



BROOKS BAWDEN LLC

Weekly Update

October 3 - 7, 2016

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Latest News

- The House and Senate have adjourned, and are expected to return on November 14. Before adjourning, Congress approved a continuing resolution to fund the federal government through December 9. When Congress returns, multiple items could be considered including legislation funding the government beyond December 9, finalizing the annual National Defense Authorization Act, and possible consideration of a criminal justice reform package.
- **The necessity of LPR** - In the aftermath of virtually every terror attack in America over the past several years, investigators at the federal, state, and local levels turned to automated license plate recognition (ALPR) data to generate helpful leads. But terror attacks are infrequent compared to the murders, shootings, rapes, robberies, and drug trafficking crimes that affect our communities every day. We like this post by Tom Joyce, former commander of the NYPD Cold Case Squad and Vice President of Product Development for our client Vigilant Solutions, regarding the necessity of investigators having access to ALPR data for all types of criminal investigations - including terrorism. **View the story [here](#).**
- **Encryption** - The House Homeland Security Committee released an update to the committee's report on encryption and its impact on law enforcement and counterterrorism efforts. The original report, entitled "Going Dark, Going Forward," was produced by the Majority Staff of the House Homeland Security Committee and released in June 2016. Terror attacks in Paris, Brussels, and Nice prompted significant developments on the topic of encryption with respect to legislative proposals taken by European nations, further illustrating the point that without a robust, fact-based dialogue on the encryption question, legislators world-wide will continue to struggle with the best possible response. Based on these developments and continued engagement with stakeholders, today the Committee published an updated version of this report. You can view the report [here](#).
- **Presidential Commutations** - On Thursday, October 6, President Obama announced that he has commuted the sentences of an additional 102 individuals, most of which were sentenced for drug-related offenses. With this new round of commutations, President Obama has commuted 774 sentences, more than the previous 11 presidents combined. You can read the White House press release [here](#).
- **ARTICLES OF INTEREST:**
Messaging app 'Signal' foils first federal effort to surveil users
Washington Examiner | Rudy Takala
The first attempt by the federal government to gather information about users of a top messaging application was foiled, the company said on Tuesday, because the company is purposefully unable to access that data. The Obama administration sought information from the company, Open Whisper Systems, in connection with an FBI criminal investiga-

tion. The bureau routinely uses legal documents known as national security letters to demand user information from tech companies. The tactic includes a simultaneous gag order preventing a company from revealing the request for an extended period of time. **Continue reading** [here](#).

Four more states likely to legalize pot

The Hill | Reid Wilson

Voters in four states appear likely to approve ballot measures that would legalize marijuana for recreational purposes, according to recent surveys, while voters are split on the question in a fifth state. The polls, taken over the last few weeks, demonstrate a seismic shift in the politics of pot. Even a decades ago, voters rewarded politicians who promised to redouble the war on drugs. After November's elections, nearly a quarter of Americans could live in states where marijuana consumption is legal. But proponents and opponents alike say that polls taken before Election Day often overstate support for legal marijuana measures. **Continue reading** [here](#).

Insider's View: To Stop Homeland Attacks, Take a Page From the Secret Service

ABC News | John Cohen

In the wake of another bloody attack on America's homeland, it is obvious that the old playbook used by our nation's counter-terrorism community to separate truly dangerous people from the harmless isn't working. The answer could lie in taking a page from the Secret Service and treating threats against America more like threats against the President. Late last month a group of federal, state and local law enforcement officials and mental health professionals from across the U.S. met in Washington, D.C. to discuss in detail how to expand the use of behavioral risk assessment methodologies and threat management strategies in counter-terrorism cases. Traditional counter-terrorism related investigative and detection protocols focus primarily on determining whether an individual is communicating with or operating under the control of a foreign terrorist group. Investigators also focus on whether the elements of a terrorism-related crime are already present. **Continue reading** [here](#).

Recap of Last Week's Hearings & Markups

Note: For more details on any of the following hearings, we can provide access to hearing transcripts upon request.

