Health/Wellness focus
 - New Chief of Athlete Wellness
 - Safe Sport
 - Holistic health and wellness initiatives
 - Example: Simone Biles, 2021 Olympics

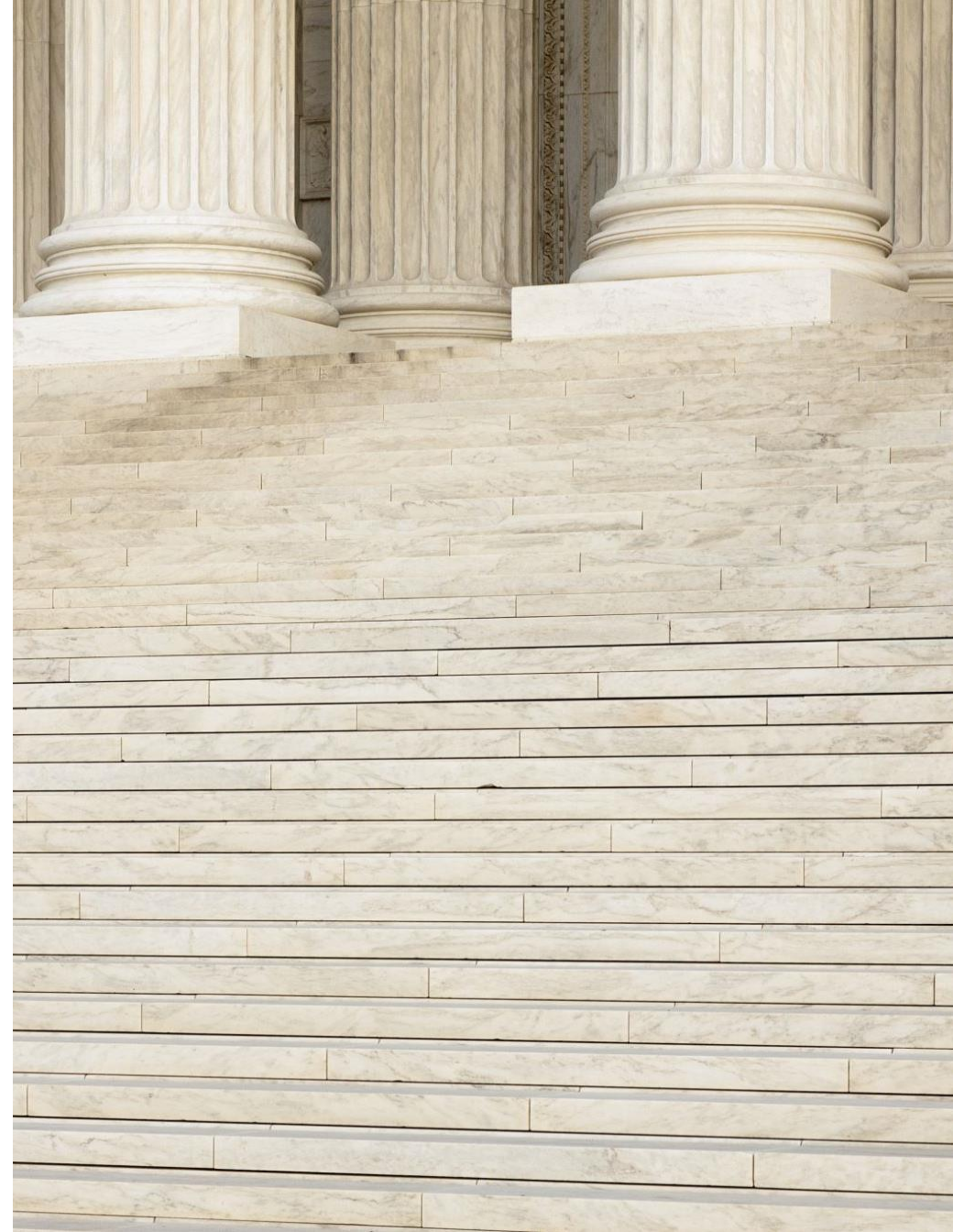
COURTS AS CHANGE AGENTS

- USA Gymnastics Bankruptcy process: example of court involvement in:
 - Prevention of future harm
 - Process improvement to achieve harm prevention
- Court-appointed receiverships
 - Receivership of anti-sexual abuse coalition 2014-2015
 - Resulted in:
 - Payment of debts
 - Ultimately termination of existing coalition
 - Formation of new organization



COURTS AS CHANGE AGENTS (cont'd)

- Judicial process not necessarily limited to reactive posture
- Can use judicial process to:
 - Prevent future harms
 - Improve organizational structure
 - Improve prospects for vulnerable populations
- Among most rewarding aspects of the business of law



About Our Speaker



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Deborah Daniels is a former U.S. Attorney and U.S. Assistant Attorney General and has lengthy experience in criminal and civil investigations and public safety. Her work has included responsibilities at the U.S. Department of Justice directly related to the nation's response to the September 11th attack on the U.S., data and communications interoperability, and the nation's ability to detect, prevent and respond to future terrorist acts. Ms. Daniels provides counsel to the firm's public and private sector clients in matters affecting public safety, leveraging of federal and state resources, federal and state regulatory compliance and internal investigations. She assists the firm's clients in interacting with agencies of local, state and federal government, including both the executive and legislative branches at all levels, and advises clients ranging from government agencies to Olympic national governing bodies to other public and private sector entities on compliance and public policy matters.

Ms. Daniels served as the firm's Managing Partner from 2015 - 2018