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Hon. George Burgasser
Acting Director
Child Exploitation and Obscenity Division
U.S. Department of Justice
310 Washington Center
1001 G Street, N.W.
Washington, D.C. 20530

Dear Mr. Burgasser:

I am writing you concerning a scandal I have observed developing in the area of sexual abuse of children.

For seventeen (17) years between 1970 and 1987, I was counsel to the New York State Senate Select Committee on Crime. During that period, the Committee conducted extensive investigations into child prostitution, pedophile organizations like NAMBLA and child pornography. The Committee also assisted President Reagan's Commission on Pornography by conducting hearings, subpoenaing the records of organized crime distributors of pornography in the New York metropolitan area and bringing in for interviews sentenced pedophiles in the State prison system and former teenage prostitutes still working in the massage parlor industry.

The Select Committee drafted and got enacted New York's Child Pornography Law, N.Y. Penal Law Article 263, which was declared constitutional in New York v. Ferber, 458 U.S.747, 102 S.Ct.3348 (1982). It also organized legislative support for the passage of New York's Child Prostitution Laws.

In its various investigations, the Select Committee found that lawyers were essential to the maintenance and protection of the child prostitution and pornography industries. A select group of attorneys functioned as corporate counsel to these industries, advising the full time criminals how to circumvent the law enforcement effort and defending them whenever they were prosecuted. After our hearings, I was appointed by the presiding Justice of the Appellate Division, First Department, to prosecute disbarment proceedings against the worst offenders.

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All of this is by way of introduction to the strikingly similar pattern I have observed recently in child sex abuse cases. Again, I see a legal network operating to protect child abusers, many of whom are also pornographers. This network of attorneys, manipulates court appointed law guardians, who in turn manipulate the courts and child protection agencies to punish the complainant mother who reports the abuse of her child by transferring the abused child to the abusing father. The reasons for the use of law guardians in this scheme is that they enjoy immunity for their acts and they are relied on by the courts as an independent participant in the proceedings whose recommendations are given great weight.

My original contact with this new phenomenon came in 1986 when I was asked by a New York State Senator on the Select Committee to look into the Amy Neustein case in Brooklyn, New York. I had Ms. Neustein wear a recording device to the interviews arising out of her court proceedings and developed evidence that the law guardian for her daughter, who was sexually abused by her father, and the investigative agency handling the complaint were deliberately concealing evidence of the sex abuse. We recorded the court-appointed psychiatrist, Dr. Arthur Green, telling Ms. Neustein that he received ex parte calls from the court and the law guardian and the investigative agency requesting him to disregard what was told to him by her and write his expert's report against her. I observed the law guardian for the Neustein child deliberately deceiving an appellate court in her response to a crucial question asked by an appellate judge during an appellate argument in the case.

The law guardian also did the legal work for the father, a medical doctor, who pretended to appear pro se. Subsequently, after custody of the Neustein child was transferred to the father, during visits with the mother the child indicated she was being filmed in erotic poses.

I left the Committee for private practice and recently have been retained by several mothers involved in custody cases in which there have been sex abuse charges. In one case in Idaho, the law guardian recommended without notice or filing a motion that custody of two (2) young boys be transferred to the abusive father before any hearing on the sex abuse charges was held, which was granted. He later openly billed the mother for twelve (12) ex parte conferences with the judge which coincidentally all occurred before legal decisions by the judge unfavorable to the mother. The father had previously not contested sex abuse charges against him made by another but older child who could testify.

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I am involved in two cases in Suffolk County, Long Island, where both mothers reported sex abuse. In the first case, the children were removed and the law guardian argued to the appellate court hearing the application for a stay, that he had personally investigated and there was no physical evidence of sex abuse found by a hospital where the child had been brought because of bleeding from the rectum. He assured the court the hospital had not reported sex abuse.

In fact, the hospital had found physical evidence of sex abuse in the form of trauma to the anus and had made the mandatory report. Nevertheless, the children were removed and given to the abusive father. A second case then intersected with this case, when a wholly unrelated four (4) year old boy told his mother he was being abused on his visits with his father and they were taking pictures of him and other children in sexual performances. The four (4) year old identified the first two (2) children by name and picture as the other children at the filming.

His mother then brought the child to a hospital in the next county, Nassau County, for a physical examination. The hospital has a staff trained to handle abuse cases. The police were called in by the doctors to hear the child's story and conduct an investigation. When the report by the hospital of suspected sex abuse was received by Suffolk County's Child Protective Services Agency, the agency immediately and without further investigation obtained an ex parte order of removal from the child's mother on the basis of the agency's allegation that the mother (not the hospital) had made a false allegation of sex abuse. The mother is now hiding with her child until the order of removal is stayed.

There are similar cases crying out for investigation. In Brooklyn, the law guardians in "special" cases were cooperating in the placement of children removed from their mothers with a particular private agency by circumventing the official placement process supervised by New York City's Child Welfare Administration. The agency was notorious for assisting fathers in getting custody transferred to them from the mother.

