PROPOSED EXECUTIVE ORDERS TO BE ISSUED BY PRESIDENT DONALD TRUMP TO SET UP FURTHER PARDONS BY CATEOGRY, EXPOSING SERIOUS LEGAL ERRORS AND CONSTITUTIONAL VIOLATIONS OF PROSECUTIONS OF JANUARY 6 DEMONSTRATORS

And Obtain Reports and Order Improvements

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TABLE OF CONTENTS

sentenced illegally in violation of the 1984 Sentencing Act with sentences vastly in excess of what Left-wing demonstrators were sentenced with . This Group Commutation by Category reduces all sentences from January 6, 2021, to the median sentence imposed upon Left-wing defendants for the same conduct. This includes consideration of where Left-wing protestors were not charged at all whereas pro-Trump protestors were charged and sentenced

TAB 4 Pardon by Category of All January 6, 2021, Demonstrators charged with 18 U.S.C. 1752.

All or nearly all of the estimated 1,600 people charged (and counting) relating to events of January 6, 2021, on Capitol Hill, were charged with 18 U.S.C. 1752 concerning presence or activities within a "restricted grounds" or "restricted building." However, among many problems with this statute, the statute requires that only the U.S. Secret Service can declare a restricted area. However, in relation to January 6, 2021, the Secret Service did not declare a restricted area. The U.S. Capitol Police declared a construction zone on September 3, 2020. Therefore, all charges and convictions under 18 U.S.C. 1752 – affecting nearly 1,600 defendants and growing – are invalid and must be thrown out by pardon. Note that the President's determination is final and independent and not dependent on the view of any court.

TAB 5 Pardon by Category of All January 6, 2021, Demonstrators Charged in Vindictive Prosecution

Issuing a Pardon on all Counts where prosecutors added serious felony charges only because January 6 Defendants declined to take a plea deal. This is punishment for exercising the right to trial under the U.S. Constitution.

TAB 6 Pardon by Category of All Charges under 18 U.S.C. 1512(c) Overturned by the U.S. Supreme Court in *United States v. Fischer*

Issuing a pardon on all counts of violations of 18 U.S.C. 1512(c) rejected by the U.S. Supreme Court in United States v. Fischer but still pursued by the Merrick Garland Department of Justice

TAB 7 Pardon by Category of All January 6 cases in which the Prosecution withheld Exculpatory Evidence

The U.S. Constitution under due process requires the prosecution to disclose potentially exculpatory evidence to defendants. This Constitutional right was recognized in Brady v. Maryland and in later precedents. Prosecutors massively violated Brady and deprived January 6 Defendants of fair trials. Group pardon is proposed of every case in which the prosecution violated Brady.

TAB 8 Pardon by Category of All Cases Where January 6 Defendants were Denied the Opportunity to get Ready for Trial by Twisting the Speedy Trial right.

Issuing a pardon on all cases in which a Defendant requested more time to review the prosecutors' flood of irrelevant information, locate witnesses, and prepare for trial but was denied. This violates due process by declining a meaningful

opportunity to get a fair trial. This is based on a serious mangling of the right to a speedy trial in the Constitution which applies only to Defendants not to prosecutors.

TAB 9 Pardon by Category of Legally Defective Prosecutions Violating Attorney-Client Privilege and/or Attorney Work Product Privilege, such as Under Abuse of the "Crime Fraud" Exception

Issuing a pardon on all counts in which the prosecution relied in whole or in part on evidence, information, communications, statements, etc. that are privileged attorney-client communications or attorney work product including under abuses of the "crime-fraud exception"

TAB 10 Pardon by Category of All Charges Brought in Violation of the First Amendment

Issuing a pardon on all cases in which any charge was based and/or proven, in whole or in part, on the exercise of a defendant's rights under the First Amendment to the U.S. Constitution including the right to petition the government for redress of grievances whether by expression or protest.

TAB 11 Pardon by Category of All Charges Proven by Fabricated Evidence Rule 106

Issuing a pardon on all cases where the prosecution presented chopped up, rearranged, or otherwise misleading snippets from text message "threads" (rolling conversations), email threads, video recordings, or phone calls to create a false version of what was actually said and what actually happened. To so twist

and misrepresent the evidence is obstruction of justice by prosecutors. The violation of due process is the reason Rule 106 of The Federal Rules of Evidence prohibits this practice.

TAB 12 Pardon by Category of Legally Defective Prosecutions Under 18 U.S.C. 111(a)

Issuing a pardon on all counts of violating 18 U.S.C. 111(a) in which prosecutions were based on legally defective, vague, and ambiguous misintepretations of "assaults" and illegally erasing the "forcibly" qualifier from the statute

TAB 13 Pardon by Category of All Charges of Seditious Conspiracy

Issuing a pardon on all counts of seditious conspiracy under 18 U.S.C. 2384. After examining the facts alleged and attempted to be proven of the handful of seditious conspiracy charges it is clear that there is no possible factual basis or grounding for such a charge and that the charged defendants actively advocated for efforts to keep the peace and uphold the law. The very few of 40,000 Oath Keepers nationally who got involved promoted the use of the [Anti] Insurrection Act of 1807 to keep the peace and uphold the law, which is the anti-thesis of seditious conspiracy

TAB 14 Pardon by Category of Legally Defective Prosecutions Due to Spoilation of Evidence

Issuing a pardon on all counts in which the government destroyed or withheld or

negligently "lost" evidence that might have established a defendant's innocence

TAB 15 Pardon by Category of All January 6, 2021, Demonstrators Convicted of the Actions of Other people (Collective Punishment)

In all January 6, 2021, prosecutions – numbering 1,600 and counting – the Federal prosecutors of the U.S. Department of Justice have prosecuted crowds in general, not the individual defendants placed on trial. This is unconstitutional and a clear and present danger to the U.S. Constitution. Individuals can only be punished for their own actions. The January 6 prosecutions represent a severe and radical change to U.S. law of collectivist punishment. Prosecutors put on evidence of what other people did with no connection to the Defendant before the Court and convicted individuals based on the actions and alleged statements of crowds, not for their individual behavior.

TAB 16 Pardon by Category of Legally Defective Prosecutions from False Statements or Evidence Made to the Jury

Issuing a pardon of all counts or cases where the applicant demonstrates that false statements were made to the jury, such that the prosecutor either knew the information to be false or not knowing would be a substantial failure of diligence or competence.

TAB 17 Pardon by Category of All Charges of Against Proud Boys

Issuing a pardon on all counts of the defendants in United States v. Nordean

because of serious constitutional and legal irregularities and multiple grounds for mistrial, interview with jury member who explained that the jury did not find enough evidence to convict the Proud Boys

TAB 18 Commutation by Category of Improper Sentencing Practices

Commuting part or all of sentencing based on improper categories and enhancements, etc.

TAB 19 Pardon by Category of All January 6 Conspiracy Charges Based on Informants Reporting No Conspiracy

Issuing a pardon of any and all persons convicted or charged with a conspiracy relating to January 6, 2021, when the FBI found no plans or conspiracies

TAB 20 Pardon by Category of Defendants Who Pled Guilty to What Cannot be a Crime

Issuing a pardon to Defendants who plead guilty to what appellate courts later decide cannot be a crime, such as the statute is invalid or misinterpreted and/or the factual allegations do not constitute a crime under the statute.

