



BROOKS BAWDEN LLC

Weekly Update

February 6 - 10, 2017

Content in this Weekly Update:

- Highlighted Issues 1
- This Week's Hearings/ Markups 3
- Legislation on the House & Senate Floor 3
- Previous Hearings/ Markups 4
- Previous Floor Actions 4
- LE in DC 7
- Introduced Legislation 9

Links to Previous Updates:

- [115 Congress Chairs](#)
- [Weekly 1/30/17](#)
- [Weekly 1/23/17](#)
- [Weekly 1/16/17](#)
- [Weekly 1/3/17](#)
- [Weekly 12/19/16](#)
- [Weekly 12/12/16](#)
- [Weekly 12/5/16](#)
- [Weekly 11/28/16](#)
- [Weekly 11/21/16](#)
- [Weekly 11/14/16](#)

Latest News

- The House and Senate were in session this week, with the House concluding business on Tuesday to accommodate the House Democratic annual retreat, which began on Wednesday. The Senate approved the confirmation of Senator Jeff Sessions (R-AL) to be Attorney General on Wednesday.

- **Law Enforcement in DC** - The National Narcotic Officers' Associations' Coalition, Major County Sheriffs' Association, the HIDTA Directors, the RISS policy boards, and several other national law enforcement groups converged on Washington, DC this week for their respective annual fly-in conferences. Members from these groups met with their Members of Congress, and administration officials to discuss the pressing issues facing the law enforcement community. Additional highlights can be found on [page 7](#) of this update.



Ron Brooks moderating a panel discussion on the Opioid & heroin epidemic.

- **ECPA Update** - The House approved the Email Privacy Act on Monday, which would make some updates to the Electronic Communications Privacy Act by requiring law enforcement to obtain a warrant in order to obtain access to the content of an individuals email. Despite passage in the House last year and this year, law enforcement groups have continued to vigorously oppose this legislation unless it addresses significant law enforcement concerns. You can view a recent letter that multiple law enforcement groups sent to congressional leaders [here](#).

- **Executive Orders Targeting Crime** - President Trump issued three Executive Orders on Thursday targeting criminal activity. One would create a task force to reduce crime, another targets officer safety, and the third goes after transnational criminal organizations. **Crime Task Force** - The first order would create a Task Force on Crime Reduction and Public Safety. The task force would be tasked to develop strategies to reduce crime, including, in particular, illegal immigration, drug trafficking, and violent crime; identify deficiencies in existing laws that have made them less effective in reducing crime and propose new legislation; evaluate the availability and adequacy of crime-related data and identify measures that could improve data collection in a manner that will aid in the understanding of crime trends and in the reduction of crime; and would conduct any other studies and develop any other recommendations. You can view the order [here](#).

Protecting Officers - The second order would seek greater protections for the safety of law enforcement officers. This order would directs the DOJ to develop strategies to further enhance the protection and safety of law enforcement officers; and would pursue new legislation that would define new Federal crimes, and increase pen-

alties for existing Federal crimes, in order to prevent violence against Federal, State, tribal, and local law enforcement officers. You can view the order [here](#).

Targeting Transnational Criminal Organizations - The third Executive Order aims to strengthen enforcement of Federal law in order to thwart transnational criminal organizations and subsidiary organizations, including criminal gangs, cartels, racketeering organizations, and other groups engaged in illicit activities that present a threat to public safety and national security; place a higher priority and devote sufficient resources to go after these organizations; ensure greater coordination with other agencies; enhance cooperation with foreign counterparts; and pursue additional measures to disrupt these criminal organizations. You can view the order [here](#).

- **House Judiciary Update** - on February 1, House Judiciary Committee Chairman Bob Goodlatte (R-VA) laid out his priorities for the 115th Congress before the Federalist Society at the National Press Club. Priorities include criminal justice reform, update of ECPA, reauthorization of FISA, patent reform, and other issues. You can view his statement [here](#).

