



# LOOK AHEAD AMERICA

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Acting Attorney General Robert Wilkinson  
U. S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington DC 20530-001

Director Christopher A. Wray  
Federal Bureau of Investigations  
935 Pennsylvania Avenue, NW  
Washington DC 20535-001

Dear Sirs,

I am writing to request that you drop all charges against non-violent protestors from the January 6th rally at the U.S. Capitol.

There is no excuse for violence or destruction of property, and I support the prosecution of those individuals who engaged in such activity. However, we do not support the Biden Administration using those few bad apples as an excuse to persecute the peaceful Trump supporters who entered the Capitol with selective prosecutions based on their political beliefs.

The FBI has arrested over 150 protestors over the events of January 6th. The vast majority of those were not engaged in violence or looting but charged with “Unlawful entry of a restricted building” or “disorderly conduct on Capitol grounds.” These charges require a “*mens rea*” (mental state) of “knowingly entering” a federal building without permission.<sup>1</sup>

Many of the protestors who entered the Capitol reasonably believed they had permission. As videos show, police officers opened the protective fencing around the Capitol and stood aside

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<sup>1</sup> 18 U.S.C. § 1751

as crowds entered the building.<sup>2</sup> While some of these men and women should have known better, the majority of them were political neophytes who simply viewed this as an extension of the peaceful protest. They had no intention to destroy property or harm anyone. They may have been naive, but were not acting maliciously. Whatever the crimes, they do not deserve jail time and to face financial ruin due to legal costs for such a minor offense.

There is also no question that this prosecution is politically motivated. The U.S. government put unprecedented resources into apprehending these protestors. The FBI added a special section to its “most wanted” list for participants.<sup>3</sup> The U.S. Attorney’s office said that it had “hundreds of prosecutors and agents working round-the-clock” to apprehend and prosecute these participants.<sup>4</sup>

In contrast, this summer, rioters committed far more violence to Washington, D.C., tearing down statues, destroying businesses, and burning down buildings and churches in the name of BLM. The D.C. government responded by christening “BLM” Plaza. There was no serious attempt to identify the perpetrators of this violence. The few who were arrested received support from Kamala Harris and top Biden staffers who encouraged their followers to contribute to a bail fund.<sup>5</sup>

Similarly, thousands of violent anarchists attacked police and the attendees of Donald Trump’s inauguration in 2016— destroying property and burning police cars along the way.

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<sup>2</sup> <https://www.nbcnews.com/news/us-news/former-capitol-police-chief-shares-thoughts-why-officers-appeared-let-n1253273>.

<sup>3</sup> <https://www.fbi.gov/wanted/capitol-violence>

<sup>4</sup> <https://wtop.com/dc/2021/01/federal-prosecutors-detail-initial-charges-in-capitol-riot/>

<sup>5</sup> <https://www.foxnews.com/politics/bail-fund-backed-by-kamala-harris-and-biden-staffers-bailed-out-alleged-child-abuser>

Only those engaged in violence were arrested, and prosecutors ended up dropping all charges nearly all of them.<sup>6</sup>

In September and October of 2018, left wing protestors stormed the Capitol and the Senate Office buildings on numerous occasions to try to stop the Senate from confirming Brett Kavanaugh. These rioters intimidated Senators, occupied offices, and refused to leave unless arrested. While Capitol police made hundreds of arrests for “crowding, obstructing, or incommoding,” The Washington Post reported that the rioters “were processed off site and released.”<sup>7</sup> In contrast, many of those arrested on January 6 have faced \$100,000 and even \$750,000 bails, and the prosecutors have demanded they be revoked entirely.<sup>8</sup>

While prosecutors seem intent on sending the maximum sentence to those arrested for unlawful entry or disorderly conduct for January 6th protestors, NPR reported that most of the Kavanaugh rioters “charged . . . with disorderly conduct, crowding or obstructing paid fines of \$35 or \$50.”<sup>9</sup>

Beyond the hypocrisy, this selective enforcement raises serious constitutional concerns. Under D.C. Circuit precedent, a defendant can raise claims of selective enforcement when there is a “discriminatory effect *and* discriminatory intent” in the prosecution.<sup>10</sup> This can be shown by

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<sup>6</sup> <https://www.theguardian.com/us-news/2018/jul/06/trump-inauguration-protests-charges-dropped>

<sup>7</sup> [https://www.washingtonpost.com/local/social-issues/most-of-the-protesters-arrested-during-kavanaugh-confirmation-have-been-released/2018/10/07/da7c76f0-ca46-11e8-a360-85875bac0b1f\\_story.html](https://www.washingtonpost.com/local/social-issues/most-of-the-protesters-arrested-during-kavanaugh-confirmation-have-been-released/2018/10/07/da7c76f0-ca46-11e8-a360-85875bac0b1f_story.html)

<sup>8</sup> <https://gothamist.com/news/insurrectionist-son-brooklyn-judge-released-100000-bond-animal-pelts-confiscated;>  
<https://www.usnews.com/news/best-states/pennsylvania/articles/2021-01-08/prosecutor-wants-bail-revoked-for-man-facing-weapon-charges>

<sup>9</sup> <https://www.npr.org/2018/09/08/645497667/the-resistance-at-the-kavanaugh-hearings-more-than-200-arrests>

<sup>10</sup> *United States v. AT & T Inc.*, 290 F. Supp. 3d 1, 4 (D.D.C. 2018) (quoting *United States v. Armstrong*, 517 U.S. 456 (1996)).

making a “colorable showing that he has been especially singled out, that there exist persons similarly situated who have not been prosecuted.”<sup>11</sup>

Federal law enforcement is well aware of these past perpetrators of violence in the Capitol and around Trump’s inauguration, but they were let off with no charges or a slap on the wrist. They are targeting non-violent January 6th protestors solely because of their political viewpoints.

Those who attended the rally, even those who did not enter the Capitol, have been branded as domestic terrorists, fired from their jobs, and threatened by social media mobs. The toll of this has already led Christopher Stanton Georgia, a married father of two, to commit suicide after his arrest for unauthorized entry on federal property. Stanton made a mistake, but he was not accused of looting or violence.

January 6th was a tragedy, and we mourn the deaths of Georgia, Ashli Babbitt and Officer Brian Sicknick. We should not further compound the tragedy through vindictive and selective political prosecutions. Law enforcement should prosecute those who committed violence against police officers or committed serious property damage, while treating the peaceful protesters who wrongfully entered the Capitol with compassion by dropping the charges.

America First. America Forever.

Matt Braynard  
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<sup>11</sup> Attorney Gen. of U.S. v. Irish People, Inc., 684 F.2d 928, 946 (D.C. Cir. 1982).