

The Possibility of Prosecuting Federal Court Leakers—Update & Rejoinder

We are grateful to Professor Volokh for featuring our June 1 *Wall Street Journal* op-ed (and, previously, our *Bloomberg Law* article) questioning common claims that there is no federal law criminalizing the leaking of court-sensitive information, such as a draft Supreme Court opinion. In his parting comments on the *WSJ* piece, Eugene observes that he is "not sure how viable these arguments are," and then observes two discrete issues. True to form, Eugene has kindly afforded us an opportunity to respond.

Let us kick things off by some early, but necessary, scene (re-)setting. The goals of our articles were modest. We read the near-unanimous claims, advanced in outlets ranging from the *Washington Post*, *Reuters*, and *Wired* to *USA Today*, *PolitiFact*, *Fox*, and *Bloomberg*, that "leaking [court-sensitive information]" is not—and, indeed, could likely *never be*—a crime. Could this steady drumbeat of headlines possibly be accurate? And is there really a need for the proposed "Leaker Accountability Act of 2022" designed to, per *The Hill*, "criminalize Supreme Court leaks"?

[Click here to read the full publication.](#)

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