- **ARTICLES OF INTEREST:**

- **ECPA Reform 2.0: Previewing the Debate in the 115th Congress**

- **Lawfare Blog | Caroline Lynch**

- On January 9th, Reps. Yoder and Polis re-introduced the Email Privacy Act to update the Electronic Communications Privacy Act (ECPA) (there is no Senate companion bill yet). ECPA sets forth the rules for how federal, state and local government agencies (and foreign governments) obtain electronic communication content and metadata from U.S. service providers. The bill tracks the version passed unanimously by the House last April. Despite the bill's broad, bipartisan support in the House, achieving that overwhelming vote did not happen overnight. The bill as passed is a modest, although not insignificant, reform. But in order to achieve full House support a number of proposals were removed and several politically-thorny issues were simply left to be dealt with in the future by, you guessed it, the 115th Congress. The Senate was unswayed by the bill's popularity in the House—a common misconception being when one chamber overwhelmingly passes a bill, the other will as well. Ultimately, the Senate did not reach consensus on ECPA reform legislation, the unsurprising result of ongoing substantive disputes in a truncated legislative year. **Continue reading [here](#).**

- **Goodlatte 'committed' to criminal justice reform**

- **Washington Examiner | Kelly Cohen**

- House Judiciary Chairman Bob Goodlatte said criminal justice reform remains a top agenda item for the new Congress. "[T]he committee will continue to advance an agenda that ensures our federal criminal laws are designed to appropriately punish wrongdoers," the Virginia Republican said Wednesday in a speech to the Federalist Society at the National Press Club in Washington, D.C., citing the importance of safeguarding civil liberties. Goodlatte said he and Rep. John Conyers, the committee's ranking Democrat, "remain committed to passing bipartisan criminal justice reform." **Continue reading [here](#).**

- **Drug Dealer Whose Sentence Was Commuted By Obama is Busted with a Kilo of Cocaine**

- **Heat Street | Lukas Mikelionis**

- A man whose life sentence for drug distribution conspiracy was recently commuted by former President Barack Obama is back in jail after allegedly crashing his vehicle while fleeing from a drug deal. Robert Martinez Gill, 68, had his life sentence commuted by President Obama in 2015 together with other 1,700 federal inmates as a broader strategy to give relief to nonviolent offenders serving prison for drug offenses, the San Antonio Express-News reports. He'd served prison time for cocaine and heroin distribution conspiracy since 1992. He also earned a legal education inside prison libraries and petitioned the president for a second chance after his court appeals were unsuccessful. **Continue reading [here](#).**

- **The Risky Business of Commercial Marijuana**

- **The Weekly Standard | David Murray, Brian Blake & John Walters**

- Conventional wisdom has been bullish regarding the potential profits from investing in commercial marijuana

businesses, now considered legal in several states but not under federal law. There have even been glossy brochures from consulting firms, offering the lure of potential billions in sales for the savvy investor. But there remain very substantial obstacles to those glittering inducements. A recently-published advisory from American Bar Association analyzed the malpractice liability for physicians who recommend "medical marijuana," warning: *Authorizing physicians to certify or recommend medical marijuana does not, in any way, absolve them from rendering competent and scientifically informed medical care. . . . although their actions may not be criminally culpable in legalizing states, they are nonetheless recommending or certifying a non-FDA-approved treatment that is not supported or recognized by the large majority of their professional colleagues.* **Continue reading [here](#).**

Hearings & Markups Happening This Week

House Homeland Security Committee - Full Committee Hearing

[Ending the Crisis: America's Borders and the Path to Security](#)

February 7 @ 10:00 am - CVC 210

Senate Indian Affairs Committee - Full Committee Hearing

[Emergency Management in Indian Country: Improving FEMA's Federal-Tribal Relationship with Indian Tribes](#)

February 8 @ 2:30 pm - 628 Dirksen

Senate Judiciary Committee - [Full Committee Markup](#) - February 9 @ 10:00 am - 226 Dirksen

[S. 178 - Elder Abuse Prevention and Prosecution Act](#)

Status: To be considered by the Senate Judiciary Committee on 2/9

Summary: A bill to prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

Legislation on the Floor This Week

House:

[H.R. 387 - Email Privacy Act](#)

Status: Approved by the House on 2/6.

