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May 29, 2024

The Honorable Merrick B. Garland
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland:

We write to urge the U.S. Department of Justice to open a civil rights investigation into Daniel Perry's killing of Garrett Foster on July 25, 2020 in Austin, Texas. At the time of his murder, Garrett Foster was exercising his First Amendment right to protest, as a part of broader protests against police brutality and racial injustice in the summer of 2020.

The facts of the case were egregious. Mr. Perry shot and killed Mr. Foster, after having googled the locations of protests and sent a text message that he was considering traveling to another city to "shoot looters." His internet search history includes evidence that he intended to cover up his crime (including a search for whether "the federal government [has] the ballistics of every firearm sold legally"). He also sent and shared racist and anti-Muslim messages and memes advocating vigilante murder.¹ At a state jury trial, twelve of Mr. Perry's peers found him guilty of murder.

Recently, Governor Greg Abbott granted a pardon to Perry for his conviction of murder.² Mr. Foster was openly carrying a firearm at the protest—an act that is legal in Texas—and Mr. Perry claimed that he had acted in self-defense, relying on Texas' so-called "stand your ground" law. In pardoning Mr. Perry, Governor Abbott also cited to Texas' "stand your ground" law. The undersigned Attorneys General are concerned that these "stand your ground" laws encourage vigilantes to attend protests armed and ready to shoot and kill those who exercise their First Amendment rights.

¹ *State v. Daniel Perry*, State's Notice of Intent to Introduce Evidence of Extraneous Conduct (Mar. 27, 2023), available at <https://static.texastribune.org/media/files/0ecc0e97d897e6c6ea7b1d89f2d0da22/daniel-perry-court-filing-unsealed-031423.pdf>

² Proclamation by the Governor of the State of Texas No. 2024-0001, available at https://gov.texas.gov/uploads/files/press/PARDON_2024-0001_SGT_DANIEL_PERRY_IMAG_05-16-2024.pdf

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The Department of Justice plays an important role in ensuring that those who violate the civil rights of their fellow Americans are held to account, and that is especially the case when state or local jurisdictions refuse to do so. From prosecuting the Klan members who conspired to murder three civil rights workers in rural Mississippi in 1964 to more recently prosecuting the man who murdered Heather Heyer in Charlottesville in 2017, the Department of Justice has used federal civil rights laws to ensure accountability for acts of hate.

We urge the Department to open an investigation into whether Mr. Perry violated federal criminal law, including specifically several federal criminal civil rights laws. We note that whether or not Texas law gives Mr. Perry a defense to state prosecution for his actions here, Texas law does not prevent a federal prosecution for Mr. Perry's act of killing someone for racial reasons in order to prevent him from exercising constitutional rights.

Sincerely,



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