

**1. IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON *et al.*,

Plaintiffs,

v.

MICHAEL R. POMPEO *et al.*,

Defendants.

No. 1:19-cv-3324 ABJ

**DECLARATION OF ERIC F. STEIN**

I, Eric F. Stein, declare as follows:

1. I am the Director of the Office of Information Programs and Services (“IPS”) of the United States Department of State (the “Department” or “State”) and have served in this capacity since January 22, 2017. Previously, I served as the Acting Director since October 16, 2016, and as the Acting Co-Director since March 21, 2016. Prior to serving in this capacity, I worked directly for the Department’s Deputy Assistant Secretary (“DAS”) for Global Information Services (“GIS”) and served as a senior advisor and deputy to the DAS on all issues related to GIS offices and programs, which include IPS.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act, and the mandatory declassification review requirements of Executive Order No. 13526 of December 29, 2009, governing classified national security information), by Members of Congress, by other government agencies, and those made pursuant to judicial process, such as subpoenas, court orders, and discovery requests; (2) records management; (3) privacy protection; (4) national

security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. As Director of IPS, I am responsible for overseeing the planning, development, implementation, and evaluation of information and records-related programs, policies, rules, regulations, practices, and procedures on behalf of the Secretary to ensure compliance with the letter and spirit of relevant statutes, Executive orders, and guidelines, including the provisions of the Federal Records Act (FRA) and the related regulations and guidelines promulgated by the National Archives and Records Administration (NARA).

4. Further, the Department's Agency Records Officer, who serves as the Secretary of State's delegated records officer and exercises program management responsibility for all records Department-wide throughout their life cycle, reports directly to me.

5. I hereby certify that the three documents attached hereto are true and exact copies of State Department directives that were issued to update and supplement State Department records management policy as set forth in the Foreign Affairs Manual (FAM). The three documents consist of the following:

- a. An "All Diplomatic and Consular Posts Collective" (ALDAC) cable dated February 5, 2018 (*Policy and Procedures for the Use of Electronic Messaging Applications in the Conduct of State Department Business*, 18 STATE 11006, Feb. 5, 2018 [Hereinafter "February 2018 ALDAC"]).
- b. An "All Diplomatic and Consular Posts Collective" (ALDAC) cable dated May 3, 2018 (*Records Management Requirements for Messaging Services and Social Media*, 18 STATE 43244, May 3, 2018 [Hereinafter "May 2018

ALDAC”]). This cable clarifies certain points from the February 2018 ALDAC and is expressly referenced in a note at the top of a chapter of the State Department Foreign Affairs Manual (“FAM”), 5 FAM 440. The FAM indicates that the May 2018 ALDAC is an interim directive that supersedes some text in subchapter 440, and that subchapter 440 will be revised to reflect the guidance set forth in May 2018 ALDAC.

- c. An ALDAC cable dated July 9, 2019 (*A Message from the Under Secretary for Management on Electronic Messaging Applications and other Records Management Responsibilities*, 19 STATE 72880, July 9, 2019 [hereinafter “July 2019 ALDAC”]). The July 2019 ALDAC sets forth updates to the State Department’s official policy regarding third-party electronic messaging applications and platforms, as previously set forth in the February 2018 and May 2018 ALDACs.

6. These three directives supersede certain provisions in subchapter 440 of the FAM. Until subchapter 440 is revised to incorporate the substance of these directives, the directives are effectively incorporated in 5 FAM 440.

7. Each of the above-referenced ALDACs was distributed to all Department employees on or shortly after the date appearing on the ALDAC.

\* \* \*

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13<sup>th</sup> day of January 2020, Washington D.C.

A handwritten signature in black ink, appearing to read "Eric F. Stein", is written over a solid horizontal line.