Summary: Amends the Electronic Communications Privacy Act of 1986 to prohibit a provider of remote computing service or electronic communication service to the public from knowingly divulging to a governmental entity the contents of any communication that is in electronic storage or otherwise maintained by the provider, subject to exceptions. Revises provisions under which the government may require a provider to disclose the contents of such communications. Eliminates the different requirements applicable under current law depending on whether such communications were: (1) stored for fewer than, or more than, 180 days by an electronic communication service; or (2) held by an electronic communication service as opposed to a remote computing service. Requires the government to obtain a warrant from a court before requiring providers to disclose the content of such communications regardless of how long the communication has been held in electronic storage by an electronic communication service or whether the information is sought from an electronic communication service or a remote computing service.

Senate:

[Nomination of Jeff Sessions to be Attorney General](#)

Status: Approved by the Senate on 2/8.

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 Judiciary Committee - [Full Committee Markup](#) - January 31

[Nomination of Jeff Sessions to be Attorney General](#)

Status: Approved by the Senate Judiciary Committee on 1/31 (11-9)

[S. 178 - Elder Abuse Prevention and Prosecution Act](#)

Status: Held over by the Senate Judiciary Committee on 1/31

Summary: A bill to prevent elder abuse and exploitation and improve the justice system's response to victims in elder abuse and exploitation cases.

Senate Homeland Security Committee - Full Committee Hearing - February 1

[Fencing Along the Southwest Border](#)

Summary: Hearing POSTPONED to a later date.

House Armed Services Committee - Full Committee Hearing - February 1

[The State of the World: National Security Threats and Challenges](#)

Summary: This hearing discussed the national security threats facing our nation, and heard from former CIA directors John McLaughlin and David Petraeus. Petraeus expressed concerns with threats from capable revisionist powers that are dissatisfied with the status quo, threats from ISIS, and by technology and tactics which are making it harder for the U.S. to defend itself. Additionally, he stated what is more worrisome overall is the sense throughout the world of the loss of self-confidence. McLaughlin echoed much of the same as Petraeus, but also stressed the increase use of social media which has given a greater voice to individuals, for better or worse.

Legislation Considered Last Week

House:

[H.R. 666 - Department of Homeland Security Insider Threat and Mitigation Act of 2017](#)

Status: Approved by the House on 1/31

Summary: This legislation would amend the Homeland Security Act of 2002 to establish the Insider Threat Program. The program will provide training and education for Department personnel to identify, prevent, mitigate, and respond to insider threat risks to the Department's critical assets; provide investigative support regarding potential insider threats that may pose a risk to the Department's critical assets; and conduct risk mitigation activities for insider threats.

[H.R. 697 - Department of Homeland Security Clearance Management and Administration Act](#)

Status: Approved by the House on 1/31

Summary: This bill amends the Homeland Security Act of 2002 to improve the management and administration of the security clearance processes throughout the Department of Homeland Security. The Secretary shall require the designation of the sensitivity level of national security positions be conducted in a consistent manner with respect to all components and offices of the Department, and consistent with Federal guidelines.

[H.R. 642 - Fusion Center Enhancement Act of 2017](#)

Status: Approved by the House on 1/31

Summary: This legislation would clarify the partnership between the Department of Homeland Security and the National Network of Fusion Centers, including Departmental support to fusion centers relating to information sharing and personnel. Specifically, this legislation: outlines scope of DHS engagement with NNFC, specifies prioritization of support for NNFC in FEMA grant guidance, specifies fusion centers as primary focal points for DHS sharing

of HS/terrorism/WMD info with SLG, DHS develop best practices re: staffing various disciplines (LE/EM/fire) in FCs, requires I&A to negotiate MOUs with SLGs re: info sharing (wide scope / joint products / FOIA), defines the National Network of Fusion Centers, requires I&A to report to Congress annually on DHS efforts “to enhance support provided to fusion centers.”

