

THE UGLY POLITICS OF THE FACE ACT

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The grossest example of the unequal application of the law today rests with the Biden administration's handling of offenses committed by pro-life protesters and abortion-rights protesters. The former have been aggressively pursued while the latter have mostly been ignored. Worse, pro-life demonstrators are overwhelmingly peaceful; pro-abortion protesters are more likely to be violent.

At issue is the invocation of the FACE Act (Freedom of Access to Clinic Entrances), legislation passed in 1994 that prohibits "violent, threatening, damaging, and obstructive conduct intended to injure, intimidate, or interfere with the right to seek, obtain, or provide reproductive health services."

It is the application of the law that is the most contentious. The most recent example occurred January 30 when a federal court found six pro-life protesters guilty of violating the FACE Act. They were charged with blocking entrance to an abortion clinic in Mt. Juliet, Tennessee in 2021. They will be sentenced July 2.

No one doubts that the protesters obstructed entrance to the clinic. Similarly, no one doubts that they did so peacefully. They were praying and singing hymns—they were not brandishing firearms. Yet their offenses were treated as a felony. Consequently, they face up to more than 10 years in prison, three years of supervised release, and fines up to \$260,000.

What makes this so outrageous is that a year and a half after they were prosecuted locally, Biden's Department of Justice (DOJ) jumped in and threw the book at them: what was initially

a misdemeanor crime was now treated as a FACE Act felony conspiracy.

What broke? What motivated the Biden DOJ to get involved? The answer was provided in December 2022 by Associate Attorney General Vanita Gupta. It was the overturning of *Roe v. Wade* six months earlier, she said, that triggered the heavy-handed response.

Gupta freely acknowledged that this decision was a “devastating blow to women throughout the country,” one that increased “the urgency” of the DOJ’s response, including “enforcement of the FACE Act.”

If there were any doubts about the politics of this decision—nailing pro-life protesters while allowing pro-abortion protesters to skate—it was put to bed a month before Gupta cited the *Dobbs* decision that overturned *Roe*. That was when FBI Director Christopher Wray testified before the Senate Homeland Security Committee.

Wray admitted that “we have quite a number of investigations—as we speak—into attacks or threats against pregnancy resource centers, faith-based organizations and other pro-life organizations.” He also said that since the *Dobbs* decision, “probably in the neighborhood of 70% of our abortion-related violence cases” are against pro-life organizations.

Why is it, then, that in 2024 the FBI lists more than two dozen examples of violent cases associated with abortion protesters and all but one is an offense committed by a pro-life demonstrator?

Wray knows that 70% of FACE Act offenses were not committed by pro-lifers; they were responsible for a fraction of the overall offenses. The figures speak for themselves. In 2022, the DOJ did not charge a single abortion-rights activist, but it charged 26 pro-life protesters with a FACE Act violation.

What was most despicable was the hands-off treatment afforded Jane's Revenge. They are the most militant group of pro-abortion extremists.

As the Catholic League pointed out in January 2023, Jane's Revenge frequently employs "incendiary bombs, vandalism, and other forms of property damage" to crush pro-lifers. We listed many examples.

In March 2023, Sen. Mike Lee addressed Merrick Garland, the head of the DOJ. Lee said the DOJ had announced charges against 34 individuals for blocking access to or vandalizing abortion clinics, yet in the over 81 reported attacks on pregnancy centers only two persons had been charged. The attorney general responded by saying that pro-life activists commit their offenses "during the daylight" when it is easy to see who they are, but pro-abortion activists are "doing this at night, in the dark."

The Homeland Security Committee in the House, led by Rep. Chip Roy, took Wray to task in October, raising several key issues. The same body drilled him again in December, honing in on the Mark Houck case.

In an early morning raid in September 2022, the FBI stormed his house in response to violating the FACE Act a year earlier. The pro-life Catholic was later acquitted but the FBI, as Roy pointed out, still refuses to apologize to him. Many observers believe the FBI was sending a message to pro-life activists. Beware.

There is a pattern here that transcends abortion protesters. The riots of 2020 and 2021 that were conducted by Black Lives Matter and Antifa led to the deaths of more than two dozen persons, and literally billions of dollars in property damage. Why are these violent maniacs free to walk our streets while non-violent pro-life demonstrators are treated like violent thugs?

We implore the House and Senate Homeland Security Committees not to let up on this issue, and that is why we are contacting all the members today.

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