



OPINION

Merrick Garland is failing in his duty to protect Supreme Court justices

by [Quin Hillyer, Commentary Writer](#) |  | July 08, 2022 02:36 PM

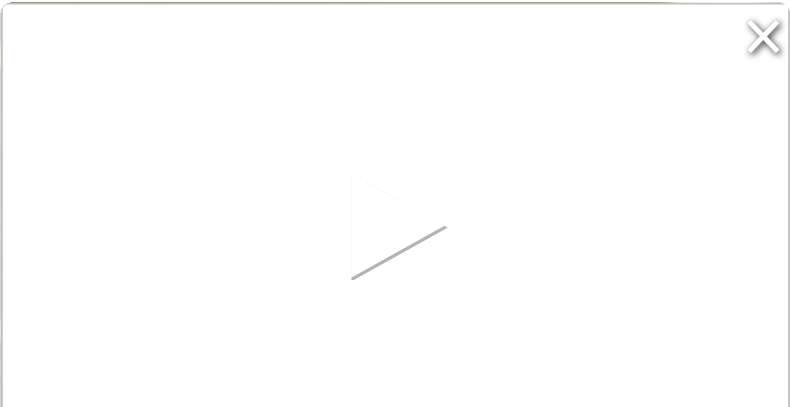


By failing to arrest and prosecute people who harass Supreme Court justices, Attorney General Merrick Garland is dangerously, almost criminally guilty of supreme dereliction of duty.

The issue arises yet again after [Justice Brett Kavanaugh felt compelled to leave a Washington, D.C., steakhouse](#) through a back door to avoid what the restaurant itself described as [“unruly protesters” who “unduly harassed”](#) not just Kavanaugh but “all of our other patrons at the restaurant.” The restaurant’s statement later cited the “right to congregate and eat dinner. There is a time and place for everything. Disturbing the dinner of all of our customers was an act of selfishness and void of decency.”

This harassment comes on the heels of a June 8 incident in which a man was arrested after approaching Kavanaugh’s home with the intent to assassinate the justice. This followed five weeks of illegal protests outside of justices’ residences after the leak of a draft decision on abortion. Despite repeated calls from conservatives and other decent people to enforce the federal law against demonstrations outside justices’ homes, and despite the attempted assassination, Garland has obstinately declined to arrest any demonstrators.

The federal statute, 18 U.S. Code §1507, [makes it illegal](#) to try to “influence” a justice, judge, or juror by demonstrating outside the person’s residence. Such demonstrations threaten judicial independence by intimidating jurists and disturbing their neighbors, but the worst part is that they create potential threats to a jurist's family.



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Supreme Court precedent has held that First Amendment speech protections are not violated by mild public-safety-motivated restrictions on *where* and *how* political protests may be conducted. Garland backs [aggressive enforcement](#) of laws restricting protests outside of abortion clinics, so he can make no First Amendment arguments against enforcing the similar law that applies outside of justices’ homes.

Moreover, unless and until a law is ruled unconstitutional, his sworn duty is to enforce it to the best of his ability, regardless of his political preferences.

Section 1507’s language applies not just to justices’ homes but to a “building ... occupied or used by such judge,” so it arguably could apply to a restaurant being “used” by the judge. Even if not, though, at least two federal or D.C. [laws](#) against [stalking](#) or harassment conceivably could be invoked in these cases. One person trying one time to block an official from dining would not qualify as “stalking” (an offense committed only through at least two instances of behavior), but in this case, the organization ShutDownDC is engaged in a concerted and ongoing effort to intimidate, cause emotional distress, and otherwise badger justices. It stands to reason that if any person in [ShutDownDC](#) has done so more than once, he should be held accountable for stalking.

It is not enough that Supreme Court justices get personal security details. Security details cannot provide airtight protection. There is nothing wrong, indeed everything right, with using civil and appropriate means of political protest. However, harassment and intimidation go way too far. Especially in today’s volatile political climate, it behooves federal authorities strictly to enforce all laws against such personally directed torment.

If the U.S. attorney general refuses to enforce such laws and a tragedy ensues, he will be partly morally culpable. Garland’s dereliction is unconscionable. President Joe Biden should order him, upon penalty of dismissal, to do his job and enforce the laws.

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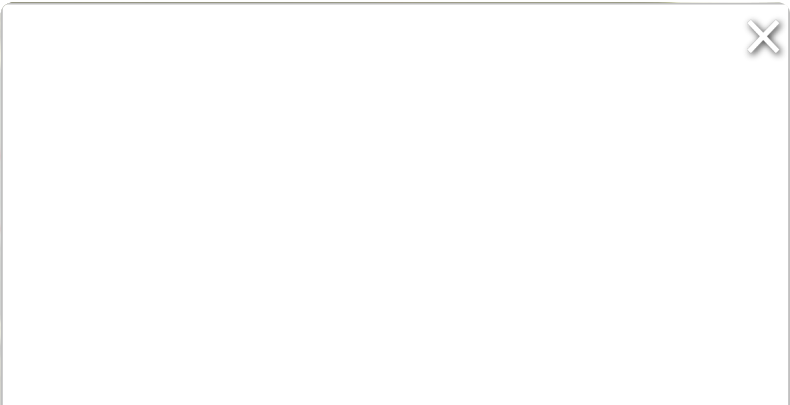
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