Senate Homeland Security Committee - Full Committee Hearing - September 27

[Fifteen Years After 9/11: Threats to the Homeland](#)

Summary: This hearing discussed the actions that the U.S. has taken to keep the homeland secure since the 9/11 attacks. Topics discussed included securing the borders, screening process for refugees entering the U.S., and cybersecurity concerns. Secretary Johnson discussed his concerns with self-radicalized individuals living in the U.S., and the ever changing threat environment. Additionally, grant funding for state and local law enforcement was discussed by some members with concerns that not enough is being spent to protect our nations most populated areas.

House Judiciary Committee - Immigration Subcommittee Hearing - September 27

[New Orleans: How the Crescent City Became a Sanctuary City](#)

Summary: This hearing examined New Orleans policy of prohibiting law enforcement from inquiring on an individual's legal status to be in the U.S., and the US DOJ's directive to not have New Orleans police from asking immigration status questions. Congressman Gowdy argued that local law enforcement are the one's who interact with the public regularly, not the feds, and it only makes sense that if there is probably cause to question one's immigration status, they should be allowed to do so.

House Judiciary Committee - Full Committee Hearing - September 28

[Oversight of the Federal Bureau of Investigation](#)

Summary: This oversight hearing of the FBI focused primarily of the investigation into former Secretary of State Hillary Clinton's email scandal, and their decision to not recommend charges. Additionally, there were some questions regarding our nations gun laws, and cybersecurity concerns were raised in light of recent hackings.

Senate Judiciary Committee - Immigration Subcommittee Hearing - September 28

[Oversight of the Administration's FY2017 Refugee Resettlement Program](#)

Summary: This hearing examined the screening process for refugees, as well as concerns by some with regards to the overall resettlement policy of accepting some refugees for permanent resettlement, as opposed to temporary resettlement. There continues to remain concerns with regards to the difficulty in vetting Syrian refugees due to the lack of information, mainly because of our lack of presence in the country.

Legislation Considered Last Week

House:

[H.R. 1877](#) - Mental Health First Aid Act of 2016

Status: Approved by the House on Tuesday 9/26

Summary: Amends the Public Health Service Act to require the Substance Abuse and Mental Health Services Administration (SAMHSA) to award grants to initiate and sustain mental health first aid training programs. Requires such a program to include training on: (1) the skills, resources, and knowledge necessary to assist individuals in crisis to connect with appropriate local mental health care services; (2) mental health resources, including the location of community mental health centers; and (3) protocols for referral to mental health resources. Sets forth the categories of individuals to be trained under the program, including first responders, law enforcement personnel, teachers and school administrators, human resources professionals, faith community leaders, nurses and other primary care personnel, students enrolled in school, parents of students, and veterans. Requires such programs to train individuals to accomplish safe de-escalation of crisis situations, recognition of the signs and symptoms of mental illness, and timely referral to mental health services in the early stages of developing mental disorders. Requires SAMHSA to ensure that grants are equitably distributed geographically, and to pay particular attention to the mental health training needs of rural areas.

[H.R. 3537](#) - Dangerous Synthetic Drug Control Act of 2016

Status: Approved by the House on 9/26

Summary: This bill amends the Controlled Substances Act (CSA) to modify the definition of "controlled substance analogue" to mean a substance that has a similar (previously, substantially similar) chemical structure and pharmacological effect to a schedule I controlled substance. The CSA's requirements, prohibitions, and restrictions with respect to schedule I controlled substances apply to the manufacture, importation, distribution, and sale (but not possession) of a controlled substance analogue. The bill amends the Controlled Substances Analogue Enforcement Act of 1986 to add certain synthetic substances to schedule I of the CSA.

[H.R. 5943](#) - Transit Security Grant Program Flexibility Act

Status: Approved by the House on 9/26

Summary: To amend the Implementing Recommendations of the 9/11 Commission Act of 2007 to clarify certain allowable uses of funds for public transportation security assistance grants and establish periods of performance for such grants, and for other purposes.

[H.R. 5460](#) - First Responder Access to Innovative Technologies Act

Status: Approved by the House on 9/26

Summary: This bill amends the Homeland Security Act of 2002 to direct the Federal Emergency Management Agency (FEMA) to implement a uniform process for reviewing applications that contain explanations to use grants provided under the Urban Area Security Initiative or the State Homeland Security Grant Program to purchase equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under the Post-Katrina Emergency Management Reform Act of 2006.

