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## EXECUTIVE ORDERS

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Executive Order 13716 of January 16, 2016

**Revocation of Executive Orders 13574, 13590, 13622, and 13645 With Respect to Iran, Amendment of Executive Order 13628 With Respect to Iran, and Provision of Implementation Authorities for Aspects of Certain Statutory Sanctions Outside the Scope of U.S. Commitments Under the Joint Comprehensive Plan of Action of July 14, 2015**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Iran Sanctions Act of 1996 (Public Law 104–172) (50 U.S.C. 1701 note), the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111–195) (22 U.S.C. 8501 *et seq.*), the Iran Threat Reduction and Syria Human Rights Act of 2012 (Public Law 112–158), the Iran Freedom and Counter-Proliferation Act of 2012 (subtitle D of title XII of Public Law 112–239) (22 U.S.C. 8801 *et seq.*) (IFCA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, have determined that Iran’s implementation of the nuclear-related measures specified in sections 15.1–15.11 of Annex V of the Joint Comprehensive Plan of Action of July 14, 2015 (JCPOA) between the P5+1 (China, France, Germany, the Russian Federation, the United Kingdom, and the United States), the European Union, and Iran, as verified by the International Atomic Energy Agency, marks a fundamental shift in circumstances with respect to Iran’s nuclear program. In order to give effect to the United States commitments with respect to sanctions described in section 4 of Annex II and section 17.4 of Annex V of the JCPOA, I am revoking Executive Orders 13574 of May 23, 2011, 13590 of November 20, 2011, 13622 of July 30, 2012, and 13645 of June 3, 2013, and amending Executive Order 13628 of October 9, 2012, by revoking sections 5 through 7 and section 15. In addition, in section 3 of this order, I am taking steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, to provide implementation authorities for aspects of certain statutory sanctions that are

outside the scope of the U.S. commitment to lift nuclear-related sanctions under the JCPOA.

This action is not intended to, and does not, limit the applicability of waiver determinations or any renewals thereof issued by the Secretary of State, or licenses issued by the Secretary of the Treasury, to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, or otherwise affect the national emergency declared in Executive Order 12957, which shall remain in place, or any Executive Order issued in furtherance of that national emergency other than Executive Orders 13574, 13590, 13622, 13628, and 13645.

I hereby order:

**Section 1.** *Revocation of Executive Orders.* The following Executive Orders are revoked:

(a) Executive Order 13574 of May 23, 2011 (Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended);

(b) Executive Order 13590 of November 20, 2011 (Authorizing the Imposition of Certain Sanctions With Respect to the Provision of Goods, Services, Technology, or Support for Iran’s Energy and Petrochemical Sectors);

(c) Executive Order 13622 of July 30, 2012 (Authorizing Additional Sanctions With Respect to Iran); and

(d) Executive Order 13645 of June 3, 2013 (Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Freedom and Counter-Proliferation Act of 2012 and Additional Sanctions With Respect To Iran).

**Sec. 2.** *Amendment of Executive Order.* Executive Order 13628 of October 9, 2012 (Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions with Respect to Iran), is amended by:

(a) Revoking current sections 5 through 7 and 15;

(b) Revising current section 4 by removing “section 5 of Executive Order 13622 of July 30, 2012,” in subsection (a), replacing “section 12” with “section 9” in subsection (a), and replacing “section 12” with “section 9” in subsection (b);

(c) Revising current section 8 by inserting “and” between “2(a),” and “3(a)” and removing “, and 7(a)(iv)”;

(d) Revising current section 9 by inserting “and” between “2(a),” and “3(a)” and removing “, and 7(a)(iv)”;

(e) Revising current section 14 by inserting “and” between “2(a),” and “3(a)” and removing “, and 7(a)(iv)”;

(f) Renumbering current sections 8 through 14 as sections 5 through 11, respectively; and

(g) Renumbering current sections 16 through 19 as sections 12 through 15, respectively.

**Sec. 3.** *Provision of Implementation Authorities for Sanctions Outside the Scope of the JCPOA.*

(a)(i) The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to impose on a person the measures described in subsection (a)(ii) of this section upon determining, pursuant to authority delegated by the President and in accordance with the terms of such delegation, that sanctions shall be imposed on such person pursuant to section 1244(c)(1)(A) of IFCA for knowingly providing significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of persons described in section 1244(c)(2)(C)(iii) of IFCA.

(ii) With respect to any person determined by the Secretary of the Treasury in accordance with this subsection to meet the criteria set forth in subsection (a)(i) of this section, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of such person are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(iii) The prohibitions in subsection (a)(ii) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

(b)(i) When the Secretary of State or the Secretary of the Treasury, pursuant to authority delegated by the President and in accordance with the terms of such delegation, has determined that sanctions shall be imposed on a person pursuant to sections 1244(d)(1)(A), 1245(a)(1), or 1246(a)(1) of IFCA (including in each case as informed by section 1253(c)(2) of IFCA) for engaging in transactions or activities outside the scope of the waiver determinations as to IFCA issued by the Secretary of State to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, and any renewals thereof, such Secretary may select one or more of the sanctions set forth below to impose on that person, and the Secretary of the Treasury, in consultation with the Secretary of State, shall take the following actions where necessary to implement the sanctions selected and maintained by the Secretary of State or the Secretary of the Treasury:

(A) prohibit any United States financial institution from making loans or providing credits to the sanctioned person totaling more than \$10,000,000 in any 12-month period, unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities;

(B) prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest;

(C) prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the sanctioned person;

(D) block all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the sanctioned person, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in;

(E) prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of a sanctioned person;

(F) restrict or prohibit imports of goods, technology, or services, directly or indirectly, into the United States from the sanctioned person; or

(G) impose on the principal executive officer or officers, or persons performing similar functions and with similar authorities, of a sanctioned person the sanctions described in subsections (b)(i)(A)–(F) of this section, as selected by the Secretary of State or the Secretary of the Treasury, as appropriate.

(ii) The prohibitions in subsection (b)(i) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

(c)(i) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State:

(A) to have engaged, on or after January 2, 2013, in corruption or other activities relating to the diversion of goods, including agricultural commodities, food, medicine, and medical devices, intended for the people of Iran;

(B) to have engaged, on or after January 2, 2013, in corruption or other activities relating to the misappropriation of proceeds from the sale or resale of goods described in subsection (c)(i)(A) of this section;

(C) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in subsection (c)(i)(A) or (c)(i)(B) of this section or any person whose property and interests in property are blocked pursuant to subsection (c)(i) of this section; or

(D) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to subsection (c)(i) of this section.

(ii) The prohibitions in subsection (c)(i) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

**Sec. 4. Donations.** I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the types of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 12957, and I hereby prohibit such donations as provided by subsections 3(a)(ii), 3(b)(i)(D), and 3(c)(i) of this order.

**Sec. 5. Prohibitions.** The prohibitions in subsections 3(a)(ii), 3(b)(i)(D), and 3(c)(i) of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

**Sec. 6. Entry into the United States.** I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens who are determined to meet one or more of the criteria in subsections 3(a)(i) and 3(c)(i) of this order would be detrimental to the interests of the United States, and I hereby suspend the entry into the United States, as immigrants or nonimmigrants, of such persons as of the date of this order. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

**Sec. 7. General Authorities.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order, other than the purposes described in section 6 of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

**Sec. 8. Evasion and Conspiracy.** (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

**Sec. 9. Definitions.** For the purposes of this order:

(a) the term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(b) the term “financial institution,” as used in subsection 3(b) of this order, includes:

(i) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(1)), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) (12 U.S.C. 3101(7));

(ii) a credit union;

(iii) a securities firm, including a broker or dealer;

(iv) an insurance company, including an agency or underwriter; and

(v) any other company that provides financial services;

(c) the term “Government of Iran” includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran;

(d) the term “Iran” means the Government of Iran and the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements;

(e) the term “person” means an individual or entity;

(f) the term “sanctioned person” means a person that the Secretary of State or the Secretary of the Treasury, pursuant to authority delegated by the President and in accordance with the terms of such delegation, has determined is a person on whom sanctions shall be imposed pursuant to section 1244(d)(1)(A), 1245(a)(1), or 1246(a)(1) of IFCA (including in each case as informed by section 1253(c)(2) of IFCA) for engaging in transactions or activities outside the scope of the waiver determinations as to IFCA issued by the Secretary of State to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, and any renewals thereof, and on whom the Secretary of State or the Secretary of the Treasury has imposed any of the sanctions in subsection 3(b) of this order;

(g) the term “United States financial institution” means a financial institution as defined in subsection (b) of this section (including its foreign branches) organized under the laws of the United States or any jurisdiction within the United States or located in the United States; and

(h) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

**Sec. 10. Notice.** For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12957, there need be no prior notice of an action taken pursuant to subsection 3(a)(ii), 3(b)(i)(D), or 3(c)(i) of this order.

**Sec. 11. Direction to Agencies.** All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

**Sec. 12. Rights.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 13. *Effect on Actions or Proceedings.*** Pursuant to section 202 of the NEA (50 U.S.C. 1622), the revocation of Executive Orders 13574, 13590, 13622, and 13645 and the amendments to Executive Order 13628 as set forth in sections 1 and 2 of this order, shall not affect any action taken or proceeding pending not finally concluded or determined as of the date of this order, or any action or proceeding based on any act committed prior to the date of this order, or any rights or duties that matured or penalties that were incurred prior to the date of this order.

**Sec. 14. *Relationship to Algiers Accords.*** The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

BARACK OBAMA

The White House,  
January 16, 2016.

#### Executive Order 13717 of February 2, 2016

### Establishing a Federal Earthquake Risk Management Standard

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Earthquake Hazards Reduction Act of 1977, as amended, and section 121(a) of title 40, United States Code, and to improve the Nation's resilience to earthquakes, I hereby direct the following:

**Section 1. *Policy.*** It is the policy of the United States to strengthen the security and resilience of the Nation against earthquakes, to promote public safety, economic strength, and national security. To that end, the Federal Government must continue to take proactive steps to enhance the resilience of buildings that are owned, leased, financed, or regulated by the Federal Government. When making investment decisions related to Federal buildings, each executive department and agency (agency) responsible for implementing this order shall seek to enhance resilience by reducing risk to the lives of building occupants and improving continued performance of essential functions following future earthquakes. The Federal Government recognizes that building codes and standards primarily focus on ensuring minimum acceptable levels of earthquake safety for preserving the lives of building occupants. To achieve true resilience against earthquakes, however, new and existing buildings may need to exceed those codes and standards to ensure, for example, that the buildings can continue to perform their essential functions following future earthquakes. Agencies are thus encouraged to consider going beyond the codes and standards set out in this order to ensure that buildings are fully earthquake resilient.

**Sec. 2. *Requirements for Earthquake Safety of New Federal Buildings, Improvements to Existing Federal Buildings, and Federally Leased, Financed, or Regulated Buildings.***

(a) *New Buildings and Alterations to Existing Buildings.* Each agency responsible for the design and construction of a new building or an alteration

to an existing building shall ensure that the building is designed, constructed, or altered, respectively, in accord with appropriate earthquake-resistant design and construction codes and standards as set forth in sections 3(a) and 3(b) of this order.

(b) *Space Leased for Federal Occupancy.* Each agency responsible for the lease of a building shall, to the extent permitted by law, ensure that it leases only buildings that have been designed and constructed in accord with the appropriate earthquake-resistant design and construction standards that apply to the type of lease at issue, as set forth in section 3(c) of this order.

(c) *Federal Assistance Programs.* Each agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of a newly constructed building shall consider updating its procedures for providing the assistance to be consistent with section 3(a) of this order, to assure appropriate consideration of earthquake safety.

(d) *Federally Regulated Buildings.* Each agency with responsibility for regulating the structural safety of a new building shall consider using earthquake-resistant design and construction standards for the new building consistent with section 3(a) of this order.

**Sec. 3. Codes, Standards, and Concurrent Requirements.** (a) Commencing within 90 days after the date of this order, each agency shall ensure that every new building for which the agency has not started programming is in compliance with the earthquake-resistant design provisions of the 2015 editions of the International Building Code (IBC) or the International Residential Code (IRC), nationally recognized building codes promulgated by the International Code Council (ICC), or equivalent codes, consistent with the provisions of and to the extent required by 40 U.S.C. 3312. When the ICC releases a new version of the IRC or IBC, each agency that constructs buildings shall determine whether the new version is a nationally recognized code for the purposes of 40 U.S.C. 3312(b), as expeditiously as practicable, but not later than 2 years after the release of the new version. If an agency determines that a new version is a nationally recognized code, it shall ensure that any building, for which the agency has not started programming, shall be in compliance with that new version or an equivalent code.

(b) Each agency that owns an existing Federal building shall adopt the *Standards of Seismic Safety for Existing Federally Owned and Leased Buildings* (Standards), which are developed, issued, and maintained by the Interagency Committee on Seismic Safety in Construction (ICSSC), as the minimum level acceptable for managing the earthquake risks in that building. Any agency that has not adopted the Standards at the time of this order shall adopt the Standards no later than 90 days from the date of this order. All agencies shall adopt subsequent editions of the Standards as expeditiously as practicable, but no later than 2 years following their issuance.

(c) Each agency that leases space in an existing building shall adopt the Standards as the minimum level acceptable for managing the earthquake risks in that building. This requirement shall apply to existing leases or leases existing at the time of issuance of updated Standards only to the extent appropriate, as determined by the leasing agency. With respect to

leases for a building being constructed to accommodate a Federal agency under the authority in 40 U.S.C. 585(a), the leasing agency shall ensure that the building complies with the earthquake-resistant design and construction standards that would apply to a building constructed by the agency pursuant to section 3(a) of this order. With respect to such leases entered into under authority other than 40 U.S.C. 585(a), the leasing agency shall ensure that the building complies with the earthquake-resistant design and construction standards that would apply to a building constructed by the agency pursuant to section 3(a) of this order, to the extent permitted by law.

(d) Agencies may require higher performance levels than exist in the codes and standards described in sections 3(a), (b), and (c) of this order.

**Sec. 4. Agency and Committee Responsibilities.** (a) The ICSSC shall be composed of representatives of all Federal agencies engaged in construction, financing of construction, or related activities. The National Earthquake Hazards Reduction Program (NEHRP) Lead Agency, currently the National Institute of Standards and Technology (NIST), shall lead the ICSSC, and shall lead the development and maintenance of ICSSC guidelines to assist the Federal agencies with implementing earthquake risk reduction measures in their construction programs.

(b) Agencies whose activities are covered by this order shall designate one or more Seismic Safety Coordinator(s) to serve as focal points for the agency's compliance with this order and to participate in the ICSSC as appropriate. Within 30 days of the date of this order, each agency shall identify its Seismic Safety Coordinator(s) to the Director of NIST.

(c) The Director of NIST, on behalf of the ICSSC, shall issue implementing guidelines to assist agency compliance with this order within 8 months of the date of this order. The implementing guidelines shall provide specific guidance, including guidance about the roles and responsibilities of the agencies under section 2 of this order. The implementing guidelines shall also describe the responsibilities and necessary qualifications of the Seismic Safety Coordinator.

(d) The Director of NIST, on behalf of the ICSSC, shall provide assistance in interpreting the implementing guidelines to the Federal departments and agencies.

(e) The ICSSC shall publish updated Standards for assessing and enhancing the earthquake resilience of existing buildings as required by this order. The ICSSC shall review and update the Standards as needed to comply with this order at the maximum interval of every 6 years. Participation in the ICSSC shall continue to be open to all agencies with programs affected by this order. The Director of NIST shall provide support for the secretariat of the ICSSC and determine the frequency and scope of the ICSSC meetings as necessary to support this order.

(f) Agencies whose activities are covered by this order shall submit biennial reports to the Director of the Office of Management and Budget (OMB) and the Director of NIST on their progress in implementing the order, commencing 2 years from the date of this order.

(g) Agency compliance shall be summarized in the NEHRP reports to the Congress.

**Sec. 5. *Revocation.*** Executive Order 12699 of January 5, 1990 (Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction), as amended, and Executive Order 12941 of December 1, 1994 (Seismic Safety of Existing Federally Owned or Leased Buildings) are hereby revoked.

**Sec. 6. *Definitions.*** As used in this order:

(a) “building” means any structure, fully or partially enclosed, used or intended for sheltering persons or property;

(b) “alteration to an existing building” means an action that alters, as defined in 40 U.S.C. 3301(a)(1), a building and that significantly extends the building’s useful life and totals more than the replacement values established in the Standards for the building’s assigned Seismic Design Category; and

(c) “programming” means developing and validating project assumptions, scope, budgets, and implementation strategy for a building.

**Sec. 7. *Exemption Authority.*** (a) The head of an agency may exempt a building from sections 2 and 3 of this order:

(i) to the extent the head of an agency determines that exempting such building is substantially related to an important law enforcement purpose; or

(ii) to the extent the head of an agency determines that exempting such building is necessary to address an extraordinary circumstance relating to national security or public safety.

(b) Even when otherwise eligible for an exemption under this section, each agency shall strive to comply with the purposes, goals, and requirements set forth in this order to the maximum extent practicable.

(c) If the head of an agency issues an exemption under this section, the agency must notify the Director of OMB in writing within 30 days of issuance of the exemption under this subsection.

**Sec. 8. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Nothing in this order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to agencies’ statutory authorities, and sections 402, 403, 502, and 503 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”) (42 U.S.C. 5170a, 5170b, 5192, and 5193), or for temporary housing assistance programs and individual and family grants performed pursuant to section 408 of the Stafford

Act (42 U.S.C. 5174). This order shall, however, apply to other provisions of the Stafford Act after a Presidentially declared major disaster or emergency when assistance actions involve new construction or alterations to an existing building.

(e) This order applies only to buildings within the United States and its territories and possessions.

BARACK OBAMA

The White House,  
February 2, 2016.

#### Executive Order 13718 of February 9, 2016

### Commission on Enhancing National Cybersecurity

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance cybersecurity awareness and protections at all levels of Government, business, and society, to protect privacy, to ensure public safety and economic and national security, and to empower Americans to take better control of their digital security, it is hereby ordered as follows:

**Section 1. *Establishment.*** There is established within the Department of Commerce the Commission on Enhancing National Cybersecurity (Commission).

**Sec. 2. *Membership.*** (a) The Commission shall be composed of not more than 12 members appointed by the President. The members of the Commission may include those with knowledge about or experience in cybersecurity, the digital economy, national security and law enforcement, corporate governance, risk management, information technology (IT), privacy, identity management, Internet governance and standards, government administration, digital and social media, communications, or any other area determined by the President to be of value to the Commission. The Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate are each invited to recommend one individual for membership on the Commission. No federally registered lobbyist or person presently otherwise employed by the Federal Government may serve on the Commission.

(b) The President shall designate one member of the Commission to serve as the Chair and one member of the Commission to serve as the Vice Chair.

**Sec. 3. *Mission and Work.*** The Commission will make detailed recommendations to strengthen cybersecurity in both the public and private sectors while protecting privacy, ensuring public safety and economic and national security, fostering discovery and development of new technical solutions, and bolstering partnerships between Federal, State, and local government and the private sector in the development, promotion, and use of cybersecurity technologies, policies, and best practices. The Commission's recommendations should address actions that can be taken over the next decade to accomplish these goals.

(a) In developing its recommendations, the Commission shall identify and study actions necessary to further improve cybersecurity awareness, risk management, and adoption of best practices throughout the private sector and at all levels of government. These areas of study may include methods to influence the way individuals and organizations perceive and use technology and approach cybersecurity as consumers and providers in the digital economy; demonstrate the nature and severity of cybersecurity threats, the importance of mitigation, and potential ways to manage and reduce the economic impacts of cyber risk; improve access to the knowledge needed to make informed cyber risk management decisions related to privacy, economic impact, and business continuity; and develop partnerships with industry, civil society, and international stakeholders. At a minimum, the Commission shall develop recommendations regarding:

- (i) how best to bolster the protection of systems and data, including how to advance identity management, authentication, and cybersecurity of online identities, in light of technological developments and other trends;
- (ii) ensuring that cybersecurity is a core element of the technologies associated with the Internet of Things and cloud computing, and that the policy and legal foundation for cybersecurity in the context of the Internet of Things is stable and adaptable;
- (iii) further investments in research and development initiatives that can enhance cybersecurity;
- (iv) increasing the quality, quantity, and level of expertise of the cybersecurity workforce in the Federal Government and private sector, including through education and training;
- (v) improving broad-based education of commonsense cybersecurity practices for the general public; and
- (vi) any other issues that the President, through the Secretary of Commerce (Secretary), requests the Commission to consider.

(b) In developing its recommendations, the Commission shall also identify and study advances in technology, management, and IT service delivery that should be developed, widely adopted, or further tested throughout the private sector and at all levels of government, and in particular in the Federal Government and by critical infrastructure owners and operators. These areas of study may include cybersecurity technologies and other advances that are responsive to the rapidly evolving digital economy, and approaches to accelerating the introduction and use of emerging methods designed to enhance early detection, mitigation, and management of cyber risk in the security and privacy, and business and governance sectors. At a minimum, the Commission shall develop recommendations regarding:

- (i) governance, procurement, and management processes for Federal civilian IT systems, applications, services, and infrastructure, including the following:

- (A) a framework for identifying which IT services should be developed internally or shared across agencies, and for specific investment priorities for all such IT services;

(B) a framework to ensure that as Federal civilian agencies procure, modernize, or upgrade their IT systems, cybersecurity is incorporated into the process;

(C) a governance model for managing cybersecurity risk, enhancing resilience, and ensuring appropriate incident response and recovery in the operations of, and delivery of goods and services by, the Federal Government; and

(D) strategies to overcome barriers that make it difficult for the Federal Government to adopt and keep pace with industry best practices;

(ii) effective private sector and government approaches to critical infrastructure protection in light of current and projected trends in cybersecurity threats and the connected nature of the United States economy;

(iii) steps State and local governments can take to enhance cybersecurity, and how the Federal Government can best support such steps; and

(iv) any other issues that the President, through the Secretary, requests the Commission to consider.

(c) To accomplish its mission, the Commission shall:

(i) reference and, as appropriate, build on successful existing cybersecurity policies, public-private partnerships, and other initiatives;

(ii) consult with cybersecurity, national security and law enforcement, privacy, management, technology, and digital economy experts in the public and private sectors;

(iii) seek input from those who have experienced significant cybersecurity incidents to understand lessons learned from these experiences, including identifying any barriers to awareness, risk management, and investment;

(iv) review reported information from the Office of Management and Budget regarding Federal information and information systems, including legacy systems, in order to assess critical Federal civilian IT infrastructures, governance, and management processes;

(v) review the impact of technological trends and market forces on existing cybersecurity policies and practices; and

(vi) examine other issues related to the Commission's mission that the Chair and Vice Chair agree are necessary and appropriate to the Commission's work.

(d) Where appropriate, the Commission may conduct original research, commission studies, and hold hearings to further examine particular issues.

(e) The Commission shall be advisory in nature and shall submit a final report to the President by December 1, 2016. This report shall be published on a public Web site along with any appropriate response from the President within 45 days after it is provided to the President.

**Sec. 4. Administration.** (a) The Commission shall hold periodic meetings in public forums in an open and transparent environment.

(b) In carrying out its mission, the Commission shall be informed by, and shall strive to avoid duplicating, the efforts of other governmental entities.

(c) The Commission shall have a staff, headed by an Executive Director, which shall provide support for the functions of the Commission. The Secretary shall appoint the Executive Director, who shall be a full-time Federal employee, and the Commission's staff. The Executive Director may also serve as the Designated Federal Officer in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (FACA, the "Act").

(d) The Executive Director, in consultation with the Chair and Vice Chair, shall have the authority to create subcommittees as necessary to support the Commission's work and to examine particular areas of importance. These subcommittees must report their work to the Commission to inform its final recommendations.

(e) The Secretary will work with the heads of executive departments and agencies, to the extent permitted by law and consistent with their ongoing activities, to provide the Commission such information and cooperation as it may require for purposes of carrying out its mission.

**Sec. 5. Termination.** The Commission shall terminate within 15 days after it presents its final report to the President, unless extended by the President.

**Sec. 6. General Provisions.** (a) To the extent permitted by law, and subject to the availability of appropriations, the Secretary shall direct the Director of the National Institute of Standards and Technology to provide the Commission with such expertise, services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission.

(b) Insofar as FACA may apply to the Commission, any functions of the President under that Act, except for those in section 6 and section 14 of that Act, shall be performed by the Secretary.

(c) Members of the Commission shall serve without any compensation for their work on the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

February 9, 2016.

## Executive Order 13719 of February 9, 2016

**Establishment of the Federal Privacy Council**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. *Policy.*** The mission of the United States Government is to serve its people. In order to accomplish its mission, the Government lawfully collects, maintains, and uses large amounts of information about people in a wide range of contexts. Protecting privacy in the collection and handling of this information is fundamental to the successful accomplishment of the Government's mission. The proper functioning of Government requires the public's trust, and to maintain that trust the Government must strive to uphold the highest standards for collecting, maintaining, and using personal data. Privacy has been at the heart of our democracy from its inception, and we need it now more than ever.

Executive departments and agencies (agencies) already take seriously their mission to protect privacy and have been working diligently to advance that mission through existing interagency mechanisms. Today's challenges, however, require that we find even more effective and innovative ways to improve the Government's efforts. Our efforts to meet these new challenges and preserve our core value of privacy, while delivering better and more effective Government services for the American people, demand leadership and enhanced coordination and collaboration among a diverse group of stakeholders and experts.

Therefore, it shall be the policy of the United States Government that agencies shall establish an interagency support structure that: builds on existing interagency efforts to protect privacy and provides expertise and assistance to agencies; expands the skill and career development opportunities of agency privacy professionals; improves the management of agency privacy programs by identifying and sharing lessons learned and best practices; and promotes collaboration between and among agency privacy professionals to reduce unnecessary duplication of efforts and to ensure the effective, efficient, and consistent implementation of privacy policy Government-wide.

**Sec. 2. *Policy on Senior Agency Officials for Privacy.*** Within 120 days of the date of this order, the Director of the Office of Management and Budget (Director) shall issue a revised policy on the role and designation of the Senior Agency Officials for Privacy. The policy shall provide guidance on the Senior Agency Official for Privacy's responsibilities at their agencies, required level of expertise, adequate level of resources, and other matters as determined by the Director. Agencies shall implement the requirements of the policy within a reasonable time frame as prescribed by the Director and consistent with applicable law.

**Sec. 3. *Responsibilities of Agency Heads.*** The head of each agency, consistent with guidance to be issued by the Director as required in section 2 of this order, shall designate or re-designate a Senior Agency Official for Privacy with the experience and skills necessary to manage an agency-wide privacy program. In addition, the head of each agency, to the extent permitted by law and consistent with ongoing activities, shall work with the Federal Privacy Council, established in section 4 of this order.

**Sec. 4.** *The Federal Privacy Council.*

(a) *Establishment.* There is hereby established the Federal Privacy Council (Privacy Council) as the principal interagency forum to improve the Government privacy practices of agencies and entities acting on their behalf. The establishment of the Privacy Council will help Senior Agency Officials for Privacy at agencies better coordinate and collaborate, educate the Federal workforce, and exchange best practices. The activities of the Privacy Council will reinforce the essential work that agency privacy officials undertake every day to protect privacy.

(b) *Membership.* The Chair of the Privacy Council shall be the Deputy Director for Management of the Office of Management and Budget. The Chair may designate a Vice Chair, establish working groups, and assign responsibilities for operations of the Privacy Council as he or she deems necessary. In addition to the Chair, the Privacy Council shall be composed of the Senior Agency Officials for Privacy at the following agencies:

- (i) Department of State;
- (ii) Department of the Treasury;
- (iii) Department of Defense;
- (iv) Department of Justice;
- (v) Department of the Interior;
- (vi) Department of Agriculture;
- (vii) Department of Commerce;
- (viii) Department of Labor;
- (ix) Department of Health and Human Services;
- (x) Department of Homeland Security;
- (xi) Department of Housing and Urban Development;
- (xii) Department of Transportation;
- (xiii) Department of Energy;
- (xiv) Department of Education;
- (xv) Department of Veterans Affairs;
- (xvi) Environmental Protection Agency;
- (xvii) Office of the Director of National Intelligence;
- (xviii) Small Business Administration;
- (xix) National Aeronautics and Space Administration;
- (xx) Agency for International Development;
- (xxi) General Services Administration;
- (xxii) National Science Foundation;
- (xxiii) Office of Personnel Management; and
- (xxiv) National Archives and Records Administration.

The Privacy Council may also include other officials from agencies and offices, as the Chair may designate, and the Chair may invite the participation of officials from such independent agencies as he or she deems appropriate.

(c) *Functions.* The Privacy Council shall:

(i) develop recommendations for the Office of Management and Budget on Federal Government privacy policies and requirements;

(ii) coordinate and share ideas, best practices, and approaches for protecting privacy and implementing appropriate privacy safeguards;

(iii) assess and recommend how best to address the hiring, training, and professional development needs of the Federal Government with respect to privacy matters; and

(iv) perform other privacy-related functions, consistent with law, as designated by the Chair.

(d) *Coordination.*

(i) The Chair and the Privacy Council shall coordinate with the Federal Chief Information Officers Council (CIO Council) to promote consistency and efficiency across the executive branch when addressing privacy and information security issues. In addition, the Chairs of the Privacy Council and the CIO Council shall coordinate to ensure that the work of the two councils is complementary and not duplicative.

(ii) The Chair and the Privacy Council should coordinate, as appropriate, with such other interagency councils and councils and offices within the Executive Office of the President, as appropriate, including the President's Management Council, the Chief Financial Officers Council, the President's Council on Integrity and Efficiency, the National Science and Technology Council, the National Economic Council, the Domestic Policy Council, the National Security Council staff, the Office of Science and Technology Policy, the Interagency Council on Statistical Policy, the Federal Acquisition Regulatory Council, and the Small Agency Council.

**Sec. 5. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are encouraged to comply with the requirements of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

February 9, 2016.

Executive Order 13720 of February 26, 2016

### **Delegation of Certain Authorities and Assignment of Certain Functions Under the Trade Preferences Extension Act of 2015**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trade Preferences Extension Act of 2015 (the “Act”) (Public Law 114–27), and section 301 of title 3, United States Code, I hereby order as follows:

**Section 1. *Authorities and Functions under the Act.*** (a) Except as provided in subsections (b), (c), and (d) of this section, the authorities granted to and functions specifically assigned to the President under title I of the Act are delegated and assigned, respectively, to the United States Trade Representative (U.S. Trade Representative).

(b) The exercise of the following authorities of, and functions specifically assigned to the President under title I of the Act are not delegated or assigned under this order:

(i) section 104(c) of the Act;

(ii) sections 105(a) and (b) of the Act; and

(iii) sections 506A(d)(3)(B) and (d)(4)(C) of the Trade Act of 1974 (as amended by the Act).

(c) The functions of the President under section 13(c) of the AGOA Acceleration Act of 2004, as added by section 109 of the Act, are assigned to the Administrator of the United States Agency for International Development, in collaboration with the Secretary of Agriculture.

(d) The functions of the President under section 110(a) of the Act are assigned to the U.S. Trade Representative, in consultation with the Secretary of State.

**Sec. 2. *Reducing Poverty and Eliminating Hunger.*** The U.S. Trade Representative, with the advice and assistance of other executive departments and agencies involved in international programs to reduce poverty and eliminate hunger, shall perform the reporting function under section 701 of the Act.

**Sec. 3. *General Provisions.*** (a) In exercising authority delegated by or performing functions assigned in this order, officers of the United States:

(i) shall ensure that all actions taken by them are consistent with the President’s constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

(ii) may redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department

or agency within the executive branch to the extent permitted by law, and such redelegation or further assignment shall be published in the *Federal Register*.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
February 26, 2016.

**Executive Order 13721 of March 14, 2016**

**Developing an Integrated Global Engagement Center to  
Support Government-wide Counterterrorism  
Communications Activities Directed Abroad and Revoking  
Executive Order 13584**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 2656 of title 22, United States Code, and section 3161 of title 5, United States Code, it is hereby ordered as follows:

**Section 1.** *Establishment of the Global Engagement Center.* The Secretary of State (Secretary) shall establish the Global Engagement Center (Center) which shall lead the coordination, integration, and synchronization of Government-wide communications activities directed at foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations, including the Islamic State of Iraq and the Levant (ISIL), al Qa'ida, and other violent extremists abroad, with specific responsibilities as set forth in section 3 of this order. The executive director of the Center shall be the Special Envoy and Coordinator for Global Engagement Communications (Coordinator), who shall report to the Secretary through the Under Secretary of State for Public Diplomacy.

**Sec. 2.** *Revocation.* Executive Order 13584 of September 9, 2011 (Developing an Integrated Strategic Counterterrorism Communications Initiative and Establishing a Temporary Organization to Support Certain Government-Wide Communications Activities Directed Abroad), is revoked.

**Sec. 3.** *Responsibilities Assigned to the Center.* Recognizing the need for innovation and new approaches to counter the messaging and diminish the influence of international terrorist organizations, including ISIL, al Qa'ida, and other violent extremists abroad, and in order to protect the vital national interests of the United States, while also recognizing the importance of protections for freedom of expression, including those under the First Amendment to the Constitution of the United States and international human rights obligations, the responsibilities and functions of the Center shall include the following:

(a) coordinating, integrating, and synchronizing all public communications of the United States Government directed toward foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad;

(b) developing and promulgating throughout the executive branch, on the basis of rigorous research and modern data analysis, the U.S. strategic counterterrorism narratives, guidance, and associated communications strategies directed toward foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad;

(c) consulting and engaging, in coordination with agencies and the Countering Violent Extremism Task Force, as appropriate, with a range of communications-related actors and entities, within the United States and abroad, including governments, private sector and civil society entities, in order to contribute to U.S. Government efforts to counter the communications-related radicalization to violence and recruitment activities of international terrorist organizations and other violent extremists abroad, while also building the capacity of partners to create resonant positive alternative narratives and to diminish the influence of such international terrorist organizations and other violent extremists abroad;

(d) identifying, engaging, employing, or acquiring the best available talent across the U.S. and from global private sectors, academia, and elsewhere to support the Center's mission;

(e) identifying shortfalls in any U.S. capabilities in any areas relevant to the Center's mission and implementing or recommending, as appropriate, necessary enhancements or changes; and

(f) developing, supporting, and sustaining networks of governmental and non-governmental partners, to provide original content and disseminate messaging products to foreign audiences abroad and to create, develop, and sustain effective positive alternative narratives consistent with U.S. policy objectives.

**Sec. 4. *Establishment of a Steering Committee.*** The Secretary shall establish a Steering Committee composed of senior representatives of agencies relevant to the Center's mission to provide advice to the Secretary on the operations and strategic orientation of the Center and to ensure adequate support for the Center. The Steering Committee shall be chaired by the Under Secretary of State for Public Diplomacy. The Steering Committee shall include one senior representative designated by the head of each of the following agencies: the Department of Defense, the Department of Justice, the Department of Homeland Security, the Department of the Treasury, the Small Business Administration, the National Counterterrorism Center, the Joint Chiefs of Staff, the Counterterrorism Center of the Central Intelligence Agency, the Broadcast Board of Governors, and the United States Agency for International Development. Other agencies may be invited to participate in the Steering Committee at the discretion of the Chair.

**Sec. 5. *Interagency Support.*** Agencies are hereby directed, consistent with budget priorities and mission constraints, upon request by the Secretary and to the extent permitted by law and consistent with the need to protect

intelligence and law enforcement sources, methods, operations, and investigations, to provide to the Center, and the Center is authorized to use, for the purpose of carrying out the responsibilities outlined in this order:

(a) details or assignments of personnel, which shall be based on reasonable requests in light of the need for specific domain expertise, and after consultation with the relevant agency to ensure that such requests align with their authorities and resources;

(b) the use of physical premises, equipment, and logistical or administrative support;

(c) relevant information, research, intelligence, and analysis; and

(d) such other resources and assistance as the Coordinator may request for the purpose of carrying out the responsibilities outlined in this order.

**Sec. 6. *Establishment of a Temporary Organization.*** (a) There is established within the Department of State, in accordance with section 3161 of title 5, United States Code, a temporary organization to be known as the Global Engagement Center Coordination Office (GECCO).

(b) The purpose of the GECCO shall be to perform the specific project of providing technical, marketing, management, and operational support to the Center in its efforts to build and maintain a network of partners outside the U.S. Government, including private sector entities and non-governmental organizations, and to develop research and analytics to enable measurement and evaluation of the activities of the Center and related activities conducted by other agencies.

