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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

July 14, 2023

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

Dear Attorney General Garland,

On June 17, 2023, approximately 150 nude people participated in a bike ride in and around the Capitol Square in Madison, WI., in an event called the World Naked Bike Ride<sup>1</sup> (*hereinafter* “WNBR”). Amongst the participants was a nude 10-year-old minor girl on a bicycle, whose parents or caretakers consented to her display. As you know, children are entitled to a safe environment free from an act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.<sup>2</sup>

Parents and caretakers are responsible for making decisions in the best interest of the child, as the child grows and gains more independence and legal rights. In recent years, the conversation surrounding age-appropriate materials<sup>3</sup> and venues have been at the forefront of the national discussion,<sup>4</sup> as concerned parents have been made increasingly aware of the harmful materials being forced upon their children. The harm that is being done to our youth, because of progressive curriculums and events such as the WNBR, are causing irreparable harm. It is unconscionable that this group, through its’ organizer Peter Keating proffers, “participation of children in the event ‘is not an issue at all,’” adding “it has always been our position that minors are perfectly welcome to participate as they please, as long as they are accompanied by [a] parent or legal guardian”<sup>5</sup>

1. Rickert, Chris. (2023, June 24). *Madison police: No law broken in girl's participation in World Naked Bike Ride*. Wisconsin State Journal. [https://madison.com/news/local/crime-courts/madison-naked-bike-ride/article\\_5d1cd182-11db-11ee-833f-77d1bae3f5cd.html](https://madison.com/news/local/crime-courts/madison-naked-bike-ride/article_5d1cd182-11db-11ee-833f-77d1bae3f5cd.html)
2. S. 1927, 117<sup>th</sup> Cong. § 2 (2021). [https://www.congress.gov/bills/117th-congress/senate-bill/1927/text](https://www.congress.gov/bills/117/congress/senate-bill/1927/text)
3. Nelson, Joshua Q. (2023, February 28). *11-year-old reads aloud from 'pornographic' book he checked out from library at school board meeting*. <https://nypost.com/2023/02/28/knox-zajac-reads-aloud-from-pornographic-book-at-school-board-meeting/>
4. Phillips, Aleks. (2023, January 31). *Was Pornographic Book Found in Minnesota School Library? What We Know*. <https://www.newsweek.com/pornographic-book-minnesota-library-school-board-discussion-1777931>
5. Rickert, Chris. (2023, June 24). *Madison police: No law broken in girl's participation in World Naked Bike Ride*. Wisconsin State Journal. [https://madison.com/news/local/crime-courts/madison-naked-bike-ride/article\\_5d1cd182-11db-11ee-833f-77d1bae3f5cd.html](https://madison.com/news/local/crime-courts/madison-naked-bike-ride/article_5d1cd182-11db-11ee-833f-77d1bae3f5cd.html)

Notwithstanding Mr. Keating's unscrupulous offer to our children, his statement acknowledges the important and legally binding role the parent or caretaker plays in the protection of our children. As you know, "images of child pornography are not protected under First Amendment rights and are illegal contraband under federal law."<sup>6</sup> Further, 18 U.S.C. § 2256, "defines child pornography as any visual depiction of sexually explicit conduct involving a minor (someone under 18 years of age). Visual depictions include photographs, videos, digital or computer-generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor."<sup>7</sup> In the instant case, not only did the minor child's parents or caretakers' consent to her participation, but their actions are the proximate cause of the creation of the child exploitive images captured by the attendees and the media. Those images are now readily available on personal devices and on the internet, to predators and sexually depraved individuals; the individuals your department routinely seeks to investigate through your Child Exploitation and Human Trafficking Task Forces (*hereinafter* "CEHTTFs"). Moreover, this egregious behavior warrants action, as it meets the criteria enumerated in the mission of the FBI's Violent Crimes Against Children program: to, among other things, "provide a rapid, proactive, and comprehensive ability to counter all threats of abuse and exploitation to children when those crimes fall under the authority of the FBI."<sup>8</sup>

Those entrusted in the care and protection of this innocent child, consented, and condoned this harmful conduct and her indecent exposure. It is undisputable that indecent exposure is lewd conduct (obscenity)<sup>9</sup> and is not protected speech. This cannot be allowed to happen, now or again, and request your cooperation in immediately investigating this flagrant violation of our child endangerment and obscenity laws. As you know, "the standard of what is harmful to minors may differ from the standard applied to adults."<sup>10</sup> For good reason, these standards seek to protect minors from pornography, obscenity, and other material that may bring harm to them, and they must be enforced.

