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# BROOKS BAWDEN LLC Weekly Update

March 6 - 10, 2017

## **Latest News**

- The House and Senate are in session this week. The House is expected to consider the FY 2017 Defense Appropriations bill this week, and in the Senate the Judiciary Committee will hold the nomination hearings for the Deputy and Associate Attorney General positions, and the Senate Homeland Security Committee will hold the nomination hearing for the Deputy Secretary position.
- House Homeland Security Task Force The House Homeland Security Committee announced the creation of the Task Force on Denying Terrorists Entry into the United States. The Task Force will examine all pathways by which extremists might infiltrate the homeland and will seek to identify gaps in U.S. government information sharing and vetting procedures. They are expected to release a final report later this year. You can view the press release <a href="here">here</a>.
- Crime Reduction Task Force Attorney General Jeff Sessions announced on February 27 the creation of a DOJ Task Force on Crime Reduction and Public Safety. The task force is charged with developing strategies to reduce crime; identifying deficiencies in existing laws and policies that have made them less effective in reducing crime and proposing new legislation and policies to improve public safety and reduce crime; evaluating the availability and adequacy of crime-related data and identifying measures to improve it; and conducting any other relevant studies. In conducting its work, the task force will consult with federal, state, tribal and local law enforcement, law enforcement organizations and victims' and community advocacy organizations, among others, to learn about successful local efforts and how they can best be supported at the federal level. You can view the release here.
- Immigration Executive Order On March 6, President Trump signed a new executive order limiting travel to the U.S. of individuals from certain countries. The new travel ban executive order has made some significant concessions compared to the original, including exempting existing visa holders from travel limits and removing Iraq from the original list of countries whose citizens were barred from entering the U.S. The new order will put a 90-day hold on issuance of visas to citizens of six countries, and it stops refugee admissions worldwide for 120 days. You can view the implementation order <a href="here">here</a>.
- Terror Threat Snapshot The House Homeland Security Committee released its March terror threat snapshot which is an assessment of the growing threat America, the West, and the world face from ISIS and other Islamist terrorists. Key takeaways from the snapshot are: homegrown jihadist cases in the U.S. have hit a dangerous new milestone, numbering over 200 since the attacks of September 11, 2001; the growing danger on the European continent poses a threat to U.S. interests overseas and, ultimately, to the homeland; terrorists' growing use of small drones and chemical weapons for attacks in the conflict zone in Iraq and Syria is raising alarm; and terror activity in Afghanistan is also on the rise. You can view the March snapshot here.



- **ODNI Report on Former Guantanamo Bay Detainees** On March 7, the Office of the Director of National Intelligence released updated figures on former Guantanamo Bay detainees suspected or confirmed of reengaging with terrorism. According to the updated information, the intelligence community has confirmed that a total of 121 former detainees have re-engaged in terrorism. You can view the report <a href="here">here</a>.
- **President's Remarks to Congress** Last week, President Trump delivered an address to a Joint-Session of Congress. President Trump spoke about the important work of law enforcement to keep our streets safe, and a focus on securing our borders to stop the flow of drugs from entering the U.S. You can view the President's speech <a href="here">here</a>.

#### • ARTICLES OF INTEREST:

### American cocaine use is way up. Colombia's coca boom might be why.

The Washington Post | Nick Miroff

While much of the recent attention on drug abuse in the United States has focused on the heroin and opioid epidemic, cocaine has also been making a comeback. It appears to be a case of supply driving demand. After years of falling output, the size of Colombia's illegal coca crop has exploded since 2013, and the boom is starting to appear on U.S. streets. "There are troubling early signs that cocaine use and availability is on the rise in the United States for the first time in nearly a decade," the State Department noted this week in its annual report on the global narcotics trade. **Continue reading here.** 

# Clarence Thomas Condemns Civil Asset Forfeiture, Points to 'Egregious and Well-Chronicled Abuses'

#### Reason.com | Damon Root

Today the U.S. Supreme Court declined to hear a case filed by a Texas woman who says that her due process rights were violated when the police seized over \$200,000 in cash from her family despite the fact that no one has been convicted of any underlying crime associated with the money. Unfortunately, thanks to the state's sweeping civil asset forfeiture laws, the authorities were permitted to take the money of this innocent woman. The Supreme Court offered no explanation today for its refusal to hear the case of Lisa Olivia Leonard v. Texas. But one member of the Court did speak up. In a <u>statement respecting the denial of certiorari</u> in the case, Justice Clarence Thomas made it clear that he believes the current state of civil asset forfeiture law is fundamentally unconstitutional. **Continue reading** here.