(c) In carrying out the purposes set forth in subsection (b) of this section, the GECCO shall:

(i) provide technical, marketing, management, and operational support for the management of contracts, grants, and cooperative agreements;

(ii) assist the Center in building and maintaining partnerships with private sector entities, non-governmental organizations, and others as appropriate in support of the Center's mission;

(iii) design and develop sustained campaigns, in coordination with and primarily for use by private sector entities and non-governmental organizations, on specific areas of interest to foreign audiences abroad in support of the Center's mission;

(iv) conduct or commission baseline research to establish the basis for evaluation of the activities of the Center and related activities conducted by other agencies;

(v) develop analytical models and metrics, consistent with the Center's responsibilities, in order to enable measurement and evaluation of the activities of the Center in coordinating effective strategies to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad, and related activities conducted by other agencies; and

(vi) perform such other functions related to the specific project set forth in subsection (b) of this section as the Secretary may assign.

(d) The GECCO shall be headed by the Coordinator. Its staff may include, as determined by the Coordinator: (1) personnel with relevant expertise detailed on a non-reimbursable basis from other agencies; (2) senior and other

technical advisers; (3) executive-level personnel; and (4) such other personnel as the Secretary may request to support the GECCO. To accomplish this mission, the heads of agencies shall, upon request, provide to the GECCO, on a non-reimbursable basis, assistance, services, and other support including but not limited to logistical and administrative support and details of personnel to the extent permitted by law. Non-reimbursable details to the GECCO shall be based on reasonable requests from the Coordinator in light of the need for specific expertise, and after consultation with the relevant agency, to the extent permitted by law.

(e) The GECCO shall terminate at the end of the maximum period permitted by section 3161(a)(1) of title 5, United States Code, unless sooner terminated by the Secretary consistent with section 3161(a)(2) of such title.

(f) The termination of the GECCO as required by subsection (e) of this section shall not be interpreted to imply the termination, attenuation or amendment of any other authority or provision of this order.

**Sec. 7. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
March 14, 2016.

#### Executive Order 13722 of March 15, 2016

### **Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the United Nations Participation Act of 1945 (22 U.S.C. 287c) (UNPA), the North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114–122), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 2270 of March 2, 2016,

I, BARACK OBAMA, President of the United States of America, find that the Government of North Korea's continuing pursuit of its nuclear and missile programs, as evidenced most recently by its February 7, 2016, launch using ballistic missile technology and its January 6, 2016, nuclear test in violation of its obligations pursuant to numerous UNSCRs and in contravention of its commitments under the September 19, 2005, Joint Statement of the Six-Party Talks, increasingly imperils the United States and its allies. To address those actions, and to take additional steps with respect to the national emergency declared in Executive Order 13466 of June 26, 2008, as modified in scope and relied upon for additional steps in subsequent Executive Orders, I hereby order:

**Section 1.** (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the Government of North Korea or the Workers' Party of Korea are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order or pursuant to the export control authorities implemented by the Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

**Sec. 2.** (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to operate in any industry in the North Korean economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to this subsection, such as transportation, mining, energy, or financial services;

(ii) to have sold, supplied, transferred, or purchased, directly or indirectly, to or from North Korea or any person acting for or on behalf of the Government of North Korea or the Workers' Party of Korea, metal, graphite, coal, or software, where any revenue or goods received may benefit the Government of North Korea or the Workers' Party of Korea, including North Korea's nuclear or ballistic missile programs;

(iii) to have engaged in, facilitated, or been responsible for an abuse or violation of human rights by the Government of North Korea or the Workers' Party of Korea or any person acting for or on behalf of either such entity;

(iv) to have engaged in, facilitated, or been responsible for the exportation of workers from North Korea, including exportation to generate revenue for the Government of North Korea or the Workers' Party of Korea;

(v) to have engaged in significant activities undermining cybersecurity through the use of computer networks or systems against targets outside of North Korea on behalf of the Government of North Korea or the Workers' Party of Korea;

(vi) to have engaged in, facilitated, or been responsible for censorship by the Government of North Korea or the Workers' Party of Korea;

(vii) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order;

(viii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or

(ix) to have attempted to engage in any of the activities described in subsections (a)(i)–(viii) of this section.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order. The prohibitions in subsection (a) of this section are in addition to export control authorities implemented by the Department of Commerce.

**Sec. 3.** (a) The following are prohibited:

(i) the exportation or reexportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services, or technology to North Korea;

(ii) new investment in North Korea by a United States person, wherever located; and

(iii) any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this section if performed by a United States person or within the United States.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order or pursuant to the export control authorities implemented by the Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

**Sec. 4.** I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in subsection 2(a) of this order would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants or nonimmigrants, of such persons. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

**Sec. 5.** I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 or 2 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order

13466, and I hereby prohibit such donations as provided by sections 1 and 2 of this order.

**Sec. 6.** The prohibitions in sections 1 and 2 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

**Sec. 7.** (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

**Sec. 8.** Nothing in this order shall prohibit transactions for the conduct of the official business of the Federal Government or the United Nations (including its specialized agencies, programmes, funds, and related organizations) by employees, grantees, or contractors thereof.

**Sec. 9.** For the purposes of this order:

(a) the term “person” means an individual or entity;

(b) the term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States; and

(d) the term “Government of North Korea” means the Government of the Democratic People’s Republic of Korea and its agencies, instrumentalities, and controlled entities.

**Sec. 10.** For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13466, there need be no prior notice of a listing or determination made pursuant to section 1 or 2 of this order.

**Sec. 11.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

**EO 13723**

**Title 3—The President**

**Sec. 12.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 13.** This order is effective at 12:01 a.m. eastern daylight time on March 16, 2016.

BARACK OBAMA

The White House,  
March 15, 2016.

**Executive Order 13723 of March 30, 2016**

**Establishing the Inherent Resolve Campaign Medal**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

**Section 1. *Inherent Resolve Campaign Medal.*** There is hereby established the Inherent Resolve Campaign Medal with suitable appurtenances. Except as limited in section 2 of this order, and under regulations to be prescribed by the Secretary of Defense, or under regulations to be prescribed by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, the Inherent Resolve Campaign Medal shall be awarded to members of the Armed Forces of the United States who serve or have served in Iraq, Syria, or contiguous waters or airspace on or after June 15, 2014, and before a terminal date to be prescribed by the Secretary of Defense.

**Sec. 2. *Relationship to Other Awards.*** Notwithstanding section 1 of Executive Order 13289 of March 12, 2003, Establishing the Global War on Terrorism Expeditionary Medal, any member who qualified for that medal by reason of service in Iraq, Syria, or contiguous waters or airspace between June 15, 2014, and a terminal date to be determined by the Secretary of Defense, shall remain qualified for that medal. Upon application, a member by reason of service in Iraq, Syria, or contiguous waters or airspace may be awarded the Inherent Resolve Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal. A member may be awarded either the Inherent Resolve Campaign Medal or the Global War on Terrorism Expeditionary Medal by reason of service in Iraq, Syria, or contiguous waters or airspace. No member shall be entitled to the award of more than one of these two medals for the same period of service.

**Sec. 3. *Posthumous Award.*** The Inherent Resolve Campaign Medal may be awarded posthumously to any person covered by and under regulations prescribed in accordance with the first section of this order.

**Sec. 4. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or

**Executive Orders**

**EO 13724**

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

*March 30, 2016.*

**Executive Order 13724 of April 8, 2016**

**Amending Executive Order 12137**

By the authority vested in me as President by the Constitution and the laws of the United States, including section 19 of the Peace Corps Act, as amended (22 U.S.C. 2518) and section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1.** *Amendment to Executive Order 12137.* Executive Order 12137 of May 16, 1979, as amended, is further amended as follows:

(a) In section 1–1, a new section 1–113 is added to read as follows:

“1–113. The functions of adopting, altering, and using an official seal or emblem of the Peace Corps as set forth in section 19 of the Peace Corps Act (22 U.S.C. 2518) is hereby delegated to the Director of the Peace Corps.”

(b) In section 1–3, section 1–301(e) is deleted.

**Sec. 2.** *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

*April 8, 2016.*

Executive Order 13725 of April 15, 2016

## Steps to Increase Competition and Better Inform Consumers and Workers to Support Continued Growth of the American Economy

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to protect American consumers and workers and encourage competition in the U.S. economy, it is hereby ordered as follows:

**Section 1. *Policy.*** Maintaining, encouraging, and supporting a fair, efficient, and competitive marketplace is a cornerstone of the American economy. Consumers and workers need both competitive markets and information to make informed choices.

Certain business practices such as unlawful collusion, illegal bid rigging, price fixing, and wage setting, as well as anticompetitive exclusionary conduct and mergers stifle competition and erode the foundation of America's economic vitality. The immediate results of such conduct—higher prices and poorer service for customers, less innovation, fewer new businesses being launched, and reduced opportunities for workers—can impact Americans in every walk of life.

Competitive markets also help advance national priorities, such as the delivery of affordable health care, energy independence, and improved access to fast and affordable broadband. Competitive markets also promote economic growth, which creates opportunity for American workers and encourages entrepreneurs to start innovative companies that create jobs.

The Department of Justice (DOJ) and the Federal Trade Commission (FTC) have a proven record of detecting and stopping anticompetitive conduct and challenging mergers and acquisitions that threaten to consolidate markets and reduce competition.

Promoting competitive markets and ensuring that consumers and workers have access to the information needed to make informed choices must be a shared priority across the Federal Government. Executive departments and agencies can contribute to these goals through, among other things, pro-competitive rulemaking and regulations, and by eliminating regulations that create barriers to or limit competition. Such Government-wide action is essential to ensuring that consumers, workers, startups, small businesses, and farms reap the full benefits of competitive markets.

**Sec. 2. *Agency Responsibilities.*** (a) Executive departments and agencies with authorities that could be used to enhance competition (agencies) shall, where consistent with other laws, use those authorities to promote competition, arm consumers and workers with the information they need to make informed choices, and eliminate regulations that restrict competition without corresponding benefits to the American public.

(b) Agencies shall identify specific actions that they can take in their areas of responsibility to build upon efforts to detect abuses such as price fixing, anticompetitive behavior in labor and other input markets, exclusionary conduct, and blocking access to critical resources that are needed for competitive entry. Behaviors that appear to violate our antitrust laws

should be referred to antitrust enforcers at DOJ and the FTC. Such a referral shall not preclude further action by the referring agency against that behavior under that agency's relevant statutory authority.

(c) Agencies shall also identify specific actions that they can take in their areas of responsibility to address undue burdens on competition. As permitted by law, agencies shall consult with other interested parties to identify ways that the agency can promote competition through pro-competitive rulemaking and regulations, by providing consumers and workers with information they need to make informed choices, and by eliminating regulations that restrict competition without corresponding benefits to the American public.

(d) Not later than 30 days from the date of this order, agencies shall submit to the Director of the National Economic Council an initial list of (1) actions each agency can potentially take to promote more competitive markets; (2) any specific practices, such as blocking access to critical resources, that potentially restrict meaningful consumer or worker choice or unduly stifle new market entrants, along with any actions the agency can potentially take to address those practices; and (3) any relevant authorities and tools potentially available to enhance competition or make information more widely available for consumers and workers.

(e) Not later than 60 days from the date of this order, agencies shall report to the President, through the Director of the National Economic Council, recommendations on agency-specific actions that eliminate barriers to competition, promote greater competition, and improve consumer access to information needed to make informed purchasing decisions. Such recommendations shall include a list of priority actions, including rulemakings, as well as timelines for completing those actions.

(f) Subsequently, agencies shall report semi-annually to the President, through the Director of the National Economic Council, on additional actions that they plan to undertake to promote greater competition.

(g) Sections 2(d), 2(e), and 2(f) of this order do not require reporting of information related to law enforcement policy and activities.

**Sec. 3. General Provisions.** (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Independent agencies are strongly encouraged to comply with the requirements of this order.

(c) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

April 15, 2016.

Executive Order 13726 of April 19, 2016

**Blocking Property and Suspending Entry Into the United States of Persons Contributing to the Situation in Libya**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, hereby expand the scope of the national emergency declared in Executive Order 13566 of February 25, 2011, finding that the ongoing violence in Libya, including attacks by armed groups against Libyan state facilities, foreign missions in Libya, and critical infrastructure, as well as human rights abuses, violations of the arms embargo imposed by United Nations Security Council Resolution 1970 (2011), and misappropriation of Libya's natural resources threaten the peace, security, stability, sovereignty, democratic transition, and territorial integrity of Libya, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. To address this threat, and in view of United Nations Security Council Resolutions 2174 of August 27, 2014, and 2213 of March 27, 2015, I hereby order:

**Section 1.** (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following:

(A) actions or policies that threaten the peace, security, or stability of Libya, including through the supply of arms or related materiel;

(B) actions or policies that obstruct, undermine, delay, or impede, or pose a significant risk of obstructing, undermining, delaying, or impeding, the adoption of or political transition to a Government of National Accord or a successor government;

(C) actions that may lead to or result in the misappropriation of state assets of Libya; or

(D) threatening or coercing Libyan state financial institutions or the Libyan National Oil Company;

(ii) to be planning, directing, or committing, or to have planned, directed, or committed, attacks against any Libyan state facility or installation (including oil facilities), against any air, land, or sea port in Libya, or against any foreign mission in Libya;

(iii) to be involved in, or to have been involved in, the targeting of civilians through the commission of acts of violence, abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(iv) to be involved in, or to have been involved in, the illicit exploitation of crude oil or any other natural resources in Libya, including the illicit production, refining, brokering, sale, purchase, or export of Libyan oil;

(v) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsections (a)(i), (a)(ii), (a)(iii), or (a)(iv) of this section;

(vi) to have materially assisted, sponsored, or provided financial, material, logistical, or technological support for, or goods or services in support of (A) any of the activities described in subsections (a)(i), (a)(ii), (a)(iii), or (a)(iv) of this section or (B) any person whose property and interests in property are blocked pursuant to this order; or

(vii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order. The prohibitions in subsection (a) of this section are in addition to export control authorities implemented by the Department of Commerce.

**Sec. 2.** I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1(a) of this order would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants or nonimmigrants, of such persons. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions). Further, United Nations Security Council Resolution 2174 shall be treated as a Resolution listed in Annex A of Proclamation 8693.

**Sec. 3.** I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13566 and expanded in this order, and I hereby prohibit such donations as provided by section 1 of this order.

**Sec. 4.** The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

**Sec. 5.** (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

**Sec. 6.** For the purposes of this order:

(a) the term “person” means an individual or entity;

(b) the term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

(d) the term “Government of National Accord or a successor government” means:

(i) a Government of National Accord formed pursuant to the terms of the Libyan Political Agreement signed in Skhirat, Morocco, on December 17, 2015, or any amendments thereto;

(ii) a governmental authority formed under the Libyan Constitution pursuant to the terms of the Libyan Political Agreement signed in Skhirat, Morocco, on December 17, 2015, or any amendments thereto;

(iii) any subdivision, agency, or instrumentality of the foregoing, and any partnership, association, corporation, or other organization owned or controlled, directly or indirectly, by, or acting for or on behalf of, the foregoing; or

(iv) any other person determined by the Secretary of the Treasury to be included within paragraphs (a) through (c) of this section.

**Sec. 7.** For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13566 and expanded in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

**Sec. 8.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

**Sec. 9.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
April 19, 2016.

#### Executive Order 13727 of May 6, 2016

### Facilitation of a Presidential Transition

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7301 of title 5, United States Code, and the Presidential Transition Act of 1963, as amended, and to assist the Presidential transition, it is hereby ordered as follows:

**Section 1. Policy.** The peaceful transition of power has long been a hallmark of American democracy. It is the policy of the United States to undertake all reasonable efforts to ensure that Presidential transitions are well-coordinated and effective, without regard to party affiliation.

**Sec. 2. Establishment of the White House Transition Coordinating Council.** (a) To facilitate the Presidential transition, including assisting and supporting the transition efforts of the transition teams of eligible candidates, there is established a White House Transition Coordinating Council.

(b) The White House Transition Coordinating Council shall be composed of the following officials or their designees:

- (i) Assistant to the President and Chief of Staff, who shall serve as Chair;
- (ii) Assistant to the President and Deputy Chief of Staff for Operations, who shall serve as Vice Chair;
- (iii) Assistant to the President and Deputy Chief of Staff for Implementation;
- (iv) Counsel to the President;
- (v) Assistant to the President for Presidential Personnel;
- (vi) Assistant to the President for National Security Affairs;
- (vii) Assistant to the President for Homeland Security and Counterterrorism;
- (viii) Assistant to the President for Economic Policy and Director, National Economic Council;
- (ix) Director of National Intelligence;
- (x) Director of the Office of Management and Budget;
- (xi) Administrator of General Services;
- (xii) Federal Transition Coordinator;
- (xiii) the transition representative for each eligible candidate, who shall serve in an advisory capacity; and

(xiv) any other executive branch official the President determines appropriate.

(c) The White House Transition Coordinating Council shall:

(i) provide guidance to executive departments and agencies (agencies) and the Federal Transition Coordinator regarding preparations for the Presidential transition, including succession planning and preparation of briefing materials;

(ii) facilitate communication and information sharing between the transition representatives of eligible candidates and senior employees in agencies and the Executive Office of the President, including the provision of information relevant to facilitating the personnel aspects of a Presidential transition and such other information that, in the Council's judgment, is useful and appropriate, as long as providing such information is not otherwise prohibited by law; and

(iii) prepare and host interagency emergency preparedness and response exercises.

(d) In order to obtain a wide range of facts and information on prior transitions and best practices, the White House Transition Coordinating Council, its members, or their designees may seek information from private individuals, including individuals in outside organizations, who have significant experience or expertise in Presidential transitions. The White House Transition Coordinating Council, its members, or their designees shall endeavor to obtain such facts and information from individuals representing a range of bipartisan or nonpartisan viewpoints. If the White House Transition Coordinating Council, its members, or their designees find it necessary to seek advice from private individuals or outside organizations, such counsel should be sought in a manner that seeks individual advice and does not involve collective judgment or deliberation.

**Sec. 3. *Establishment of the Agency Transition Directors Council.*** (a) To implement the guidance provided by the White House Transition Coordinating Council and to coordinate transition activities across agencies, there is established an Agency Transition Directors Council.

(b) The Agency Transition Directors Council shall be composed of the following officials or their designees:

(i) Federal Transition Coordinator, who shall serve as Co-Chair;

(ii) Deputy Director for Management of the Office of Management and Budget, who shall serve as Co-Chair;

(iii) a senior career representative from each agency described in section 901(b)(1) of title 31, United States Code, the Office of Personnel Management, the Office of Government Ethics, and the National Archives and Records Administration whose responsibilities include leading Presidential transition efforts within the agency;

(iv) during a year in which a Presidential election will be held, a transition representative for each eligible candidate, who shall serve in an advisory capacity;

(v) a senior career representative from any other agency determined by the Co-Chairs to be an agency that has significant responsibilities relating to the Presidential transition process; and

(vi) other senior employees serving in the Executive Office of the President, as determined by the President.

(c) The Agency Transition Directors Council shall:

(i) ensure the Federal Government has an integrated strategy for addressing interagency challenges and responsibilities around Presidential transitions and turnover of non-career appointees;

(ii) coordinate transition activities among the Executive Office of the President, agencies, and the transition team of eligible candidates and the President-elect and Vice-President-elect;

(iii) draw on guidance provided by the White House Transition Coordinating Council and lessons learned from previous Presidential transitions in carrying out its duties;

(iv) assist the Federal Transition Coordinator in identifying and carrying out his or her responsibilities relating to a Presidential transition;

(v) provide guidance to agencies in gathering briefing materials and information relating to the Presidential transition that may be requested by eligible candidates;

(vi) ensure materials and information described in subparagraph (v) of this subsection are prepared not later than November 1 of the year during which a Presidential election is held;

(vii) ensure agencies adequately prepare career employees who are designated to fill non-career positions during a Presidential transition; and

(viii) consult with the President's Management Council, or any successor thereto, in carrying out its duties.

(d) The Agency Transition Directors Council shall meet:

(i) subject to subparagraph (ii) of this subsection, not less than once per year; and

(ii) during the period beginning on the date that is 6 months before a Presidential election and ending on the date on which the President-elect is inaugurated, on a regular basis as necessary to carry out its duties and authorities.

**Sec. 4. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) The terms "eligible candidate," "Federal Transition Coordinator," and "Presidential election" shall have the same meaning as those terms used in the Presidential Transition Act of 1963, as amended. The term "President's Management Council" shall have the same meaning as that term is used in the Presidential Memorandum of July 11, 2001.

(d) This order is intended only to facilitate the transition and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United

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**Title 3—The President**

States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
May 6, 2016.

**Executive Order 13728 of May 18, 2016**

**Wildland-Urban Interface Federal Risk Mitigation**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve the Nation's resilience to wildfire, I hereby direct the following:

**Section 1. Policy.** It is the policy of the United States to strengthen the security and resilience of the Nation against the impacts of wildfire. The annual estimates on structure loss due to wildfire have increased dramatically over the past six decades as a result of multi-year drought conditions in combination with accumulated fuel loads, growing populations residing in the wildland-urban interface, and associated increases in the exposure of built environments. As such, we must continue to ensure our Nation is resilient to wildfire in order to promote public safety, economic strength, and national security.

The Federal Government must continue to take proactive steps to enhance the resilience of buildings that are owned by the Federal Government and are located on Federal land. Each executive department and agency (agency) responsible for implementing this order shall seek to enhance the resilience of its buildings when making investment decisions to ensure continued performance of essential functions and to reduce risks to its buildings' occupants in the event of a wildfire.

**Sec. 2. Codes and Concurrent Requirements.** (a) Commencing within 90 days of the completion of the implementing guidelines as described in section 3(b)(i) of this order, each agency shall ensure that every new Federal building above 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk for which the agency has not completed design is in compliance with the 2015 edition of the International Wildland-Urban Interface Code (IWUIC) promulgated by the International Code Council (ICC), or an equivalent code, consistent with the provisions of and to the extent required by 40 U.S.C. 3312. When the ICC releases a new version of the IWUIC, a determination shall be made whether the new version is a nationally recognized code for the purposes of 40 U.S.C. 3312(b), as expeditiously as practicable, but not later than 2 years after the release of the new version. If a determination is made that a new version is a nationally recognized code, agencies shall ensure that any Federal building covered by this section for which the agency has not completed design is in compliance with that new version, or an equivalent code, consistent with the provisions of and to the extent required by 40 U.S.C. 3312.

(b) Commencing within 90 days of the completion of the implementing guidelines as described in section 3(b)(i) of this order, each agency responsible for the alteration of an existing Federal building above 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk for which the agency has not completed design shall ensure that the alteration is effectuated in compliance with the IWUIC, or an equivalent code, consistent with the provisions of and to the extent required by 40 U.S.C. 3312. When the ICC releases a new version of the IWUIC, a determination shall be made whether the new version is a nationally recognized code for the purposes of 40 U.S.C. 3312(b), as expeditiously as practicable, but not later than 2 years after the release of the new version. If a determination is made that a new version is a nationally recognized code, agencies shall ensure that any Federal building covered by this section for which the agency has not completed design is in compliance with that new version, or an equivalent code, consistent with the provisions of and to the extent required by 40 U.S.C. 3312.

(c) Each agency that owns an existing Federal building above 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk is strongly encouraged to ensure that such existing buildings are in compliance with the IWUIC, or an equivalent code.

(d) The heads of agencies whose activities are covered by sections 2(a) and 2(b) of this order shall complete a wildfire risk assessment of their existing Federal buildings above 5,000 gross square feet within the wildland-urban interface and are strongly encouraged to consider creating and maintaining a defensible space in compliance with the IWUIC, or an equivalent code, for each of those buildings they determine to be at highest risk.

(e) Each agency that leases space in a building to be constructed for the predominant use of an agency above 5,000 rentable square feet in the wildland-urban interface in an area of greater than moderate wildfire risk is strongly encouraged to ensure that the building is designed and constructed in accord with the IWUIC, or an equivalent code.

(f) Each agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance premiums, of a newly constructed building or of an alteration of an existing building above 5,000 gross square feet within the wildland-urban interface at moderate or greater wildfire risk shall consider updating its procedures for providing the assistance to be consistent with sections 2(a) and 2(b) of this order, to ensure appropriate consideration of wildfire-resistant design and construction.

(g) To the extent permitted by law, the heads of all agencies may:

(i) require higher performance levels than exist in the codes described in section 2(a) of this order;

(ii) apply the requirements within section 2(a) of this order to new buildings less than 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk; and

(iii) apply the requirements within section 2(b) of this order to existing buildings less than 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk.

(h) When calculating whether a building is at moderate or greater wildfire risk, agencies should act in accordance with the methods described in

the 2015 edition of the IWUIC, or any subsequent version that is determined to be a nationally recognized code for the purposes of 40 U.S.C. 3312(b), or an equivalent code, or in accordance with an equivalent method.

(i) Each building constructed or altered in accordance with section 2(a) or (b) of this order shall comply with the IWUIC, or an equivalent code, only to the maximum extent feasible as determined by the head of an agency.

**Sec. 3. *Agency Responsibilities.*** (a) The heads of all agencies that own Federal buildings above 5,000 gross square feet on Federal land within the wildland-urban interface at moderate or greater wildfire risk shall determine the appropriate process within their respective agencies to ensure compliance with this order.

(b) The Mitigation Framework Leadership Group (MitFLG) shall:

(i) create implementing guidelines to advise and assist agency compliance with the code requirements within 240 days of the date of this order;

(ii) provide assistance to the agencies in interpreting the implementing guidelines.

(c) When determining whether buildings are located within the wildland-urban interface, agencies shall use the U.S. Department of Agriculture Forest Service's, "The 2010 Wildland-Urban Interface of the Conterminous United States," or an equivalent tool. The Secretary of Agriculture shall provide assistance to the agencies in determining whether buildings are located within the wildland-urban interface.

(d) The heads of agencies whose activities are covered by sections 2(a) and 2(b) of this order shall submit a report once every 2 years to the Chair of the MitFLG on their progress in implementing the order, commencing 2 years from the date of this order.

**Sec. 4. *Definition.*** As used in this order, "building" means a constructed asset that is enclosed with walls and a roof that provides space for agencies to perform activities or store materials as well as provides spaces for people to live or work.

**Sec. 5. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law, including the National Historic Preservation Act of 1966, and subject to the availability of appropriations.

(c) This order applies only to buildings within the United States and its territories and possessions.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party

against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
May 18, 2016.

**Executive Order 13729 of May 18, 2016**

**A Comprehensive Approach to Atrocity Prevention and Response**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** As articulated in Presidential Study Directive-10 (PSD-10), preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States. Noting that governmental engagement on mass atrocities and genocide too often arrives too late, when opportunities for prevention or low-cost, low-risk action have been missed, PSD-10 directed the establishment of an interagency Atrocities Prevention Board (Board), with the primary purpose of coordinating a whole-of-government approach to prevent mass atrocities and genocide. PSD-10 also directed an interagency study to develop and recommend the membership, mandate, structure, operational protocols, authorities, and support necessary for the Board to coordinate and develop atrocity prevention and response policy. This order continues in place the Board established in 2012 as I directed in PSD-10, sets out the support to be afforded by executive departments, agencies, and offices, and updates and memorializes the terms on which the Board will continue to operate in the service of its important mission.

**Sec. 2. Definition.** For purposes of this order, the term “mass atrocities” or “atrocities,” neither of which is defined under international law, refers to large scale and deliberate attacks on civilians, and includes acts falling within the definition “genocide” as defined in international law and under U.S. domestic statute.

**Sec. 3. Responsibilities.** The Board shall seek to ensure that mass atrocities and the risk thereof are effectively considered and appropriately addressed by the U.S. Government, and shall coordinate the development and execution of policies and tools to enhance our capacity to prevent and respond to mass atrocities.

(a) In order to ensure that emerging mass atrocity risks and mass atrocity situations are considered and addressed, the Board shall monitor developments around the world that heighten the risk of mass atrocities, and analyze and closely review specific mass atrocity threats or situations of heightened concern.

(b) The Board shall also identify any gaps related to the prevention of and response to mass atrocities in the current policies and ongoing interagency processes concerning particular regions or countries and shall make

recommendations to strengthen policies, programs, resources, and tools related to mass atrocity prevention and response to relevant executive departments and agencies (agencies), including through the Board's function as an interagency policy committee, as detailed in section 4 of this order. In these efforts, the Board shall focus in particular on ways for the U.S. Government to develop, strengthen, and enhance its capabilities to:

- (i) monitor, receive early warning of, and coordinate responses to potential mass atrocities;
- (ii) deter and isolate perpetrators of mass atrocities through all available and appropriate authorities;
- (iii) promote accountability of and deny impunity for perpetrators of mass atrocities, including by denying safe haven for perpetrators found in the United States;
- (iv) engage allies and partners, including the United Nations and other multilateral and regional institutions, to build capacity and mobilize action for preventing and responding to mass atrocities;
- (v) deploy civilian personnel with expertise in conflict prevention, civilian protection, mediation, and other relevant skills, including on a rapid response basis, to assist in mass atrocity prevention and response efforts;
- (vi) increase capacity for our diplomats, armed services, development professionals, and other actors to engage in mass atrocity prevention and response activities;
- (vii) develop and implement tailored foreign assistance programs as well as doctrine for our armed services to address and mitigate the risks of mass atrocities;
- (viii) ensure intelligence collection, analysis, and sharing of information, as appropriate, relating to mass atrocity threats and situations; and
- (ix) address any other issue regarding mass atrocity prevention and response that the Board determines is appropriate.

**Sec. 4. *Structure and Protocols of the Atrocities Prevention Board.*** The Board shall continue to operate and will have the following structure and protocols:

(a) The Board shall function as an interagency policy committee, or body of equivalent standing, chaired by a member of the National Security Council staff at the Senior Director level or higher who shall be designated by the President (Chair).

(b) The Chair shall convene the Board on a monthly basis to perform the responsibilities set forth in section 3 of this order. The Board shall also meet as needed on an ad hoc and time-sensitive basis to consider and address emerging mass atrocity threats or situations.

(c) The Deputies Committee of the National Security Council (Deputies) shall meet at least twice per year, and the Principals Committee of the National Security Council (Principals) shall meet at least once per year, to review and direct the work of the Board.

(d) The Board shall be composed of individuals at the Assistant Secretary-level or higher who shall be designated by the leadership of their respective departments or agencies. Within 60 days of a vacancy on the

Board, the relevant department or agency or office head shall designate a replacement representative and notify the National Security Advisor. In addition to the Chair, the Board shall consist of the designated representatives from the following:

- (i) the Office of the Vice President;
- (ii) the Department of State;
- (iii) the Department of the Treasury;
- (iv) the Department of Defense;
- (v) the Department of Justice;
- (vi) the Department of Homeland Security;
- (vii) the U.S. Mission to the United Nations;
- (viii) the Office of the Director of National Intelligence;
- (ix) the Central Intelligence Agency;
- (x) the U.S. Agency for International Development;
- (xi) the Joint Chiefs of Staff; and
- (xii) such other agencies or offices as may request to participate in coordination with the Chair.

(e) The Chair shall report, through the National Security Advisor, to the President by April 30 each year on the work of the U.S. Government in mass atrocity prevention and response, including the work of the Board.

(f) The Chair shall prepare written updates for the public, on an annual basis, on the work of the U.S. Government in mass atrocity prevention and response, including the work of the Board.

(g) Consistent with the objectives set out in this order and in accordance with applicable law, the Board shall conduct outreach, including regular consultations, with representatives of nongovernmental organizations with expertise in mass atrocity prevention and response and other appropriate parties. Such outreach shall be for the purpose of assisting the Board with its work on considering and addressing emerging mass atrocity threats or situations and on developing new or improved policies and tools, as well as for the purpose of providing transparency on the work of the Board.

(h) In order to conduct the work set forth in this order effectively, the Board may:

- (i) request information or analysis from the Intelligence Community (IC), Chiefs of Mission, agencies, and offices;
- (ii) develop policy recommendations and programmatic recommendations for agencies, offices, and existing interagency processes;
- (iii) in conjunction with existing interagency processes, formulate policy recommendations and programmatic recommendations;
- (iv) coordinate with the Office of Management and Budget (OMB) to develop guidance on mass atrocity prevention resource priorities for agencies and offices; and

(v) bring urgent or significant matters to the attention of the Deputies and, as appropriate, request that the Deputies convene to address a situation of concern, consistent with Presidential Policy Directive-1 or its successor.

**Sec. 5. *Enhancing Capabilities and Tools.*** Agencies shall take the following actions in support of the United States Government's policy of working to prevent and respond to mass atrocities:

(a) Agencies, in coordination with the Board, shall ensure that mass atrocity prevention and response staffing, training, funding, and activities are addressed in their strategic planning and budget processes, including Department Quadrennial Reviews, Mission Resource Requests, State Department Integrated Country Strategies, U.S. Agency for International Development (USAID) Joint Strategic Plans, State Department Bureau Strategic Resource Plans, and related strategic planning and budget processes and documents. The Chair shall make recommendations to the National Security Advisor on the inclusion of material in the President's National Security Strategy that addresses mass atrocity prevention and response.

(b) The Department of State and USAID shall work with OMB to support the maintenance of civilian assistance accounts and authorities that enable swift civilian responses to mass atrocity threats and situations.

(c) The Department of State and USAID shall offer mass atrocity prevention and response training courses to all officers deployed or planning deployment to countries deemed by the IC to be at high or substantial risk for mass atrocities.

(d) The Department of State and USAID shall continue to build and use civilian capacity (i.e., the ability to deploy personnel with expertise in conflict prevention, civilian protection, mediation, and other relevant skills) effectively for mass atrocity prevention and response, and shall develop mechanisms for enhanced partnerships with non-U.S. Government actors that could provide surge capacity, such as the United Nations and other multilateral and regional organizations, foreign governments, and non-governmental organizations.

(e) The IC shall continue to monitor developments worldwide and, as changing conditions warrant, prepare an IC-coordinated assessment updating IC judgments in its National Intelligence Estimate on the global risk of mass atrocities and genocide at regular intervals to inform the work of the Board.

(f) Recognizing mass atrocity prevention as a core national security interest of the United States, the IC shall allocate resources so as to permit a collection surge for countries where the Board determines, and the Deputies concur, that there are ongoing or acute risks of mass atrocities that merit increased attention, in accordance with the National Intelligence Priority Framework and available resources.

(g) The IC shall work with partner governments to encourage the collection and analysis of mass atrocity-related intelligence and the sharing of this intelligence with the U.S. Government and its partners in mass atrocity prevention and response.

(h) The Department of Homeland Security (DHS) and the Department of Justice, in coordination with the Department of State, shall continue to develop proposals for legislative, regulatory, or administrative amendments or

changes that would permit the more effective use and enforcement of immigration and other laws to deny impunity to perpetrators of mass atrocities and that would enhance our ability to prosecute such perpetrators subject to the jurisdiction of the United States and remove those who are not citizens.

(i) The Department of Defense (DOD) shall continue to develop joint doctrine and training that support mass atrocity prevention and response operations and shall address mass atrocity prevention and response as part of its general planning guidance to combatant commands and services.

(j) The Department of State, the Department of the Treasury, DHS, the U.S. Mission to the United Nations (USUN), and other agencies as appropriate, shall coordinate with bilateral and multilateral partners on the deployment of mass atrocity prevention and response tools, including isolating and deterring perpetrators of mass atrocities through all available authorities (including administrative actions, visa authorities, and capacity-building support), as appropriate.

(k) The Department of State, in coordination with USUN, DOD, and other agencies as appropriate, shall work bilaterally, multilaterally, and with regionally based organizations to enhance effectiveness in the fields of early warning, analysis, prevention, response, and accountability, and shall work with international partners to build or encourage building the capacity of our allies and partners to prevent and respond to mass atrocities.

**Sec. 6. General Provisions.** (a) Members of the Board shall serve without any additional compensation for their work on the Board.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
May 18, 2016.

#### Executive Order 13730 of May 20, 2016

### 2016 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United

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States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473 of April 13, 1984, as amended, it is hereby ordered as follows:

**Section 1.** Part II, Part III, and Part IV of the Manual for Courts-Martial, United States, are amended as described in the Annex attached and made a part of this order.

**Sec. 2.** These amendments shall take effect as of the date of this order, subject to the following:

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

BARACK OBAMA

The White House,  
*May 20, 2016.*

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**ANNEX**

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) The title of R.C.M. 104(b)(1) is amended to read as follows:

“(1) *Evaluation of member, defense counsel, or special victims’ counsel.*”

(b) R.C.M. 104(b)(1)(B) is amended to read as follows:

“(B) Give a less favorable rating or evaluation of any defense counsel or special victims’ counsel because of the zeal with which such counsel represented any client. As used in this rule, “special victims’ counsel” are judge advocates who, in accordance with 10 U.S.C. 1044e, are designated as Special Victims’ Counsel.”

(c) R.C.M. 305(h)(2)(B)(iii)(a) is amended to read as follows:

“(a) The prisoner will not appear at trial, pretrial hearing, preliminary hearing, or investigation, or”

(d) R.C.M. 305(i)(2)(A)(iv) is amended to read as follows::

“(iv) *Victim’s right to be reasonably heard.* A victim of an alleged offense committed by the prisoner has the right to reasonable, accurate, and timely notice of the 7-day review; the right to confer with the representative of the command and counsel for the government, if any; and the right to be reasonably heard during the review. However, the hearing may not be unduly delayed for this purpose. The right to be heard under this rule includes the right to be heard through counsel and the right to be reasonably protected from the prisoner during the 7-day review. The victim of an alleged offense shall be notified of these rights in accordance with regulations of the Secretary concerned.”

