

September 14, 2021

The Honorable Dick Durbin  
Chair  
Senate Judiciary Committee  
711 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley,

We, the undersigned organizations, write to you in reference to the upcoming oversight hearing regarding the Federal Bureau of Investigations' (FBI) failures in the Larry Nassar investigation. According to a recent Department of Justice (DoJ) report, 70 or more young athletes were sexually abused by Nassar between July 2015, when USA Gymnastics first reported allegations about Nassar to the Indianapolis Field Office, and September 2016, when Nassar's residence was searched.<sup>1</sup>

In addition to these alarming findings from the DOJ Office of the Inspector General, we have concerns about the FBI's procedures for investigating cases of child sexual abuse (CSA), especially when they also involve child sexual abuse material (CSAM) offenses (child pornography), as was the case in the Nassar investigation.

Nassar possessed more than 37,000 images of CSAM and sexually abused at least 115 victims.<sup>2</sup> This is consistent with studies that have shown a significant link between offenders who possess child sexual abuse imagery and those who commit contact sexual offenses. According to multiple studies ([OJJDP, Seto et al, Butner Redux, Bourke, et al](#)), between 2006 and 2015, the rate of contact offending for child pornography possessors was between 55 and 85 percent.

Most recently, in June 2021, the U.S. Sentencing Commission reported that, in fiscal year (FY) 2019, "[48.0 percent] of non-production child pornography offenders engaged in

---

<sup>1</sup> "Investigation and Review of the Federal Bureau of Investigation's Handling of Allegations of Sexual Abuse by Former USA Gymnastics Physician Lawrence Gerard Nassar," DOJ Office of the Inspector General, July 2021, p. ii, available at <https://oig.justice.gov/sites/default/files/reports/21-093.pdf>.

<sup>2</sup> *Ibid.*, ii-iii.

aggravating sexual conduct prior to, or concurrently with, the instant non-production child pornography offense.”<sup>3</sup>

As in the Nassar case, RAINN has been alerted to multiple cases where the FBI was aware that a child was being subjected to ongoing sexual abuse and did not prioritize the rescue of that child; instead, waiting sometimes *months* until what they perceived was the right time to arrest the perpetrator and remove the child from harm. Additionally, FBI agents have retraumatized victims by showing children images of their own sexual abuse in an effort to prompt disclosures.<sup>4</sup> This practice is not trauma-informed and CSAM<sup>5</sup> survivors have said that this practice has resulted in dissociative symptoms.

In addition to our grave concerns about how the FBI has handled these cases, we are concerned that federal law enforcement agencies do not have sufficient resources to prioritize and investigate the online offenders most likely to be committing contact offenses against children. While these agencies have access to multiple undercover proactive databases, which have the ability to focus on these offenders, hundreds of thousands of these suspect leads are not being worked due to lack of resources and prioritization of these leads.

We ask for the following reforms to ensure that victims are protected:

1. Establish an imminent harm standard for federal law enforcement agencies investigating cases of child sexual abuse and child sexual abuse material crimes.
2. Prohibit federal law enforcement officers from showing victims of child sexual abuse images or videos of their abuse to prompt disclosures. Should a victim wish to view their imagery, they are guaranteed that right under § 18 U.S.C. 3509(m)(3).
3. Add 34 U.S.C § 20341 and 18 U.S.C. § 2258 as predicate offenses to Masha’s Law to allow survivors of child sexual abuse to sue individuals who had knowledge of their abuse and failed to report it to law enforcement.
4. Fully fund the ICAC Task Forces under the PROTECT Our Children Act of 2008. Direct the DOJ to prioritize suspect leads in undercover, proactive law enforcement databases which have a high correlation with contact offending, and increase spending for federal agencies to identify and rescue children who are likely languishing in abusive situations.

---

<sup>3</sup> “Federal Sentencing of Child Pornography Non-Production Offenses,” United States Sentencing Commission, June 2021, p. 6, available at <https://oig.justice.gov/sites/default/files/reports/21-093.pdf>.

<sup>4</sup> CAPTURED ON FILM: SURVIVORS OF CHILD SEX ABUSE MATERIAL ARE STUCK IN A UNIQUE CYCLE OF TRAUMA, NCMEC 2019; <https://www.missingkids.org/content/dam/missingkids/pdfs/Captured%20on%20Film.pdf>

<sup>5</sup> CAPTURED ON FILM: SURVIVORS OF CHILD SEX ABUSE MATERIAL ARE STUCK IN A UNIQUE CYCLE OF TRAUMA, NCMEC 2019; <https://www.missingkids.org/content/dam/missingkids/pdfs/Captured%20on%20Film.pdf>

---

As the creator and operator of the National Sexual Assault Hotline, RAINN witnesses the horrifying scope of child sexual abuse every day. Since the pandemic began in March 2020, more than half of visitors to our online hotline have been minors. Of minors who discussed coronavirus-related concerns, 67 percent identified their perpetrator as a family member and 79 percent said they were living with that perpetrator. We cannot allow these children to continue to experience harm when we know we have the means to identify them and rescue them. We urge you to support these reforms to help rescue as many children as possible, as quickly as possible.

Sincerely,

RAINN  
Survivors Network of those Abused by Priests (SNAP)  
Monique Burr Foundation for Children, Inc.  
Canadian Centre for Child Protection  
Rights4Girls  
National Center for Victims of Crime  
Joyful Heart Foundation  
World Without Exploitation  
Zero Abuse Project  
National Center on Sexual Exploitation (NCOSE)  
National Criminal Justice Training Center (NCJTC)  
National Child Protection Task Force (NCPTF)  
Marsh Law Firm

CC: The Honorable Patrick Leahy  
The Honorable Lindsey Graham  
The Honorable Dianne Feinstein  
The Honorable John Cornyn  
The Honorable Sheldon Whitehouse  
The Honorable Michael Lee  
The Honorable Amy Klobuchar  
The Honorable Ted Cruz  
The Honorable Christopher Coons  
The Honorable Ben Sasse  
The Honorable Richard Blumenthal  
The Honorable Joshua Hawley

---

The Honorable Mazie Hirono  
The Honorable Tom Cotton  
The Honorable Cory Booker  
The Honorable John Kennedy  
The Honorable Alex Padilla  
The Honorable Thom Tillis  
The Honorable Jon Ossoff  
The Honorable Marsha Blackburn

---