Joint Statement Responding to Attacks on Circuit Attorney Kim Gardner  
And In Defense of Local Prosecutorial Discretion

As current and former elected prosecutors, former US Attorneys, and former US Department of Justice officials from around the country, we have come together to make clear our deep concerns in regard to the shameful, aggressive and blatantly political attacks on Circuit Attorney Kim Gardner by the President, the Missouri Governor and Attorney General, and the U.S. Senator from Missouri in connection with the McCloskey investigation and prosecution. This case is not a political issue, it is a purely local criminal matter that must be governed by the facts and the evidence – and that appropriately is handled by the local elected prosecutor in that jurisdiction, not national or state politicians. It is up to Missouri law and a jury composed of the people of St. Louis to determine whether the McCloskeys should be held criminally responsible for their actions, not a handful of politicians who neither live nor vote in that jurisdiction and, in some cases, do not even have any prosecution or law enforcement experience.

The disturbing intervention in this local case is reflective of a broader, dangerous pattern that we have seen far too often in recent years. In circumvention of the proper and well-settled judicial process, the President and his allies have engaged in attacks on locally-elected prosecutors, apparently in an effort to engineer a political outcome or rally their base. These attacks have ignored the fact that the local prosecutors were elected with a mandate from their communities to build a more effective and equitable justice system and that their decisions are squarely within the purview of the job they were duly elected to carry out. We have seen these attacks and meddling by federal leaders in Boston, in Philadelphia, in Baltimore, in Chicago, and on an ongoing basis in St Louis. Usually these complaints are framed in “tough-on-crime” terms, and criticize prosecutors for declining or diverting cases, or for seeking alternative sanctions instead of long prison sentences – decisions that are the essence of the exercise of prosecutorial discretion. In this most recent St. Louis case, the criticism ironically is based on the exercise of a prosecutor’s decision to investigate and charge a violation of state law. We should all be concerned when enforcing the law, including conducting a local investigation and bringing charges consistent with the law – even if at odds with the political agenda of some – becomes the basis for personal and vicious attacks against the elected local prosecutor.

This hateful and dangerous behavior has serious consequences and we stand together in calling for it to end. The political and personal assault on CA Gardner undermines public safety by fanning the flames of racial division and unrest. The critics of CA Gardner have discussed this case with highly inflammatory language and using racialized terms, referring to predominantly Black protestors as a dangerous “mob,” accusing CA Gardner of “targeting” the McCloskeys, and falsely asserting that Gardner has refused to “prosecute actual violent criminals who are shooting cops, who are burning buildings in St. Louis.” These extreme and false characterizations – also paired with wildly inaccurate claims regarding the results of CA Gardner’s efforts to do her job and rethink the criminal justice system in the exact manner she committed to her community to do in seeking the job of Circuit Attorney – has, not surprisingly,
led to a flood of shockingly racist and sexist emails, social media messages, and death threats against CA Gardner, including a note left on her car that referenced lynching.

At the core of effective prosecution is the responsible and equitable use of discretion to reduce crime while holding people accountable. Indeed, a prosecutor’s job as a minister of justice is to “seek justice within the bounds of the law, not merely to convict.” For as long as they have been elected or appointed, prosecutors have made decisions about where and how limited resources are best used. All too often that use of discretion has led to a criminal justice system that disparately impacts people and communities of color. CA Gardner is one of a new generation of prosecutors elected by their communities to correct historic and ongoing harms associated with racial disparities, rethink when and for how long entry into the justice system – as opposed to investments in prevention, treatment and fortifying communities – is the best and appropriate response, and seek true justice rather than merely an increasing number of convictions and prison terms. Despite facing vehement opposition from some committed to maintaining a status quo that has fueled disparities and mass incarceration, CA Gardner has ceaselessly fought to reform biased policing practices, promote police accountability, and build community trust in the justice system.

During these difficult and challenging times, it is more important than ever that we support our local prosecutors in the exercise of their core duty to fairly administer justice while protecting public safety. We stand with Circuit Attorney Gardner as she pursues our shared mission for a fair, just, and compassionate vision of safer and healthier communities. And we stand together in calling for an end to racist, hateful and destructive attacks against local elected prosecutors duly carrying out the job they were elected to do.