(e) A new R.C.M. 306(e) is inserted immediately after R.C.M. 306(d) and reads as follows:

“(e) *Sex-related offenses.*”

(1) For purposes of this subsection, a “sex-related offense” means any allegation of a violation of Article 120, 120a, 120b, 120c, or 125, or any attempt thereof under Article 80, UCMJ.

(2) Under such regulations as the Secretary concerned may prescribe, for alleged sex-related offenses committed in the United States, the victim of the sex-related offense shall be provided an opportunity to express views as to whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense. The commander, and if charges are preferred, the convening authority, shall consider such views as to the victim’s preference for jurisdiction, if available, prior to making an initial disposition decision. For purposes of this rule, “victim” is defined as an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an alleged sex-related offense as defined in subparagraph (1) of this rule.

(3) Under such regulations as the Secretary concerned may prescribe, if the victim of an alleged sex-related offense expresses a preference for prosecution of the offense in a civilian court, the commander, and if charges are preferred, the convening authority, shall ensure that the civilian authority with jurisdiction over the offense is notified of the victim’s preference for civilian prosecution. If the commander, and if charges are preferred, the convening authority learns of any decision by the civilian authority to prosecute or not prosecute the offense in civilian court, the convening authority shall ensure the victim is notified.”

(f) R.C.M. 403(b)(5) is amended to read as follows:

“(5) Unless otherwise prescribed by the Secretary concerned, direct a preliminary hearing under R.C.M. 405, and, if appropriate, forward the report of preliminary hearing with the charges to a superior commander for disposition.”

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(g) R.C.M. 405(i)(2)(A) is amended to read as follows:

“(2) *Notice to and presence of the victim(s).*

(A) The victim(s) of an offense under the UCMJ has the right to reasonable, accurate, and timely notice of a preliminary hearing relating to the alleged offense, the right to be reasonably protected from the accused, and the reasonable right to confer with counsel for the government during the preliminary hearing. For the purposes of this rule, a “victim” is a person who is alleged to have suffered a direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification under consideration and is named in one of the specifications under consideration.”

(h) R.C.M. 407(a)(5) is amended to read as follows:

“(5) Unless otherwise prescribed by the Secretary concerned, direct a preliminary hearing under R.C.M. 405, after which additional action under this rule may be taken;”

(i) R.C.M. 502(d)(4)(B) is amended to read as follows:

“(B) An investigating or preliminary hearing officer;”

(j) RCM 502(e)(2)(C) is amended to read as follows:

“(C) An investigating or preliminary hearing officer;”

(k) R.C.M. 506(b)(2) is amended by replacing “investigation” with “preliminary hearing.”

(l) R.C.M 601(d)(2)(A) is amended to read as follows:

“(A) There has been substantial compliance with the preliminary hearing requirements of R.C.M. 405; and”

(m) R.C.M. 705(c)(2)(A) is amended to read as follows:

“(A) A promise to enter into a stipulation of fact concerning offenses to which a plea of guilty or a confessional stipulation will be entered;”

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(n) R.C.M. 705(d)(3) is amended to read as follows:

“(3) *Acceptance.*

(A) *In general.* The convening authority may either accept or reject an offer of the accused to enter into a pretrial agreement or may propose by counteroffer any terms or conditions not prohibited by law or public policy. The decision whether to accept or reject an offer is within the sole discretion of the convening authority. When the convening authority has accepted a pretrial agreement, the agreement shall be signed by the convening authority or by a person, such as the staff judge advocate or trial counsel, who has been authorized by the convening authority to sign.

(B) *Victim consultation.* Whenever practicable, prior to the convening authority accepting a pretrial agreement the victim shall be provided an opportunity to express views concerning the pretrial agreement terms and conditions in accordance with regulations prescribed by the Secretary concerned. The convening authority shall consider any such views provided prior to accepting a pretrial agreement. For purposes of this rule, a “victim” is an individual who is alleged to have suffered direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification under consideration and is named in one of the specifications under consideration.”

(o) R.C.M. 806(b)(2) is renumbered as R.C.M. 806(b)(3).

(p) A new R.C.M. 806(b)(2) is inserted immediately after R.C.M. 806(b)(1) and reads as follows:

“(2) *Right of victim to notice.* A victim of an alleged offense committed by the accused has the right to reasonable, accurate, and timely notice of court-martial proceedings relating to the offense.”

(q) R.C.M. 806(b)(3) is renumbered as R.C.M. 806(b)(4).

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(r) R.C.M. 806(b)(4) is renumbered as R.C.M. 806(b)(5).

(s) A new R.C.M. 806(b)(6) is inserted immediately after R.C.M. 806(b)(5) and reads as follows:

“(6) *Right of victim to be reasonably protected from the accused.* A victim of an alleged offense committed by the accused has the right to be reasonably protected from the accused.”

(t) R.C.M. 902(b)(2) is amended to read as follows:

“(2) Where the military judge has acted as counsel, preliminary hearing officer, investigating officer, legal officer, staff judge advocate, or convening authority as to any offense charged or in the same case generally.”

(u) R.C.M. 905(b)(1) is amended to read as follows:

“(1) Defenses or objections based on defects (other than jurisdictional defects) in the preferral, forwarding, or referral of charges, or in the preliminary hearing;”

(v) R.C.M. 907(b)(1) is amended to read as follows:

“(1) *Nonwaivable grounds.* A charge or specification shall be dismissed at any stage of the proceedings if the court-martial lacks jurisdiction to try the accused for the offense.”

(w) R.C.M. 907(b)(1)(A)-(B) is deleted.

(x) A new R.C.M. 907(b)(2)(E) is inserted immediately after R.C.M. 907(b)(2)(D)(iv) and reads as follows:

“(E) The specification fails to state an offense.”

(y) R.C.M. 912(a)(1)(K) is amended to read as follows:

“(K) Whether the member has acted as accuser, counsel, preliminary hearing officer, investigating officer, convening authority, or legal officer or staff judge advocate for the convening authority in the case, or has forwarded the charges with a recommendation as to disposition.”

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(z) R.C.M. 912(f)(1)(F) is amended to read as follows:

“(F) Has been an investigating or preliminary hearing officer as to any offense charged;”

(aa) R.C.M. 1002 is amended to read as follows:

“(a) *Generally*. Subject to limitations in this Manual, the sentence to be adjudged is a matter within the discretion of the court-martial; except when a mandatory minimum sentence is prescribed by the code, a court-martial may adjudge any punishment authorized in this Manual, including the maximum punishment or any lesser punishment, or may adjudge a sentence of no punishment.

(b) *Unitary Sentencing*. Sentencing by a court-martial is unitary. The court-martial will adjudge a single sentence for all the offenses of which the accused was found guilty. A court-martial may not impose separate sentences for each finding of guilty, but may impose only a single, unitary sentence covering all of the guilty findings in their entirety.”

(bb) R.C.M. 1103(b)(2)(B)(i) is amended to read as follows:

“(i) The sentence adjudged includes confinement for twelve months or more or any punishment that may not be adjudged by a special court-martial; or”

(cc) The Note currently located immediately following the title of R.C.M. 1107 and prior to R.C.M. 1107(a) is amended to read as follows:

“[Note: Subsections (b)-(f) of R.C.M. 1107 apply to offenses committed on or after 24 June 2014; however, if at least one offense resulting in a finding of guilty in a case occurred prior to 24 June 2014, or includes a date range where the earliest date in the range for that offense is before 24 June 2014, then the prior version of R.C.M. 1107 applies to all offenses in the case, except that mandatory minimum sentences under Article 56(b) and applicable rules under R.C.M. 1107(d)(1)(D)–(E) still apply.]”

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(dd) R.C.M. 1107(b)(5) is amended to delete the sentence, "Nothing in this subsection shall prohibit the convening authority from disapproving the findings of guilty and sentence."

(ee) R.C.M. 1107(c) is amended to read as follows:

"(c) *Action on findings.* Action on the findings is not required. However, the convening authority may take action subject to the following limitations:

(1) Where a court-martial includes a finding of guilty for an offense listed in subparagraph (c)(1)(A) of this rule, the convening authority may not take the actions listed in subparagraph (c)(1)(B) of this rule:

(A) *Offenses*

- (i) Article 120(a) or (b), Article 120b, or Article 125;
- (ii) Offenses for which the maximum sentence of confinement that may be adjudged exceeds two years without regard to the jurisdictional limits of the court; or
- (iii) Offenses where the adjudged sentence for the case includes dismissal, dishonorable discharge, bad-conduct discharge, or confinement for more than six months.

(B) *Prohibited actions*

- (i) Dismiss a charge or specification by setting aside a finding of guilty thereto; or
- (ii) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(2) The convening authority may direct a rehearing in accordance with subsection (e) of this rule.

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(3) For offenses other than those listed in subparagraph (c)(1)(A) of this rule:

(A) The convening authority may change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification; or

(B) Set aside any finding of guilty and:

(i) Dismiss the specification and, if appropriate, the charge; or

(ii) Direct a rehearing in accordance with subsection (e) of this rule.

(4) If the convening authority acts to dismiss or change any charge or specification for an offense, the convening authority shall provide, at the same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of trial and action thereon.”

(ff) R.C.M. 1107(d) is amended to read as follows:

“(d) *Action on the sentence.*

(1) The convening authority shall take action on the sentence subject to the following:

(A) The convening authority may disapprove, commute, or suspend, in whole or in part, any portion of an adjudged sentence not explicitly prohibited by this rule, to include reduction in pay grade, forfeitures of pay and allowances, fines, reprimands, restrictions, and hard labor without confinement.

(B) Except as provided in subparagraph (d)(1)(C) of this rule, the convening authority may not disapprove, commute, or suspend, in whole or in part, that portion of an adjudged sentence that includes:

(i) confinement for more than six months; or

(ii) dismissal, dishonorable discharge, or bad-conduct discharge.

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(C) *Exceptions.*

(i) *Trial counsel recommendation.* Upon the recommendation of the trial counsel, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this rule shall have the authority to disapprove, commute, or suspend the adjudged sentence, in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

(ii) *Pretrial agreement.* If a pretrial agreement has been entered into by the convening authority and the accused, as authorized by R.C.M. 705, the convening authority or another person authorized to act under this rule shall have the authority to approve, disapprove, commute, or suspend a sentence, in whole or in part, pursuant to the terms of the pretrial agreement. However, if a mandatory minimum sentence of a dishonorable discharge applies to an offense for which an accused has been convicted, the convening authority or another person authorized to act under this rule may commute the dishonorable discharge to a bad-conduct discharge pursuant to the terms of the pretrial agreement.

(D) If the convening authority acts to disapprove, commute, or suspend, in whole or in part, the sentence of the court-martial for an offense listed in subparagraph (c)(1)(A) of this rule, the convening authority shall provide, at the same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of trial and action thereon.”

(gg) R.C.M. 1107(e) is amended to read as follows:

“(e) *Ordering rehearing or other trial.*

(1) *Rehearings not permitted.* A rehearing may not be ordered by the convening authority where the adjudged sentence for the case includes a sentence of dismissal, dishonorable discharge, or bad-conduct discharge or confinement for more than six months.

(2) *Rehearings permitted.*

(A) *In general.* Subject to paragraph (e)(1) and subparagraphs (e)(2)(B) through (e)(2)(E) of this rule, the convening authority may in the convening authority's discretion order a rehearing. A rehearing may be ordered as to some or all offenses of which findings of guilty were entered and the sentence, or as to the sentence only.

(B) *When the convening authority may order a rehearing.* The convening authority may order a rehearing:

(i) *When taking action on the court-martial under this rule.* Prior to ordering a rehearing on a finding, the convening authority must disapprove the applicable finding and the sentence and state the reasons for disapproval of said finding. Prior to ordering a rehearing on the sentence, the convening authority must disapprove the sentence.

(ii) *When authorized to do so by superior competent authority.* If the convening authority finds a rehearing as to any offenses impracticable, the convening authority may dismiss those specifications and, when appropriate, charges.

(iii) *Sentence reassessment.* If a superior competent authority has approved some of the findings of guilty and has authorized a rehearing as to other offenses and the sentence, the convening authority may, unless otherwise directed, reassess the sentence based on the approved findings of guilty and dismiss the remaining charges. Reassessment is appropriate only where the convening authority determines that the accused's sentence would

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have been at least of a certain magnitude had the prejudicial error not been committed and the reassessed sentence is appropriate in relation to the affirmed findings of guilty.”

(C) *Limitations.*

(i) *Sentence approved.* A rehearing shall not be ordered if, in the same action, a sentence is approved.

(ii) *Lack of sufficient evidence.* A rehearing may not be ordered as to findings of guilty when there is a lack of sufficient evidence in the record to support the findings of guilty of the offense charged or of any lesser included offense. A rehearing may be ordered, however, if the proof of guilt consisted of inadmissible evidence for which there is available an admissible substitute. A rehearing may be ordered as to any lesser offense included in an offense of which the accused was found guilty, provided there is sufficient evidence in the record to support the lesser included offense.

(iii) *Rehearing on sentence only.* A rehearing on sentence only shall not be referred to a different kind of court-martial from that which made the original findings. If the convening authority determines a rehearing on sentence is impracticable, the convening authority may approve a sentence of no punishment without conducting a rehearing.

(D) *Additional charges.* Additional charges may be referred for trial together with charges as to which a rehearing has been directed.

(E) *Lesser included offenses.* If at a previous trial the accused was convicted of a lesser included offense, a rehearing may be ordered only as to that included offense or as to a lesser included offense of the included offense that resulted in a finding of guilty at the previous trial. If, however, a rehearing is ordered improperly on the original offense charged and the

accused is convicted of that offense at the rehearing, the finding as to the lesser included offense of which the accused was convicted at the original trial may nevertheless be approved.

(3) *“Other” trial.* The convening or higher authority may order an “other” trial if the original proceedings were invalid because of lack of jurisdiction or failure of a specification to state an offense. The authority ordering an “other” trial shall state in the action the basis for declaring the proceedings invalid.”

(hh) The Note currently located immediately following the title of R.C.M. 1108(b) and prior to the first line, “The convening authority may...”, is amended to read as follows:

“[Note: R.C.M. 1108(b) applies to offenses committed on or after 24 June 2014; however, if at least one offense in a case occurred prior to 24 June 2014, then the prior version of R.C.M. 1108(b) applies to all offenses in the case.]”

(ii) R.C.M. 1109(a) is amended to read as follows:

“(a) *In general.* Suspension of execution of the sentence of a court-martial may be vacated for violation of any condition of the suspension as provided in this rule.”

(jj) R.C.M. 1109(c)(4)(A) is amended to read as follows:

“(A) *Rights of probationer.* Before the preliminary hearing, the probationer shall be notified in writing of:”

(kk) R.C.M. 1109(c)(4)(C) is amended to read as follows:

“(C) *Decision.* The hearing officer shall determine whether there is probable cause to believe that the probationer violated the conditions of the probationer’s suspension. If the hearing officer determines that probable cause is lacking, the hearing officer shall issue a written order directing that the probationer be released from confinement. If the hearing officer determines that there is probable cause to believe that the probationer violated a condition of suspension, the

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hearing officer shall set forth this determination in a written memorandum that details therein the evidence relied upon and reasons for making the decision. The hearing officer shall forward the original memorandum or release order to the probationer's commander and forward a copy to the probationer and the officer in charge of the confinement facility."

(ll) A new sentence is added to the end of R.C.M. 1109(d)(1)(A) and reads as follows:

"The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension."

(mm) R.C.M. 1109(d)(1)(C) is amended to read as follows:

"(C) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule."

(nn) A new sentence is added to the end of R.C.M. 1109(d)(1)(D) and reads as follows:

"This record shall include the recommendation, the evidence relied upon, and reasons for making the decision."

(oo) R.C.M. 1109(d)(2)(A) is amended to read as follows:

"(A) *In general*. The officer exercising general court-martial jurisdiction over the probationer shall review the record produced by and the recommendation of the officer exercising special court-martial jurisdiction over the probationer, decide whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising general court-martial jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence."

(pp) A new sentence is added to the end of R.C.M. 1109(e)(1) and reads as follows:

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“The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated the conditions of the probationer’s suspension.”

(qq) R.C.M. 1109(e)(3) is amended to read as follows:

“(3) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule.”

(rr) A new sentence is added to the end of R.C.M. 1109(e)(5) and reads as follows:

“This record shall include the recommendation, the evidence relied upon, and reasons for making the decision.”

(ss) R.C.M. 1109(e)(6) is amended to read as follows:

“(6) *Decision*. The special court-martial convening authority shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether there is probable cause to believe that the probationer violated a condition of the probationer’s suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence.”

(tt) A new sentence is added to the end of R.C.M. 1109(g)(1) and reads as follows:

“The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated the conditions of the probationer’s suspension.”

(uu) R.C.M. 1109(g)(3) is amended to read as follows:

“(3) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule.”

(vv) A new sentence is added to the end of R.C.M. 1109(g)(5) and reads as follows:

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“This record shall include the recommendation, the evidence relied upon, and reasons for making the decision.”

(ww) R.C.M. 1109(g)(6) is amended to read as follows:

“(6) *Decision.* A commander with authority to vacate the suspension shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether there is probable cause to believe that the probationer violated a condition of the probationer’s suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence.”

(xx) A new R.C.M. 1109(h) is inserted immediately after R.C.M. 1109(g)(7) and reads as follows:

“(h) *Hearing procedure.*

(1) *Generally.* The hearing shall begin with the hearing officer informing the probationer of the probationer’s rights. The government will then present evidence. Upon the conclusion of the government’s presentation of evidence, the probationer may present evidence. The probationer shall have full opportunity to present any matters in defense, extenuation, or mitigation. Both the government and probationer shall be afforded an opportunity to cross-examine adverse witnesses. The hearing officer may also question witnesses called by the parties.

(2) *Rules of evidence.* The Military Rules of Evidence—other than Mil. R. Evid. 301, 302, 303, 305, 412, and Section V—shall not apply. Nor shall Mil. R. Evid. 412(b)(1)(C) apply. In applying these rules to a vacation hearing, the term “military judge,” as used in these rules,

shall mean the hearing officer, who shall assume the military judge's authority to exclude evidence from the hearing, and who shall, in discharging this duty, follow the procedures set forth in these rules. However, the hearing officer is not authorized to order production of communications covered by Mil. R. Evid. 513 or 514.

(3) *Production of witnesses and other evidence.* The procedure for the production of witnesses and other evidence shall follow that prescribed in R.C.M. 405(g), except that R.C.M. 405(g)(3)(B) shall not apply. The hearing officer shall only consider testimony and other evidence that is relevant to the limited purpose of the hearing.

(4) *Presentation of testimony.* Witness testimony may be provided in person, by video teleconference, by telephone, or by similar means of remote testimony. All testimony shall be taken under oath, except that the probationer may make an unsworn statement.

(5) *Other evidence.* If relevant to the limited purpose of the hearing, and not cumulative, a hearing officer may consider other evidence, in addition to or in lieu of witness testimony, including statements, tangible evidence, or reproductions thereof, offered by either side, that the hearing officer determines is reliable. This other evidence need not be sworn.

(6) *Presence of probationer.* The taking of evidence shall not be prevented and the probationer shall be considered to have waived the right to be present whenever the probationer:

(A) After being notified of the time and place of the proceeding is voluntarily absent; or

(B) After being warned by the hearing officer that disruptive conduct will cause removal from the proceeding, persists in conduct that is such as to justify exclusion from the proceeding.

(7) *Objections.* Any objection alleging failure to comply with these rules shall be made to the convening authority via the hearing officer. The hearing officer shall include a record of all objections in the written recommendations to the convening authority.

(8) *Access by spectators.* Vacation hearings are public proceedings and should remain open to the public whenever possible. The convening authority who directed the hearing or the hearing officer may restrict or foreclose access by spectators to all or part of the proceedings if an overriding interest exists that outweighs the value of an open hearing. Examples of overriding interests may include: preventing psychological harm or trauma to a child witness or an alleged victim of a sexual crime, protecting the safety or privacy of a witness or alleged victim, protecting classified material, and receiving evidence where a witness is incapable of testifying in an open setting. Any closure must be narrowly tailored to achieve the overriding interest that justified the closure. Convening authorities or hearing officers must conclude that no lesser methods short of closing the hearing can be used to protect the overriding interest in the case. Convening authorities or hearing officers must conduct a case-by-case, witness-by-witness, circumstance-by-circumstance analysis of whether closure is necessary. If a convening authority or hearing officer believes closing the hearing is necessary, the convening authority or hearing officer must make specific findings of fact in writing that support the closure. The written findings of fact must be included in the record.

(9) *Victim's rights.* Any victim of the underlying offense for which the probationer received the suspended sentence, or any victim of the alleged offense that is the subject of the vacation hearing, has the right to reasonable, accurate, and timely notice of the vacation hearing. For purposes of this rule, the term "victim" is defined as an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense."

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(yy) A new R.C.M. 1203(g) is inserted immediately after R.C.M. 1203(f) and reads as follows:

“(g) *Article 6b(e) petition for writ of mandamus.* The Judge Advocates General shall establish the means by which the petitions for writs of mandamus described in Article 6b(e) are forwarded to the Courts of Criminal Appeals in accordance with their rule-making functions of Article 66(f).”

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Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) Mil. R. Evid. 304(c) is amended to read as follows:

“(c) *Corroboration of a Confession or Admission.*

(1) An admission or a confession of the accused may be considered as evidence against the accused on the question of guilt or innocence only if independent evidence, either direct or circumstantial, has been admitted into evidence that would tend to establish the trustworthiness of the admission or confession.

(2) Other uncorroborated confessions or admissions of the accused that would themselves require corroboration may not be used to supply this independent evidence. If the independent evidence raises an inference of the truth of the admission or confession, then it may be considered as evidence against the accused. Not every element or fact contained in the confession or admission must be independently proven for the confession or admission to be admitted into evidence in its entirety.

(3) Corroboration is not required for a statement made by the accused before the court by which the accused is being tried, for statements made prior to or contemporaneously with the act, or for statements offered under a rule of evidence other than that pertaining to the admissibility of admissions or confessions.

(4) *Quantum of Evidence Needed.* The independent evidence necessary to establish corroboration need not be sufficient of itself to establish beyond a reasonable doubt the truth of facts stated in the admission or confession. The independent evidence need raise only an inference of the truth of the admission or confession. The amount and type of evidence introduced as corroboration is a factor to be considered by the trier of fact in determining the weight, if any, to be given to the admission or confession.

(5) *Procedure.* The military judge alone is to determine when adequate evidence of corroboration has been received. Corroborating evidence must be introduced before the admission or confession is introduced unless the military judge allows submission of such evidence subject to later corroboration.”

(b) Mil. R. Evid. 311(a) is amended to read as follows:

“(a) *General rule.* Evidence obtained as a result of an unlawful search or seizure made by a person acting in a governmental capacity is inadmissible against the accused if:

(1) the accused makes a timely motion to suppress or an objection to the evidence under this rule;

(2) the accused had a reasonable expectation of privacy in the person, place, or property searched; the accused had a legitimate interest in the property or evidence seized when challenging a seizure; or the accused would otherwise have grounds to object to the search or seizure under the Constitution of the United States as applied to members of the Armed Forces; and

(3) exclusion of the evidence results in appreciable deterrence of future unlawful searches or seizures and the benefits of such deterrence outweigh the costs to the justice system.”

(c) A new Mil. R. Evid. 311(c)(4) is inserted immediately after Mil. R. Evid. 311(c)(3)(C) and reads as follows:

“(4) *Reliance on Statute.* Evidence that was obtained as a result of an unlawful search or seizure may be used when the official seeking the evidence acts in objectively reasonable reliance on a statute later held violative of the Fourth Amendment.”

(d) Mil. R. Evid. 311(d)(5)(A) is amended to read as follows:

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“(A) *In general.* When the defense makes an appropriate motion or objection under subdivision (d), the prosecution has the burden of proving by a preponderance of the evidence that the evidence was not obtained as a result of an unlawful search or seizure, that the evidence would have been obtained even if the unlawful search or seizure had not been made, that the evidence was obtained by officials who reasonably and with good faith relied on the issuance of an authorization to search, seize, or apprehend or a search warrant or an arrest warrant; that the evidence was obtained by officials in objectively reasonable reliance on a statute later held violative of the Fourth Amendment; or that the deterrence of future unlawful searches or seizures is not appreciable or such deterrence does not outweigh the costs to the justice system of excluding the evidence.”

(e) Mil. R. Evid. 414(d)(2)(A) is amended to read as follows:

“(A) any conduct prohibited by Article 120 and committed with a child, or prohibited by Article 120b.”

(f) Mil. R. Evid. 504 is amended to read as follows:

**“Rule 504. Marital privilege**

(a) *Spousal Incapacity.* A person has a privilege to refuse to testify against his or her spouse. There is no privilege under subdivision (a) when, at the time of the testimony, the parties are divorced, or the marriage has been annulled.

(b) *Confidential Communication Made During the Marriage.*

(1) *General Rule.* A person has a privilege during and after the marital relationship to refuse to disclose, and to prevent another from disclosing, any confidential communication made to the spouse of the person while they were married and not separated as provided by law.

(2) *Who May Claim the Privilege.* The privilege may be claimed by the spouse who made the communication or by the other spouse on his or her behalf. The authority of the latter spouse to do so is presumed in the absence of evidence of a waiver. The privilege will not prevent disclosure of the communication at the request of the spouse to whom the communication was made if that spouse is an accused regardless of whether the spouse who made the communication objects to its disclosure.

(c) *Exceptions.*

(1) *To Confidential Communications Only.* Where both parties have been substantial participants in illegal activity, those communications between the spouses during the marriage regarding the illegal activity in which they have jointly participated are not marital communications for purposes of the privilege in subdivision (b) and are not entitled to protection under the privilege in subdivision (b).

(2) *To Spousal Incapacity and Confidential Communications.* There is no privilege under subdivisions (a) or (b):

(A) In proceedings in which one spouse is charged with a crime against the person or property of the other spouse or a child of either, or with a crime against the person or property of a third person committed in the course of committing a crime against the other spouse;

(B) When the marital relationship was entered into with no intention of the parties to live together as spouses, but only for the purpose of using the purported marital relationship as a sham, and with respect to the privilege in subdivision (a), the relationship remains a sham at the time the testimony or statement of one of the parties is to be introduced

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against the other; or with respect to the privilege in subdivision (b), the relationship was a sham at the time of the communication; or

(C) In proceedings in which a spouse is charged, in accordance with Article 133 or 134, with importing the other spouse as an alien for prostitution or other immoral purpose in violation of 8 U.S.C. § 1328; with transporting the other spouse in interstate commerce for prostitution, immoral purposes, or another offense in violation of 18 U.S.C. §§ 2421-2424; or with violation of such other similar statutes under which such privilege may not be claimed in the trial of criminal cases in the United States district courts.

(d) *Definitions.* As used in this rule:

(1) "A child of either" means a biological child, adopted child, or ward of one of the spouses and includes a child who is under the permanent or temporary physical custody of one of the spouses, regardless of the existence of a legal parent-child relationship. For purposes of this rule only, a child is:

(A) an individual under the age of 18; or

(B) an individual with a mental handicap who functions under the age of 18.

(2) "Temporary physical custody" means a parent has entrusted his or her child with another. There is no minimum amount of time necessary to establish temporary physical custody, nor is a written agreement required. Rather, the focus is on the parent's agreement with another for assuming parental responsibility for the child. For example, temporary physical custody may include instances where a parent entrusts another with the care of his or her child for recurring care or during absences due to temporary duty or deployments.

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(3) As used in this rule, a communication is “confidential” if made privately by any person to the spouse of the person and is not intended to be disclosed to third persons other than those reasonably necessary for transmission of the communication.”

(g) Mil. R. Evid. 505(e)(2) is amended by replacing “investigating officer” with “preliminary hearing officer.”

(h) Mil. R. Evid. 801(d)(1)(B) is amended to read as follows:

“(B) is consistent with the declarant’s testimony and is offered:

(i) to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(ii) to rehabilitate the declarant’s credibility as a witness when attacked on another ground; or”

(i) The first sentence of Mil. R. Evid. 803(6)(E) is amended to read as follows:

“(E) the opponent does not show that the source of information or the method or circumstance of preparation indicate a lack of trustworthiness.”

(j) Mil. R. Evid. 803(7)(C) is amended to read as follows

“(C) the opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness.”

(k) The first sentence of Mil. R. Evid. 803(8)(B) is amended to read as follows:

“(B) the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.”

(l) Mil. R. Evid. 803(10)(B) is amended to read as follows:

“(B) a counsel for the government who intends to offer a certification provides written notice of that intent at least 14 days before trial, and the accused does not object in writing within 7

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days of receiving the notice — unless the military judge sets a different time for the notice or the objection.”

(m) Mil. R. Evid. 804(b)(1)(B) is amended by replacing “pretrial investigation” with “preliminary hearing.”

(n) Mil. R. Evid. 1101(d)(2) is amended by replacing “pretrial investigations” with “preliminary hearings.”

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 4, Article 80 – Attempts, subparagraph e. is amended to read as follows:

“e. *Maximum punishment.* Any person subject to the code who is found guilty of an attempt under Article 80 to commit any offense punishable by the code shall be subject to the same maximum punishment authorized for the commission of the offense attempted, except that in no case shall the death penalty be adjudged, and in no case, other than attempted murder, shall confinement exceeding 20 years be adjudged. Except in the cases of attempts of Article 120(a) or (b), rape or sexual assault of a child under Article 120b(a) or (b), and forcible sodomy under Article 125, mandatory minimum punishment provisions shall not apply.”

(b) Paragraph 57, Article 131 – Perjury, subparagraph c.(1) is amended by replacing “an investigation” with “a preliminary hearing.”

(c) Paragraph 57, Article 131 – Perjury, subparagraph c.(3) is amended by replacing “investigation” with “preliminary hearing.”

(d) Paragraph 96, Article 134 – Obstructing justice, subparagraph f is amended to read as follows:

“f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_\_ 20\_\_\_\_, wrongfully (endeavor to) (impede (a trial by court-martial) (an investigation) (a preliminary hearing) (\_\_\_\_)) [(influence the actions of \_\_\_\_\_, (a trial counsel of the court-martial) (a defense counsel of the court-martial) (an officer responsible for making a recommendation concerning disposition of charges) (\_\_\_\_)] [(influence) (alter) the testimony of \_\_\_\_\_ as a witness before a (court-martial) (an investigating officer) (a preliminary hearing) (\_\_\_\_)] in the case of by [(promising) (offering) (giving) to the

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said \_\_\_\_\_, (the sum of \$ \_\_\_\_\_) (\_\_\_\_\_, of a value of about \$ \_\_\_\_\_) [communicating to the said \_\_\_\_\_ a threat to \_\_\_\_\_] [\_\_\_\_\_], (if (unless) he/she, the said \_\_\_\_\_, would [recommend dismissal of the charges against said \_\_\_\_\_] [(wrongfully refuse to testify) (testify falsely concerning \_\_\_\_\_) (\_\_\_\_\_) ] [(at such trial) (before such investigating officer) (before such preliminary hearing officer)] [\_\_\_\_\_].”

(e) Paragraph 108, Testify: wrongful refusal, subparagraph f is amended by replacing “officer conducting an investigation under Article 32, Uniform Code of Military Justice” with “officer conducting a preliminary hearing under Article 32, Uniform Code of Military Justice.”

(f) Paragraph 110, Article 134 – Threat, communicating, subparagraph c is amended to read as follows:

“c. *Explanation.* For purposes of this paragraph, to establish that the communication was wrongful it is necessary that the accused transmitted the communication for the purpose of issuing a threat, with the knowledge that the communication would be viewed as a threat, or acted recklessly with regard to whether the communication would be viewed as a threat. However, it is not necessary to establish that the accused actually intended to do the injury threatened. Nor is the offense committed by the mere statement of intent to commit an unlawful act not involving injury to another. *See also* paragraph 109, Threat or hoax designed or intended to cause panic or public fear.”

## Executive Order 13731 of June 24, 2016

**Global Entrepreneurship**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. *Policy.*** The American spirit of entrepreneurship is one of our most admired values around the world, and the United States has produced many of the world's most respected businesses and inspiring business creators. At a time when many societies confront extremism, unemployment, and slow economic growth, entrepreneurship holds out the promise of opportunity, prosperity, and security.

It is in the national interest for the Federal Government to support innovation, global entrepreneurship, and the American private sector. Linking entrepreneurs with capital, new networks, and markets and providing skills and training will allow them to grow their businesses and positively impact their communities. It is also necessary that we help enable our global partners to invest in the tools and infrastructure that make this possible, including high-speed broadband; business incubators and accelerators; regional economic development programs and extension services; international people-to-people exchange programs; and the technical, export, and business assistance and mentoring that entrepreneurs need worldwide in order to drive economic growth and job creation.

This order sets forth the administration and goals of several programs designed to connect American and foreign entrepreneurs with the Federal Government and promote entrepreneurship across the United States and around the world by sharing the knowledge, experience, and connectivity necessary to help develop the next generation of entrepreneurs.

**Sec. 2. *Administration of the Presidential Ambassadors for Global Entrepreneurship Program.*** (a) The Secretary of Commerce (Secretary) shall administer the Presidential Ambassadors for Global Entrepreneurship Program (PAGE Program) to enable individuals who exemplify the spirit of American entrepreneurship and who have proven track records to use their networks, platforms, and voices to support aspiring entrepreneurs and advance public policies that encourage entrepreneurship in the United States and around the globe. Individuals selected for participation in the PAGE Program shall be known as PAGE Members.

(b) The PAGE Program shall be administered by a Director, appointed by the Secretary under authorities of the Department of Commerce (Commerce). Commerce shall provide necessary staff, resources, and administrative support for the PAGE Program to the extent permitted by law and within existing appropriations.

**Sec. 3. *PAGE Advisory Board.*** (a) The Secretary shall establish an Advisory Board to advise the Secretary by recommending such priorities, standards, and partnerships as may be beneficial to fulfill the goals of the PAGE Program and to identify potential opportunities for PAGE Members to support the PAGE Program.

(b) The Secretary shall serve as Chair of the Advisory Board. In addition to the Chair, the membership of the Advisory Board shall include the Secretary of State, the Administrator of the United States Agency for International Development (USAID), the Administrator of the Small Business Administration (SBA), and the Administrator of the National Aeronautics and Space Administration (NASA), or their designees, and such other representatives of executive departments and agencies (agencies) as may be designated by the Secretary. Consistent with law, the Advisory Board may consult with industry, academia, and other non-federal entities to ensure that the PAGE Program is continually identifying opportunities to apply innovative practices in effective ways to promote entrepreneurship.

**Sec. 4. *Selection of PAGE Members.*** (a) The Secretary, in accordance with applicable law, shall prescribe appropriate procedures for the selection of PAGE Members. PAGE Members will total no more than 25 at any given time.

(b) PAGE Members may participate in the PAGE Program for periods of 2 years, and may be selected to participate for additional periods at the discretion of the Secretary.

**Sec. 5. *Responsibilities of Agencies.*** The Department of State (State), USAID, and SBA are encouraged to work with the Secretary and the Advisory Board to maximize the PAGE Program's benefits to innovation, global entrepreneurship, and the American private sector through the identification of opportunities for entrepreneurs to access capital, education, mentorships, and other services that will help to grow their businesses.

**Sec. 6. *Global Entrepreneurship Summit.*** (a) The Secretary of State shall coordinate the Federal Government's participation in the Global Entrepreneurship Summit (GES), which will focus on connecting entrepreneurs around the world and empowering them to expand their enterprises and build lasting relationships with the United States; increasing global economic prosperity; building secure communities; promoting responsible business conduct, including business practices to encourage greater representation of all people, including women, youth, and minorities; and using innovation to solve pressing global challenges.

(b) State shall coordinate with Commerce, USAID, and SBA to identify and carry out programs and activities that will further the goals of the GES to the extent permitted by law and within existing appropriations.

**Sec. 7. *Accelerating Entrepreneurship and Economic Opportunity by Expanding Internet Access Globally.*** State, in coordination with other agencies, multilateral institutions, foreign countries, and stakeholders, shall work to actively promote global Internet connectivity. Specifically, the Global Connect Initiative shall focus on encouraging foreign countries to prioritize Internet connectivity in development plans, promoting the formation of region-specific multi-sector working groups to ensure technical and regulatory best practices, and encouraging the development of digital literacy programs in developing nations.

**Sec. 8. *Global Connect International Connectivity Steering Group.*** (a) In order to ensure a coordinated and consistent approach in agency implementation of the goals set forth in section 7 of this order, there is hereby established a Global Connect International Connectivity Steering Group (Steering Group), chaired by State.