# A Debate: Should the Justice Department Police the Police? The New York Times | Shaila Dewan & Timothy Williams

Blue lives matter. That is, in essence, what Attorney General Jeff Sessions has been saying since he took office, promising to protect the lives of police officers, stop undermining them as (he implied) the Obama administration had, and let them get back to enforcing law and order. For some in law enforcement, the message has done what it intended to do: mollify, soothe, inspire. With vilification on the street, who needed vilification from the top? But to others, it is as shrill and jarring as a traffic whistle, threatening to undo years of work toward dismantling policies that led to mass incarceration and the erosion of trust in the police. We asked two experts to weigh in. In the first camp is Sheriff Michael Bouchard of Oakland County, outside Detroit, who explains the perspective of street-level officers facing hostility and scrutiny by cellphone cameras as they perform a dangerous job. On the other side is Ronal W. Serpas, former chief in Nashville and New Orleans, who counters that not just civilians, but officers themselves, are safer when policing is done more fairly — sometimes at the insistence of the federal government. **Continue reading** here.

# WikiLeaks claims to reveal how CIA hacks TVs and phones all over the world CNN | Jose Pagliery

The CIA has become the preeminent hacking operation, sneaking into high-tech phones and televisions to spy on people worldwide, according to an explosive WikiLeaks publication of purported internal CIA documents on Tuesday. To hide its operations, the CIA routinely adopted hacking techniques that enabled them to appear as if they were hackers in Russia, WikiLeaks said. WikiLeaks also claimed that nearly all of the CIA's arsenal of privacy-crushing cyberweapons have been stolen, and the tools are potentially in the hands of criminals and

foreign spies. Continue reading here.

## Hearings & Markups Happening This Week

Senate Judiciary Committee - Nomination Hearing - March 7 @ 10:00 am - 226 Dirksen Nomination of Rod J. Rosenstein, to be Deputy Attorney General Nomination of Rachel L. Brand, to be Associate Attorney General

Senate Homeland Security Committee - Nomination Hearing - March 8 @ 9:30 am - 342 Dirksen

Nomination of Elaine C. Duke, to be Deputy Secretary of the Department of Homeland Security

House Homeland Security Committee - Full Committee Markup - March 8 @ 10:00 am - 210 CVC

#### H.R. 876 - Aviation Employee Screening and Security Enhancement Act of 2017

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security Act of 2002 to reform programs of the Transportation Security Administration.

#### H.R. 1238 - Securing our Agriculture and Food Act

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security Act of 2002 to make the Assistant Secretary of Homeland Security for Health Affairs responsible for coordinating the efforts of the Department of Homeland Security related to food, agriculture, and veterinary defense against terrorism.

#### H.R. 1249 - DHS Multiyear Acquisition Strategy Act of 2017

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security of 2002 to require a multiyear acquisition strategy of the Department of Homeland Security.

#### H.R. 1252 - DHS Acquisition Authorities Act of 2017

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security of 2002 to provide for certain acquisition authorities for the Under Secretary of Management of the Department of Homeland Security.

#### H.R. 1258 - HSA Technical Corrections Act

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Makes technical corrections to the Homeland Security Act of 2002.

#### H.R. 1282 - DHS Acquisition Review Board Act of 2017

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security of 2002 to establish Acquistion Review Boards in the Department of Homeland Security.

#### H.R. 1294 - Reducing DHS Acquisition Cost Growth Act

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security Act of 2002 to provide for congressional notification regarding major acquisition program breaches.

#### H.R. 1297 - Quadrennial Homeland Security Review Technical Corrections Act of 2017

**Status**: To be considered by the House Homeland Security Committee on 3/8 **Summary**: Amends the Homeland Security Act of 2002 to make technical corrections to the requirement that the Secretary of Homeland Security submit quadrennial homeland security reviews.



#### H.R. 1302 - Terrorist and Foreign Fighter Travel Exercise Act of 2017

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: This legislation requires an exercise related to terrorist and foreign fighter travel. It requires a stress test of U.S. government protection and prevention programs against terrorist travel.

#### H.R. 1309 - TSA Administrator Modernization Act of 2017

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: This legislation would streamline the office and term of the Administrator of the Transportation Security Administration.

#### H.R. 1353 - Transparency in Technological Acquisitions Act of 2017

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: Amends the Homeland Security Act of 2002 to require certain additional information to be submitted to Congress regarding the strategic 5-year technology investment plan of the Transportation Security Administration.

#### **H.R. XXXX** - Homeland Security for Children Act

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: Amends the Homeland Security Act of 2002 to ensure that the needs of children are considered in homeland security planning.

