

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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February 4, 2022

Mr. Roger Goodell
Commissioner
National Football League, Inc.
345 Park Avenue
New York, NY 10154

Dear Mr. Goodell:

We are writing to express concern about new evidence that calls into question the National Football League's (NFL) assertions that it pursued an independent internal investigation into the toxic workplace at the Washington Football Team (WFT) under team owner Daniel Snyder.¹ In light of this evidence, we urge you to end the League's obstruction and immediately produce the findings from the internal investigation and other documents the Committee has requested.

In August 2020, the NFL announced that it was "taking over the investigation" initially launched by the WFT and outside attorney Beth Wilkinson.² However, documents obtained by the Committee show that just days later, the NFL privately signed an agreement with the WFT to pursue a "joint legal strategy."³ Documents also show that the WFT agreed that, following the internal investigation, a written report would be created by Ms. Wilkinson documenting her findings and recommendations. However, the Committee has learned that you personally directed that Ms. Wilkinson was to present her findings to you orally rather than provide a written report.

This new information raises doubts about the NFL's purported commitment to independence, transparency, and integrity in addressing workplace misconduct at the WFT. In light of these developments, we call on the NFL to immediately produce to the Committee the findings of Ms. Wilkinson's investigation, as well as the documents underlying those findings, so that the Committee can evaluate any workplace misconduct that occurred and the extent to which the NFL may have attempted to conceal those findings.

¹ The Washington Football Team changed its name to the Washington Commanders on February 2, 2022.

² National Football League, *NFL Taking Over Investigation of Washington Football Team* (Aug. 31, 2020) (online at www.nfl.com/news/nfl-taking-over-investigation-of-washington-football-team).

³ Common Interest Agreement Between National Football League and Washington Football Team (Sept. 8, 2020) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/1.%202022-02-04%20-%20Common%20Interest%20Agreement_Redacted.pdf).

The Committee's Investigation

The Committee on Oversight and Reform has been investigating the WFT's decades-long toxic workplace as well as the NFL's role in handling the internal investigation into this matter and in setting and enforcing standards for all NFL teams. The purpose of this investigation is to inform legislative efforts to prevent and address toxic work environments and workplace investigation processes; strengthen protections for women in the workplace; and address the use of non-disclosure agreements to prevent the disclosure of unlawful employment practices, including sexual harassment.⁴

The Committee launched this investigation following the NFL's July 1, 2021, announcement of the conclusion of the Wilkinson investigation. After Ms. Wilkinson and her team interviewed more than 150 witnesses over the course of ten months, the NFL issued a four-page press release that contained vague and conclusory findings, including that the WFT's workplace was "highly unprofessional," that "[b]ullying and intimidation frequently took place," and that "senior executives engaged in inappropriate conduct themselves." The NFL also announced a \$10 million penalty against the team.⁵

The NFL's refusal to release the full findings of the investigation or any written report raises questions about the extent of the misconduct at the WFT, whether those responsible have been held accountable, and whether the NFL has taken appropriate action to prevent similar conduct in the future.⁶

Common Interest Agreement Between the NFL and WFT

The Committee has uncovered new evidence that, shortly after the NFL assumed oversight of the WFT investigation, the WFT and the NFL entered into a common interest agreement allowing the parties to pursue a "joint legal strategy" regarding the Wilkinson investigation. The agreement states:

[T]he Parties have shared and continue to share a common legal interest in the integrity of the Investigation and the defense of reasonably anticipated litigation; as well as a

⁴ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, to Commissioner Roger Goodell, National Football League, Inc. (Oct. 21, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Final%202021-10-21.CBM%20RK%20to%20Goodell-NFL%20re%20WFT%20Investigation.pdf>).

⁵ National Football League, *Press Release: NFL Announces Outcome of Washington Football Team Workplace Review* (July 1, 2021) (online at <https://nflcommunications.com/Pages/NFL-ANNOUNCES-OUTCOME-OF-WASHINGTON-FOOTBALL-TEAM-WORKPLACE-REVIEW.aspx>).