H.R. 526 - Counterterrorism Advisory Board Act of 2017

Status: Approved by the House on 1/31

Summary: This bill amends the Homeland Security Act of 2002 to establish in the Department of Homeland Security (DHS) a board to coordinate and integrate DHS's intelligence, activities, and policy related to its counterterrorism mission and functions. The board shall: (1) advise the Secretary of DHS on the issuance of terrorism alerts, and (2) meet on a regular basis to discuss intelligence and coordinate ongoing threat mitigation efforts and departmental activities. The board's charter shall direct it to focus on the current threat environment and the importance of aligning departmental counterterrorism activities under the Secretary's guidance.

H.R. 665 - Airport Perimeter and Access Control Security Act of 2017

Status: Approved by the House on 1/31

Summary: The Transportation Security Administration would be required to update several airport security risk assessments. TSA would have to update the “Transportation Sector Security Risk Assessment” for the aviation sector within 60 days of enactment and update the “Comprehensive Risk Assessment of Perimeter and Access Control Security,” within 90 days of enactment. TSA would establish a schedule for future updates and conduct a system wide assessment of airport access control points and perimeter security.

H.R. 366 - DHS SAVE Act

Status: Approved by the House on 1/31

Summary: Oversight of fleet vehicles at Homeland Security Department (DHS) agencies would be consolidated under the Management Directorate. The measure also would require continuing fleet evaluation by DHS agencies, impose penalties on agencies that don't comply, and require DHS to consider other fleet management strategies.

H.R. 347 - DHS Acquisition Documentation Integrity Act of 2017

Status: Approved by the House on 1/31

Summary: DHS would be required to maintain complete and accurate documentation for major acquisition programs with total expenditures exceeding \$300 million. Documentation would include operational requirements, lifecycle cost estimates and schedules. Components of DHS would submit the documents as part of the department's annual Comprehensive Acquisition Status Report.

H.R. 549 - Transit Security Grant Program Flexibility Act

Status: Approved by the House on 1/31

Summary: Recipients of Transportation Security Assistance grants would have additional time to use funds under this legislation. Generally grants would be available for at least 36 months, rather than two years. The period would be at least 55 months for security improvements to public transportation systems that are in final design or under construction or for stations and other transit infrastructure.

H.R. 687 - First Responder Access to Innovative Technologies Act

Status: Approved by the House on 1/31

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. 584 - Cyber Preparedness Act of 2017

Status: Approved by the House on 1/31

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. 690](#) - Gains in Global Nuclear Detection Architecture Act

Status: Approved by the House on 1/31

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. 655](#) - Securing the Cities Act of 2017

Status: Approved by the House on 1/31

Summary: This bill amends the Homeland Security Act of 2002 to establish the Securing the Cities program to enhance the ability of the United States to detect and prevent terrorist attacks and other high consequence events utilizing nuclear or other radiological materials that pose a high risk to homeland security in high-risk urban areas.

[H.R. 437](#) - Medical Preparedness Allowable Use Act

Status: Approved by the House on 1/31

Summary: This legislation authorizes State and local governments to use federal homeland security grants to improve medical capabilities to deal with terrorist attacks.

[H.R. 612](#) - United States-Israel Cybersecurity Cooperation Enhancement Act of 2017

Status: Approved by the House on 1/31

Summary: This bill requires the Department of Homeland Security (DHS) to establish a grant program to support cybersecurity research and development, and the demonstration and commercialization of cybersecurity technology, in accordance with the Agreement between the Government of the United States of America and the Government of the State of Israel on Cooperation in Science and Technology for Homeland Security Matters, dated May 29, 2008, or a successor agreement. Grants may be awarded for social science research and technology intended to identify, protect against, respond to, and recover from cybersecurity threats.

