

# MERRICK GARLAND'S DODGES ON INVESTIGATING FORMER PRESIDENTS

In the oversight hearing today, Eric Swalwell tried to grill Attorney General Garland on whether DOJ would reconsider the OLC memo holding that a sitting President cannot be indicted. Garland dodged answering any specific question. But along the way he laid out some principles that he might apply regarding the investigation of a former President.

Swalwell: General Garland, in 1973, an Office of Legal Counsel memo outlined the parameters for indicting a sitting President and said that you cannot do that. Twenty-seven years later, that memo was updated to reaffirm that principle. Twenty-one years later, we have seen a former President test the bounds of Presidential authority, and I'm wondering, would you commit to revisiting that principle, whether or not a President, while sitting, should be indicted?

Garland: Well, Office of Legal Counsel memoranda, particularly when they've been reviewed and affirmed by Attorneys General and Assistant Attorneys General of both parties, it's extremely rare to reverse them, and we have the same kind of respect for our precedents as the courts do. I think it's also would not normally be under consideration unless there was an actual issue arising and I'm not aware of that issue arising now. So I don't want to make a commitment on this question.

Swalwell: I don't want to talk about any specific case but, just, in general,

should a former President's suspected crimes, once they're out of office, be investigated by the Department of Justice?

Garland: Again, without, I don't want to make any discussion about any particular former President or anything else. The memorandum that you're talking about is limited to acts while the person was in office, and that's all I can say.

Swalwell: And should that decision be made only after an investigation takes place before deciding beforehand a general principle of we're not going to investigate a former President at all? Would you agree that if there are facts, those should be looked at?

Garland: Again, you're pushing me very close to a line that I do not intend to cross. We always look at the facts and we always look at the law in any matter before making a determination.