

**Congress of the United States**  
**Washington, DC 20515**

January 8, 2020

Mr. Jorge Dopico, Esq.  
Chief Attorney  
Departmental Disciplinary Committee for the First Department  
180 Maiden Lane  
17th Floor  
New York, NY 10038

Re: Request for Disciplinary Investigation of Rudolph Giuliani

Dear Mr. Dopico:

As Members of Congress and attorneys – one of us a former prosecutor, the other a Department of Justice alumnus – we have long been appalled by the statements and actions of the President’s attorney, Rudy Giuliani. It is inconceivable to us that Mr. Giuliani remains in good standing with the New York State Bar Association after engaging in activities that would see any other ordinary lawyer summarily thrown out of the profession. He is reportedly the subject of at least two federal investigations, one by the U.S. Attorney for the Southern District of New York for his business dealings in Ukraine, and an FBI counterintelligence investigation for his political work<sup>1</sup>; he attempted to subvert the 2020 election by seeking foreign campaign assistance in violation of U.S. election law<sup>2</sup>; and most recently, he incited a riot leading to multiple deaths at the United States Capitol.<sup>3</sup>

**We request that your office open an immediate investigation into the President’s attorney for his statements calling for a “trial by combat” preceding a violent insurrection at the Capitol in which five people died, including a U.S. Capitol Police Officer, and Members of Congress and the Vice President were credibly threatened with violence. We believe the actions of Mr. Giuliani disqualify him from being a member in good standing with the New York State Bar.**

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<sup>1</sup> “Probable Criminal Rudy Giuliani Gives Anti-Crime Speech,” *NY Mag Intelligencer*, August 27, 2020. <https://nymag.com/intelligencer/2020/08/rudy-giuliani-republican-convention-speech-trump-crime.html>

<sup>2</sup> “Holding Trump Accountable for Legal Violations Involving Ukraine,” *Campaign Legal Center*, October 8 2019. <https://campaignlegal.org/cases-actions/holding-trump-accountable-legal-violations-involving-ukraine>

<sup>3</sup> Marc Santora, Megan Specia and Mike Baker, “Capitol Police Officer Dies From Injuries in Pro-Trump Rampage.” *New York Times*. <https://www.nytimes.com/2021/01/08/us/brian-sicknick-police-capitol-dies.html>

According to the New York Lawyer’s Code of Professional Responsibility, “A lawyer should maintain high standards of professional conduct.”<sup>4</sup> One of your lawyers stood on a stage on Wednesday, January 6<sup>th</sup>, and told an agitated, armed crowd – a crowd whose members had previously declared their intention to storm the Capitol, including some who *wanted to execute or kidnap Members of Congress*<sup>5</sup> – that they should prepare to engage in “trial by combat” in reference to their misguided and illegal efforts to overturn the results of the 2020 presidential election.<sup>6</sup>

While a lawyer’s actions do not have to meet the threshold of criminality in order for that lawyer to be disbarred, we believe that Mr. Giuliani is guilty of at least three separate federal crimes, any one of which is absolutely disqualifying from remaining in good standing with the bar.

### **18 U.S.C. § 2101 – Inciting a riot**

On Wednesday, January 6, 2020, Mr. Giuliani spoke at the “Save America” rally to a group of Trump supporters whose goal was to overturn the valid results of the 2020 presidential election by interfering with the constitutionally mandated certification process. Mr. Giuliani told the crowd, “Over the next 10 days, we get to see the machines that are crooked, the ballots that are fraudulent. And if we’re wrong, we will be made fools of. But if we’re right, a lot of them will go to jail.”<sup>7</sup> Then, to roaring cheers, he said, “So – let’s have trial by combat!” Per 18 U.S.C. § 2102, a “riot” means “a public disturbance involving an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual.” Immediately following his speech, a crowd of thousands descended upon the Capitol and assaulted U.S. Capitol Police, forcibly entered the building, and threatened to assault or kill elected officials. These events left five people dead and many more injured.<sup>8</sup>

### **18 U.S.C. § 2383 – Rebellion or insurrection**

The purpose of the “Save America” riots was to disrupt through violence the certification process of the 2020 presidential election, whereby the House and Senate meet in joint session to certify state electors and pronounce the victor. The “authority of the United States or the laws thereof” – rebellion against which constitutes insurrection – clearly includes the authority granted to the United States Congress by the Constitution to certify the presidential election. Violence in service of disrupting this process amounts to

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<sup>4</sup> New York State Bar Association, “New York Rules of Professional Conduct.” <https://nysba.org/app/uploads/2020/01/LawyersCodeDec2807.pdf>

<sup>5</sup> Jamil Smith, “White Entitlement, On Parade,” *Rolling Stone*, January 7, 2021.

<https://www.rollingstone.com/politics/political-commentary/trump-mob-capitol-attack-jamil-1110820/>

<sup>6</sup> *NY Magazine Intelligencer*.

<sup>7</sup> *Ibid.*

<sup>8</sup> “18 USC 2102. Definitions,” *Legal Information Institute*. Accessed: January 8, 2021.

<https://www.law.cornell.edu/uscode/text/18/2102>

insurrection against the authority of the United States, leaving the Congress unable to carry out its constitutional duty and the People without a vote.<sup>9</sup>

**18 U.S.C § 2384 - Seditious conspiracy**

By traveling to and directing a crowd to engage in “combat” at an event specifically designed to protest the results of the 2020 election, Mr. Giuliani “conspire[d] to... by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof.”<sup>10</sup>

We cannot and should not stand for a member of our profession – no matter who they work for – engaging in such patterns of behavior that time and again subvert the authority of the United States government, let alone such a grave and sacred duty as election certification. The reality is that five people are now dead, and countless more injured, as a result of Mr. Giuliani’s incitement. We are members of a profession that prides itself on self-regulation, and thus far the New York State Bar Association has abjectly failed to hold its members accountable. Each day that passes undermines the public’s confidence in the legal profession as a force for good and further disgraces the bar.

Thank you for your attention to this matter.

Sincerely,



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Ted W. Lieu  
Member of Congress



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Mondaire Jones  
Member of Congress

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<sup>9</sup> “18 USC 2383 – Rebellion or Insurrection.” *Legal Information Institute*. Accessed: January 8, 2021. <https://www.law.cornell.edu/uscode/text/18/2383>

<sup>10</sup> “18 USC 2384 – Seditious Conspiracy.” *Legal Information Institute*. Accessed: January 8, 2021. <https://www.law.cornell.edu/uscode/text/18/2384>