

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 1, 2025

The Honorable Pamela J. Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Bondi:

We write to inquire regarding the Department of Justice's (DOJ) role, if any, in informing President Trump's opinion on then-President Biden's January 19, 2025, Executive Grant of Clemency to the Members of Congress who served on the House Select Committee to Investigate the January 6th attack on the United States Capitol, particularly in light of President Trump's recent admissions that the Trump Administration uses autopens to sign presidential documents and that he did not sign his proclamation invoking the Alien Enemies Act.

On March 17, President Trump posted on social media¹ a baseless claim that the preemptive pardons² issued by then-President Biden to members of the House Select Committee to Investigate the January 6th attack on the United States Capitol are "hereby declared VOID, VACANT, AND OF NO FURTHER FORCE OR EFFECT."³

As a threshold matter, the Constitution does not grant any president the power to undo a pardon. Instead, Article II, Section 2, Clause I of the Constitution provides that the president "shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment."⁴ The Supreme Court has long recognized the broad scope of the pardon power and has refused to delineate any limits such as those claimed by President Trump.

For example, in *Ex Parte Garland*, an 1886 Supreme Court case interpreting the scope of the pardon power, the Court referred to the president's authority to pardon as "unlimited" except in cases of impeachment, extending to "every offense known to the law" and able to be exercised "either before legal proceedings are taken, or during their pendency, or after conviction and judgment."⁵ Decades later, the Supreme Court defined the scope of pardon authority, writing

¹ Donald J. Trump (@realDonaldTrump), Truth Social (March 17, 2025, 12:35am) <https://truthsocial.com/@realDonaldTrump/posts/114175908922736427>

² Department of Justice, *Executive Grant of Clemency*, The Members of Congress Who Served On The Select Committee To Investigate The January 6th Attack on the United States Capitol, January 17, 2025 (available online at <https://www.justice.gov/pardon/media/1385751/dl?inline>).

³ Melissa Quinn, *Trump claims Biden's pardons of Jan. 6 committee members are "void, vacant" because they were allegedly signed with an autopen*, CBS News, March 17, 2025 (available online at <https://www.cbsnews.com/news/trump-biden-pardons-void-autopen/>).

⁴ See U.S. Const. art. II, § 2, cl. 1.

⁵ *Ex parte Grossman*, 267 U.S. 87, 111, 115, 122 (1925) see also *United States v. Klein*, 80 U.S. 128, 147 (1871) (holding that "[t]o the executive alone is intrusted the power of pardon, and it is granted without limit.").

“the plain purpose of the broad power conferred by § 2, cl. 1, was to allow plenary authority in the President to ‘forgive’ [a] convicted person in part or entirely, to reduce a penalty in terms of a specific number of years, or to alter it with conditions which are themselves constitutionally unobjectionable.”⁶

The plain text of the Constitution lends further support to this conclusion, given the two carefully circumscribed limits placed on the pardon power: first, that clemency may only be granted for “Offenses against the United States,”⁷ which has long been read to exclude state criminal offenses and federal or state civil claims from this power;⁸ and, second, that the President’s clemency authority cannot be properly used “in Cases of impeachment.”⁹

Contrary to President Trump’s claim, there is no prohibition of pardons signed by autopen. In fact, the autopen and its technological antecedents have long been employed by presidents to sign official documents.¹⁰ In 2005, the Justice Department’s Office of Legal Counsel considered the constitutionality of this practice and concluded in a 29-page memorandum that:

The President need not personally perform the physical act of affixing his signature to a bill he approves and decides to sign in order for the bill to become law. Rather, the President may sign a bill ... by directing a subordinate to affix the President’s signature to such a bill, for example, by autopen.¹¹

Given the aforementioned history and tradition concerning presidential pardons, it is clear that President Biden’s January 19, 2025, Executive Grant of Clemency, issued pursuant to Article II, Section 2, Clause 1, of the Constitution, is a valid and lawful exercise of the president’s pardon power.

Accordingly, to better understand the Department of Justice’s involvement in informing President Trump’s opinion regarding President Biden’s January 19, 2025, Executive Grant of Clemency, we request your prompt response to the following questions no later than April 22, 2025:

1. Please detail the Department of Justice’s role in informing President Trump’s position on the validity of President Biden’s January 19, 2025, Executive Grant of Clemency for the

⁶ *Schick v. Reed*, 419 U.S. 256, 266 (1974).

⁷ U.S. Const. art. II, § 2, cl. 1.

⁸ *See Ex parte Grossman*, 267 U.S. 87, 111, 115, 122 (1925) (acknowledging that the phrase was included “presumably to make clear that the pardon of the President was to operate upon offenses against the United States as distinguished from offenses against the states” and distinguishing between civil and criminal contempt for purposes of pardon authority).

⁹ U.S. Const. art. II, § 2, cl. 1; *see also Ex Parte Garland*, 71 U.S. at 373 (1867) (acknowledging that the President’s authority to grant pardons is subject to the exception of “cases of impeachment and” that “[w]ith that exception the power is unlimited”).

¹⁰ Rachel Treisman, *Trump tries to void Biden’s pardons, blaming autopen. Many presidents have used it*, NPR, March 17, 2025 (available online at <https://www.npr.org/2025/03/17/nx-s1-5330709/autopen-biden-pardon-void>).

¹¹ Dept. of Justice, Office of Legal Counsel, *Memorandum Opinion For The Counsel To The President, Whether the President May Sign a Bill by Directing That His Signature Be Affixed to It*, July 7, 2005 (available online at <https://www.justice.gov/file/494411/dl?inline>) at 1.

members of the January 6th Select Committee, including whether the Department advised the President that this pardon is “VOID, VACANT, AND OF NO FURTHER FORCE OR EFFECT” and provide the following information and documentation regarding the Department’s role in informing such views, including:

- a. The names and titles of any officials at the Department of Justice involved in this review; and
 - b. To what extent as part of this review, any identified individual discussed the matter with senior officials at the White House or Department of Justice, and if so, the names and titles of all individuals involved in such discussions.
 - c. All records reflecting or relating to such communications.
2. Given President Trump’s recent admissions that he uses an autopen to sign documents, and that he did not sign his proclamation invoking the Alien Enemies Act ¹² please state whether the Department of Justice plans to review and/or challenge the validity of:
- a. Any and all legislation, executive orders, treaties, and pardons that were or may have been signed by autopen during prior administrations, including during the first and second terms of President Trump; and
 - b. If answered in the affirmative, please also provide a list of the signed executive actions which the Department plans to review.

We look forward to your prompt response.

Sincerely,

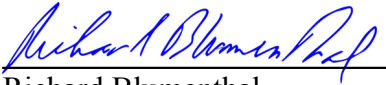


Richard J. Durbin
United States Senator



Amy Klobuchar
United States Senator

¹² Morning Joe, Trump Admits to using autopen after declaring Biden’s pardons void due to autopen, MSNBC, March 18, 2025 (available online at <https://www.msnbc.com/morning-joe/watch/trump-admits-to-using-autopen-after-declaring-biden-s-pardons-void-due-to-autopen-234691653807>).



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Alex Padilla
United States Senator

Cc: The Honorable Chuck Grassley, Chairman, Senate Judiciary Committee