[H.R. 5459](#) - Cyber Preparedness Act of 2016

Status: Approved by the House on 9/26

Summary: This bill amends the Homeland Security Act of 2002 to expand the responsibilities of the Department of Homeland Security's State, Local, and Regional Fusion Center Initiative to include serving as a point of contact to ensure the dissemination of cybersecurity risk information within the scope of its information sharing environment with state, local, and regional fusion centers. (A fusion center serves as a focal point within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information between the federal government and state, local, tribal, territorial, and private sector partners.)

H.R. 5346 - Securing our Agriculture and Food Act

Status: Approved by the House on 9/26

Summary: This bill amends the Homeland Security Act of 2002 to direct the Assistant Secretary for Health Affairs to carry out a program to coordinate Department of Homeland Security (DHS) efforts related to defending the food, agriculture, and veterinary systems against terrorism and other high-consequence events that pose a high risk to homeland security. Such program shall include: (1) providing oversight and integration of DHS activities related to veterinary public health, food defense, and agricultural security; and (2) leading DHS policy initiatives relating to food, animal, and agricultural incidents and to overall domestic preparedness for, and collective response to, agricultural terrorism.

H.R. 5065 - Bottles and Breast-feeding Equipment Screening Act

Status: Approved by the House on 9/27

Summary: This bill directs the Department of Homeland Security to: notify air carriers and Transportation Security Administration (TSA) security screening personnel of TSA's 3-1-1 Liquids Rule Exemption guidelines allowing baby formula, breast milk, and juice on airlines; and include training on all special procedures under TSA's travel guidelines for TSA security screening personnel.

H.R. 5391 - Gains in Global Nuclear Detection Architecture Act

Status: Approved by the House on 9/27

Summary: The Homeland Security Department's Domestic Nuclear Detection Office would have to document how the research it supports aligns with the high-level goals of a global program to improve nuclear detection architectures.

H.R. 5325 - Legislative Vehicle for the Continuing Resolution to Fund the Federal Government

Status: Signed by the President on 9/29; Approved by the House on 9/28; Approved by the Senate on 9/28

Summary: This bill extends government funding at current levels through December 9, and also includes funding to combat the Zika virus, and provide disaster relief for Louisiana and other areas.

Senate:

H.R. 5325 - Legislative Vehicle for the Continuing Resolution to Fund the Federal Government

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Summary: This bill extends government funding at current levels through December 9, and also includes funding to combat the Zika virus, and provide disaster relief for Louisiana and other areas.

H.R. 5578 - Survivors' Bill of Rights Act of 2016

Status: Awaiting signature of the President; Approved by the Senate on 9/28; Approved by the House on 9/6

Summary: Sexual assault survivors would be given a federal right to a free forensic examination and the preservation of evidence collection kits. The bill would also create a working group to develop best practices for sexual assault survivors and authorize grants to notify survivors of their rights.