TAB 21 Pardon by Category of All Charges Under the FACE Act

Issuing a pardon of any and all persons convicted or charged for their exercise of free speech outside or near abortion clinics as being a clearly unconstitutional violation of the First Amendment, other than violence or property destruction.

RELATED EXECUTIVE ORDERS

TAB 22 Executive Order Directing Ethics Training for Federal Prosecutors

TAB 23 Executive Order ordering report on all Public Judicial Statements Showing Bias or Prejudgment that January 6 Defendants are guilty before trial, thus contaminating the jury pool of the District of Columbia

TAB 24 Executive Order ordering report on Legally Defective Mis-use of 18 U.S.C. 111(a)

TAB 25 Executive Order Prohibiting Federal Prosecutors from Using Ambiguous or Meaningless Misinterpretations of "Dangerous Weapons"

TAB 26 Executive Order Prohibiting Government Testimony of what Defendants were Privately Thinking or Intended

TAB 27 Executive Order Prohibiting Federal Prosecutors from Re-imagining or Re-interpreting Criminal Statutes

TAB 28 Executive Order Requiring Report on FBI Whistleblower Zach Schoffstall

TAB 29 Executive Order Requiring Report on Reimbursements to the District of Columbia for Events of January 6, 2021, and Comparing other Protests

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TAB 22

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Requiring Attorney Training in Legal Ethics and Constitutional Rights of Defendants

I. PRESIDENTIAL DUTY TO TAKE CARE THE LAWS BE FAITHFULLY EXECUTED

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

The Constitution does not include an Attorney General, Department of Justice, prosecutors, or Federal Bureau of Investigation. Only the Chief Executive, the President. It has been correctly noted that no government, scarcely even a small town, could be run by a single person alone and that as a practical matter a President fulfills this duty by and through many institutions and officials at varying levels, including an Attorney General and the estimated 115,000 employees of the U.S. Department of Justice's more than 40 different sub-agencies from the Federal Bureau of Investigation to the U.S. Marshals to the Bureau of Prisons.

Obviously, where a President hires assistants to help the President carry out his duties,

any and all government employees must comply with the Bill of Rights and other Constitutional rights for the protection of U.S. citizens and people present in the United States of America, including the limitations the Constitution imposes to restrain the U.S. Government and limit its authority.

II. FEDERAL PROSECUTORS AND LITIGATION ATTORNEYS MUST COMPLY WITH THE HIGHEST ETHICAL STANDARDS, ABOVE ALL OTHER ATTORNEYS

For prosecutors, winning and losing is measured by the pursuit of justice.

It is generally reported among law schools that a less-famous inscription above one of the entrances to the Old Bailey courthouse -- *The* ***Central Criminal Court of England and Wales*** -- states "The Crown Never Loses when Justice is Done."[1] Prosecutors while enjoying many advantages such as nearly limitless government resources, must also meet more compelling and strict burdens than usual for attorneys in other context:

It is well-established, but thoroughly ignored by prosecutors, that when the Government engages in a criminal prosecution it is not a normal litigant. I find that the widespread tolerance of "trial by ambush" to be an intolerable abuse of constitutional rights.

> In *Berger v. United States*, Justice George Sutherland, who was part of the Schechter majority, said the following about ***the role of the prosecutor:***
>
> > [He] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor-indeed he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a

[1] The more famous inscription above a main entrance is "**Defend the Children of the Poor & Punish the Wrongdoer.**" It would be good if I had the time to go and look to confirm the second quote.

> wrongful conviction as it is to use every legitimate means to bring about a just one. [7]

Bennett L. Gershman, "Hard Strikes and Foul Blows:" Berger v. United States 75 Years After, 42 Loy. U. Chi. L. J. 177, 179 (2010). Available at: http://lawecommons.luc.edu/luclj/vol42/iss1/8 (citing to Berger v. United States, 295 U.S. 78, 88 (1935).

I find that it is a violation of the Constitution for Federal prosecutors to strike "hard blows" because the goal of Federal prosecution must be the truth, fairly, accurately, and completely presented in accurate context. Winning in court for the sake of winning is an impermissible consideration. I find order, and direct that every Federal prosecutor and litigation attorney must do justice under the law above all else. In effect, their "client" is and by my order shall be the truth, fairness, and justice, not any private agenda or partisan political agenda or institutional agenda. Every Federal attorney is required to zealously advocate for the truth and for justice under the law as fairly construed. Every Federal attorney who becomes aware that an injustice has been done is by my order under an individual duty to work to correct such injustice under pain of discipline, termination, and/or prosecution for obstruction of justice.

Perhaps even more compelling:

> Also, there is little doubt that Justice Sutherland's articulation of **the special obligation of the prosecutor to ensure that "justice shall be done"** was influenced by then-Canon 5 of the Canons of Professional Ethics of the American Bar Association, which stated:
>
> > "The primary duty of a lawyer engaged in public prosecution is not to convict, ***but to see that justice is done.*** The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible."

Gershman, at 194. (Emphases added.)

Unfortunately, today's prosecutors have become bored with merely pursuing justice and more interested in creatively "legislating from the prosecution's conference room" (arguably worse than "legislating from the bench"). Making up new laws by twisting the laws has captured

the imagination of Federal prosecutors and litigation attorneys more than seeing "that justice is done." The latter is the high and noble calling of Federal attorneys. But the allure of nobility and propriety seems to have faded.

III. ALL FEDERAL PROSECUTORS AND LITIGATION ATTORNEYS, PARALEGALS, AND SUPPORTING STAFF ORDERED TO COMPLETE ADDITIONAL TRAINING

As the head of the Executive Branch and the only person invested in the U.S. Constitution with the responsibility to "take care that the laws be faithfully executed," I hereby order that in addition to all other legal education and continuing legal education courses that may have been completed already or regularly scheduled each year, every Federal prosecutor, litigation attorney, paralegal whose work relates to any case in court whether preparatory or attending, and any personnel to complete within the next two years starting from 30 days after the signature date of this Executive Order additional legal training as follows:

A. 18 hours of the ethical requirements for Federal prosecutors (regardless of the title of the person taking the course including in supporting roles) as more demanding and different from all other attorneys.

B. 8 hours of when a case brought by the Federal government can be lost, thrown out, or dismissed on account of violations of governing rules.

C. 28 hours on the constitutional rights of criminal defendants or those being investigated for possibly violating crimes. This includes disclosure requirements. (This is not, however, a course on the obligations of police officers although a prosecutor's awareness of what may be challenged would be highly desirable as a separate matter.)

D. 4 hours of training or as much time as the particular department may need for

explanation on the potential disciplinary proceedings of the relevant department that could come into play under various circumstances.

E. An individual certification of each trained person acknowledging that they have received such training.

F. In addition to and in no way as a substitute for the above, including because the MPRE does not cover all of the same topics and does not emphasize the role of prosecutors and government legal staff compared to private attorneys, nevertheless I order that Federal prosecutors, litigation attorneys, and their legal support teams take at their employer's expense within the same time period (for the first attempt) the Multistate Professional Examination (MPRE). As is normal for private attorneys, such employees may enroll in exam preparation courses at their employer's expense including for the collateral benefit of acquiring additional knowledge and understanding. It appears that the MPRE allows taking the course again and such persons may comply with the normal rules in that regard for the MPRE, until a score in the 90th percentile or equivalent is achieved.

