

SENATOR OF VIRGINIA

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COMMITTEE ASSIGNMENTS:

AGRICULTURE, CONSERVATION AND NATURAL RESOURCES
REHABILITATION AND SOCIAL SERVICES
GENERAL LAWS AND TECHNOLOGY
EDUCATION AND HEALTH

February 17, 2020

Re: Pardon of Lieutenant General Michael Flynn (USA Ret.)

U.S. Department of Justice
Office of the Pardon Attorney
950 Pennsylvania Avenue - RFK Main Justice Building
Washington, DC 20530

Dear Mr. President:

I am a retired Virginia state senator who previously served at the Pentagon as Chief of the Criminal Law Division in the Office of the Judge Advocate General of the Army. I urge you to grant an absolute pardon to Lieutenant General Michael Flynn (USA Ret.).

General Flynn's indictment stemmed from a massive conspiracy at the highest levels of government. That conspiracy involved the FBI, the DOJ, the CIA and other intelligence agencies. The purpose of that conspiracy was not to convict General Flynn; ultimately, it was an attempt to overthrow the President of the United States.

I question whether General Flynn would have been indicted had he been willing to testify falsely against you. Because he refused to act dishonorably, he now faces a permanent stain on his reputation--even if you pardon him after a conviction. I urge you to act without delay, in order to preempt the possibility of an egregiously unjust conviction. Democrats savor the chance to place "asterisks" by the names of honorable men. They did it to you. Please do not let them do it to him.

After your election, you selected General Flynn to become the National Security Advisor. He prepared for that role by contacting key foreign dignitaries with whom the NSA was required to interact. He would have been derelict to have done otherwise.

The evidence used to entrap General Flynn was obtained by an illicit wiretap. The affidavit presented to the FISA Court employed deliberately falsified information. The FBI deceitfully concealed the unverified nature of that information from the FISA Court in order to wiretap LTG Flynn and other members of your campaign.

Many Americans believe that the FISA warrants were unlawfully obtained and were manifestly unjust. Under 4th Amendment jurisprudence, I believe that the resultant prosecutions should be barred as “fruits of the poisonous tree.”

Article II, Section 2, of the U.S. Constitution grants the President plenary power to pardon federal offenses for any reason, or for no reason at all. In this realm, your power is unconstrained. It is neither subject to legislation by Congress nor to regulation by any agency. No federal court may opine regarding the merits of a presidential pardon, as such pardons lie within the exclusive and unreviewable authority of the President of the United States.

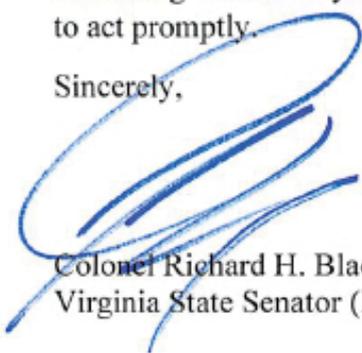
All presidents have employed the pardon power--some justly, others unjustly. Marc Rich was an international fugitive from justice when he was pardoned by President Clinton on his final day in office. Mr. Rich was still on the FBI’s Most Wanted List, and the pardon involved the donation of \$450,000 to the Clinton Library. Although the unjust pardon of Mark Rich was the very embodiment of corruption, it did highlight the breathtaking expanse of the presidential pardon power. Marc Rich had never been tried or convicted. As a fugitive, he was not under the territorial jurisdiction of the United States. Nonetheless, his pardon was fully effective and immune from judicial review.

On the other end of the spectrum, history applauds President Lincoln for his frequent, merciful pardons. No president was more apt to grant a pardon than Mr. Lincoln. When the mother of a condemned soldier made a rather implausible plea for her son’s life, President Lincoln wryly remarked as he signed the pardon, “Now, I want you to understand that I have done this just to get rid of you.”

Mr. President, pardoning Lieutenant General Michael Flynn would be just and fully warranted. General Michael Flynn is a decent and honorable man. I believe that he was prosecuted with an eye to incentivizing false testimony against you. If I am correct, he is being prosecuted today because he refused to lie.

Pardoning General Flynn will help to restore justice where it is sorely lacking. I urge you to act promptly.

Sincerely,



Colonel Richard H. Black (USA Ret.)
Virginia State Senator (Ret.)