



Office of the Inspector General
United States Department of Justice

Statement of Michael E. Horowitz
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before the

U.S. Senate Committee on the Judiciary

concerning

“Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s
Handling of the Larry Nassar Investigation”

September 15, 2021

Chairman Durbin, Ranking Member Grassley, and Members of the Committee:

Thank you for inviting me to testify about the Office of the Inspector General's (OIG)'s ["Investigation and Review of the Federal Bureau of Investigation's \(FBI\) Handling of Allegations of Sexual Abuse by Former USA Gymnastics Physician Lawrence Gerard Nassar."](#)

Before I turn to our report, I want to recognize and acknowledge the many gymnasts who had the courage to come forward to report Larry Nassar's abuses. This includes the athletes who shared their concerns with USA Gymnastics in 2015 prompting the referral to the FBI, the gymnast who went to the Michigan State University Police Department (MSUPD) in August 2016 that led to the MSUPD's investigative activity and Nassar's ensuing arrest, and the gymnasts who spoke with *The Indianapolis Star* that resulted in that newspaper's exposé about Nassar's abuses in September 2016. As the Committee heard in the testimony today from McKayla Maroney, Maggie Nichols, Aly Raisman, and Simone Biles, their persistence and strength continue to this day.

These gymnasts showed remarkable bravery by coming forward to detail the shocking sexual assaults that they had endured from a USA Gymnastics medical doctor (Nassar) at the same time they were competing at the highest levels for our country. And, as you also heard today, these athletes reported this abuse with the hope and the belief that their actions would save other young women and girls from the serial abuse that they had endured. Sadly, as our report indicates, the response of the FBI agents who received that information betrayed their law enforcement responsibilities and their duties to these victims. As our report further details, Larry Nassar's abuses very well could and should have been stopped sooner, if appropriate action had been taken by the FBI in response to the courageous actions of these athletes. Not only did that not occur, but after the FBI agents' inadequate and incompetent response came to light, FBI records were created that falsely summarized the testimony of an athlete who had spent hours detailing the abuses she endured, and inaccurately described the FBI's handling of the matter. Further, when called to account for their actions, two of the agents lied to our OIG investigators.

Although the sexual abuses by Nassar, and the appallingly inadequate response by the FBI cannot be undone, these athletes' commitment to justice and pursuit of accountability for all involved in this deeply tragic series of events will improve our institutions and help to ensure that federal law enforcement responds in an appropriate and timely way to reports of child sex abuse in the future. We have made a number of recommendations to protect against the failures that we outline in our report, among the most important of which is to ensure that child sexual abuse allegations are promptly reported by the FBI to state and local authorities to prevent further victimization in circumstances such as these. We were able to assess and address these failures only because of the courage of the athletes that spoke with us during our investigation. I thank them for their cooperation with our agents and their strength in coming forward. Because of their actions and bravery, critical reforms are being undertaken to ensure that events such as these do not occur again.

I also want to acknowledge the important work of this Committee, under the leadership of Chairman Durbin and Ranking Member Grassley, for holding today's hearing. Additionally, in 2017, this Committee held a critical [hearing](#) on protecting young athletes from sexual abuse that informed the OIG's investigation. I also want to recognize the significant investigative work of Senators Moran and Blumenthal and their [report](#) concerning Nassar's abuses, which also was very informative during our review.

The OIG Report

As the committee is aware, the OIG released our report of investigation on July 14, 2021. Our investigative results and findings are based on our review of thousands of documents and interviews of more than 60 witnesses, several on more than one occasion. The OIG initiated this investigation following reports that FBI employees in the FBI's Indianapolis Field Office mishandled allegations of sexual abuse of athletes by former USA Gymnastics physician Lawrence Gerard Nassar. Nassar was employed as an Osteopathic Physician and Associate Professor at Michigan State University's (MSU) Department of Family and Community Medicine, where he treated patients from 1996 through 2016. For most of that time, Nassar also was employed as the USA Gymnastics National Medical Coordinator and a treating physician for gymnasts. Among the places where Nassar treated athletes was at the USA Gymnastics National Team Training Center in Texas. In addition, Nassar worked in Michigan as the team physician for the Twistars USA Gymnastics Club and at Holt High School.

Let me summarize for you the results of our investigation.