⁶ *Id.*; Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, to Commissioner Roger Goodell, National Football League, Inc. (Oct. 21, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Final%202021-10-21.CBM%20RK%20to%20Goodell-NFL%20re%20WFT%20Investigation.pdf>).

common interest in a joint legal strategy to ensure compliance with all applicable state and federal laws.⁷

Although the common interest agreement is dated September 8, 2020, it appears to apply retroactively to July 16, 2020—the beginning of the internal investigation by Ms. Wilkinson.⁸

The common interest agreement may have been intended to prevent the public release of certain information related to the investigation absent the agreement of both parties—meaning that either the WFT or the NFL could try to bury the findings of the investigation. The agreement provides that “neither WFT nor NFL shall have the authority to waive any applicable privilege, doctrine, or protection relating to any information and communications that are exchanged,” which includes NFL and WFT communications exchanged “with each other in connection with the Investigation[,]” as well as their communications with Ms. Wilkinson’s firm.⁹

This arrangement calls into question whether the WFT played a role in blocking the public release of the findings of Ms. Wilkinson’s investigation—and in particular whether Mr. Snyder, who had an interest in the outcome of the investigation as the owner of the team, may have been able to prevent the release of information that implicated him personally.

The Committee asked the WFT to clarify whether it had asserted privilege, threatened to assert privilege, or discussed asserting privilege in relation to the findings of the Wilkinson investigation. The WFT responded that it had, adding:

The Team, and the NFL, have always acted in a manner consistent with the maintenance of that privilege, and there have been discussions, too numerous to recount (which are themselves privileged), regarding the preservation of that privilege.¹⁰

⁷ Common Interest Agreement Between National Football League and Washington Football Team (Sept. 8, 2020) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/1.%202022-02-04%20-%20Common%20Interest%20Agreement_Redacted.pdf).

⁸ *Id.* (“Whereas, since July 16, 2020, the Parties have shared and continue to share a common legal interest in the integrity of the Investigation and the defense of reasonably anticipated litigation; as well as a common interest in a joint legal strategy to ensure compliance with all applicable state and federal laws[.]”).

⁹ *Id.* The NFL has represented to the Committee that such a common interest agreement was necessary to prevent NFL from having to re-launch an investigation even though the Wilkinson investigation was a approximately only one-month old at that point.

¹⁰ Letter from John Brownlee & Stuart Nash, Holland & Knight LLP on behalf of the Washington Football Team, to Majority Staff, Committee on Oversight and Reform (Jan. 28, 2022) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/4.%202022-02-04%20-%20Brownlee%20Nash%20WFT%20Jan%2028%20Letter_Redacted.pdf).

This admission adds to the Committee's concerns regarding the WFT's ability to shape or influence the investigation even after the NFL assumed oversight of it, including the ability to seek to limit the disclosure of specific findings and recommendations.¹¹

Mr. Snyder's Actions in Anticipation of NFL's Announcement

The agreement between the NFL and WFT is especially troubling in light of Mr. Snyder's actions in the weeks leading up to the public announcement of the investigation's conclusion and the NFL's admission to the Committee that the League communicated with Mr. Snyder or his agents during that time.

The NFL has revealed to the Committee that Ms. Wilkinson presented her investigative findings to you on March 2, 2021, and April 26, 2021, before the League issued a press release on July 1, 2021.¹²

The NFL's counsel also confirmed to Committee staff that the League was in touch with Mr. Snyder during this time:

We understand that Mr. Snyder and/or his agents and the NFL communicated about the outcome of Ms. Wilkinson's investigation prior to the July 1 press release, including about the release, and that there also were communications about remedial actions that would be required to be taken by the WFT and Mr. Snyder.¹³

After you were privately briefed on the investigation, but before the NFL released its press statement, Mr. Snyder took several preemptive actions that appeared specifically tailored to the as-yet unreleased findings and recommendations.

