

July 23, 2020

The Honorable Jerrold Nadler  
Chairman, Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Jim Jordan  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Nadler and Ranking Member Jordan,

We write to express our strong support for two bills under consideration by this committee: the **Abuse of the Pardon Prevention Act** (H.R.7694) and the **No President is Above the Law Act** (H.R.2678). Taken together, these Acts would help deter serious abuses that threaten the rule of law and meaningfully reaffirm that no one—not even the president—is above the law.

The president's pardon power is expansive, but it is not absolute. When a president violates the Constitution by issuing a pardon to obstruct justice or insulate themselves or their family from criminal exposure, **Congress should at minimum assert its prerogative to access relevant information to conduct rigorous oversight of the abuse of power.** The Abuse of the Pardon Prevention Act would require that if presidents issue pardons to shield themselves or their family from federal investigation, then the Department of Justice and White House must provide Congress with materials related to the pardon and the underlying offense, thus denying the president the ability to avoid scrutiny for criminal behavior and exposing corrupt and potentially criminal interference in law enforcement. Additionally, the bill clarifies that abuse of the pardon power can be the basis of a criminal bribery scheme.

We also support efforts to close a legal loophole that could place presidents above the law by preventing accountability for criminal conduct. It is the policy of the Department of Justice (DOJ) to not charge a sitting president with crimes. Because the statutes of limitations for any potential charges continue to run during the president's term of office, that DOJ policy means a president may evade criminal accountability simply by running out the clock. The No President is Above the Law Act would pause the statute of limitations for any federal offense committed by a sitting president, whether the offense was committed before or during the president's term in office. If the president enjoys *temporary* immunity from criminal charges while in office, so too should statutes of limitations be *temporarily* paused. The legislation sends a clear message: **while the Presidency may afford certain protections, those who temporarily inhabit it are not above law.**

**We support these measures for two principal reasons.** First, the bills together address among the most serious threats to the integrity of our government: misuse of the office of the Presidency to shield an individual from accountability *in perpetuity*. Wielding the awesome power to pardon, or using a legal

loophole in DOJ policy, for permanent personal protection for criminal or corrupt behavior is antithetical to a government of laws, not of men. Second, both functionally serve important deterrence purposes. The expectation that criminal or corrupt actions may be subject to scrutiny, either by a future grand jury or by the Congress itself, can go far in preventing such behavior to begin with.

Finally, **both bills enjoy strong constitutional footing**. The Abuse of the Pardon Prevention Act in no way burdens the president's constitutional powers; the transparency requirements would only be triggered to allow for oversight in instances when presidents potentially violate the Constitution by issuing a pardon to obstruct Congressional investigations or criminal investigations into their own conduct. Likewise, the No President is Above the Law Act simultaneously respects the constitutional responsibilities of the president while reaffirming the rule of law. DOJ policy against indictment of a sitting president is intended to ensure that the president can focus on the essential functions of the office in service of the public interest without being burdened by a federal criminal investigation. It is a protection afforded *the office* of the presidency for the benefit of *the People*, not a lifetime safe-haven for the individual officeholder's criminal behavior.

We urge this committee to advance both bills, particularly at a moment when public trust in those responsible for upholding the rule of law is declining.<sup>1</sup> Absent strong congressional leadership, we should expect this lack of faith in our institutions to be self-correcting. While additional reforms are necessary, including those relevant to the issues under consideration here, both bills provide important groundwork for the long-term project of protecting the rule of law and our democratic institutions.

Sincerely,

Citizens for Responsibility and Ethics in Washington  
Coalition to Preserve, Protect & Defend  
Common Cause  
Democracy 21  
Equal Justice Society  
Indivisible  
Mainers for Accountable Leadership  
Project On Government Oversight  
Protect Democracy  
Public Citizen  
Republicans for the Rule of Law  
Stand Up America

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<sup>1</sup> <https://www.pewresearch.org/politics/2019/10/01/public-expresses-favorable-views-of-a-number-of-federal-agencies/>