Factual Findings

USA Gymnastics Reports Sexual Assault Allegations to the FBI's Indianapolis Field Office in July 2015; Indianapolis's Investigative Response.

In July 2015, following a USA Gymnastics internal investigation into allegations of sexual assault by Nassar against multiple gymnasts, USA Gymnastics President and Chief Executive Officer Stephen D. Penny, Jr., reported the allegations to the FBI's Indianapolis Field Office. During the meeting, among other things, Penny described graphic information that three gymnasts (Gymnasts 1, 2, and 3), all of whom were minors at the time of the alleged sexual assaults, had provided to USA Gymnastics. Penny further informed the FBI that the three athletes were available to be interviewed. Penny noted during the meeting that Nassar told USA Gymnastics that he was performing a legitimate medical procedure during his treatments of the gymnasts and denied sexually assaulting them. Further, Penny provided the FBI with a thumb drive containing PowerPoint slides and videos that Nassar had provided to USA Gymnastics of Nassar performing his purported medical technique on athletes.

Shortly after the meeting, USA Gymnastics advised Nassar that he should no longer attend USA Gymnastics events, and Nassar retired from his USA Gymnastics position in September 2015. However, Nassar continued to maintain his positions at MSU, Twistars USA Gymnastics Club, and Holt High School.

Over the next 6 weeks, the Indianapolis Field Office conducted limited follow-up, which involved conducting a telephonic interview on September 2 of one of the three athletes, reviewing the thumb drive provided by Penny, and discussing the allegations with the U.S. Attorney's Office (USAO) in the Southern District of Indiana and the FBI's Detroit Field Office. The Indianapolis office did not formally document any of its investigative activity, including its July meeting with USA Gymnastics and its September 2 telephonic interview of one of the victim gymnasts. The office also did not formally open an investigation or assessment of the matter. The only 2015 Indianapolis Field Office documentation located by the OIG consisted of five pages of handwritten notes taken by two of the FBI attendees at the July 2015 meeting with USA Gymnastics, three pages of notes taken by the

two agents at the September 2 interview of the one athlete, a handful of email exchanges between Penny and the FBI Indianapolis Field Office, and approximately 45 emails and text messages among agents and prosecutors.

In September 2015, following the September 2 interview of the victim gymnast, the Indianapolis Field Office, as well as the USAO for the Southern District of Indiana, concluded that there was no venue in Indianapolis since Indianapolis had no connection to any of the alleged illegal activity. Further, both offices had serious questions as to whether the allegations against Nassar were sufficient to support federal jurisdiction. Yet, the Indianapolis Field Office did not advise state or local authorities about the allegations and did not take any action to mitigate the risk to gymnasts that Nassar continued to treat. Instead, the Indianapolis agents and Assistant U.S. Attorney (AUSA) determined that, if the FBI had jurisdiction, venue would likely be most appropriate in the Western District of Michigan and the FBI's Lansing Resident Agency, where MSU is located and where Nassar treated patients. Accordingly, the AUSA advised the Indianapolis Field Office on September 2 to transfer the case to the FBI's Lansing Resident Agency. However, the Indianapolis Field Office failed to do so, despite informing USA Gymnastics on September 4 that it had transferred the matter to the FBI's Detroit Field Office (of which the FBI's Lansing Resident Agency is a part).

USA Gymnastics Reports Sexual Assault Allegations to the FBI's Los Angeles Field Office in May 2016.

After 8 months of FBI inactivity, USA Gymnastics officials contacted the FBI's Los Angeles Field Office and met with that office in May 2016 to report the same allegations concerning Nassar that it had provided to the Indianapolis Field Office in July 2015. The Los Angeles Field Office then contacted a Supervisory Special Agent (SSA) in the Indianapolis Field Office (Indianapolis SSA) to learn what the Indianapolis office had done in response to the USA Gymnastics complaint. The Indianapolis SSA told the Los Angeles SSA that he had created a formal FBI complaint form (FD-71) in 2015 to transfer the Nassar allegations from the Indianapolis office to the Lansing Resident Agency; however, the Los Angeles Field Office, the Indianapolis SSA, and other FBI employees stated that they searched for the FD-71 in the FBI's computer system but could not find it. The OIG also found no evidence that such a document had been sent to the Lansing Resident Agency in 2015.

