

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,

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