Eric F. Stein

# EXHIBIT A

UNCLASSIFIED

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**MRN:** [18 STATE 11006](#)  
**Date/DTG:** Feb 05, 2018 / 052154Z FEB 18  
**From:** SECSTATE WASHDC  
**Action:** ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE *ROUTINE*;  
SOMALIA COLLECTIVE *ROUTINE*  
**E.O.:** 13526  
**TAGS:** AINF, AMGT, KFAM, KRIM  
**Reference:** A) 5 FAM 430  
B) [16 STATE 130862](#)  
**Subject:** Policy and Procedures for the Use of Electronic Messaging Applications  
in the Conduct of State Department Business

EFFECTIVE: January 2018

1. It is our responsibility as Department employees to ensure that official business conducted in all electronic messaging applications, not just email, is incorporated into the Department's central filing system in compliance with federal records management laws, regulations, and policies. The Department's records disposition policy applies to all Department employees (including Locally Employed Staff), contractors (commercial and personal service contractors), or U.S. government personnel detailed to the Department, and any other personnel who perform work for or on behalf of the Department. See REF A.
2. The Department uses a variety of electronic communication tools to do business besides email. These other forms of electronic communication tools include chat applications, text messaging, and many other types of electronic messaging applications. When electronic messaging tools are used in the transaction of government business, federal records are created (or received) – and it is incumbent upon you as the sender or receiver to make sure such federal records are forwarded to, captured, and managed in an official State Department system. See paragraph 4 of REF B. In those instances when it is absolutely necessary to use non-official electronic messaging applications such

as text messaging, “WhatsApp,” and “Signal,” the employee or contractor who creates or receives the record must (1) copy an official electronic messaging account in the original transmission of the record (text messages and chats) or (2) forward a complete copy of the record to his or her official electronic messaging account within 20 days. An official electronic messaging account includes the employee’s/contractor’s state.gov email account. NOTE: The use of Web-based electronic messaging applications such as “WhatsApp Web” and “Telegram Web” should never be used on government systems at any time.

3. Personal accounts and devices must only be used in extremely limited and exceptional circumstances for conducting official business for the Department, such as during a temporary system outage at an overseas post. See paragraph 5 of REF B. If a personal device was used in the initial transmission of a Federal record, after the message has been forwarded or copied to the relevant official electronic messaging account, it should be removed from the employee’s/contractor’s personal device.
4. Other examples of electronic messaging systems include, but are not limited to: Slack, Google Chat, Facebook Messaging, and all other internal collaboration networks, as well as text messaging on Apple, Blackberry, and Android devices.
5. Sensitive But Unclassified (SBU) material and Foreign Government Information (FGI) should only be transmitted on official systems. For information regarding the Department’s transmission of SBU material via the internet, please see [12 FAM 540](#). For information regarding the protections and controls required for FGI, which may be considered classified, please see [5 FAM 482.6](#).
6. For instructions on how to export and forward electronic messages from WhatsApp and Signal to your official State Department email account, please see the [instructions](#) in the ["Standard Procedures"](#) section of the Department’s Records Management [website](#). To export and archive messages from electronic messaging systems other than WhatsApp and Signal or mobile devices, please

work with your bureau's system owners or IT personnel to ensure the messages are forwarded to an official State Department system. The hyperlink to the Records and Archives Management's Website is as follows:

<http://a.m.state.sbu/sites/gis/ips/RA/Pages/Home.aspx>. For additional assistance regarding this policy please contact [Records@state.gov](mailto:Records@state.gov).

