

Merrick Garland Must Resign

Over the past thirty years, Merrick Garland served with distinction as a federal prosecutor and then as an appellate judge. Unfortunately, as Attorney General for the past eight months, he has failed to take any meaningful action to hold accountable former president Donald Trump and his co-conspirators for attempting to overthrow the government on January 6, 2021 and a flurry of criminal acts in the months and years leading up to that date. Instead, he has adopted indefensible positions of the Trump Department of Justice (DOJ) to protect Trump from accountability. Since Garland is unwilling to step up, it is time for him to step down.

In January, we [urged](#) incoming Attorney General Merrick Garland to establish an independent task force to centralize and coordinate criminal investigations of Trump and his associates. To preserve the rule of law, we explained, Garland should announce the task force's formation, designate its leadership and mandate, and allow it to independently investigate. If Garland had created a framework for credible, impartial criminal investigations of a former president of the United States, DOJ would have affirmed that no one—not even a former president—is above the law. Yet while DOJ has charged the low-level insurrectionists who broke into the Capitol, it has not moved against the highly-placed leaders of the insurrection, including Trump himself.

DOJ's inaction—Garland's inaction—endangers the rule of law. Even before the 2020 election, Trump conspired with key aides to sabotage a free and fair election by [extorting](#) (or, viewed another way, [bribing](#)) the President of Ukraine to embarrass Joe Biden politically in exchange for military aid. (Although the Senate failed to convict him in an *impeachment* trial for this conduct, that has no impact on *criminal* proceedings.) And as the election approached, Trump [bragged](#) that he was deliberately [sabotaging](#) the Postal Service to limit voting-by-mail.

After his election defeat, Trump called Georgia's Secretary of State and [pressured](#) him to "find 11,780 votes" to overturn the presidential election outcome in that state. (Two Members of Congress have already [sent a criminal referral](#) to the FBI regarding that phone call.) He also pressured another [Georgia official](#) to investigate counties where Biden received more votes. Since overturning Georgia's election results alone wouldn't yield a victory for Trump, it's almost certain that he made or attempted similar conversations with elections officials in other states.

The culmination was Trump's speech [inciting](#) an angry mob to march on the Capitol. His violent horde then stormed the Capitol, seizing the House and Senate chambers and forcing emergency evacuation of Congress—all in an effort, spurred by Trump, to stop the certification of election results while Trump watched on television with obvious satisfaction and ignored pleas to intervene to stop the insurrection. In fact, recent news indicates that, even before January 6, his team [established](#) a "command center" or "war room" to coordinate the events of that day,

and that event planners were in close contact with [Trump's White House Chief of Staff](#). Their actions, no less than those of the individual rioters, may constitute conspiracy to [impede or disrupt the orderly conduct of government business](#), [insurrection](#), [seditious conspiracy](#), and [advocating the overthrow of the government](#).

That is not all of Trump's potential criminal liability. Trump's offenses related to the 2016 election weren't prosecuted during the Trump presidency because of DOJ policy. The [Mueller Report](#) and the Republican-led [Senate Intelligence Committee report](#) cited extensive evidence that Trump [obstructed justice](#). But Mueller explicitly [noted](#) that he didn't consider filing—or even drawing conclusions about—charges against Trump due to [DOJ policy](#) against prosecuting a sitting president. That policy, however, stopped applying to Trump at 12:00 pm on January 20.

The same policy probably protected Trump from the [federal criminal charges](#) against his former personal lawyer, Michael Cohen, who paid off Trump's mistresses for their silence during the campaign. Cohen [pleaded guilty](#) to (and served prison time for) those crimes and admitted that he committed them at Trump's direction. Trump was named as an unindicted co-conspirator ("Individual-1"), but, so far, has escaped accountability.

Indeed, Trump spent his entire time in office misusing the presidency for personal profit. As early as the transition, he [engaged in a scheme of exchanging](#) U.S. policy for approval of Trump Organization trademarks in China. Over the next four years, he demanded and received [a mind-blowing array of personal financial benefits](#) from domestic and foreign supplicants seeking to curry favor with the U.S. government.

Garland's failures have not been limited to Trump. He has failed to investigate Members of Congress who [appear](#) to have helped plan the January 6 insurrection, including Rep. Paul Gosar (Ariz.), Rep. Lauren Boebert (Colo.), Rep. Mo Brooks (Ala.), Rep. Madison Cawthorn (N.C.), Rep. Andy Biggs (Ariz.), Rep. Louie Gohmert (Texas), and Rep. Marjorie Taylor Greene (Ga.).

Meanwhile, DOJ inexcusably sat on its hands since a bipartisan majority of the House of Representatives [voted](#) on October 21 to hold Steve Bannon in contempt of Congress for defying a subpoena from the January 6 committee. The last time that the House referred a contempt of Congress charge to DOJ, then-President Reagan's prosecutors immediately brought the matter to a grand jury; it returned an indictment just nine days after the House vote.

Furthermore, Garland's failures have not been limited to *inaction*. He has actively defended or continued many Trump-era DOJ policies, [including](#) the coverup of the key DOJ legal memo regarding Trump's obstruction of justice, and defending Trump's libel of a rape victim by claiming that he did so "within the scope of his office as President of the United States."

For all these reasons, Garland is no longer fit to serve as Attorney General. His previous record of federal service should not blind us to the fact that he is simply the wrong person for this job at this time. Perhaps he can still contribute to the country in other ways. But as long as Trump and his co-conspirators walk free, American democracy is in danger. We need an Attorney General who understands that danger and is willing to take action to protect democracy and the rule of law.

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