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EXECUTIVE ORDER NO. 005 - 2017

**ESTABLISHMENT OF THE AMERICAN SAMOA FUSION CENTER AND
THE AMERICAN SAMOA FUSION CENTER ADVISORY BOARD**

WHEREAS, the timely exchange of intelligence and critical law enforcement information among local, state, and federal agencies remains one of the most serious challenges affecting homeland security; and,

WHEREAS, American Samoa's isolated geographic location makes it extremely vulnerable in the fundamental areas of intelligence and information gathering and sharing, consequently rendering our homeland and people at risk; and,

WHEREAS, as the only U.S. territory without a fusion center, the creation and establishment of a locally-centralized fusion center in American Samoa will address our territory's needs in the vital areas of intelligence and information gathering and sharing, and aid the American Samoa Department of Homeland Security and all American Samoa Government law enforcement and public safety agencies, and the private sector, in identifying, preventing, monitoring, and responding to terrorist and criminal activities within the territory; and,

WHEREAS, as part of the Intelligence Reform and Terrorism Prevention Act of 2004 ("IRTPA"), Congress directed the establishment of the Information Sharing Environment to improve and facilitate the sharing of terrorism, law enforcement, and homeland security information among federal, state, local, tribal, and private sectors; and,

WHEREAS, in implementing the IRTPA, the U.S. Department of Homeland Security and the U.S. Department of Justice, have been tasked to work with state governors to designate a single primary fusion center to serve as the statewide or regional hub with the federal government, and through which to coordinate the sharing of intelligence and the gathering, processing, analysis, and dissemination of terrorism, criminal activity, law enforcement, and homeland security information; and,

WHEREAS, it is inherently vital that the territory be adequately prepared to detect, protect against, prevent, respond to, and recover from terrorist attacks and other critical incidents; and,

WHEREAS, the public has a vested interest in ensuring the long-term stability of the American Samoa Fusion Center ("ASFC") and its programs, as well as the competency of those individuals assigned to staff the Center to enhance our territory's ability to safeguard our homeland and people, and prevent criminal activity within, at, and outside our borders; and,

WHEREAS, the ASFC will embody the core of collaboration as it will be an effective and cost-efficient tool to maximize available and readily-accessible resources, and build trusted relationships

among not only the law enforcement, public safety, and private partners of the Center, but also the general community of American Samoa in its entirety; and,

WHEREAS, collective cooperation, contribution, and support between and from all American Samoa Government entities is critical in fulfilling this fundamental duty; and,

WHEREAS, federal standards provide for the ASFC to be staffed by a group of specialized individuals who are trained to gather and disseminate information to law enforcement officials and other agencies to effectively provide security and protection for the territory against terroristic threats and criminal activity at the local, national, and international levels; and,

WHEREAS, the American Samoa Government is fully committed to the protection and preservation of the life, health, welfare, and property of the people of American Samoa, and it is in the best interest of our territory and people to formally confirm and ratify the creation, establishment, and operation of the American Samoa Fusion Center.

NOW, THEREFORE, I, LOLO M. MOLIGA, Governor of American Samoa, by virtue of the authority vested in me by the Revised Constitution of American Samoa and territorial statutes passed pursuant thereto, hereby execute this Order.

- 1. Authority.** This Executive Order is issued under the authority granted to the Governor in Article IV, Section 6 and Section 7, Revised Constitution of American Samoa and the American Samoa Code Annotated Section 4.0111.
- 2. Creation and Establishment.** There is created within the American Samoa Department of Homeland Security the American Samoa Fusion Center, which shall be governed as outlined in this Executive Order, subject to American Samoa and federal law.
- 3. American Samoa Fusion Center.**

A. Definitions. As used in this Executive Order:

- i. “Fusion Center” means an effective and efficient multidisciplinary and multi-agency organization to better enable information sharing between member agencies in support of criminal investigations, homeland or national security, and to reduce threats to security. The fusion center involves the collaborative effort of two or more agencies to provide resources, expertise, and information to the Center, with the goal of maximizing the agencies’ ability to detect, prevent, investigate, and respond to criminal and terrorism activity.
- ii. “Advisory Board” means the advisory board for the American Samoa Fusion Center/Cell for the American Samoa Department of Homeland Security.
- iii. “Center” or “ASFC” means the American Samoa Fusion Center, which is the primary and designated fusion center for the Territory of American Samoa.

B. The American Samoa Fusion Center for American Samoa Homeland Security.

- i. **Designation as a Primary Fusion Center.** The ASFC is the primary designated fusion center for the Territory of American Samoa, and shall serve as the primary entity within American Samoa with the functional responsibility for the collection, fusion, and dissemination of terrorism-related, criminal and law enforcement, and public safety information.
- ii. **Appointment of Fusion Liaison Officer of ASFC.** The ASFC shall be managed by a Fusion Liaison Officer (“FLO”) appointed by the Director of the American Samoa Department of Homeland Security (“Director”).
- iii. **The day-to-day operations and functions of the ASFC, including, but not limited to, budgeting, procurement, and related management functions, shall be performed by the FLO under the general direction and supervision of the Director.**
- iv. **Full-time manning of the ASFC shall be provided as appropriate by the FLO, with the concurrence of the Director of the Department of Homeland Security, and subject to any Memorandums of Understanding with various American Samoa Government, federal, and private sector entities. The ASFC may also employ professional personnel, technical analysts, clerical, and other personnel as may be necessary to carry out this Executive Order.**