## 7. Minimize Considered.

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**Dissemination Rule:** Archive Copy

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# EXHIBIT B

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**MRN:** [18 STATE 42344](#)  
**Date/DTG:** May 03, 2018 / 031705Z MAY 18  
**From:** SECSTATE WASHDC  
**Action:** ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE *ROUTINE*  
**E.O.:** 13526  
**TAGS:** AINF, AMGT, KFAM, KRIM, KPAO, OIIP, OEXC, SCUL, CMGT  
**Reference:** [18 STATE 11006](#)  
**Subject:** RECORDS MANAGEMENT REQUIREMENTS FOR MESSAGING SERVICES AND SOCIAL MEDIA

1. This cable clarifies certain points from 18 STATE 11006, provides additional guidance on the proper disposition of federal records created on third-party messaging services and social media networks, and announces additional resources for the above. REFTTEL notes that when electronic messaging tools are used in the transaction of government business, federal records are created or received. It is the responsibility of the sender or receiver to make sure such federal records are captured appropriately. A/GIS/IPS/RA and R/PPR are collaborating to assist Department personnel in complying with REFTTEL record keeping requirements.

2. REFTTEL para 2 states, "The use of Web-based electronic messaging applications such as "WhatsApp Web" and "Telegram Web" should never be used on government systems at any time." This statement refers to the official State Department networks OpenNet and ClassNet, and does not apply to other government-owned, non-networked systems such as DINs and government-issued iPhones, iPads, or other mobile devices. The prohibition of the aforementioned messaging services is related to certain known cybersecurity vulnerabilities. The prohibition does not apply to other messaging services, such as Slack and Facebook Messenger, when use is otherwise in compliance with Department policy. Material classified as SBU or above may only be processed on the appropriately accredited government system (e.g. OpenNet or ClassNet) and should never be transmitted using a non-official messaging service or on a system that is not accredited to handle that information.

3. In order to comply with records management requirements, all messages that are considered federal records that are sent or received on any messaging service or social media network should be forwarded to the user's official Department email address within 20 days of creation or receipt (REFTTEL para 2). Instructions for how to export and forward electronic messages from

WhatsApp and Signal to your official State Department email account can be found at <http://a.m.state.sbu/sites/gis/ips/RA/Records/Shared%20Documents/TextMsgExport.pdf>

4. Records requirements for all messaging within the America.gov domain and the IIP-managed

Slack network are already being properly managed by the providing offices, and individual Department personnel using those applications do not need to take any further records management measures.

5. Records retention requirements also apply to public-facing posts on social media networks (e.g., Tweets, Facebook and Instagram posts, YouTube videos). Managers of Department social media properties should plan to periodically archive content at a recommended interval of six months. Instructions for proper archiving of Facebook and Twitter accounts can be found at <http://cas.state.gov/socialmedia/archiving-facebook-and-twitter-accounts/>.

6. It is important to be aware that other retention requirements may be applicable to certain messages, particularly those involving consular information. For example, crisis events are generally considered precedent-setting and related messaging therefore has stricter retention rules, regardless of platform used. For specific questions on this topic, please contact [Ask-OCS-L@state.gov](mailto:Ask-OCS-L@state.gov)

7. Specific questions regarding appropriate archiving procedures for social media accounts should be directed to [IIPSMS@state.gov](mailto:IIPSMS@state.gov).

8. Minimize considered.

**Signature:** Pompeo

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**Dissemination Rule:**

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# EXHIBIT C

**UNCLASSIFIED**

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**MRN:** [19 STATE 72880](#)  
**Date/DTG:** Jul 09, 2019 / 091443Z JUL 19  
**From:** SECSTATE WASHDC  
**Action:** ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE *ROUTINE*  
**E.O.:** 13526  
**TAGS:** AINF, AMGT, KFAM, KRIM, OIIP, OEXC, SCUL, CMGT, KPAO  
**Reference:** A) 5 FAM 443  
B) 5 FAM 434  
C) 5 FAM 432  
D) [16 STATE 126870](#)  
E) [18 STATE 94164](#)  
F) [18 STATE 42344](#)  
**Subject:** A Message from the Under Secretary for Management on Electronic Messaging Applications and other Records Management Responsibilities

SUMMARY: The Department is exploring potential impacts of expanding the official use of non-government applications and platforms, such as electronic messaging applications (or “apps”), to conduct U.S. Government business. As a reminder to all Department personnel, regardless of which non-government application or platform is used to conduct Department business (e.g., WhatsApp, SMS/texting, or other messaging application), you have a legal responsibility to ensure that all federal records generated or received are captured and stored on official Department systems within 20 days by forwarding them to your state.gov account. To do so, follow the platform-specific directions provided in the following guidance document: [Records Guidance for Electronic Messages](#). Bureau Executive Directors and Management Officers at Post are responsible for ensuring compliance with this policy. Please also see guidance below on general records management responsibilities.

