



The Pardon Power - Frequently Asked Questions

President Trump's ongoing abuses of the pardon power have received much attention and resulted in many questions about the scope of the president's pardon power. Here are answers to some of the most recurring questions you and your staff may receive from constituents, the media, and others.

Are there any limits on the president's pardon power? Yes. The president's pardon powers are [restrained](#) by both the Constitution and federal law. The Constitution prohibits pardons that would neuter another branch of government's powers, such as a pardon for contempt or obstruction of Congress. In addition, the federal bribery statutes prohibit a president from granting a pardon in exchange for a bribe, and pardons that seek to obstruct justice likewise may violate federal criminal laws.

Can President Trump pardon himself? No. The text of the Constitution makes clear that a president may only "grant" a pardon, meaning that a president may only pardon someone else. Additionally, self-pardons would be prohibited under both the Constitution's Take Care and Oath clauses as well as the longstanding principle that no man may be the judge in his own case. Following the Nixon scandal, the Office of Legal Counsel [affirmed](#) that a president cannot issue a self-pardon. Consequently, no president has ever pardoned himself.

Can Congress do anything to prevent future abuses of the pardon power? Yes, Congress has powerful tools at its disposal to prevent pardon abuses, including using its broad oversight powers to investigate unlawful pardons and passing preventative legislation such as the [Protecting Our Democracy Act](#).

How will the Protecting Our Democracy Act prevent abuses of the pardon power? The Act has three primary components to help combat pardon abuses. First, the Act will help deter pardon abuses by requiring disclosure by the president and DOJ of materials related to pardon abuses. These transparency provisions will ensure that any unlawful pardons are scrutinized by Congress and federal prosecutors. Second, the Act further clarifies that the federal bribery statute prohibits offering or granting pardons in exchange for a bribe. Third, the Act further codifies the Constitutional prohibition on self-pardons.

How should President-elect Biden use the pardon power? Historical evidence and writings by the Founders – including the Federalist Papers – make clear that the pardon power was intended to be a tool to show mercy and justice to individuals and to preserve domestic tranquility in the event of uprisings. President-elect Biden should use the pardon power for those noble purposes.