Signed,

Roy L. Austin
Former Deputy Assistant to the President for Urban Affairs, Justice and Opportunity, White House Domestic Policy Council
Former Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice

Aramis Ayala
State Attorney, Ninth Judicial Circuit, Florida

Diana Becton
District Attorney, Contra Costa County, California

Wesley Bell
Prosecuting Attorney, St. Louis County, Missouri

Buta Biberaj
Commonwealth’s Attorney, Loudoun County, Virginia

Sherry Boston
District Attorney, DeKalb County, Georgia
Chesa Boudin  
District Attorney, City and County of San Francisco, California

Aisha Braveboy  
State’s Attorney, Prince George’s County, Maryland

Kenyen Brown  
Former U.S. Attorney, Southern District of Alabama

A. Bates Butler  
Former U.S. Attorney, District of Arizona

John T. Chisholm  
District Attorney, Milwaukee County, Wisconsin

John Choi  
County Attorney, Ramsey County, Minnesota

Dave Clegg  
District Attorney, Ulster County, New York

Shameca Collins  
District Attorney, Sixth Judicial District, Mississippi

Scott Colom  
District Attorney, Sixteenth Judicial District, Mississippi

John Creuzot  
District Attorney, Dallas County, Texas

Satana Deberry  
District Attorney, Durham County, North Carolina

Parisa Dehghani-Tafti  
Commonwealth’s Attorney, Arlington County and the City of Falls Church, Virginia

Steve Descano  
Commonwealth’s Attorney, Fairfax County, Virginia

Thomas J. Donovan, Jr.  
Attorney General, State of Vermont

Michael Dougherty  
District Attorney, Twentieth Judicial District, Colorado
Mark A. Dupree, Sr.
District Attorney, Wyandotte County, Kansas

Keith Ellison
Attorney General, State of Minnesota

Kimberly M. Foxx
State’s Attorney, Cook County, Illinois

Gil Garcetti
Former District Attorney, Los Angeles County, California

Stanley Garnett
Former District Attorney, Twentieth Judicial District, Colorado

George Gascón
Former District Attorney, City and County of San Francisco, California

Sarah F. George
State’s Attorney, Chittenden County, Vermont

Sim Gill
District Attorney, Salt Lake County, Utah

Joe Gonzales
District Attorney, Bexar County, Texas

Eric Gonzalez
District Attorney, Kings County, New York

Mark Gonzalez
District Attorney, Nueces County, Texas

Christian Gossett
District Attorney, Winnebago County, Wisconsin

Scott Harshbarger
Former Attorney General, Massachusetts

Andrea Harrington
District Attorney, Berkshire County, Massachusetts

Peter Harvey
Former Attorney General, State of New Jersey
Jim Hingeley  
Commonwealth’s Attorney, Albemarle County, Virginia

John Hummel  
District Attorney, Deschutes County, Oregon

Natasha Irving  
District Attorney, Sixth Prosecutorial District, Maine

Michael Jackson  
District Attorney, Dallas County, Alabama

Kathleen Jennings  
Attorney General, State of Delaware

Justin F. Kollar  
Prosecuting Attorney, Kaua‘i County, Hawaii

Lawrence S. Krasner  
District Attorney, Philadelphia, Pennsylvania

Miriam Aroni Krinsky  
Former Assistant U.S. Attorney, Central District of California  
Former Chair, Solicitor General’s Criminal Appellate Advisory Group

Beth McCann  
District Attorney, Second Judicial District, Colorado

Barbara McQuade  
Former U.S. Attorney, Eastern District of Michigan

Ryan Mears  
Prosecuting Attorney, Marion County, Indiana

Spencer Merriweather  
District Attorney, Mecklenburg County, North Carolina

Brian Middleton  
District Attorney, Fort Bend County, Texas

Marilyn J. Mosby  
State’s Attorney, Baltimore City, Maryland

Jerome O’Neill  
Former U.S. Attorney, District of Vermont
Jody Owens
District Attorney, Hinds County, Mississippi

Channing Phillips
Former U.S. Attorney, District of Columbia
Former Counsel to the Attorney General, U.S. Department of Justice

Karl Racine
Attorney General, District of Columbia

Ira Reiner
Former District Attorney, Los Angeles County, California
Former City Attorney, Los Angeles, California

Rachael Rollins
District Attorney, Suffolk County, Massachusetts

Marian Ryan
District Attorney, Middlesex County, Massachusetts

Tori Verber Salazar
District Attorney, San Joaquin County, California

Daniel Satterberg
Prosecuting Attorney, King County, Washington

Harry L. Shorstein
Former State Attorney, Fourth Judicial Circuit, Florida

Daniella M. Shorter
District Attorney, Twenty-Second Judicial District, Mississippi

Carol Siemon
Prosecuting Attorney, Ingham County, Michigan

David E. Sullivan
District Attorney, Northwestern District, Massachusetts

Raúl Torrez
District Attorney, Bernalillo County, New Mexico

Lynneice Washington
District Attorney, Jefferson County, Bessemer Division, Alabama

Tali Farhadian Weinstein
Former Counsel to the Attorney General, U.S. Department of Justice
Todd Williams
District Attorney, Buncombe County, North Carolina