According to public reports, on March 31, 2021, the NFL approved Mr. Snyder's full buyout of the WFT. Attorneys for several victims denounced the League's decision as

¹¹ The existence of a common interest agreement does not impact the Committee's authority to obtain the documents and information needed in its investigation. The Committee, under chairs of both parties, does not recognize common-law privileges such as attorney-client privilege as valid reasons to withhold documents from Congress. *See, e.g.*, Congressional Research Service, Congressional Oversight Manual (Mar. 21, 2021) (online at <https://crsreports.congress.gov/product/pdf/RL/RL30240>) (explaining that "it has generally been the congressional view that investigative committees are not bound by court-created common-law privileges"); H. Rep. No. 116-125 at 31 (2019) (concluding that "common law privileges ... are not valid reasons to withhold documents subject to a valid subpoena from Congress, which derives its investigative authority from the Constitution"); H. Rep. No. 105-792 at 11 (1998) ("The historic position of the House of Representatives is that committees of Congress are not bound to recognize any non-Constitutional privilege, such as the attorney-client privilege.").

¹² Letter from Rob Kelner, Covington & Burling LLP, on behalf of the National Football League, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy (Nov. 4, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/3.%202022-02-04%20-%20Kelner%20NFL%20Nov.%204%20Letter_Redacted.pdf).

¹³ Email from Simone Ross, Covington & Burling LLP, on behalf of the National Football League to Majority Staff, Committee on Oversight and Reform (Jan. 7, 2022).

facilitating “an arrangement that leaves Mr. Snyder in a stronger ownership position than before the full extent of this scandal was known.”¹⁴

Public reporting has also revealed that less than one month before the NFL announced the outcome of Ms. Wilkinson’s investigation, Mr. Snyder retained Vestry Laight, a consulting firm that specializes in sexual misconduct investigations, ostensibly “to help the organization advance a ‘culture of genuine diversity, equity, and inclusion.’”¹⁵ As you are aware, Vestry Laight is the same firm that the WFT engaged to meet its reporting obligations described in the NFL’s July 1, 2021, press statement.¹⁶

In addition, just two days before your public announcement of the investigation’s outcome, Mr. Snyder named his wife, Tanya Snyder, Co-Chief Executive Officer of the WFT.¹⁷

New Document Shows Written Report Was Planned, but Later Disavowed

The Committee has obtained a retainer agreement between Ms. Wilkinson and the WFT, showing that in August 2020 the WFT agreed that, at the conclusion of the investigation, Ms. Wilkinson and her investigators would “complete a written report of its findings and make recommendations regarding any remedial measures.”¹⁸ One month later, the NFL assumed “full oversight” of the investigation.¹⁹ In July 2021, after a ten-month investigation, the NFL declined to release full findings or any written report of the investigation. According to the NFL’s own wire service: “The NFL said there was no written report of Wilkinson’s inquiry.”²⁰

¹⁴ *NFL Approves Daniel Snyder’s \$875 Million Buyout of Washington Co-Owners*, Washington Post (Mar. 31, 2021) (online at www.washingtonpost.com/sports/2021/03/31/daniel-snyder-ownership-nfl-debt-waiver/).

¹⁵ *Washington Football Team Retains Vestry Laight to Advise on Long-Term Diversity, Equity and Inclusion Planning, Growth and Accountability Initiatives*, PR Newswire (June 3, 2021) (online at www.prnewswire.com/news-releases/washington-football-team-retains-vestry-laight-to-advise-on-long-term-diversity-equity-and-inclusion-planning-growth-and-accountability-initiatives-301305215.html).

¹⁶ *N.F.L. Penalizes Washington Football Team Amid Harassment Allegations*, New York Times (July 1, 2021) (online at www.nytimes.com/2021/07/01/sports/football/nfl-washington-fine-snyder.html).

¹⁷ National Football League, *Press Release: NFL Announces Outcome of Washington Football Team Workplace Review* (July 1, 2021) (online at www.nfl.com/news/nfl-announces-outcome-of-washington-football-team-workplace-review); Washington Football Team, *Press Release: Tanya Snyder Named Co-CEO of Washington Football Team* (June 29, 2021) (online at www.washingtonfootball.com/news/tanya-snyder-named-co-ceo-of-washington-football-team).