In 1987, a police investigation began into a psychologist-counsellor serving this agency after the counsellor began soliciting neighborhood children for sex and pornographic movies. The police investigation found that the counsellor had a mail order degree and was sexually abusing and making pornographic films of emotionally handicapped children sent to him by the private agency where they had been placed.

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The children told the police they told the agency what was occurring and begged not to be sent to the counsellor but their pleas were ignored. Several of these children have since died of AIDS. The police obtained an indictment of the counsellor but he fled after being tipped the police were looking for him. I am told the F.B.I. has conducted their own investigation of this matter. The counsellor's name is Mondrowitz.

The agency is the same agency where the Neustein child was kept and made available to her father who slept over at the foster home where the child was kept until the court ordered a transfer of custody to him. The agency actively assisted the father in the Neustein case in getting custody transferred to him and suppressed reports of sex abuse made by the child against the father while she was in the custody of the agency.

In another Brooklyn case, a child was undergoing treatment with a psychiatrist for suicidal depression. Meanwhile, there was a custody case involving the child before the courts and a law guardian had been appointed for the child. The child told the law guardian her father was sexually abusing her but the law guardian suppressed her reports. Then the child told an agency she had been sexually abused by her father and an official report was made.

After the court failed to get the reporting agency to withdraw the allegation of abuse, the law guardian and the judge went to the Commissioner of the New York City Child Welfare Administration charged with investigating the report of sex abuse and directed the Commissioner not to investigate the case and the agency complied. The judge then transferred custody to the abusing father and ordered the psychiatrist to stop treating the child or he would jail her for contempt. There are cases outside of New York where judges have been removed for less greivous ex parte judicial conduct.

The scheme blew up when a neighbor caught the drunken father and several friends sexually abusing the child and reported it to the police. The child had to be returned to the mother after the police got involved. No one was disciplined and the judge and the law guardian are still functioning in the New York City Court system.

If there is a network of attorneys manipulating the courts and the law guardian system to transfer custody of child abuse victims to the abuser to protect or supply child pornography operations, it appears that 18 U.S.C. 2251A(b) would make it a federal crime to participate in that process. In addition, the Attorney General of

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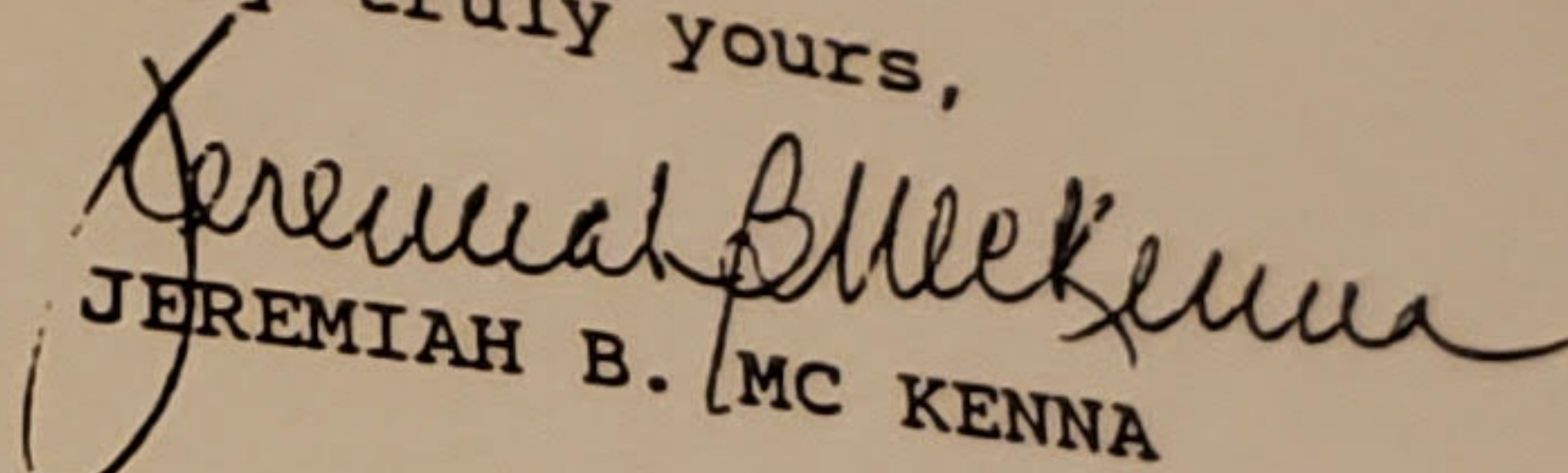
the United States has an official consulting role in the award of federal grants to state programs relating to the investigation and prosecution of child abuse and neglect to the investigation and 5106(c)). Before further federal funds are committed to these programs, there should be a Department of Justice inquiry into whether the child abuse process funded under 42 U.S.C. 5101, et seq. has been subverted by the targets of the process to obtain child victims for exploitation in child pornography.

I firmly believe there are enough examples of what I have described above, with their attendant paper trail, to warrant an investigation by your office. I stand ready to assist you in any way I can.

JBM:ct

cc: AUSA Alan Vinegrad
Sherry Quirk, Esq.

Very truly yours,


JEREMIAH B. MC KENNA