

March 29, 2022

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

Dear Attorney General Garland:

As you are well aware, in July 2021, the Department of Justice (DOJ) Office of the Inspector General (OIG) released a report that laid bare the grievous manner in which the Federal Bureau of Investigation (FBI) mishandled its investigation into former USA Gymnastics (USAG) physician Larry Nassar.<sup>1</sup> You have acknowledged the OIG’s disturbing findings—calling the FBI’s dereliction of duty an “institutional failure.”<sup>2</sup> Similarly, FBI Director Wray described the FBI’s errors and misconduct as “totally unacceptable” and “inexcusable.”<sup>3</sup> Notwithstanding these strong comments, to date there has been little to no action taken to hold those at DOJ who should have protected Nassar’s victims accountable.

We are encouraged that the Department of Justice is reviewing its earlier decision to not criminally charge the FBI agents who knew of Nassar’s abuse, did nothing, and then lied about their inaction in violation of their sworn duty and the law. The Department’s response to the OIG report cannot end there. The fact that this review is based, at least in part, on new information that has come to light—more than six years after the Nassar allegations were first reported to the FBI—suggests that there might be more that the FBI and the Department missed. That concern is exacerbated by revelations that the former U.S. Attorney for the Southern District of Indiana, whose office worked with the FBI agents at the time of the misconduct at issue in the OIG report, is now representing one of those agents in connection with the investigation.

Furthermore, other information strongly suggests failures – beyond the apparent dereliction of duty by two FBI agents – that merit your attention and fact finding. Last Congress, the Senate Committee on Commerce, Science, and Transportation Subcommittee on Manufacturing, Trade, and Consumer Protection conducted an investigation to understand the systemic failures that allowed Nassar to commit his horrific sexual abuse unchecked. This investigation, along with the

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<sup>1</sup> See OFFICE OF THE INSPECTOR GEN., DEP’T OF JUSTICE, INVESTIGATION AND REVIEW OF THE FEDERAL BUREAU OF INVESTIGATION’S HANDLING OF ALLEGATIONS OF SEXUAL ABUSE BY FORMER USA GYMNASTICS PHYSICIAN LAWRENCE GERARD NASSAR (July 2021), <https://oig.justice.gov/sites/default/files/reports/21-093.pdf>.

<sup>2</sup> *Oversight of the Department of Justice: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (Oct. 27, 2021).

<sup>3</sup> *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. (Sept. 15, 2021).

2018 Ropes & Gray inquiry, involved extensive document review and interviews with athletes and survivors, coaches, advocates, parents, law enforcement, and employees and officials from USAG, the USOPC, and the U.S. Center for SafeSport. The resulting reports concluded that “[n]umerous institutions and individuals enabled [Nassar’s] abuse and failed to stop him”<sup>4</sup>

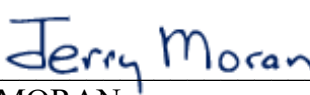
For instance, in December 2018, the Commerce Subcommittee referred Scott Blackmun—the former CEO of the United States Olympic Committee—to the Department for making material false statements during the Subcommittee’s investigation. To date, we do not know what, if anything, the Department did with this referral. In addition, when state law enforcement arrived unannounced at USAG’s Texas training facility—the Karolyi Ranch—in November 2016, two months after allegations against Nassar had been made public by *The Indianapolis Star*, then-CEO of USAG Steve Penny allegedly instructed USAG employees “to immediately locate, pack up and remove any and all documents at the Karolyi Ranch related to Nassar or medical care.”<sup>5</sup> Mr. Penny was later indicted by a grand jury in Walker County, Texas in 2018 for tampering with evidence, but it is not clear whether the Department has ever investigated these events.<sup>6</sup>

Accordingly, we write to urge the Department to conduct a comprehensive review of all information in its possession to determine whether any additional investigations should be opened or widened, and if other individuals and institutions who enabled the cover up this egregious abuse should be charged and held accountable.

Last September, four brave women—four survivors out of the hundreds of athletes who were failed by organizations and institutions that were supposed to protect them—shared their stories with the Senate Judiciary Committee and the world. They demanded accountability. We agree, and that starts with a new review of all of the information in the Department’s possession.

Sincerely,

  
RICHARD BLUMENTHAL  
United States Senate

  
JERRY MORAN  
United States Senate

<sup>4</sup> JOAN MCPHEE & JAMES P. DOWDEN, ROPES & GRAY, REPORT OF THE INDEPENDENT INVESTIGATION: THE CONSTELLATION OF FACTORS UNDERLYING LARRY NASSAR’S ABUSE OF ATHLETES at 2 (Dec. 10, 2018), <https://www.ropesgray.com/-/media/Files/USOC/ropes-gray-full-report.pdf>.

<sup>5</sup> *Id.* at 105.

<sup>6</sup> See Press Release, David P. Weeks, Criminal Dist. Attorney, Walker Cty., Texas, Walker County Grand Jury Indicts Steve Penny (Oct. 17, 2018), <https://s3.documentcloud.org/documents/5006263/Penny-Press-Release.pdf>.