

**Statement of Chairman Jerrold Nadler for the Hearing on the  
“Constitutional Means to Prevent Abuse of the Clemency Power”  
Before the Subcommittee on the Constitution, Civil Rights, and Civil  
Liberties  
Tuesday, February 9, at 9:00 a.m.  
Virtual Hearing via Cisco Webex Events**

Today’s hearing is an important opportunity for us to consider how to address abusive exercises of the pardon power.

This Committee—under both Democratic and Republican majorities—has, on multiple occasions in the past, considered potential responses to controversial presidential clemency grants that created the appearance of impropriety, a corrupt bargain, or otherwise undermined the American public’s faith in the integrity of their government.

Indeed, in one of the few examples in American history of a sitting president testifying before Congress, President Gerald Ford appeared before the House Judiciary Committee to explain his decision to pardon former President Nixon in the wake of the Watergate scandal.

Unfortunately, Congress finds itself again in a period of national reflection where we must consider what, if any, reforms we should undertake in the wake of former President Trump's frequent abuse of the clemency power. No other modern president has ever exercised this important power in a manner so contrary to the Framers' intent that the president use it to provide mercy and to remedy miscarriages of justice.

In contrast, President Trump abused the clemency power in self-serving ways that undermined the cause of justice and impugned the integrity of the federal criminal justice system.

For example, Special Counsel Robert Mueller’s Report described multiple instances in which President Trump dangled the possibility of a pardon for witnesses who refused to cooperate with the Mueller investigation.

President Trump also used his bully pulpit to launch attacks on the Mueller investigation, and praised individuals like Roger Stone who refused to cooperate with federal investigators. Eventually Stone was convicted on charges related to lying to Congress. But even before Stone served a day in prison, President Trump commuted Stone’s sentence. Then in the waning days of his presidency, President Trump pardoned not only Roger Stone, but also several other individuals with convictions stemming from Special Counsel Mueller’s investigation—including close associates Michael Flynn and Paul Manafort.

President Trump appears to have granted pardons to his cronies out of a mixed desire to reward them for their personal loyalty, and to execute one final public attack on the integrity of the Special Counsel's investigation before leaving office. Indeed, perhaps tellingly, one of the few people convicted during the Special Counsel's probe who did not receive a pardon was Rick Gates, who had cooperated significantly with the investigation.

While issuing these self-serving pardons, President Trump granted relatively few pardons or commutations for individuals whose continued confinement offended basic notions of justice. For example, only a handful of his clemency grants went to individuals with convictions for crimes like drug possession, or other offenses linked to failed criminal justice policies like the so-called "War on Drugs", which disproportionately harm communities of color.

Most of his clemency grants also completely bypassed the traditional process for independent review established within the Justice Department, relying instead on people with personal connections. According to a recent *Washington Post* article, lobbyists with connections to the Trump White House created a veritable cottage industry, accepting hundreds of thousands of dollars in fees to get their clients' clemency petitions in front of the president before the clock ran out on his term, many of which were of questionable merit. Meanwhile, nearly 14,000 clemency petitions filed with the Department of Justice went unaddressed during the Trump Administration.

Despite President Trump's apparent affection for the clemency power, he granted very few clemency petitions relative to his predecessors. President Trump granted 237 acts of clemency during his term in office.

According to a Pew Research Center analysis, only two other presidents since 1900—George W. Bush and George H.W. Bush—granted fewer acts of mercy, ranking President Trump near the very bottom compared to his peers.

In short, President Trump issued fewer clemency grants than most of his predecessors, and a significant number of the grants he made went to the wealthy or the well-connected. As if that was not bad enough, he used the pardon power to take a final parting shot at the rule of law, granting pardons to individuals convicted in the course of an investigation that included an examination of the president's own conduct.

Former President Trump's extreme behavior has once again exposed and exacerbated longstanding concerns regarding the exercise of the clemency power: Presidents are making too few clemency grants, while special access to the White House—which has always been a factor—has become an increasingly deciding factor in whether to grant clemency.

Indeed, President Trump was an extreme example of a recent trend among presidential administrations. Presidents of both parties appear to grant clemency at a much lower rate compared to their predecessors. That same Pew Research Center study found that presidents from McKinley to Carter granted clemency for roughly 20 percent of petitioners, while presidents since George H. W. Bush have clemency grant rates in the single digits.

The thousands of clemency petitions filed with DOJ's Office of the Pardon Attorney—left in limbo as part of a deeply flawed system—nonetheless demonstrate the need for a more streamlined presidential clemency process that advocates on behalf of clemency petitioners.

I share Chairman Cohen's hope that we can continue in a bipartisan manner to explore ways in which Congress can encourage presidential administrations to treat clemency as a routine feature of the federal criminal justice system. The purpose of today's hearing, however, is to determine what potential legislative tools are at Congress's disposal to identify abusive pardons issued for corrupt or self-serving purposes, and to make explicit constitutional guardrails to discourage presidents from exercising the clemency power contrary to the Framers' intentions.



I thank Chairman Cohen for holding this hearing and I look forward to the testimony from today's witnesses on this important subject.