The scheduling of students' participation may be staggered within an organizational unit and/or scheduled by supervisors so as to minimize the disruption of the pending tasks of the unit.

The deadline for these actions or those of them left uncompleted may be extended by the person's supervisor of his or her supervisor on a documentation of hardship, illness, staffing shortages, or the like and a showing that the circumstance would actually and necessarily conflict with completing the training.

These requirements may be waived by the person's supervisor of his or her supervisor on

a documentation that the person will be retiring within the time period for the training or separating from Federal service to enable resources to be focused on continuing employees.

However, if the training is not completed within the deadline, the Federal prosecutor or litigation attorney or support staff with unfinished training shall be suspended with pay and immediately detailed to complete the required training before being returned to duty. His or her supervisory chain of command is authorized to suspend an employee without pay upon determining that the non-compliance is insubordinate.

IV. TRAINING OF FBI INVESTIGATORS

After all personnel required to be trained in the foregoing section have been accommodated, all FBI agents working on investigations of potential crimes or preparing to present evidence of alleged crimes in court shall also complete within the subsequent two years the training:

> 28 hours on the constitutional rights of criminal defendants or those being investigated for possibly violating crimes. This includes disclosure requirements.

Nothing in this accommodation is intended to limit the ability of trainers to fit in FBI agents alongside others if space and teaching time is available. The same deadline extension and waiver provisions apply as in the foregoing section.

V. APPROVAL OF ELIGIBLE COURSES

The curriculum must be provided in advance to the Attorney General and the White House counsel for approval of being serious, non-trivial, unbiased, accurate, and helpful to improving the respect of the U.S. Government for its responsibilities and the rights of civilians.

Although modern technology and capabilities and the geographic diversity of Federal personnel may call for a variety of possibilities, and video-conferencing technology and availability continues to grow rapidly, eligible courses must provide for interaction with and questions from students to instructors and discussion such as scenarios among the students.

The value of such group discussions and questions and answers is one of the reasons why the required hours for each topic is relatively higher than typical continuing legal education.

Eligible courses if not provided in person must include the announcement of random key words at random, unpredictable times to ensure that the student is actually listening. When the keywords are given, they should be repeated several times so if someone is actually listening they will not be prejudiced by trying to write them down. An email address or chat should be available so that if a student immediately asks what was the word showing that they are actually listening that they can be fairly provided with the key words. While a student is not required to ask a question or engage in discussion, it should be noted that they did participate to further protect their claim to have faithfully listened to the entire course. This is limited to their participation, not the substance of their comments or questions.

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TAB 23

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Directing Report of All Public Statements by Judges of the U.S. District Court for the District of Columbia, Federal officials, and District of Columbia Officials Declaring January 6 Defendants Guilty Ahead of Trial

I. CONSCIOUS OR UNCONSCIOUS BIAS IN CRIMINAL PROSECUTION VIOLATES THE CONSTITUTIONAL RIGHT TO DUE PROCESS

It is unconstitutional to deprive a person of life, liberty, or property without due process of law. Due process of law requires a neutral decision-maker. One indication of a biased judge is a judge who pre-judges guilt or an element of charged crimes ahead of the adversarial evidentiary process of a trial, in which only competent and admissible evidence is allowed into the record, with effective opportunities for cross-examination of witnesses and challenges to the authenticity, context, and origins of documentary evidence.

> We therefore hold that a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker. See *Cleveland Bd. of Ed* v. *Loudermill,* 470 U. S. 532, 542 (1985) ("An essential principle of due process is that a deprivation of life, liberty, or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case'" (quoting *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U. S. 306, 313 (1950)); *Concrete Pipe & Products of Cal., Inc.* v. *Construction Laborers Pension Trust for Southern Cal.,* 508 U. S. 602, 617 (1993) ("due process requires a 'neutral and detached judge in the first instance'" (quoting *Ward* v. *Monroeville,* 409 U. S. 57, 61–62 (1972)). "For more than a century the central meaning of procedural due process has been clear: 'Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified.' It is equally fundamental that the right to notice

> and an opportunity to be heard 'must be granted at a meaningful time and in a meaningful manner.' "*Fuentes* v.*Shevin,*407 U. S. 67, 80 (1972) (quoting *Baldwin* v. *Hale,* 1 Wall. 223, 233 (1864); *Armstrong* v. *Manzo,* 380 U. S. 545, 552 (1965) (other citations omitted)). These essential constitutional promises may not be eroded.

Hamdi v. Rumsfeld, 542 U.S. 507 (2004).

> A multimember court must not have its guarantee of neutrality undermined, for the appearance of bias demeans the reputation and integrity not just of one jurist, but of the larger institution of which he or she is a part. An insistence on the appearance of neutrality is not some artificial attempt to mask imperfection in the judicial process, but rather an essential means of ensuring the reality of a fair adjudication. Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself. When the objective risk of actual bias on the part of a judge rises to an unconstitutional level, the failure to recuse cannot be deemed harmless.

Williams v. Pennsylvania, 579 U.S. ___ , 136 S. Ct. 1899, 195 L.Ed.2d 132 (2016)

> These considerations illustrate, moreover, that it does not matter whether the disqualified judge's vote was necessary to the disposition of the case. The fact that the interested judge's vote was not dispositive may mean only that the judge was successful in persuading most members of the court to accept his or her position. That outcome does not lessen the unfairness to the affected party. See *id*., at 831–832 (Blackmun, J., concurring in judgment).

Id.

Of course the most pernicious and harmful form of prejudice, bias, pre-judgment, or assumption is when a person is not consciously aware of their predisposition to a conclusion which has not been established by competent evidence. Indeed, decisions made by judges as to whether to allow a defendant to put on a defense of his own choice, to allow witnesses, questions of witnesses, or other evidence become a self-fulfilling prophesy in which a human being may conform the evidence allowed to substantiate a pre-determined outcome.

Rightly or wrongly, probably unconstitutionally, it is reported to me that Federal judges routinely refuse to allow defendants to call witnesses, ask questions of witnesses, ask cross

examination questions, and/or introduce documents into evidence on the judge's belief as to whether the topic is "relevant." However, "not relevant" can often be merely a reflection of the judge's conscious or unconscious bias. Having already imagined what a person speculates happened or imagining the defendant to be guilty before the evidence is heard, evidence that the defendant is in fact innocent becomes "not relevant." In other words the gate-keeping function of limiting the defendant's case to what is "relevant" can potentially become a powerful dam to merely reinforcing prejudgment of the charge, individual elements of the charge, factors such as intent, and/or applicability of defenses that would negate the charge. Therefore, prejudgment of the defendant's guilt can directly impact the evidence that is allowed into the court proceeding to prove that the prejudgment is actually false. It can become a self-fulfilling prophesy.

This is likely unconstitutional because neither the judge nor the prosecutors can control or limit what the defendant's case in defense is. If the judge can dictate what the defendant is allowed to say in his own defense, then due process is violated. Same with prosecutors. Even where the risk is of increasing the time necessary for a fair, credible, and respectable trial, cutting corners on constitutional rights cannot be tolerated. Providing a forum for a neutral process of due process is why our courts exist. Mere administrative convenience or the court's calendar are not grounds for violating constitutional rights.