[H.R. 505](#) - Border Security Technology Accountability Act of 2017

Status: Approved by the House on 1/31

Summary: Amends the Homeland Security Act of 2002 to require each border security technology acquisition program of the Department of Homeland Security with a significant lifecycle cost estimate to: (1) have written documentation demonstrating that each such program has an acquisition program baseline approved by the relevant acquisition decision authority; and (2) demonstrate that each such program is meeting agreed-upon cost, schedule, and performance thresholds, in compliance with the Federal Acquisition Regulation.

[H.R. 677](#) - CBRN Intelligence and Information Sharing Act of 2017

Status: Approved by the House on 1/31

Summary: Amends the Homeland Security Act of 2002 to establish chemical, biological, radiological, and nuclear intelligence and information sharing functions of the Office of Intelligence and Analysis of the Department of Homeland Security and to require dissemination of information analyzed by the Department to entities with responsibilities relating to homeland security.

[H.R. 678](#) - Department of Homeland Security Support to Fusion Centers Act of 2017

Status: Approved by the House on 1/31

Summary: This legislation would require an assessment of fusion center personnel needs. Not later than 120 days after the date of the enactment, the Under Secretary of Intelligence and Analysis of the Department of Homeland Security, in coordination with the appropriate components and offices of the Department and the Homeland Security Advisors of the States, shall, in consultation with the principal officials of the fusion centers in the National Network of Fusion Centers, conduct a needs assessment of Department personnel assigned to fusion centers, including an assessment of whether deploying additional Department personnel to such fusion centers would enhance the

Department’s mission under section 101(b) of such Act and the National Network of Fusion Centers. Additionally, the Under Secretary of Intelligence and Analysis of the Department of Homeland Security, in collaboration with the Chief Security Officer of the Department, shall establish a program to provide eligibility for access to information classified as Top Secret for State and local analysts located in fusion centers.

Senate:

Nothing affecting the law enforcement or homeland security community.

Law Enforcement Groups in DC

Multiple law enforcement and public safety organizations converged upon Washington, DC this past week to hold their annual winter conferences. Amongst these groups were the National Narcotic Officers’ Associations’ Coalition, the Major County Sheriffs’ Association, Major Cities Chiefs Association, and others.

National Narcotic Officers’ Associations’ Coalition

The National Narcotic Officers’ Associations’ Coalition held their annual meeting this week, and had great discussions amongst NNOAC members, RISS partners, HIDTA Directors, and other law enforcement officials. It was an incredibly busy [schedule](#), with an amazing group of speakers to include: former Reagan Administration Attorney General Ed Meese, FBI Director Comey, DEA Administrator Rosenberg, ATF Director Brandon, and Congressman Peter King and Congresswoman Susan Brooks. Brooks Bawden’s Ben Bawden presented the legislative update before the NNOAC business meeting outlining potential legislative concerns for the law enforcement community, and potential bright spots within Congress for the upcoming year. Attendees were able to discuss with administration officials and lawmakers the concerns facing the law enforcement community from a state and local perspective, and get an insight as to what to expect from the new administration and congress. Additionally, in depth conversations were had on combatting the current opioid & heroin epidemic. On Tuesday, NNOAC members made hundreds of visits to their representatives in the House and Senate to lay out NNOAC’s priorities for the Congress to address. In addition, the HIDTA Directors met in DC, with the highlight of their agenda was a visit by newly sworn in Attorney General Jeff Sessions, who reaffirmed the importance of the HIDTA program.



Major County Sheriffs’ Association

Earlier this week, the Major County Sheriffs’ Association hosted its biennial event with the Major Cities Chiefs Association bringing together the Sheriffs and Chiefs of the largest jurisdiction across the country to discuss critical issues relating to public safety and the law enforcement profession. Speakers at this year’s conference included the President of the United States (watch speech [here](#)), FBI Director Comey, Secretary of the Department of Homeland Security John Kelly, law enforce-



Executive Boards of the MCSA and MCCA listening to POTUS speech on crime and support for local LE.

ment advocates Senator John Cornyn and Congressman Ratcliffe and public safety champions Senator Amy Klobuchar and Congresswoman Sheila Jackson Lee. Additionally, Brooks Bawden's Laura Cooper, representing MCSA, along with MCCA's DC representative provided the legislative update, detailing actions that have occurred within Congress affecting the law enforcement community, and potential actions in the coming year.

