

EXECUTIVE ORDER NO. 404

WHEREAS, recognizing that protecting the citizens and the critical assets of the State of New Jersey is a top priority, Governor Corzine created the Office of Homeland Security and Preparedness ("the Office") in Executive Order No. 5 (2006), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, while we continue to face threats of the kind that prompted the creation of the Office -- acts of terrorism, natural disasters, catastrophic events, and pandemics -- we increasingly are confronting newer concerns -- such as threats from nation state actors, man-made and technological disasters, and emerging and special pathogens -- that reinforce the need to bolster the homeland security and preparedness programs led by the Office; and

WHEREAS, the increasingly sophisticated and persistent efforts by foreign entities to undermine New Jersey's strategic, political, and economic interests through espionage, malign foreign influence, cyber operations, and illicit information gathering necessitate a more formalized and proactive statewide counterintelligence posture; and

WHEREAS, since the creation of the Office in 2006, Governors have issued Executive Orders granting the Office additional responsibilities; and

WHEREAS, for example, on May 20, 2015, Governor Christie issued Executive Order No. 178, which established the New Jersey Cybersecurity and Communications Integration Cell ("NJCCIC") as a part of the Office, and designated the NJCCIC to serve as the central State civilian interface for coordinating cybersecurity information sharing, performing cybersecurity threat analysis, and promoting shared and real-time situational awareness between and among the public and private sectors; and

WHEREAS, additionally, on November 1, 2018, I issued Executive Order No. 44, which tasked the NJCCIC with coordinating cybersecurity efforts necessary to protect and secure the State's elections infrastructure from cybersecurity threats; and

WHEREAS, furthermore, the Legislature has codified certain functions of the Office, including responsibilities relating to cybersecurity incident reporting and prevention, school safety, and security grants for nonprofit organizations, among others; and

WHEREAS, given the constantly evolving nature of the threat environment, the Director of the Office should have flexibility to align the organization of the Office and the allocation of its personnel and other resources to best accomplish the mission of the Office in a manner consistent with applicable law; and

WHEREAS, the State and the Governor must undertake all appropriate efforts to guarantee the safety of the people of New Jersey while protecting and respecting the privacy and civil liberties of individuals throughout the State;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Office of Homeland Security and Preparedness created by Executive Order No. 5 (2006), is hereby continued. The Office shall coordinate and lead New Jersey's counterterrorism, counterintelligence, cybersecurity, and related preparedness efforts with the goal of coordinating prevention, protection, mitigation, response, and recovery efforts concerning these matters with federal, State, and local government entities, other jurisdictions, non-profit organizations, and the private sector, to protect the people of New Jersey.

2. The Office shall be led by a Director, who shall be appointed by, serve at the pleasure of, and report directly to the Governor and shall be a cabinet-level official.

3. The Director shall be the Homeland Security and Preparedness Advisor for the Governor and the State of New Jersey.

4. The Director, in consultation with the Civil Service Commission and the Director of the Office of Management and Budget, shall utilize and employ all such personnel as are necessary to carry out the duties of the Office. The Director shall have the authority to organize and maintain the Office and to assign its personnel in such manner, consistent with applicable law, as the Director and the operations of the Office shall require.

5. The Office shall be in, but not of, the Department of Law and Public Safety.

6. The Director shall serve as the State's liaison with federal law enforcement authorities and with other states on counterterrorism, counterintelligence, and related preparedness issues.

7. The Director and Office may call upon any State agency to provide information or other assistance as the Director or Office deems necessary to discharge the duties under this Order. Each State agency shall, to the extent not inconsistent with law, cooperate fully with any such request and with the Director and Office generally, within the limits of each agency's statutory authority, and shall furnish such assistance on as timely a basis as is necessary to accomplish the purpose of this Order.

8. For purposes of this Order, "State agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

9. The Office may, to the extent not inconsistent with any other law, employ, consult, and contract with private and public individuals or entities, and enter into such agreements with public and private individuals or entities as necessary to further the

mission of the Office or of other offices and units that fall under the Director's supervision.

10. The Director shall be responsible for planning, overseeing, and distributing discretionary State and federal homeland security and preparedness funding. The Office has been, and shall continue to be, designated as the State Administrative Agency for all federal homeland security and preparedness funding as of May 1, 2006.

11. The Director shall establish clear, transparent guidelines for the allocation of discretionary funding and shall distribute all funding based upon risk, threat, and vulnerability, and such other factors as the Director may determine appropriate, consistent with applicable law.

12. The Office shall be authorized to draw on the assistance of any county or municipal governmental agency for the purposes of carrying out its duties and responsibilities.