As a result, when it comes to conscious bias, unconscious bias, or the appearance of bias, a judge must be as the poetic literature puts it "purer than Caesar's wife" or "**Caesar's wife** must be above suspicion." To knock out trials like mass produced widgets is not to do the job of a judge completely. The public must believe, and with sound truthful reason, that our legal system is fair.

Biased judges may honestly believe that an outcome is so obvious that it must be true,

before the evidence is heard. Busy judges may not have sufficient time and attention to intellectually examine out in the open assumptions and innuendo. Prosecutors have become infected with making false and emotion-laden arguments lacking in factual support.

II. PUBLIC STATEMENTS BY JUDGES AND OTHER OFFICIALS DECLARING DEFENDANTS GUILTY IN ADVANCE WHILE AWAITING TRIAL

In furtherance of my contemplated use of the Pardon Power of the President of the United States, which I am likely to invoke if the facts bear out what I have heard reported, and in keeping with the authority under Article II, Section 2 of the U.S. Constitution to require reports and information from the Executive Branch Departments and agencies, I hereby order the U.S. Department of Justice to compile and report to me and publicly to the American people statements by judges made during criminal prosecutions of defendants relating to events on or about or leading up to January 5-7, 2021, which transpired or culminated on Capitol Hill (meaning within 1 mile of the U.S. Capitol building). Note that I am not artificially excluding events in which prosecutors may allege that actions before that week and in other places came together to transpire at that time and place. However, the following shall guide the DOJ in preparing and delivering said report.

A. The DOJ is advised that if the report is verifiably incomplete or misleading, this is likely to increase my probability of issuing a pardon. Any person or party may inform the Pardon Attorney of any example known to him or her of public statements by Federal judges condemning January 6 defendants in advance of trial.

B. The DOJ is asked to report on the relatively small number of potential jurors eligible to serve within the District of Columbia during relevant time periods of trials.

C. The DOJ is asked to report on the status of potential jurors in the District of Columbia

of being personal victims of the crimes they are asked to serve as jurors about, as claimed by the District of Columbia Attorney General in civil lawsuits.

D. The DOJ is asked to report on the status of Federal judges in the U.S. District Court for the District of Columbia of being personal victims of the crimes they are asked to preside over, as claimed by the District of Columbia Attorney General in civil lawsuits, and as being residents of the District of Columbia. Naturally, the DOJ may redact personal addresses of judges from any public reporting.

E. The DOJ is asked to report on the status of Federal judges in the U.S. District Court for the District of Columbia who claim to have witnessed the events on or leading up to January 5-7, 2021, on Capitol Hill, including whether such judge(s) reported being potential witnesses of cases that they actually presided over as judges.

F. The DOJ is asked to report on the ethical and legal requirements governing a judge who is a witness of an alleged crime.

G. I am informed that judges may commonly make statements at bail hearings, hearings on motions, and on sentencing decisions proclaiming the judge's view of the seriousness of the alleged offense (even if the jury has found a defendant guilty this often fails to identify what the defendant was found to have done, because Congress writes ambiguous, excessive, omnibus laws that combine many different crimes into a single statute).

H. However, the public – from whom juries are drawn in the District of Columbia – will probably not understand why a judge is saying horrible, condemning, extreme, things about January 6 or other defendants.

I. Furthermore, it is reported that Federal judges made condemning comments and

conclusions about *all* January 6 protestors and/or defendants in sweeping terms, not limited to the specific defendant in the case in front of them over which they were presiding.

J. For example, one Federal judge pre-judged a critical question in the hundreds of pending cases in which the judge proclaimed that *all* January 6 protestors came to Washington, D.C. to (in vernacular terms) overthrow the government and that *none* of them came to peacefully protest. Rather than analyzing an individual Defendant based upon actual facts, then Chief Judge Beryl Howell condemned *all* January 6 demonstrators equally, publicly proclaiming that they "came to Washington, D.C. with the intention of causing mayhem." This of course was in advance of any evidence being presented about defendants whose cases had not yet begun. This means that in the absence of any evidence whatsoever concerning cases not yet started, Judge Howell publicly signaled to all potential jurors in Washington, D.C. that the January 6 defendants were already determined to be guilty and to be despised.

K. Thus not only did Judge Howell decide those cases in advance of the introduction of any evidence, but Judge Howell corrupted the jury pool.

L. This is especially problematic because there have to date been almost 1600 people charged with various counts relating to January 6, 2021.

M. Thus, no Federal judge could make sweeping statements, not specific to a particular defendant at the bar in front of the judge, with probably 1,000 other defendants waiting in line to receive a fair trial before a jury of their peers.

N. Therefore, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time

in which a judge pre-judged the guilt of January 6 defendants before hearing any evidence.

O. The DOJ is asked to keep in mind in this report that a judge may not base a decision based on media reports nor on being a personal witness. (The judge must recuse himself or herself if she or he is a witness.)

P. Similarly, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time in which an official of the DOJ pre-judged the guilt of January 6 defendants before any evidence was presented in court.

Q. Similarly, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time in which an official of the District of Columbia pre-judged the guilt of January 6 defendants before any evidence was presented in court.

R. Similarly, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time in which an officer of the U.S. Capitol Police pre-judged the guilt of January 6 defendants before any evidence was presented in court.

S. Similarly, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time in which a Member of the U.S. Congress pre-judged the guilt of January 6 defendants before any evidence was presented in court.

T. Similarly, I order the U.S. Department of Justice to provide me and the American people a report of all statements made about defendants still awaiting trial at the time

in which any official of the preceding Presidential Administration pre-judged the guilt of January 6 defendants before any evidence was presented in court.

U. Please note that I am not opining or ruling on whether such officials may have the right to say what they said, but whether I must determine as President whether a resulting compromise of due process in tainting the jury pool warrants a pardon as a consequence.

V. The DOJ is ordered to keep in mind that public confidence in the credibility, impartiality, and competence of the legal system is important for its successful functioning.

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TAB 24

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Directing Report in Support of Contemplated use of Pardon Power of All 18 U.S.C. § 111(a) Convictions since January 1, 1989

I. PRESIDENTIAL DUTY TO TAKE CARE THE LAWS BE FAITHFULLY EXECUTED

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

The Constitution does not include an Attorney General, Department of Justice, prosecutors, or Federal Bureau of Investigation. Only the Chief Executive, the President. It has been correctly noted that no government, scarcely even a small town, could be run by a single person alone and that as a practical matter a President fulfills this duty by and through many institutions and officials at varying levels, including an Attorney General and the estimated 115,000 employees of the U.S. Department of Justice's more than 40 different sub-agencies from the Federal Bureau of Investigation to the U.S. Marshals to the Bureau of Prisons.

Obviously, where a President hires assistants to help the President carry out his duties,

any and all government employees must comply with the Bill of Rights and other Constitutional rights for the protection of U.S. citizens and people present in the United States of America, including the limitations the Constitution imposes to restrain the U.S. Government and limit its authority.

II. REPORT ALL CHARGES AND CONVICTIONS UNDER 18 U.S.C. § 111(a) BY CATEGORY

18 U.S.C. § 111(a) makes it a crime for

> "Whoever
>
> (1) **forcibly**
>
> **a. assaults,** ***[OR]***
>
> **b. resists,** ***[OR]***
>
> **c. opposes,** ***[OR]***
>
> **d. impedes,** ***[OR]***
>
> **e. intimidates,** ***[OR]***
>
> f. **interferes with**
>
> officers as defined in 18 U.S.C. § 1114 in the course of officers performing official duties.