Following its May 2016 meeting with USA Gymnastics, the Los Angeles Field Office, in contrast to the Indianapolis Field Office, opened a federal sexual tourism investigation against Nassar and undertook numerous investigative steps, including interviewing several of Nassar's alleged victims. However, like the Indianapolis Field Office, the Los Angeles Field Office did not reach out to any state or local authorities, even though it was aware of allegations that Nassar may have violated state laws and was unsure whether the evidence would support any federal criminal charges. It also did not take any action to mitigate the risk to gymnasts that Nassar continued to treat.

The MSU Police Department Learns of Nassar's Alleged Abuse and Executes a Search Warrant on Nassar's Residence in September 2016; the FBI Lansing Resident Agency Subsequently Learns of the Allegations.

In August 2016, the Michigan State University Police Department (MSUPD) received a separate complaint from a gymnast who stated that she was sexually assaulted by Nassar when she was 16 years old. Two weeks later, *The Indianapolis Star* ran a news story describing sexual assault allegations against Nassar by former gymnasts. The MSUPD then received similar sexual abuse

complaints against Nassar from dozens of additional young females and, on September 20, 2016, the MSUPD executed a court-authorized search warrant at Nassar's residence and, among other things, discovered and seized electronic devices containing child pornography.

As a result of the news stories and MSUPD investigative activity, the FBI's Lansing Resident Agency first learned of the Nassar allegations and opened its Nassar investigation on October 5, 2016 (neither the FBI's Indianapolis Field Office nor the FBI's Los Angeles Field Office had previously informed the Lansing Resident Agency of the Nassar allegations). The Lansing Resident Agency ultimately discovered over 30,000 images of child pornography on the devices seized by the MSUPD during its search of Nassar's residence.

The September 2016 news reports and MSUPD investigative activity also resulted in Nassar being removed from his positions at MSU, Twistars USA Gymnastics Club, and Holt High School. According to civil court documents, approximately 70 or more young athletes were allegedly sexually abused by Nassar under the guise of medical treatment between July 2015, when USA Gymnastics first reported allegations about Nassar to the Indianapolis Field Office, and September 2016. For many of the approximately 70 or more athletes, the abuse by Nassar began before the FBI first became aware of allegations against Nassar and continued into 2016. For others, the alleged abuse began after USA Gymnastics reported the Nassar allegations to the Indianapolis Field Office in July 2015.

Nassar is Prosecuted, Convicted and Sentenced.

Nassar was arrested and charged by the Michigan Attorney General in November 2016 with multiple counts of criminal sexual conduct related to his sexual assault of gymnasts. In December 2016, the FBI arrested Nassar on federal possession of child pornography charges related to the images seized during the MSUPD's search of his residence. Nassar was not charged with child sexual tourism, the federal offense that the Indianapolis Field Office had considered and the Los Angeles Field Office had investigated.

In July 2017, Nassar pleaded guilty in federal court to Receipt and Attempted Receipt of Child Pornography, Possession of Child Pornography, and Destruction and Concealment of Records and Tangible Objects, and he was sentenced to 60 years in federal prison in December 2017. In November 2017, Nassar pleaded guilty in Michigan state court to seven counts of First Degree Criminal Sexual Conduct, and an addendum to the plea agreement indicated that there were 115 alleged victims. In January 2018, Nassar was sentenced to 40 to 175 years in Michigan state prison. In February 2018, after pleading guilty to 3 additional counts of criminal sexual conduct, Nassar was sentenced in Michigan state court to an additional 40 to 125 years in prison.

The FBI is Questioned by Reporters in 2017 and 2018 about Its Alleged Lack of Investigative Action Following the USA Gymnastics Referral in July 2015.

In early 2017, reporters questioned FBI and USA Gymnastics officials about the time that elapsed between when USA Gymnastics first reported the sexual assault allegations to the FBI in July 2015 and the MSUPD search of his residence in September 2016. These inquiries prompted Indianapolis Field Office Special Agent in Charge (SAC) W. Jay Abbott to propose that the FBI release a statement indicating that the FBI had expeditiously responded to the Nassar allegations (the FBI did not issue the statement) and resulted in FBI headquarters drafting a white paper (relying on Indianapolis Field Office information) that was intended to summarize the FBI's handling of the Nassar allegations but

omitted critical information about the FBI's failure to timely interview the victim gymnasts.

