

December 14, 2021

The Honorable Merrick Garland  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Garland:

I write to request information about the Department of Justice's (DOJ) monitoring and analyses of criminal pre-trial detention and conditional pre-trial release for individuals charged with violent felonies by state and local jurisdictions. The attack on the Waukesha Christmas Parade by a repeat violent offender brought to the nation's attention the issue of pre-trial release of criminal violent offenders and subsequent violent crimes committed by such individuals.<sup>1</sup> This is not a singular issue; there are numerous reports from across the country of violent crimes committed by individuals out on pre-trial release after being charged for a felony violent offense.<sup>2</sup> It is unclear if DOJ currently collects information on crimes committed by individuals on pre-trial release.<sup>3</sup> Congress provides funding for DOJ to collect and analyze information on crime, including on pre-trial release, and I urge DOJ to publish such information immediately.<sup>4</sup>

Darrell Brooks has been accused of killing six individuals and injuring 62 more on November 21, 2021 at the Waukesha Christmas Parade. Just five days prior to this massacre, the Milwaukee County District Attorney's (DA) Office charged Brooks with second-degree recklessly endangering safety, battery, disorderly conduct, obstructing an officer, and felony

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<sup>1</sup> John Nolte, *Democrat-Run City Released Darrell Brooks on \$1000 Bail Days Before Parade*, Breitbart, Nov. 22, 2021, available at <https://www.breitbart.com/politics/2021/11/22/olte-democrat-run-city-released-darrell-brooks-on-1000-bail-days-before-parade-massacre/>. See also Michael Ruiz, *Waukesha Christmas Parade Suspect Darrell Brooks Received \$1K Bail Despite Red-Flag Rating*, Court Docs Show, Fox News, Nov. 30, 2021, available at <https://www.foxnews.com/us/waukesha-parade-red-flag-pretrial-assessment>.

<sup>2</sup> Victoria Traxler, *DA Blasts System After Suspect in Alleged Road-Rage Killing Released Until Trial*, Santa Fe New Mexican, Sep. 22, 2021, available at [https://www.santafenewmexican.com/news/local\\_news/da-blasts-system-after-suspect-in-alleged-road-rage-killing-released-until-trial/article\\_3325c39c-1bb6-11ec-b40d-b71c6d248bd2.html](https://www.santafenewmexican.com/news/local_news/da-blasts-system-after-suspect-in-alleged-road-rage-killing-released-until-trial/article_3325c39c-1bb6-11ec-b40d-b71c6d248bd2.html). See also Demie Johnson, *Bail Project Covered Bonds of at Least 3 Repeat Offenders, Including Man Accused of Stabbing IMPD Officers*, WISHTV.COM8, Dec. 2, 2021, available at <https://www.wishtv.com/news/crime-watch-8/bail-project-covered-bonds-of-at-least-3-repeat-offenders-including-man-accused-of-stabbing-impd-officers/>. See also Stephanie Pagonis, *California Men Accused of Committing Rapes, Murder After Being Released on Bail*, Reports Say, Fox News, Sep. 10, 2021, <https://www.foxnews.com/us/california-rapes-murder-bail>. See also Tina Moore, *Bail Reform a 'Significant Reason' for Crime Spike, NYPD Says*, The New York Post, Mar. 5, 2020, available at <https://nypost.com/2020/03/05/bail-reform-a-significant-reason-for-crime-spike-nypd-says/>.

<sup>3</sup> Bureau of Justice Statistics, *Pretrial Release*, available at <https://bjs.ojp.gov/topics/courts/pretrial-release>. The Bureau of Justice Statistics (BJS) website for the topic of pre-trial release states "BJS will update and expand on previous efforts to collect data on pre-trial release through the National Pretrial Reporting Program (NPRP), currently under development."

<sup>4</sup> See 34 U.S.C § 10381, 10152.

bail-jumping for allegedly driving over the mother of his child with his car.<sup>5</sup> Brooks has a lengthy criminal history, with multiple arrests across multiple Wisconsin counties spanning from 1999 to 2021, including second-degree recklessly endangering safety, aggravated battery, domestic abuse (strangulation and suffocation), endangering safety with use of a dangerous weapon, felony bail jumping, and habitual criminality.<sup>6</sup> A Milwaukee County pre-trial risk assessment determined Brooks was high risk, scoring a 6 out of 6 on a risk criminal activity assessment and a 4 out of 6 on a failure to appear in court test.<sup>7</sup> Yet, the Milwaukee County DA's office released Brooks on just \$1,000 cash bail.<sup>8</sup> Five days later, he mowed down parade-goers, including children, with his car.

Milwaukee County DA John Chisholm admitted the \$1,000 bail set for Brooks was “inappropriately low” and “not consistent with the risk assessment of the defendant prior to setting of bail.”<sup>9</sup> Recent reports demonstrate similar questionable pre-trial releases of violent offenders into communities.<sup>10</sup> Failure to appear for mandatory court appearances and felony bail jumping increased in recent years in multiple jurisdictions across the country.<sup>11</sup> The FBI also reported a sharp rise in violent crimes, including for murder, rape, robbery and assault.<sup>12</sup> The report found that murder surged across the country by nearly 30%.<sup>13</sup> This dramatic increase is

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<sup>5</sup> See Darrell Brooks Criminal Complaint, Filed Nov. 5, 2021, DA Case No. 2021ML026350, available at [https://www.wisconsinrightnow.com/wp-content/uploads/2021/11/Criminal-Complaint-2021CF004596-Brooks-Darrell-Edward-Jr\\_16180658\\_1.pdf](https://www.wisconsinrightnow.com/wp-content/uploads/2021/11/Criminal-Complaint-2021CF004596-Brooks-Darrell-Edward-Jr_16180658_1.pdf). See also Rebecca Rosenberg, Michael Ruiz, *Waukesha Parade Suspect's Low Bail in Prior Case is Typical Practice in Milwaukee*, Fox News, Dec. 6, 2021, available at <https://www.foxnews.com/us/waukesha-parade-suspects-low-bail-prior-case-typical-practice-milwaukee>.

