



THE DANGERS OF A POLITICIZED CRIMINAL JUSTICE SYSTEM

I. Introduction

As the chief legal officers in their state, state attorneys general play an important role in upholding the rule of law, ensuring the justice system is fair and impartial, and leading public safety efforts for all people in their state. When upholding the highest values of their post, attorneys general guard against corruption and favoritism in the legal system. They monitor government actions to ensure equal protection of the law. They strive to represent the public interest in a fair and unbiased manner. And while their jurisdiction over criminal cases varies from state to state, the mandate in the oath of office that each state attorney general takes is clear—they must uphold the Constitution. In administration of the criminal justice system, this means unbiased enforcement of the laws, public safety investment based on community need, and due process for each defendant—regardless of their political affiliation.

In contrast, the current administration and the sitting Attorney General of the United States have politicized the federal criminal justice system against Americans in a manner that is unprecedented. The White House issued an Executive Order on January 20, 2025, pledging to *end* the “weaponization of the federal government.” However, since then, the current administration has routinely used the criminal authority vested in the Department of Justice to target political opponents.

This is a dangerous departure from institutional norms that have existed since Watergate to maintain separation between the Department of Justice and the White House on issues involving criminal investigations. Further, politicizing federal prosecutorial powers threatens to undermine public trust in the legal system and, ultimately, public safety. For the rule of law to stand, it requires a shared belief and common understanding that bad actors who intentionally cause harm will be held accountable and punished accordingly. If the federal criminal system is used to punish political enemies, it is delegitimized. It becomes another tool for the President to pick winners and losers, to quash dissent, and eliminate political competition. Public safety depends, in part, on society’s faith in our criminal justice system. When the justice system is used for political gain, that faith is diminished.

Using the criminal justice system to target enemies is consistent with a long line of action from the current administration to [weaponize](#) civil governmental systems against opponents. The administration has targeted institutions that are central to a functioning democracy, such as universities, the press, legal organizations, and nonprofits—often under the guise of ending diversity, equity, and inclusion programs, changing an institution’s stance on the Israeli-Palestinian conflict, or coercing compliance with federal immigration law. The administration

[threatened](#) to ban government contracts with law firms who have represented the President's political enemies (and even the companies who hire such law firms). It has [attacked](#) news outlets and reporters, banning them from events, filing baseless [lawsuits](#) for negative reporting, and [defunding](#) national public media services. It has revoked funding and student visas associated with some of American's most prominent [universities](#) in moves perceived by many as an attack on academic freedom.

But weaponizing the federal criminal justice system is something more. It is using the most immense governmental power—the power to remove someone's individual liberty—to demand conformity, invoke fear, and quash opposition. It represents an existential threat to democracy and to individual safety: When already limited law enforcement and prosecutorial resources are redirected away from stopping dangerous individuals and criminal organizations towards playing politics, our communities are less safe. When law enforcement partnerships between state and federal agencies are weakened and [diminished](#), violent crime spikes again. When politicians are arrested just for speaking out, anyone who exercises their First Amendment rights is at risk. *In an America where the President has the power to turn the federal criminal justice system on his opponents, no one is safe.*

II. Harms of Politicized Investigations and Prosecutions

For those investigated, arrested, or charged with a crime, the pain is in the process, even if charges are never actually filed or the individual is acquitted at trial.

Investigations are timely and often require extensive resources from the person or entity being investigated. The investigatory process may require the individual to retain an attorney, supply thousands of documents and materials to the government in response to a subpoena, attend interviews, secure witnesses, attend hearings, and ultimately expend time and resources to disprove government allegations of wrongdoing. Investigations often take months or years, holding the threat of possible criminal charges over the person the entire time and tarnishing the public's perception of the individual.

Similarly, a criminal case can take months or years to resolve. Once a criminal complaint or indictment is filed, a person faces the threat of significant prison time and fines. The individual may be held in federal custody for months or years awaiting trial—essentially removing the person from public life before they are even found guilty—or placed on pretrial supervision before the matter even goes to a jury. The individual must comply with court orders, attend court, work with their attorney to develop the defense, and live for months or even years with the threat of the case and prison time hanging over them. Even while a person may maintain their innocence, juries can be unpredictable, resulting in some people taking plea bargains for a lesser criminal charge just to escape the risk of trial, where a conviction could result in years in prison. Even if a person is ultimately acquitted, criminal charges color the public's perception about the individual for the rest of their life.

III. Targeting Critics and Political Opponents

The current administration has taken unprecedented steps to politicize the criminal justice system. Many Executive Branch law enforcement agencies, ranging from the Department of Justice to the Department of Homeland Security (with sub-agency Immigration and Customs Enforcement), are now being used to arrest, investigate, detain, and prosecute political opponents.

a. Prosecuting a sitting member of the United States Congress

On June 10, 2025, U.S. Attorney Alina Habba obtained a three-count [indictment](#) against U.S. Representative LaMonica McIver of New Jersey, charging her with three counts of forcibly assaulting, impeding, and interfering with federal officers during the Congresswoman's tour of an ICE facility in New Jersey. The indictment accuses Rep. McIver of violating [18 U.S.C. 111](#), the statute that precludes assaulting, resisting, or impeding federal officers.