However, inexplicably the U.S. Department of Justice under Attorney General Merrick Garland has reported all convictions under 18 U.S.C. § 111(a) of offenses on or about January 5-7, 2021, as a conviction for (1) "assaulting police officers" when in fact the statute also applies to one who (2) **resists,** ***[OR]*** ***(3)*** **opposes,** ***[OR]*** ***(4)*** **impedes,** ***[OR]*** ***(5)*** **intimidates,** ***[OR]*** ***(6)*** **interferes with an officer.**

This reporting would be misleading and deceitful and disrespectful of the public discussion of important issues. Reportedly, a defendant Richard Barnett was convicted of 18 U.S.C. § 111(a) for on January 6, 2021, asking two police officers (yelling over the noise of the

crowd) if he could go back and get his flag from inside the U.S. Capitol building. When the police officers said no, Barnett complied with the police officers' instructions according to reports I have heard. Yet Barnett was convicted of "assaulting" police officers for asking them a question and complying with their answer, on the grounds that the officers felt "they had to watch him." The officer's own subjective decision to watch a man who fully complied with their instructions they counted as interfering with them.

III. REPORT SENTENCES IMPOSED UNDER 18 U.S.C. § 111(a) TO ASSIST THE PRESIDENT IN CONSIDERING USE OF THE PARDON POWER FOR COMMUTATION OF SENTENCES

In furtherance of my contemplated use of commutation of sentences under the Pardon Power of the President of the United States and in keeping with the authority under Article II, Section 2 of the U.S. Constitution to require reports and information from the Executive Branch Departments and agencies, I hereby order the U.S. Department of Justice to compile and report to me and publicly to the American people – recognizing that public confidence in the credibility, impartiality, and competence of the legal system is important for its successful functioning -- the following:

A. The sentences imposed on all convictions for violations of 18 U.S.C. § 111(a) which offense occurred between January 1, 1989, and December 31, 2020, nationwide.

B. The sentences imposed on convictions for violations of 18 U.S.C. § 111(a) enhanced by (b), which offense occurred between January 1, 1989, and December 31, 2020.

C. That is, if there were multiple charges, the base points aside from "grouping" or individual criminal history or other personal factors.

D. Also calculate the average of all such sentences during that time period.

IV. REPORT CONVICTIONS UNDER 18 U.S.C. § 111(a) TO ASSIST THE PRESIDENT IN CONSIDERING USE OF THE PARDON POWER

In furtherance of my contemplated use of the Pardon Power of the President of the United States and in keeping with the authority under Article II, Section 2 of the U.S. Constitution to require reports and information from the Executive Branch Departments and agencies, I hereby order the U.S. Department of Justice to compile and report to me and publicly to the American people – recognizing that public confidence in the credibility, impartiality, and competence of the legal system is important for its successful functioning -- the following details and statistics:

A. All convictions under 18 U.S.C. § 111(a) where the date of the offense was between January 6, 2009, and January 6, 2021. (Federal prosecutors tend to prosecute for multiple, sometimes unrelated counts in the same case.)

B. All charges brought -- but then dropped by prosecutors -- under 18 U.S.C. § 111(a) where the date of the offense was between January 6, 2009, and January 6, 2021. (Federal prosecutors tend to prosecute for multiple, sometimes unrelated counts in the same case.)

C. For each of the charges covered within (A) above, include the details of:

    a. Whether the jury convicted the defendant under such count or counts of "**assaulting**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

    b. Whether the jury convicted the defendant under such count or counts of "**resisting**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

    c. Whether the jury convicted the defendant under such count or counts

of "**opposing**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

d. Whether the jury convicted the defendant under such count or counts of "**impeding**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

e. Whether the jury convicted the defendant under such count or counts of "**intimidating**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

f. Whether the jury convicted the defendant under such count or counts of "**interfering with**" a law enforcement officer within the meaning of 18 U.S.C. § 1114.

D. If the DOJ does not know which of the 6 possibilities under 18 U.S.C. § 111(a) a defendant was found guilty of by the jury, such as where no "special verdict" polled the jury to find out, explain why does the DOJ report such convictions as "assaulting" a police officer?

E. Further to (D) above, explain the ethical requirements that the U.S. Department of Justice believes apply to Federal prosecutors and assistants reporting "assaults" on police where the DOJ does not actually know which of 6 possibilities the jury convicted a defendant of.

F. For each of the charges covered within (A) or (B) above, include the details of:

i. The judicial district in which the charges were brought.

ii. The date(s) of the alleged offense. Consider if an omnibus

prosecution includes violations of 18 U.S.C. § 111(a) that might have occurred on different dates.

iii. The case number and/or case name if available.

iv. Although sentencing can be complex with sentences of different counts "grouped" or "stacked" and the ultimate sentence is greatly influenced by other factors such as past criminal history, report the number of base "points" of that offense for the purposes of sentencing (that is, different from issues personal to the defendant like criminal history).

v. 18 U.S.C. § 111(a) can only apply to an official victim (law enforcement under 18 U.S.C. § 1114). Report if an additional enhancement, variance, or increase in sentencing for an official victim which is already the substance of the charge was added. That is, did the court "double count" an "official victim?"

vi. Regardless of whether Federal prosecutors possibly could have proven it at trial, focusing on what they did actually prove at trial in fact, was there evidence admitted that a non-Federal law enforcement officer actually qualified for 18 U.S.C. § 111(a) under the definition in 18 U.S.C. § 1114. Obviously, speculation, conjecture, mind-reading, and subjective opinion do not qualify as evidence.

vii. Regardless of whether Federal prosecutors possibly could have proven it at trial, focusing on what they did actually prove at trial in

fact, did the alleged victim under 18 U.S.C. § 111(a) testify at trial?

viii. Did the alleged victim claim to have been assaulted in after-action reports close in time to the event(s)?

ix. Did the alleged victim claim in his or her testimony at trial to have been assaulted?

x. Which alleged victims of assault testified that they did not believe they had been assaulted?

G. What is the U.S. Department of Justice's definition of an "assault?" Is this the old common law civil tort concept of harmless but unconsented touching?

H. Does the DOJ define "assaulting" a police officer as touching the officer's riot shield – but not touching the officer?

I. Does the DOJ define "assaulting" a police officer as touching an object the officer is holding – but not touching the officer?

J. Does the U.S. Department of Justice's definition of assaulting a police officer include accidental, inadvertent, but harmless touching perhaps either by negligence or even recklessness but with no intent to batter the officer?

K. Does the U.S. Department of Justice's definition of assaulting a police officer include non-violent touching, perhaps such as lightly bumping into someone?

L. Does the U.S. Department of Justice contend that all persons on or near Capitol Hill on or about January 5-7, 2021 did the exact same thing or did most of them all act individually in different ways?

