

September 2, 2021

The Honorable Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

The Honorable Lisa O. Monaco
Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Dear Attorney General Garland and Deputy Attorney General Monaco:

We write to express our serious concerns regarding the Department of Justice’s (DOJ) declining to hold sufficiently accountable Federal Bureau of Investigation (FBI) agents who engaged in unlawful conduct during and after the FBI’s investigation into former USA Gymnastics physician Larry Nassar. According to a recently released report by the DOJ Office of the Inspector General (OIG), after several athletes reported Nassar’s criminal abuse to the FBI, the former Indianapolis Field Office Supervisory Special Agent (SSA) and Special Agent in Charge (SAC) committed serious errors, violated FBI policy, and made material false statements.

The OIG twice referred this matter for potential prosecution—first under the Trump Administration and then later to the present leadership of the Department of Justice. The OIG report indicates that there were two declinations. We believe an explanation is owed to the athletes so grievously harmed and to the American public.

The OIG report released last month laid bare the gross and grievous manner in which the FBI mishandled the Nassar investigation and how its agents then lied to investigators in an attempt to hide their failure to act. The OIG found that not only did senior officials in the FBI Indianapolis Field Office “[fail] to respond to the Nassar allegations with the utmost seriousness and urgency that they deserved and required,” they also made material false statements during the Nassar investigation itself and during the subsequent OIG investigation.

Dozens, and perhaps even hundreds, of athletes were abused by Larry Nassar between the time that his criminal activity was first reported to the Indianapolis field office and the time that he was arrested. That is dozens, and perhaps even hundreds, of young women and girls who were assaulted and traumatized because the FBI failed to act. While the monstrous predator who committed these crimes is now behind bars, the OIG’s findings make clear that had the FBI done its job, justice would have been done sooner, and children and adults alike would have been spared Nassar’s heinous abuse.

To compound this failure, the agents who knew about Nassar’s abuse and failed to act later lied to investigators in an attempt to cover up their missteps. In several instances, these agents

provided false information in an apparent attempt to mislead investigators about their inaction. Perhaps most egregiously, in belatedly drafting a summary of a survivor's interview seventeen months after the interview took place, one of these agents went so far as to include materially false information that the survivor had never provided and to omit material information that the survivor had actually provided. As we know you will understand, it would be seriously traumatizing for a survivor of sexual assault to learn that a law enforcement officer had altered her own words – materially changing the crime she had reported – in order to cover up his own failure to act.

The FBI proclaims that integrity, accountability, and fairness are among its core values. In this case, the FBI consistently and repeatedly failed to live up to its stated values. By the FBI's own admission, "[t]he actions and inactions of the FBI employees described in the [OIG report] are inexcusable and a discredit to this organization and the values we hold dear."

The FBI's failure to properly investigate the Nassar case in the first place will forever be a stain on its institutional legacy. To that end, we repeat our deep concern that DOJ has chosen not to prosecute the FBI agents who violated the law. Chair Durbin has announced that the Senate Judiciary Committee will hold a hearing on the OIG findings. We understand that the Department has been invited to testify at that hearing. We hope and expect that one of you will agree to appear before the Committee to address these important issues and concerns.

Sincerely,



RICHARD BLUMENTHAL
United States Senate



DIANNE FEINSTEIN
United States Senate

cc: The Honorable Michael E. Horowitz
Inspector General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001