Special Counsel Robert Mueller's investigation has brought new attention to presidents' power to pardon. Speculation has included that President Trump might pardon a wide range of targets of the investigation, or even himself.

The power to pardon is one of very few vested in the executive explicitly by the Constitution. In Federalist #74, Alexander Hamilton explained two purposes. First, sometimes guilt will be "unfortunate" or the penalty seem too severe, so clemency (including versions short of pardon, such as commuting sentences) can mitigate those ills. But there is also a political use: that, "in seasons of insurrection or rebellion, there are often critical moments, when a well-timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth."

President Washington (ironically, over Hamilton's objections) followed this logic to tamp down the Whiskey Rebellion. Presidential clemency has since been used in numerous more "political" cases, including Brigham Young, all confederate soldiers, Eugene Debs, Richard Nixon, Vietnam war draft resisters, and former Defense Secretary Caspar Weinberger. In some cases critics suggested that the power was misused because the president may have had a personal stake – a risk Hamilton had acknowledged. Most recently, President Obama commuted well over a thousand sentences for "non-violent" drug offenders whose sentences many considered excessive, based on misguided sentencing laws. He was criticized for not commuting more. But he also commuted sentences for Chelsea Manning and a convicted Puerto Rico liberation terrorist.

What, then, are the bounds, norms, and risks of presidents' power to pardon? Mike Benza, a leading expert on death penalty and other aspects of constitutional criminal law, joins us to discuss the issues.

The Friday Public Affairs Discussion Lunch is an opportunity for students, faculty, staff, emeriti and other members of our communities to learn and question each other about public policy issues at the international, national, and local levels. Faculty and other speakers share their research and experience to get beyond the headlines and repetition in the mass media, and the wild rumors of the internet. Lunch is brown bag, but cookies and some beverages are provided by the Center for Policy Studies of the College of Arts and Sciences.

http://fridaylunch.case.edu/