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City Bar Recommendations to Biden Administration on Rule of Law

The New York City Bar Association has [written](#) to the Biden-Harris transition team with recommendations for principal actions to take to strengthen the rule of law, in order to “restore the Department of Justice (DOJ) as an agency that serves the public; instill respect and independence for Inspectors General throughout the executive branch and its agencies; restore an appropriate use of the pardon power; and provide needed support for our judicial system and those who serve it with dedication.”

The recommendations include removing the Immigration Court from DOJ and reconstituting it as an Article I court under the Constitution; reconstituting the Guantanamo military court into a special branch at Guantanamo of the federal district court for the Southern District of New York; rescinding the Trump Administration’s executive order sanctioning personnel of the International Criminal Court; amending the National Emergencies Act to establish better checks and balances between the Executive and Legislative Branches in the declaration of a national emergency; and removing Postmaster General Louis DeJoy “for his serious dereliction of duty.”

“Each of these steps is necessary to assure the American people that we remain a nation governed by law and not the whim of either elected or appointed officials,” the City Bar writes.

The City Bar adds that, due to the recent tragic events in Washington, “we cannot submit this report without urging the Biden Administration to prioritize and to vigorously pursue any and all necessary investigations and prosecutions arising out of those events....Such investigation must include not only culpable individuals who were physically present at the Capitol, but also those responsible for inciting the criminal acts. The investigation also should include potentially criminal acts stemming from President Trump’s January 2 phone call with Georgia state officials and other similar communications and actions designed to cause the fraudulent manipulation of valid election results.”

As part of this inquiry, the City Bar urges DOJ “to carefully scrutinize the law enforcement response on January 6 given the abject failure, despite the heroism of many individual police officers, to secure the premises, bar entry to the building, and arrest perpetrators, and the

significant delays in fortifying the law enforcement response with additional federal, military, and local officers. DOJ must also investigate the reasons for what appeared to be a tepid law enforcement response to an overwhelmingly White mob openly espousing racist ideology at the Capitol on January 6 as compared to highly aggressive federal law enforcement actions during mostly peaceful protests by largely Black and minority demonstrators across the country following the death of George Floyd.”

Regarding the new administration’s relevant personnel, the City Bar “welcomes the nominations of Merrick Garland, Lisa Monaco, Vanita Gupta, and Kristen Clarke, who are all lawyers of unquestioned integrity, outstanding professional qualifications, and demonstrated commitment to equal justice under law.”

In conclusion, the City Bar writes, “We greatly appreciate your consideration of these recommendations and hope they will prove helpful as our nation confronts the extraordinary challenge of rebuilding public trust in a government committed to respecting and enforcing the rule of law.”

The report was written and signed by the City Bar’s Task Force on the Rule of Law, Federal Courts Committee, Immigration and Nationality Law Committee, Task Force on the Independence of Lawyers and Judges, International Human Rights Committee, and Military and Veteran Affairs Committee.

The report can be read here: <http://bit.ly/3nGzryL>

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 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. www.nycbar.org