

June 14, 2022

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

Dear Attorney General Garland:

We write to express our concern regarding the recent trend of local district attorneys declining to prosecute crimes, seeking reduced sentencing, and offering plea agreements to recidivist offenders. This abdication of professional responsibility has emboldened criminals and undermined the trust of law-abiding Americans in public institutions.

Increasingly, certain district attorneys are dismissing whole classes of crimes before arraignment, including for offenses such as trespassing, drug possession, and resisting arrest.<sup>1</sup> While this trend dates back several years, it has intensified under prosecutors like George Gascon in Los Angeles, Chesa Boudin in San Francisco, Kim Foxx in Chicago, Larry Krasner in Philadelphia, Marilyn Mosby in Baltimore, Kimberly Gardner in St. Louis, and Rachael Rollins in Boston.<sup>2</sup> Unfortunately, particularly for those in their districts, it shows no signs of slowing. In fact, it is spreading, with Rachael Rollins confirmed as United States Attorney for Massachusetts in December 2021, a position where she has continued her soft-on-crime policies across the state.<sup>3</sup>

Other proven steps to limit crime are also being ignored, with, for instance, Gascon outright prohibiting “requesting cash bail for any misdemeanor, non-serious felony, or non-violent offense, regardless of the extent of a defendant’s criminal history.”<sup>4</sup> This irresponsible approach to prosecutorial discretion has very real consequences for the people being victimized in these communities – just one tragic example is the Waukesha Christmas parade attack. Despite an

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<sup>1</sup> Charles Stimson and Zack Smith, “Meet Rachael Rollins, the Rogue Prosecutor Whose Policies Are Wreaking Havoc in Boston,” *The Heritage Foundation*, Nov. 12, 2020, <https://www.heritage.org/crime-and-justice/commentary/meet-rachael-rollins-the-rogue-prosecutor-whose-policies-are-wreaking>; Charles Stimson and Zack Smith, “George Gascón: A Rogue Prosecutor Whose Extreme Policies Undermine the Rule of Law and Make Los Angeles Less Safe,” *The Heritage Foundation*, Jan. 28, 2021, <https://www.heritage.org/crime-and-justice/report/george-gascon-rogue-prosecutor-whose-extreme-policies-undermine-the-rule>.

<sup>2</sup> Charles Stimson and Zack Smith, “It’s Not Just Rising Crime: Rogue Prosecutors Are a Huge Problem,” *The Heritage Foundation*, Feb. 7, 2022, <https://www.heritage.org/crime-and-justice/commentary/its-not-just-rising-crime-rogue-prosecutors-are-huge-problem>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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extensive criminal history, 39-year-old Darrell Brooks was released on low bail, leaving him free to kill six people, including a child, and injure more than 60 others.<sup>5</sup> Operating under the discredited notion that the criminal justice system is systemically racist, rogue prosecutors are favoring criminals over their victims. As Milwaukee district attorney John Chisholm guaranteed, his diversion approach to crime would result in innocent people being killed.<sup>6</sup>

We believe it is vitally important for the federal government to assist, or to pick up the slack, where appropriate to help combat the increases in violent crime many of these cities are seeing. To that end, making sure that federal prosecutors are using their resources wisely to help combat crime is very important. United States Attorney's offices should be aggressively prosecuting felon in possession of firearm cases pursuant to 18 U.S.C. § 922(g). These offices should also make prosecuting immigration-related offenses a top priority.

To help us understand the Department's priorities, please provide us with the following information broken out by each U.S. Attorney's office:

- The number of referrals made to U.S. Attorney's offices for felon-in-possession cases;
- The number of indictments brought charging a defendant for being a felon-in possession;
- The disposition of felon-in-possession cases, including any cases where the § 922(g) charge was dismissed, any cases where a federal prosecutor supported a below guidelines sentence in a §922(g) case, and the ultimate sentence imposed where the prosecutor supported a below guidelines sentence;
- The number of referrals made to U.S. Attorney's offices for an immigration-related criminal offense;
- The number of indictments brought charging a defendant with an immigration-related criminal offense;
- The disposition of immigration-related cases, including any cases where the immigration-related offense was dismissed, any cases where a federal prosecutor supported a below guidelines sentence in an immigration-related offense case, and the ultimate sentence imposed where the prosecutor supported a below guidelines sentence;

Please provide this information for the past five (5) years, which should be readily available.

Many state laws have a nexus with federal statutes and many of those laws are not being fully prosecuted. Referrals to federal prosecutors have also fallen sharply, including those involving

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<sup>5</sup> Corinne Ramey, Ben Kesling and Joe Barrett, "The Waukesha Parade Suspect Was Out on Bail. Now the DA Is Probing How Bail Is Set," *Wall Street Journal*, <https://www.wsj.com/articles/waukesha-parade-tragedy-sparks-debate-over-bail-policies-11637699382>.

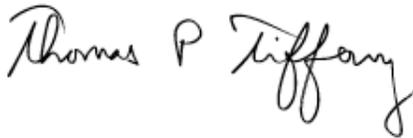
<sup>6</sup> Jessica McBride and Jim Piwowarczyk, "DA John Chisolm 'Guaranteed' His Diversion Approach Would 'Kill Somebody'," *Wisconsin Right Now*, Nov. 23, 2021, <https://www.wisconsinrightnow.com/2021/11/23/da-john-chisholm/>.

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felons in possession of weapons.<sup>7</sup> With crime skyrocketing and annual homicide records being broken in at least 12 major cities – many with rogue prosecutors – it’s hard not to see the link between their soft-on-crime policies and such increases.<sup>8</sup> Yet instead these prosecutors are doubling down on sentencing deviations, cash bail misuse, and lackluster prosecution, to the great detriment of the victims they swore to seek justice for and the communities they swore to serve.

We urge the Justice Department to take action and instruct United States Attorneys to begin charging and prosecuting federal crimes that are being ignored by states. Thank you for your attention to this matter and we look forward to your prompt reply.

Sincerely,



Tom Tiffany  
Member of Congress



Andy Biggs  
Member of Congress



Lance Gooden  
Member of Congress



Warren Davidson  
Member of Congress



Ben Cline  
Member of Congress



Lauren Boebert  
Member of Congress



Nicole Malliotakis  
Member of Congress

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<sup>7</sup> Transactional Records Access Clearinghouse, “Federal Criminal Prosecutions Plummet in Wake of COVID-19,” *Transactional Records Access Clearinghouse*, May 28, 2020, <https://trac.syr.edu/tracreports/crim/609/>.

<sup>8</sup> Bill Hutchinson, “It’s just crazy’: 12 major cities hit all-time homicide records,” *ABC News*, Dec. 8, 2021, <https://abcnews.go.com/US/12-major-us-cities-top-annual-homicide-records/story?id=81466453>.