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TAB 25

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Forbidding Attorney Assertion of "Dangerous Weapons"

I. PRESIDENTIAL DUTY TO TAKE CARE THE LAWS BE FAITHFULLY EXECUTED

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

The Constitution does not include an Attorney General, Department of Justice, prosecutors, or Federal Bureau of Investigation. Only the Chief Executive, the President. It has been correctly noted that no government, scarcely even a small town, could be run by a single person alone and that as a practical matter a President fulfills this duty by and through many institutions and officials at varying levels, including an Attorney General and the estimated 115,000 employees of the U.S. Department of Justice's more than 40 different sub-agencies from the Federal Bureau of Investigation to the U.S. Marshals to the Bureau of Prisons.

Obviously, where a President hires assistants to help the President carry out his duties, any and all government employees must comply with the Bill of Rights and other Constitutional

rights for the protection of U.S. citizens and people present in the United States of America, including the limitations the Constitution imposes to restrain the U.S. Government and limit its authority.

II. FEDERAL PROSECUTORS AND LITIGATION ATTORNEYS PROHIBITED FROM ASSERTING "DANGEROUS WEAPONS"

Notwithstanding any provision of law or precedent, Federal prosecutors shall not assert as a crime or enhancement of a crime or sentencing a crime that a defendant used or – worse – possessed – a "dangerous weapon."

In applying this prohibition and where it must apply, Federal prosecutors shall consider and follow the following factors and circumstances:

A. All weapons are dangerous.

B. The definition of a weapon is that it is dangerous.

C. The word "weapon" incorporates the idea that it is dangerous.

D. The attempt to distinguish between "dangerous weapons" and other weapons is an irrational, absurd concept and an intentional appeal to lawless jury verdicts of passion in disregard of facts or the law. Accusing someone of possessing a "dangerous weapon" – as compared to all those other *non-dangerous* weapons – serves no purpose but to inflame a lay person jury.

E. This becomes unconstitutionally void for vagueness particularly where a defendant is accused of "possessing" rather than actually using a "dangerous weapon" which term is obviously undefined.

F. Wayward court precedents attempt to salvage this mistake, which apparently started with Congress pandering to emotion-driven voters, by basing their distinction on how an otherwise harmless object is <u>*used*</u>.

G. But then laws attempt to criminalize mere *possession* of a harmless object even if it was never actually used for anything.

H. So Federal prosecutors lacking in the evidence to prosecute a person (although recall that each Count under an indictment must be analyzed independently) shall not claim that someone in possession of a flag with a small pole or even a mundane small knife typical of utility or hunting, a hammer, screw driver – which were never actually used for anything in the incident – becomes a crime.

I. In one case on January 6, 2021, Luke Russell Coffee at the U.S. Capitol building picked up the crutches of an injured person and held them up as a clear and unmistakable signal to everyone including the police that there were injured people person on the ground just beneath his location, appealing for everyone to cease from conflict. Nearby, Roseanne Boyland lay dying from unnecessary police attacks, her final whimpers of pain growing weaker as the life dissolved. The DOJ then prosecuted Coffee for warning the Metropolitan Police Department officers of the injured persons on the ground.

J. The intent of asserting "dangerous weapons" is clearly to produce a result not warranted by the facts and the law.

K. Federal precedents have actually interpreted shoe laces, shoes, chairs, the floor, and most recently American flags as "dangerous weapons."

L. In some cases, it has been alleged that flag poles were modified into spears by sharpening the end into a point. That would clearly be a weapon. Whether defensive or offensive in intent, a pole sharpened into a spear is a spear.

M. However, an ordinary American flag or other flag is not a weapon.

N. Because of this confusion, nearly all references in recent times to weapons have become – divorced from our nation's legal history – unconstitutionally void for vagueness.

O. Specifically, the courts have distinguished between the object and how the object was used if at all. But this creates a problem with "possession."

P. So a shoe is just a shoe until an assailant hits someone with the shoe. Hitting someone with a shoe is not acceptable. That is a battery. But the fact of hitting someone is sufficient under the law.

Q. One who hits another with a chair has no doubt committed a crime (if not in clearly established self defense nor an accident). And yet a chair is a chair is a chair. The essential issue is the act of violence by the assailant – not the chair.

R. I do not have the authority as President to order any action or inaction or interpretation by the Federal courts.

S. However, I do order Federal prosecutors and litigation attorneys to refrain from constitutionally dubious arguments and assertions.

T. I appeal to Congress to repair its governing statutes with an attempt to seek justice and protection of victims, not to grandstand for press releases.

TAB 26

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order On Inadmissible Testimony by "Case Agents" of the Federal Bureau of Investigation

I. CERTAIN TESTIMONY BY AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION PROHIBITED WHEN HARMFUL TO DUE PROCESS

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

As Chief Executive, I find that hearsay evidence which creates a misleading impression to a jury that something is true because an apparently professional, expert, or impressive witness imagines or supposes it to be true directly harms due process under the U.S. Constitution.

As Chief Executive, I find that hearsay evidence which prevents effective cross-examination to explore the basis and meaning of testimony violates the Sixth Amendment to the U.S. Constitution and due process under the U.S. Constitution.

Therefore, I find that regardless of any practice or habit or decision by a trial judge to allow certain testimony agents of the U.S. Government must not be permitted to violate the U.S. Constitution.

II. NO FBI AGENT MAY TESTIFY TO WHAT THE DEFENDANT WAS THINKING

A. No agent of the FBI or other Federal employee is permitted to testify to what the agent or employee believes a defendant was privately thinking.

B. No agent of the FBI or other Federal employee is permitted to testify to why a defendant acted.

C. No agent of the FBI or other Federal employee is permitted to testify to what the agent or employee believes a defendant intended.

D. Testimony of explicit statements made by such a defendant which are completely lacking in ambiguity is permitted, but not through an attempt to impute to or transfer to the statements of someone else to the defendant.

E. No agent of the FBI or other Federal employee is permitted to testify in support of the unproven theory used by courts that "a person is presumed to intend the natural consequences of their actions" without clearly and explicitly identifying to the jury all (each and every) potential, alternative consequences that could have been intended by the person or could result from a defendant's actions. For example, in one criminal prosecution relating to events of January 6, 2021, the FBI "case agent," prosecutors, and witnesses showed video tape of Kenneth Joe Thomas with his foot raised high and claimed to the jury that Thomas was about to kick a police officer. However, when defense counsel played the entire video sequence it showed instead that Thomas was falling and raised his foot to steady himself from falling backwards. I find and direct that a supervisory review is warranted to determine if the FBI agents and prosecutors responsible should be separated from Federal service if they misrepresented the evidence to the jury.

F. No agent of the FBI may allow a jury to be confused that the agent has any expertise or training in mind-reading or knowing what any person is or was thinking, but shall clarify that the testimony relates only to what was observable or audible.

G. No prosecutor employed by the Federal government may allow a jury to be confused that an agent testifying has any expertise or training in mind-reading or knowing what any person is or was thinking, but shall clarify that the testimony relates only to what was observable or audible.

H. An agent of the FBI may testify to objective facts and observations known to him or her which could potentially express a person's state of mind or emotional state or thoughts but only if the agent is studiously careful to phrase every description and explain that he or she is only describing what he or she saw or heard, leaving it to the jury to come to a conclusion from the jury's knowledge of human nature.

I. The Federal Bureau of Investigation and Federal prosecutors shall train agents expected to testify on how to inform the jury of only objective facts that the witness observed or heard without suggesting any special knowledge of a person's inner thoughts or intentions and to refrain from subjective opinion.

