

The Honorable Jerrold Nadler, Chair
The Honorable Mary Gay Scanlon, Vice Chair Committee on the Judiciary
U.S. House of Representatives

July 10, 2020

Dear Mr. Chairman Nadler and Madame Vice Chairwoman Scanlon,

In February of this year, we wrote to you on behalf of a coalition of national and state organizations to reconvene the impeachment inquiry to investigate additional abuses of power by President Donald J. Trump since the conclusion of the Senate impeachment trial.¹ And in the intervening time since our last letter, President Trump has committed additional abuses of power, most recently arising out of his commutation of Roger Stone's prison sentence.

Therefore, we again write to you and urge you to reconvene the impeachment inquiry to investigate whether to recommend additional articles of impeachment pertaining to President Trump's most recent abuses of power.

On July 10, 2020, President Trump commuted Roger Stone's prison sentence, just four days before he was due to report to prison.² Stone's conviction stands, but he will wholly escape punishment for his crimes.

Mr. Stone was convicted of seven felony counts, including obstructing a congressional investigation and witness intimidation, and sentenced to serve forty months in prison. The convictions stemmed from Stone's efforts to impede Congress's investigation into Russia's interference with the 2016 presidential elections, crimes that Stone carried out in order to protect President Trump. As the sentencing judge, U.S. District Court Judge Amy Berman Jackson, explained in her closing remarks, Mr. Stone "was prosecuted for covering up for the president."³

¹ Free Speech For People & Coalition Letter to U.S. House of Representatives Committee on the Judiciary (Feb. 13, 2020), *available at* <http://bit.ly/38OFkU3>.

² Spencer S. Hsu & Rachel Weiner, "Trump Commutes Sentence of Confidant Roger Stone," Wash. Post. July 10, 2020, <https://wapo.st/327L0b4>.

³ Rachel Weiner et al., *Roger Stone Sentenced to Three Years and Four Months in Prison, as Trump Predicts 'Exoneration' For His Friend*, Wash. Post, Feb. 20, 2020, <https://wapo.st/3aU3rAZ>.

President Trump, in turn, has signaled that he will protect allies who obstruct investigations on his behalf. Indeed, he stated that Mr. Stone was “very brave” for refusing to cooperate with the investigation and praised him for having the “guts” to state that he would never testify against President Trump. Special Counsel Robert Mueller, in his Report on the Investigation into Russian Interference in the 2016 Presidential Election, explained that these and other statements by President Trump “support the inference that the President intended to communicate a message that witnesses could be rewarded for refusing to provide testimony adverse to the President and disparaged if they chose to cooperate.”⁴

President Trump exercised his presidential pardon power to commute the prison sentence of someone who has been convicted of obstructing justice and other felonies in order to protect President Trump himself.

It is not the first time that individuals have obstructed justice to stymie an investigation that might implicate the Office of the President, nor is it the first time that the Office of the President has exercised its authority to help these individuals avoid criminal sanction. In 1992, three weeks before the end of his term in office, President Bush pardoned six individuals who either faced trial or had been convicted of their roles in covering up the Iran-contra affair, which occurred during President Reagan’s presidency. The independent counsel in that investigation, Lawrence Walsh, warned of the injury that these pardons brought to our justice system. Not only did the pardons hinder his investigation, they “undermine[] the principle that no man is above the law.”⁵ However, because President Bush issued those pardons in the last weeks of his presidency, Congress and the American public did not have the opportunity to investigate whether the pardons constituted an abuse of power that warranted impeachment.

Here, Congress does not face these same time constraints. It has the opportunity to carry out a full investigation into President Trump’s abuse of his pardon power, as well as his other abuses of power. Together, these

⁴ Special Counsel Robert Mueller, Report on the Investigation into Russian Interference in the 2016 Presidential Election Vol. II, p. 133 (Mar. 2019), *available at* <https://bit.ly/2ZkrTca>.

⁵ Lawrence E. Walsh’s Statement on the Pardons, contained in David Johnson, “Bush Pardons 6 in Iran Affair, Aborting a Weinberger Trial; Prosecutor Assails ‘Cover-Up,’” N.Y. Times (Dec. 25, 1992), *available at* <https://nyti.ms/39Y5J1x>.

abuses have undermined the independence of our prosecutors and our judiciary. They threaten to subvert our system of justice into one in which those who challenge President Trump face selective investigation, harassment, and prosecution, while aides and allies who commit felonies to protect President Trump know that they in turn will be protected through a presidential pardon.

The pardon power, which includes the power to commute sentences, *see Schick v. Reed*, 419 U.S. 256 (1974), was intended to serve as a check against what the Founders saw as the severity of the justice system. But instead of using this power to dispense “the mercy of the government,”⁶ President Trump has abused the power to protect himself and his allies from having to answer for his other abuses of power.

The power to pardon is not absolute; it should only be exercised in a manner consistent with other parts of the Constitution. And the Founders, who recognized the possibility of its abuse, looked to impeachment as the answer for this abuse. George Mason argued that the pardon power was dangerous because it gave the president an opportunity to “pardon crimes which were advised by himself” and to “stop inquiry and prevent detection” of his own wrongdoings.⁷ And James Madison countered this fear by pointing out that “if the President be connected, in any suspicious manner, with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him; they can remove him if found guilty That is a great security.”⁸

We therefore ask again that you reconvene the impeachment inquiry to investigate President Trump’s commutation of Roger Stone’s prison sentence, as well as the other actions that we cited in our February 13, 2020 letter, to determine whether to recommend new articles of impeachment.

⁶ Federalist Papers No. 74, *available at* https://avalon.law.yale.edu/18th_century/fed74.asp.

⁷ Elliot’s Debates: Volume 3 (June 18, 1788), *available at* <https://teachingamericanhistory.org/resources/ratification/elliott/vol3/june18/>.

⁸ *Id.*

We look forward to working with you on the next steps.

Sincerely,

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Signed by:

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