These 2017 press questions also resulted in FBI officials discussing the Indianapolis Field Office's receipt of the Nassar allegations in 2015 and its investigative response, which the Indianapolis SSA described in an electronic communication (EC) that is dated February 1, 2017. The EC includes a claim that the Indianapolis SSA had drafted an FD-71 report and sent it to the Lansing Resident Agency in 2015, "but to date [it] cannot be located." As noted above, the OIG found no evidence that such a report had ever been sent to the Lansing Resident Agency.

Additionally, on February 2, 2017, the Indianapolis SSA drafted an interview summary (FD-302) of the one gymnast interview he had conducted 17 months earlier in September 2015. He did so despite being told by the FBI office then handling the investigation (the Lansing Resident Agency) to not do so. In drafting the FD-302, the Indianapolis SSA used only his one page of limited notes and memory and did not consult with his FBI co-interviewer or review her notes (even though the co-interviewer had given the Indianapolis SSA her notes). The FD-302 includes statements purportedly made by the gymnast during her Indianapolis interview that she later told the OIG she did not make, that are not contained in the Indianapolis SSA's notes, that the FBI co-interviewer did not recall the gymnast making, and that conflict with statements the gymnast made during her Los Angeles Field Office interview in 2016 and USA Gymnastics interview in 2015. These statements were highly relevant to Nassar's criminal defense, and the inaccuracies included in the FD-302 by the Indianapolis SSA could have jeopardized the then-ongoing, and future, criminal investigations by providing false information to bolster Nassar's defense.

Similar questions in early 2018 about the timeliness of the FBI's handling of the Nassar allegations resulted in Abbott (who had recently retired from the FBI) providing a reporter with an inaccurate statement that claimed, among other things, that "there was no delay by the FBI on this matter" and that the Indianapolis Field Office had provided a "detailed report" to both the FBI Detroit and Los Angeles Field Offices. Further, these inquiries resulted in an official with the Indianapolis Field Office proposing factually inaccurate changes to the white paper created in 2017 that sought to place blame on others, including claiming that the Indianapolis Field Office's limited efforts to interview the victim gymnasts were due to the reluctance of the gymnasts and interference by USA Gymnastics, rather than the fault of the Indianapolis Field Office.

Abbott Engages with Penny Regarding a U.S. Olympic Committee Position While Continuing to Participate in FBI Discussions Regarding the Nassar Investigation.

During the course of the OIG investigation, we learned that in the fall of 2015, after the Indianapolis Field Office decided to refer the Nassar allegations to the FBI's Lansing Resident Agency but while the matter was still pending at the FBI, Abbott met with Penny at a bar and discussed a potential job opportunity with the U.S. Olympic Committee. Thereafter, Abbott engaged with Penny about both his interest in the U.S. Olympic Committee position and the Nassar investigation, while at the same time participating in discussions at the FBI related to the Nassar investigation. These discussions included Penny expressing concern to Abbott about how USA Gymnastics was being portrayed in the media and whether Penny might be "in trouble" and Abbott proposing to his colleagues an FBI public statement that would place USA Gymnastics in a positive light. At the same time, Abbott was aware that Penny appeared willing to put in a good word on Abbott's behalf in connection with the U.S. Olympic Committee job. Abbott applied for the U.S. Olympic Committee position in 2017 but was not selected. Despite evidence confirming that Abbott had applied for the job, Abbott denied to

the OIG during two interviews that he had applied for the position and told the OIG that applying for the job would have presented a conflict of interest.

Results of the Investigation

The OIG found that, despite the extraordinarily serious nature of the allegations and the possibility that Nassar's conduct could be continuing, senior officials in the FBI Indianapolis Field Office failed to respond to the Nassar allegations with the utmost seriousness and urgency that they deserved and required, made numerous and fundamental errors when they did respond to them, and violated multiple FBI policies. The Indianapolis Field Office did not undertake any investigative activity until September 2—5 weeks after the meeting with USA Gymnastics—when they telephonically interviewed one of the three athletes. Further, FBI Indianapolis never interviewed the other two gymnasts who they were told were available to meet with FBI investigators.