#### H.R. XXXX - Department of Homeland Security Acquisition Innovation Act

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: Amends the Homeland Security Act of 2002 to require certain acquisition innovation.

#### H.R. XXXX - Department of Homeland Security Blue Campaign Authorization Act of 2017

Status: To be considered by the House Homeland Security Committee on 3/8

**Summary**: Amends the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue Department of Homeland Security-wide guidance and develop training programs as part of the Department of Homeland Security Blue Campaign.

House Judiciary Committee - Full Committee Hearing

The Department of Homeland Security's Proposed Regulations Reforming the Investor Visa Program

March 8 @ 10:00 am - 2141 Rayburn

House Oversight Committee - Full Committee Hearing

Reviewing ATF's Failures in the Death of ICE Agent Jaime Zapata

March 9 @ 10:00 am - 2154 Rayburn

House Homeland Security Committee - Cybersecurity Subcommittee Hearing

The Current State of DHS Private Sector Engagement for Cybersecurity

March 9 @ 10:00 am - 210 CVC

Senate Judiciary Committee - Full Committee Markup - March 9 @ 10:00 am - 226 Dirksen

#### **S. 419** - **PSOB** Improvements Act

**Status**: To be considered by the Senate Judiciary Committee on 3/9

Summary: This bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to revise adminis-

trative requirements for the Public Safety Officers' Benefits (PSOB) program.

Specifically, it authorizes the Department of Justice's Bureau of Justice Assistance (BJA) to establish PSOB program rules, regulations, and procedures based on standards developed by another federal agency. In determining eligibility for death or disability benefits, the BJA must give substantial weight to evidence and facts presented by a state, local, or federal agency. Additionally, the BJA must publish and update information on pending claims and report to Congress on submitted claims for death, disability, and educa-

tional benefits.

Nomination of Charles R. Breyer, to be a Member of the United States Sentencing Commission (Reappointment)

**Status**: To be considered by the Senate Judiciary Committee on 3/9

Nomination of Danny C. Reeves, to be a Member of the United States Sentencing Commis-

**Status**: To be considered by the Senate Judiciary Committee on 3/9

## Legislation on the Floor This Week

#### **House:**

Nothing affecting the law enforcement or homeland security community.

#### Senate:

Nothing affecting the law enforcement or homeland security community.

## 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 Hearing - February 28 Improving Outcomes for Youth in the Juvenile Justice System

Summary: This hearing examined ways to improve the outcomes of children who interact with the juvenile justice system. Members discussed how close Congress was last year at passing the reauthorization of the Juvenile Justice and Delinquency Prevention Act, and their continued hopes that that can be achieved in the new Congress. Some issues discussed are the regulations surrounding secure holds, diversion programs, and concerns with detaining youths in secure facilities. Additionally, witnesses stated that while most of the activity with regards to the juvenile justice system is a state function, federal guidance is incredibly important by providing minimum standards.

House Homeland Security Committee - Counterterrorism Subcommittee Hearing - February 28 The Future of Counterterrorism: Addressing the Evolving Threat to Domestic Security

Summary: This hearing continues to examine current threats to the homeland, and what is being done to address these threats. This hearing discussed the current work of local, state, and federal law enforcement, including how fusion centers and ITTFs work to collect and disseminate information, and investigate threats. Information sharing is crucial, and working with minority communities to develop relationships and trust is important in order to develop leads and identify those vulnerable to becoming radicalized.

Senate Intelligence Committee - Full Committee Hearing - February 28

Nomination of former Sen. Dan Coats, R-Ind., to be Director of National Intelligence

Summary: This nomination hearing covered topics such as former Sen. Coats' ability to carry out the functions of DNI, investigations into the actions of the Russians in the run-up to the elections, and other threats to the nation, particularly from North Korea, China, and Islamic radicalization.

House Homeland Security Committee - Emergency Preparedness Subcommittee Hearing - February 28 The Future of FEMA: Recommendations of Former Administrators



**Summary**: This hearing heard from previous Administrators of FEMA on their thoughts on lessons learned from their tenure at the agency, and recommendations for the new, yet to be named Administrator. Craig Fugate stated that he believed that FEMA needs to engage with Congress directly on any proposed changes to disaster response capabilities, and the need to improve upon building codes and federal funding. The agency also needs to continue to be pro-active, and improve outcomes for disaster survivors, and improve on planning and training. Robert Paulison discussed the importance of pre-disaster mitigation grant funding, and also discussed the need to reform building code policies.

