



NEW YORK  
CITY BAR

**STATEMENT ON FEDERAL LEGISLATIVE INTERFERENCE  
IN STATE CRIMINAL PROCEEDINGS**

**FEBRUARY 29, 2024**

The Task Force on the Rule of Law of the New York City Bar Association (“the Task Force”) is dedicated to promoting, upholding, and protecting the rule of law in all its forms. To that end, the Task Force strongly denounces any and all politically motivated federal legislative interference with state prosecutions of former President Donald J. Trump.<sup>1</sup>

It is well-settled that federal courts should not interfere in state court prosecutions. Indeed, “[s]ince the beginning of this country’s history, Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference by federal courts.”<sup>2</sup> For this reason, and “[s]ensitive to principles of equity, comity, and federalism,” the United States Supreme Court has recognized that “federal courts should ordinarily refrain from enjoining ongoing state criminal prosecutions.”<sup>3</sup>

These concerns are exacerbated where potential interference comes not from the federal courts, but the federal legislature. The United States Congress does not have any legitimate oversight responsibilities for overseeing individual state criminal or civil prosecutions or prosecutors. It has no authority to seek to remove these prosecutors. Politically contrived oversight deceptions and distortions raise “scorched earth politics” to levels dangerous to the continued functioning of a criminal justice system that relies existentially on unbiased operations and the

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<sup>1</sup> Letter from Rep. Jim Jordan, Chair, House Committee on Judiciary, to New York County District Attorney Alvin L. Bragg, Jr., March 20, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-03-20-jdj-bs-jc-to-bragg-re-trump-investigation.pdf>; Letters from Rep. Jim Jordan, Chair, House Committee on Judiciary, to Fulton County Georgia District Attorney Fani T. Willis, August 24, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-08-24-jdj-to-da-willis-re-trump-investigation.pdf>; September 27, 2023, [https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-09-27-jdj-to-da-wilis-re-political-prosecutions.pdf?\\_gl=1\\*\\_seifjh\\*\\_ga\\*MjEzMjY3MjA3MS4xNzA5MDY5NDA5\\*\\_ga\\_1818ZEQW81\\*MTcwOTA2OTQwOS4xLjEuMTcwOTA2OTU4My4wLjAuMA](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-09-27-jdj-to-da-wilis-re-political-prosecutions.pdf?_gl=1*_seifjh*_ga*MjEzMjY3MjA3MS4xNzA5MDY5NDA5*_ga_1818ZEQW81*MTcwOTA2OTQwOS4xLjEuMTcwOTA2OTU4My4wLjAuMA); and December 5, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-12-05-jdj-to-willis-re-jan-6-select-committee-docs.pdf>. (All websites last accessed on February 28, 2024.) From December 5, 2023, letter to District Attorney Willis: “The Committee on the Judiciary continues to conduct oversight of politically motivated prosecutions by state and local officials.”

<sup>2</sup> *Younger v. Harris*, 401 U.S. 37, 43 (1971).

<sup>3</sup> *Steffel v. Thompson*, 415 U.S. 452, 460 (1974).

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 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.*

appearance of unbiased operations. The admonition to federal courts to refrain from interfering with state court prosecutions is far more important when applied to federal legislative restraint.

Of course, the rule of law is promoted by the careful application of a system of checks and balances advanced by separate branches of government. But, in the realm of state court prosecutions, those checks and balances must come from the state courts and the state legislature. The Task Force is confident that the judicial and legislative branches of New York and Georgia are more than capable of ensuring fairness in the criminal actions commenced in these states.

#### TASK FORCE ON THE RULE OF LAW

Marcy L. Kahn, Chair

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