Republic of Palau
Office of the President

Tommy E. Remengesau, Jr.
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EXECUTIVE ORDER NO. 394

Amending and Modifying Part IV of Executive Order No. 381 to reorganize the Bureau of Public Safety and create a new agency within the Ministry of Justice known as the Narcotics Enforcement Agency ("NEA"), transferring the responsibilities of the Division of Drug Enforcement and the Drug Task Force to the newly created NEA, and repealing Executive Order Nos. 190, 323 and 382.

WHEREAS, pursuant to Article VIII, Section 7(1) of Constitution, the President is responsible for enforcing the laws of the land; and

WHEREAS, in accordance with Section 109 of Title 2 of the Palau National Code, the President, as chief executive, is required to provide for the subdivision of the Ministries and prescribe each subdivision's duties, functions and responsibilities through executive order; and

WHEREAS, Section 110 of Title 2 of the Palau National Code empowers the President to establish offices and agencies within the Executive Branch and to prescribe their duties, responsibilities and functions; and

WHEREAS, on September 21, 2015, President Tommy E. Remengesau, Jr., issued Executive Order No. 381, reorganizing the Executive Branch of the National Government; and

WHEREAS, Part IV of Executive Order No. 381 organized the Ministry of Justice ("MOJ"), including the Bureau of Public Safety ("BPS"), a subdivision therein; and

WHEREAS, Part IV, Section 3 further created a Division of Drug Enforcement within BPS, which is responsible for investigating acts in violation of laws related to, inter alia, illicit drugs, gambling and transnational crimes; and

WHEREAS, due to the continuing presence of illegal drugs and an increase in violent crime and gambling associated with drug trafficking, President Tommy E. Remengesau, Jr., signed Executive Order Nos. 190, 323 and 382, establishing and relating to the National Drug Trafficking Task Force ("Task Force"), which is aimed at aggressively fighting the trade in and use of illegal drugs; and

WHEREAS, while the Task Force has made substantial progress in the fight against illegal drugs, the reality is that more, and even more focused, work is needed in order to combat and successfully curtail illegal drug operations, activity and use in the Republic; and

WHEREAS, it is thus advisable, appropriate and in the best interests of the Republic to create a permanent agency within the MOJ, separate from BPS, that is responsible for leading the fight against illicit drugs and other, related criminal activity;

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and laws of the Republic of Palau, I, Tommy E. Remengesau, Jr., do hereby order as follows:

1. Part IV, Section 3 of Executive Order No. 381 relating to "Division of Criminal Investigation" shall be and is hereby amended to read as follows:

> "Division of Criminal Investigation. The Division of Criminal Investigation ("Division") shall be headed by a Chief and shall be primarily responsible for investigating all acts in violation of all criminal laws of Palau, except for those criminal acts that are specifically assigned to the Narcotics Enforcement Agency. For each case where probable cause exists that a crime has been committed, a criminal investigation report shall be prepared, evidence collected and preserved, and a final report shall be submitted to the Office of the Attorney General for disposition. In carrying out its responsibilities, the Division, through the Director of the Bureau of Public Safety, shall consult with the Attorney General regarding the conduct of its investigations and the performance of its duties. The Division shall also perform such other duties as may be assigned by the Director of the Bureau of Public Safety or the Minister of Justice."

2. Part IV, Section 3 of Executive Order No. 381 relating to "Division of Drug Enforcement" shall be and is hereby repealed in its entirety.

3. There shall be and is hereby added a new Section 5 in Part IV of Executive Order No. 381, to read as follows:

> "Section 5. Narcotics Enforcement Agency.
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> The Narcotics Enforcement Agency ("NEA") shall be headed by a Director to be appointed by, and serve at the will of, the President. The NEA shall be primarily responsible for investigating all acts in violation of all laws related to illicit drugs, including but not limited to the manufacture, cultivation, distribution, transport, trafficking, sale and use of the same, as well as all acts in violation of all laws related to alcoholic beverages, tobacco products, gambling and transnational crimes. The NEA shall also be responsible for administering public education programs on the dangers and punishments associated with illegal drugs. The NEA shall further be responsible for transnational intelligence gathering and perform such other duties as provided by statute or as assigned by the President or the Minister of Justice. In all criminal investigations where both the NEA and the

Division of Criminal Investigation have overlapping jurisdiction, the NEA shall assume primary responsibility over the investigation.

(a) Members of the NEA shall be qualified law enforcement officers, as defined in 17 PNC § 4503(f), and are permitted to possess firearms while discharging their official duties, subject to and in accordance with 17 PNC § 4507, provided that the possession of firearms by such law enforcement officers is approved by the Director and Minister of Justice.

(b) Until such time that proper recruitment can be completed, the law enforcement officers who are currently members of the Task Force and those currently serving in the Bureau of Public Safety, particularly within the Division of Drug Enforcement, are eligible and may become members of the NEA. The initial law enforcement officers of the NEA shall be appointed by the President.

(c) The NEA shall consider all legal strategies in developing and executing plans for investigating illegal drug activities and related crimes, including the employment of creative methods for identifying major drug traffickers and bringing them to justice.

(d) The Attorney General shall designate an Assistant Attorney General to work with the Agency in carrying out its responsibilities herein.

(e) For each case where probable cause exists that a crime has been committed, a criminal investigation report shall be prepared, evidence collected and preserved, and a final report shall be submitted to the Attorney General or his/her designee for disposition. In carrying out its responsibilities, the NEA, through its Director, shall consult with and submit its reports to the Attorney General or his/her designee for disposition.

(f) Any information developed or evidence gathered in connection with past, pending or new criminal investigations by the Division of Drug Enforcement or the Task Force involving criminal activity within the jurisdiction of the NEA, including any reports or activity, shall be immediately transferred to the NEA without any request.

(g) Any budget or funds appropriated to the Task Force shall now be allocated to the NEA."

4. Executive Order Nos. 190, 323 and 382, relating to the Task Force, shall be and are hereby repealed in their entirety.

IN WITNESS WHEREOF, I have hereunder set my hand and affixed my official seal this 1st day of March, 2017 in the State of Koror, Republic of Palau.

Tommy E. Remengesau, Jr.
President of the Republic of Palau