C. Mission and Objectives of the American Samoa Fusion Center.

- i. **To serve as the focal point for and foster the collection, assessment, analysis, and dissemination of terrorism and criminal intelligence and information that have an effect on detecting and preventing criminal or terrorist-related activity.**
- ii. **To serve as an intergovernmental bridge between federal, local, and private entities to promote collaboration and information and intelligence sharing. In this regard, the ASFC shall assist in supporting law enforcement, public safety, the private sector, and other agency partners to mutually aggregate, analyze, and disseminate all criminal and terrorist-related information.**
- iii. **To support the American Samoa Department of Homeland Security and one of its missions of preventing terrorist attacks within American Samoa and reducing the territory’s vulnerability to terrorism.**
- iv. **To facilitate the analysis of information and develop relevant products that will assist homeland security partners at all levels of government to identify and address immediate and emerging threats.**
- v. **To significantly increase American Samoa’s awareness and capabilities to handle, manage, and/or alleviate threats, and to communicate pertinent information to appropriate local and private authorities throughout the territory as appropriate, and to other federal and state authorities throughout the United States.**
- vi. **To assist in the criminal intelligence and analysis missions of the American Samoa Department of Public Safety.**

- vii. To provide the ASFC agency partners with uniform information-sharing capabilities related to terrorism, criminal activity, law enforcement, and public safety.
- viii. To bolster and expand the reach of American Samoa's criminal justice intelligence and information-sharing capabilities within the confines of federal and local law.

D. Advisory Board for the American Samoa Fusion Center.

- i. **Creation and Establishment of the ASFC Advisory Board.** An advisory board for the American Samoa Fusion Center is created as an advisory body within the American Samoa Department of Homeland Security.
- ii. **Purpose.** The ASFC Advisory Board (the Advisory Board) shall provide governance and oversight for the ASFC. The Advisory Board shall be chaired by the American Samoa Department of Homeland Security Director and the Vice-Chair shall be the Commissioner of the Department of Public Safety.
- iii. **Membership.** The Advisory Board membership shall be coordinated by the Chair and representatives shall be designated by the parent organization or agency. The Advisory Board shall consist of the following members:
 - (a) Director of the American Samoa Department of Homeland Security;
 - (b) Commissioner of the Department of Public Safety, or his designee;
 - (c) Attorney General of American Samoa, or his designee;

Additionally, the following individuals may be invited by the Chair to be on the Advisory Board:

- (d) U.S. Department of Homeland Security, Senior Intelligence Officer;
- (e) Captain U.S. Coast Guard, Fourteenth Coast Guard District, Western Pacific, or his or her designee; and
- (f) Special Agent in Charge, Federal Bureau of Investigation, Joint Terrorism Task Force, or his or her designee.

Other representation by local law enforcement personnel, public safety, and the private sector may be requested by the Chair on a case-by-case basis. Membership may include representatives of federal, state, and local government or private organizations.

- iv. **Advisory Board Functions and Responsibilities.** The Advisory Board shall adopt procedures consistent with the laws of American Samoa governing its organization and operations. Any such procedures shall include the following:
 - 1. The Advisory Board shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Advisory Board.

2. A majority of the members serving constitutes a quorum for the transaction of the Advisory Board's business. Every act or decision by a majority of the members present at a meeting duly held at which a quorum is present is required in order for the act or decision to be approved.
3. The Advisory Board may establish advisory workgroups composed of representatives of law enforcement agencies participating in ASFC activities, and other public participants as the Advisory Board deems necessary to assist it in its duties and responsibilities. The Advisory Board may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
4. The Advisory Board shall make recommendations regarding the ASFC Privacy Policy, the dissemination of publically-available information, the management policies and procedures for the ASFC, and shall comply with any applicable federal or American Samoa laws.
5. The Advisory Board may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, government agencies, and institutions of higher education.
6. All legal, legislative, and media contacts shall be referred to the American Samoa Department of Homeland Security.

E. Annual Review of the ASFC Privacy Policy.

- i. Each year, the American Samoa Department of Homeland Security, in consultation with the Advisory Board, shall review the ASFC Privacy Policy.
- ii. The annual review shall ensure that the privacy policy protects the privacy and civil liberties of the residents of American Samoa consistent with applicable state and federal law, including, but not limited to, laws and regulations relating to privacy and public access to government information. Further, the review shall also seek to preserve the integrity and effectiveness of law enforcement functions and responsibilities, while ensuring that American Samoa residents remain protected from the inappropriate use and/or release of private and personally-identifiable information.
- iii. Records and information utilized or developed by the ASFC shall be in compliance with and will adhere to applicable constitutional provisions, statutes, and regulations. Intelligence information shall be collected, stored, and disseminated in compliance with 28 C.F.R. Part 23 (Appendix A) and the Law Enforcement Intelligence Units Criminal Intelligence File Guidelines (Appendix B), including the Third Party Rule, as well as applicable federal and American Samoa laws. Records will be provided to requestors unless exempt or protected from disclosure under American Samoa or federal law, including but not limited to the PRIVACY ACT OF 1974 (5 U.S.C. § 552a), the FAMILY EDUCATIONAL RIGHTS AND

PRIVACY ACT (20 U.S.C. § 1232g), and the HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (U.S. P.L. 104-191), all
as amended.

F. Participation and Cooperation.

All departments of the American Samoa Government shall actively cooperate with the
ASFC and the ASFC Advisory Board in the performance of its duties and responsibilities
under this Executive Order.

4. Effective Date. This Order shall have an effective date upon its date of execution.

Lolo M. Moliga

LOLO M. MOLIGA

Governor of American Samoa

9.19.17
Date