This absence of any serious investigative activity was compounded when the Indianapolis Field Office did not transfer the matter to the FBI office (the Lansing Resident Agency), where venue most likely would have existed had evidence been developed to support the potential federal crimes being considered, even though the Indianapolis office had been advised to do so by the USAO and had told USA Gymnastics that the transfer had occurred. As a result, the Lansing Resident Agency did not learn of the Nassar allegations until over a year after they were first reported to the FBI and then learned of them only from the MSUPD. Moreover, the FBI conducted no investigative activity in the matter for more than 8 months following the September 2015 interview, and only then did so after USA Gymnastics brought the Nassar allegations to the FBI's Los Angeles Field Office due to the lack of investigative activity.

Additionally, the Indianapolis office did not notify state or local authorities of the sexual assault allegations even though it questioned whether there was federal jurisdiction to pursue them. It also took no action to mitigate the ongoing threat that Nassar presented to the gymnasts he was continuing to treat and, as alleged and detailed in numerous civil complaints, Nassar's sexual assaults continued.

Further, when the FBI's handling of the Nassar matter came under scrutiny from the public, Congress, the media, and FBI headquarters in 2017 and 2018, Indianapolis officials did not take responsibility for their failures. Instead, they provided incomplete and inaccurate information in response to FBI internal inquiries (and Abbott, after he retired, provided inaccurate information to the media) to make it appear that the Indianapolis office had been diligent in its follow-up efforts and they did so, in part, by blaming others for their own failures.

The OIG identified multiple failures and policy violations by the Indianapolis Field Office in connection with its handling of the Nassar allegations. Among other things, the OIG found that the Indianapolis Field Office did not properly document the July 2015 meeting with USA Gymnastics, the Indianapolis SSA failed to properly handle and document receipt and review of the thumb drive provided by USA Gymnastics during the July 2015 meeting, the Indianapolis SSA did not document the September 2015 victim interview alleging criminal sexual assault by Nassar in an FD-302 report until 17 months after the interview occurred, the FD-302 of the September 2015 victim interview that was drafted by the Indianapolis SSA in February 2017 included materially false information and omitted material information, and the FBI Indianapolis Field Office did not coordinate with state or

local authorities although it believed that the allegations it received likely did not fall within federal jurisdiction. In addition, although the Indianapolis SSA told the OIG that he completed and forwarded an FD-71 complaint form in the FBI's electronic case management system to the FBI's Lansing Resident Agency, we determined that an FD-71 form never reached the Lansing Resident Agency and the Indianapolis SSA, the FBI Inspection Division, and other FBI employees stated they could not find an FD-71 in the FBI's case management system or elsewhere.

The OIG also found that, while the FBI Los Angeles Field Office appreciated the utmost seriousness of the Nassar allegations and took numerous investigative steps upon learning of them in May 2016, the office also did not expeditiously notify local law enforcement or the FBI Lansing Resident Agency of the information that it had learned or take other action to mitigate the ongoing danger that Nassar posed. Indeed, precisely because of its investigative activity, the Los Angeles Field Office was aware from interviewing multiple witnesses that Nassar's abuse was potentially widespread and that there were specific allegations of sexual assault against him for his actions while at the Karolyi Training Camp (also known as the Karolyi Ranch) in Huntsville, Texas. Yet, the Los Angeles Field Office did not contact the Sheriff's Office in Walker County, Texas, to provide it with the information that it had developed until after the MSUPD had taken action against Nassar in September 2016. Nor did it have any contact with the FBI Lansing Resident Agency until after the Lansing Resident Agency first learned about the Nassar allegations from the MSUPD and public news reporting. Given the continuing threat posed by Nassar, the uncertainty over whether the Los Angeles Field Office had venue over the allegations, and the doubt that there was even federal jurisdiction to charge the sexual tourism crime that the Los Angeles Field Office was seeking to pursue, we found that prudence and sound judgment dictated that the Los Angeles Field Office should have notified local authorities upon developing the serious evidence of sexual assault against Nassar that its investigative actions were uncovering.

In addition, we concluded that the Indianapolis SSA, in an effort to minimize or excuse his errors, made false statements during two OIG-compelled interviews regarding his interview of one of Nassar's victims. Similarly, we found that Abbott, in an effort to minimize or excuse his own and his office's actions, falsely asserted in two separate OIG interviews that he communicated with both the Detroit SAC and the Los Angeles SAC about the Nassar allegations and sent ECs to both field offices in the fall of 2015. We found no evidence to support these claims.