(b) The Steering Group shall be composed of a representative from each of the following agencies:

- (i) the Department of State;
- (ii) the Department of the Treasury;
- (iii) the Department of Defense;
- (iv) the Department of Commerce;
- (v) the Department of Transportation;
- (vi) the United States Trade Representative;
- (vii) the Small Business Administration;
- (viii) the United States Trade and Development Agency;
- (ix) the Millennium Challenge Corporation;
- (x) the Overseas Private Investment Corporation;
- (xi) the Export-Import Bank of the United States; and
- (xii) the United States Agency for International Development.

(c) The Chair shall invite a representative from the Federal Communications Commission, and may invite a representative from any other department, agency, component, or office the Chair deems appropriate, to participate as a member of the Steering Group.

(d) The Chair shall consult with the following entities in setting the agenda of the Steering Group and ensuring coordination with other Administration policies:

- (i) the National Economic Council;
- (ii) the National Security Council Staff; and
- (iii) the Office of Science and Technology Policy.

(e) Not later than 6 months after the date of this order, the Steering Group shall report to the Secretary of State. In this report, the Steering Group shall:

- (i) describe the current state of agency procedures, requirements, programs, and policies related to the goals of the Global Connect Initiative; and
- (ii) provide updates on the strategy and the evaluation criteria for Federal contributions to the Global Connect Initiative.

(f) The Secretary of State may request a periodic update of this report every 12 months thereafter, through 2020, on progress that has been made in achieving the goals of the Global Connect Initiative.

**Sec. 9. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to a department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
June 24, 2016.

#### Executive Order 13732 of July 1, 2016

### United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

**Section 1. Purpose.** United States policy on civilian casualties resulting from U.S. operations involving the use of force in armed conflict or in the exercise of the Nation's inherent right of self-defense is based on our national interests, our values, and our legal obligations. As a Nation, we are steadfastly committed to complying with our obligations under the law of armed conflict, including those that address the protection of civilians, such as the fundamental principles of necessity, humanity, distinction, and proportionality.

The protection of civilians is fundamentally consistent with the effective, efficient, and decisive use of force in pursuit of U.S. national interests. Minimizing civilian casualties can further mission objectives; help maintain the support of partner governments and vulnerable populations, especially in the conduct of counterterrorism and counterinsurgency operations; and enhance the legitimacy and sustainability of U.S. operations critical to our national security. As a matter of policy, the United States therefore routinely imposes certain heightened policy standards that are more protective than the requirements of the law of armed conflict that relate to the protection of civilians.

Civilian casualties are a tragic and at times unavoidable consequence of the use of force in situations of armed conflict or in the exercise of a state's inherent right of self-defense. The U.S. Government shall maintain and promote best practices that reduce the likelihood of civilian casualties, take appropriate steps when such casualties occur, and draw lessons from our operations to further enhance the protection of civilians.

**Sec. 2. Policy.** In furtherance of U.S. Government efforts to protect civilians in U.S. operations involving the use of force in armed conflict or in the exercise of the Nation's inherent right of self-defense, and with a view toward enhancing such efforts, relevant departments and agencies (agencies) shall continue to take certain measures in present and future operations.

(a) In particular, relevant agencies shall, consistent with mission objectives and applicable law, including the law of armed conflict:

(i) train personnel, commensurate with their responsibilities, on compliance with legal obligations and policy guidance that address the protection of civilians and on implementation of best practices that reduce the likelihood of civilian casualties, including through exercises, pre-deployment training, and simulations of complex operational environments that include civilians;

(ii) develop, acquire, and field intelligence, surveillance, and reconnaissance systems that, by enabling more accurate battlespace awareness, contribute to the protection of civilians;

(iii) develop, acquire, and field weapon systems and other technological capabilities that further enable the discriminate use of force in different operational contexts;

(iv) take feasible precautions in conducting attacks to reduce the likelihood of civilian casualties, such as providing warnings to the civilian population (unless the circumstances do not permit), adjusting the timing of attacks, taking steps to ensure military objectives and civilians are clearly distinguished, and taking other measures appropriate to the circumstances; and

(v) conduct assessments that assist in the reduction of civilian casualties by identifying risks to civilians and evaluating efforts to reduce risks to civilians.

(b) In addition to the responsibilities above, relevant agencies shall also, as appropriate and consistent with mission objectives and applicable law, including the law of armed conflict:

(i) review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources, such as other agencies, partner governments, and nongovernmental organizations, and take measures to mitigate the likelihood of future incidents of civilian casualties;

(ii) acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including *ex gratia* payments, to civilians who are injured or to the families of civilians who are killed;

(iii) engage with foreign partners to share and learn best practices for reducing the likelihood of and responding to civilian casualties, including through appropriate training and assistance; and

(iv) maintain channels for engagement with the International Committee of the Red Cross and other nongovernmental organizations that operate in conflict zones and encourage such organizations to assist in efforts to distinguish between military objectives and civilians, including by appropriately marking protected facilities, vehicles, and personnel, and by providing updated information on the locations of such facilities and personnel.

**Sec. 3.** *Report on Strikes Undertaken by the U.S. Government Against Terrorist Targets Outside Areas of Active Hostilities.* (a) The Director of National Intelligence (DNI), or such other official as the President may designate, shall obtain from relevant agencies information about the number of strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities from January 1, 2016, through December 31,

2016, as well as assessments of combatant and non-combatant deaths resulting from those strikes, and publicly release an unclassified summary of such information no later than May 1, 2017. By May 1 of each subsequent year, as consistent with the need to protect sources and methods, the DNI shall publicly release a report with the same information for the preceding calendar year.

(b) The annual report shall also include information obtained from relevant agencies regarding the general sources of information and methodology used to conduct these assessments and, as feasible and appropriate, shall address the general reasons for discrepancies between post-strike assessments from the U.S. Government and credible reporting from nongovernmental organizations regarding non-combatant deaths resulting from strikes undertaken by the U.S. Government against terrorist targets outside areas of active hostilities.

(c) In preparing a report under this section, the DNI shall review relevant and credible post-strike all-source reporting, including such information from nongovernmental sources, for the purpose of ensuring that this reporting is available to and considered by relevant agencies in their assessment of deaths.

(d) The Assistant to the President for National Security Affairs may, as appropriate, request that the head of any relevant agency conduct additional reviews related to the intelligence assessments of deaths from strikes against terrorist targets outside areas of active hostilities.

**Sec. 4. *Periodic Consultation.*** In furtherance of the policies and practices set forth in this order, the Assistant to the President for National Security Affairs, through the National Security Council staff, will convene agencies with relevant defense, counterterrorism, intelligence, legal, civilian protection, and technology expertise to consult on civilian casualty trends, consider potential improvements to U.S. Government civilian casualty mitigation efforts, and, as appropriate, report to the Deputies and Principals Committees, consistent with Presidential Policy Directive 1 or its successor. Specific incidents will not be considered in this context, and will continue to be examined within relevant chains of command.

**Sec. 5. *General Provisions.*** (a) The policies and practices set forth above are not intended to alter, and shall be implemented consistent with, the authority and responsibility of commanders and other U.S. personnel to execute their mission as directed by the President or other appropriate authorities, which necessarily includes the inherent right of self-defense and the maintenance of good order and discipline among U.S. personnel. No part of this order modifies the chain of command of the U.S. Armed Forces or the authority of U.S. commanders.

(b) No part of this order modifies priorities in the collection of intelligence or the development, acquisition, or fielding of weapon systems and other technological capabilities.

(c) No part of this order shall prejudice or supplant established procedures pertaining to administrative or criminal investigative or judicial processes in the context of the military justice system or other applicable law and regulation.

(d) The policies set forth in this order are consistent with existing U.S. obligations under international law and are not intended to create new

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international legal obligations; nor shall anything in this order be construed to derogate from obligations under applicable law, including the law of armed conflict.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
July 1, 2016.

**Executive Order 13733 of July 22, 2016**

**Delegation of Certain Authorities and Assignment of Certain Functions Under the Trade Facilitation and Trade Enforcement Act of 2015**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trade Facilitation and Trade Enforcement Act of 2015 (the “Act”) (Public Law 114–125) and section 301 of title 3, United States Code, I hereby order as follows:

**Section 1. *Authorities and Functions under the Act.*** (a) The functions of the President under section 2313A(b) of the Export Enhancement Act of 1988, as added by section 504 of the Act, are assigned to the Secretary of Commerce. In carrying out its functions, the State and Federal Export Promotion Coordination Working Group established by the Secretary of Commerce under this section shall also coordinate with local and municipal governments representing regionally diverse areas.

(b) The functions of the President under section 909(d) of the Act are assigned to the Secretary of State, in consultation with other relevant Federal agencies.

(c) The functions of the President under section 915(d) of the Act are assigned to the Administrator of the United States Agency for International Development, in consultation with the Secretary of State and the United States Trade Representative (U.S. Trade Representative).

(d) The functions of the President under section 915(e) of the Act are assigned to the U.S. Trade Representative, in consultation with the Secretary of State.

**Sec. 2. *Engagement on Currency Exchange Rate and Economic Policies.*** (a) Prior to undertaking an enhanced analysis of a country pursuant to section 701(a)(2)(A)(ii) of the Act, the Secretary of the Treasury shall seek the views of the U.S. Trade Representative on changes in trade restrictions in that country.

(b) In exercising the functions under section 701(b)(2)(A) of the Act, the Secretary of the Treasury shall consult with the Secretary of State in making any determination that commencing enhanced bilateral engagement

with a country would cause serious harm to the national security of the United States.

(c) If the Secretary of the Treasury determines, pursuant to section 701(c)(1) of the Act, that a country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in section 701(b)(1)(A) of the Act with respect to that country, the Assistant to the President for Economic Policy, in consultation with the Secretary of the Treasury, the U.S. Trade Representative, the Secretary of State, and the Secretary of Commerce, shall make a recommendation to the President regarding which of the actions set forth in sections 701(c)(1)(A) through (D) of the Act the President should take, or whether the President should waive, pursuant to section 701(c)(2) of the Act, the requirement to take remedial action.

**Sec. 3. General Provisions.** (a) In exercising authority delegated by or performing functions assigned in this order, the Secretaries of State, the Treasury, and Commerce and the U.S. Trade Representative and their delegees:

(i) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

(ii) may redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law, including section 301 of title 3, United States Code, and such redelegation or further assignment shall be published in the *Federal Register*.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
July 22, 2016.

Executive Order 13734 of August 3, 2016

### **Amending Executive Order 13675 to Expand Membership on the President’s Advisory Council on Doing Business in Africa**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote broad-based economic growth and job creation in the United States and Africa by encouraging U.S. companies to trade with and invest in Africa, it is hereby ordered as follows:

**Section 1. Policy.** Recognizing the tremendous potential of expanding the U.S.-Africa commercial relationship, the United States in 2014 launched the Trade Africa Initiative, a partnership between the United States and Sub-Saharan Africa, and created a U.S. Strategy Toward Sub-Saharan Africa outlining a comprehensive U.S. policy for the region, among other activities. Ensuring that such initiatives and activities reflect the priorities of, and benefit from the support of, the private sector is critical to their success. For that reason, in Executive Order 13675 of August 5, 2014, I directed the Secretary of Commerce to establish the President’s Advisory Council on Doing Business in Africa (Council). Since its establishment in November 2014, the Council has been actively engaged in advising on strengthening commercial engagement between the United States and Africa and has provided numerous recommendations on a broad range of issues. In light of the numerous U.S. Government initiatives and activities to promote expansion of the commercial relationship, the breadth of U.S. private sector engagement in Sub-Saharan Africa, and the range of issues on which future advice may be requested, broader representation of the diversity of private sector viewpoints, experiences, and knowledge on the Council is warranted. Thus I am increasing the membership of the Council.

**Sec. 2. Amendment to Executive Order 13675.** Executive Order 13675 of August 5, 2014, is amended in section 3(a) by striking “shall consist of not more than 15 private sector corporate members” and inserting in lieu thereof “shall consist of not more than 26 private sector corporate members”.

**Sec. 3. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,

August 3, 2016.

## Executive Order 13735 of August 12, 2016

**Providing an Order of Succession Within the Department of the Treasury**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 *et seq.* (the “Act”), it is hereby ordered that:

**Section 1.** Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Treasury (Secretary) during any period when both the Secretary and the Deputy Secretary of the Treasury have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**Sec. 2. Order of Succession.** (a) Under Secretaries of the Treasury, in the order in which they shall have taken the oath of office as such officers;

(b) General Counsel of the Department of the Treasury;

(c) Deputy Under Secretaries of the Treasury and those Assistant Secretaries of the Treasury appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such officers; and

(d) the following officers of the Department of the Treasury, in the order listed:

(i) Chief of Staff;

(ii) Assistant Secretary for Management;

(iii) Fiscal Assistant Secretary;

(iv) Commissioner of Internal Revenue, Internal Revenue Service;

(v) Commissioner, Bureau of the Fiscal Service;

(vi) Deputy Commissioner, Fiscal Accounting and Shared Services, Bureau of the Fiscal Service; and

(vii) Commissioner, Wage and Investment Division, Internal Revenue Service.

**Sec. 3. Exceptions.** (a) No individual who is serving in an office listed in section 2(a)–(d) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by the Act, to depart from this Executive Order in designating an acting Secretary.

(c) No individual listed in section 2(a)–(d) shall act as Secretary unless that individual is otherwise eligible to serve under the Act.

**Sec. 4. Revocation.** Executive Order 13246 of December 18, 2001, and the Presidential Memorandum of March 19, 2002 (“Designation of Officers of the Department of the Treasury”), are hereby revoked.

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**Sec. 5. *Judicial Review.*** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
*August 12, 2016.*

**Executive Order 13736 of August 12, 2016**

**Providing an Order of Succession Within the Department of Veterans Affairs**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 *et seq.* (the “Act”), it is hereby ordered that:

**Section 1. *Order of Succession.*** Subject to the provisions of section 2 of this order and to the limitations set forth in the Act, the following officials of the Department of Veterans Affairs, in the order listed, shall act as Secretary of Veterans Affairs (Secretary) and perform the functions and duties of the office of the Secretary during any period in which both the Secretary and the Deputy Secretary of Veterans Affairs have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary:

- (a) Under Secretary for Health;
- (b) Under Secretary for Benefits;
- (c) Under Secretary for Memorial Affairs;
- (d) Chief of Staff;
- (e) General Counsel and Assistant Secretaries, with precedence among them in the order, by date, of their appointments and, if on the same date, in the order in which they have taken the oath of office;
- (f) Chairman, Board of Veterans’ Appeals;
- (g) Network Director, Veterans Integrated Service Network 8;
- (h) Network Director, Veterans Integrated Service Network 7;
- (i) Director, Southern Area, Veterans Benefits Administration; and
- (j) Network Director, Veterans Integrated Service Network 19.

**Sec. 2. *Exceptions.*** (a) No individual who is serving in an office listed in section 1(a)–(j) of this order in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) No individual who is serving in an office listed in section 1(a)–(j) of this order shall act as Secretary unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

**Sec. 3. Revocations.** (a) Executive Order 13247 of December 18, 2001, is hereby revoked;

(b) Section 4(g) of Executive Order 13261 of March 19, 2002, is hereby revoked;

(c) Presidential Memorandum of March 19, 2002 (Designation of Officers of the Department of Veterans Affairs), is hereby revoked; and

(d) Presidential Memorandum of February 12, 2003 (Designation of Officers of the Department of Veterans Affairs to Act as Secretary of Veterans Affairs), is hereby revoked.

**Sec. 4. Judicial Review.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
August 12, 2016.

#### Executive Order 13737 of August 12, 2016

### Providing an Order of Succession Within the Environmental Protection Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 *et seq.* (the “Act”), it is hereby ordered that:

**Section 1. Order of Succession.** Subject to the provisions of section 2 of this order, and to the limitations set forth in the Act, the following officials of the Environmental Protection Agency, in the order listed, shall act as and perform the functions and duties of the office of the Administrator of the Environmental Protection Agency (Administrator) during any period in which the Administrator and the Deputy Administrator of the Environmental Protection Agency have died, resigned, or become otherwise unable to perform the functions and duties of the office of Administrator:

(a) General Counsel;

(b) Assistant Administrator for the Office of Solid Waste;

(c) Assistant Administrator for Toxic Substances (also known as the Assistant Administrator for the Office of Chemical Safety and Pollution Prevention);

(d) Assistant Administrator for the Office of Air and Radiation;

(e) Assistant Administrator for the Office of Water;

(f) Assistant Administrator for the Office of Enforcement and Compliance Assurance;

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- (g) Chief Financial Officer;
- (h) Assistant Administrator for the Office of Research and Development;
- (i) Assistant Administrator for the Office of International and Tribal Affairs;
- (j) Assistant Administrator for the Office of Administration and Resources Management;
- (k) Assistant Administrator for the Office of Environmental Information;
- (l) Regional Administrator, Region 7;
- (m) Principal Deputy General Counsel;
- (n) Principal Deputy Assistant Administrator for the Office of Enforcement and Compliance Assurance;
- (o) Deputy Regional Administrator, Region 2; and
- (p) Deputy Regional Administrator, Region 5.

**Sec. 2. *Exceptions.*** (a) No individual who is serving in an office listed in section 1(a)–(p) of this order in an acting capacity shall, by virtue of so serving, act as Administrator pursuant to this order.

(b) No individual listed in section 1(a)–(p) of this order shall act as Administrator unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998, as amended.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Administrator.

**Sec. 3. *Revocation.*** Executive Order 13614 of May 21, 2012 (Providing an Order of Succession Within the Environmental Protection Agency), is hereby revoked.

**Sec. 4. *Judicial Review.*** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
August 12, 2016.

**Executive Order 13738 of August 23, 2016**

**Amendment to Executive Order 13673**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 121, and in order to promote economy and efficiency in procurement by contracting with responsible sources who comply with labor laws, it is hereby ordered as follows:

**Section 1. *Amendment to Executive Order 13673.*** Executive Order 13673 of July 31, 2014 (Fair Pay and Safe Workplaces), is amended as follows:

(1) in subsection 2(a)(iv)(A), by inserting, after the word “disclose,” the following: “to the entity designated by a final rule amending the Federal Acquisition Regulation under subsection 4(a)”;

(2) in subsection 2(a)(iv)(B), by striking “the information submitted by the subcontractor pursuant to subparagraph (A) of this paragraph” and replacing in lieu thereof the following: “the advice provided by the entity designated by a final rule amending the Federal Acquisition Regulation under subsection 4(a), or the information submitted to that entity”;

(3) in subsection 2(a)(v), by striking “to the contractor” and inserting in lieu thereof the following: “to an entity designated by a final rule amending the Federal Acquisition Regulation under subsection 4(a)”;

(4) in subsection 4(c)(i), by striking “and (ii)”.

**Sec. 2. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 3. Effective Date.** This order shall become effective immediately and shall apply to all solicitations for contracts as set forth in any final rule issued by the Federal Acquisition Regulatory Council under this order and Executive Order 13673 of July 31, 2014.

BARACK OBAMA

The White House,  
August 23, 2016.

#### Executive Order 13739 September 14, 2016

### Termination of Emergency With Respect to the Situation in or in Relation to Côte d’Ivoire

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the situation that gave rise to the declaration of a national emergency in Executive Order 13396 of February 7, 2006, with respect to the situation

in or in relation to Côte d'Ivoire, including the massacre of large numbers of civilians, widespread human rights abuses, significant political violence and unrest, and attacks against international peacekeeping forces leading to fatalities, has been significantly altered by the progress achieved in the stabilization of Côte d'Ivoire, including the successful conduct of the October 2015 presidential election, progress on the management of arms and related materiel, and the combating of illicit trafficking of natural resources. Accordingly, and in view of the removal of multilateral sanctions by the United Nations Security Council in Resolution 2283, I hereby terminate the national emergency declared in Executive Order 13396, revoke that order, and further order:

**Section 1.** Pursuant to section 202(a) of the NEA (50 U.S.C. 1622(a)), termination of the national emergency declared in Executive Order 13396 shall not affect any action taken or proceeding pending not finally concluded or determined as of the date that this order is effective, any action or proceeding based on any act committed prior to such date, or any rights or duties that matured or penalties that were incurred prior to such date.

**Sec. 2.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 3.** This order is effective at 8:00 a.m. eastern daylight time on September 14, 2016.

BARACK OBAMA

The White House,  
September 14, 2016.

#### Executive Order 13740 of September 16, 2016

### 2016 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473 of April 13, 1984, as amended, it is hereby ordered as follows:

**Section 1.** Part I, Part II, and Part IV of the Manual for Courts-Martial, United States, are amended as described in the Annex attached and made a part of this order.

**Sec. 2.** These amendments shall take effect as of the date of this order, subject to the following:

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

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(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

BARACK OBAMA

The White House,  
*September 16, 2016.*

ANNEX

Section 1. Part I of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 4 is amended to read as follows:

"The Manual for Courts-Martial shall consist of this Preamble, the Rules for Courts-Martial, the Military Rules of Evidence, the Punitive Articles, and Nonjudicial Punishment Procedures (Part I-V). This Manual shall be applied consistent with the purpose of military law.

The Department of Defense, in conjunction with the Department of Homeland Security, publishes supplementary materials to accompany the Manual for Courts-Martial. These materials consist of a Preface, a Table of Contents, Discussions, Appendices, and an Index. These supplementary materials do not have the force of law.

The Manual shall be identified by the year in which it was printed; for example, "Manual for Courts-Martial, United States (20xx edition)." Any amendments to the Manual made by Executive Order shall be identified as "20xx" Amendments to the Manual for Courts-Martial, United States, "20xx" being the year the Executive Order was signed.

The Department of Defense Joint Service Committee (JSC) on Military Justice reviews the Manual for Courts-Martial and

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proposes amendments to the Department of Defense (DoD) for consideration by the President on an annual basis. In conducting its annual review, the JSC is guided by DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice." DoD Directive 5500.17 includes provisions allowing public participation in the annual review process."

Sec. 2. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 201(c) is amended to read as follows:

"(c) *Contempt.* A judge detailed to a court-martial may punish for contempt any person who uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial; disturbs the proceedings of the court-martial by any riot or disorder; or willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial. The punishment may not exceed confinement for 30 days or a fine of \$1,000, or both."

(b) R.C.M. 307(c)(3) is amended to read as follows:

"(3) *Specification.* A specification is a plain, concise, and definite statement of the essential facts constituting the offense charged. A specification is sufficient if it alleges every element of the charged offense expressly or by necessary implication; however, specifications under Article 134 must

expressly allege the terminal element. Except for aggravating factors under R.C.M 1003(d) and R.C.M. 1004, facts that increase the maximum authorized punishment must be alleged in order to permit the possible increased punishment. No particular format is required."

(c) R.C.M. 307(c)(4) is amended to read as follows:

"(4) *Multiple offenses.* Charges and specifications alleging all known offenses by an accused may be preferred at the same time. Each specification shall state only one offense. What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person. Unreasonable multiplication of charges is addressed in R.C.M. 906(b)(12); multiplicity is addressed in R.C.M. 907(b)(3)(B); and punishment limitations are addressed in R.C.M. 1003(c)(1)(C)."

(d) R.C.M. 701(e) is amended to read as follows:

"(e) *Access to witnesses and evidence.* Each party shall have adequate opportunity to prepare its case and equal opportunity to interview witnesses and inspect evidence, subject to the limitations in subsection (e)(1) of this rule. No party may unreasonably impede the access of another party to a witness or evidence.

(1) *Counsel for the Accused Interview of Victim of Alleged Sex-Related Offense.*

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(A) Upon notice by counsel for the Government to counsel for the accused of the name of an alleged victim of a sex-related offense whom counsel for the Government intends to call to testify at a court-martial, counsel for the accused, or that lawyer's representative, as defined in Mil. R. Evid. 502(b)(3), shall make any request to interview that victim through the Special Victims' Counsel or other counsel for the victim, if applicable.

(B) If requested by an alleged victim of a sex-related offense who is subject to a request for interview under subsection (e)(1)(A) of this rule, any interview of the victim by counsel for the accused, or that lawyer's representative, as defined in Mil. R. Evid. 502(b)(3), shall take place only in the presence of counsel for the Government, counsel for the victim, or a sexual assault victim advocate.

(C) In this subsection, the term "sex-related offense" means-

(i) a violation of Article 120, 120a, 120b, 120c, or 125; or

(ii) an attempt to commit an offense specified in subsection (e)(1)(C)(i) of this rule under Article 80."

(e) R.C.M. 703(a) is amended to read as follows:

"(a) *In general.* The prosecution and defense and the court-martial shall have equal opportunity to obtain witnesses and

evidence, subject to the limitations set forth in R.C.M.

701(e)(1), including the benefit of compulsory process.”

(f) R.C.M. 906(b)(12) is amended to read as follows:

“(12) *Unreasonable multiplication of charges.* The military judge may provide a remedy, as provided below, if he or she finds there has been an unreasonable multiplication of charges as applied to findings or sentence.

(i) *As applied to findings.* Charges that arise from substantially the same transaction, while not legally multiplicitous, may still be unreasonably multiplied as applied to findings. When the military judge finds, in his or her discretion, that the offenses have been unreasonably multiplied, the appropriate remedy shall be dismissal of the lesser offenses or merger of the offenses into one specification.

(ii) *As applied to sentence.* Where the military judge finds that the nature of the harm requires a remedy that focuses more appropriately on punishment than on findings, he or she may find that there is an unreasonable multiplication of charges as applied to sentence. If the military judge makes such a finding, the maximum punishment for those offenses determined to be unreasonably multiplied shall be the maximum authorized punishment of the offense carrying the greatest maximum punishment.”

(g) R.C.M. 907(b)(3) is amended to read as follows:

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"(3) *Permissible grounds.* A specification may be dismissed upon timely motion by the accused if one of the following is applicable:

(A) *Defective.* When the specification is so defective that it substantially misled the accused, and the military judge finds that, in the interest of justice, trial should proceed on any remaining charges and specifications without undue delay; or

(B) *Multiplicity.* When the specification is multiplicitious with another specification, is unnecessary to enable the prosecution to meet the exigencies of proof through trial, review, and appellate action, and should be dismissed in the interest of justice. A charge is multiplicitious if the proof of such charge also proves every element of another charge."

(h) R.C.M. 916(b)(1) is amended to read as follows:

"(1) *General rule.* Except as listed below in paragraphs (2) and (3), the prosecution shall have the burden of proving beyond a reasonable doubt that the defense did not exist."

(i) R.C.M. 916(b)(3) is amended to read as follows:

"(3) *Mistake of fact as to age.* In the defense of mistake of fact as to age as described in Article 120b(d)(2) in a prosecution of a child sexual offense, the accused has the burden of proving mistake of fact as to age by a preponderance of the evidence."

(j) R.C.M. 916(b)(4) is deleted.

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(k) R.C.M. 916(j) (2) is amended to read as follows:

“(2) *Child Sexual Offenses*. It is a defense to a prosecution for Article 120b(b), sexual assault of a child, and Article 120b(c), sexual abuse of a child, that, at the time of the offense, the accused reasonably believed that the child had attained the age of 16 years, if the child had in fact attained at least the age of 12 years. The accused must prove this defense by a preponderance of the evidence.”

(l) R.C.M. 916(j) (3) is deleted.

(m) R.C.M. 920(e) (5) (D) is amended to read as follows:

“(D) The burden of proof to establish the guilt of the accused is upon the Government. [When the issue of lack of mental responsibility is raised, add: The burden of proving the defense of lack of mental responsibility by clear and convincing evidence is upon the accused. When the issue of mistake of fact under R.C.M. 916(j) (2) is raised, add: The accused has the burden of proving the defense of mistake of fact as to age by a preponderance of the evidence.]”

(n) R.C.M. 1003(c) (1) (C) is amended to read as follows:

“(C) *Multiple Offenses*. When the accused is found guilty of two or more offenses, the maximum authorized punishment may be imposed for each separate offense, unless the military judge finds that the offenses are either multiplicitous or unreasonably multiplied.

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(i) *Multiplicity.* A charge is multiplicitious and must be dismissed if the proof of such charge also proves every element of another charged offense.

(ii) *Unreasonable Multiplication.* If the military judge finds that there is an unreasonable multiplication of charges as applied to sentence, the maximum punishment for those offenses shall be the maximum authorized punishment for the offense carrying the greatest maximum punishment. The military judge may either merge the offenses for sentencing, or dismiss one or more of the charges."

(o) R.C.M. 1004(c)(7)(B) is amended to read as follows:

"(B) The murder was committed: while the accused was engaged in the commission or attempted commission of any robbery, rape, rape of a child, sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, aggravated arson, forcible sodomy, burglary, kidnapping, mutiny, sedition, or piracy of an aircraft or vessel; or while the accused was engaged in the commission or attempted commission of any offense involving the wrongful distribution, manufacture, or introduction or possession, with intent to distribute, of a controlled substance; or, while the accused was engaged in flight or attempted flight after the commission or attempted commission of any such offense."

(p) R.C.M. 1004(c)(8) is amended to read as follows:

“(8) That only in the case of a violation of Article 118(4), the accused was the actual perpetrator of the killing or was a principal whose participation in the burglary, forcible sodomy, rape, rape of a child, sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, robbery, or aggravated arson was major and who manifested a reckless indifference for human life.”

(q) R.C.M. 1004(c)(9) is amended to read as follows:

“(9) That, in addition to the offense for which the accused is eligible for the death penalty, the accused has also been convicted of a sexual offense in which:

(A) Under Article 120b, the victim was under the age of 12; or

(B) Under Articles 120 or 120b, the accused maimed or attempted to kill the victim;”

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) In paragraphs 2, 4 through 59, 61-62, 64-86, 89, 91-100, and 102-113, the text of subparagraph d is uniformly amended by deleting the existing language and inserting the following words in its place:

“*Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.”

(b) Paragraph 3.b, Article 79, Conviction of lesser included

offenses, is amended to read as follows:

"b. *Explanation.*

(1) *In general.* A lesser offense is "necessarily included" in a charged offense when the elements of the lesser offense are a subset of the elements of the charged offense, thereby putting the accused on notice to defend against the lesser offense in addition to the offense specifically charged. A lesser offense may be "necessarily included" when:

(a) All of the elements of the lesser offense are included in the greater offense, and the common elements are identical (for example, larceny as a lesser included offense of robbery);

(b) All of the elements of the lesser offense are included in the greater offense, but at least one element is a subset by being legally less serious (for example, housebreaking as a lesser included offense of burglary); or

(c) All of the elements of the lesser offense are "included and necessary" parts of the greater offense, but the mental element is a subset by being legally less serious (for example, wrongful appropriation as a lesser included offense of larceny).

(2) *Sua sponte duty.* A military judge must instruct panel members on lesser included offenses reasonably raised by the evidence.

(3) *Multiple lesser included offenses.* When the offense charged is a compound offense comprising two or more lesser

included offenses, an accused may be found guilty of any or all of the offenses included in the offense charged. For example, robbery includes both larceny and assault. Therefore, in a proper case, a court-martial may find an accused not guilty of robbery, but guilty of wrongful appropriation and assault.

(4) *Findings of guilty to a lesser included offense.* A court-martial may find an accused not guilty of the offense charged, but guilty of a lesser included offense by the process of exception and substitution. The court-martial may except (that is, delete) the words in the specification that pertain to the offense charged and, if necessary, substitute language appropriate to the lesser included offense. For example, the accused is charged with murder in violation of Article 118, but found guilty of voluntary manslaughter in violation of Article 119. Such a finding may be worded as follows:

Of the Specification: Guilty, except the word "murder" substituting therefor the words "willfully and unlawfully kill," of the excepted word, not guilty, of the substituted words, guilty.

Of the Charge: Not guilty, but guilty of a violation of Article 119.

If a court-martial finds an accused guilty of a lesser included offense, the finding as to the charge shall state a

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violation of the specific punitive article violated and not a violation of Article 79.

(5) *Specific lesser included offenses.* Specific lesser included offenses, if any, are listed for each offense in Appendix 12A, but the list is merely guidance to practitioners, is not all-inclusive, and is not binding on military courts."

(c) Paragraph 43.c.(5)(b), Article 118 - Murder is amended to insert "forcible" immediately before "sodomy".

(d) Paragraph 44.b.(2)(d), Article 119 - Manslaughter is amended to insert "forcible" immediately before "sodomy".

(e) Paragraph 45, Article 120 - Rape and sexual assault generally, is amended by deleting the following note:

"[Note: The subparagraphs that would normally address elements, explanation, lesser included offenses, maximum punishments, and sample specifications are generated under the President's authority to prescribe rules pursuant to Article 36. At the time of publishing this MCM, the President had not prescribed such rules for this version of Article 120. Practitioners should refer to the appropriate statutory language and, to the extent practicable, use Appendix 28 as a guide.]"

(f) Paragraph 45, Article 120 - Rape and sexual assault generally, is amended by inserting new subparagraph b immediately after subparagraph a to read as follows:

"b. *Elements.*

(1) *Rape involving contact between penis and vulva or anus or mouth.*

(a) *By unlawful force*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so with unlawful force.

(b) *By force causing or likely to cause death or grievous bodily harm*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

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(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.

(d) *By first rendering that other person unconscious*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by first rendering that other person unconscious.

(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.

(2) *Rape involving penetration of the vulva or anus or mouth by any part of the body or any object.*

(a) *By force*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth of another person by any part of the body or by any object;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *By force causing or likely to cause death or grievous bodily harm*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

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(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *By first rendering that other person unconscious*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth of another person by any part of the body or by any object;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(3) *Sexual assault involving contact between penis and vulva or anus or mouth.*

(a) *By threatening or placing that other person in fear*

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(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by threatening or placing that other person in fear.

*(b) By causing bodily harm*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by causing bodily harm to that other person.

*(c) By fraudulent representation*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose.

*(d) By false pretense*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis; and

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person.

*(e) Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

*(f) When the other person is incapable of consenting*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by the penis;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

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(B) A mental disease or defect, or  
physical disability; and

(iii) That the accused knew or reasonably  
should have known of the impairment, mental disease or defect,  
or physical disability of the other person.

(4) *Sexual assault involving penetration of the vulva  
or anus or mouth by any part of the body or any object.*

(a) *By threatening or placing that other person  
in fear*

(i) That the accused committed a sexual act  
upon another person by causing penetration, however slight, of  
the vulva or anus or mouth by any part of the body or by any  
object;

(ii) That the accused did so by threatening  
or placing that other person in fear; and

(iii) That the accused did so with an intent  
to abuse, humiliate, harass, or degrade any person or to arouse  
or gratify the sexual desire of any person.

(b) *By causing bodily harm*

(i) That the accused committed a sexual act  
upon another person by causing penetration, however slight, of  
the vulva or anus or mouth by any part of the body or by any  
object;

(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *By fraudulent representation*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by any part of the body or by any object;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose when it served no professional purpose; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *By false pretense*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by any part of the body or by any object;

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(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by any part of the body or by any object;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring.

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(f) *When the other person is incapable of consenting*

(i) That the accused committed a sexual act upon another person by causing penetration, however slight, of the vulva or anus or mouth by any part of the body or by any object;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(5) *Aggravated sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By force*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the

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genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *By force causing or likely to cause death or grievous bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *By first rendering that other person unconscious*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

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(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(6) *Aggravated sexual contact involving the touching of any body part of any person.*

(a) *By force*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so with unlawful force; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(b) *By force causing or likely to cause death or grievous bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by using force causing or likely to cause death or grievous bodily harm to any person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping; and

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(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(d) *By first rendering that other person unconscious*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by first rendering that other person unconscious; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(e) *By administering a drug, intoxicant, or other similar substance*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by administering to that other person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(7) *Abusive sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By threatening or placing that other person in fear*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by threatening or placing that other person in fear; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *By causing bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

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(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *By fraudulent representation*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *By false pretense*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

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(f) *When the other person is incapable of consenting*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(8) *Abusive sexual contact involving the touching of any body part of any person.*

(a) *By threatening or placing that other person in fear*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by threatening or placing that other person in fear; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(b) *By causing bodily harm*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by causing bodily harm to that other person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *By fraudulent representation*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by making a fraudulent representation that the sexual act served a professional purpose when it served no professional purpose; and

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(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(d) *By false pretense*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the accused did so by inducing a belief by any artifice, pretense, or concealment that the accused is another person; and

(iii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring;

(iii) That the accused knew or reasonably should have known that the other person was asleep, unconscious, or otherwise unaware that the sexual act was occurring; and

(iv) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(f) *When the other person is incapable of consenting*

(i) That the accused committed sexual contact upon another person by touching, or causing another person to touch, any body part of any person;

(ii) That the other person was incapable of consenting to the sexual act due to:

(A) Impairment by any drug, intoxicant, or other similar substance; or

(B) A mental disease or defect, or physical disability;

(iii) That the accused knew or reasonably should have known of the impairment, mental disease or defect, or physical disability of the other person; and

(iv) That the accused did so with intent to arouse or gratify the sexual desire of any person."

