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### **City Bar Condemns Presidential Pardons of Accused and Convicted War Criminals**

New York, April 3, 2020 – *As the COVID-19 pandemic grips the nation and our attention is focused on the immediacy of protecting our families and communities, supporting our emergency responders, and preserving our collective physical and economic health, it is perhaps more important than ever to recognize and support the institutions that help keep our nation safe. At a time when collective action and strong leadership are most needed, the New York City Bar Association calls attention to the structures that undergird the United States military and, specifically, the need to support and protect the rules of military engagement that guide our armed forces.*

The City Bar has [issued a report](#) condemning President Trump’s pardoning of three Army officers convicted or accused of war crimes —First Lieutenant (“1LT”) Michael Behanna, 1LT Clint Lorance, and Major (“MAJ”) Mathew Golsteyn. The President’s intervention in these cases “does a disservice to the military justice system, the servicemembers courageous enough to report and testify against them, and the entire chain of professionals involved in these proceedings,” states the report.

According to the report by the City Bar’s Military and Veterans Affairs Committee and its Rule of Law Task Force, “the pardoning of military members convicted or accused of battlefield murders appears to be unprecedented in American history.” The report points out, moreover, that “these pardons were deeply opposed by many top military commanders because there was no justifiable basis for them, such as a legitimate claim of innocence.” The consequences of pardons like these “will not be theoretical or abstract: they will embolden more warfighters to act in the same way and undercut the military’s hard-won respect amongst our allies,” the report states.

The report refutes the President’s belief that the military justice system is biased against military personnel: “In fact, as the prosecutor for the 1968 My Lai massacre found, the practical burden of proof military prosecutors have to meet in cases where an American officer is tried before a jury of fellow military officers – often those with combat experience themselves – for killing an enemy (or a suspected enemy) during wartime is “not beyond a reasonable doubt, *but beyond possibility.*” In the current cases, the report states, “not only were these men convicted with clear and unambiguous evidence, but those convictions were upheld during multiple appellate and military clemency reviews....In 1LT Lorance’s case, nine of his soldiers testified against him, and not one for him.”

There are clear principles that are born of core values “by which the military must abide. They have to be embraced and embodied by military members of all ranks, especially military officers. Moreover, they must be championed by the top civilian members of the military chain of command, the

Commander-in-Chief and the Secretary of Defense.” Every member of the military is trained “on the laws of armed conflict and rules of engagement. They are told why these laws and rules are in force, why they are necessary, and why they must follow them. They are also ordered to follow them. These officers defied those orders and broke the law. They went rogue and their actions were plainly wrong,” states the report.

The report concludes: “The military is founded upon rules, codes, and standards. Ignoring those standards and impugning those who uphold them undermines the entire American military system. Doing it for apparent political gain, and then seeking to exploit these pardoned murderers for further political gain, damages it even further. These actions undermine good order and discipline, degrade the military justice system, and erode the very foundation of civilian military leadership.”

Read the full report here: <https://bit.ly/3dOWSSF>

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*  
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