House Judiciary Committee - Full Committee Hearing - March I Section 702 of the Foreign Intelligence Surveillance Act (FISA)

**Summary**: This oversight hearing of FISA, is just the beginning of anticipated future hearings on FISA leading to the reauthorization of the program sometime later this year. (Note: this hearing was held before the accusations by President Trump of wiretapping through a FISA warrant of his campaign) This hearing focused on whether section 702 should be reauthorized cleanly or with some changes, in particular, whether greater privacy protections are in place to ensure American citizens information is not wrongly being collected, contrary to the law and fourth Amendment protections. Additionally, questions arose regarding information being passed along to the criminal division that was collected through the FISA process, and concerns with violations of fourth Amendment rights.

Senate Homeland Security Committee - Full Committee Hearing - March I

The Effects of Border Insecurity and Lax Immigration Enforcement on American Communities

**Summary**: This hearing examined how the effects of our porous southern border has effects on communities all across the nation, not just those near it. Sheriff Severson from Waukesha County, WI, stated that one of the most effective ways to deter drug related problems in communities is to secure the border, preventing the flow of illegal narcotics from entering the U.S. The public health crisis from heroin and other drugs not only affects border towns and large cities, but also rural communities far from the border. Additionally, witnesses discussed crimes committed by those who are in the U.S. illegally, including hearing from a victim affected by a violent act.

Senate Judiciary Committee - Full Committee Markup - March I

S. 419 - PSOB Improvements Act

Status: Held over in the Judiciary Committee on 3/1

**Summary**: This bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to revise administrative requirements for the Public Safety Officers' Benefits (PSOB) program.

Specifically, it authorizes the Department of Justice's Bureau of Justice Assistance (BJA) to establish PSOB program rules, regulations, and procedures based on standards developed by another federal agency. In determining eligibility for death or disability benefits, the BJA must give substantial weight to evidence and facts presented by a state, local, or federal agency. Additionally, the BJA must publish and update information on pending claims and report to Congress on submitted claims for death, disability, and educational benefits.

Nomination of Charles R. Breyer, to be a Member of the United States Sentencing Commission (Reappointment)

Status: Held over in the Senate Judiciary Committee on 3/1

Nomination of Danny C. Reeves, to be a Member of the United States Sentencing Commission Status: Held over in the Senate Judiciary Committee on 3/1

House Judiciary Committee - Constitution Subcommittee Hearing - March 2

Oversight of the Judgement Fund

**Summary**: This hearing examined the Judgement Fund. Some members of the Committee have become concerned with how this fund bypasses the Congressional power of the purse, and has been used to fund special interest organizations without oversight and transparency. In many instances, it is difficult to see how disbursements from this fund is being made, underlying facts on the cases, and how the funds were used.

House Oversight Committee - Full Committee Hearing - March 2 Transparency at TSA **Summary**: This hearing examined management and transparency issues at the Transportation Security Administration. This hearing continues on the Committee's work to investigate whistleblower retaliation reports, security failures, and other incidences at TSA. Some members of the Committee continue to remain concerned with the management of TSA, and their perceived failure to address a number of their concerns and issues addressed in recent GAO reports. Both Republicans and Democrats on the Committee were extremely concerned with TSA's refusal to provide the independent Office of Special Counsel all the documents needed for its whistleblower-retaliation investigations.

## **Legislation Considered Last Week**

#### **House:**

Nothing affecting the law enforcement or homeland security community.

#### Senate:

Nothing affecting the law enforcement or homeland security community.



