

United States Senate

WASHINGTON, DC 20510

June 15, 2022

Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Judge Garland:

We continue to be baffled over the lack of prosecutions under Title 18, Section 1507 of the U.S. Code. We understand it is the policy of the Justice Department not to discuss any pending or potential investigations, but this is an urgent matter of national importance.

As you know, Section 1507 is an act of Congress that criminalizes parading or picketing in front of the homes of judges with the intent to influence pending litigation. The reasons for this are obvious. While judges serve a public office, the principle of judicial independence means that their deliberations should be free from influence outside the courtroom. You know this as well as anyone. This means especially that their deliberations should be free from harassment and intimidation, nowhere more than in their homes where their families reside.

We, as Senators, write the laws according to our understanding of the will of our constituents and the needs of the Nation. You, as Attorney General, enforce the laws according to the policies enunciated by your President who is, in turn, responsible to the People who elected him. There are many ways that you or we may be petitioned by citizens, consistent with their constitutional rights, in order to properly influence how we write the laws or how you enforce them. Letters, phone calls, meetings, and even protest are well-established means by which citizens can express their concerns with actions you or we take in an effort to influence our behavior as members of political branches of government.

Not so with judges. The responsibility of a judge—or justice—is to follow and apply the law *according to his or her judgment*. It is not to do so according to the judgment of their community, or the desires of their political party, or the will of the mob. It is only *their judgment* that counts. This is why they are given life tenure, so that external considerations—such as politics or public opinion—will not influence their constitutional duties.

Given these important distinctions it is only fitting that Congress prohibited the parading and picketing of judges' houses in order to influence their decisions. It is a measure that preserves judicial independence.

As we have just learned, it's also a measure that preserves the safety of judges. Just last week *The Washington Post* reported that the attempted *assassin* of your former colleague, Justice Kavanaugh, found out where the Justice lived by watching videos of the protests in front of his house. These unprosecuted, illegal protests allowed a deranged young man to figure out where Justice Kavanaugh lived with enough precision that he showed up in front of his house at 1 a.m. with a Glock, a crowbar, zip ties, and silent boots.

This toxic and dangerous climate was not just foreseeable, it was foreseen. Several of us wrote your office on this subject a month ago. Our letters went unanswered for weeks until Senators received a frantic flurry of perfunctory non-answers only after the arrest of Justice Kavanaugh's would-be assassin had taken place and become a national news story. Why did it take an assassination attempt to get your and the Department's attention? Is this reflective of the care and attention your Department has for judicial safety?

Somehow, the situation is only escalating. Not only did the illegal picketing resume mere hours after the assassination attempt on Justice Kavanaugh, but reports are that those seeking to intimidate the Justices at their homes plan to expand their campaign of harassment to their children's schools. Enough.

We want to know why you aren't prosecuting these Section 1507 violations. We are aware that President Biden has endorsed home protests for Justices, but as you told us repeatedly, your decisions whom to prosecute would not be decided by the White House. Is White House policy keeping you from bringing charges? If not, tell us. Or tell our staff. You can respond by letter or you can schedule a phone call or even a briefing. If there is a good reason why you aren't charging these obvious crimes, explain it to us. We want to understand. The situation is too dire and too important for more meaningless boilerplate about Justice Department policies.

We can assure you, Judge Garland, that we will continue to press for answers to these questions. We suggest you do it now, while you can do so in a manner of your choosing.

Sincerely,





Larry Hise

John Cornyn

Albin J. K.

Tom Cotton

Ben Sasse

John Hironaka

Paul S.

John Kennedy

Tom Tillis

Marsha Blackburn