(g) Paragraph 45, Article 120 - Rape and sexual assault generally, is amended by inserting new subparagraph c immediately after subparagraph b to read as follows:

"c. *Explanation.*

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(1) *In general.* Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.* The terms are defined in Paragraph 45.a.(g).

(3) *Victim character and privilege.* See Mil. R. Evid. 412 concerning rules of evidence relating to the character of the victim of an alleged sexual offense. See Mil. R. Evid. 514 concerning rules of evidence relating to privileged communications between the victim and victim advocate.

(4) *Consent as an element.* Lack of consent is not an element of any offense under this paragraph unless expressly stated. Consent may be relevant for other purposes."

(h) Paragraph 45, Article 120 - Rape and sexual assault generally, is amended by inserting new subparagraph d immediately after subparagraph c to read as follows:

"d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A."

(i) Paragraph 45, Article 120 - Rape and sexual assault generally, subparagraph e is amended to read as follows:

"e. *Maximum punishments.*

(1) *Rape*. Forfeiture of all pay and allowances and confinement for life without eligibility for parole. Mandatory minimum - Dismissal or dishonorable discharge.

(2) *Sexual assault*. Forfeiture of all pay and allowances, and confinement for 30 years. Mandatory minimum - Dismissal or dishonorable discharge.

(3) *Aggravated sexual contact*. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) *Abusive sexual contact*. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years."

(j) Paragraph 45, Article 120 - Rape and sexual assault generally, is amended by inserting new subparagraph f immediately after subparagraph e to read as follows:

"f. *Sample specifications*.

(1) *Rape involving contact between penis and vulva or anus or mouth*.

(a) *By force*. In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_, commit a sexual act upon \_\_\_\_\_ by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by using unlawful force.

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(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_ by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by using force likely to cause death or grievous bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_ by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear) that \_\_\_\_\_ would be subjected to (death) (grievous bodily harm) (kidnapping).

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_ by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by first rendering \_\_\_\_\_ unconscious by \_\_\_\_\_.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did

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(at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_ by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by administering to \_\_\_\_\_ (by force) (by threat of force) (without the knowledge or permission of \_\_\_\_\_) a (drug) (intoxicant) (list other similar substance), to wit: \_\_\_\_\_, thereby substantially impairing the ability of \_\_\_\_\_ to appraise or control his/her conduct.

*(2) Rape involving penetration of genital opening by any part of the body or any object.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object) by using unlawful force, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) \_\_\_\_\_.

(b) *By force causing or likely to cause death or grievous bodily injury.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object) by using force likely to cause death or grievous bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate)

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(harass) (degrade) (arouse/gratify the sexual desire of)

\_\_\_\_\_.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_ 20\_\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object) by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear) that \_\_\_\_\_ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) \_\_\_\_\_.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_ 20\_\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object) by first rendering \_\_\_\_\_ unconscious, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) \_\_\_\_\_.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_ 20\_\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object) by administering to

\_\_\_\_\_ (by force) (by threat of force) (without the knowledge or permission of \_\_\_\_\_) a (drug) (intoxicant) (list other similar substance), to wit: \_\_\_\_\_, thereby substantially impairing the ability of \_\_\_\_\_ to appraise or control his/her conduct, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse/gratify the sexual desire of) \_\_\_\_\_.

(3) *Sexual assault involving contact between penis and vulva or anus or mouth.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear).

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by causing bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by

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causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by making a fraudulent representation that the sexual act served a professional purpose, to wit: \_\_\_\_\_.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis when he/she knew or reasonably should have known that \_\_\_\_\_ was (asleep) (unconscious) (unaware the sexual act was occurring due to \_\_\_\_\_).

(f) *When the other person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, when \_\_\_\_\_ was incapable of consenting to the sexual act because he/she [was impaired by (a drug, to wit: \_\_\_\_\_) (an intoxicant, to wit:

\_\_\_\_\_ ) ( )] [had a (mental disease, to wit: \_\_\_\_\_ )  
(mental defect, to wit: \_\_\_\_\_ ) (physical disability, to wit:  
\_\_\_\_\_) ], a condition that was known or reasonably should  
have been known by the said accused.

(4) *Sexual assault involving penetration of vulva or  
anus or mouth by any part of the body or any object.*

(a) *By threatening or placing that other person  
in fear.* In that (personal jurisdiction data), did (at/on board  
location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon  
\_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of  
\_\_\_\_\_ with (list body part or object), by (threatening  
\_\_\_\_\_) (placing \_\_\_\_\_ in fear), with an intent to  
(abuse) (humiliate) (harass) (degrade) (arouse) (gratify the  
sexual desire of) \_\_\_\_\_.

(b) *By causing bodily harm.* In that (personal  
jurisdiction data), did (at/on board location), on or about \_\_\_\_  
20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the  
(vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or  
object), by causing bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_  
with an intent to (abuse) (humiliate) (harass) (degrade)  
(arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *By fraudulent representation.* In that  
(personal jurisdiction data), did (at/on board location), on or

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about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), by making a fraudulent representation that the sexual act served a professional purpose, to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), when he/she knew or reasonably should have known that \_\_\_\_\_ was (asleep) (unconscious) (unaware the sexual act was occurring due to \_\_\_\_\_), with an intent to (abuse)

(humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(f) *When the other person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), when \_\_\_\_\_ was incapable of consenting to the sexual act because he/she [was impaired by (a drug, to wit: \_\_\_\_\_) (an intoxicant, to wit: \_\_\_\_\_) ( )] [had a (mental disease, to wit: \_\_\_\_\_) (mental defect, to wit: \_\_\_\_\_) (physical disability, to wit: \_\_\_\_\_)], a condition that was known or reasonably should have been known by the said accused, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(5) *Aggravated sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, by using unlawful force, with an intent

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to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, by using force likely to cause death or grievous bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear) that \_\_\_\_\_ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause

\_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, by rendering \_\_\_\_\_ unconscious by \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, by administering to \_\_\_\_\_ (by force) (by threat of force) (without the knowledge or permission of \_\_\_) a (drug) (intoxicant) (\_\_\_) thereby substantially impairing the ability of \_\_\_\_\_ to appraise or control his/her conduct, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(6) *Aggravated sexual contact involving the touching of any body part of any person.*

(a) *By force.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, by using unlawful force, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

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(b) *By force causing or likely to cause death or grievous bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, by using force likely to cause death or grievous bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *By threatening or placing that other person in fear that any person would be subjected to death, grievous bodily harm, or kidnapping.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear) that \_\_\_\_\_ would be subjected to (death) (grievous bodily harm) (kidnapping), with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *By first rendering that other person unconscious.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, by rendering \_\_\_\_\_ unconscious by \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *By administering a drug, intoxicant, or other similar substance.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, by administering to \_\_\_\_\_ (by force) (by threat of force) (without the knowledge or permission of \_\_\_\_\_) a (drug) (intoxicant) (\_\_\_\_) and thereby substantially impairing the ability of \_\_\_\_\_ to appraise or control his/her conduct, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(7) *Abusive sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear), with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)]

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[(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ by causing bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ by making a fraudulent representation that the sexual contact served a professional purpose, to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ when he/she knew or reasonably should have known that \_\_\_\_\_ was (asleep) (unconscious) (unaware the sexual contact was occurring due to \_\_\_\_\_), with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(f) *When that person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_ when \_\_\_\_\_ was incapable of consenting to the sexual contact because he/she [was impaired by (a drug, to wit: \_\_\_\_\_) (an intoxicant, to wit: \_\_\_\_\_) ( )] [had a (mental disease, to wit: \_\_\_\_\_) (mental defect, to wit: \_\_\_\_\_) (physical disability, to wit: \_\_\_\_\_)] and this condition was known or reasonably should have been known by \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

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(8) *Abusive sexual contact involving the touching of any body part of any person.*

(a) *By threatening or placing that other person in fear.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear), with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(b) *By causing bodily harm.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ by causing bodily harm to \_\_\_\_\_, to wit: \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *By fraudulent representation.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ by making a fraudulent representation that the sexual contact served a professional purpose, to wit: \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *By false pretense.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ by inducing a belief by (artifice) (pretense) (concealment) that the said accused was another person, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *Of a person who is asleep, unconscious, or otherwise unaware the act is occurring.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ when he/she knew or reasonably should have known that \_\_\_\_\_ was (asleep) (unconscious) (unaware the sexual contact was occurring due to \_\_\_\_\_), with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(f) *When that person is incapable of consenting.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, [(touch) (cause another person to touch)] [(directly) (through the clothing)] the (name of body part) of \_\_\_\_\_ when \_\_\_\_\_ was incapable of consenting to the sexual contact because he/she [was impaired by (a drug, to wit: \_\_\_\_\_) (an intoxicant, to wit: \_\_\_\_\_) ( \_\_\_\_\_)] [had a (mental disease, to wit: \_\_\_\_\_) (mental defect, to

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wit: \_\_\_\_\_) (physical disability, to wit: \_\_\_\_\_)], a condition that was known or reasonably should have been known by \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_."

(k) Paragraph 45b, Article 120b - Rape and sexual assault of a child, is amended by deleting the following note, which appears immediately after subparagraph a:

"[Note: The subparagraphs that would normally address elements, explanation, lesser included offenses, maximum punishments, and sample specifications are generated under the President's authority to prescribe rules pursuant to Article 36. At the time of publishing this MCM, the President had not prescribed such rules for this new statute, Article 120b. Practitioners should refer to the appropriate statutory language and, to the extent practicable, use Appendix 28 as a guide.]"

(l) Paragraph 45b, Article 120b - Rape and Sexual assault of a child, is amended by inserting new subparagraph b immediately after subparagraph a to read as follows:

"b. *Elements.*

(1) *Rape of a child involving contact between penis and vulva or anus or mouth.*

(a) *Rape of a child who has not attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, by the penis of the vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had not attained the age of 12 years.

(b) *Rape by force of a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, by the penis of the vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years, and

(iii) That the accused did so by using force against that child or any other person.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, by the penis of the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

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(iii) That the accused did so by threatening the child or another person or placing that child in fear.

(d) *Rape by rendering unconscious a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, by the penis of the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so by rendering that child unconscious.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child causing penetration, however slight, by the penis of the vulva or anus or mouth;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so by administering to that child a drug, intoxicant, or other similar substance.

(2) *Rape of a child involving penetration of vulva or anus or mouth by any part of the body or any object.*

(a) *Rape of a child who has not attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had not attained the age of 12 years; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *Rape by force of a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

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(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by using force against that child or any other person; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by threatening the child or another person or placing that child in fear; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(d) *Rape by rendering unconscious a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by rendering that child unconscious; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

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(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years;

(iii) That the accused did so by administering to that child a drug, intoxicant, or other similar substance; and

(iv) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(3) *Sexual assault of a child.*

(a) *Sexual assault of a child who has attained the age of 12 involving contact between penis and vulva or anus or mouth.*

(i) That the accused committed a sexual act upon a child causing contact between penis and vulva or anus or mouth; and

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years.

(b) *Sexual assault of a child who has attained the age of 12 involving penetration of vulva or anus or mouth by any part of the body or any object.*

(i) That the accused committed a sexual act upon a child by causing penetration, however slight, of the vulva or anus or mouth of the child by any part of the body or by any object;

(ii) That at the time of the sexual act the child had attained the age of 12 years but had not attained the age of 16 years; and

(iii) That the accused did so with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(4) *Sexual abuse of a child.*

(a) *Sexual abuse of a child by sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.*

(i) That the accused committed sexual contact upon a child by touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person; and

(ii) That the accused did so with intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(b) *Sexual abuse of a child by sexual contact involving the touching of any body part.*

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(i) That the accused committed sexual contact upon a child by touching, or causing another person to touch, either directly or through the clothing, any body part of any person; and

(ii) That the accused did so with intent to arouse or gratify the sexual desire of any person.

(c) *Sexual abuse of a child by indecent exposure.*

(i) That the accused intentionally exposed his or her genitalia, anus, buttocks, or female areola or nipple to a child by any means; and

(ii) That the accused did so with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(d) *Sexual abuse of a child by indecent communication.*

(i) That the accused intentionally communicated indecent language to a child by any means; and

(ii) That the accused did so with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(e) *Sexual abuse of a child by indecent conduct.*

(i) That the accused engaged in indecent conduct, intentionally done with or in the presence of a child;

and

(ii) That the indecent conduct amounted to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations."

(m) Paragraph 45b, Article 120b - Rape and sexual assault of a child, is amended by inserting new subparagraph c immediately after subparagraph b to read as follows:

"c. *Explanation.*

(1) *In general.* Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.* Terms not defined in this paragraph are defined in paragraph 45b.a.(h), *supra.*"

(n) Paragraph 45b, Article 120b - Rape and sexual assault of a child, is amended by inserting new subparagraph d immediately after subparagraph c to read as follows:

"d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A."

(o) Paragraph 45b, Article 120b - Rape and sexual assault of a child, subparagraph e is amended to read as follows:

"e. *Maximum punishment.*

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(1) *Rape of a child.* Forfeiture of all pay and allowances, and confinement for life without eligibility for parole. Mandatory minimum - Dismissal or dishonorable discharge.

(2) *Sexual assault of a child.* Forfeiture of all pay and allowances, and confinement for 30 years. Mandatory minimum - Dismissal or dishonorable discharge.

(3) *Sexual abuse of a child.*

(a) *Cases involving sexual contact.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(b) *Other cases.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years."

(p) Paragraph 45b, Article 120b - Rape and sexual assault of a child, is amended by inserting new subparagraph f immediately after subparagraph e to read as follows:

"f. *Sample specifications.*

(1) *Rape of a child involving contact between penis and vulva or anus or mouth.*

(a) *Rape of a child who has not attained the age of 12.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a sexual act upon

\_\_\_\_\_, a child who had not attained the age of 12 years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis.

(b) *Rape by force of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis, by using force against \_\_\_\_\_, to wit: \_\_\_\_\_.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear).

(d) *Rape by rendering unconscious of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16

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years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by rendering \_\_\_\_\_ unconscious by \_\_\_\_\_.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis by administering to \_\_\_\_\_ a (drug) (intoxicant) (\_\_\_\_), to wit: \_\_\_\_\_.

(2) *Rape of a child involving penetration of the vulva or anus or mouth by any part of the body or any object.*

(a) *Rape of a child who has not attained the age of 12.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had not attained the age of 12 years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(b) *Rape by force of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), by using force against \_\_\_\_\_, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *Rape by threatening or placing in fear a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), by (threatening \_\_\_\_\_) (placing \_\_\_\_\_ in fear), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *Rape by rendering unconscious of a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16

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years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_  
with (list body part or object), by rendering \_\_\_\_\_  
unconscious, with an intent to (abuse) (humiliate) (harass)  
(degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *Rape by administering a drug, intoxicant, or other similar substance to a child who has attained the age of 12 years.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), by administering to \_\_\_\_\_ a (drug) (intoxicant) (\_\_\_\_), to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(3) *Sexual assault of a child.*

(a) *Sexual assault of a child who has attained the age of 12 years involving contact between penis and vulva or anus or mouth.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by causing penetration of \_\_\_\_\_'s (vulva) (anus) (mouth) with \_\_\_\_\_'s penis.

(b) *Sexual assault of a child who has attained the age of 12 years involving penetration of vulva or anus or mouth by any part of the body or any object.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a sexual act upon \_\_\_\_\_, a child who had attained the age of 12 years but had not attained the age of 16 years, by penetrating the (vulva) (anus) (mouth) of \_\_\_\_\_ with (list body part or object), with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(4) *Sexual abuse of a child.*

(a) *Sexual abuse of a child involving sexual contact involving the touching of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, commit a lewd act upon \_\_\_\_\_, a child who had not attained the age of 16 years, by intentionally [(touching) (causing \_\_\_\_\_ to touch)] [(directly) (through the clothing)] the (genitalia) (anus) (groin) (breast) (inner thigh) (buttocks) of \_\_\_\_\_, with an intent to (abuse) (humiliate) (degrade) \_\_\_\_\_.

(b) *Sexual abuse of a child involving sexual contact involving the touching of any body part of any person.* In that (personal jurisdiction data), did (at/on board

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location), on or about \_\_\_\_ 20\_\_, commit a lewd act upon \_\_\_\_\_, a child who had not attained the age of 16 years, by intentionally exposing [his (genitalia) (anus) (buttocks)] [her (genitalia) (anus) (buttocks) (areola) (nipple)] to \_\_\_\_\_, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(c) *Sexual abuse of a child involving indecent exposure.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a lewd act upon \_\_\_\_\_, a child who had not attained the age of 16 years, by intentionally [(touching) (causing \_\_\_\_\_ to touch)] [(directly) (through the clothing)] (name of body part) of \_\_\_\_\_, with an intent to (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(d) *Sexual abuse of a child involving indecent communication.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_ 20\_\_, commit a lewd act upon \_\_\_\_\_, a child who had not attained the age of 16 years, by intentionally communicating to \_\_\_\_\_ indecent language to wit: \_\_\_\_\_, with an intent to (abuse) (humiliate) (harass) (degrade) (arouse) (gratify the sexual desire of) \_\_\_\_\_.

(e) *Sexual abuse of a child involving indecent conduct.* In that (personal jurisdiction data), did (at/on board

location), on or about \_\_\_\_\_ 20\_\_, commit a lewd act upon \_\_\_\_\_, a child who had not attained the age of 16 years, by engaging in indecent conduct, to wit: \_\_\_\_\_, intentionally done (with) (in the presence of) \_\_\_\_\_, which conduct amounted to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations."

(q) Paragraph 45c.a.(c), Article 120c - Other sexual misconduct, is amended by deleting the phrase "(c) *Definitions.*" and inserting the phrase "(d) *Definitions.*" in its place.

(r) Paragraph 45c, Article 120c - Other sexual misconduct, is amended by deleting the following note, which appears immediately after subparagraph a:

"[Note: The subparagraphs that would normally address elements, explanation, lesser included offenses, maximum punishments, and sample specifications are generated under the President's authority to prescribe rules pursuant to Article 36. At the time of publishing this MCM, the President had not prescribed such rules for this new statute, Article 120c. Practitioners should refer to the appropriate statutory language and, to the extent practicable, use Appendix 28 as a guide.]"

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(s) Paragraph 45c, Article 120c - Other sexual misconduct, is amended by inserting new subparagraph b immediately after subparagraph a to read as follows:

"b. *Elements.*

(1) *Indecent viewing.*

(a) That the accused knowingly and wrongfully viewed the private area of another person;

(b) That said viewing was without the other person's consent; and

(c) That said viewing took place under circumstances in which the other person had a reasonable expectation of privacy.

(2) *Indecent recording.*

(a) That the accused knowingly recorded (photographed, videotaped, filmed, or recorded by any means) the private area of another person;

(b) That said recording was without the other person's consent; and

(c) That said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(3) *Broadcasting of an indecent recording.*

(a) That the accused knowingly broadcast a certain recording of another person's private area;

(b) That said recording was made or broadcast without the other person's consent;

(c) That the accused knew or reasonably should have known that the recording was made or broadcast without the other person's consent;

(d) That said recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonably should have known that said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(4) *Distribution of an indecent visual recording.*

(a) That the accused knowingly distributed a certain recording of another person's private area;

(b) That said recording was made or distributed without the other person's consent;

(c) That the accused knew or reasonably should have known that said recording was made or distributed without the other person's consent;

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(d) That said recording was made under circumstances in which the other person had a reasonable expectation of privacy; and

(e) That the accused knew or reasonably should have known that said recording was made under circumstances in which the other person had a reasonable expectation of privacy.

(5) *Forcible pandering.*

That the accused compelled another person to engage in an act of prostitution with any person.

(6) *Indecent exposure.*

(a) That the accused exposed his or her genitalia, anus, buttocks, or female areola or nipple;

(b) That the exposure was in an indecent manner; and

(c) That the exposure was intentional."

(t) Paragraph 45c, Article 120c - Other sexual misconduct, is amended by inserting new subparagraph c immediately after subparagraph b to read as follows:

"c. *Explanation.*

(1) *In general.* Sexual offenses have been separated into three statutes: adults (120), children (120b), and other offenses (120c).

(2) *Definitions.*

(a) *Recording.* A "recording" is a still or moving visual image captured or recorded by any means.

(b) Other terms are defined in paragraph 45c.a.(d), *supra.*"

(u) Paragraph 45c, Article 120c - Other sexual misconduct, is amended by inserting new subparagraph d immediately after subparagraph c to read as follows:

"d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A."

(v) Paragraph 45c, Article 120c - Other sexual misconduct, is amended by inserting new subparagraph f immediately after subparagraph e to read as follows:

"f. *Sample specifications.*

(1) *Indecent viewing, visual recording, or broadcasting.*

(a) *Indecent viewing.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, knowingly and wrongfully view the private area of \_\_\_\_\_, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(b) *Indecent visual recording.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, knowingly (photograph) (videotape) (film) (make a

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recording of) the private area of \_\_\_\_\_, without (his) (her) consent and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(c) *Broadcasting or distributing an indecent visual recording.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, knowingly (broadcast) (distribute) a recording of the private area of \_\_\_\_\_, when the said accused knew or reasonably should have known that the said recording was (made) (and/or) (distributed/broadcast) without the consent of \_\_\_\_\_ and under circumstances in which (he) (she) had a reasonable expectation of privacy.

(2) *Forcible pandering.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, wrongfully compel \_\_\_\_\_ to engage in (a sexual act) (sexual contact) with \_\_\_\_\_, to wit: \_\_\_\_\_, for the purpose of receiving (money) (other compensation) (\_\_\_\_\_).

(3) *Indecent exposure.* In that (personal jurisdiction data), did (at/on board location), on or about \_\_\_\_\_ 20\_\_, intentionally expose [his (genitalia) (anus) (buttocks)] [her (genitalia) (anus)(buttocks) (areola) (nipple)] in an indecent manner, to wit: \_\_\_\_\_."

(wx) Paragraph 51, Article 125 - Sodomy is amended to read as follows:

**"51. Article 125—Forcible sodomy; bestiality**

a. *Text of statute.*

(a) *Forcible Sodomy.*—Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex by unlawful force or without the consent of the other person is guilty of forcible sodomy and shall be punished as a court-martial may direct.

(b) *Bestiality.*—Any person subject to this chapter who engages in unnatural carnal copulation with an animal is guilty of bestiality and shall be punished as a court-martial may direct.

(c) *Scope of Offenses.*—Penetration, however slight, is sufficient to complete an offense under subsection (a) or (b).

b. *Elements.*

(1) *Forcible sodomy.*

(a) That the accused engaged in unnatural carnal copulation with a certain other person.

(b) That the act was done by unlawful force or without the consent of the other person.

(2) *Bestiality.*

(a) That the accused engaged in unnatural carnal copulation with an animal.

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*c. Explanation.*

(1) It is unnatural carnal copulation for a person to take into that person's mouth or anus the sexual organ of another person or of an animal; or to place that person's sexual organ in the mouth or anus of another person or of an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal.

(2) For purposes of this Article, the term "unlawful force" means an act of force done without legal justification or excuse.

*d. Lesser included offenses.*

See paragraph 3 of this part and Appendix 12A.

*e. Maximum punishment.*

(1) *Forcible sodomy.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole. Mandatory minimum - Dismissal or dishonorable discharge.

(2) *Bestiality.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

*f. Sample specification.*

(1) *Forcible sodomy.* In that (personal jurisdiction data), did, (at/on board-location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_\_20\_\_, engage in unnatural

carnal copulation with \_\_\_\_\_, by unlawful force or without the consent of the said \_\_\_\_\_.

(2) *Bestiality*. In that (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_\_20\_\_, engage in unnatural carnal copulation with (type of animal)."

(x) In paragraphs 62, 64-86, 89, 91-100a, and 102-113, the sample specifications in subparagraph f are uniformly amended by inserting the words below between the last word and the period in each sample specification:

" , and that said conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces)."

(y) Paragraph 60.b, Article 134(b)-General Article, is amended to read as follows:

"b. *Elements*. The proof required for conviction of an offense under Article 134 depends upon the nature of the misconduct charged. If the conduct is punished as a crime or offense not capital, the proof must establish every element of the crime or offense as required by the applicable law. All offenses under Article 134 require proof of a single terminal element; however, the terminal element may be proven using any

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of three theories of liability corresponding to clause 1, 2, or 3 offenses.

(1) For clause 1 or 2 offenses under Article 134, the following proof is required:

(a) That the accused did or failed to do certain acts;  
and

(b) That, under the circumstances, the accused's conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) For clause 3 offenses under Article 134, the following proof is required:

(a) That the accused did or failed to do certain acts that satisfy each element of the federal statute (including, in the case of a prosecution under 18 U.S.C. § 13, each element of the assimilated State, Territory, Possession, or District law);  
and

(b) That the offense charged was an offense not capital."

(z) Paragraph 60, Article 134 - General Article, subparagraph c. (6) (a) is amended to read as follows:

"(a) *Specifications under clause 1 or 2.* When alleging a clause 1 or 2 violation, the specification must expressly allege that the conduct was "to the prejudice of good order and

discipline" or that it was "of a nature to bring discredit upon the armed forces." The same conduct may be prejudicial to good order and discipline in the armed forces and at the same time be of a nature to bring discredit upon the armed forces. Both clauses may be alleged; however, only one must be proven to satisfy the terminal element. If conduct by an accused does not fall under any of the enumerated Article 134 offenses (paragraphs 61 through 113 of this Part), a specification not listed in this Manual may be used to allege the offense."

(aa) Paragraph 60, Article 134 - General Article, subparagraph c.(6)(b) is amended to read as follows:

"(b) *Specifications under clause 3.* When alleging a clause 3 violation, the specification must expressly allege that the conduct was "an offense not capital," and each element of the federal statute (including, in the case of a prosecution under 18 U.S.C. § 13, each element of the assimilated State, Territory, Possession, or District law) must be alleged expressly or by necessary implication. In addition, the federal statute should be identified."

(bb) Paragraph 60, Article 134 - General Article, subparagraph c.(6)(c) is deleted.

(cc) Paragraph 61, Article 134 - Abusing public animal, is amended to read as follows:

**"61. Article 134—(Animal Abuse)**

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a. *Text of statute.* See paragraph 60.

b. *Elements.*

(1) *Abuse, neglect, or abandonment of an animal.*

(a) That the accused wrongfully abused, neglected, or abandoned a certain (public\*) animal (and the accused caused the serious injury or death of the animal\*); and

(b) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(\*Note: Add these elements as applicable.)

(2) *Sexual act with an animal.*

(a) That the accused engaged in a sexual act with a certain animal; and

(b) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *In general.* This offense prohibits knowing, reckless, or negligent abuse, neglect, or abandonment of an animal. This offense does not include legal hunting, trapping, or fishing; reasonable and recognized acts of training, handling, or disciplining of an animal; normal and accepted farm or

veterinary practices; research or testing conducted in accordance with approved military protocols; protection of person or property from an unconfined animal; or authorized military operations or military training.

(2) *Definitions.* As used in this paragraph:

(A) "Abuse" means intentionally and unjustifiably: overdriving, overloading, overworking, tormenting, beating, depriving of necessary sustenance, allowing to be housed in a manner that results in chronic or repeated serious physical harm, carrying or confining in or upon any vehicles in a cruel or reckless manner, or otherwise mistreating an animal. Abuse may include any sexual touching of an animal if not included in the definition of "sexual act with an animal" below.

(B) "Neglect" means allowing another to abuse an animal, or, having the charge or custody of any animal, intentionally, knowingly, recklessly, or negligently failing to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved.

(C) "Abandon" means the intentional, knowing, reckless or negligent leaving of an animal at a location without providing minimum care while having the charge or custody of that animal.

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(D) "Animal" means pets and animals of the type that are raised by individuals for resale to others, including but not limited to: cattle, horses, sheep, pigs, goats, chickens, dogs, cats, and similar animals owned or under the control of any person. Animal does not include reptiles, insects, arthropods, or any animal defined or declared to be a pest by the administrator of the United States Environmental Protection Agency.

(E) "Public animal" means any animal owned or used by the United States or any animal owned or used by a local or State government in the United States, its territories or possessions. This would include, for example, drug detector dogs used by the government.

(F) "Sexual act with an animal" means contact between the sex organ, anus, or mouth of a person and an animal or between the sex organ, mouth, or anus of an animal and a person or object manipulated by a person if done with an intent to arouse or gratify the sexual desire of any person.

(G) "Serious injury of an animal" means physical harm that involves a temporary but substantial disfigurement; causes a temporary but substantial loss or impairment of the function of any bodily part or organ; causes a fracture of any bodily part; causes permanent maiming; causes acute pain of a duration that results in suffering; or carries a substantial risk of

death. Serious injury includes, but is not limited to, burning, torturing, poisoning, or maiming.

d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.*

(1) *Abuse, neglect, or abandonment of an animal.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) *Abuse, neglect, or abandonment of a public animal.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(3) *Sexual act with an animal or cases where the accused caused the serious injury or death of the animal.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.*

In that \_\_\_\_\_, (personal jurisdiction data), did, (at/on board-location) (subject-matter jurisdiction data, if required), on or about (date), (wrongfully [abuse] [neglect] [abandon]) (\*engage in a sexual act, to wit: \_\_\_\_\_, with) a certain (\*public) animal (\*and caused [serious injury to] [the death of] the animal), and that said conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the

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prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces).

(dde) Paragraph 64, Article 134 - Assault-with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking is amended by inserting "forcible" immediately preceding every occurrence of the word "sodomy".

(ee) Paragraph 90, Article 134 - Deleted-See Appendix 27, is amended to read as follows:

**"90. Article 134 - (Indecent conduct)**

a. *Text of Statute.* See paragraph 60.

b. *Elements.*

(1) That the accused engaged in certain conduct;

(2) That the conduct was indecent; and

(3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) "Indecent" means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(2) Indecent conduct includes offenses previously proscribed by "Indecent acts with another" except that the

presence of another person is no longer required. For purposes of this offense, the words "conduct" and "act" are synonymous. For child offenses, some indecent conduct may be included in the definition of lewd act and preempted by Article 120b(c). See paragraph 60c(5)(a).

d. *Lesser included offense.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), did (at/on board - location) (subject-matter jurisdiction data, if required), on or about (date), (wrongfully commit indecent conduct, to wit: \_\_\_\_\_), and that said conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces).

(ff) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(1)(a) is amended by replacing "had sexual intercourse" with "engaged in a sexual act".

(gg) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(2)(a) is amended by replacing "had sexual intercourse" with "engaged in a sexual act".

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(hh) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(2) (b) is amended by replacing "engage in an act of sexual intercourse" with "engage in a sexual act".

(ii) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(3) (a) is amended by replacing "engage in an act of sexual intercourse" with "engage in a sexual act".

(jj) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(4) is amended by replacing "*Pandering by arranging or receiving consideration for arranging for sexual intercourse or sodomy.*" with "(4) *Pandering by arranging or receiving consideration for arranging for a sexual act.*"

(kk) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph b.(4) (a) is amended by replacing "engage in an act of sexual intercourse or sodomy" with "engage in a sexual act".

(ll) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph c is amended to read as follows:

"c. *Explanation.*

(1) Prostitution may be committed by males or females.

(2) *Sexual act.* See paragraph 45.a.(g)(1)."

(mm) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph f.(1) is amended by replacing "(an act) (acts) of sexual intercourse" with "(a sexual act) (sexual acts)".

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(nn) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph f.(2) is amended by replacing "(an act) (acts) of sexual intercourse" with "(a sexual act) (sexual acts)".

(oo) Paragraph 97, Article 134 - Pandering and prostitution, subparagraph f.(3) is amended by replacing "(an act) (acts) of sexual intercourse" with "(a sexual act) (sexual acts)".

Executive Order 13741 of September 29, 2016

### **Amending Executive Order 13467 to Establish the Roles and Responsibilities of the National Background Investigations Bureau and Related Matters**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1.** Executive Order 13467 of June 30, 2008, is amended as follows:

(a) The preamble is replaced with the following: “By the authority vested in me as President by the Constitution and the laws of the United States of America, including 5 U.S.C. 3301 and 7103(b), and in order to strengthen and ensure a secure, efficient, timely, reciprocal, and aligned system for investigating and determining suitability or fitness for Government employment, contractor employee fitness, eligibility for access to classified information or to hold a sensitive position, and authorization to be issued a Federal credential, while taking appropriate account of title III of Public Law 108–458, it is hereby ordered as follows:”

(b) Section 1.1 is amended to read as follows:

“**Section 1.1. Policy:** Executive branch policies and procedures relating to suitability, contractor or Federal employee fitness, eligibility to hold a sensitive position, authorization to be issued a Federal credential for access to federally controlled facilities and information systems, and eligibility for access to classified information shall be aligned using consistent standards to the extent possible, shall provide for reciprocal recognition, and shall ensure cost-effective, timely, and efficient protection of the national interest, while providing fair treatment to those upon whom the Federal Government relies to conduct the Nation’s business and protect national security. Further, the Government’s systems and processes for conducting these background investigations and managing sensitive investigative information must keep pace with technological advancements, regularly integrating current best practices, to better anticipate, detect, and counter malicious activities and threats posed by external or internal actors who may seek to do harm to the Government’s personnel, property, or information. To help fulfill these responsibilities, there shall be a primary executive branch investigative service provider whose mission is to provide effective, efficient, and secure background investigations for the Federal Government.”

(c) Sections 1.3(k) and (l) are redesignated as sections 1.3(l) and (m).

(d) A new section 1.3(k) is added to read as follows: “(k) “National Background Investigations Bureau” (NBIB) means the National Background Investigations Bureau, established within the Office of Personnel Management with responsibility for conducting effective, efficient, and secure personnel background investigations pursuant to law, rule, regulation, or Executive Order.”

(e) Section 2.2(b) is amended to read as follows:

“(b) The Deputy Director for Management, Office of Management and Budget, shall serve as Chair of the Council and shall have authority, direction, and control over the Council’s functions. Membership on the Council shall include the Suitability Executive Agent, the Security Executive Agent,

and the Under Secretary of Defense for Intelligence of the Department of Defense. These four officials collectively shall constitute “the Suitability and Security Clearance Performance Accountability Council Principals.” The Director of the National Background Investigations Bureau shall also serve as a member of the Council. The Chair shall select a Vice Chair to act in the Chair’s absence. The Chair shall have authority to designate officials from additional agencies who shall serve as members of the Council. Council membership shall be limited to Federal Government employees in leadership positions.”

(f) Section 2.4 is redesignated as section 2.5, and a new section 2.4 is added to read as follows:

“**Sec. 2.4. Roles and Responsibilities of the National Background Investigations Bureau and the Department of Defense.**

(a) The National Background Investigations Bureau shall:

“(1) serve as the primary executive branch service provider for background investigations for eligibility for access to classified information; eligibility to hold a sensitive position; suitability or, for employees in positions not subject to suitability, fitness for Government employment; fitness to perform work for or on behalf of the Government as a contractor employee; and authorization to be issued a Federal credential for logical and physical access to federally controlled facilities and information systems;

“(2) provide effective, efficient, and secure personnel background investigations for the Federal Government;

“(3) provide the Council information, to the extent permitted by law, on matters of performance, timeliness, capacity, information technology modernization, continuous performance improvement, and other relevant aspects of NBIB operations;

“(4) be headquartered in or near Washington, District of Columbia;

“(5) have dedicated resources, including but not limited to a senior privacy official;

“(6) institutionalize interagency collaboration and take advantage of expertise across the executive branch;

“(7) continuously improve investigative operations, emphasizing information accuracy and protection, and regularly integrate best practices, including those identified by subject matter experts from industry, academia, or other relevant sources;

“(8) conduct personnel background investigations in accordance with uniform and consistent policies, procedures, standards, and requirements established by the Security Executive Agent and the Suitability Executive Agent; and

“(9) conduct other personnel background investigations as authorized by law, rule, regulation, or Executive Order.

“(b) The Secretary of Defense shall design, develop, deploy, operate, secure, defend, and continuously update and modernize, as necessary, background investigation information technology systems that support all Federal background investigation processes conducted by the National Background Investigations Bureau. Design and operation of the information

technology systems for the National Background Investigations Bureau shall comply with applicable information technology standards and, to the extent practicable, ensure security and interoperability with other Federal background investigation information technology systems. The Secretary of Defense shall operate the database in the information technology systems containing appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or Government contractor personnel, see 50 U.S.C. 3341(e), consistent with and following an explicit delegation from the Director of the Office of Personnel Management pursuant to 5 U.S.C. 1104.

“(c) Delegations and designations of investigative authority in place on the date of establishment of the National Background Investigations Bureau shall remain in effect until amended or revoked. The National Background Investigations Bureau, through the Director of the Office of Personnel Management, shall be subject to the oversight of the Security Executive Agent in the conduct of investigations for eligibility for access to classified information or to hold a sensitive national security position; and to the oversight of the Suitability Executive Agent in the conduct of investigations of suitability or fitness for Government employment and logical and physical access, as provided in section 2.3 of this order. The Council shall hold the National Background Investigations Bureau accountable for the fulfillment of the responsibilities set forth in section 2.4(a) of this order.”

