

general or special court-martial shall not operate to terminate or otherwise alter the authority of commanding officers to refer such charges for trial by summary court-martial convened under section 824 of title 10, United States Code (article 24 of the Uniform Code of Military Justice), or to impose non-judicial punishment in connection with the conduct covered by such charges as authorized by section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

(5) **CONSTRUCTION WITH CHARGES ON OTHER OFFENSES.**—Nothing in this subsection shall be construed to alter or affect the disposition of charges under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that allege an offense triable by court-martial under that chapter for which the maximum punishment authorized under that chapter includes confinement for one year or less.

(6) **POLICIES AND PROCEDURES.**—

(A) **IN GENERAL.**—The Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall revise policies and procedures as necessary to comply with this subsection.

(B) **UNIFORMITY.**—The General Counsel of the Department of Defense and the General Counsel of the Department of Homeland Security shall jointly review the policies and procedures revised under this paragraph in order to ensure that any lack of uniformity in policies and procedures, as so revised, among the military departments and the Department of Homeland Security does not render unconstitutional any policy or procedure, as so revised.

(7) **MANUAL FOR COURTS-MARTIAL.**—The Secretary of Defense shall recommend such changes to the Manual for Courts-Martial as are necessary to ensure compliance with this subsection.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—Subsection (a), and the revisions required by that subsection, shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to charges preferred under section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice), on or after such effective date.

SEC. 593. MODIFICATION OF OFFICERS AUTHORIZED TO CONVENE GENERAL AND SPECIAL COURTS-MARTIAL.

(a) **IN GENERAL.**—Subsection (a) of section 822 of title 10, United States Code (article 22 of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

“(8) the officers in the offices established pursuant to section 593(c) of the Military Justice Improvement Act of 2014 or officers in the grade of O-6 or higher who are assigned such responsibility by the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, or the Commandant of the Coast Guard, but only with respect to offenses to which section 592(a)(1) of the Military Justice Improvement Act of 2014 applies;”.

(b) **NO EXERCISE BY OFFICERS IN CHAIN OF COMMAND OF ACCUSED OR VICTIM.**—Such section (article) is further amended by adding at the end the following new subsection:

“(c) An officer specified in subsection (a)(8) may not convene a court-martial under this section if the officer is in the chain of command of the accused or the victim.”.

(c) **OFFICES OF CHIEFS OF STAFF ON COURTS-MARTIAL.**—

(1) **OFFICES REQUIRED.**—Each Chief of Staff of the Armed Forces or Commandant specified in paragraph (8) of section 822(a) of title 10, United States Code (article 22(a) of the Uniform Code of Military Justice), as amended by subsection (a), shall establish an office to do the following:

(A) To convene general and special courts-martial under sections 822 and 823 of title 10, United States Code (articles 22 and 23 of the Uniform Code of Military Justice), pursuant to paragraph (8) of section 822(a) of title 10, United States Code (article 22(a) of the Uniform Code of Military Justice), as so amended, with respect to offenses to which section 592(a)(1) applies.

(B) To detail under section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), members of courts-martial convened as described in subparagraph (A).

(2) **PERSONNEL.**—The personnel of each office established under paragraph (1) shall consist of such members of the Armed Forces and civilian personnel of the Department of Defense, or such members of the Coast Guard or civilian personnel of the Department of Homeland Security, as may be detailed or assigned to the office by the Chief of Staff or Commandant concerned. The members and personnel so detailed or assigned, as the case may be, shall be detailed or assigned from personnel billets in existence on the date of the enactment of this Act.

SEC. 594. DISCHARGE USING OTHERWISE AUTHORIZED PERSONNEL AND RESOURCES.

(a) **IN GENERAL.**—The Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall carry out sections 592 and 593 (and the amendments made by section 593) using personnel, funds, and resources otherwise authorized by law.

(b) **NO AUTHORIZATION OF ADDITIONAL PERSONNEL OR RESOURCES.**—Sections 592 and 593 (and the amendments made by section 593) shall not be construed as authorizations for personnel, personnel billets, or funds for the discharge of the requirements in such sections.

SEC. 595. MONITORING AND ASSESSMENT OF MODIFICATION OF AUTHORITIES ON COURTS-MARTIAL BY INDEPENDENT PANEL ON REVIEW AND ASSESSMENT OF PROCEEDINGS UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

Section 576(d)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1762) is amended—

(1) by redesignating subparagraph (J) as subparagraph (K); and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

“(J) Monitor and assess the implementation and efficacy of sections 592 through 594 of the Military Justice Improvement Act of 2014, and the amendments made by such sections.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 19, 2014, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 19, 2014, at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on November 19, 2014, at 10 a.m. in room SD-430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 19, 2014, at 10 a.m. to conduct a hearing entitled “Preparedness and Response to Public Health Threats: How Prepared Are We?”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on November 19, 2014, in room SD-628 of the Dirksen Senate Office Building, at 2:30 p.m. to conduct a hearing entitled “Protecting our Children’s Mental Health: Preventing and Addressing Childhood Trauma in Indian Country.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS’ AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on November 19, 2014, at 10:30 a.m. in room SR-418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. DURBIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on November 19, 2014, in room SD-562 of the Dirksen Senate Office Building at 2:15 p.m. to conduct a hearing entitled “Private Industry’s Role in Stemming the Tide of Phone Scams.”