## Legislation Introduced Last Week

| Date Introduced | Bill Number  | Sponsor                             | Description   |
|-----------------|--------------|-------------------------------------|---|
| 3/2/2017        | HR 1354      | Tom Rooney (R-FL-17)                | To increase the penalties for fentanyl trafficking.   |
| 3/2/2017        | HR 1353      | Kathleen Rice (D-NY-<br>4)          | To amend the Homeland Security Act of 2002 to require certain additional information to be submitted to Congress regarding the strategic 5-year technology investment plan of the Transportation Security Administration.   |
| 3/2/2017        | HR 1351      |                                     | To amend title 49, United States Code, to direct the Administrator of the Transportation Security Administration (TSA) to make certain improvements in managing TSA's employee misconduct, and for other purposes.  |
| 3/2/2017        | HR 1347      | Barry Loudermilk (R-<br>GA-11)      | To authorize the Secretary of Homeland Security to provide counter-radicalization training to Department of Homeland Security representatives at State and local fusion centers, and for other purposes.  |
| 3/2/2017        | HR 1344      | Derek Kilmer (D-WA-6)               | To provide grants to assist States in developing and implementing plans to address cybersecurity threats or vulnerabilities, and for other purposes.  |
| 3/2/20017       | HR 1334      |                                     | To amend the Immigration and Nationality Act to require U.S. Immigration and Customs Enforcement, upon the request of a law enforcement official, to make a prompt determination of whether to issue a detainer in the case of an alien arrested for a violation of Federal, State, or local law.         |
| 3/2/2017        | HR 1324      | Jerry McNerney (D-CA<br>-9)         | To amend the Communications Act of 1934 to provide for the establishment of cybersecurity standards for certain radio frequency equipment.  |
| 3/2/2017        | HR 1309      | John Katko (R-NY-24)                | To streamline the office and term of the Administrator of the Transportation Security Administration, and for other purposes.   |
| 3/2/2017        | HR 1303      | 1                                   | To amend the Immigration and Nationality Act to reform and reduce fraud and abuse in certain visa programs for aliens working temporarily in the United States, and for other purposes.   |
| 3/2/2017        | HR 1302      |                                     | To require an exercise related to terrorist and foreign fighter travel, and for other purposes.   |
| 3/2/2017        | <u>S 516</u> |                                     | A bill to provide grants to assist States in developing and implementing plans to address cybersecurity threats or vulnerabilities, and for other purposes.   |
| 3/2/2017        | <u>S 511</u> | Joe Manchin (D-WV)                  | A bill to provide for the sealing of records relating to Federal non-<br>violent criminal offenses related to substance use disorders, and<br>for other purposes.   |
| 3/2/2017        | <u>S 500</u> | Pat Roberts (R-KS)                  | A bill to amend the Homeland Security Act of 2002 to make the Assistant Secretary of Homeland Security for Health Affairs responsible for coordinating the efforts of the Department of Homeland Security related to food, agriculture, and veterinary defense against terrorism, and for other purposes. |
| 3/1/2017        | HR 1297      | Bonne Watson Cole-<br>man (D-NJ-12) | To amend the Homeland Security Act of 2002 to make technical corrections to the requirement that the Secretary of Homeland Security submit quadrennial homeland security reviews, and for other purposes.   |

| 3/1/2017   | HR 1294 John Rutherford (R-FL- |                                 | To amend the Homeland Security Act of 2002 to provide for congressional notification regarding major acquisition program breaches, and for other purposes.  |
|------------|--------------------------------|---------------------------------|---|
| 3/1/2017   | HR 1282                        |                                 | To amend the Homeland Security of 2002 to establish Acquistion Review Boards in the Department of Homeland Security, and for other purposes.  |
| 3/1/2017   | HR 1278                        | Adriano Espaillat (D-<br>NY-13) | To amend title 18, United States Code, to require firearm assembly kits to be considered to be firearms.  |
| 3/1/2017   | HR 1272                        | Bobby Rush (D-IL-1)             | To provide for the expeditious disclosure of records related to civil rights cold cases, and for other purposes.  |
| 2/28/2017  | HR 1258                        | Scott Perry (R-PA-4)            | HSA Technical Corrections Act - To make technical corrections to the Homeland Security Act of 2002.   |
| 2/28/2017  | HR 1252                        | Clay Higgins (R-LA-2)           | To amend the Homeland Security of 2002 to provide for certain acquisition authorities for the Under Secretary of Management of the Department of Homeland Security, and for other purposes.   |
| 2/28/2017  | HR 1250                        | Chuck Fleischmann (R-TN-3)      | Combating Terrorist Recruitment Act of 2017   |
| 2/28/2017  | HR 1249                        | Brian Fitzpatrick (R-PA<br>-8)  | To amend the Homeland Security of 2002 to require a multiyear acquisition strategy of the Department of Homeland Security, and for other purposes.  |
| 2/28/2017  | HR 1238                        | David Young (R-IA-3)            | Securing our Agriculture and Food Act -   |
| 2/27/20017 | HR 1236                        | Mike Quigley (D-IL-5)           | 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. |
| 2/27/2017  | HR 1227                        |                                 | Ending Federal Marijuana Prohibition Act of 2017 - To limit the application of Federal laws to the distribution and consumption of marihuana, and for other purposes.   |
| 2/27/2017  | <u>S 461</u>                   | Martin Heinrich (D-             | A bill to allow Homeland Security Grant Program funds to be used to safeguard faith-based community centers across the United States, and for other purposes.   |
| 2/27/2017  | <u>S 446</u>                   | John Cornyn (R-TX)              | Constitutional Concealed Carry Reciprocity Act of 2017  |



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Our government relations practice helps clients advance critical policy priorities with Congress, federal agencies, and state legislatures. Our Capitol Hill experience and track record of successful advocacy for public safety causes is unmatched. Our business strategy consulting practice enables companies to connect innovative products and services with market needs. Through decades of service we have built a deep network of relationships at the local, state, and federal levels.

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