

From: Bruce Colbert <bcolbert@poarc.com>
Sent: Wednesday, November 04, 2020 6:00 PM MST
To: Eastman, John [REDACTED]
Subject: Moving Forward
Attachment(s): "Bruce Colbert Draft Letter.docx"

Dr. Eastman,

Thank you for sending me a copy of the 79 Days to Inauguration Taskforce Report. This is the first time that you mentioned it. I reviewed the Report, and would like to discuss it.

The Report simulates post-election outcomes very well, up until the final two weeks. Several published post-election outcomes for the final two weeks were not addressed. Also, the Report raises uncertainties without providing the recommendations that would allow President Trump's legal team to better prepare for these uncertainties. The intent of my letter is to address these outcomes and provide these legal recommendations.

- Edward B. Foley, professor of law at The Ohio State University, is a legal consultant for the Transition Integrity Project (TIP). TIP was referenced by the Report. [Foley's related legal article](#), "Preparing for a Disputed Presidential Election: An Exercise in Election Risk Assessment and Management," should have been addressed by the Report, but was overlooked. Likewise, the Transition Integrity Project's Game One and Game Three legal outcomes were overlooked. In addition, the Report states, "There are two areas of uncertainty at the late stage of a contested election," but fails to provide recommendations for the President to resolve these uncertainties. My letter addresses the legal outcomes of Foley's article, the Transition Integrity Project's Game One and Game Three legal outcomes, and the missing recommendations for the two areas of uncertainty.
- The Report states, "The Claremont-TPPF effort produced a detailed roadmap...in the unlikely event that the Electoral College cannot determine a winner, how a President and Vice President could be constitutionally determined." The Report neglects to include this detailed roadmap. The Report also lacks an appendix of legal citations for the January 6 to January 20 timeframe, equivalent to Appendix A's December 14 to present timeframe. My letter provides the detailed roadmap.
- If Democrats don't win in the canvass, they have indicated that they plan to win in the joint session of Congress, by challenges and disruption in the count of electoral votes. The "uncertainty" raised by the Report will not be uncertain, once Democrats are through in the final two weeks. My letter will help avert a deer in the headlights moment for Republicans. As the Report recommends: "Legal arguments need to be anticipated and prepared now."

In order to be useful and practical for the President, the letter provides solutions and recommendations to the problems, outcomes, and uncertainties that have been raised. The letter provides comprehensive recommendations. It is good to be prepared for all eventualities.

Rosa Brooks, a law professor at Georgetown University who co-founded and helped convene the Transition Integrity Project, said, "One big takeaway is that leaders really need to know what exactly their powers are, and what the powers of others are, and think through some of these options in advance. Because if things go bad, they'll go bad very quickly, and people will have to make decisions in an hour, not in a week." We can do no less than this for President Trump, to secure his election victory.

I attached my revised comments in red below. The Congressional Research Service provides helpful articles on seating [Senate Members](#) and [House Members](#).

Please feel free to call me if you would like additional information or if there is something that you would like to clarify. I look forward to hearing from you and to seeing this through to fruition.

Bruce

On Oct 24, 2020, at 2:13 PM, Eastman, John [REDACTED] > wrote:

Bruce,

As I think I mentioned a while back, I have also been involved in a major war game simulation raising many of these issues. I have it on pretty good authority that the report of that effort is already before the President and his team. See <https://www.claremont.org/79daysreport.pdf>.

I am already up to my eyeballs in various litigations, including an opening brief in a major appeal due next Wednesday. I'll try to look at your further revisions thereafter just as soon as I can.

John

From: Bruce Colbert <bcolbert@poarc.com>
Sent: Saturday, October 24, 2020 3:04 PM
To: Eastman, John [REDACTED]
Subject: What are your thoughts on Ed Foley's comments?

P.S. P.S. Even if President Trump wins in a landslide, Democrats can still win through shenanigans in the count of electoral votes in the joint session of Congress. "I consider it completely unimportant who in the party will vote, or how; but what is extraordinarily important is this – who will count the votes, and how," said Joseph Stalin (Boris Bazhanov, "Memoirs of Stalin's Former Secretary"). I would rather see President Trump prepared for an eventuality that does not occur, than to see President Trump unprepared for an eventuality that does occur. Ideally, I hope that our work will prepare President Trump for an eventuality that does in fact occur.

P.S. Given the dearth of conservative/Republican articles discussing the Democrats' planned disruption of the joint session of Congress on January 6 to 20, I believe that our letter will be exceptionally useful for President Trump. If Democrats don't win at the ballot box, they plan to win at the joint session of Congress by challenges and disruption. President Trump needs to be prepared for this. President Trump's Administration is filled with Never Trumpers, so he may not otherwise receive the recommendations we provide.

I attached my revised comments in blue below.

What are your thoughts on Ed Foley's comments below?

Dr. Eastman,

I appreciate your taking time on this. Crazy times - you made good points about a super-legislature, Trump's Supreme Court nominations, and court packing on The Ingraham Angle.

The idea for injunctions arises, as it seems the only means possible to resolved disputed constitutional and statutory issues raised by Never Trumper Edward B. Foley in his article "[Preparing for a Disputed Presidential Election: An Exercise in Election Risk Assessment and Management](#)." These issues appear unsettled, and open to legal challenges. The purpose of this letter is to establish a clear, undisputed, constitutional path to navigate these legal challenges in the decisive final two weeks and to achieve victory for the President.

Thank you for your scholarly insights on this.

Bruce

On Oct 16, 2020, at 11:43 AM, Eastman, John [REDACTED] wrote:

Crazy times. Sorry to be slow.

You've taken this a different direction that was set out in our early discussions, and I cannot go along with it as it currently stands. Mainly, you have placed much too much stock in getting injunctions from the Supreme Court, with requests that are not supported by statutory or constitutional text or on matters for which the Constitution gives the last word elsewhere.

My specific concerns are outlined in the attached.

John

From: Bruce Colbert <bcolbert@poarc.com>

Sent: Friday, October 16, 2020 12:25 PM

To: Eastman, John [REDACTED]

Subject: How does your schedule look now?

External Message

Dr. Eastman,

Just keeping abreast, not pressing. How does your schedule look now for having time to review and edit our email?

Bruce

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