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Acting Attorney General Jeffrey A. Rosen  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Acting Attorney General Rosen:

Yesterday was a dark, frightening, and shameful chapter in the annals of our nation's history. For the first time since the War of 1812, the United States Capitol was breached and invaded by armed, would-be insurrectionists bent on overthrowing a lawfully elected government. These invaders were not, however, agents of a foreign power commanded by a foreign sovereign, but American citizens directly incited to mob violence by an American President.

Many of the most critical enforcement and charging decisions will and should wait for the next Attorney General. However, the country cannot afford for the Department of Justice to sit on its hands in the coming weeks. This was not a spontaneous demonstration of legitimate grievance, but a planned criminal insurrection that must be investigated and prosecuted to the fullest extent of the law. Swift and decisive action must be taken and this despicable attack on our democracy answered.

**The Insurrectionists Must be Investigated.** The plain language of 18 U.S.C. § 2384 is clearly applicable to a violent incursion onto government property with the intention of hindering the certification of a lawful election. Nor is that the only federal law that may apply to yesterday's actions. *See, e.g., 18 U.S.C. §§ 111, 373, 1361, 2384.* Each and every participant in this attempted coup must be identified, investigated, and held accountable.

**The President, His Family, and Allied Officials Must be Held Accountable Under the Law.** Yesterday's events did not happen in a vacuum. The path was paved by months of lies and wild conspiracy theories by President Trump, his family and closest associates, and Members of Congress who supported and legitimized his baseless allegations. The moral culpability of the president and his enablers is beyond dispute. There are also serious, fact-specific questions about the legal culpability of the president, his family, and other officials for directly inciting yesterday's attack. Immediately before the insurrectionist mob stormed the Capitol, the president made his wishes explicit, telling an angry crowd, "You'll never take back our country with weakness. You have to show strength and you have to be strong... We're going to walk down Pennsylvania Avenue, ...

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and we're going to the Capitol, ... and we're going to try [to] give our Republicans... the kind of pride and boldness that they need to take back our country." Similar statements were made by members of Trump's family, his congressional allies, and others close to him. No one is above the law, and the Department of Justice must investigate those responsible without fear or favor. That must include the president, his family, his closest associates, and potentially culpable Members of Congress.

**The President Must be Advised of Potential Legal Consequences of Abusing the Pardon Power.**

Throughout his tenure, this president has made a practice of using his pardon power to the benefit of his ideological and personal allies. Many of yesterday's potentially criminal acts fall under federal law and are thus subject to the pardon power. However, the Office of Legal Counsel should advise the president that issuing a pardon under corrupt circumstances could render him vulnerable to prosecution when he leaves office in a few short weeks.

Even on a day where four people died, we should count ourselves fortunate that the immediate consequences of an armed attack on the seat of our nation's democracy were not worse. However, if those that perpetrated this attempted coup are not held accountable, the long-term consequences will be incalculable. Armed insurrection is not a legitimate part of the political process. If this is allowed to stand without accountability, there will be a next time, and that next time will be worse. The rule of law must prevail.

Sincerely,



Letitia James