Legislation Introduced Last Week

Date Introduced	Bill Number	Sponsor	Description
9/29/2016	SRes 607	Roy Blunt (R-MS)	A resolution recognizing the National Geospatial-Intelligence Agency on its 20th anniversary.
9/29/2016	SRes 606	Bill Cassidy (R-LA)	A resolution honoring the memories and legacies of the 3 law enforcement officers who lost their lives in the attack on July 17, 2016, in Baton Rouge, Louisiana, condemning that attack, and recognizing the heroism of law enforcement personnel and first responders.
9/28/2016	HR 6294	Bruce Westerman (R-AR-4)	To improve the coordination and use of geospatial data.
9/28/2016	HR 6292	Ann Wagner (R-MO-2)	To provide for the vacating of certain convictions and expungement of certain arrests of victims of human trafficking.
9/28/2016	HR 6268	Jerry McNeerney (D-CA-9)	To direct the Attorney General to establish a definition of the term "gang", and for other purposes.
9/28/2016	HR 6263	Tom MacArthur (R-NJ-3)	To amend the Internal Revenue Code of 1986 to expand the family members with respect to whom treatment for alcohol and drug addiction is treated as a medical expense for certain purposes.
9/28/2016	HR 6252	Glenn Grothman (R-WI-6)	To make any city or county that has in effect any law or ordinance that is in violation of Federal immigration law ineligible for any Federal grant, and for other purposes.
9/28/2016	HR 6243	Dan Donovan (R-NY-11)	To improve the ability of the Federal Government to address synthetic opioids, and for other purposes.
9/28/2016	HR 6227	Ami Bera (D-CA-7)	To provide for a comprehensive interdisciplinary research and development initiative to strengthen the capacity of the electricity sector to neutralize cyber attacks.
9/28/2016	HR 6223	Darrell Issa (R-CA-49)	To amend title 28, United States Code, to provide that a national of the United States may only bring a claim against a foreign state for an injury which was caused by international terrorism and which occurred on September 11, 2001, and for other purposes.
9/28/2016	HR 6219	Martha Roby (R-AL-2)	To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to ensure that individuals who are found to have stored classified information on unsecured servers are disqualified from receiving security clearances, and for other purposes.
9/28/2016	HR 6217	Marc Veasey (D-TX-33)	Police Protection Act of 2016 - This bill would require local and state governments to have in place laws ensuring that police officers submit reports within 24 hours when an individual is injured or killed by a police officer or while in police custody.

9/28/2016	HR 6216	Marc Veasey (D-TX-33)	Preservation of Public Evidence Act of 2016 - To require State and local law enforcement agencies to submit information about law enforcement investigations to the Attorney General, and for other purposes. This bill would require general public access to evidence when investigating a crime. Evidence including footage from body cameras, dashboard cameras, photographs, videos, and witness state-
9/28/2016	HR 6211	Debbie Wasserman Shultz (D-FL-23)	To provide protection for survivors of domestic violence or sexual assault under the Fair Housing Act.
9/28/2016	HR 6198	John Culberson (R-TX-7)	To provide that no alien may be naturalized as a citizen of the United States until such time as the Director of U.S. Immigration and Customs Enforcement completes the digitization of all remaining paper-based fingerprint records for inclusion in the Automated Biometric Identification System (IDENT) of the Department of Homeland Security, and for other purposes.
9/28/2016	HRes 919	Ann Wagner (R-MO-2)	Encouraging States to uphold the rights and dignity of human trafficking survivors.
9/28/2016	S 3456	Cory Booker (D-NJ)	A bill to establish the Office for Partnerships Against Violent Extremism of the Department of Homeland Security, and for other purposes.
9/28/2016	S 3441	Kirsten Gillibrand (D-NY)	A bill to provide for the vacating of certain convictions and expungement of certain arrests of victims of human trafficking.
9/28/2016	S 3432	Dick Durbin (D-IL)	Solitary Confinement Reform Act - This bill limits solitary confinement to the briefest term and under the least restrictive conditions possible, improves access to mental health services for BOP prisoners in solitary confinement, and provides funding to assist state and local jurisdictions in reforming their own confinement practices. Additionally, the bill protects inmates' civil rights through the creation of a Civil Rights Ombudsman position and bans the practice of placing LGBTQ inmates in solitary confinement as a means of protection.
9/28/2016	S 3422	Ben Cardin (D-MD)	A bill to require non-Federal prison, correctional, and detention facilities holding Federal prisoners or detainees under a contract with the Federal Government to make the same information available to the public that Federal prisons and correctional facilities are required to make available.
9/28/2016	S 3415	David Perdue (R-GA)	A bill to require Federal agencies to issue appropriate identification for the carrying of concealed firearms by qualified law enforcement officers and qualified retired law enforcement officers.

9/27/2016	HR 6192	Mark Sanford (R-SC-1)	Responsible Law Enforcement Acquisition Act of 2016 - To amend title 10, United States Code, to permit the Secretary of Defense to transfer excess personal property of the Department of Defense to law enforcement agencies only by means of auction, and for other purposes.
9/27/2016	HR 6175	Jeff Duncan (R-SC-3)	To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database
9/26/2016	S 3393	Patrick Leahy (D-VT)	No Explosives or Arms for Terrorists and Criminals Act - To prevent terrorists and criminals from obtaining explosives and firearms.