**Sec. 2. *Updating Governance, Authorities, Roles, and Responsibilities.*** (a) Within 90 days of the date of this order, and building on the strength of the current Suitability and Security Clearance Performance Accountability Council and Executive Agent governance structure, the Council shall review and update executive-level authorities across the vetting enterprise to clarify and de-conflict existing authorities, to assign new responsibilities where gaps may exist, and to address necessary governance changes.

(b) Specifically, the Council shall submit to the President a recommendation to:

- (i) update, clarify, or replace Executive Orders (such as Executive Order 10450 of April 27, 1953, as amended, or Executive Order 12968 of August 2, 1995, as amended) as necessary to accommodate adding new entities into the current governance structure, and to reflect changes to policies, governance, or operational structure; and
- (ii) consolidate multiple authorities (such as Executive Order 10450 of April 27, 1953, as amended, or Executive Order 13467 of June 30, 2008) and reaffirm or clarify existing roles and responsibilities in new or existing Executive Orders.

(c) The Council’s submission shall include, but will not be limited to, the appropriate means to:

- (i) create a Credentialing Executive Agent with responsibility for policy and oversight of credentialing matters that parallels the respective authorities and responsibilities of the Security and Suitability Executive Agents, which will clarify, align, and consolidate credentialing authority under a single Executive Agent;
- (ii) make explicit the Suitability Executive Agent’s oversight role;
- (iii) de-conflict Security Executive Agent and Suitability Executive Agent authorities;

(iv) establish a definition of “vetting” as the overarching construct for investigations and the decisions based on them, inclusive of security, suitability or fitness, and credentialing; and

(v) establish clear lanes of responsibility for new overarching enterprise-wide needs for example, acquisition, funding models, data security requirements, and contracting, and the respective roles of the Security, Suitability, and Credentialing Line of Business; and the Enterprise Investment Board.

**Sec. 3.** *Amendment to Executive Order 12171.* Executive Order 12171 of November 19, 1979, as amended, is further amended by striking “The Federal Investigative Services Division” in section 1–216 and inserting in lieu thereof:

“Agencies or subdivisions of the Office of Personnel Management:

(a) The Federal Investigative Services.

(b) The National Background Investigations Bureau.

(c) Units with a primary Suitability Executive Agent mission, including adjudicating suitability investigations and conducting related policy, advisory services, operations support, and agency oversight.

(d) Units with a primary mission of engineering, information technology, and cybersecurity support for personnel background investigations and adjudications.”

**Sec. 4.** *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
September 29, 2016.

#### Executive Order 13742 of October 7, 2016

### Termination of Emergency With Respect to the Actions and Policies of the Government of Burma

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61), the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008 (Public Law 110–286) (the “JADE Act”), section

212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)) (INA), and section 301 of title 3, United States Code.

I, BARACK OBAMA, President of the United States of America, find that the situation that gave rise to the declaration of a national emergency in Executive Order 13047 of May 20, 1997, with respect to the actions and policies of the Government of Burma, in particular a deepening pattern of severe repression by the State Law and Order Restoration Council, the then-governing regime in Burma, as modified in scope by Executive Order 13448 of October 18, 2007, and Executive Order 13619 of July 11, 2012, has been significantly altered by Burma's substantial advances to promote democracy, including historic elections in November 2015 that resulted in the former opposition party, the National League for Democracy, winning a majority of seats in the national parliament and the formation of a democratically elected, civilian-led government; the release of many political prisoners; and greater enjoyment of human rights and fundamental freedoms, including freedom of expression and freedom of association and peaceful assembly. Accordingly, I hereby terminate the national emergency declared in Executive Order 13047, and revoke that order, Executive Order 13310 of July 28, 2003, Executive Order 13448, Executive Order 13464 of April 30, 2008, Executive Order 13619, and Executive Order 13651 of August 6, 2013, and further order:

**Section 1.** Pursuant to section 202(a) of the NEA (50 U.S.C. 1622(a)), termination of the national emergency declared in Executive Order 13047, as modified in scope by Executive Order 13448, and Executive Order 13619, shall not affect any action taken or proceeding pending not finally concluded or determined as of the effective date of this order, any action or proceeding based on any act committed prior to the effective date of this order, or any rights or duties that matured or penalties that were incurred prior to the effective date of this order.

**Sec. 2.** Pursuant to section 5(i) of the JADE Act, I hereby determine and certify that it is in the national interest of the United States to waive, and hereby waive, the sanctions described in section 5(b) of the JADE Act.

**Sec. 3.** In light of the revocation of Executive Order 13310, Executive Order 13448, and Executive Order 13464, the suspension of entry as immigrants and nonimmigrants, pursuant to Presidential Proclamation 8693 of July 24, 2011, and section 212(f) of the INA, of individuals meeting the criteria in said orders will no longer be in effect as of the effective date of this order. In light of the revocation of Executive Order 13619, the suspension of entry as immigrants and nonimmigrants of individuals meeting the criteria in that order will no longer be in effect as of the effective date of this order and such individuals will no longer be treated as persons covered by Presidential Proclamation 8693.

**Sec. 4.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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**Title 3—The President**

**Sec. 5.** This order is effective at 1:00 p.m. eastern daylight time on October 7, 2016.

BARACK OBAMA

The White House,  
*October 7, 2016.*

**Executive Order 13743 of October 13, 2016**

**Charitable Fundraising**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for a more comprehensive workplace giving program, it is hereby ordered as follows:

**Section 1.** Executive Order 12353 of March 23, 1982, as amended, is further amended as follows:

(a) By revising the introductory paragraph by deleting the term “voluntary agencies” and inserting in its place the term “voluntary health and welfare organizations”; and by deleting the term “recipient agencies” and inserting in its place “recipient organizations”.

(b) By revising section 1 of that order to read as follows:

**“Section 1.**

(a) The Director of the Office of Personnel Management shall make arrangements for voluntary health and welfare organizations to solicit contributions from Federal employees and members of the uniformed services at their places of employment or duty. Federal employees and members of the uniformed services can also be solicited to make pledges of volunteer time. These arrangements shall take the form of an annual Combined Federal Campaign in which eligible voluntary health and welfare organizations are authorized to take part.

(b) The Director shall consider permitting annuitants to make contributions to the Combined Federal Campaign through allotments or assignments of amounts from their Federal annuities. The Director may prescribe rules and regulations to govern the solicitation of such contributions and make arrangements to inform annuitants of their ability to make contributions in this manner.”

(c) By revising section 2(a) by deleting the term “voluntary agencies” and inserting in its place the term “voluntary health and welfare organizations”.

(d) By revising the first clause of section 2(b)(1) to delete “and of local communities”.

(e) By revising section 2(b)(2) by deleting the first instance of the word “agencies” and inserting in its place the word “organizations”.

(f) By revising section 2(b)(3) by deleting the term “Agencies” and inserting in its place the term “Organizations”; and by deleting the term “charitable health and welfare agencies” and inserting in its place the term “charitable health and welfare organizations”.

(g) By revising section 2(b)(5) to read as follows:

“(5) Local voluntary, charitable, health and welfare organizations that are not affiliated with a national organization or federation but that satisfy the eligibility criteria set forth in this order and by the Director shall be permitted to participate in the Combined Federal Campaign.”

(h) By revising section 3 by deleting the term “voluntary agencies” and inserting in its place the term “voluntary health and welfare organizations”.

(i) By revising section 5 to read as follows:

“**Sec. 5.** Subject to such rules and regulations as the Director may prescribe, the Director may authorize:

(a) outreach coordinators to conduct campaign promotion in a local Combined Federal Campaign; and

(b) central campaign administrators to administer application and pledging systems and to collect and disburse pledged funds.

Such authorizations shall, if made, ensure at a minimum that outreach coordinators and central campaign administrators operate subject to the direction and control of the Director and such local Federal coordinating entities as may be established; and manage the Combined Federal Campaign fairly and equitably. The Director may consult with and consider advice from interested parties and organizations, and shall publish reports on the management and results of the Combined Federal Campaign.”

(j) By revising section 6 to read as follows:

“**Sec. 6.** The methods for the solicitation of funds shall clearly specify the eligible organizations and provide a direct means to designate funds to such organizations. Where allocation of undesignated funds by the central campaign administrator is authorized by the Director, prominent notice of the authorization for such allocation shall be provided.”

**Sec. 2. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) All rules, regulations, and directives continued or issued under Executive Order 12353, as amended, shall continue in effect until revoked or modified under the provisions of this order.

BARACK OBAMA

The White House,  
October 13, 2016.

Executive Order 13744 of October 13, 2016

## Coordinating Efforts to Prepare the Nation for Space Weather Events

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to prepare the Nation for space weather events, it is hereby ordered as follows:

**Section 1. Policy.** Space weather events, in the form of solar flares, solar energetic particles, and geomagnetic disturbances, occur regularly, some with measurable effects on critical infrastructure systems and technologies, such as the Global Positioning System (GPS), satellite operations and communication, aviation, and the electrical power grid. Extreme space weather events—those that could significantly degrade critical infrastructure—could disable large portions of the electrical power grid, resulting in cascading failures that would affect key services such as water supply, healthcare, and transportation. Space weather has the potential to simultaneously affect and disrupt health and safety across entire continents. Successfully preparing for space weather events is an all-of-nation endeavor that requires partnerships across governments, emergency managers, academia, the media, the insurance industry, non-profits, and the private sector.

It is the policy of the United States to prepare for space weather events to minimize the extent of economic loss and human hardship. The Federal Government must have (1) the capability to predict and detect a space weather event, (2) the plans and programs necessary to alert the public and private sectors to enable mitigating actions for an impending space weather event, (3) the protection and mitigation plans, protocols, and standards required to reduce risks to critical infrastructure prior to and during a credible threat, and (4) the ability to respond to and recover from the effects of space weather. Executive departments and agencies (agencies) must coordinate their efforts to prepare for the effects of space weather events.

**Sec. 2. Objectives.** This order defines agency roles and responsibilities and directs agencies to take specific actions to prepare the Nation for the hazardous effects of space weather. These activities are to be implemented in conjunction with those identified in the 2015 *National Space Weather Action Plan* (Action Plan) and any subsequent updates. Implementing this order and the Action Plan will require the Federal Government to work across agencies and to develop, as appropriate, enhanced and innovative partnerships with State, tribal, and local governments; academia; non-profits; the private sector; and international partners. These efforts will enhance national preparedness and speed the creation of a space-weather-ready Nation.

**Sec. 3. Coordination.** (a) The Director of the Office of Science and Technology Policy (OSTP), in consultation with the Assistant to the President for Homeland Security and Counterterrorism and the Director of the Office of Management and Budget (OMB), shall coordinate the development and implementation of Federal Government activities to prepare the Nation for space weather events, including the activities established in section 5 of this order and the recommendations of the National Science and Technology Council (NSTC), established by Executive Order 12881 of November 23, 1993 (Establishment of the National Science and Technology Council).

(b) To ensure accountability for and coordination of research, development, and implementation of activities identified in this order and in the Action Plan, the NSTC shall establish a Space Weather Operations, Research, and Mitigation Subcommittee (Subcommittee). The Subcommittee member agencies shall conduct activities to advance the implementation of this order, to achieve the goals identified in the 2015 *National Space Weather Strategy* and any subsequent updates, and to coordinate and monitor the implementation of the activities specified in the Action Plan and provide subsequent updates.

**Sec. 4. Roles and Responsibilities.** To the extent permitted by law, the agencies below shall adopt the following roles and responsibilities, which are key to ensuring enhanced space weather forecasting, situational awareness, space weather preparedness, and continuous Federal Government operations during and after space weather events.

(a) The Secretary of Defense shall ensure the timely provision of operational space weather observations, analyses, forecasts, and other products to support the mission of the Department of Defense and coalition partners, including the provision of alerts and warnings for space weather phenomena that may affect weapons systems, military operations, or the defense of the United States.

(b) The Secretary of the Interior shall support the research, development, deployment, and operation of capabilities that enhance the understanding of variations of the Earth's magnetic field associated with solar-terrestrial interactions.

(c) The Secretary of Commerce shall:

(i) provide timely and accurate operational space weather forecasts, watches, warnings, alerts, and real-time space weather monitoring for the government, civilian, and commercial sectors, exclusive of the responsibilities of the Secretary of Defense; and

(ii) ensure the continuous improvement of operational space weather services, utilizing partnerships, as appropriate, with the research community, including academia and the private sector, and relevant agencies to develop, validate, test, and transition space weather observation platforms and models from research to operations and from operations to research.

(d) The Secretary of Energy shall facilitate the protection and restoration of the reliability of the electrical power grid during a presidentially declared grid security emergency associated with a geomagnetic disturbance pursuant to 16 U.S.C. 824o-1.

(e) The Secretary of Homeland Security shall:

(i) ensure the timely redistribution of space weather alerts and warnings that support national preparedness, continuity of government, and continuity of operations; and

(ii) coordinate response and recovery from the effects of space weather events on critical infrastructure and the broader community.

(f) The Administrator of the National Aeronautics and Space Administration (NASA) shall:

(i) implement and support a national research program to understand the Sun and its interactions with Earth and the solar system to advance

space weather modeling and prediction capabilities applicable to space weather forecasting;

(ii) develop and operate space-weather-related research missions, instrument capabilities, and models; and

(iii) support the transition of space weather models and technology from research to operations and from operations to research.

(g) The Director of the National Science Foundation (NSF) shall support fundamental research linked to societal needs for space weather information through investments and partnerships, as appropriate.

(h) The Secretary of State, in consultation with the heads of relevant agencies, shall carry out diplomatic and public diplomacy efforts to strengthen global capacity to respond to space weather events.

(i) The Secretaries of Defense, the Interior, Commerce, Transportation, Energy, and Homeland Security, along with the Administrator of NASA and the Director of NSF, shall work together, consistent with their ongoing activities, to develop models, observation systems, technologies, and approaches that inform and enhance national preparedness for the effects of space weather events, including how space weather events may affect critical infrastructure and change the threat landscape with respect to other hazards.

(j) The heads of all agencies that support National Essential Functions, defined by Presidential Policy Directive 40 (PPD-40) of July 15, 2016 (National Continuity Policy), shall ensure that space weather events are adequately addressed in their all-hazards preparedness planning, including mitigation, response, and recovery, as directed by PPD-8 of March 30, 2011 (National Preparedness).

(k) NSTC member agencies shall coordinate through the NSTC to establish roles and responsibilities beyond those identified in section 4 of this order to enhance space weather preparedness, consistent with each agency's legal authority.

**Sec. 5. Implementation.** (a) Within 120 days of the date of this order, the Secretary of Energy, in consultation with the Secretary of Homeland Security, shall develop a plan to test and evaluate available devices that mitigate the effects of geomagnetic disturbances on the electrical power grid through the development of a pilot program that deploys such devices, *in situ*, in the electrical power grid. After the development of the plan, the Secretary shall implement the plan in collaboration with industry. In taking action pursuant to this subsection, the Secretaries of Energy and Homeland Security shall consult with the Chairman of the Federal Energy Regulatory Commission.

(b) Within 120 days of the date of this order, the heads of the sector-specific agencies that oversee the lifeline critical infrastructure functions as defined by the National Infrastructure Protection Plan of 2013—including communications, energy, transportation, and water and wastewater systems—as well as the Nuclear Reactors, Materials, and Waste Sector, shall assess their executive and statutory authority, and limits of that authority, to direct, suspend, or control critical infrastructure operations, functions, and services before, during, and after a space weather event. The heads of each sector-specific agency shall provide a summary of these assessments to the Subcommittee.

(c) Within 90 days of receipt of the assessments ordered in section 5(b) of this order, the Subcommittee shall provide a report on the findings of these assessments with recommendations to the Director of OSTP, the Assistant to the President for Homeland Security and Counterterrorism, and the Director of OMB. The assessments may be used to inform the development and implementation of policy establishing authorities and responsibilities for agencies in response to a space weather event.

(d) Within 60 days of the date of this order, the Secretaries of Defense and Commerce, the Administrator of NASA, and the Director of NSF, in collaboration with other agencies as appropriate, shall identify mechanisms for advancing space weather observations, models, and predictions, and for sustaining and transitioning appropriate capabilities from research to operations and implementation of policy establishing authorities and responsibilities to research, collaborating with industry and academia to the extent possible.

(e) Within 120 days of the date of this order, the Secretaries of Defense and Commerce shall make historical data from the GPS constellation and other U.S. Government satellites publicly available, in accordance with Executive Order 13642 of May 9, 2013 (Making Open and Machine Readable the New Default for Government Information), to enhance model validation and improvements in space weather forecasting and situational awareness.

(f) Within 120 days of the date of this order, the Secretary of Homeland Security, through the Administrator of the Federal Emergency Management Agency and in coordination with relevant agencies, shall lead the development of a coordinated Federal operating concept and associated checklist to coordinate Federal assets and activities to respond to notification of, and protect against, impending space weather events. Within 180 days of the publication of the operating concept and checklist, agencies shall develop operational plans documenting their procedures and responsibilities to prepare for, protect against, and mitigate the effects of impending space weather events, in support of the Federal operating concept and compatible with the National Preparedness System described in PPD-8.

**Sec. 6. Stakeholder Engagement.** The agencies identified in this order shall seek public-private and international collaborations to enhance observation networks, conduct research, develop prediction models and mitigation approaches, enhance community resilience and preparedness, and supply the services necessary to protect life and property and promote economic prosperity, as consistent with law.

**Sec. 7. Definitions.** As used in this order:

(a) “Prepare” and “preparedness” have the same meaning they have in PPD-8. They refer to the actions taken to plan, organize, equip, train, and exercise to build and sustain the capabilities necessary to prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk to the security of the Nation. This includes the prediction and notification of space weather events.

(b) “Space weather” means variations in the space environment between the Sun and Earth (and throughout the solar system) that can affect technologies in space and on Earth. The primary types of space weather events are solar flares, solar energetic particles, and geomagnetic disturbances.

(c) “Solar flare” means a brief eruption of intense energy on or near the Sun’s surface that is typically associated with sunspots.

(d) “Solar energetic particles” means ions and electrons ejected from the Sun that are typically associated with solar eruptions.

(e) “Geomagnetic disturbance” means a temporary disturbance of Earth’s magnetic field resulting from solar activity.

(f) “Critical infrastructure” has the meaning provided in section 1016(e) of the USA Patriot Act of 2001 (42 U.S.C. 5195c(e)), namely systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(g) “Sector-Specific Agency” means the agencies designated under PPD–21 of February 12, 2013 (Critical Infrastructure Security and Resilience), or any successor directive, to be responsible for providing institutional knowledge and specialized expertise as well as leading, facilitating, or supporting the security and resilience programs and associated activities of its designated critical infrastructure sector in the all-hazards environment.

**Sec. 8. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an agency, or the head thereof; or
- (ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
October 13, 2016.

#### Executive Order 13745 of October 31, 2016

### Delegation of Function to the Director of the Office of Personnel Management

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1.** (a) The Director of the Office of Personnel Management (OPM) is hereby authorized to exercise the function vested in the President by section 6391 of title 5, United States Code, of directing OPM to establish an emergency leave transfer program. The Director of OPM shall exercise this authority in consultation with the Director of the Office of Management and Budget.

(b) The Director of OPM shall notify the President of the establishment of any emergency leave transfer program pursuant to the authority in subsection (a).

**Sec. 2.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
October 31, 2016.

**Executive Order 13746 of November 3, 2016**

**Advancing the Goals of the Power Africa Initiative to Expand Access to Electricity in Sub-Saharan Africa Through the Establishment of the President's Power Africa Working Group**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** It is the policy of the United States to partner, consult, and coordinate with African governments, bilateral and multilateral partners, the private sector, and civil society to expand access to electricity and increase electricity generation in Sub-Saharan Africa, in both urban and rural areas. Through the Power Africa initiative (Power Africa), we aim to double access to power in Sub-Saharan Africa by adding 30,000 megawatts (MW) of capacity and 60 million new household and business connections by 2030, and in so doing, leapfrog to cleaner forms of energy and foster inclusive economic growth and opportunity across Sub-Saharan Africa.

On June 30, 2013, my Administration launched Power Africa, a new initiative to double access to power in Sub-Saharan Africa, where more than two-thirds of the population is without electricity, and more than 85 percent of those living in rural areas lack access to electricity. In its initial phase, Power Africa aimed to add more than 10,000 MW of cleaner, more efficient electricity generation capacity and to increase electricity access by at least 20 million new households and commercial entities with on-grid, mini-grid, and off-grid solutions. Power Africa builds on Africa's enormous power potential, including extensive clean geothermal, hydro, wind and solar energy resources, as well as vast oil and gas reserves. Power Africa works with countries to develop resources responsibly, build out power generation, transmission, and distribution, and expand the reach of mini-grid and off-grid solutions. Power Africa brings to bear a wide range of tools from across the Federal Government and more than 130 public and private sector partners to support investment in Africa's energy sector. Power Africa provides coordinated support to help African partners expand their power networks and access to electricity, including through policy and regulatory best practices, institutional capacity building, pre-feasibility

support, grants, long-term financing, insurance, guarantees, credit enhancements, and technical assistance.

On August 5, 2014, during the U.S.-Africa Leaders Summit, my Administration affirmed that Power Africa is intended to reach across Sub-Saharan Africa, and tripled Power Africa's goals. Power Africa is now working toward adding 30,000 MW of new, cleaner electricity generation capacity and increasing electricity access by at least 60 million new connections. On January 28, 2016, my Administration, in coordination with Power Africa partners, launched the Power Africa Roadmap, which lays out a concrete plan for Power Africa to meet its ambitious goals by 2030.

The Electrify Africa Act of 2015, enacted on February 8, 2016 (Public Law 114–121) (the “Act”), calls for the development of a strategy to add at least 20,000 MW of electrical power and promote first-time access to power and power services for at least 50 million people in Sub-Saharan Africa by 2020 in both urban and rural areas—an effort that directly supports and complements Power Africa's goals. This order furthers the purposes of the Act and the work that Power Africa has been undertaking.

**Sec. 2. *Establishment of the Coordinator for Power Africa.*** The United States Agency for International Development (USAID) shall serve as the lead agency to facilitate the implementation of Power Africa and associated activities across the United States Government. The Administrator of USAID shall establish the position of Coordinator for Power Africa within USAID.

**Sec. 3. *Power Africa Working Group.*** (a) There is hereby established the Power Africa Working Group (Working Group), co-chaired by the Coordinator for Power Africa within USAID and a member of the National Security Council (NSC) staff to be designated by the Assistant to the President for National Security Affairs. The Working Group shall serve as the multi-agency coordinating and advisory body for the Federal Government's efforts to identify, evaluate, prioritize, and deliver assistance to energy projects across Sub-Saharan Africa in order to advance the energy access and electricity generation goals of Power Africa and promote policy cohesion across the Federal Government. Through the Working Group, participating departments and agencies shall provide advice and promote coherence of United States Government positions on and assistance for priority energy projects and policy reforms in support of Power Africa.

(b) The Working Group shall consist of representatives of the following executive branch departments and agencies (Participating Agencies):

- (i) the Department of State;
- (ii) the Department of the Treasury;
- (iii) the Department of Agriculture;
- (iv) the Department of Commerce;
- (v) the Department of Energy;
- (vi) the Export-Import Bank of the United States;
- (vii) the United States Agency for International Development;
- (viii) the Overseas Private Investment Corporation;
- (ix) the United States Trade and Development Agency;

- (x) the Millennium Challenge Corporation;
- (xi) the United States Army Corps of Engineers;
- (xii) the Office of Management and Budget; and
- (xiii) such other agencies as the Co-Chairs may designate or invite to participate, including the United States African Development Foundation.

(c) The Working Group may consult with non-United States Government entities that participate in Power Africa as bilateral, multilateral, private sector partners and nongovernmental organizations to provide input and advice to the United States Government, as appropriate, regarding the implementation of Power Africa.

(d) The Working Group may establish sub-groups consisting exclusively of Working Group members or their designees, as appropriate, such as one for each of the three pillars of the Power Africa Roadmap: (1) megawatts, (2) connections, and (3) unlocking energy sector potential.

(e) The Working Group shall be supported by the Office of the Coordinator for Power Africa within USAID.

**Sec. 4. *Mission and Functions of the Working Group.*** The Working Group, as may be necessary and appropriate to carry out this order, shall:

(a) Ensure efficient and effective coordination of energy access activities in Sub-Saharan Africa among Participating Agencies.

(b) Identify, prioritize, and evaluate potential Power Africa projects, regulatory and policy reforms, and programmatic focus areas, including maximizing deployment of and access to renewable energy.

(c) Identify country and project specific obstacles to the development of the electricity sector, including financial and technical assistance needs and capacity building needs, and identify opportunities for Participating Agencies to deploy their respective tools and best practices to advance needed reforms and accelerate the completion of Power Africa projects.

(d) Enhance coordination among Participating Agencies to maximize the efficiency and effectiveness of United States Government development assistance and other development finance tools as related to Power Africa priorities.

(e) Facilitate information sharing and coordination of partnerships between Participating Agencies and African governments, the private sector, development partners, and bilateral and multilateral partners to help advance Power Africa's goals.

(f) Identify appropriate courses of action to liaise with host governments to advance regulatory and policy reforms, as well as energy transactions, related to Power Africa.

(g) Identify best practices for Participating Agencies to coordinate their engagement with development partners, including bilateral donors, development finance institutions, and multilateral development banks on energy access issues, to ensure that Power Africa's tools are deployed in a way that is complementary to and leverages the impact of United States Government resources.

(h) Meet with private sector partners, as appropriate, to review Power Africa projects and activities, and to solicit input regarding technical, policy,

financial or political, obstacles that partners are encountering in the energy sector across Sub-Saharan Africa.

(i) Meet with bilateral and multilateral development partners, as appropriate, to coordinate country-specific and regional energy access policy agendas, coordinate deployment of financial resources and technical expertise to identify and accelerate Power Africa projects and activities, and review project pipelines.

(j) Monitor and periodically evaluate Power Africa projects and activities to measure the effectiveness of United States Government assistance and other development finance tools in achieving Power Africa's electricity generation and access goals, and to share lessons learned. These evaluations may recommend reforms to facilitate support for future projects and activities, and to increase the Working Group's effectiveness.

**Sec. 5. *Partnering with African Private Sector Companies.*** I hereby direct Participating Agencies to facilitate as appropriate, to the maximum extent possible under the law, the participation of local and regional companies in power, renewable energy, and climate change projects in low-income countries in Africa, including through the use of financing and risk insurance, where appropriate.

**Sec. 6. *Reporting.*** The Administrator of USAID, in coordination with the Participating Agencies, shall lead in the development of a report, to be transmitted to the Congress pursuant to section 7 of the Act and the Presidential Memorandum of August 3, 2016, "Delegation of Authority Pursuant to Section 4 and Section 7 of the Electrify Africa Act of 2015," on progress made toward achieving the comprehensive, integrated, multiyear strategy that was transmitted to the Congress on August 6, 2016, pursuant to section 4 of the Act, to encourage the efforts of countries in Sub-Saharan Africa to implement national power strategies and develop an appropriate mix of power solutions to provide access to sufficient, reliable, affordable, and sustainable power in order to reduce poverty and drive economic growth and job creation.

**Sec. 7. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
November 3, 2016.

Executive Order 13747 of November 4, 2016

## Advancing the Global Health Security Agenda to Achieve a World Safe and Secure From Infectious Disease Threats

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** As articulated in the National Strategy for Countering Biological Threats and implemented in Presidential Policy Directive 2 (PPD-2), promoting global health security is a core tenet of our national strategy for countering biological threats. No single nation can be prepared if other nations remain unprepared to counter biological threats; therefore, it is the policy of the United States to advance the Global Health Security Agenda (GHSA), which is a multi-faceted, multi-country initiative intended to accelerate partner countries' measurable capabilities to achieve specific targets to prevent, detect, and respond to infectious disease threats (GHSA targets), whether naturally occurring, deliberate, or accidental. The roles, responsibilities, and activities described in this order will support the goals of the International Health Regulations (IHR) and will be conducted, as appropriate, in coordination with the World Health Organization (WHO), Food and Agriculture Organization of the United Nations (FAO), World Organisation for Animal Health (OIE), Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, the International Criminal Police Organization (INTERPOL), and other relevant organizations and stakeholders. To advance the achievement of the GHSA targets and to support the implementation of the IHR within partner countries, each executive department, agency, and office (agency) shall, as appropriate, partner, consult, and coordinate with other governments, international financial institutions, international organizations, regional organizations, economic communities, and nongovernmental stakeholders, including the private sector.

**Sec. 2. GHSA Interagency Review Council.**

(a) *GHSA Coordination and Policy Development.* In furtherance of the policy described in section 1 of this order, I hereby direct the National Security Council staff, in accordance with the procedures and requirements in Presidential Policy Directive 1 (or any successor directive), to convene a GHSA Interagency Review Council (Council) to perform the responsibilities described in this order. The Assistant to the President for National Security Affairs, in coordination with the Assistant to the President for Homeland Security and Counterterrorism, shall designate a member of the National Security Council staff to serve as Chair for the Council. The Council shall meet not less than four times per year to advance its mission and fulfill its responsibilities.

(b) *GHSA Interagency Review Council Responsibilities.*

(i) The Council shall be responsible for the following activities:

(A) Provide, by consensus, policy-level guidance to participating agencies on GHSA goals, objectives, and implementation.

(B) Facilitate interagency, multi-sectoral engagement to carry out GHSA implementation.

(C) Provide a forum for raising and working to resolve interagency disagreements concerning the GHSA.

(D) Review the progress toward and work to resolve challenges in achieving U.S. commitments under the GHSA, including commitments to assist other countries in achieving the GHSA targets. The Council shall consider, among other issues, the status of U.S. financial commitments to the GHSA in the context of commitments by other donors, and the contributions of partner countries to achieve the GHSA targets; progress toward the milestones outlined in GHSA national plans for those countries where the United States Government has committed to assist in implementing the GHSA and in annual work-plans outlining agency priorities for implementing the GHSA; and external evaluations of United States and partner country capabilities to address infectious disease threats, including the ability to achieve the targets outlined within the WHO Joint External Evaluation (JEE) tool, as well as gaps identified by such external evaluations.

(E) Provide, by consensus, within 30 days of the date of this order, initial policy-level guidance on GHSA implementation.

(F) Develop a report on an annual basis regarding the progress achieved and challenges concerning the United States Government's ability to advance the GHSA across priority countries. The report shall include recommendations to resolve, mitigate, or otherwise address the challenges identified therein. The report shall be transmitted to the President and, to the extent possible, made publicly available.

(G) Conduct an overall review of the GHSA for submission to the President by September 2019. The review should include an evaluation of the progress achieved during the 5 years of this initiative, as well as any challenges faced. The report should also provide recommendations on the future direction of the initiative.

(ii) The Council shall not perform any activities or functions that interfere with the foreign affairs responsibilities of the Secretary of State, including the responsibility to oversee the implementation of programs and policies that advance the GHSA within foreign countries.

(c) *Participation.* The Council shall consist of representatives, serving at the Assistant Secretary level or higher, from the following agencies:

- (i) the Department of State;
- (ii) the Department of Defense;
- (iii) the Department of Justice;
- (iv) the Department of Agriculture;
- (v) the Department of Health and Human Services;
- (vi) the Department of Homeland Security;
- (vii) the Office of Management and Budget;
- (viii) the United States Agency for International Development;
- (ix) the Environmental Protection Agency;
- (x) the Centers for Disease Control and Prevention;
- (xi) the Federal Bureau of Investigation;

- (xii) the Office of Science and Technology Policy; and
- (xiii) such other agencies as the agencies set forth above, by consensus, deem appropriate.

**Sec. 3. *Agency Roles and Responsibilities.*** In furtherance of the policy described in section 1 of this order, I hereby direct agencies to perform the following:

- (a) The heads of agencies described in section 2(c) of this order shall:
  - (i) make the GHSA and its implementation a high priority within their respective agencies, and include GHSA-related activities within their respective agencies' strategic planning and budget processes;
  - (ii) designate a senior-level official to be responsible for the implementation of this order;
  - (iii) designate, in accordance with section 2(c) of this order, an appropriate representative at the Assistant Secretary level or higher to participate on the Council;
  - (iv) keep the Council apprised of GHSA-related activities undertaken within their respective agencies;
  - (v) maintain responsibility for agency-related programmatic functions in coordination with host governments, country teams, and GHSA in-country teams, and in conjunction with other relevant agencies;
  - (vi) coordinate with other agencies that are identified in this order to satisfy programmatic goals, and further facilitate coordination of country teams, implementers, and donors in host countries; and
  - (vii) coordinate across GHSA national plans and with GHSA partners to which the United States is providing assistance.
- (b) The Secretary of State shall:
  - (i) engage Chiefs of Mission, country teams, and regional and functional bureaus within the Department of State to promote the GHSA with international partners and to facilitate country-level implementation of U.S. programmatic activities;
  - (ii) monitor and evaluate progress toward achieving GHSA targets, determine where more work is needed, and work with agencies and international partners to identify the partners best placed to improve performance and to achieve the GHSA targets for countries the United States has made a commitment to assist;
  - (iii) facilitate implementation and coordination of Department of State programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;
  - (iv) coordinate planning, implementation, and evaluation of GHSA activities with the U.S. Global Malaria Coordinator at the United States Agency for International Development and the U.S. Global AIDS Coordinator at the Department of State in countries the United States has made a commitment to assist;
  - (v) lead diplomatic outreach, including at senior levels, in conjunction with other relevant agencies, to build international support for the GHSA

with its members, other countries, and regional and multilateral bodies, including the Group of 7 (G7), the Group of 20 (G20), the African Union, the WHO, the OIE, the FAO, INTERPOL, the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, the European Union, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Economic Community of West African States, the Organization of Islamic Cooperation, development banks, and other relevant partners;

(vi) work, in conjunction with other relevant agencies, with other donors and nongovernmental implementers in partner countries in order to leverage commitments to advance the GHSA with partners; and

(vii) coordinate, in conjunction with other relevant agencies, the United States Government relationship with foreign and domestic GHSA nongovernmental stakeholders, including the private sector, nongovernmental organizations, and foundations, and develop, with consensus from the Council, an annual GHSA nongovernmental outreach strategy.

(c) The Secretary of Defense shall:

(i) facilitate implementation and coordination of Department of Defense programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which Department of Defense programs are active in order to coordinate and leverage commitments to advance the GHSA with partners; and

(iii) coordinate and communicate, in conjunction with other relevant agencies, with defense ministries with regard to the GHSA, including at the GHSA Ministerial and Steering Group.

(d) The Attorney General, generally acting through the Director of the Federal Bureau of Investigation (FBI), shall:

(i) serve, in conjunction with other relevant agencies, as the United States Government lead for GHSA targets relating to linking public health and law enforcement, and coordinate with INTERPOL on the GHSA and its successful implementation;

(ii) facilitate implementation and coordination of FBI programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist; and

(iii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which FBI programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(e) The Secretary of Agriculture shall:

(i) represent, in conjunction with other relevant agencies, the United States in coordination and communication with the FAO and OIE with regard to the GHSA;

(ii) facilitate implementation and coordination of Department of Agriculture programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist; and

(iii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors, contributing international organizations, and nongovernmental implementers in partner countries in which Department of Agriculture programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(f) The Secretary of Health and Human Services shall:

(i) represent, in conjunction with other relevant agencies, the United States at GHSA Ministerial and Steering Group meetings and in working with G7 and G20 Health Ministers on the GHSA, and coordinate United States Government support for those activities;

(ii) provide overall leadership and coordination for the GHSA Action Packages (Action Packages), which consist of country commitments to advance and share best practices toward specific GHSA targets, including serving as the primary point of contact for the Action Packages, providing support to Action Package leaders, and tracking overall progress on the Action Packages;

(iii) coordinate United States Government support for and participation in external evaluations, including the WHO JEE tool and the Alliance for Country Assessments for Global Health Security and IHR Implementation;

(iv) represent, in conjunction with other relevant agencies, the United States in coordination and communication with the WHO regarding the GHSA;

(v) facilitate, no less than every 4 years, the request for an external assessment, such as the process outlined within the WHO JEE tool, of United States Government domestic efforts to implement the IHR and the GHSA and work to publish the assessment to the general public; and

(vi) consolidate and publish to the general public an external assessment of United States domestic capability to address infectious disease threats and implement the IHR, including the ability to achieve the targets outlined within the WHO JEE tool and including the gaps identified by such external assessment.

(g) The Secretary of Homeland Security shall:

(i) assess the impacts of global health threats on homeland security operations; and

(ii) lead, in conjunction with the Secretary of Health and Human Services, the Secretary of State, and the Secretary of Agriculture, United States Government GHSA activities related to global health threats at U.S. borders and ports of entry.