While sitting members of Congress have been prosecuted by the federal Department of Justice in the past, these prosecutions [typically](#) involve public corruption allegations for crimes such as bribery or insider trading. It [appears](#) that Rep. McIver is the first sitting member of Congress to be indicted for allegedly assaulting a federal officer.

Further eroding protections for elected officials, Attorney General Pam Bondi is considering [changing](#) the Department of Justice (DOJ) protocol that has historically given the DOJ's Public Integrity Section the final decision about whether to seek an indictment against a public official. This would pave the way for U.S. Attorneys appointed by the President to file charges against any elected official in their district without the signoff of any experienced career prosecutor. As discussed below, many such investigations and charges have already been undertaken.

b. Arresting and prosecuting local and state officials

- In April 2025, federal prosecutors criminally [charged](#) **Wisconsin Judge Hannah Dugan** with obstruction and with concealing an undocumented individual who appeared in her Wisconsin courtroom for a hearing in his pending state criminal case.
- The Interim U.S. Attorney for the District of New Jersey, Alina Habba, filed criminal charges against Newark **Mayor Ras Baraka** for trespass following his arrest and five-hour detention in an ICE facility on May 9, 2025, during a protest at an immigration center in Newark, New Jersey. The charges were subsequently dismissed on the government's own motion days later, leading the federal judge overseeing the case to [criticize](#) Habba's office, calling it a "hasty arrest" and an "embarrassing retraction of charges."
- On June 17, 2025, ICE agents also [arrested](#) New York City mayoral candidate **Brad Lander** after he attempted to escort a man out of immigration court. He was detained for a few hours and released. The U.S. Attorney is reviewing the case to determine whether to file criminal charges.

c. Using the Department of Justice and other federal agencies to conduct criminal investigations into elected officials and critics of the administration

- In April 2025, the Department of Justice opened an [investigation](#) into **former New York Governor (and current mayoral candidate) Andrew Cuomo**, for allegations that he lied to Congress when testifying about the state's response to the Covid-19 pandemic.
- On April 10, 2025, Interim U.S. Attorney for New Jersey Alina Habba [announced](#) a criminal investigation into **New Jersey Governor Phil Murphy** and **New Jersey Attorney General Matthew Platkin** after Attorney General Platkin issued a memorandum instructing state police not to assist federal authorities with civil immigration enforcement. Habba noted that she was pursuing an investigation for crimes related to obstruction and concealment.
- In May 2025, the Department of Justice [announced](#) a criminal investigation into **New York Attorney General Letitia James**. The DOJ's investigation was apparently initiated by a criminal referral from Federal Housing Finance Agency Director Bill Pulte citing "media reports" about James' real estate transactions. Pulte alleges that James committed fraud by lying on loan and bank documents to obtain better mortgage rates.
- On July 1, 2025, Border Czar Tom Homan confirmed that **Rep. Alexandria Ocasio-Cortez** is under [investigation](#) by Immigration and Custom Enforcement for apparently [employing](#) an undocumented individual as a deputy communications director.
- On July 9, 2025, the FBI [confirmed](#) investigations into **Former FBI Director James Comey** and **Former CIA Director John Brennan** for initiating the investigation into Russian election interference in the 2016 presidential election. The referral for investigation came from John Ratcliffe, the current CIA Director.
- On July 15, 2025 a senior Trump-administration official confirmed that Fannie Mae conducted a criminal [investigation](#) into California **Sen. Adam Schiff** for mortgage fraud and that the criminal case had been referred to the Department of Justice for potential criminal charges.

d. Warrantless search of a congressional office and warrantless arrest of a congressional staffer

On May 28, 2025, Department of Homeland Security officers [demanded](#) access, without a warrant, to Rep. Jerry Nadler's Manhattan office, accusing the office of harboring immigration protesters. When a staffer for the congressman stated she was going to get her supervisor, surveillance video shows a DHS officer try to physically push past her and then place her under

[arrest](#) when she pushed back. It was reported that this prompted Rep. Joseph Morelle, ranking member of the House Administration Committee, to circulate a Dear Colleague letter [urging](#) lawmakers to allow only authorized entry from federal law enforcement officers—the very law enforcement personnel that are supposed to be protecting their offices.

e. Directing the Department of Justice to investigate political enemies and former government officials from opposing administrations

The President has used executive orders and presidential directives specifically instructing the DOJ to investigate political enemies. The close collaboration between the White House and the Department of Justice’s Criminal Division, including Presidential orders specifically dictating individuals the Criminal Division should investigate, violates prior norms that were established after the Watergate Scandal to keep investigations independent.