Separately, the OIG found that Abbott violated the FBI's conflicts of interest policy by meeting with Penny to discuss the U.S. Olympic Committee job and later communicating with Penny about the job opportunity in the midst of the other communications and the proposed FBI public statement described above. We further found that, under federal ethics regulations, Abbott exercised extremely poor judgment by failing to consult with a designated agency ethics official regarding his ongoing involvement in Nassar investigation discussions at the same time he was seeking Penny's help and guidance about a U.S. Olympic Committee job opportunity. Abbott should have known—and in fact did know according to the evidence we found—that his actions would raise a question regarding his impartiality. We further concluded that Abbott made false statements to the OIG about the job discussion, his application for the position, and his handling of the Nassar allegations.

The Department declined prosecution of Abbott and the Indianapolis SSA in September 2020. Following these declinations, the OIG was able to compel interviews of the Indianapolis SSA and eight other FBI witnesses who had declined voluntary interviews and whom we were previously unable to compel to participate in interviews due to the ongoing criminal investigation and their

Fifth Amendment privilege against self-incrimination. Following these interviews, we were able to complete our administrative investigation, which resulted in the findings detailed above. In addition, on May 14, 2021, the Department notified the OIG that it was not opening a new matter to investigate whether the Indianapolis SSA made false statements during his compelled OIG interviews.

Recommendations

The OIG made four recommendations to improve the FBI's processes to address the concerns we identified. As I noted in my introductory remarks, the most important of these recommendations concerns the need to ensure timely notification of state and local authorities regarding crimes against children. As our report indicates, FBI personnel failed to take appropriate and timely investigative and coordinating actions after receiving the Nassar allegations in 2015. To avoid future failures, FBI policy should clearly specify what is required of agents when they receive similar allegations.

Our four recommendations to the FBI were:

1. Reassess its policies to:
 - a. more precisely describe for FBI employees when they are required to promptly contact and coordinate with applicable state and local law enforcement and social service agencies after receiving allegations of crimes against children that potentially fall under state jurisdiction, even when the allegations also potentially fall within the FBI's jurisdiction;
 - b. require FBI employees to confirm receipt of transfers between field offices of certain categories of complaints, such as complaints of serious or multi-victim sexual abuse;
 - c. clarify when interviews by Child/Adolescent Forensic Interviewers (CAFI) should be conducted of children and adults reporting allegations of abuse they experienced as children; and
 - d. describe the circumstances under which victim services should be offered during Pre-Assessment or Assessment activities, such as when these phases take longer than expected, when a victim is interviewed as part of these phases, or when an initial complaint is transferred between field offices.
2. Clarify its policies as to:
 - a. the type of approval required (including who is required to provide approval) when a supervisor conducts investigative activity or completes documentation that would require supervisory approval when conducted by a nonsupervisory Special Agent;
 - b. whether Pre-Assessment activities can continue for more than 5 days;
 - c. if so, what type of file FBI employees should use to retain documentation received during Pre-Assessment activities that continue for more than 5 days; and

- d. if not, whether FBI employees should open an Assessment when the employees need more than 5 days to assess whether there are alleged violations of federal law and which field office has venue.
3. Develop a policy describing the circumstances, if any, under which telephonic interviews of alleged child abuse victims, including adults who had allegedly been victims of abuse as children, are appropriate.
4. Train FBI employees on the policies discussed in the first three recommendations and any changes made to them.

The FBI concurred with each of our recommendations and, as Director Wray discussed in his testimony, the FBI has taken steps to implement them. We are encouraged by the FBI's efforts and, consistent with our oversight responsibilities, we intend to carefully review them to ensure they fully address the issues we identified.

Conclusion

In conclusion, I want to thank the Committee for its support for our mission, which allows the OIG to conduct aggressive and thorough oversight of the Department. Reports like this one, even if painful, allow us to help the Department and the FBI improve their operations, hold responsible officials accountable, and prevent future shortcomings and failures. I want to conclude where I started, by recognizing the athletes for their courage. Their persistence and strength are an example to all of us who work to promote accountability.

Thank you for the opportunity to testify, and I would be pleased to answer any questions that you may have.