

# America's Accountability Problem. Is Anyone Responsible Anymore?

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*America has an accountability problem. In fact, if the [Covid-19 disaster](#), the [January 6th Capitol attack](#), and the Trump years are any indication, the American lexicon has essentially dispensed with the term “accountability.”*

This should come as no surprise. After all, there's nothing particularly new about this. In the Bush years, those who created a system of indefinite offshore detention at [Guantánamo Bay](#), Cuba, those who implemented a CIA global [torture program](#) and the National Security Agency's [warrantless surveillance policy](#), not to mention those who purposely took us to [war](#) based on lies about [nonexistent](#) Iraqi weapons of mass destruction, were neither dismissed, sanctioned, nor punished in any way for obvious violations of the law. Nor has Congress passed significant legislation of any kind to ensure that all-encompassing abuses like these will not happen again.

Now, early in the Biden era, any determination to hold American officials responsible for such past wrongdoing, even the president who helped launch an assault on the Capitol, seems little more than a fantasy. It may be something to discuss, rail against, or even make promises about, but not actually reckon with — not if you're either a deeply divided Congress or a Department of Justice that has compromised itself repeatedly in recent years. Under other circumstances, of course, those would be the two primary institutions with the power to pursue genuine accountability in any meaningful way for extreme and potentially illegal government acts.

Today, if thought about at all, accountability — whether in the form of punishment for misdeeds or meaningful reform — has been reduced to a talking point. With that in mind, let's take a moment to consider the Biden administration's approach to accountability so far.

## How We Got Here

Even before Donald Trump entered the Oval Office, the country was already genuinely averse to accountability. When President Obama took office in January 2009, he faced the legacy of the George W. Bush administration's egregious disregard for laws and norms in its extralegal post-9/11 war on terror. From [day one](#) of his presidency, Obama made clear that

he found his predecessor's policies unacceptable by both acknowledging and denouncing those crimes. But he insisted that they belonged to the past.

Fearing that the pursuit of punishment would involve potentially ugly encounters with former officials and would seem like political retribution in a country increasingly divided and on edge, he clearly decided that it wouldn't be worth the effort. Ultimately, as [he said](#) about "interrogations, detentions, and so forth," it was [best](#) for the nation to "look forward, as opposed to looking backward."

True to the president's word, the Obama administration [refused](#) to hold former officials responsible for violations of fundamental constitutional and legal issues. Among those who escaped retrospective accountability were Vice President [Dick Cheney](#), who orchestrated the invasion of Saddam Hussein's Iraq based on lies; the lawyer in the Justice Department's Office of Legal Counsel, [John Yoo](#), who, in his infamous "Torture Memos," justified the "enhanced interrogation" of war-on-terror prisoners; and Secretary of Defense [Donald Rumsfeld](#), who created a Bermuda triangle of injustice at Guantánamo Bay, Cuba. In terms of reform, Obama did ensure a degree of meaningful change, including decreeing an official end to the CIA torture of prisoners of war. But too much of what had happened remained unaddressed and lay in wait for abuse at the hands of some irresponsible future president.

As a result, many of the sins that were at the heart of the never-ending response to the 9/11 attacks have become largely forgotten history, leaving many potential crimes unaddressed. And even more sadly, the legacy of accountability's demise only continues. Biden and his team entered office facing a brand-new list of irregularities and abuses by high-ranking officials, including President Trump.

In this case, the main events demanding accountability had occurred on the domestic front. The January 6th [insurrection](#), the egregious mishandling of the [pandemic](#), the interference in the 2020 presidential [election](#), and the use of the Department of Justice for [political](#) ends all awaited investigation after inauguration day. At the outset, the new government dutifully [promised](#) that some form of accountability would indeed be forthcoming. On January 15th, House Speaker Nancy Pelosi [announced](#) that she planned to convene an independent commission to thoroughly investigate the Capitol riots, later pledging to look into the "facts and causes" of that assault on Congress.

Attorney General nominee Merrick Garland similarly [promised](#), "If confirmed, I will supervise the prosecution of white supremacists and others who stormed the Capitol on January 6th." Meanwhile, signaling some appetite for holding his predecessor accountable, during the presidential campaign, Joe Biden had already [ruled out](#) the possibility of extending a pardon to Donald Trump. In that way, he ensured that, were he elected, numerous court cases against the president and his Trump Organization would be open to prosecution — even as Noah Bookbinder, the executive director of Citizens for Responsibility and Ethics in Washington, recently suggested, [reviving](#) of the obstruction of justice charges that had been central to the Mueller investigation of the 2016 presidential election.

## **Reluctance in the Halls of Accountability**

Six months after Joe Biden took office, there has been no firm movement toward accountability by his administration. On the question of making Donald Trump and his allies answer for their misdeeds, the appetite of this administration so far seems wanting, notably,

for example, when it comes to the role the president may have played in instigating the Capitol attack. Sadly, Pelosi's call for an independent commission to investigate that insurrectionary moment [passed](#) the House, but fell victim last month to the threat of a filibuster and was [blocked](#) in the Senate. (Last week, largely along party lines, the House passed a select committee to investigate the insurrection.)

Trump's disastrous mishandling of the pandemic, [potentially responsible](#) for staggering numbers of American deaths, similarly seems to have fallen into the territory of unaccountability. The partisan divisions of Congress continue to stall a Covid-19 [investigation](#). National security expert and journalist Peter Bergen, for instance, [called for](#) a commission to address the irresponsible way the highest levels of government dealt with the pandemic, but the idea failed to gain traction. Instead, the focus has turned to the question of whether or not there was malfeasance at a Chinese government lab in Wuhan.