J. One important test of whether a witness is testifying from personal knowledge to observed events is whether the witness is able to answer questions about the substance of the testimony in cross-examination.

III. HEARSAY TESTIMONY BY FBI AGENTS OR "CASE AGENTS" ABOLISHED

As the chief executive officer ultimately responsible to the U.S. Constitution to take care that the laws be faithfully executed, supervise the subordinate attorneys and law enforcement officers under the President, and establish rules and procedures in compliance with the due process and other provisions of the U.S. Constitution, I hereby issue the following Executive

Order.

A. The practice of FBI "case agents" is to provide hearsay evidence on topics of which they have no direct, competent, or personal knowledge.

B. Nothing in this order shall alter or interfere with the ability of "case agent," lead agent, or other FBI personnel of the Federal Bureau of Investigation to investigate, gather information, arrange or tabulate evidence, prepare exhibits for court presentations, support Federal prosecutors or litigation attorneys, brief the same on the nature, status, and details of the case or anything of such nature, including the designation of a so-called "case agent" or "case agents" to take the lead or a leading role in the investigation or processing of a possible or actual criminal case.

C. Nothing in this order shall alter or interfere with the ability of FBI "case agents," lead agents, or other agents to testify in court *from their direct personal knowledge* including to attempt to authentic a video recording or photograph as an accurate depiction of the general location or the scene portrayed, but only if the agent can and actually does testify to actual personal knowledge of what is shown in the video or photograph, to the extent that a trial judge may find it acceptable and find that there is no preferable way under Rule 901 of the Federal Rules of Evidence.

D. Specifically, if a witness is not able to answer questions in cross-examination about the basis, nature or facts of the video or audio recording or photograph or other digital evidence, then the witness lacks sufficient personal knowledge to testify at all.

E. Testifying in court to what the witness does not personally know would be a violation of due process and the Sixth Amendment under the U.S. Constitution, possibly perjury, and I order that no Federal employee is permitted to engage in such actions.

F. Furthermore, no Federal prosecutor or Federal litigation attorney is permitted to call to the witness stand or as the courts say "sponsor" a witness who lacks direct, personal knowledge as defined herein.

G. Unfortunately, I do not have authority as President to require a judge to exclude or strike invalid testimony. I do have authority to prohibit any and all Federal employees from giving invalid testimony, and I do so order.

H. No FBI agent may testify in disregard of Rule 602 of the Federal Rules of Evidence regardless of a trial court's permission. As an agent of the U.S. Government, the agent may not violate the U.S. Constitution by depriving a defendant of full and adequate cross-examination. Therefore, an FBI agent may testify only to matters within his or her personal knowledge.

I. Although in concept the courts have accepted the theoretical possibility of "circumstantial evidence" I find from the information made available to me that "circumstantial evidence" is almost always abused and misapplied and in the real world violates the requirement that a defendant is presumed innocent until proven guilty beyond a reasonable doubt.

J. I am not suggesting that circumstantial evidence can't be valid, particularly on a sliding scale of more context-setting circumstances and less valid when concerning the core substance of an alleged crime.

K. But juries in fact are left confused whether circumstantial evidence allows a lower standard and burden of proof than direct evidence.

L. A frequent example given in jury instructions illustrates the abuse: It is said that if one goes to sleep and there is no snow on the ground and wakes up with snow on the

ground, they can infer that it snowed during the night. But that is an incomplete analysis, which requires further inquiry: Was the roof covered in snow and a windstorm blew through? Was there a snow covered mountain right above the house and a very powerful windstorm blew the snow off the mountain? Were the trees laden with snow and a wind shook the branches? Does the person have an eccentric neighbor prone to practical jokes who hired a snow-making machine? Circumstantial evidence is usually invalid without further inquiry to examine all potential causes.

M. I order that Federal prosecutors and litigation attorneys shall not offer and Federal employees shall not testify to circumstantial evidence unless (a) it is made very clear to the jury that the standard is as high as for direct evidence and (b) the witness identifies all possible alternative interpretations or meaning of the circumstantial evidence, explicitly and in detail, directly to the jury.

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TAB 27

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Forbidding Attorney Re-Interpretation of Congressional Statutes

I. PRESIDENTIAL DUTY TO TAKE CARE THE LAWS BE FAITHFULLY EXECUTED

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

The Constitution does not include an Attorney General, Department of Justice, prosecutors, or Federal Bureau of Investigation. Only the Chief Executive, the President. It has been correctly noted that no government, scarcely even a small town, could be run by a single person alone and that as a practical matter a President fulfills this duty by and through many institutions and officials at varying levels, including an Attorney General and the estimated 115,000 employees of the U.S. Department of Justice's more than 40 different sub-agencies from the Federal Bureau of Investigation to the U.S. Marshals to the Bureau of Prisons.

Obviously, where a President hires assistants to help the President carry out his duties, any and all government employees must comply with the Bill of Rights and other Constitutional

rights for the protection of U.S. citizens and people present in the United States of America, including the limitations the Constitution imposes to restrain the U.S. Government and limit its authority.

II. FEDERAL PROSECUTORS AND LITIGATION ATTORNEYS PROHIBITED FROM INVENTING NEW LAWS WITHOUT CONGRESSIONAL ENACTMENT

Article I, Section 1, requires that --

> **"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."**

Federal prosecutors and litigation attorneys have no power to legislate.

It is an old, established idea that sometimes Congress writes statutes with such lack of clarity that the Executive Branch has no choice but to try to figure out how to apply the statute. However, this Order is not aimed at Federal employees struggling to interpret a Congressional statute but to those who "legislative from the prosecutor's conference room table" and change established interpretations.

While legislating by government agencies is a serious issue, the use of the criminal power of the Federal Government which is entrusted to the President under the Constitution is an extremely serious matter.

Federal prosecutors shall not re-invent or re-define statutes out of creativity, bias, expansion of power, or boredom with the law as it is. I hereby order and prohibit that:

A. No Federal prosecutor or litigation attorney may re-interpret an existing statute (or common law) from its previously-accepted application, interpretation, construction, or meaning.

B. For these purposes, the task of the courts and of the lawyers of the Federal

Government is always to honor and give effect to the actual intent of Congress, including reading the immediate context of a statutory provision and reading the context of the entire section and chapter of the U.S. Code, examining the "evil being remedied" (as the courts frequently describe it) in terms of actual events or concerns that the statute was responding to and examining the legislative history (that is, debate in committees and on the floors of Congress). Legislative debate can be of limited value in terms of showing a consensus except where it is extensive and in general agreement on the point at issue. But it should be considered.

C. For these purposes, no Federal prosecutor nor litigation attorney may place a possible interpretation especially not any implausible or unestablished potential meaning of a statute, above its most likely, reasonable, well-established meaning or meaning of long-standing.

D. For these purposes, every Federal prosecutor an litigation attorney shall assert only the most limited interpretation of any statute to allow Congress to have the final say on what Congress means. If the interpretation is too limited, Congress can clarify its meaning. But if the interpretation is too excessive, then Congress may not be able to undo the damage after the fact. Congress is perfectly capable of expressing itself but where Federal attorneys get ahead of Congress, Congress cannot undo past events. I also direct such an approach to provide the Executive Branch's expertise and feedback as to how the Congress can better draft legislation in terms of how statutes get used in court proceedings.

