

# Shameful delay in justice for assaulted gymnasts

The recent Judiciary Committee testimony of multiple assault survivors who were abused by a predatory doctor while he worked as a USA Gymnastics physician should cause the halls of Congress and the Justice Department to shutter, one in anger and the other in embarrassment. Dr. Larry Nassar's infamy is well-known by now, but the egregious delay in obtaining accountability for his crimes is a source of injury to federal law enforcement and of continuing concern to any nation with a collective conscience.



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One of the most damning aspects of the Nassar matter is that the Office of Inspector General (OIG) at the Justice Department conducted a far more robust investigation of the Federal Bureau of Investigation (FBI) than did the FBI into the allegations of Nassar's ongoing sexual abuse of young athletes (many minors at the time of abuse). The OIG report, issued in July 2021, contains the equivalent of a detailed indictment of the FBI and numerous mid-level leaders in its Indianapolis and Los Angeles field offices. The report details both failures of imagination and commitment with regard to the victims' initial assertions of abuse, but it also documents lies and deception once the agency's involved personnel were called to account.

A telling sign of the FBI's gross inadequacy in the Nassar matter (and possibly others) is that the interview of a single assault victim was over the phone instead of a meeting in person. That decision was profoundly inappropriate. Further, the interviewing agent didn't even memorialize the phone interview in a formal "302" memorandum (as required) for follow-up action. When a federal prosecutor concluded that the Indianapolis field office might be the wrong venue to investigate based on lack of jurisdiction, the agent failed to transfer the matter according to the OIG report. The initial investigation ended before it began.

Notably, no one in the FBI appears to have caught its own errors. It took the survivors going



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**Sen. Richard Blumenthal, D-Conn., center, holds a news conference with United States gymnasts, from left, McKayla Maroney, Aly Raisman, and Maggie Nichols, joined at far right by Sen. Chuck Grassley, R-Iowa.**

to yet another FBI field office in Los Angeles to re-allege Nassar's ongoing abuse for any meaningful investigatory reaction to occur; even then, the matter languished in the Los Angeles FBI office.

A sexual assault victim is traumatized again when the authorities don't treat the allegations with sensitivity and seriousness. That obligation of diligence is sacrosanct. In our criminal justice system, the initial responsibility often falls on the investigator; as the Nassar matter shows, when an investigator fails to fulfill that duty — due to incompetence or nefarious intent — past victims suffer again, and new victims are harmed.

That the Justice Department reportedly twice declined to prosecute any of the involved agents for materially misleading the OIG is inexplicable. While available and sufficient proof always is a prerequisite for criminal charges, the OIG report outlines in great detail the factual basis for charging federal false statements violations. DOJ missed an important opportunity to hold its own accountable.

FBI Director Christopher Wray appropriately was outraged at the documented failures of his agency. However, if his public comments are an attempt to characterize the failures as that of individuals, not the Bureau, he is wrong. The fact that young athletes had to shop the country for receptive FBI offices in an urgent attempt to get authorities with vast powers to do something meaningful

is process failure. Any lack of recognition that the Bureau's failures go beyond outlier actions of specific agents is a barrier to needed reform. The Bureau must do better. One clear mandate: Any agent assigned to interview a possible sexual assault victim must have sufficient training and experience. If the agent in the Nassar matter was trained, develop new training.

The Nassar debacle shares some lamentable DNA with the case of financier and convicted sex offender Jeffrey Epstein. Both cases involve an inexcusable delay — not just in obtaining justice, but in pursuing it. The damage done in both matters extends beyond the victims (although they bear the physical and mental trauma) to the system itself. The Bureau (and other investigative agencies) need to be viewed as willing and able to help victims of abuse. That means taking credible allegations seriously and sharing materials when other agencies might be better able to lead the effort. That is decidedly not the duty of a few individuals, but the institution itself.

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