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Mary Futher, a detailee on my staff from the Department of Justice, be granted the privilege of the floor for the remainder of this session of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING JERALD D. LINNELL
ON HIS SERVICE TO THE UNITED
STATES SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 584, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 584) commending Jerald D. Linnell on his service to the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 584) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

ORDERS FOR THURSDAY,
NOVEMBER 20, 2014

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, November 20, 2014; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. For the information of Senators, there will be up to five roll-call votes at 2 p.m. on confirmation of the Pepper, Sannes, Arleo, Beetlestone, and Bolden district judicial nominations.

I would ask of my friend, the Senator from Iowa, how long he is going to speak.

Mr. GRASSLEY. I will speak for 20 to 25 minutes.

Mr. REID. For up to 30 minutes.

ORDER FOR ADJOURNMENT

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

EXECUTIVE ORDERS

Mr. GRASSLEY. Mr. President, in his State of the Union Address last January, President Obama announced what he called a year of action. Armed with pen and phone, he promised to take action where Congress wouldn't. At the time, I warned that these threats were a gathering danger to the separation of powers established in our Constitution.

The President is now threatening to implement a mass amnesty from our immigration laws by Executive fiat. He plans to act without the support of Congress or the American people. In fact, he has conveniently waited until after the recent elections to do so in order to avoid being punished at the ballot box. This Executive order will be the culmination of his self-proclaimed year of action.

The President may think of this Executive action as a political victory in a year filled with so many failures and defeats for him and his party, but history will surely view it as a serious blow to the systems of checks and balances established by the Framers. In reality, this was a year in which the President's abuse of Executive power came into clear focus.

Today I would like to review President Obama's pattern of unconstitutional Executive action this year. I would like to explain why the mass amnesty he has been threatening is merely the latest in a long list of abuses of his Executive authority. And I would like to offer a few thoughts about what the Senate can do about these kinds of abuses.

After the President's State of the Union Address, I wrote to the Attorney General on January 31. I wrote that I was "gravely concerned that the system of checks and balances enshrined in the Constitution [was] threatened by the President's determination to take unilateral action." In short, I made clear that "while the President has a pen and phone, we have a Constitution that places limits on his use of them to issue Executive Orders." Indeed, my concern about the President's threat to take action on his own was "heightened by the administration's record of failing to discharge his constitutional duties to 'take Care that the Laws be faithfully executed.'"

By then, President Obama had already failed to execute the laws in many areas. For example, the administration was rewriting ObamaCare's deadlines at will and was making little effort to enforce the Controlled Substances Act in some States. These abuses rang like alarm bells—alarm bells in the night—even before the so-called year of action began.

Indeed, in December of 2013 a liberal law professor testified before the House Judiciary Committee that "despite the

fact that I once voted for President Obama, personal admiration is no substitute for the constitutional principles at stake in this controversy."

The professor went on:

When a President claims the inherent power of both legislation and enforcement, he becomes a virtual government unto himself. He is not simply posing a danger to the constitutional system; he becomes the very danger that the Constitution was designed to avoid.

Against this backdrop, I asked the President to defend the legal basis for the actions he was threatening. In my letter I asked the Attorney General to direct the Justice Department's Office of Legal Counsel to publicly disclose its opinions concerning the lawfulness of the Executive orders proposed by the President. That is what the Office of Legal Counsel does—it reviews all Executive orders to determine whether they are constitutional and lawful. Many of its opinions have been made public in the past. I hoped this transparency would allow Congress and then the American people to better understand the alleged legal basis for these orders and challenge them, if necessary.

Providing Congress and the American people with the legal opinions supporting his unilateral actions seemed like a reasonable request of a President who had claimed to support "an unprecedented level of openness" and transparency in government. But February passed, March as well, April came and went, winter turned into spring, and summer was around the corner. Finally, on May 20 I received a response from the Justice Department. In summary, the Department told me no, they wouldn't disclose these opinions to the public. However, the Department assured me that if I had questions about particular Office of Legal Counsel advice documents, it would assist me in understanding them—in their words—to the fullest extent possible. In short, the administration stonewalled legitimate questions from Congress, as it often does, and stymied this Congress from carrying out its constitutional responsibility of oversight.

As it turned out, within a few weeks I and many others in Congress had very serious questions about a specific Executive action and its effect on our national security, and we had questions about the advice provided by the Office of Legal Counsel. The American people had the same questions as well.

In early June the President decided to release five Taliban detainees held at Guantanamo Bay in exchange for SGT Bowe Bergdahl, a U.S. soldier who had been captured in 2009. The detainees were reportedly senior-level Taliban commanders. Some had direct links to Al Qaeda, and all were reportedly determined to be a high risk to the United States and were recommended for continued detention. Nonetheless, President Obama decided to free these prisoners from Guantanamo.