### **COMMUNICATIONS VIA NON-GOVERNMENT ELECTRONIC MESSAGING APPLICATIONS AND PLATFORMS**

1. Please note the following updates to the Department Directive (REFTEL [18 STATE 11006](#) and [18 STATE 42344](#)) on the use of non-government applications and platforms (e.g., WhatsApp, SMS/texting, or other messaging applications) to conduct Department business and your responsibility under the Federal Records Act law to capture federal records. This does not affect existing policies for Department-managed applications and platforms where records are already centrally archived (e.g., Post or Bureau social media accounts, Public Diplomacy’s PDChat Slack, Skype for Business, MASCOT). If you are not sure the platform or application you are using is Department-managed, please contact the Department’s records office at [records@state.gov](mailto:records@state.gov).

**Electronic Messaging Applications with No Ability to Archive and Export Messages:**

2. You are **prohibited** from conducting official Department of State business on any electronic messaging application that does not allow methods for archiving content, such as exporting messages or copying and pasting text into a Department-approved platform. Currently, Signal is an example of a platform that does not allow this capability and thus is prohibited for use to conduct official business.
3. Please be advised that screenshotting messages is not an approved method of archiving and exporting. However, if you have any federal records on an electronic messaging application that does not allow methods for exporting and archiving, you must **immediately**:
  - a. Take screenshots of the entirety of any conversations reflecting Department business;
  - b. Forward the screenshot(s) to your state.gov email address;
  - c. Delete the message from such application; and
  - d. Discontinue the use of such application to conduct Department business.
4. If you have no alternative source of communication and the use of such application is critical to carrying out the Department's mission, please contact the Department's records office at [records@state.gov](mailto:records@state.gov) immediately.

**Electronic Messaging Applications with Archive and Export Functionality:**

5. Electronic messaging applications with archive and/or export functionality (e.g., WhatsApp) are authorized for use in the following circumstances:
  - a. It is the only means of communication that our partner is willing to use or the primary means that a group of partners is using (e.g., during a negotiation); or
  - b. Engagement is greatly enhanced by using such means of communication to carry out the Department's mission, such as the following activities:
    - i. Perform Consular engagement with Citizen Liaison Volunteers (CLVs), local hospitals, immigration contacts, and other specialized constituencies;
    - ii. Promote upcoming events, conduct public engagement activities, and other public affairs and public diplomacy matters;
    - iii. Communicate during emergency, contingency and continuity events (e.g., evacuations, natural disasters, staff accountability, etc.); or
    - iv. Coordinate routine logistics or operations.
6. Under these circumstances, you are **required** by law to capture federal records onto Department systems by forwarding them to your state.gov account within 20 days. For platform-specific directions, please use the following guidance document: [Records Guidance for Electronic Messages](#).
7. Employees are reminded that there may be criminal and administrative penalties for mishandling federal records. ([18 U.S. Code § 2071](#), [5 FAM 434g](#), [12 FAM 558](#), and [18 U.S. Code § 1924](#)).

**GENERAL RECORDS MANAGEMENT RESPONSIBILITIES****Email**



8. Emails sent and received on the state.gov domain and the equivalent ClassNet domain are automatically captured in the Department's central archive entitled eRecords. All email systems in use by the Department, regardless of domain, must be managed under the Capstone Approach pursuant to [5 FAM 443.2\(e\)](#). Foreign Affairs Network (FAN) and America.gov email systems are managed in accordance with Department policy. Users of these email systems do not need to take any further action.
9. As a reminder, if Department personnel use personal email accounts to conduct Department business, you must include your official email address in the original transmission or forward a complete copy of the record to your official email account within 20 days of creation pursuant to [5 FAM 443.4](#).

