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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 16, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

On the basis of new information that emerged this week in a report by the Department's Office of Inspector General (OIG), I write today to ask that DOJ revisit the decision not to prosecute certain actors involved in handling allegations of sexual abuse by a USA Gymnastics official. I also urge that you promptly implement the OIG's recommendations relating to the protection of crime victims' rights.

Congressional oversight of the Federal Bureau of Investigation (FBI) falls within the jurisdiction of our Judiciary Committee, and as its chairman in March 2017, I convened the first congressional hearing at which we heard concerning testimony from leading gymnasts about a culture of "fear" in amateur sports and reported delays in investigating sexual abuse allegations against former USA Gymnastics team doctor Larry Nassar.¹ Following this hearing, at which USA Gymnastics declined to testify, I contacted the FBI to request a briefing on its handling of multiple gymnasts' sexual abuse allegations against Nassar.

After my Judiciary Committee staff received no response to requests for a briefing, I formally reiterated the request in writing, joined by Senator Feinstein in our letter of July 9, 2018 to the FBI Director.² (Our bipartisan letter notes that many months had elapsed between the time when the gymnasts initially reported Nassar's misconduct and the FBI's investigation of their

¹ Archived webcast of this March 28, 2017 hearing of the Senate Judiciary Committee, "Protecting Young Athletes From Sexual Abuse" is available online at <https://www.judiciary.senate.gov/meetings/protecting-young-athletes-from-sexual-abuse>.

² Letter from U.S. Sens. Charles E. Grassley and Dianne Feinstein to the Hon. Christopher Wray, FBI (July 9, 2018), available at <https://www.judiciary.senate.gov/imo/media/doc/2018-07-09%20CEG%20to%20FBI%20-%20Nassar%20Investigation.pdf>.

allegations.) It was then that I learned that the Department of Justice's (DOJ's) Office of Inspector General (OIG) was reviewing the Bureau's handling of the Nassar investigation.

Media accounts of this period also suggested that the FBI was conducting its own internal review (with one article reporting that the Nassar investigation stalled for 294 days partly due to "questions concerning federal-versus-state jurisdiction as well as jurisdiction within the FBI 'itself.'")³ Neither the findings of DOJ's Public Integrity Section nor the findings of the FBI's Inspections Division, which reportedly led these internal reviews,⁴ were ever shared with our Judiciary Committee, however, and neither my office nor Senator Feinstein's ever received the requested briefing from the FBI.

As confirmed by the DOJ OIG in a scathing report released Wednesday afternoon,⁵ we all had significant reason to be concerned about the handling of this matter by the FBI and USA Gymnastics. I met with Inspector General Michael Horowitz on Wednesday to discuss this OIG report, which details severe misconduct by multiple FBI employees—including lack of candor and false or misleading statements—that may involve violations of 18 U.S.C. § 1001 or other provisions of Title 18. The Department has shown ample willingness to hold to account individuals who make false statements to investigators when it suits the Department's purposes, and it should not exempt its own employees from the same scrutiny. I also ask that you look into whether prosecution of a former senior USA Gymnastics official, who may have acted

³ *As FBI Took a Year to Pursue the Nassar Case, Dozens Say They Were Molested*, N.Y. TIMES (Feb. 4, 2018) ("For more than a year, an F.B.I. inquiry into allegations that...Nassar, a respected sports doctor, had molested three elite teenage gymnasts, followed a plodding pace as it moved back and forth among agents in three cities"), available at <https://www.nytimes.com/2018/02/03/sports/nassar-fbi.html>.

⁴ Nicole Chavez, "Justice Department is investigating how the FBI handled claims against Larry Nassar, report says," CNN (Sep. 5, 2018), available at <https://www.cnn.com/2018/09/05/us/fbi-response-larry-nassar-claims>. That same year, the FBI publicly released a statement that it was reviewing its own role in this investigation but declined to comment further because the Bureau's internal review was then ongoing. Its Inspections Division reportedly led this internal review. Rebecca Davis O'Brien and Louise Radnofsky, *FBI Opens Internal Review of Handling of Gymnasts' Sex-Abuse Allegations*, WALL ST. J. (Mar. 1, 2018), available at <https://www.wsj.com/articles/fbi-opens-internal-review-into-handling-of-nassar-allegations-1519900321?mod=e2tw>. Media reports also describe an investigation by DOJ's Public Integrity Section into the FBI's delays in handling the sexual abuse allegations. See, e.g., Sarah Fitzpatrick and Lisa Cavazuti, *More than 120 Larry Nassar victims call for DOJ to release report on FBI's handling of case*, NBC NEWS (June 17, 2020), available at <https://www.nbcnews.com/news/sports/more-120-larry-nassar-victims-call-doj-release-report-fbi-n1231211>.

⁵ U.S. Dept. of Justice, Office of Inspector Gen., *Investigation and Review of the Federal Bureau of Investigation's Handling of Allegations of Sexual Abuse by Former USA Gymnastics Physician Lawrence Gerard Nassar*, 21-093 (July 2021), available at <https://s3.documentcloud.org/documents/20996344/21-093.pdf>.

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improperly in communicating a potential offer of employment to an FBI employee while the investigation was ongoing, is appropriate.

The OIG report also casts significant doubt on whether FBI personnel, such as the field office Special Agent in Charge, involved in the Nassar investigation did enough to prevent the victimization of additional children, after a potential crime was first brought to the FBI's attention. With this in mind, I call on you to ensure that DOJ personnel immediately receive training on the Attorney General's Guidelines, which require investigative agencies to take "reasonable measures to address victims' legitimate security concerns" and treat children as "particularly vulnerable victims," as well as the FBI Mandatory Reporting Policy, which requires that "all FBI employees" must "report suspected child abuse, neglect and/or sexual exploitation to the state, local or tribal law enforcement agency or child protective services agency that has jurisdiction." Finally, I request that you institute any additional internal reforms that are needed to ensure the OIG's policy recommendations are fully implemented.

Thank you for your consideration of my request. Please contact Evelyn Fortier of my Judiciary Committee staff if you have any questions.

Sincerely,



Charles E. Grassley
Ranking Member