13. The Office shall identify and participate in appropriate federal or multi-state law enforcement programs and efforts that support or complement its counterterrorism, counterintelligence, and preparedness efforts.

14. The Office shall review all proposed State legislation regarding counterterrorism, counterintelligence, and preparedness and shall report to the Governor's Office about such proposed legislation through the Office of the Chief Counsel. The Office shall also review existing legislation and may recommend modifications, amendments, or initiatives to support or enhance the State's homeland security and preparedness capabilities.

15. The Domestic Security Preparedness Task Force, which is in, but not of, the Department of Law and Public Safety, shall be a part of the Office. All staff, funding, and other resources associated with the Domestic Security Preparedness Task Force shall be a part of the Office.

16. The Director shall chair and shall personally attend all meetings of the Domestic Security Preparedness Task Force, absent unavoidable conflicts.

17. The Director shall ensure that the Office conducts regular exercises, tabletops, and simulations to assess and prepare responses to acts of terrorism, cybersecurity incidents, and other threats to homeland security. This shall include appropriate training for executive leadership of State agencies.

18. The Superintendent of the State Police, who serves as the State Director of Emergency Management, shall continue to lead the Office of Emergency Management and the State's emergency management program. The Superintendent and the Director shall collaborate and cooperate on matters related to homeland security and emergency management to ensure a coordinated approach between the State's homeland security and emergency management efforts pursuant to the State Emergency Operations Plan.

19. The Office shall be responsible for leading and coordinating the State of New Jersey's counterintelligence efforts through the detection, disruption, and mitigation of foreign intelligence threats.

20. The Office shall conduct law enforcement investigations in conjunction with the FBI Joint Terrorism Task Force, the FBI Counterintelligence Task Force, the State Police, the Division of Criminal Justice in the Office of the Attorney General, and other law enforcement agencies specifically designated by the Director.

21. All law enforcement investigations in which the Office is involved shall be under the supervision of the Division of Criminal Justice in the Office of the Attorney General. Regular status reports on such investigations shall be provided to both the Director and to the Attorney General.

22. The Office shall have all powers conferred by law to the Department of Law and Public Safety, including the powers conferred by the Criminal Justice Act of 1970, P.L.1970 c.74, as amended by

P.L.1981 c.1987. To the extent that the Office utilizes powers conferred under this Act, there shall be dual reporting to the Director and the Attorney General.

23. The Office shall be the central State agency responsible for gathering and disseminating intelligence and information relating to counterterrorism and counterintelligence to local, county, State, and federal law enforcement entities as well as private sector partners. The Office shall coordinate the gathering and dissemination of this information with the State Police.

24. The Office shall develop and maintain a databank of information regarding homeland security and preparedness in coordination with the State Police. To accomplish this goal, the Office is authorized to access all appropriate information in the possession of State agencies and local and county law enforcement agencies, including but not limited to all criminal, intelligence, and investigative case files and information.

25. The Office shall be permitted to seek and obtain relevant counterterrorism, counterintelligence, and intelligence information from other appropriate sources, including private industry, public utilities, and other entities.

26. The Office shall be the central State agency responsible for developing and administering training programs for law enforcement personnel and other individuals on counterterrorism, counterintelligence, and intelligence gathering, analysis, and sharing. All State agencies shall provide appropriate assistance in regard to such training programs.

27. All documents, materials, and information pertaining to counterterrorism and counterintelligence investigations, intelligence, training, cybersecurity, and related preparedness activities, and protocols created, compiled, obtained or maintained by the Office shall be deemed confidential, non-public and not subject to the Open Public Records Act, P.L.1963, c.73, as amended and supplemented.

28. The Director, the Office, and all other State agencies shall respect and protect the privacy and civil liberties of individuals while undertaking all appropriate efforts to guarantee the safety of the people of New Jersey.

29. Executive Order No. 5 (2006) is hereby superseded.

30. Executive Order No. 178 (2015) and Executive Order No. 44 (2018) remain in full force and effect.

31. Nothing in this Order shall be construed to confer any legal rights upon entities whose activities are regulated by State entities; nothing shall be construed to create a private right of action on behalf of any such regulated entities; and nothing shall be used as a basis for legal challenges to rules, approvals, permits, licenses, or other action or inaction by a State entity. Nothing in this Order shall be construed to supersede any federal, State, or local law.

32. This Order shall take effect immediately.

GIVEN, under my hand and seal this
12th day of November,
Two Thousand and Twenty-Five,
and of the Independence of the
United States, the Two Hundred
and Fiftieth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor