

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Fifteenth Congress

April 17, 2018

The Honorable Bob Goodlatte
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte:

In light of President Donald Trump’s pardon of I. Lewis “Scooter” Libby, we write to request—yet again—that the Committee hold a hearing on the President’s potential abuse of the pardon power.¹ We are particularly concerned that he may have pardoned Mr. Libby as a means of signaling to potential cooperating witnesses in the investigation conducted by Special Counsel Robert Mueller that he may pardon them, thereby encouraging them not to cooperate with the investigation. In this way, the implicit promise of a future pardon to dissuade cooperation with an ongoing investigation may constitute obstruction of justice.

As you no doubt recall, Mr. Libby, who was Chief of Staff to then-Vice President Dick Cheney, was convicted of perjury in March 2007 for lying to federal agents investigating the revelation of Valerie Plame’s identity as a covert CIA officer. President George W. Bush commuted Mr. Libby’s 30-month prison sentence in July of that same year, but notably, did not grant him a pardon.

Ordinarily, all pardon requests are thoroughly vetted by the Department of Justice’s Office of the Pardon Attorney before being presented to the President for consideration.² In this case, however, there was no petition for a pardon on behalf of Mr. Libby pending before that office at the time President Trump acted.³ This Committee should examine why the President

¹ John Wagner, Matt Zapotosky and Joshua Dawsey, *Trump issues pardon to Scooter Libby, former chief of staff to Vice President Cheney*, WASH. POST, Apr. 13, 2018.

² See Dep’t of Justice, Office of the Pardon Attorney, *About the Office*, available at <https://www.justice.gov/pardon/about-office>; Ryan Struyk, *This Chart Shows Why Trump’s Pardon of Arpaio was so Unusual*, CNN (Aug. 30, 2017).

³ Pamela Brown and Sophie Tatum, *Official: Trump expected to pardon Scooter Libby*, CNN (Apr. 13, 2018).

felt the need to break with long-established protocol in this instance, and what motivated his decision to pardon Mr. Libby at this time.

This letter is the third that we have sent to you in which we have requested that the Committee examine the potential abuse of the President's pardon power. We have yet to receive a response to our prior two requests. In August 2017, we wrote to you following President Trump's controversial pardon of Maricopa County Sheriff Joe Arpaio just one month after his conviction for criminal contempt of court.⁴ Of even greater relevance here, in December 2017, we wrote to you following news reports that President Trump appeared to be considering granting a pardon to his former National Security Adviser Michael Flynn, who pled guilty to perjury charges stemming from Special Counsel Mueller's investigation.⁵

A troubling pattern seems to be emerging. President Trump's pardon of Mr. Libby seems to be aimed at undermining or influencing the course of the Mueller investigation. In addition to Mr. Flynn, Rick Gates—a former top adviser to President Trump's presidential campaign—has pled guilty to financial fraud and lying to federal investigators.⁶ Other individuals affiliated with President Trump and his campaign have likewise pled guilty and may be cooperating with the investigation. Meanwhile, others who are targets of the investigation, such as former Trump campaign manager Paul Manafort, have yet to plead guilty or otherwise indicate a willingness to cooperate with Special Counsel Mueller's investigation. We are concerned that, by pardoning Mr. Libby, President Trump is implicitly promising to pardon Mr. Manafort and potentially others in exchange for their silence.

President Trump's statements and actions suggest that he has a disturbing view of the pardon power. He seems to believe that he may wield it as a tool to protect those willing to flout the rule of law in the face of a criminal investigation or legal proceeding. As the Committee with jurisdiction over the scope and use of the President's pardon power, it is imperative that the Committee examine this issue at once.

The issue of the potential abuse of the pardon power is not a partisan one. In fact, in 2001, our Committee held a hearing on the appropriateness of President Bill Clinton's use of the pardon power.⁷ We are simply asking for the same consideration in this instance.

⁴ Ranking Member John Conyers, Jr., et al., to Chairman Robert Goodlatte, H. Comm. on the Judiciary, Aug. 30, 2017.

⁵ Ranking Member Jerrold Nadler, et al., to Chairman Robert Goodlatte, H. Comm. on the Judiciary, Dec. 18, 2017.

⁶ Mark Mazzetti and Maggie Haberman, *Rick Gates, Trump Campaign Aide, Pleads Guilty in Mueller Inquiry and Will Cooperate*, N.Y. TIMES, Feb. 23, 2018.

⁷ *Presidential Pardon Power: Hearing Before the Subcomm. On the Constitution of the H. Comm. On the Judiciary*, Feb. 26, 2001.

For all the foregoing reasons, we strongly urge you to hold a hearing on the potential abuse of the pardon power as promptly as possible.

Sincerely,

Jerrold Nadler

Kamala Harris

John Lee

Karen Bass

Triv. O'Connell

Hank Johnson

John S. Garamendi

Zoe Lofgren

Barbara Lee

David N. Cicilline

Ted W. Lieu

Mr. Zel

Tim Walz

Shirley Jackson Lee

Jamie Raskin

Red Danta