It matters not at all that numerous journalists, including [Lawrence Wright](#), [Michael Lewis](#), and [Nicholson Baker](#), have impressively documented the mishandling of the [pandemic](#) here. Such disastrous acts included early [denials](#) of the lethality of the disease, the [disavowal](#) of pandemic preparedness plans, the [dismantling](#) of the very government office meant to respond to pandemics, the presidential [promotion](#) of quack cures, a [disregard for wearing masks](#) early on, and so much else, all of which contributed to a generally chaotic governmental response, which ultimately [cost](#) tens of thousands of lives.

In truth, a congressional investigation into either the Capitol riots or the Trump administration's mishandling of the pandemic might never have led to actual punitive accountability. After all, the [9/11 Commission](#), touted as the gold standard for such investigations, did nothing of the sort. While offering a reputable history of the terrorist threat that resulted in the attacks of September 11, 2001, and a full-scale summary of government missteps and lapses that led up to that moment, the [9/11 report](#) did not take on the mission of pointing fingers and demanding accountability.

In a [recent interview](#) with former *New York Times* reporter Philip Shenon, whose 2008 book [The Commission](#) punctured that group's otherwise stellar reputation, *Just Security* editor Ryan Goodman offered this observation: "[An] important lesson from your book is the conscious tradeoff that the 9/11 Commission members made in prioritizing having a unanimous final report which sacrificed their ability to promote the interests of accountability (such as identifying and naming senior government officials whose acts or omissions were responsible for lapses in U.S. national security before the attack)."

Shenon added that the tradeoff between accountability and unanimity was acknowledged by commission staff members frustrated by the absence of what they thought should have been the report's "most important and controversial" conclusions. In other words, when it came to accountability, the 9/11 Report proved an inadequate model at best. Still, even its version of truth-telling proved too much for congressional Republicans facing a similar commission on the events of January 6th.

Note, however, that the 9/11 Commission *did* lead to movement along another path of accountability: reform. In its wake came certain structural changes, including a bolstering of the interagency process for sharing information and the [creation](#) of the Office of the Director of National Intelligence.

No such luck today. And signs of the difficulty of facing any kind of accountability are now

evident inside the Department of Justice (DOJ), too. Despite initial rhetoric to the contrary from Attorney General Merrick Garland, the department has shown little appetite for redress when it comes to those formerly in the highest posts. And that reality should bring to mind the similar reluctance of Barack Obama, the president who originally [nominated Garland](#) unsuccessfully to the Supreme Court.

For anyone keeping a scorecard of DOJ actions regarding Trump-era excesses, the record is slim indeed. While the department did, at least, [abandon](#) any possible prosecution of former National Security Advisor John Bolton for supposedly disclosing classified information in his memoir on his time in the Trump administration, Garland also announced that he would not pursue several matters that could have brought to light information about President Trump's abuse of power.

In May, for instance, the department [appealed](#) a court-ordered call for the release of the full version of a previously heavily redacted [DOJ memo](#) advising then-Attorney General Bill Barr that the evidence in the [Mueller Report](#) was "not sufficient to support a conclusion beyond a reasonable doubt that the President violated the obstruction-of-justice statutes." In fact, the Mueller Report [did not exonerate](#) Trump, as Mueller himself would later testify in Congress and as hundreds of federal prosecutors [would argue](#) in a letter written in the wake of the report's publication, saying, "Each of us believes that the conduct of President Trump described in Special Counsel Robert Mueller's report would... result in multiple felony charges for obstruction of justice."

Adding fuel to the fire of disappointment, Garland pulled back from directly assessing fault lines inside the Department of Justice when it came to its independence from partisan politics. Instead, he [turned over](#) to the DOJ inspector general any further investigation into Trump's politicization of the department.

### **The Path Forward — or Not?**

These are all discouraging signs, yet there's still time to strengthen our faltering democracy by reinstating the idea that abuses of power and violations of the law — from inside the White House, no less — are not to be tolerated. Even without an independent commission looking into January 6th or the DOJ prosecuting anyone, some accountability should still be possible. (After all, it was a [New York State court](#) that recently suspended Rudy Giuliani's license to practice law.)

On June 24th, Nancy Pelosi [announced](#) at a news conference that a select Congressional committee, even if not an independent 9/11-style commission, would look into the Capitol attack. That committee, she added, will "establish the truth of that day and ensure that an attack of that kind cannot happen and that we root out the causes of it all." True, she didn't specify whether accountability and reform would be part of that committee's responsibilities, but neither goal is off the table.

And Pelosi's fallback plan to convene a House select committee could still have an impact. After all, remember the [Watergate](#) committee in the Nixon era. It, too, was a select committee and it launched an investigation into abuses of power in the Watergate affair that helped bring about President Nixon's resignation from office and helped spark or support court cases against many of his partners in crime. Similarly, the 1975 [Church Commission](#) investigation into the abuses of the intelligence community, among them the FBI's notorious [counter-intelligence program](#), [COINTELPRO](#), was also a select committee project. It led to

significant barriers against future abuses — including a [ban](#) on assassinations and a host of [“good government” bills](#).

Pelosi rightly insists that she’s intent on pursuing an investigation into the Capitol attack. [Adam Schiff](#) and [Jerry Nadler](#) are similarly determined to investigate the government seizure of Internet communications. Local court cases against Trump, Giuliani, and others will, it appears, continue apace.

Through such efforts, perhaps the potentially shocking facts could see the light of day. Continuing such quests may lead to anything but perfect accountability, particularly in a country growing ever more partisan. Above and beyond the immediate importance of giving the public — and history — a reliable narrative of recent events, it’s important to let Americans know that accountability is still a crucial part of our democracy as are the laws and norms accountability aims to protect. Otherwise, this country will have to face a new reality: that we are now living in the age of impunity.

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