- Specifically, on April 9, 2025, less than three months after issuing an Executive Order promising to end the weaponization of the government, the President issued a Presidential Memorandum accusing a **former Department of Homeland Security official**, Miles Taylor, of treason—a crime punishable by death. The Memorandum further ordered that the Department of Justice open an investigation into Taylor for treason and for potential violations of the Espionage Act. On the same day, the White House issued a “[Fact Sheet](#)” on the “risks associated with Miles Taylor” stating that “President Trump is delivering on his promise to drain the swamp by rooting out inefficiency, corruption, and disloyalty.”
- The same day, the President issued a [Memorandum](#) “addressing risks from Chris Krebs,” directing the Department of Justice and Director of National Intelligence to investigate Krebs for unauthorized dissemination of classified documents (a crime) or any conduct contrary to suitability standards for federal employees. Krebs, **the former head of Cybersecurity and Infrastructure Security Agency** during Donald Trump’s first term, was in charge of election security and [opposed](#) the President’s claims that the 2020 election was rigged or otherwise altered.
- On July 22, 2025, during a press conference in the Oval Office, President Trump [accused](#) **former President Obama** of treason and sedition related to the 2016 election and the intelligence community’s findings of Russian interference in the 2016 election. President Trump stated “this was treason” and stated “whether it’s right or wrong, it’s time to go after people,” later saying that the decision would rest with Attorney General Pam Bondi.

Similarly, other agency officials have called for investigations or made allegations of criminal wrongdoing against those perceived as political enemies. Attorney General Pam Bondi [called](#) for criminal prosecution where cities do not volunteer to undertake immigration enforcement. And Federal Housing Finance Agency Director Bill Pulte [called](#) on Congress to investigate Fed Chairman Jerome Powell for allegedly lying to Congress about the Federal Reserve’s upgrades to its headquarters.

f. Firing Department of Justice personnel for political reasons

The current administration is also taking unprecedented steps to rid the DOJ of career attorneys who disagree with the current administration to ensure that the DOJ will execute the President's [will](#). Attorney General Pam Bondi [fired career](#) prosecutors at the Department of Justice who were part of the [team](#) investigating President Trump's role in the January 6th riot.

On July 16, 2025, Department of Justice officials [fired](#) Maurene Comey, daughter of former FBI Director James Comey, who successfully prosecuted Ghislaine Maxwell, with no warning or reason, in the midst of growing backlash from the public about the administration's refusal to release Epstein files.

Other career DOJ attorneys have resigned, unable to endure the current direction of the department. For example, [70%](#) of the attorneys in the DOJ Civil Rights Division have resigned since January 2025.

g. Using the pardon power to undo prior criminal convictions

President Trump also is using the criminally related powers of his office to reward his supporters. On January 20, 2025, by Presidential [Proclamation](#), President Trump commuted the sentences of fourteen January 6 rioters to time-served and granted "a full, complete, and unconditional pardon to all other individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021."

To date, he has pardoned [sixteen](#) elected officials who had previously been convicted on corruption-related charges. Additionally, the Department of Justice [issued](#) a letter to the U.S. Attorney's Office for the Southern District of New York directing the office to make the controversial [decision](#) to drop pending charges against New York City Mayor Eric Adams to ensure the city could assist with ICE deportation efforts, raising concerns that the dismissal was a *quid pro quo*. A number of career attorneys within the S.D.N.Y. office and the Department of Justice Public Integrity Division [resigned](#) rather than follow orders to file the motion dismissing the charges.

IV. Conclusion

In sum, while pledging to "end the weaponization" of the federal government, the current administration has politicized the criminal justice system and abused the powers that Americans have entrusted to federal law enforcement and prosecutors at the Department of Justice for decades. The federal criminal justice system is being used today to target the political opponents of the President, causing some historians to liken the current administration's conduct to the [McCarthy](#) era. The federal criminal justice system is losing skilled career prosecutors to ideologues, directing resources away from fighting crime gangs and instead to investigating political enemies. The administration today is dismantling [funding](#) for and systems of collaboration between state and federal law enforcement task forces. It is forcing the National

Guard to [police](#) neighbors in their own state and attempting to usurp control of local law enforcement away from local crime priorities toward immigration enforcement with no [evidence](#) that this will decrease crime. And it is targeting Americans criminally for engaging in free speech. In an America with a politicized justice system, we are all less safe, and we are all at risk. The role of state attorneys general in holding the federal government accountable to the Constitution, upholding the rule of law, and administering the criminal justice system in a fair and unbiased manner is perhaps more critical now than ever before.

The Leadership Center for Attorney General Studies is a non-partisan organization dedicated to educating the public about the important role state attorneys general play in addressing pressing issues, enforcing laws, and bringing about change.