Legislation Introduced Last Week

Date Introduced	Bill Number	Sponsor	Description
2/6/2017	HR 883	Ron DeSantis (R-FL-6)	To amend title 18, United States Code, to provide a certification process for the issuance of nondisclosure requirements accompanying certain administrative subpoenas, to provide for judicial review of such nondisclosure requirements, and for other purposes.
2/6/2017	HR 876	John Katko (R-NY-24)	To amend the Homeland Security Act of 2002 to reform programs of the Transportation Security Administration, and for other purposes.
2/3/2017	HR 866	Grace Meng (D-NY-6)	To amend title 18, United States Code, to extend the coverage of the Federal prohibition against stalking in order to provide protection to friends and co-workers, and for other purposes.
2/3/2017	HR 858	Luis Correa (D-CA-46)	To require the Attorney General to make grants to nonprofit organizations to offer legal assistance to certain aliens lawfully admitted for permanent residence, DACA recipients, and refugees,
2/3/2017	HR 844	Jeff Duncan (R-SC-3)	To amend the Immigration and Nationality Act to facilitate the removal of aliens identified in the terrorist screening database, and for other purposes.
2/3/2017	HR 843	Bob Goodlatte (R-VA-6)	To provide for a safe harbor for reports to potential employers by current or former employers of violent behavior or threats thereof by employees.
2/3/2017	S 303	Cory Booker (D-NJ)	A bill to discontinue a Federal program that authorizes State and local law enforcement officers to investigate, apprehend, and detain aliens in accordance with a written agreement with the Director of U.S. Immigration and Customs Enforcement and to clarify that immigration enforcement is solely a function of the Federal Government.
2/2/2017	HR 837	Michelle Grisham Lujan (D-NM-1)	To prohibit construction of a continuous wall or fence between the United States and Mexico, and for other purposes.
2/2/2017	HR 818	Ted Poe (R-TX-2)	To safeguard the Crime Victims Fund.
2/2/2017	S 278	Steve Daines (R-MT)	A bill to amend the Homeland Security Act of 2002 to provide for innovative research and development, and for other purposes.
2/1/2017	HR 810	Bobby Rush (D-IL-1)	To increase public safety by punishing and deterring firearms trafficking.
2/1/2017	S 272	Brian Schatz (D-HI)	A bill to enhance the security operations of the Transportation Security Administration and the stability of the transportation security workforce by applying a unified personnel system under title 5, United States Code, to employees of the Transportation Security Administration who are responsible for screening passengers and property, and for other purposes.
1/31/2017	HR 755	Mark Sanford (R-SC-1)	REAL ID Privacy Protection Act - To amend the REAL ID Act of 2005 to remove the provision requiring each State to provide all other States with electronic access to information contained in the motor vehicle database of the State.

1/31/2017	HRes 75	Rosa DeLauro (D-CT-3)	Expressing the sense of the House of Representatives regarding sexually exploited and trafficked girls in the United States.
1/30/2017	HR 748	Mike Quigley (D-IL-5)	Safeguarding Sanctuary Cities Act of 2017 - To protect any State or local authority that limits or restricts compliance with an immigration detainer request remains eligible for grants and appropriated
1/30/2017	HR 739	Adriano Espaillat (D-NY-13)	This Land Is Our Land Act - To prohibit the construction of new border barriers, including walls or fences, on certain Federal land, and for other purposes.
1/30/2017	HR 724	Zoe Lofgren (D-CA-19)	To provide that the Executive Order entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" (January 27, 2017), shall have no force or effect, to prohibit the use of Federal funds to enforce the Executive Order, and for other purposes.
1/30/2017	HJRes 40	Sam Johnson (R-TX-3)	Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Social Security Administration relating to Implementation of the NICS Improve-



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