(h) The Administrator for the United States Agency for International Development shall:

(i) facilitate implementation and coordination of United States Agency for International Development programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) provide, in conjunction with other agencies, strategic technical guidance for achieving GHSA targets; and

(iii) work, in conjunction with interagency partners and the in-country GHSA teams, with other donors and nongovernmental GHSA implementers in partner countries in which United States Agency for International Development programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(i) The Director of the U.S. Centers for Disease Control and Prevention, in coordination with the Secretary of Health and Human Services, shall:

(i) facilitate implementation and coordination of U.S. Centers for Disease Control and Prevention programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) provide, in conjunction with other agencies, strategic technical guidance for achieving GHSA targets;

(iii) provide, in coordination with the Department of Health and Human Services, strategic technical support for and participate in external assessments, including the WHO JEE tool, and the Alliance for Country Assessments for Global Health Security and IHR implementation; and

(iv) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which the U.S. Centers for Disease Control and Prevention programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

**Sec. 4. General Provisions.** (a) Nothing in this order shall be construed to impair, or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals; or

(iii) the coordination or implementation of emergency response operations during a health emergency.

(b) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
November 4, 2016.

## Executive Order 13748 of November 16, 2016

**Establishing a Community Solutions Council**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** Place is a strong determinant of opportunity and well-being. Research shows that the neighborhood in which a child grows up impacts his or her odds of going to college, enjoying good health, and obtaining a lifetime of economic opportunities. Even after 73 consecutive months of total job growth since 2009, communities of persistent poverty remain and for far too many, the odds are stacked against opportunity and achieving the American dream. In addition, between now and 2050, growing our economy, expected population growth, climate change, and demographic shifts will require major new investments in physical, social, and technological infrastructure.

Specific challenges in communities—including crime, access to care, opportunities to pursue quality education, lack of housing options, unemployment, and deteriorating infrastructure—can be met by leveraging Federal assistance and resources. While the Federal Government provides rural, suburban, urban, and tribal communities with significant investments in aid annually, coordinating these investments, as appropriate, across agencies based on locally led visions can more effectively reach communities of greatest need to maximize impact. In recent years, the Federal Government has deepened its engagement with communities, recognizing the critical role of these partnerships in enabling Americans to live healthier and more prosperous lives. Since 2015, the Community Solutions Task Force, comprising executive departments, offices, and agencies (agencies) across the Federal Government, has served as the primary interagency coordinator of agency work to engage with communities to deliver improved outcomes. This order builds on recent work to facilitate inter-agency and community-level collaboration to meet the unique needs of communities in a way that reflects these communities' local assets, economies, geography, size, history, strengths, talent networks, and visions for the future.

**Sec. 2. Principles.** Our effort to modernize the Federal Government's work with communities is rooted in the following principles:

(a) A community-driven, locally led vision and long-term plan for clear outcomes should guide individual projects.

(b) The Federal Government should coordinate its efforts at the Federal, regional, State, local, tribal, and community level, and with cross-sector partners, to offer a more seamless process for communities to access needed support and ensure equitable investments.

(c) The Federal Government should help communities identify, develop, and share local solutions, rely on data to determine what does and does not work, and harness technology and modern collaboration and engagement methods to help share these solutions and help communities meet their local goals.

**Sec. 3. Community Solutions Council.**

(a) *Establishment.* There is hereby established a Council for Community Solutions (Council), led by two Co-Chairs. One Co-Chair will be an Assistant to the President or the Director of the Office of Management and Budget, as designated by the President. The second Co-Chair will be rotated every 4 years and designated by the President from among the heads of the Departments of Justice, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, and Education, and the Environmental Protection Agency (Agency Co-Chair).

(b) *Membership.* The Council shall consist of the following members:

- (i) the Secretary of State;
- (ii) the Secretary of the Treasury;
- (iii) the Secretary of Defense;
- (iv) the Attorney General;
- (v) the Secretary of the Interior;
- (vi) the Secretary of Agriculture;
- (vii) the Secretary of Commerce;
- (viii) the Secretary of Labor;
- (ix) the Secretary of Health and Human Services;
- (x) the Secretary of Housing and Urban Development;
- (xi) the Secretary of Transportation;
- (xii) the Secretary of Energy;
- (xiii) the Secretary of Education;
- (xiv) the Secretary of Veterans Affairs;
- (xv) the Secretary of Homeland Security;
- (xvi) the Administrator of the Environmental Protection Agency;
- (xvii) the Administrator of General Services;
- (xviii) the Administrator of the Small Business Administration;
- (xix) the Chief Executive Officer of the Corporation for National and Community Service;
- (xx) the Chairperson of the National Endowment for the Arts;
- (xxi) the Director of the Institute for Museum and Library Services;
- (xxii) the Federal Co-Chair of the Delta Regional Authority;
- (xxiii) the Federal Co-Chair of the Appalachian Regional Commission;
- (xxiv) the Director of the Office of Personnel Management;
- (xxv) the Director of the Office of Management and Budget;
- (xxvi) the Chair of the Council of Economic Advisers;
- (xxvii) the Assistant to the President for Intergovernmental Affairs and Public Engagement;
- (xxviii) the Assistant to the President and Cabinet Secretary;

(xxix) the Assistant to the President for Economic Policy and Director of the National Economic Council;

(xxx) the Chair of the Council on Environmental Quality;

(xxxi) the Director of the Office of Science and Technology Policy;

(xxxii) the Assistant to the President and Chief Technology Officer;

(xxxiii) the Administrator of the United States Digital Service; and

(xxxiv) other officials, as the Co-Chairs may designate or invite to participate.

(c) *Administration.*

(i) The President will designate one of the Co-Chairs to appoint or designate, as appropriate, an Executive Director, who shall coordinate the Council's activities. The department, agency, or component within the Executive Office of the President in which the Executive Director is appointed or designated, as appropriate, (funding entity) shall provide funding and administrative support for the Council to the extent permitted by law and within existing appropriations as may be necessary for the performance of its functions.

(ii) To the extent permitted by law, including the Economy Act, and within existing appropriations, participating agencies may detail staff to the funding entity to support the Council's coordination and implementation efforts.

(iii) The Co-Chairs shall convene regular meetings of the Council, determine its agenda, and direct its work. At the direction of the Co-Chairs, the Council may establish subgroups consisting exclusively of Council members or their designees, as appropriate.

(iv) A member of the Council may designate a senior-level official who is part of the member's department, agency, or office to perform the Council functions of the member.

**Sec. 4. Mission and Priorities of the Council.** (a) The Council shall foster collaboration across agencies, policy councils, and offices to coordinate actions, identify working solutions to share broadly, and develop and implement policy recommendations that put the community-driven, locally led vision at the center of policymaking. The Council shall:

(i) Work across agencies to coordinate investments in initiatives and practices that align the work of the Federal Government to have the greatest impact on the lives of individuals and communities.

(ii) Use evidence-based practices in policymaking, including identifying existing solutions, scaling up practices that are working, and designing solutions with regular input of the individuals and communities to be served.

(iii) Invest in recruiting, training, and retaining talent to further the effective delivery of services to individuals and communities and empower them with best-practice community engagement options, open government transparency methods, equitable policy approaches, technical assistance and capacity building tools, and data-driven practice.

(b) Consistent with the principles set forth in this order and in accordance with applicable law, including the Federal Advisory Committee Act,

the Council should conduct outreach to representatives of nonprofit organizations, civil rights organizations, businesses, labor and professional organizations, start-up and entrepreneurial communities, State, local, and tribal government agencies, school districts, youth, elected officials, seniors, faith and other community-based organizations, philanthropies, technologists, other institutions of local importance, and other interested or affected persons with relevant expertise in the expansion and improvement of efforts to build local capacity, ensure equity, and address economic, social, environmental, and other issues in communities or regions.

**Sec. 5.** *Executive Orders 13560 and 13602, and Building Upon Other Efforts.* This order supersedes Executive Order 13560 of December 14, 2010 (White House Council for Community Solutions), and Executive Order 13602 of March 15, 2012 (Establishing a White House Council on Strong Cities, Strong Communities), which are hereby revoked.

This Council builds on existing efforts involving Federal working groups, task forces, memoranda of agreement, and initiatives, including the Community Solutions Task Force, the Federal Working Groups dedicated to supporting the needs and priorities of local leadership in Detroit, Baltimore, and Pine Ridge; the Interagency Working Group on Environmental Justice; the Partnership for Sustainable Communities; Local Foods, Local Places; Performance Partnership Pilots for Disconnected Youth; Empowerment Zones; StrikeForce; Partnerships for Opportunity and Workforce and Economic Revitalization; the Neighborhood Revitalization Initiative; Climate Action Champions; Better Communities Alliance; Investing in Manufacturing Communities Partnership; Promise Zones; and the 2016 Memorandum of Agreement on Interagency Technical Assistance. The Council shall also coordinate with existing Chief Officer Councils across the government with oversight responsibility for human capital, performance improvement, and financial assistance.

**Sec. 6.** *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
November 16, 2016.

Executive Order 13749 of November 29, 2016

## Providing for the Appointment in the Competitive Service of Certain Employees of the Foreign Service

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1. Policy.** The Federal Government benefits from a workforce that can be recruited from the broadest and deepest pools of qualified candidates for our highly competitive, merit-based positions. The recruitment and retention of workforce participants who serve in the Foreign Service of the Department of State under a Limited Non-Career Appointment under section 309 of the Foreign Service Act of 1980, Public Law 96–465 (22 U.S.C. 3949), as amended, are critical to our ability to meet consular staffing levels (now in substantial deficit) and thereby enhance our capacity to meet high national security standards and efficiently process visas in accordance with our policy of “open doors, safe borders.” Program participants undergo a rigorous merit-based evaluation process, which includes a written test and an oral assessment and to which a veteran preference applies, and develop advanced- to superior-level skills in languages and in cultural competence in particular regions, skills that are essential for mission-critical positions throughout the entire Federal workforce.

Executive Order 13597 of January 19, 2012, sought to ensure that 80 percent of nonimmigrant visa applicants be interviewed within three weeks of receiving an application. The Department of State’s ability to maintain this 80 percent benchmark will come under increasing pressure in the future given current and projected staffing shortfalls through 2023. These staffing gaps could adversely affect the Department of State’s ability to sustain border security and immigration control at peak efficiency and effectiveness, which will have effects on tourism, job creation, and U.S. economic growth. Use of the Limited Non-Career Appointment hiring authority will provide flexibility to address, for the foreseeable future, both this increased demand and recurring institutional and national needs across the Federal Government.

Accordingly, pursuant to my authority under 5 U.S.C. 3302(1), and in order to achieve a workforce that represents all segments of society as provided in 5 U.S.C. 2301(b)(1), I find that conditions of good administration make necessary an exception to the competitive hiring rules for certain positions in the Federal civil service.

**Sec. 2.** The head of any agency in the executive branch may appoint in the competitive service an individual who served for at least 48 months of continuous service in the Foreign Service of the Department of State under a Limited Non-Career Appointment under section 309 of the Foreign Service Act of 1980, and who passes such examination as the Office of Personnel Management (OPM) may prescribe.

**Sec. 3.** In order to be eligible for noncompetitive appointment to positions under section 2 of this order, such an individual must:

(a) have received a satisfactory or better performance rating (or equivalent) for service under the qualifying Limited Non-Career Appointment; and

(b) exercise the eligibility for noncompetitive appointment within a period of 1 year after completion of the qualifying Limited Non-Career Appointment. Such period may be extended to not more than 3 years in the case of persons who, following such service, are engaged in military service, in the pursuit of studies at an institution of higher learning, or in other activities that, in the view of the appointing authority, warrant an extension of such period. Such period may also be extended to permit the adjudication of a background investigation.

**Sec. 4.** A person appointed under section 2 of this order shall become a career conditional employee.

**Sec. 5.** Any law, Executive Order, or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under section 2 of this order. Examples of disqualifying criteria include restrictions on employing persons who are not U.S. citizens or nationals, who have violated the anti-nepotism provisions of the Civil Service Reform Act, 5 U.S.C. 2302(b)(7), 3110, who have knowingly and willfully failed to register for Selective Service when required to do so, 5 U.S.C. 3328(a)(2), who do not meet occupational qualifying standards prescribed by OPM, or who do not meet suitability factors prescribed by OPM.

**Sec. 6.** The Office of Personnel Management is authorized to issue such additional regulations as may be necessary to implement this order. Any individual who meets the terms of this order, however, is eligible for noncompetitive eligibility with or without additional regulations.

**Sec. 7. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
November 29, 2016.

Executive Order 13750 of November 29, 2016

**Providing for the Appointment of Alumni of the Fulbright U.S. Student Program, the Benjamin A. Gilman International Scholarship Program, and the Critical Language Scholarship Program to the Competitive Service**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1. Policy.** The Federal Government benefits from a workforce that can be recruited from the broadest and deepest pools of qualified candidates for our highly competitive, merit-based positions. The issuance of an order granting Non-Competitive Eligibility (NCE) to certain alumni of the Fulbright U.S. Student Program, the Benjamin A. Gilman International Scholarship Program, and the Critical Language Scholarship (CLS) Program, all of which are academic exchange programs carried out under the authorities of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act, and the International Academic Opportunity Act of 2000, title III of Public Law 106–309, would be in the best interest of the Federal Government. Participants in these programs develop advanced- to superior-level skills in languages and cultural competence in regions that are strategically, diplomatically, and economically important to the United States. It is in the interest of the Federal Government to retain the services of these highly skilled individuals, particularly given that the Federal Government aided them in the acquisition of their skills. Participants in the Fulbright, Gilman, and CLS programs are drawn from highly competitive, merit-based national selection processes to which a veterans' preference applies to ensure that the most qualified individuals are selected.

Accordingly, pursuant to my authority under 5 U.S.C. 3302(1), and in order to achieve a workforce that is drawn from all segments of society as provided in 5 U.S.C. 2301(b)(1), I find that conditions of good administration make necessary an exception to the competitive hiring rules for certain positions in the Federal civil service.

**Sec. 2. Establishment.** The head of any agency in the executive branch may appoint in the competitive service any person who is certified by the Secretary of State or designee as having participated successfully in the Fulbright, Gilman, or CLS international exchange programs, and who passes such examination as the Office of Personnel Management (OPM) may prescribe.

**Sec. 3.** The Secretary of State or designee shall issue certificates, upon request, to persons whom the Department of State determines have completed the requirements of a program described in section 1 of this order.

**Sec. 4.** Any appointment under this order shall be effected within a period of 1 year after completion of the appointee's participation in the programs described in section 1. Such period may be extended to not more than 3 years for persons who, following participation in the programs described in section 1, are engaged in military service, in the pursuit of studies at

an institution of higher learning, or in other activities which, in the view of the appointing authority, warrant an extension of such period. Such period may also be extended to permit the adjudication of a background investigation.

**Sec. 5.** A person appointed under section 2 of this order becomes a career conditional employee.

**Sec. 6.** Any law, Executive Order, or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify an applicant for appointment under this order. Examples of disqualifying criteria include restrictions on employing persons who are not U.S. citizens or nationals, who have violated the anti-nepotism provisions of the Civil Service Reform Act, 5 U.S.C. 2302(b)(7), 3110, who have knowingly and willfully failed to register for Selective Service when required to do so, 5 U.S.C. 3328(a)(2), who do not meet occupational qualifying standards prescribed by OPM, or who do not meet suitability factors prescribed by OPM.

**Sec. 7.** The Office of Personnel Management is authorized to issue such additional regulations as may be necessary to implement this order. Any individual who meets the terms of this order, however, is eligible for non-competitive hiring with or without additional regulations.

**Sec. 8. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
November 29, 2016.

#### Executive Order 13751 of December 5, 2016

### Safeguarding the Nation From the Impacts of Invasive Species

By the authority vested in me as President by the Constitution and to ensure the faithful execution of the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (16 U.S.C. 4701 *et seq.*), the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Lacey Act, as amended (18 U.S.C. 42, 16 U.S.C.

3371–3378 *et seq.*), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Noxious Weed Control and Eradication Act of 2004 (7 U.S.C. 7781 *et seq.*), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control, and to minimize the economic, plant, animal, ecological, and human health impacts that invasive species cause, it is hereby ordered as follows:

**Section 1. Policy.** It is the policy of the United States to prevent the introduction, establishment, and spread of invasive species, as well as to eradicate and control populations of invasive species that are established. Invasive species pose threats to prosperity, security, and quality of life. They have negative impacts on the environment and natural resources, agriculture and food production systems, water resources, human, animal, and plant health, infrastructure, the economy, energy, cultural resources, and military readiness. Every year, invasive species cost the United States billions of dollars in economic losses and other damages.

Of substantial growing concern are invasive species that are or may be vectors, reservoirs, and causative agents of disease, which threaten human, animal, and plant health. The introduction, establishment, and spread of invasive species create the potential for serious public health impacts, especially when considered in the context of changing climate conditions. Climate change influences the establishment, spread, and impacts of invasive species.

Executive Order 13112 of February 3, 1999 (Invasive Species), called upon executive departments and agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. Executive Order 13112 also created a coordinating body—the Invasive Species Council, also referred to as the National Invasive Species Council—to oversee implementation of the order, encourage proactive planning and action, develop recommendations for international cooperation, and take other steps to improve the Federal response to invasive species. Past efforts at preventing, eradicating, and controlling invasive species demonstrated that collaboration across Federal, State, local, tribal, and territorial government; stakeholders; and the private sector is critical to minimizing the spread of invasive species and that coordinated action is necessary to protect the assets and security of the United States.

This order amends Executive Order 13112 and directs actions to continue coordinated Federal prevention and control efforts related to invasive species. This order maintains the National Invasive Species Council (Council) and the Invasive Species Advisory Committee; expands the membership of the Council; clarifies the operations of the Council; incorporates considerations of human and environmental health, climate change, technological innovation, and other emerging priorities into Federal efforts to address invasive species; and strengthens coordinated, cost-efficient Federal action.

**Sec. 2. Definitions.** Section 1 of Executive Order 13112 is amended to read as follows:

“**Section 1. Definitions.** (a) ‘Control’ means containing, suppressing, or reducing populations of invasive species.

(b) ‘Eradication’ means the removal or destruction of an entire population of invasive species.

(c) ‘Federal agency’ means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(d) ‘Introduction’ means, as a result of human activity, the intentional or unintentional escape, release, dissemination, or placement of an organism into an ecosystem to which it is not native.

(e) ‘Invasive species’ means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.

(f) ‘Non-native species’ or ‘alien species’ means, with respect to a particular ecosystem, an organism, including its seeds, eggs, spores, or other biological material capable of propagating that species, that occurs outside of its natural range.

(g) ‘Pathway’ means the mechanisms and processes by which non-native species are moved, intentionally or unintentionally, into a new ecosystem.

(h) ‘Prevention’ means the action of stopping invasive species from being introduced or spreading into a new ecosystem.

(i) ‘United States’ means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, all possessions, and the territorial sea of the United States as defined by Presidential Proclamation 5928 of December 27, 1988.”

**Sec. 3. *Federal Agency Duties.*** Section 2 of Executive Order 13112 is amended to read as follows:

“**Sec. 2. *Federal Agency Duties.*** (a) Each Federal agency for which that agency’s actions may affect the introduction, establishment, or spread of invasive species shall, to the extent practicable and permitted by law,

(1) identify such agency actions;

(2) subject to the availability of appropriations, and within administrative, budgetary, and jurisdictional limits, use relevant agency programs and authorities to:

(i) prevent the introduction, establishment, and spread of invasive species;

(ii) detect and respond rapidly to eradicate or control populations of invasive species in a manner that is cost-effective and minimizes human, animal, plant, and environmental health risks;

(iii) monitor invasive species populations accurately and reliably;

(iv) provide for the restoration of native species, ecosystems, and other assets that have been impacted by invasive species;

(v) conduct research on invasive species and develop and apply technologies to prevent their introduction, and provide for environmentally sound methods of eradication and control of invasive species;

(vi) promote public education and action on invasive species, their pathways, and ways to address them, with an emphasis on prevention, and early detection and rapid response;

(vii) assess and strengthen, as appropriate, policy and regulatory frameworks pertaining to the prevention, eradication, and control of invasive species and address regulatory gaps, inconsistencies, and conflicts;

(viii) coordinate with and complement similar efforts of States, territories, federally recognized American Indian tribes, Alaska Native Corporations, Native Hawaiians, local governments, nongovernmental organizations, and the private sector; and

(ix) in consultation with the Department of State and with other agencies as appropriate, coordinate with foreign governments to prevent the movement and minimize the impacts of invasive species; and

(3) refrain from authorizing, funding, or implementing actions that are likely to cause or promote the introduction, establishment, or spread of invasive species in the United States unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

(c) Federal agencies shall pursue the duties set forth in this section in coordination, to the extent practicable, with other member agencies of the Council and staff, consistent with the National Invasive Species Council Management Plan, and in cooperation with State, local, tribal, and territorial governments, and stakeholders, as appropriate, and in consultation with the Department of State when Federal agencies are working with international organizations and foreign nations.

(d) Federal agencies that are members of the Council, and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species, shall provide the Council with annual information on actions taken that implement these duties and identify barriers to advancing priority actions.

(e) To the extent practicable, Federal agencies shall also expand the use of new and existing technologies and practices; develop, share, and utilize similar metrics and standards, methodologies, and databases and, where relevant, platforms for monitoring invasive species; and, facilitate the interoperability of information systems, open data, data analytics, predictive modeling, and data reporting necessary to inform timely, science-based decision making.

**Sec. 4. *Emerging Priorities.*** Federal agencies that are members of the Council and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species shall take emerging priorities into consideration, including:

(a) Federal agencies shall consider the potential public health and safety impacts of invasive species, especially those species that are vectors, reservoirs, and causative agents of disease. The Department of Health and Human Services, in coordination and consultation with relevant agencies as appropriate, shall within 1 year of this order, and as requested by the Council thereafter, provide the Office of Science and Technology Policy and the Council a report on public health impacts associated with invasive species. That report shall describe the disease, injury, immunologic, and safety impacts associated with invasive species, including any direct and indirect impacts on low-income, minority, and tribal communities.

(b) Federal agencies shall consider the impacts of climate change when working on issues relevant to the prevention, eradication, and control of invasive species, including in research and monitoring efforts, and integrate invasive species into Federal climate change coordinating frameworks and initiatives.

(c) Federal agencies shall consider opportunities to apply innovative science and technology when addressing the duties identified in section 2 of Executive Order 13112, as amended, including, but not limited to, promoting open data and data analytics; harnessing technological advances in remote sensing technologies, molecular tools, cloud computing, and predictive analytics; and using tools such as challenge prizes, citizen science, and crowdsourcing.

**Sec. 5. *National Invasive Species Council.*** Section 3 of Executive Order 13112 is amended to read as follows:

“**Sec. 3. *National Invasive Species Council.*** (a) A National Invasive Species Council (Council) is hereby established. The mission of the Council is to provide the vision and leadership to coordinate, sustain, and expand Federal efforts to safeguard the interests of the United States through the prevention, eradication, and control of invasive species, and through the restoration of ecosystems and other assets impacted by invasive species.

(b) The Council’s membership shall be composed of the following officials, who may designate a senior-level representative to perform the functions of the member:

- (i) Secretary of State;
- (ii) Secretary of the Treasury;
- (iii) Secretary of Defense;
- (iv) Secretary of the Interior;
- (v) Secretary of Agriculture;
- (vi) Secretary of Commerce;
- (vii) Secretary of Health and Human Services;
- (viii) Secretary of Transportation;
- (ix) Secretary of Homeland Security;
- (x) Administrator of the National Aeronautics and Space Administration;
- (xi) Administrator of the Environmental Protection Agency;
- (xii) Administrator of the United States Agency for International Development;
- (xiii) United States Trade Representative;
- (xiv) Director or Chair of the following components of the Executive Office of the President: the Office of Science and Technology Policy, the Council on Environmental Quality, and the Office of Management and Budget; and
- (xv) Officials from such other departments, agencies, offices, or entities as the agencies set forth above, by consensus, deem appropriate.

(c) The Council shall be co-chaired by the Secretary of the Interior (Secretary), the Secretary of Agriculture, and the Secretary of Commerce, who

shall meet quarterly or more frequently if needed, and who may designate a senior-level representative to perform the functions of the Co-Chair. The Council shall meet no less than once each year. The Secretary of the Interior shall, after consultation with the Co-Chairs, appoint an Executive Director of the Council to oversee a staff that supports the duties of the Council. Within 1 year of the date of this order, the Co-Chairs of the Council shall, with consensus of its members, complete a charter, which shall include any administrative policies and processes necessary to ensure the Council can satisfy the functions and responsibilities described in this order.

(d) The Secretary of the Interior shall maintain the current Invasive Species Advisory Committee established under the Federal Advisory Committee Act, 5 U.S.C. App., to provide information and advice for consideration by the Council. The Secretary shall, after consultation with other members of the Council, appoint members of the advisory committee who represent diverse stakeholders and who have expertise to advise the Council.

(e) Administration of the Council. The Department of the Interior shall provide funding and administrative support for the Council and the advisory committee consistent with existing authorities. To the extent permitted by law, including the Economy Act, and within existing appropriations, participating agencies may detail staff to the Department of the Interior to support the Council's efforts."

**Sec. 6.** *Duties of the National Invasive Species Council.* Section 4 of Executive Order 13112 is amended to read as follows:

**"Sec. 4.** *Duties of the National Invasive Species Council.* The Council shall provide national leadership regarding invasive species and shall:

(a) with regard to the implementation of this order, work to ensure that the Federal agency and interagency activities concerning invasive species are coordinated, complementary, cost-efficient, and effective;

(b) undertake a National Invasive Species Assessment in coordination with the U.S. Global Change Research Program's periodic national assessment, that evaluates the impact of invasive species on major U.S. assets, including food security, water resources, infrastructure, the environment, human, animal, and plant health, natural resources, cultural identity and resources, and military readiness, from ecological, social, and economic perspectives;

(c) advance national incident response, data collection, and rapid reporting capacities that build on existing frameworks and programs and strengthen early detection of and rapid response to invasive species, including those that are vectors, reservoirs, or causative agents of disease;

(d) publish an assessment by 2020 that identifies the most pressing scientific, technical, and programmatic coordination challenges to the Federal Government's capacity to prevent the introduction of invasive species, and that incorporate recommendations and priority actions to overcome these challenges into the National Invasive Species Council Management Plan, as appropriate;

(e) support and encourage the development of new technologies and practices, and promote the use of existing technologies and practices, to

prevent, eradicate, and control invasive species, including those that are vectors, reservoirs, and causative agents of disease;

(f) convene annually to discuss and coordinate interagency priorities and report annually on activities and budget requirements for programs that contribute directly to the implementation of this order; and

(g) publish a National Invasive Species Council Management Plan as set forth in section 5 of this order.”

**Sec. 7. *National Invasive Species Council Management Plan.*** Section 5 of Executive Order 13112 is amended to read as follows:

“**Sec. 5. *National Invasive Species Council Management Plan.*** (a) By December 31, 2019, the Council shall publish a National Invasive Species Council Management Plan (Management Plan), which shall, among other priorities identified by the Council, include actions to further the implementation of the duties of the National Invasive Species Council.

(b) The Management Plan shall recommend strategies to:

(1) provide institutional leadership and priority setting;

(2) achieve effective interagency coordination and cost-efficiency;

(3) raise awareness and motivate action, including through the promotion of appropriate transparency, community-level consultation, and stakeholder outreach concerning the benefits and risks to human, animal, or plant health when controlling or eradicating an invasive species;

(4) remove institutional and policy barriers;

(5) assess and strengthen capacities; and

(6) foster scientific, technical, and programmatic innovation.

(c) The Council shall evaluate the effectiveness of the Management Plan implementation and update the Plan every 3 years. The Council shall provide an annual report of its achievements to the public.

(d) Council members may complement the Management Plan with invasive species policies and plans specific to their respective agency’s roles, responsibilities, and authorities.”

**Sec. 8. *Actions of the Department of State and Department of Defense.*** Section 6(d) of Executive Order 13112 is amended to read as follows:

“(d) The duties of section 3(a)(2) and section 3(a)(3) of this order shall not apply to any action of the Department of State if the Secretary of State finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons. The duties of section 3(a)(2) and section 3(a)(3) of this order shall not apply to any action of the Department of Defense if the Secretary of Defense finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons.”

**Sec. 9. *Obligations of the Department of Health and Human Services.*** A new section 6(e) of Executive Order 13112 is added to read as follows:

“(e) The requirements of this order do not affect the obligations of the Department of Health and Human Services under the Public Health Service Act or the Federal Food, Drug, and Cosmetic Act.”

**Sec. 10. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department or agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
December 5, 2016.

#### Executive Order 13752 of December 8, 2016

### Relating to the Implementation of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

The United States of America deposited its instrument of ratification of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention) on September 7, 2016. The Convention will enter into force for the United States on January 1, 2017. Article 4 of the Convention imposes upon States Parties an obligation to designate a “Central Authority” for the purpose of discharging certain specified functions.

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, it is ordered as follows:

**Section 1. Designation of Central Authority.** The Department of Health and Human Services is hereby designated as the Central Authority of the United States for purposes of the Convention. The Secretary of Health and Human Services is hereby authorized and empowered, in accordance with such regulations as the Secretary may prescribe, to perform all lawful acts that may be necessary and proper in order to execute the functions of the Central Authority in a timely and efficient manner.

**Sec. 2. Designation of State IV–D Child Support Agencies.** The Central Authority may designate the State agencies responsible for implementing an approved State Plan under title IV–D of the Social Security Act, 42 U.S.C. 651 *et seq.*, as public bodies authorized to perform specific functions in relation to applications under the Convention.

**Sec. 3. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

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(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
December 8, 2016.

**Executive Order 13753 of December 9, 2016**

**Amending the Order of Succession in the Department of Homeland Security**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered as follows:

**Section 1.** Section 88 of Executive Order 13286 of February 28, 2003 (“Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security”), is amended by striking the text of such section in its entirety and inserting the following in lieu thereof:

“Sec. 88. Order of Succession.

Subject to the provisions of subsection (b) of this section, the officers named in subsection (a) of this section, in the order listed, shall act as, and perform the functions and duties of the office of, the Secretary of Homeland Security (Secretary), if they are eligible to act as Secretary under the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.* (Vacancies Act), during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

(a) Order of Succession.

(i) Deputy Secretary of Homeland Security;

(ii) Under Secretary for Management;

(iii) Administrator of the Federal Emergency Management Agency;

(iv) Under Secretary for National Protection and Programs;

(v) Under Secretary for Science and Technology;

(vi) Under Secretary for Intelligence and Analysis;

(vii) Commissioner of U.S. Customs and Border Protection;

(viii) Administrator of the Transportation Security Administration;

(ix) Director of U.S. Immigration and Customs Enforcement;

- (x) Director of U.S. Citizenship and Immigration Services;
- (xi) Assistant Secretary for Policy;
- (xii) General Counsel;
- (xiii) Deputy Under Secretary for Management;
- (xiv) Deputy Commissioner of U.S. Customs and Border Protection;
- (xv) Deputy Administrator of the Transportation Security Administration;
- (xvi) Deputy Director of U.S. Immigration and Customs Enforcement;
- (xvii) Deputy Director of U.S. Citizenship and Immigration Services; and
- (xviii) Director of the Federal Law Enforcement Training Center.

(b) Exceptions.

(i) No individual who is serving in an office listed in subsection (a) in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this section.

(ii) Notwithstanding the provisions of this section, the President retains discretion, to the extent permitted by the Vacancies Act, to depart from this order in designating an acting Secretary.”

**Sec. 2.** Executive Order 13442 of August 13, 2007 (“Amending the Order of Succession in the Department of Homeland Security”), is hereby revoked.

BARACK OBAMA

The White House,  
December 9, 2016.

**Executive Order 13754 of December 9, 2016**

**Northern Bering Sea Climate Resilience**

By the authority vested in me as the President by the Constitution and the laws of the United States of America, including the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*, it is hereby ordered as follows:

**Section 1. Purpose.** As recognized in Executive Order 13689 of January 21, 2015, (Enhancing Coordination of National Efforts in the Arctic), Arctic environmental stewardship is in the national interest. In furtherance of this principle, and as articulated in the March 10, 2016, U.S.-Canada Joint Statement on Climate, Energy, and Arctic Leadership, the United States has resolved to confront the challenges of a changing Arctic by working to conserve Arctic biodiversity; support and engage Alaska Native tribes; incorporate traditional knowledge into decisionmaking; and build a sustainable Arctic economy that relies on the highest safety and environmental standards, including adherence to national climate goals. The United States is committed to achieving these goals in partnership with indigenous communities and through science-based decisionmaking. This order carries forth that vision in the northern Bering Sea region.

The Bering Sea and Bering Strait are home to numerous subsistence communities, rich indigenous cultures, and unique marine ecosystems, each of which plays an important role in maintaining regional resilience. The changing climate and rising average temperatures are reducing the occurrence of sea ice; changing the conditions for fishing, hunting, and subsistence whaling; and opening new navigable routes to increased ship traffic. The preservation of a healthy and resilient Bering ecosystem, including its migratory pathways, habitat, and breeding grounds, is essential for the survival of marine mammals, fish, seabirds, other wildlife, and the subsistence communities that depend on them. These communities possess a unique understanding of the Arctic ecosystem, and their traditional knowledge should serve as an important resource to inform Federal decisionmaking.

**Sec. 2. Policy.** It shall be the policy of the United States to enhance the resilience of the northern Bering Sea region by conserving the region's ecosystem, including those natural resources that provide important cultural and subsistence value and services to the people of the region. For the purpose of carrying out the specific directives provided herein, this order delineates an area hereafter referred to as the "Northern Bering Sea Climate Resilience Area," in which the exercise of relevant authorities shall be coordinated among all executive departments and agencies (agencies). All agencies charged with regulating, overseeing, or conducting activities in the Northern Bering Sea Climate Resilience Area shall do so with attention to the rights, needs, and knowledge of Alaska Native tribes; the delicate and unique ecosystem; the protection of marine mammals, fish, seabirds, and other wildlife; and with appropriate coordination with the State of Alaska.

The boundary of the Northern Bering Sea Climate Resilience Area includes waters within the U.S. Exclusive Economic Zone bounded to the north by the seaward boundary of the Bering Straits Native Corporation established pursuant to the Alaska Native Claims Settlement Act; to the south by the southern boundaries of the Northern Bering Sea Research Area, the St. Matthew Habitat Conservation Area, and the Nunivak-Kuskokwim Habitat Conservation Area; and to the west by the maritime boundary delimited by the Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed at Washington, June 1, 1990.

**Sec. 3. Withdrawal.** Under the authority granted to me in section 12(a) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1341(a), I hereby withdraw from disposition by leasing for a time period without specific expiration the following areas of the Outer Continental Shelf: (1) the area currently designated by the Bureau of Ocean Energy Management as the Norton Basin Planning Area; and (2) the Outer Continental Shelf lease blocks within the Bureau of Ocean Energy Management's St. Matthew-Hall Planning Area lying within 25 nautical miles of St. Lawrence Island. The boundaries of the withdrawn areas are more specifically delineated in the attached map and, with respect to the St. Matthew-Hall Planning Area, the accompanying table of withdrawn Outer Continental Shelf lease blocks. Both the map and table form a part of this order, with the table governing the withdrawal and withdrawal boundaries within the St. Matthew-Hall Planning Area. This withdrawal prevents consideration of these areas for future oil or gas leasing for purposes of exploration, development, or production. This withdrawal furthers the principles of responsible public

stewardship entrusted to this office and takes due consideration of the importance of the withdrawn area to Alaska Native tribes, wildlife, and wildlife habitat, and the need for regional resiliency in the face of climate change. Nothing in this withdrawal affects rights under existing leases in the withdrawn areas.

**Sec. 4. *Task Force on the Northern Bering Sea Climate Resilience Area.*** (a) There is established a Task Force on the Northern Bering Sea Climate Resilience Area (Bering Task Force), under the Arctic Executive Steering Committee (AESC) established in Executive Order 13689, to be co-chaired by an office of the Department of the Interior, the National Oceanic and Atmospheric Administration, and the U.S. Coast Guard.

(b) The membership of the Bering Task Force (member agencies) shall include, in addition to the Co-Chairs, designated senior-level representatives from:

- (i) the Department of State;
- (ii) the Department of Defense;
- (iii) the Department of Transportation;
- (iv) the Environmental Protection Agency;
- (v) the U.S. Army Corps of Engineers;
- (vi) the U.S. Arctic Research Commission;
- (vii) the National Science Foundation; and
- (viii) such agencies and offices as the Co-Chairs may designate.

(c) Consistent with the authorities and responsibilities of its member agencies, the Bering Task Force, with the purpose of advancing the United States policy in the Northern Bering Sea Climate Resilience Area as set forth in section 2 of this order, shall:

- (i) Establish and provide regular opportunities to consult with the Bering Intergovernmental Tribal Advisory Council as described in section 5 of this order;
- (ii) Coordinate activities of member agencies, including regulatory, policy, and research activities, affecting the Northern Bering Sea Climate Resilience Area and its value for subsistence and cultural purposes;
- (iii) Consider the need for additional actions or strategies to advance the policies established in section 2 of this order and provide recommendations as appropriate to the President through the AESC;
- (iv) Consider and make recommendations with respect to the impacts of shipping on the Northern Bering Sea Climate Resilience Area including those described in sections 7 and 8 of this order; and
- (v) In developing and implementing recommendations, coordinate or consult as appropriate with existing AESC working groups, the State of Alaska, regional and local governments, Alaska Native tribal governments, Alaska Native corporations and organizations, the private sector, other relevant organizations, and academia.