¹⁸ Engagement Letter Between Washington Football Team and Wilkinson Walsh LLP (Aug. 3, 2020) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2.%202022-02-04%20-%20WFT%20WW%20Engagement%20Letter_Redacted.pdf).

¹⁹ *NFL Takes Over Investigation Into Sexual Harassment Allegations Within Washington Football Team*, ESPN (Aug. 31, 2020) (online at www.espn.com/nfl/story/_/id/29782523/source-nfl-takes-investigation-sexual-harassment-allegations-washington-football-team).

²⁰ *NFL Commissioner Roger Goodell on Washington Report: No Interference in Investigation*, NFL.com (Dec. 15, 2021) (online at www.nfl.com/news/nfl-commissioner-roger-goodell-on-washington-report-no-interference-in-investiga).

The Committee has learned that you personally instructed that Ms. Wilkinson should present oral, not written, findings to you, based on purported concerns about the privacy and confidentiality of witnesses. Specifically, you allegedly believed that “an oral briefing would better preserve the anonymity assurances given to many if the witnesses and the confidentiality of the investigative information, findings, and recommendations that Ms. Wilkinson shared with the Commissioner during those briefings.”²¹

This is a stark departure from the NFL’s prior practices regarding investigations of alleged misconduct. For example, the NFL released a 96-page report by Robert S. Mueller III after an NFL player was caught on video physically abusing his fiancée, as well as a 243-page report regarding the amount of pressure in game balls during the AFC Championship game in 2015, known as “DeflateGate.”²²

Your decision not to release a written report is deeply concerning. Ms. Wilkinson’s ten-month investigation appears to have been far-reaching, including interviews with more than 150 witnesses and the collection and review of hundreds of thousands of documents. A detailed report would have provided the NFL with a full account of the misconduct uncovered by the Wilkinson investigation, consistent with the NFL’s practice in prior investigations.

Without a written report, it is unclear how the NFL can have any confidence that it has fully examined the scope of the misconduct or can reliably assert that “[n]one of the managers or executives identified as having engaged in misconduct is still employed at the club.”²³ The failure to issue a written report also calls into question the seriousness with which the NFL evaluated and determined the appropriate consequences for those who engaged in serious misconduct.

The NFL has represented to the Committee that it “is not aware of any changes made by Ms. Wilkinson in how she conducted her investigation as a result of the League assuming

²¹ Letter from Rob Kelner, Covington & Burling LLP, on behalf of the National Football League, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy (Nov. 4, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/3.%202022-02-04%20-%20Kelner%20NFL%20Nov.%204%20Letter_Redacted.pdf).

²² Robert S. Mueller III, *Report to the National Football League of an Independent Investigation Into the Ray Rice Incident* (Jan. 8, 2015) (online at <https://static.nfl.com/static/content/public/photo/2015/01/08/0ap3000000455484.pdf>); Paul, Weiss, Rifkind, Wharton & Garrison LLP, *Investigative Report Concerning Footballs Used During the AFC Championship Game on January 18, 2015* (May 6, 2015) (online at <http://online.wsj.com/public/resources/documents/Deflategate.pdf>); see also, e.g., Paul, Weiss, Rifkind, Wharton & Garrison LLP, *Report to the National Football League Concerning Issues of Workplace Conduct at the Miami Dolphins* (Feb. 14, 2014) (online at www.documentcloud.org/documents/1018328-nfl-report-on-richie-incognito-dolphins.html).

²³ National Football League, *Press Release: NFL Announces Outcome of Washington Football Team Workplace Review* (July 1, 2021) (online at www.nfl.com/news/nfl-announces-outcome-of-washington-football-team-workplace-review).

oversight of her work.”²⁴ It is unclear how instructing Ms. Wilkinson to *not* produce or transmit a written report is anything but a substantial change in how she conducted her investigation. The Committee looks forward to engaging with the NFL regarding its previous statements on this matter.