#### **Mandatory Records Management Training**

10. If you have an OpenNet account, you must complete [PK217-Records Management for Everyone](#) annually. (REFTEL [18 STATE 94164](#)). In the near future, this mandatory course will be aligned with your PS800, Cybersecurity Awareness due date. If PK217 is not completed, access to OpenNet will be disabled.

#### **Handling Sensitive Information**

11. Sensitive But Unclassified ([SBU](#)) data requires administrative control and protection from public or other unauthorized disclosure and should be processed on the appropriately accredited government system (e.g., OpenNet, FAN, or ClassNet) and stored in the appropriate record keeping system to ensure continued protection of the information.
  - a. Personally Identifiable Information (PII) is Sensitive But Unclassified ([SBU](#)) information that, if compromised, can result in substantial harm to individuals and Department programs. To mitigate risk, program offices/sections should not use shared mailboxes as a repository to store large volumes of PII or other SBU content.
  - b. If you are using shared mailboxes to store large volumes of PII, contact [Privacy@state.gov](mailto:Privacy@state.gov) and [records@state.gov](mailto:records@state.gov) for risk reduction guidance.
12. SBU/NOFORN information warrants a degree of protection greater than that of standard SBU information. Pursuant to [12 FAM 545](#), you must process and transmit SBU/NOFORN information only on a system authorized by the Department for classified information transmission, storage, and processing.
13. Classified information must never be transmitted on any system that is not accredited to handle that information. Personal accounts, non-official electronic messaging applications, and personal devices are not accredited to handle such information. If foreign governments convey information in confidence via these channels, that information needs to be transferred to a system that provides a degree of protection at least equivalent to that required by the entity that furnished the information and marked with the appropriate level of classification (for example, OpenNet for information where Modified Handling is authorized, or ClassNet for information up to the SECRET level). (See [12 FAM 534.1](#) and [5 FAM 482.6](#))

### **Records Retirement and Destruction**

14. The [Records Disposition Schedule](#) tells you the action you must take, which is either retire (preserve) or destroy records that no longer have a current business need. Retire records of senior officials at the end of the incumbent's tenure, to include emails dated prior to January 2017 and all federal records (regardless of age) on personal accounts, applications, devices and social media (REFTEL [16 STATE 126870](#)). Destroy eligible temporary records on-site unless there is a legal hold, pending litigation, investigation, or audit ([5 FAM 434](#)).
- a. To retire eligible long-term temporary and permanent records to the Department's Records Service Center (RSC), complete [Form DS-693](#), Records Retirement Transmittal. It is recommended that permanent electronic records be retired via [Direct Network Transfer](#). Efforts are underway to improve this process through eRecords modernization.
  - b. Questions regarding records retirement procedures should be referred to the RSC at [retiredrecords-DL@state.gov](mailto:retiredrecords-DL@state.gov).

### **Departing Employees**

15. Federal records belong to the Department of State. You may not take federal records when you terminate employment with the Department (See [5 FAH-4 H-217](#) for the procedures for taking personal papers and non-records upon retirement). It is your responsibility to:
- a. Incorporate all records in your possession (including work-related messages in personal email accounts, and non-government messaging platforms -- regardless of age) into the Department systems;
  - b. Complete file searches for which you have been tasked, such as those required to respond to FOIA, Congressional, or litigation-related document requests;
  - c. Obtain approval from the appropriate management official before removing any documents. See [Procedures for the Removal of Personal Papers and Non-Record Materials](#).
16. Should you have general records management questions or need further assistance, please contact your bureau or post [records coordinator](#) or the Department's records office ([records@state.gov](mailto:records@state.gov)) in the Bureau of Administration.

**Signature:** Pompeo

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