



Written by [C. Mitchell Shaw](#) on February 2, 2023

Losing Face: It's Time for Congress to Repeal the FACE Act

When the Freedom of Access to Clinic Entrances (FACE) Act was signed into law in 1994 by then-President Bill Clinton, opponents of the law pointed out that it was unconstitutional. Clinton and his Democrat allies in Congress were accused of shoving the law through for political reasons. The main justification for the FACE Act was the Supreme Court's decision in *Roe v. Wade*. Democrats cited *Roe* as "the law of the land." But in the wake of *Dobbs* and the overturning of *Roe*, even that weak justification no longer stands.



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Recent events have made it obvious that under the Biden administration, the FACE Act is merely a political tool with which Democrats practice the art of persecution by selective prosecution. Two points help illustrate this. First is the case of Catholic pro-life sidewalk counselor Mark Houck. As *The New American* [reported Tuesday](#), Houck was acquitted by a federal jury Monday of charges that he had violated the FACE Act when he shoved an abortion "escort" who was verbally abusing Houck's 12-year-old son during a legal abortion protest outside an abortion clinic.

What was obvious from the outset was that Houck had not violated the FACE Act. He simply acted as any decent father would by first attempting to reason with the "escort" to stop verbally abusing his son and only then intervening with appropriate force sufficient to end the abuse. Of course the Biden DOJ was uninterested in the facts. They saw an opportunity to use the FACE Act for its intended purpose: The persecution by selective prosecution of a pro-life activist.

Houck's case — including an armed early-morning raid of his home, his arrest, subsequent media smear campaign, and trial — was not a mistake or misapplication of FACE. It was baked into the very design of FACE. That Houck was acquitted in such short order once the facts were presented demonstrates the political nature of how FACE is applied by design.

The second point that illustrates the fact that FACE is a political tool is that in 1994, Democrats — realizing that they would encounter difficulty in passing the bill — allowed the bill to include provisions protecting the right of religious freedom at a place of religious worship as well as providing for severe penalties for the intentional damage or destruction of a place of worship. Those provisions helped



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grease the skids for the bill to pass.

This is interesting since — as the old song from *Sesame Street* noted — “One of these things is not like the others.” Anyone would be forgiven for wondering aloud, “Why would a bill written to protect access to abortion facilities (and even *named* to emphasize that fact) include protections for places of religious worship?” The simple answer to that question is that the provisions for protecting places of religious worship were nothing more than bait-and-switch hollow promises that the Democrat architects of FACE never intended to keep.

Recent evidence proves that point. For, while the Biden administration has moved Hell and Earth to prosecute any violation — real or otherwise — of the FACE Act where abortion facilities are concerned, how many cases of vandalism or destruction of churches and pro-life crisis pregnancy centers have been prosecuted by the Biden administration under the FACE Act?

It seems that the Biden administration is too busy persecuting pro-life dads for protecting their kids to be bothered investigating and prosecuting attacks of churches or pro-life crisis pregnancy centers. Fortunately, CatholicVote.org has done what the Biden DOJ will not do: The organization has cataloged and published lists of those attacks. According to Catholic Vote’s reports, [nearly 300 Catholic churches alone have been vandalized, damaged, or destroyed in criminal attacks since May of 2020 — 127 of those attacks have taken place since the Supreme Court leak in May of 2022](#). And those numbers do not include Protestant churches or other religious buildings. Furthermore, since the Supreme Court leak, [at least 80 pregnancy centers or pro-life groups have been the victims of such attacks](#).

And yet, while Catholic priests, Protestant ministers, and rank-and-file pro-life activists find themselves in the crosshairs of the Biden DOJ, zero indictments have been issued for those attacks on pro-life pregnancy centers. This is a clear case of persecution by selective prosecution, since — [as the Federalist’s Elle Purnell points out in her recent editorial piece](#) — “It’s worth noting that the phrase ‘reproductive health services’ does not single out abortion facilities, but legally includes pro-life pregnancy centers.”

As Purnell writes:

Just this year, the Department of Justice under Attorney General Merrick Garland, a Biden appointee, has announced indictments of 22 peaceful pro-life protesters, trumping up bogus charges based on the Freedom of Access to Clinic Entrances (FACE) Act. At best, that law creates duplicative protections against crimes that are already prosecutable under state and local criminal statutes. At worst, it is a weapon for federal law enforcement to unconstitutionally brandish against its political dissidents.

Right now, it has become the latter. It’s past time for Congress to repeal the FACE Act and do away with the reckless, state-sponsored terrorizing of innocent Americans that the law enables.

Purnell goes on to write:

While the FACE Act has teed up left-wing bureaucrats to target pro-lifers, the DOJ has denied equal protection of the laws to pro-life pregnancy clinics, in violation of the 14th Amendment. By refusing to apply the law to protect pregnancy centers (as well as churches) from dozens of instances of arson, vandalism, and threats, the federal government has



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violated Americans' 14th Amendment rights in its application of the FACE Act.

The application of the FACE Act has also targeted Americans for their peaceful assembly and speech, two of the most foundational freedoms protected by the First Amendment. Recently, the DOJ indicted 11 peaceful protesters who lined the hallway of a building outside the door of an abortionist's office to pray, sing, and petition.

These targeted prosecutions aren't novel under the Biden administration, either. President Barack Obama's Justice Department used the FACE Act to go after several pro-lifers, including a 79-year-old Maryland man whom the DOJ sued for walking alongside a woman on her way up to an abortion facility and peacefully stepping in front of her as he spoke to her. ("It is admitted that the woman got into the clinic without incident," his legal defense noted.) In targeting peaceful speech and assembly, the Department of Justice has a long and pervasive history of using the FACE Act to violate Americans' constitutional rights.

Purnell makes a great case and shines a light on the flaws of the FACE Act. In the final summation, the FACE Act is found wanting, not just because it is being abused, but because it was *designed* to be abused. The abuses of the FACE Act that Americans are witnessing are part of the law of intended consequence. As Purnell writes, the law was unconstitutional when it was written, passed, and signed into law. It is time for it to be abolished. After all, the Supreme Court ruling that provided what thin cover FACE had at the time of its passage has been overturned by the Supreme Court's ruling in *Dobbs*. It is time to for good Americans to demand that Congress repeals the FACE Act.



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