NFL’s Obstruction of the Committee’s Investigation

The Committee has learned that the NFL recently withdrew from the common interest agreement with the WFT. According to WFT’s counsel, this withdrawal occurred around the time that the Committee launched its investigation in October 2021.²⁵

The NFL’s withdrawal from the agreement is now being used as justification to avoid turning over key documents that the Committee is seeking. These documents, which were gathered and created as part of the Wilkinson investigation, were stored on the servers of a third-party vendor, where they remain. Now, after the NFL’s withdrawal from the agreement, each party claims that absent the other’s consent, they cannot access the documents, let alone release them to the Committee. By dissolving their common interest agreement and withholding consent, the parties may be attempting to create a legal limbo to stop the Committee from obtaining these key Wilkinson investigation documents.

Although the NFL has produced some documents in response to the Committee’s requests, this production has excluded key documents that our staff identified as priorities, including Ms. Wilkinson’s findings, a complete set of 2,100 documents from the Wilkinson investigation that are in the NFL’s custody, and the additional documents central to Ms. Wilkinson’s investigation held by a third-party vendor. These materials are now three months overdue, and the NFL’s failure to produce them undercuts your public commitment to cooperate with Congress.

Conclusion and Demand

You have claimed that the NFL did not release Ms. Wilkinson’s findings in order to protect the “security, privacy and anonymity” of the more than 150 witnesses who courageously spoke to Ms. Wilkinson and her team.²⁶ The Committee’s investigation and the NFL’s own legal documents raise serious doubt about this justification. At a Committee roundtable

²⁴ Letter from Rob Kelner, Covington & Burling LLP, on behalf of the National Football League, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, (Nov. 4, 2021) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/3.%202022-02-04%20-%20Kelner%20NFL%20Nov.%204%20Letter_Redacted.pdf).

²⁵ Telephone call between John Brownlee & Stuart Nash, Holland & Knight LLP on behalf of the Washington Football Team, and Majority Staff, Committee on Oversight and Reform (Jan. 24, 2022).

²⁶ *Roger Goodell Says NFL Won’t Release Full Washington Football Team Investigation Findings*, Forbes (Oct. 27, 2021) (online at www.forbes.com/sites/dereksaul/2021/10/26/roger-goodell-says-nfl-wont-release-full-washington-football-team-investigation-findings/?sh=21e4d3886985).

Mr. Roger Goodell

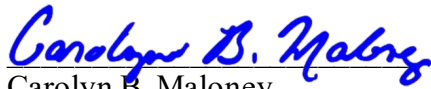
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yesterday, victims of sexual harassment and misconduct at the WFT also dismissed this excuse as unfounded, and urged the NFL to release the investigative findings.²⁷

The NFL must explain why a target of its investigation was given the ability to block the release of the investigation's findings and why the NFL instructed Ms. Wilkinson to reverse course and not provide a written report. Most importantly, the NFL must end its months-long efforts to hide the truth about misconduct at the WFT and cooperate with the Committee's investigation.

For all these reasons, we request that you fully comply with the Committee's prior requests to produce (1) Ms. Wilkinson's findings; (2) the 2,100 documents from the Wilkinson investigation in the NFL's custody; and (3) the remaining documents central to Ms. Wilkinson's investigation, which are currently held by a third-party vendor. Please produce these documents by February 14, 2022. If the NFL fails to comply, the Committee will consider alternate means of obtaining compliance.

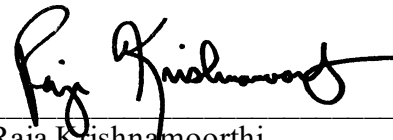
Sincerely,



Carolyn B. Maloney

Chairwoman

Committee on Oversight and Reform



Raja Krishnamoorthi

Chairman

Subcommittee on Economic and
Consumer Policy

cc: The Honorable James Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

²⁷ Committee on Oversight and Reform, Roundtable: Examining the Washington Football Team's Toxic Workplace Culture (Feb. 3, 2022) (online at <https://oversight.house.gov/legislation/hearings/examining-the-washington-football-team-s-toxic-workplace-culture>).