<sup>6</sup> State of Wisconsin Department of Justice, Darrell Brooks Criminal Background Check, Nov. 21, 2021, available at <https://www.wisconsinrightnow.com/wp-content/uploads/2021/11/DOJ-WORCS.pdf>.

<sup>7</sup> Michael Ruiz, *Waukesha Christmas Parade Suspect Darrell Brooks Received \$1k Bail Despite Red-Flag Rating, Court Docs Show*, Fox News, Nov. 30, 2021, available at <https://www.foxnews.com/us/waukesha-parade-red-flag-pretrial-assessment>.

<sup>8</sup> Rebecca Rosenberg, et al., *Waukesha Christmas Parade Suspect Darrell Brooks Charged With Sixth Count of Intentional Homicide*, Fox News, Nov. 20, 2021, available at <https://www.foxnews.com/us/waukesha-christmas-parade-darrell-brooks-charged-sixth-count-intentional-homicide>.

<sup>9</sup> Brianna Lyman, *Milwaukee DA Admits They Really Screwed Up Letting Waukesha Suspect Out on Bond Just Days Before Christmas Parade Attack*, Daily Caller, Nov. 22, 2021, available at <https://dailycaller.com/2021/11/22/milwaukee-district-attorney-cash-bond-waukesha-wisconsin-suspect/>.

<sup>10</sup> Paul Best, *String of Violent Crimes Committed by Career Offenders Leaves Communities Nationwide Outraged*, Fox News, Dec. 3, 2021, available at <https://www.foxnews.com/us/violent-crimes-career-criminals-with-long-rape-sheets>; See also Scott Davis, *Report: 43% of Indianapolis Murder Suspects Were out of Jail on Pre-trial Release When They Killed Their Victims*, Law Enforcement Today, Nov. 20, 2021, available at <https://www.lawenforcementtoday.com/report-43-of-indianapolis-murder-suspects-and-25-of-victims-were-out-on-pre-trial-release/>.

<sup>11</sup> The Wisconsin Court System's felony statewide disposition summary showed 9,125 total opened felony bail jumping cases in 2020, a 116% increase from 2011. See Wisconsin Court Systems, *Felony Disposition Summary Statewide Report (2020)*, available at <https://www.wicourts.gov/publications/statistics/circuit/docs/felonystate20.pdf>. (The Wisconsin Court System's felony statewide disposition summary showed 9,125 total opened felony bail jumping cases in 2020, a 116% increase from 2011.) See also Charles Lehman, *Chicago's Bail 'Reforms' Increased Crime, Left More Accused Not Showing Up For Court*, New York Post, Feb. 14, 2021, <https://nypost.com/2021/02/14/chicagos-bail-reforms-clearly-increased-crime/> (The failure-to-appear rate increased from 16.7 percent to 19.8 percent in 2020 in Cook County, IL).

<sup>12</sup> FBI Press Release, *FBI Releases 2020 Crime Statistics*, Sep. 27, 2021, available at <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2020-crime-statistics>.

<sup>13</sup> *Id.*

the largest single-year increase in more than a century, according to the CDC.<sup>14</sup> The American public has the right to know how many of these crimes were committed by individuals who were out on the streets after posting meager bail, or none at all.

The DOJ's Bureau of Justice Statistics (BJS) last issued a report on pre-trial release in 2007.<sup>15</sup> In 2020, BJS announced the creation of the National Pretrial Reporting Program (NPRP) and awarded a grant to the Research Triangle Institute to collect, among other things, information on individuals charged with violent offenses on pre-trial release, including the information counties use for pre-trial release decisions, trends of pre-trial release methods, and patterns of missed court appearances and rearrests while on pre-trial release. However, to date, neither the NPRP nor BJS has published any such information since this grant award. Therefore, I respectfully request the following information:

1. The current status of the NPRP and its activities;
2. An accounting of federal funds awarded by DOJ or its agency components to third parties or state or local jurisdictions for collecting information on pre-trial release, including the amount of the award or contract, the recipient, and the purpose of the contract or award broken down by fiscal year;
3. Any requirements for recipients of DOJ grant funds to establish and maintain determining factors in risk assessments for conditional pre-trial release; and
4. Any data collected by BJS or NPRP since 2016 on pre-trial release of individuals charged with felony criminal offenses.

Please provide this information as soon as possible but no later than at 5:00 p.m. on December 28, 2021.

Thank you for your attention to this important matter.

Sincerely,



Ron Johnson  
United States Senator

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<sup>14</sup> John Gramlich, *What We Know about the Increase in U.S. Murders in 2020*, Pew Research Center, Oct. 27, 2021, available at <https://www.pewresearch.org/fact-tank/2021/10/27/what-we-know-about-the-increase-in-u-s-murders-in-2020/>.

<sup>15</sup> Pre-trial Release of Felony Defendants in State Courts, Bureau of Justice Statistics, Nov. 2007, available at <https://bjs.ojp.gov/library/publications/pretrial-release-felony-defendants-state-courts>.