

United States Senate

September 9, 2025

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

Dear Attorney General Bondi,

On December 12, 2024, the Biden administration commuted the sentences of roughly 1,500 inmates and pardoned 39 others, and on January 17, 2025, the administration issued 2,490 additional commutations, more in a single day than any President had ever granted over an entire presidency. These clemencies were issued based on broad criteria rather than case-by-case evaluations, and at least some were signed using an autopen of then-President Biden's signature.

I write to support your ongoing investigations related to those actions and emphasize my commitment to providing whatever resources you require to continue and deepen them. The issues being investigated include the extent of President Biden's direct knowledge of the broad criteria and case-by-case actions, the role of Biden officials in concealing lapses in his mental acuity related to those issues, and the integrity of the process by which the commutations were issued – all of which ultimately implicate the legal status of those clemencies, potentially rendering them null and void. It is possible that the evidence will show the final criteria and specific acts of clemency were knowingly directed by President Biden, even accounting for what was by then his greatly diminished mental acuity. I do not believe it will.

Interviews with former Biden officials and a systematic search of Executive records, including those already provided by the National Archives, can enable that determination. The Trump administration is well within its legal prerogatives and the mandate it received from the American people to compel, if necessary, the production of further documents and testimony.

The fundamental question regarding the use of the Presidential pardon authority (Art II, Sec. 2) is whether there is an unbroken line from the President to a pardon being granted. Everyone involved in the process – government officials purporting to issue a pardon, the person to whom it is being granted, judicial and law

enforcement officials, and most of all the American people – should have absolute confidence a pardon was granted at the President’s explicit direction.

Public reporting has called into question whether President Biden personally established the final criteria used for pardons throughout his administration, especially after the 2024 election, and the use of an autopen eliminates what might have been assurances provided through a signature.

This uncertainty alone, which is unprecedented in the history of the Republic, risks a Constitutional crisis in which the other branches and the American people cannot have faith that the President’s Article II pardon power was legitimately deployed. If the integrity of the clemency process was broken by Biden officials, such that the relevant actions were not taken at the President’s explicit direction, the status of the pardons and commutations would at a minimum be cast into doubt, and the officials involved in approving and using the autopens should be held accountable.

Past presidents have validly established broad categories for mass amnesties without approving every individual pardon. Presidents Washington and Adams issued mass pardons after early rebellions, Presidents Lincoln and Johnson issued Civil War-related pardons, and Presidents Ford and Carter issued conditional and unconditional clemencies related to Vietnam War-era draft evasion and desertion. In each of those cases, however, Presidents went to enormous lengths to establish their personal knowledge and direction. They engaged in public deliberation over the criteria, made their cases to the public, and – importantly – published proclamations that they unquestionably directed.

Biden officials also say that past presidents have validly used autopens even for actions requiring a Presidential signature, such as bill signings. The Department of Justice has long maintained that the Constitution does not even require a pardon to be signed, and in 1929 the U.S. Solicitor General issued a memo saying that “neither the Constitution nor any statute prescribes the method by which Executive clemency shall be exercised... [they] need not have the President’s autograph.” However, even and especially in those cases, there must be an absolute assurance that everyone involved knows there is an unbroken line from the President to the pardon. The 1929 OSG memo itself states that when a pardon is signed with a President’s “facsimile signature” it should “be certified by an official having charge of the records as having been issued by the President, or by his direction.”

These core Constitutional requirements, considerations, and expectations were swept aside in the final months of the Biden administration for partisan and personal motives by President Biden, his family, and his top officials. “After the political backlash to President Biden pardoning his son Hunter last Dec. 1, the White House began pushing to find more people to grant clemency to,” ultimately culminating in the unprecedented 2,490 commutations on January 17, 2025, according to Axios.

Leaked emails further show that the Biden White House implemented a process that separated the President from officials responsible for signing pardons on his behalf. They could not know if they were doing so at the President’s direction, either on a case-by-case basis or by following criteria. As a result, emails show, officials across the administration struggled to verify that the President “sign[ed] off on the specific documents,” that the people receiving commutations “are who the president signed off on,” “that the documents accurately reflect his decision,” or that the President “agreed to the commutations, the number of commutations, and the date.”

In one email, a Biden official stated that the President “doesn’t review the warrants,” asking how to “handle” questions about whether he approved them.

The New York Times had already reported in July –

“They also show that use of the autopen was managed by Mr. Biden’s White House staff secretary, Ms. Feldman. She wanted to receive written accounts confirming Mr. Biden’s oral instructions in the meetings before having it used to produce the warrants recording the clemency actions, the emails show.

The aides referred to those written accounts of meetings at which Mr. Biden delivered oral decisions as “blurbs.” The accounts were drafted by aides to the senior advisers who had participated in the key meetings — like Mr. Biden’s chief of staff, Jeffrey D. Zients, and Mr. Siskel.

The assistants who drafted the blurbs were not themselves in the room with Mr. Biden...

Mr. Biden did not individually approve each name for the categorical pardons that applied to large numbers of people, he and aides confirmed. Rather, after extensive discussion of different possible criteria, he signed off

on the standards he wanted to be used to determine which convicts would qualify for a reduction in sentence.

Even after Mr. Biden made that decision, one former aide said, the Bureau of Prisons kept providing additional information about specific inmates, resulting in small changes to the list. Rather than ask Mr. Biden to keep signing revised versions, his staff waited and then ran the final version through the autopen, which they saw as a routine procedure, the aide said.”

These and other reports suggest that Biden-Harris officials took advantage of the decline in the President’s mental acuity, coupled with the chaos of the Presidential transition, to implement sweeping, fringe, progressive policies on crime and law enforcement, and to usurp authorities solely reserved for the President and which he is forbidden from delegating. Such an act would constitute a direct and unprecedented assault on our Constitutional order.

The Department of Justice is engaged in what will no doubt be multi-year investigations to establish transparency and accountability regarding those acts, and I reiterate that I stand ready to provide whatever resources are necessary to ensure the success of those investigations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Cruz', with a stylized flourish at the end.

Senator Ted Cruz
Chairman, Subcommittee on Federal Courts, Oversight, Agency Action, and
Federal Rights
U.S. Senate Committee on the Judiciary