The United States Supreme Court, over the years, has ruled on three major cases: *Miller v. California*, 413 U.S. 15, 24-25 (1973); *Smith v. United States*, 431 U.S. 291, 300-02, 309 (1977) (holding in part, the state's decision not to regulate obscenity did not mean federal standards did not apply); and *Pope v. Illinois*, 481 U.S. 497, 500-01 (1987). The three-pronged Miller test considers the following:

1. Whether the average person, applying to contemporary adult community standards, finds that the matter, taken as a whole, appeals to prurient interests (i.e., an erotic,

6. The United States Department of Justice. (updated 2020, May 28) *Citizen's Guide To U.S. Federal Law on Child Pornography*. <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-child-pornography>

7. The United States Department of Justice. (updated 2020, May 28) *Citizen's Guide To U.S. Federal Law on Child Pornography*. <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-child-pornography>

8. The Federal Bureau of Investigation. *Violent Crimes Against Children*. <https://www.fbi.gov/investigate/violent-crime/vcac>

9. Lewd, *Legal Information Institute*, Cornell U Law School, <https://www.law.cornell.edu/wex/lewd#:~:text=Conduct%20that%20is%20indecent%2C%20obscene,exposure%2C%20and%20other%20sexual%20conduct>. (updated 2020, June)

10. The United States Department of Justice. (updated 2021, November 9) *Citizen's Guide To U.S. Federal Law on Obscenity*. <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-obscenity#:~:text=Harmful%20materials%20for%20minors%20include,and%20lacks%20serious%20literary%2C%20artistic%2C>



lascivious, abnormal, unhealthy, degrading, shameful, or morbid interest in nudity, sex or excretion);

2. Whether the average person, applying contemporary adult community standards, finds the matter depicts or describes sexual conduct in a patently offensive way (i.e., ultimate sexual acts, normal or perverted, actual or simulated, masturbation, excretory functions, lewd exhibition of genitals, or sado-masochistic sexual abuse); and
3. Whether a reasonable person finds that the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.<sup>11</sup>

Here, the average person, applying to a contemporary standard, would find that this matter, taken as a whole, would appeal to the prurient interest. As you well know, the images of a young nude child being circulated on the internet, will serve to satisfy the depraved mind and those who seek to harm her mentally and emotionally. Moreover, the lewd exhibition of a minor's genitals in a public forum, and accessible by the media and bystanders, facilitates the transfer of those images to the internet—images that are patently offensive to the average person. Lastly, the exploitation of this child during this event, taken in part or in whole, lacks serious literary, artistic, political, or scientific value, under a reasonable person standard. The decision of her parents or caregivers to include her in this demonstration, added no value to the purpose of the bike ride or the message of the WNBR, and instead served as an intentional infliction of harm to a minor.

The laissez-faire attitude of all parties, such as the organizer, the attendees, and the Wisconsin Attorney General, underscores the need for the federal government to intervene and act to protect our children from this perverse behavior.

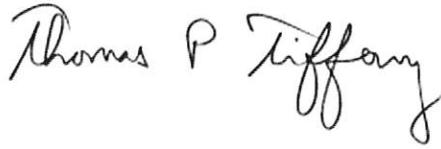
Please respond to the following questions, so that we may fully understand the disposition of your department, as it undertakes this investigation.

1. Will the Department of Justice endeavor, in conjunction with the Federal Bureau of Investigation, to investigate this matter, and leverage appropriate charge(s) on those responsible for endangering a child through the propagation of this obscene conduct?
2. If your department declines to investigate this matter, what law or policy are you invoking that precludes you from launching an investigation?
3. What federal remedy does a minor, who does not have legal capacity and is exploited by their parents, have under these facts?

<sup>11</sup>. The United States Department of Justice. (updated 2021, November 9) *Citizen's Guide To U.S. Federal Law on Obscenity*. <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-obscenity#:~:text=Harmful%20materials%20for%20minors%20include,and%20lacks%20serious%20literary%2C%20artistic%2C>

We look forward to your response, not later than August 26, 2023. Thank you in advance for your careful consideration in investigating this harm.

Sincerely,

Handwritten signature of Thomas P. Tiffany in blue ink.

Tom Tiffany  
Member of Congress

Handwritten signature of Scott Fitzgerald in blue ink.

Scott Fitzgerald  
Member of Congress