**Sec. 5. *The Bering Intergovernmental Tribal Advisory Council.*** (a) The Bering Task Force, within 6 months of the date of this order, and after considering recommendations from Alaska Native tribal governments, shall, in accordance with existing law, establish a Bering Intergovernmental Tribal Advisory Council, for the purpose of providing input to the Bering Task Force and facilitating effective consultation with Alaska Native tribal governments.

(b) The Bering Intergovernmental Tribal Advisory Council shall be charged with providing input and recommendations on activities, regulations, guidance, or policy that may affect actions or conditions in the Northern Bering Sea Climate Resilience Area, with attention given to climate resilience; the rights, needs, and knowledge of Alaska Native tribes; the delicate and unique ecosystem; and the protection of marine mammals and other wildlife.

(c) The Bering Intergovernmental Tribal Advisory Council should include between 9 and 11 elected officials or their designees representing Alaska Native tribal governments with a breadth of interests in the Northern Bering Sea Climate Resilience Area, and may include such additional Federal officials and State and local government elected officials as the Bering Task Force deems appropriate. The Bering Intergovernmental Tribal Advisory Council will adopt such procedures as it deems necessary to govern its activities.

**Sec. 6. *Traditional Knowledge in Decisionmaking.*** It shall be the policy of the United States to recognize and value the participation of Alaska Native tribal governments in decisions affecting the Northern Bering Sea Climate Resilience Area and for all agencies to consider traditional knowledge in decisions affecting the Northern Bering Sea Climate Resilience Area. Specifically, all agencies shall consider applicable information from the Bering Intergovernmental Tribal Advisory Council in the exercise of existing agency authorities. Such input may be received through existing agency procedures and consultation processes.

**Sec. 7. *Pollution from Vessels.*** The Bering Task Force, within 9 months of the date of this order and after coordination as needed with existing working groups within the AESC, shall provide the AESC with recommendations on:

(a) Actions to ensure or support implementation of the International Code for Ships Operating in Polar Waters, as adopted by the International Maritime Organization, especially with respect to limitations on discharges from vessels in the Northern Bering Sea Climate Resilience Area; and

(b) Any additional measures necessary to achieve the policies established in section 2 of this order, such as the potential identification of zero-discharge zones, assessments of the pollution risks posed by increased vessel traffic, or noise reduction measures associated with sensitive ecological and cultural areas within the Northern Bering Sea Climate Resilience Area.

**Sec. 8. *Shipping Routing Measures.*** (a) In recognition of the United States commitment to reduce the impact of shipping within the Bering Sea and the Bering Strait and the many environmental factors in the Northern Bering Sea Climate Resilience Area that inform the best routes for navigation, safety, and the marine environment, the U.S. Coast Guard should conclude its ongoing port access route study for the Chukchi Sea, Bering Strait, and

Bering Sea (Bering Sea PARS) pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221 *et seq.*

(b) In designation of routes and any areas to be avoided, and consistent with existing authorities, consideration should be given to the Northern Bering Sea Climate Resilience Area, including the effects of shipping and vessel pollution on the marine environment, fishery resources, the seabed and subsoil of the Outer Continental Shelf, marine mammal migratory pathways and other biologically important areas, and subsistence whaling, hunting, and fishing.

(c) In recognition of the value of participation of Alaska Native tribal governments in decisions affecting the Northern Bering Sea Climate Resilience Area, the U.S. Coast Guard should consider traditional knowledge, including with respect to marine mammal, waterfowl, and seabird migratory pathways and feeding and breeding grounds, in the development of the Bering Sea PARS, establishment of routing measures and any areas to be avoided, and subsequent rulemaking and management decisions.

(d) No later than December 30, 2016, the U.S. Coast Guard shall publish preliminary findings for the Bering Sea PARS in the *Federal Register*, including information related to its status, potential routing measures, and its projected schedule. The U.S. Coast Guard should also consider using this opportunity to provide notice of any new information or proposed measures resulting from its ongoing consultation process.

(e) Upon completion of the Bering Sea PARS, the U.S. Coast Guard shall promptly issue a notice of proposed rulemaking for any designation contemplated on the basis of the study. The U.S. Coast Guard shall coordinate as appropriate with the Department of State and other coastal nations and submit any proposed routing measures to the International Maritime Organization by 2018 for the purpose of their adoption and implementation.

**Sec. 9. *Oil Spill Preparedness.*** The U.S. Coast Guard, in coordination with all relevant agencies and the State of Alaska, shall update the Area Contingency plans, the Subarea Response Plans, and the Geographic Response Strategies relevant to the Northern Bering Sea Climate Resilience Area. These plans and strategies shall be consistent with the National Contingency Plan, and shall include appropriate measures to improve local response capacity and preparedness such as spill response training opportunities for local communities, including Hazardous Waste Operations and Emergency Response training for Village Public Safety Officers and other first responders.

**Sec. 10. *Continuity of Existing Habitat Protection.*** The area included in the Northern Bering Sea Climate Resilience Area is currently closed to commercial non-pelagic trawl gear under rules implementing the Fishery Management Plans of the Bering Sea and Aleutian Islands Management Area and the Arctic Management Area. Consistent with existing law, the National Oceanic and Atmospheric Administration, in coordination with the North Pacific Fishery Management Council, shall take such actions as are necessary to support the policy set forth in section 2 of this order, including actions to maintain the existing prohibitions on the use of commercial non-pelagic trawl gear.

**Sec. 11. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

**EO 13754**

**Title 3—The President**

(1) the authority granted by law to a department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

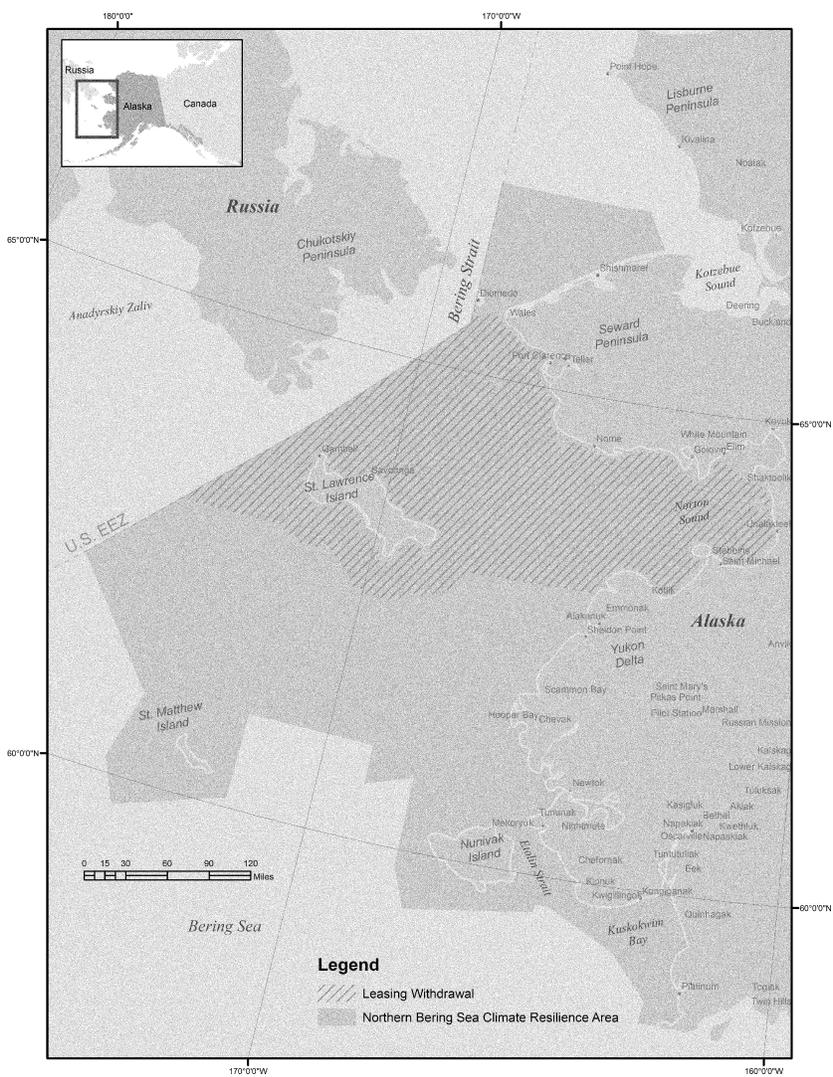
(b) This order shall be implemented consistently with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The policies set forth in this order are consistent with existing U.S. obligations under international law and nothing in this order shall be construed to derogate from obligations under applicable international law.

BARACK OBAMA

The White House,  
*December 9, 2016.*



## Executive Order 13755 of December 23, 2016

**Providing an Order of Succession Within the Department of Labor**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 *et seq.* (the “Act”), it is hereby ordered that:

**Section 1. Order of Succession.** Subject to the provisions of section 2 of this order, and to the limitations set forth in the Act, the following officials of the Department of Labor, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period in which both the Secretary and the Deputy Secretary of Labor have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary:

- (a) Solicitor of Labor;
- (b) Assistant Secretary for Administration and Management;
- (c) Assistant Secretary for Policy;
- (d) Assistant Secretary for Congressional and Intergovernmental Affairs;
- (e) Assistant Secretary for Employment and Training;
- (f) Assistant Secretary for Employee Benefits Security;
- (g) Assistant Secretary for Occupational Safety and Health;
- (h) Assistant Secretary for Mine Safety and Health;
- (i) Assistant Secretary for Public Affairs;
- (j) Chief Financial Officer;
- (k) Administrator, Wage and Hour Division;
- (l) Assistant Secretary for Veterans’ Employment and Training;
- (m) Assistant Secretary for Disability Employment Policy;
- (n) First assistants, pursuant to the Act, to the officials in the order listed in (a) and (c)–(h);
- (o) Regional Solicitor—Dallas; and
- (p) Regional Administrator for the Office of the Assistant Secretary for Administration and Management—Region VI/Dallas.

**Sec. 2. Exceptions.** (a) No individual who is serving in an office listed in section 1(a)–(p) of this order in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) No individual listed in section 1(a)–(p) of this order shall act as Secretary unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

**Sec. 3. *Revocation.*** Executive Order 13245 of December 18, 2001 (Providing An Order of Succession Within the Department of Labor), is hereby revoked.

**Sec. 4. *Judicial Review.*** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,  
December 23, 2016.

#### Executive Order 13756 of December 27, 2016

### Adjustments of Certain Rates of Pay

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. *Statutory Pay Systems.*** The rates of basic pay or salaries of the statutory pay systems (as defined in 5 U.S.C. 5302(1)), as adjusted under 5 U.S.C. 5303, are set forth on the schedules attached hereto and made a part hereof:

- (a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;
- (b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and
- (c) The schedules for the Veterans Health Administration of the Department of Veterans Affairs (38 U.S.C. 7306, 7404; section 301(a) of Public Law 102–40) at Schedule 3.

**Sec. 2. *Senior Executive Service.*** The ranges of rates of basic pay for senior executives in the Senior Executive Service, as established pursuant to 5 U.S.C. 5382, are set forth on Schedule 4 attached hereto and made a part hereof.

**Sec. 3. *Certain Executive, Legislative, and Judicial Salaries.*** The rates of basic pay or salaries for the following offices and positions are set forth on the schedules attached hereto and made a part hereof:

- (a) The Executive Schedule (5 U.S.C. 5312–5318) at Schedule 5;
- (b) The Vice President (3 U.S.C. 104) and the Congress (2 U.S.C. 4501) at Schedule 6; and
- (c) Justices and judges (28 U.S.C. 5, 44(d), 135, 252, and 461(a)) at Schedule 7.

**Sec. 4. *Uniformed Services.*** The rates of monthly basic pay (37 U.S.C. 203(a)) for members of the uniformed services, as adjusted under section 601 of the National Defense Authorization Act for Fiscal Year 2017, [S. 2943, 114th Cong. (2016)], as signed by the President on December 23, 2016, and the rate of monthly cadet or midshipman pay (37 U.S.C. 203(c)) are set forth on Schedule 8 attached hereto and made a part hereof.

**EO 13756**

**Title 3—The President**

**Sec. 5. *Locality-Based Comparability Payments.*** (a) Pursuant to section 5304 of title 5, United States Code, and my authority to implement an alternative level of comparability payments under section 5304a of title 5, United States Code, locality-based comparability payments shall be paid in accordance with Schedule 9 attached hereto and made a part hereof.

(b) The Director of the Office of Personnel Management shall take such actions as may be necessary to implement these payments and to publish appropriate notice of such payments in the *Federal Register*.

**Sec. 6. *Administrative Law Judges.*** Pursuant to section 5372 of title 5, United States Code, the rates of basic pay for administrative law judges are set forth on Schedule 10 attached hereto and made a part hereof.

**Sec. 7. *Effective Dates.*** Schedule 8 is effective January 1, 2017. The other schedules contained herein are effective on the first day of the first applicable pay period beginning on or after January 1, 2017.

**Sec. 8. *Prior Order Superseded.*** Executive Order 13715 of December 18, 2015, is superseded as of the effective dates specified in section 7 of this order.

BARACK OBAMA

THE WHITE HOUSE,  
*December 27, 2016.*

Executive Orders

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SCHEDULE 1--GENERAL SCHEDULE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2017)

	1	2	3	4	5	6	7	8	9	10
GS-1	\$18,526	\$19,146	\$19,762	\$20,375	\$20,991	\$21,351	\$21,960	\$22,575	\$22,599	\$23,171
GS-2	20,829	21,325	22,015	22,599	22,853	23,525	24,197	24,869	25,541	26,213
GS-3	22,727	23,485	24,243	25,001	25,759	26,517	27,275	28,033	28,791	29,549
GS-4	25,514	26,364	27,214	28,064	28,914	29,764	30,614	31,464	32,314	33,164
GS-5	28,545	29,497	30,449	31,401	32,353	33,305	34,257	35,209	36,161	37,113
GS-6	31,819	32,880	33,941	35,002	36,063	37,124	38,185	39,246	40,307	41,368
GS-7	35,359	36,538	37,717	38,896	40,075	41,254	42,433	43,612	44,791	45,970
GS-8	39,159	40,464	41,769	43,074	44,379	45,684	46,989	48,294	49,599	50,904
GS-9	43,251	44,693	46,135	47,577	49,019	50,461	51,903	53,345	54,787	56,229
GS-10	47,630	49,218	50,806	52,394	53,982	55,570	57,158	58,746	60,334	61,922
GS-11	52,329	54,073	55,817	57,561	59,305	61,049	62,793	64,537	66,281	68,025
GS-12	62,722	64,813	66,904	68,995	71,086	73,177	75,268	77,359	79,450	81,541
GS-13	74,584	77,070	79,556	82,042	84,528	87,014	89,500	91,986	94,472	96,958
GS-14	88,136	91,074	94,012	96,950	99,888	102,826	105,764	108,702	111,640	114,578
GS-15	103,672	107,128	110,584	114,040	117,496	120,952	124,408	127,864	131,320	134,776

SCHEDULE 2--FOREIGN SERVICE SCHEDULE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2017)

Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	\$103,672	\$84,005	\$68,069	\$55,156	\$44,693	\$39,954	\$35,718	\$31,931	\$28,545
2	106,782	86,525	70,111	56,811	46,034	41,153	36,790	32,889	29,401
3	109,986	89,121	72,214	58,515	47,415	42,387	37,893	33,876	30,283
4	113,285	91,795	74,381	60,270	48,837	43,659	39,030	34,892	31,192
5	116,684	94,548	76,612	62,079	50,302	44,969	40,201	35,939	32,128
6	120,184	97,385	78,911	63,941	51,811	46,318	41,407	37,017	33,091
7	123,790	100,306	81,278	65,859	53,366	47,707	42,649	38,127	34,084
8	127,503	103,316	83,716	67,835	54,967	49,138	43,929	39,271	35,107
9	131,329	106,415	86,228	69,870	56,616	50,613	45,246	40,449	36,160
10	134,776	109,607	88,815	71,966	58,314	52,131	46,604	41,663	37,245
11	134,776	112,896	91,479	74,125	60,064	53,695	48,002	42,913	38,362
12	134,776	116,283	94,223	76,349	61,866	55,306	49,442	44,200	39,513
13	134,776	119,771	97,050	78,639	63,722	56,965	50,925	45,526	40,698
14	134,776	123,364	99,962	80,998	65,633	58,674	52,453	46,892	41,919

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SCHEDULE 3--VETERANS HEALTH ADMINISTRATION SCHEDULES  
DEPARTMENT OF VETERANS AFFAIRS

(Effective on the first day of the first applicable pay period  
beginning on or after January 1, 2017)

Schedule for the Office of the Under Secretary for Health  
(38 U.S.C. 7306)\*  
(Only applies to incumbents who are not physicians or dentists)

Assistant Under Secretaries for Health . . . . .		\$163,665**
	<u>Minimum</u>	<u>Maximum</u>
Service Directors . . . . .	\$121,588	\$151,005
Director, National Center for Preventive Health . . . . .	103,672	151,005
Physician and Dentist Base and Longevity Schedule***		
Physician Grade . . . . .	\$101,967	\$149,553
Dentist Grade . . . . .	101,967	149,553
Clinical Podiatrist, Chiropractor, and Optometrist Schedule		
Chief Grade . . . . .	\$103,672	\$134,776
Senior Grade . . . . .	88,136	114,578
Intermediate Grade . . . . .	74,584	96,958
Full Grade . . . . .	62,722	81,541
Associate Grade . . . . .	52,329	68,025
Physician Assistant and Expanded-Function Dental Auxiliary Schedule****		
Director Grade . . . . .	\$103,672	\$134,776
Assistant Director Grade . . . . .	88,136	114,578
Chief Grade . . . . .	74,584	96,958
Senior Grade . . . . .	62,722	81,541
Intermediate Grade . . . . .	52,329	68,025
Full Grade . . . . .	43,251	56,229
Associate Grade . . . . .	37,219	48,388
Junior Grade . . . . .	31,819	41,368

\* This schedule does not apply to the Deputy Under Secretary for Health, the Associate Deputy Under Secretary for Health, Assistant Under Secretaries for Health who are physicians or dentists, Medical Directors, the Assistant Under Secretary for Nursing Programs, or the Director of Nursing Services.

\*\* Pursuant to 38 U.S.C. 7404(d), the rate of basic pay payable to these employees is limited to the rate for level V of the Executive Schedule, which is \$151,700.

\*\*\* Pursuant to section 3 of Public Law 108-445 and 38 U.S.C. 7431, Veterans Health Administration physicians and dentists may also be paid market pay and performance pay.

\*\*\*\* Pursuant to section 301(a) of Public Law 102-40, these positions are paid according to the Nurse Schedule in 38 U.S.C. 4107(b), as in effect on August 14, 1990, with subsequent adjustments.

## SCHEDULE 4--SENIOR EXECUTIVE SERVICE

(Effective on the first day of the first applicable pay period  
beginning on or after January 1, 2017)

	<u>Minimum</u>	<u>Maximum</u>
Agencies with a Certified SES Performance Appraisal System . . . . .	\$124,406	\$187,000
Agencies without a Certified SES Performance Appraisal System . . . . .	\$124,406	\$172,100

## SCHEDULE 5--EXECUTIVE SCHEDULE

(Effective on the first day of the first applicable pay period  
beginning on or after January 1, 2017)

Level I . . . . .	\$207,800
Level II . . . . .	187,000
Level III. . . . .	172,100
Level IV . . . . .	161,900
Level V . . . . .	151,700

## SCHEDULE 6--VICE PRESIDENT AND MEMBERS OF CONGRESS

(Effective on the first day of the first applicable pay period  
beginning on or after January 1, 2017)

Vice President . . . . .	\$240,100
Senators . . . . .	174,000
Members of the House of Representatives. . . . .	174,000
Delegates to the House of Representatives. . . . .	174,000
Resident Commissioner from Puerto Rico . . . . .	174,000
President pro tempore of the Senate. . . . .	193,400
Majority leader and minority leader of the Senate. . . . .	193,400
Majority leader and minority leader of the House of Representatives . . . . .	193,400
Speaker of the House of Representatives. . . . .	223,500

## SCHEDULE 7--JUDICIAL SALARIES

(Effective on the first day of the first applicable pay period  
beginning on or after January 1, 2017)

Chief Justice of the United States . . . . .	\$263,300
Associate Justices of the Supreme Court. . . . .	251,800
Circuit Judges . . . . .	217,600
District Judges. . . . .	205,100
Judges of the Court of International Trade . . . . .	205,100

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SCHEDULE 8--PAY OF THE UNIFORMED SERVICES  
(Effective January 1, 2017)  
PART I--MONTHLY BASIC PAY

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18
O-10*	-	-	-	-	-	-	-	-	-	-	-
O-9	-	-	-	-	-	-	-	-	-	-	-
O-8	\$10,155.00	\$10,487.70	\$10,708.50	\$10,776.00	\$11,045.70	\$11,505.90	\$11,612.70	\$12,049.80	\$12,175.20	\$12,551.70	\$13,096.50
O-7	8,438.10	8,629.90	8,829.90	9,011.40	9,416.70	9,674.70	9,972.90	10,270.20	10,568.70	11,005.90	12,296.70
O-6**	6,398.70	7,029.90	7,491.30	7,491.30	7,519.80	7,882.30	7,884.60	7,884.60	8,332.50	9,124.80	9,589.80
O-5	5,334.30	5,009.30	5,424.80	6,502.40	6,763.20	6,918.30	7,259.70	7,510.50	7,834.20	8,321.80	8,565.00
O-4	4,602.60	5,227.70	5,883.50	5,762.40	6,092.40	6,446.40	6,887.40	7,230.30	7,468.50	7,605.60	7,684.80
O-3***	3,836.50	4,227.70	4,741.20	4,741.20	4,833.00	4,954.20	5,154.20	5,426.00	5,833.50	6,383.50	6,583.50
O-2****	3,034.80	3,159.00	3,618.70	3,618.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	4,339.00
O-1****	-	-	-	-	-	-	-	-	-	-	-
O-3E	-	-	-	\$5,398.20	\$5,657.10	\$5,940.90	\$6,124.20	\$6,426.00	\$6,680.70	\$6,827.10	\$7,025.00
O-2E	-	-	-	4,741.20	4,839.00	4,992.90	5,253.00	5,454.00	5,603.70	5,603.70	5,603.70
O-1E	-	-	-	3,818.70	4,077.60	4,228.50	4,382.40	4,533.90	4,741.20	4,741.20	4,741.20
W-5	\$4,182.00	\$4,298.50	\$4,297.50	\$4,754.70	\$4,973.40	\$5,190.00	\$5,409.30	\$5,738.70	\$6,027.90	\$6,303.00	\$6,824.30
W-4	3,875.00	3,875.00	3,875.00	4,052.50	4,052.50	4,052.50	4,052.50	4,218.20	4,409.00	4,605.50	4,953.20
W-3	3,379.80	3,609.00	3,797.40	3,864.90	3,882.00	3,882.00	3,882.00	4,046.90	4,221.60	4,406.90	4,805.60
W-2	2,966.40	3,285.60	3,371.40	3,552.90	3,767.40	4,003.60	4,231.20	4,437.30	4,666.90	4,897.30	5,285.60
W-1	-	-	-	-	-	-	-	-	-	-	-

COMMISSIONED OFFICERS

AS AN ENLISTED MEMBER OR WARRANT OFFICER\*\*\*

WARRANT OFFICERS

\* Basic pay is limited to the rate of basic pay for level III of the Executive Schedule in effect during calendar year 2017, which is \$15,882.20 per month for officers at pay grades O-7 through O-10. This includes officers serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commander of the Marine Corps, Commander of the Coast Guard, Chief of the National Guard Bureau, or commander of a unified or specified combatant command (as defined in 10 U.S.C. 161(c)).

\*\* Basic pay is limited to the rate of basic pay for level V of the Executive Schedule in effect during calendar year 2017, which is \$12,641.70 per month, for officers at pay grades O-6 and below.

\*\*\* Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

\*\*\*\* Reservists with at least 1,450 points as an enlisted member, a warrant officer, or a warrant officer and an enlisted member which are creditable toward reserve retirement also qualify for these rates.

SCHEDULE 8--PAY OF THE UNIFORMED SERVICES (PAGE 2)  
(Effective January 1, 2017)

Pay Grade	Part I--MONTHLY BASIC PAY										
	YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)										
	Over 20	Over 22	Over 24	Over 26	Over 28	Over 30	Over 32	Over 34	Over 36	Over 38	Over 40
O-10*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*	\$15,583.20*
O-9	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70	13,598.70
O-8	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70	12,296.70
O-7	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50	10,954.50
O-6**	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80	9,684.80
O-5	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00	8,439.00
O-4	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00	7,188.00
O-3***	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50	6,583.50
O-2****	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00	4,839.00
O-1****	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70	3,818.70
COMMISSIONED OFFICERS WITH OVER 4 YEARS ACTIVE DUTY SERVICE											
O-3E	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00	\$7,026.00
O-3E	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60	6,492.60
O-3E	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20
O-3E	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20	4,741.20
N-5	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10	\$7,436.10
N-4	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60	6,747.60
N-3	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00	6,198.00
N-2	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80	5,725.80
N-1	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80	5,125.80

\* Basic pay is limited to the rate of basic pay for level III of the Executive Schedule in effect during the year in which the member is appointed to that grade. This includes officers serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, Chief of the National Guard Bureau, or commander of a unified or specified combatant command (as defined in 10 U.S.C. 161(c)).

\*\* Basic pay is limited to the rate of basic pay for level V of the Executive Schedule in effect during calendar year 2017, which is \$12,641.70 per month, for officers at pay grades O-6 and below.

\*\*\* Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

\*\*\*\* Reservists with at least 1,460 points as an enlisted member, a warrant officer, or a warrant officer and an enlisted member which are creditable toward reserve retirement also qualify for these rates.

Executive Orders

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SCHEDULE S--PAY OF THE UNIFORMED SERVICES (PAGE 3)  
(Effective January 1, 2017)

Part I--MONTHLY BASIC PAY

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)											
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	
E-8*							\$5,052.60	\$5,166.90	\$5,311.50	\$5,481.00	\$5,652.60	
E-7	\$2,875.20	\$3,138.00	\$3,268.30	\$3,417.30	\$3,541.80	\$4,156.10	4,318.80	4,432.20	4,557.80	4,715.10	4,980.30	
E-6	2,486.70	2,736.60	2,857.20	2,974.80	3,097.20	3,172.60	3,480.30	3,608.70	3,766.60	3,987.80	4,516.80	
E-5	2,278.20	2,431.50	2,549.10	2,669.10	2,856.60	3,052.50	3,213.60	3,332.80	3,472.80	3,727.20	3,951.70	
E-4	2,088.90	2,195.70	2,314.80	2,432.10	2,535.60	2,635.60	2,835.60	2,932.80	3,032.80	3,232.80	3,432.80	
E-3	1,892.80	2,004.30	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	
E-2	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	
E-1***	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	
E-1***	1,477.30											

\* For noncommissioned officers serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, Sergeant Major of the Army, Sergeant Major of the Air Force, or Senior Enlisted Advisor to the Chief of the National Guard Bureau, basic pay for this grade is \$6,165.10 per month, regardless of cumulative years of service under 37 U.S.C. 205.

\*\* Applies to personnel who have served 4 months or more on active duty.

\*\*\* Applies to personnel who have served less than 4 months on active duty.

SCHEDULE 8--PAY OF THE UNIFORMED SERVICES (PAGE 4)  
(Effective January 1, 2017)

Part I--MONTHLY BASIC PAY

Pay Grade	YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)											
	Over 20	Over 22	Over 24	Over 26	Over 28	Over 30	Over 32	Over 34	Over 36	Over 38	Over 40	
E-9*	\$5,926.50	\$6,158.70	\$6,402.60	\$6,776.40	\$6,776.40	\$7,114.80	\$7,114.80	\$7,470.60	\$7,470.60	\$7,844.70	\$7,844.70	
E-8	5,114.70	5,343.60	5,470.50	5,782.80	5,782.80	5,898.90	5,898.90	5,898.90	5,898.90	5,898.90	5,898.90	
E-7	4,566.60	4,734.60	4,824.60	5,167.50	5,167.50	5,167.50	5,167.50	5,167.50	5,167.50	5,167.50	5,167.50	
E-6	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	3,851.70	
E-5	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	3,232.80	
E-4	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	2,535.60	
E-3	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	2,125.80	
E-2	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	1,793.40	
E-1**	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	1,599.90	

\* For noncommissioned officers serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or Senior Enlisted Advisor to the Chief of the National Guard Bureau, basic pay for this grade is \$9,165.10 per month, regardless of cumulative years of service under 37 U.S.C. 205.

\*\* Applies to personnel who have served 4 months or more on active duty.

\*\*\* Applies to personnel who have served less than 4 months on active duty.

**Executive Orders**

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SCHEDULE 8--PAY OF THE UNIFORMED SERVICES (PAGE 5)

Part II--RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by 37 U.S.C. 203(c) is \$1,062.30.

Note: As a result of the enactment of sections 602-604 of Public Law 105-85, the National Defense Authorization Act for Fiscal Year 1998, the Secretary of Defense now has the authority to adjust the rates of basic allowances for subsistence and housing. Therefore, these allowances are no longer adjusted by the President in conjunction with the adjustment of basic pay for members of the uniformed services. Accordingly, the tables of allowances included in previous orders are not included here.

SCHEDULE 9--LOCALITY-BASED COMPARABILITY PAYMENTS

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2017)

Locality Pay Area*	Rate
Alaska	27.13%
Albany-Schenectady, NY	15.85%
Albuquerque-Santa Fe-Las Vegas, NM	15.36%
Atlanta-Athens-Clarke County-Sandy Springs, GA-AL	20.70%
Austin-Round Rock, TX	15.97%
Boston-Worcester-Providence, MA-RI-NH-CT-ME	26.73%
Buffalo-Cheektowaga, NY	18.66%
Charlotte-Concord, NC-SC	15.65%
Chicago-Naperville, IL-IN-WI	26.85%
Cincinnati-Wilmington-Maysville, OH-KY-IN	19.52%
Cleveland-Akron-Canton, OH	19.71%
Colorado Springs, CO	15.99%
Columbus-Marion-Zanesville, OH	18.49%
Dallas-Fort Worth, TX-OK	22.61%
Davenport-Moline, IA-IL	15.56%
Dayton-Springfield-Sidney, OH	17.59%
Denver-Aurora, CO	24.65%
Detroit-Warren-Ann Arbor, MI	25.68%
Harrisburg-Lebanon, PA	15.63%
Hartford-West Hartford, CT-MA	27.57%
Hawaii	17.92%
Houston-The Woodlands, TX	30.97%
Huntsville-Decatur-Albertville, AL	17.82%
Indianapolis-Carmel-Muncie, IN	15.85%
Kansas City-Overland Park-Kansas City, MO-KS	15.59%
Laredo, TX	16.68%
Las Vegas-Henderson, NV-AZ	15.93%
Los Angeles-Long Beach, CA	29.65%
Miami-Fort Lauderdale-Port St. Lucie, FL	22.13%
Milwaukee-Racine-Waukesha, WI	19.61%
Minneapolis-St. Paul, MN-WI	22.72%
New York-Newark, NY-NJ-CT-PA	31.22%
Palm Bay-Melbourne-Titusville, FL	15.48%
Philadelphia-Reading-Camden, PA-NJ-DE-MD	23.87%
Phoenix-Mesa-Scottsdale, AZ	18.57%
Pittsburgh-New Castle-Weirton, PA-OH-WV	17.86%
Portland-Vancouver-Salem, OR-WA	21.95%
Raleigh-Durham-Chapel Hill, NC	19.02%
Richmond, VA	18.19%
Sacramento-Roseville, CA-NV	24.14%
San Diego-Carlsbad, CA	26.98%
San Jose-San Francisco-Oakland, CA	38.17%
Seattle-Tacoma, WA	24.24%
St. Louis-St. Charles-Farmington, MO-IL	15.83%
Tucson-Nogales, AZ	15.66%
Washington-Baltimore-Arlington, DC-MD-VA-WV-PA	27.10%
Rest of U.S.	15.06%

\* Locality Pay Areas are defined in 5 CFR 531.603.

SCHEDULE 10--ADMINISTRATIVE LAW JUDGES

(Effective on the first day of the first applicable pay period beginning on or after January 1, 2017)

AL-3/A	\$108,100
AL-3/B	116,300
AL-3/C	124,700
AL-3/D	133,000
AL-3/E	141,500
AL-3/F	149,600
AL-2	157,900
AL-1	161,900

Executive Order 13757 of December 28, 2016

### **Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, in order to take additional steps to deal with the national emergency with respect to significant malicious cyber-enabled activities declared in Executive Order 13694 of April 1, 2015, and in view of the increasing use of such activities to undermine democratic processes or institutions, hereby order:

**Section 1.** Section 1(a) of Executive Order 13694 is hereby amended to read as follows:

“Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order;

(ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be responsible for or complicit in, or to have engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of:

(A) harming, or otherwise significantly compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector;

(B) significantly compromising the provision of services by one or more entities in a critical infrastructure sector;

(C) causing a significant disruption to the availability of a computer or network of computers;

(D) causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain; or

(E) tampering with, altering, or causing a misappropriation of information with the purpose or effect of interfering with or undermining election processes or institutions; and

(iii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(A) to be responsible for or complicit in, or to have engaged in, the receipt or use for commercial or competitive advantage or private financial gain, or by a commercial entity, outside the United States of trade secrets misappropriated through cyber-enabled means, knowing they have been misappropriated, where the misappropriation of such trade secrets is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economy of the United States;

(B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in subsections (a)(ii) or (a)(iii)(A) of this section or any person whose property and interests in property are blocked pursuant to this order;

(C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or

(D) to have attempted to engage in any of the activities described in subsections (a)(ii) and (a)(iii)(A)–(C) of this section.”

**Sec. 2.** Executive Order 13694 is further amended by adding as an Annex to Executive Order 13694 the Annex to this order.

**Sec. 3.** Executive Order 13694 is further amended by redesignating section 10 as section 11 and adding a new section 10 to read as follows:

“Sec. 10. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.”

**Sec. 4.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 5.** This order is effective at 12:01 a.m. eastern standard time on December 29, 2016.

BARACK OBAMA

THE WHITE HOUSE,  
*December 28, 2016.*

## Executive Orders

EO 13757

### Annex

#### Entities

1. Main Intelligence Directorate (a.k.a. Glavnoe Razvedyvatel'noe Upravlenie) (a.k.a. GRU); Moscow, Russia
2. Federal Security Service (a.k.a. Federalnaya Sluzhba Bezopasnosti) (a.k.a. FSB); Moscow, Russia
3. Special Technology Center (a.k.a. STLC, Ltd. Special Technology Center St. Petersburg); St. Petersburg, Russia
4. Zorsecurity (a.k.a. Esage Lab); Moscow, Russia
5. Autonomous Noncommercial Organization "Professional Association of Designers of Data Processing Systems" (a.k.a. ANO PO KSI); Moscow, Russia

#### Individuals

1. Igor Valentinovich Korobov; DOB Aug 3, 1956; nationality, Russian
2. Sergey Aleksandrovich Gizunov; DOB Oct 18, 1956; nationality, Russian
3. Igor Olegovich Kostyukov; DOB Feb 21, 1961; nationality, Russian
4. Vladimir Stepanovich Alexseyev; DOB Apr 24, 1961; nationality, Russian



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## OTHER PRESIDENTIAL DOCUMENTS

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### Subchapter B— Administrative Orders

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**Memorandum of January 4, 2016**

#### **Promoting Smart Gun Technology**

*Memorandum for the Secretary of Defense[,] the Attorney General[, and] the Secretary of Homeland Security*

For more than 20 years, the Federal Government has worked to keep guns out of the wrong hands through background checks. This critical effort in addressing gun violence has prevented more than two million prohibited firearms purchases from being completed. But tens of thousands of people are still injured or killed by firearms every year—in many cases by guns that were sold legally but then stolen, misused, or discharged accidentally. Developing and promoting technology that would help prevent these tragedies is an urgent priority.

In 2013, I directed the Department of Justice to review the availability and most effective use of new gun safety technologies, such as devices requiring a scan of the owner's fingerprint before a gun can fire. In its report, the Department made clear that technological advancements in this area could help reduce accidental deaths and the use of stolen guns in criminal activities.

Millions of dollars have already been invested to support research into a broad range of concepts for improving gun safety. We must all do our part to continue to advance this research and encourage its practical application, and it is possible to do so in a way that makes the public safer and is consistent with the Second Amendment. The Federal Government has a