E. If the Department of Justice believes that an interpretation or application is fairly included in the original Congressional intent of the statute as written, even though the statute was not previously used in that way, no Federal prosecutor or litigation attorney may act in any way on such interpretation without the written, signed approval of the Attorney General, which shall be physically attached to the information or indictment or other legal pleading asserting such interpretation.

F. No Federal prosecutor or litigation attorney may prosecute any person in violation of the doctrine of Lenity as recently endorsed by the U.S. Supreme Court in *Bittner v United States* 143 S. Ct. 713 (Feb. 23, 2023). For these purposes, the doctrine of criminal prosecution forbidding as an unconstitutional violation of due process surprising a defendant with a novel re-interpretation of a criminal statute shall be defined as defined in *Bittner v United States*. That is, even if an interpretation is correct, it is a violation of due process to surprise persons with an interpretation of a statute different from generally used in the past.

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TAB 28

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Directing Report of FBI Whistleblower Zach Schoffstall

I. ORDERING ALL DOCUMENTS, RECORDS, TEXT MESSAGES, EMAIL ADDRESSES, REPORTS, ETC. REFERRING TO FBI WHISTLEBLOWER ZACH SCHOFFSTALL

I refer to reports such as Eireann Van Natta, "**An FBI Agent Refused To Go Along With The Biden Admin's Anti-'Extremism' Agenda — It Cost Him His Career**," Daily Caller, December 9, 2024, https://dailycaller.com/2024/12/09/josh-hurwit-zach-schoffstall-idaho-patriot-front/

I order – subject to pain of 18 U.S.C. 1001 – that all offices of the Federal Bureau of Investigation, the U.S. Department of Justice (Main Justice) and the Central Intelligence Agency fully and accurately report to me and include all documents, records, text messages, email addresses, reports, memoranda, fax messages, or the like referring to or discussing in any way Zach Schoffstall who at one point in time was assigned to the FBI's Salt Lake City Division and/or any office within the District of Idaho, the State of Idaho, and/or the State of Utah.

I order the White House Communications Agency to locate Zach Schoffstall and request an in person interview with me, and the White House Counsel, Attorney General, and other officials as recommended by them and the White House Chief of Staff.

II. PRESIDENTIAL DUTY TO TAKE CARE THE LAWS BE FAITHFULLY EXECUTED

Article II, Section 3 of the U.S. Constitution specifies some of the President's many duties: *[Emphasis added.]*

> *"He shall from time to time give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers;* he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."

The Constitution does not include an Attorney General, Department of Justice, prosecutors, or Federal Bureau of Investigation. Only the Chief Executive, the President. It has been correctly noted that no government, scarcely even a small town, could be run by a single person alone and that as a practical matter a President fulfills this duty by and through many institutions and officials at varying levels, including an Attorney General and the estimated 115,000 employees of the U.S. Department of Justice's more than 40 different sub-agencies from the Federal Bureau of Investigation to the U.S. Marshals to the Bureau of Prisons.

Obviously, where a President hires assistants to help the President carry out his duties, any and all government employees must comply with the Bill of Rights and other Constitutional rights for the protection of U.S. citizens and people present in the United States of America, including the limitations the Constitution imposes to restrain the U.S. Government and limit its authority.

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TAB 29

President of the United States Donald J. Trump

[Proposed Draft Suggested by Condemned USA]

Executive Order Directing Report of Any Damages to the U.S. Capitol District of Columbia, and Metropolitan Police Department

I. PRESIDENT IS THE CHIEF EXECUTIVE OF THE EXECUTIVE BRANCH

As the head of the Executive Branch pursuant to Article II of the U.S. Constitution and the only official empowered by the U.S. Constitution to "see to it that the laws be faithfully executed," a President may require information and reports from official and departments subordinate to him or her.

II. LEGLISATIVE BRANCH IS NOT SUBJECT TO DIRECT SUPERVISION OF A PRESIDENT OF THE UNITED STATES OF AMERICA

I recognize that a President does not have the authority to order a response from the Article I Legislative Branch nor does the Legislative Branch depend upon the Executive Branch for its security, or the balance among the co-equal branches would be undermined. By Memorandum of Understanding or other agreement the U.S. Capitol Police may request the assistance of Executive Branch agencies or other State of Federal law enforcement agencies, but Congress has ultimate authority for its own security. Congress would typically have a reimbursement arrangement. Congress is the appropriator of Federal funds.

Nevertheless, the Executive Branch is likely to have the same information for a variety of reasons including from the Legislative Branch, including from the Architect of the Capitol (the all purpose building and grounds manager of all Congressional buildings) and the U.S. Capitol Police. The U.S. Department of Justice presented some of this information in criminal prosecutions of those involved in events in Washington, D.C. of January 6, 2021.

III. REPORTS ORDERED BY THE PRESIDENT OF THE UNITED STATES

I hereby order that all agencies, departments, officials, and employees of the Executive Branch of the U.S. Federal Government determine if they have worked with any of the following topics or activities and report to me through the White House press office. I order that the communications staff of the White House (Executive Office of the President) release this information to the public after receiving and organizing the information from all sources.

A. How many law enforcement officers in total from all Federal, State, or local agencies or departments were injured during the riots and/or attacks upon the White House in May to June 2020?

B. How many law enforcement officers in total from all Federal, State, or local agencies or departments were injured during events, demonstrations, or riots in the District of Columbia protesting the inauguration of President Donald J. Trump from around January 15, 2017, to January 25, 2017?

C. How many law enforcement officers of the District of Columbia were injured during events, demonstrations, or riots at the U.S. Capitol or Capitol Hill on or about January 6, 2021. Report separately officers who reported being "gassed" despite video showing officers (probably with inadequate equipment or training) gassing themselves? (See: J6: A True Timeline https://open.ink/collections/j6).

D. Did the Federal Government reimburse the District of Columbia for any actions, work, services, or support resulting from protests on or about or around November 14, 2020, December 12, 2020, or January 6, 2021? If so, identify the amount of funds paid to the District of Columbia and any information available as to categories or purposes of the reimbursement.

Report separately for each of those three time periods if possible.

E. Did the Federal Government reimburse directly or indirectly any law enforcement officers of the District of Columbia for any injuries (such as medical costs or other damages) from protests on or about or around November 14, 2020, December 12, 2020, or January 6, 2021? If so, identify the amount of funds paid for the reimbursement. This is not intended to disclose the name of any officer, health care information other than total costs, or otherwise impair the privacy of any law enforcement officer.

F. Report all damages to the U.S. Capitol building or Capitol Grounds – not including trash removal – from events on Capitol Hill on January 6, 2021. Report each item of damage separately. Report the cost for each item separately. For example, on official of the Architect of the Capitol testified, called to the stand by the DOJ prosecutor in *United States v. Ethan Nordean*, that a large window broken by Dominic Pezzola cost $750 to replace inclusive of all labor, overhead, etc. Yet the DOJ keeps changing its estimate in criminal trials of damages in the range of $2.5 to $2.9 million. This must be almost entirely trash removal and cleaning, if one large window costs only $750. The DOJ tried to blame protestors for the $32,000 cost of a removable, temporary fence although the Architect of the Capitol admitted on the witness stand that their office was replacing the fence anyway.

G. Report all reimbursements paid to the District of Columbia for other protests from January 1, 2000, through December 31, 2016, for responding to protests.