



From Court Packing to Leaking to Doxing: White House Yields to a National Rage Addiction

Description



Below is my column in the Hill on the leak and the refusal of

President Joe Biden to denounce such conduct. It is a defining moment for his presidency that, even in the face of such a disgraceful and unethical act, the President cannot muster the courage to condemn it. He then magnified that failure by refusing to condemn the doxing and targeting of justices and their families at their homes.

Here is the column:

Nearly 70 years ago, a little-known lawyer named [Joseph Welch famously confronted](#) Sen. [Joseph McCarthy](#) (D-Wis.) in defense of a young man hounded over alleged un-American views. Welch told McCarthy that “I think I have never really gauged ... your recklessness” before asking: “Have you no sense of decency, sir? At long last, have you left no sense of decency?”

It was a defining moment in American politics as Welch called out a politician who had abandoned any semblance of principle in the pursuit of political advantage. This week, the same scene played out in the White House with one striking difference: This was no Joseph Welch to be found.

After someone in the Supreme Court leaked a draft opinion in the case of [Dobbs v. Jackson Women's Health Organization](#), a virtual flash-mob formed around the court and its members demanding retributive justice. This included renewed calls for court “packing,” as well as the potential [targeting of individual justices at their homes](#)

. Like the leaking of the opinion itself, the doxing of justices and their families is being treated as fair game in our age of rage.

There is more than a license to this rage; there is an addiction to it. That was evident in March 2020 when Senate Majority Leader [Chuck Schumer](#) (D-N.Y.) stood in front of the Supreme Court to [threaten Justices Neil Gorsuch and Brett Kavanaugh by name](#): “I want to tell you, Gorsuch, I want to tell you, Kavanaugh, you have released the whirlwind and you will pay the price! You won’t know what hit you if you go forward with these awful decisions.” Schumer’s reckless rhetoric was celebrated, not condemned, by many on the left, even after he [attempted to walk it back](#) by stating that “I should not have used the words I used ... they did not come out the way I intended to.”

What occurred at the White House this week is even more troubling. When asked for a response to the leaking of a justice’s draft opinion, White House press secretary [Jen Psaki](#) declined to condemn the leaker and said the real issue was the opinion itself. Then she was asked about the potential targeting of justices and their families at their homes, and whether that might be considered extreme. It should have been another easy question; few Americans would approve of such doxing, particularly since some of the justices have young children at home. Yet Psaki declared that “I don’t have an official U.S. government position on where people protest,” adding that “[peaceful protest is not extreme.](#)”

In reality, *not* having an official position on doxing and harassing Supreme Court justices and their families *is* a policy.

Whether protests are judged to be extreme seems often to depend upon their underlying viewpoints. When Westboro Baptist Church activists protested at the funeral of [Beau Biden](#), it was peaceful — but many critics rightly condemned the demonstration as extreme; some even approved of [Westboro activists being physically assaulted](#). When the church brought its case before the Supreme Court, some of us [supported its claims](#) despite our vehement disagreement with their views, but 42 senators filed [an amicus brief](#) asking the court to deny free-speech protections for such protests. The court ultimately ruled 8-1 in favor of the church.

In this case, the Biden administration and the Justice Department have condemned the court’s leaked draft — but not the threatened protests at justices’ homes, even though those arguably could be treated as a crime. Under [18 U.S.C. 1507](#), it is a federal crime to protest near a residence occupied by a judge or jury with the intent to influence their decisions in pending cases, and this case remains pending. (Ironically, prosecution could be difficult if the protesters said they had no intent other than to vent anger.)

Even if protests at justices’ homes are constitutionally protected, that does not make them right, any more than the lawful Army-McCarthy hearings of 1954 were right.

In 1954, the left was targeted for its political views; today, it is the left which is calling for [censorship](#), [blacklisting](#) and doxing. In such moments of reckless rage, presidents often have become calming voices, tempering extremist passions in their own parties. When they have failed to do so, history has judged them harshly, as in the case of President Eisenhower’s belated condemnation of Sen. McCarthy, something he [reportedly regretted](#) for the rest of his life.

[President Biden](#) has repeatedly shown that polls, not principles, guide his presidency. He showed integrity as a senator by denouncing court packing as a “bonehead ... terrible, terrible” idea. However,

he has stayed silent as today's Democrats have pushed to pack the court with an instant liberal majority, a demand that increased this week. Biden long [supported the Senate's filibuster rule](#) and said efforts to eliminate it would be "disastrous" — but when today's mob formed, he flipped and denounced the filibuster as a ["relic" of the Jim Crow era](#).

Even on abortion, Biden has shifted with the polls. He once opposed Roe v. Wade and supported an amendment that would negate the decision. At the time, he [declared](#) that "I don't think that a woman has the sole right to say what should happen to her body." Now President Biden has switched his position without really switching his logic. He [recently declared](#) that he supported Roe because "I'm just a child of God; I exist" and thus can decide what happens to his body. Accordingly, he denounced the Supreme Court's draft opinion as "radical" and affirmed the right of a woman ["to abort a child."](#)

Whether it is court leaking, packing, doxing or other tactics, many Democratic politicians and pundits continue to follow the mob rather than risk its ire.

Our national addiction to rage is captured in three indelible images. In June 2020, there was the White House surrounded by security fencing after nights of arson and rioting; in January 2021, Congress was surrounded by the same fencing after rioting that momentarily halted the certification of the presidential election. Now the set is complete with photos of the Supreme Court encased in the same fencing.

All three branches, having to be protected from enraged citizens on the left or the right.

Schumer's 2020 pledge that justices would "pay the price" has been realized as they and their families are now bunkered in their homes. Despite the shocking image of a court system under attack, President Biden has not mustered the courage to dissuade these protesters. He appears to be following the lead of French revolutionary Abbe Sieyes, who watched as his 1789-99 revolution spun out of control; asked what he had done during ["the Terror,"](#) he replied: "I survived."

President Biden is now in survival mode, too. It seems he does not lack decency, just the courage to defend it.

Jonathan Turley is the Shapiro Professor of Public Interest Law at George Washington University.

Category

1. Main
2. Opinion-Comments
3. Politics-Geopolitics-Gov.-Events

Date Created

May 2022