

United States Senate

WASHINGTON, DC 20510

June 2, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

Dear Attorney General Garland:

I write to you to again express my concern that the Department of Justice is not treating all forms of domestic extremism equally.

This concern will not be new to you. On February 2, 2021, I wrote to ask about the Department's preparations for the 2020 riots. The scale of the riots that year was enormous and unprecedented. A Princeton study found over 500 unique riots occurred that year.¹ Fourteen thousand people were arrested in 49 cities. Hundreds if not thousands of police officers were injured. This included hundreds of injuries at a months-long violent siege of the federal courthouse in Portland, Oregon, as well as dozens of injuries in an attack on the White House in Washington, D.C. Over 400 domestic extremism investigations were opened, a 40% increase in the FBI's domestic terrorism caseload in a single year.

On May 7, 2021, I wrote you an additional letter regarding an anarchist extremist plot to target police officers. I share the concerns of former Attorney General Bill Barr and former Acting Secretary for Homeland Security Chad Wolf that the federal government appears to have robust capabilities in targeting militia extremists and white supremacists, but very little capability in fighting anarchist extremism. As a result of this lack of historical expertise and collection, opportunities to investigate criminal conspiracies such as the one I highlighted in my May letter are often missed.

Even those opportunities which are taken are not sustained. I have been very distressed to read that the Department of Justice has dismissed charges against numerous persons involved in riots at the Portland courthouse. The U.S. Attorney's Office for Oregon has shockingly reported that of 97 people charged with federal crimes for that assault on our democracy, a staggering 58 have had or will have their charges dismissed.² This is a great disappointment, not only to me, but to all Americans who were horrified to see a symbol of justice and the rule of law be attacked night after night by extremists.

¹ Emma Colton, *Conservatives Point Out That Princeton Study on Protests Reveal Violence was Found at Hundreds of Demonstrations*, THE WASHINGTON EXAMINER (Sept. 6, 2020), <https://www.washingtonexaminer.com/news/conservatives-point-out-that-princeton-study-on-protests-reveals-violence-was-found-at-hundreds-of-demonstrations>.

² *US Attorney: Most Portland Rioters Won't Be Prosecuted*, WBAP NEWS TALK (May 24, 2021), <https://www.wbap.com/news/us-attorney-most-portland-rioters-wont-be-prosecuted/>.

While the Department of Justice under your leadership spares no effort to prosecute every offense including misdemeanors and trespass if associated with the Capitol breach, which I find no fault with, the same cannot be said of the hundreds of riots that occurred in 2020. Indeed, according to reporting, prosecutors handling federal felony cases in Portland have approved deferred resolution agreements instead of prosecuting the cases.³ This leniency is distinct from the aggressive prosecution of January 6 related crimes. The law must be applied equally without regard to party, power or privilege. When the Department of Justice treats similar criminal acts differently, such conduct erodes faith in our governmental institutions and the law. This is all the more concerning as the Department of Justice requests an additional \$1.5 billion, a 12% increase over the previous year's funding, to combat terrorism.⁴ I can only imagine that this money will continue to resource the institutional bias that continues to exist for the Department's historical areas of expertise, militia extremism and white supremacy.

In order to better understand how the Department of Justice has applied prosecutorial standards in the summer riots and the January 6 Capitol breach, please answer the following no later than June 16, 2021:

1. For the summer 2020 riots in Portland, how many individuals were arrested and jailed for allegedly committing crimes?
2. For the January 6 Capitol breach, how many individuals were arrested and jailed for allegedly committing crimes?
3. For the summer 2020 riots in Portland, how many individuals were released on bail?
4. For the January 6 Capitol breach, how many individuals were released on bail?
5. For the summer 2020 riots in Portland, how many individuals were offered deferred resolution agreements?
6. For the January 6 Capitol breach, how many individuals were offered deferred resolution agreements?

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

³ Josh Gerstein, *Leniency for Defendants in Portland Clashes Could Affect Capitol Riot Cases*, POLITICO (Apr. 14, 2021), <https://www.politico.com/news/2021/04/14/portland-capitol-riot-cases-481346>.

⁴ Press Release, Dep't of Just., Dep't of Just. Fiscal Year 2022 Funding Request (May 28, 2021), <https://www.justice.gov/opa/pr/department-justice-fiscal-year-2022-funding-request>.