

SEARCH Membership Group Meeting

Government Affairs Update

July 2022
Denver, CO



Hot Hot Summer!



Briefing Overview

- **FY 2023 Appropriations**
- **Firearms Screening**
- **Criminal History Record Use/Management**
- **Policing Reform/Data Collection**
- **Criminal Justice Reform**
- **Technology/Investigative Data**

FY 2023 Appropriations

FY 2023 Appropriations Highlights

- House recommends increased funding for NCHIP, level funding for NARIP
 - House \$135 million for NCHIP/NARIP
 - \$110 million for NCHIP
 - \$40 million above FY 2022 enacted level
 - \$25 million for NARIP
 - Level from FY 2022 enacted level

“The Committee is aware that many State laws and policies provide for the expungement or sealing of certain criminal records [...] but many States do not have the resources for appropriate technology to effectively implement such policies. The Committee urges the Department to ensure that within the funds provided, grants awarded under NCHIP are made available for **supporting the implementation of records systems that allow for the efficient expungement or sealing of criminal history records.**”

FY 2023 Appropriations Highlights

- House CJS Committee Report directs GAO to study:
 - (1) how best to implement a requirement that background checks be conducted for all ammunition sales, including sales by Federal firearms licensees and private sellers;
 - (2) whether, and if so, how, to include any funding required, the National Criminal Background Check System (NICS) could be expanded to included Federal background check requirements for ammunition purchases;
 - (3) how other countries with similar requirements have implemented such policies and their effectiveness at preventing unauthorized access to ammunition; and;
 - (4) what obstacles, if any, have State or local governments encountered in their efforts to implement background checks for ammunition purchasers.”

FY 2023 Appropriations Highlights

- Senate will not follow regular order with FY23 appropriations
 - Public release of funding recommendations
 - Negotiations with House
 - Continuing resolution from Oct. 1 - ???



Firearms Screening

Bipartisan Safer Communities Act

- **June 25, 2022:** President Biden signed BSCA (S. 2938) into law
 - Extended background checks for buyers under age 21
 - Enhanced juvenile criminal history and mental health adjudication checks
 - Enhanced straw purchase penalty
 - Prohibit transport/shipment if reasonable cause to believe recipient is prohibited
 - Close “boyfriend loophole”
 - Authorize Byrne JAG grants for crisis intervention; ERPOs
 - Authorize more \$ for existing school safety grant programs
 - Expand access to community behavioral health centers
 - Enable FFL access to NICS for employee backgrounds and NCIC for stolen guns



House: 294-193

Senate: 65-33




Firearm-Related Legislative Proposals

- Ban ghost guns **FINAL RULE ISSUED**
- Ban assault weapons and high-capacity magazines **HOUSE ACTION THIS WEEK**
- Expanded ERPOs **BSCA**
- Universal background checks **NO ACTION**
- Require firearms owners to report lost/stolen weapons to law enforcement **PARTIAL BSCA**
- Increase penalties for straw purchases **BSCA**
- Bar those convicted of a misdemeanor hate crime from owning a weapon **HEARINGS**
- Close the “boyfriend loophole” **BSCA**
- Close the “Pensacola loophole” **NO ACTION**

Discussions Points for Hill and Administration re: BSCA

- **SEARCH-led briefing document developed during BSCA negotiations is an educational tool**
- **Track impact on SEARCH member operations – quantify where possible**
- **Collaborate with relevant stakeholders**
- **\$40 million in new funding this year – SEARCH members in the spotlight**
- **Regularly update authorizer and appropriator offices**



How are the new requirements impacting your operations?

Where are specific challenges being encountered?

How are you planning to use these new funds to improve contributions of criminal history records to the national system and achieve the law's aims?

Criminal History Record Use & Management

Clean Slate Act

- **Clean Slate Act (S. 1380/H.R. 2864)**
 - Requires “automatic” sealing of certain federal criminal records
 - Establishes new procedures to allow individuals to petition to seal records for other nonviolent offenses that are not “automatically sealed”



HOPE Act

- **Harnessing Opportunities by Pursuing Expungement (HOPE Act) (H.R. 6129)**
 - Grants to reduce the financial and administrative burdens of expunging convictions for cannabis offenses
 - “Automate” the process of expunging convictions for cannabis offences
 - Notification of individuals during expungement process

Marijuana Policy

- **Senate Democrats soon introducing comprehensive cannabis reform legislation**
 - De-scheduling
 - Taxation / new DOJ grant program
 - Expunge federal non-violent marijuana trafficking crimes

Fresh Start Act (H.R. 5651 / S. 3049)

- **Summary**
 - Rep. Trone (D-MD) / Sen. Van Hollen (D-MD) leads; significant bipartisan cosponsorship
 - Grant program for states that have record-sealing or expungement laws to help improve record-clearing infrastructure
- **Discussion points for Rep. Trone's counsel**
 - SEARCH member experiences
 - Expectations vs. realities of “automatic” expungement or sealing
 - Disparate records systems
 - Allowance for retaining expunged data

Policing Reform / Data Collection

Policing Reform

- **President Biden signed executive order on May 25th**
 - DOJ 92 items
 - DHS 35 items



- **Use-of-force data collection and reporting**
- **Officer misconduct database**
- **Accreditation**
- **Grant program leverage (incentives?)**

Policing Executive Order



“Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety”

Signed by President Biden on May 25, 2022

Provisions Relevant to State, Local, Tribal, Territorial, and Campus Law Enforcement and Public Safety Agencies

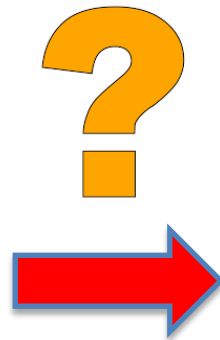
The sweeping May 25th executive order contains dozens of directives requiring executive branch departments and agencies to develop requirements, recommendations, guidance, and studies that will impact state, local, tribal, territorial, and campus law enforcement and public safety agencies in numerous ways. This chart outlines provisions of the executive order that will affect the non-Federal law enforcement community directly or indirectly. It also lists deadlines for each required action if specified in the order.

The full text of the executive order is [linked here](#).

Section	Subsection	Directives to DOJ/other Feds Related to State/Local LE	Deadline
Section 2 – Best	(a) Independent	1. Issue guidance regarding best practices	Unclear (no

Policing Reform

- **What if the House flips after November?**
 - **Republicans will have additional reform/enhancement measures teed up**
 - **Possible limiting provisions in appropriations to prevent implementation of certain EO provisions**



Criminal Justice Reform

Senate Judiciary CJR Package

- **Durbin / Grassley proposal expected soon**
 - Prohibiting punishment of acquitted conduct
 - USMS payment for hearing travel for indigent defendants
 - Extend First Step Act sentencing provisions; sealing/expungement for certain juvenile offenses
 - Crack sentences eligible for retroactivity under FSA
 - Expanded compassionate release for elderly offenders
 - Authorize DOJ IG to investigate misconduct by DOJ lawyers
 - BOP facility security camera and comms upgrades
 - Expanded expungement eligibility - first-time possession
 - Driving for Opportunity Act – incentivize states to stop suspending DLs for unpaid fines & fees
 - Expanded national security authorities

Technology

Digital Evidence

- **Technology in Criminal Justice Act**
 - Training and technical assistance
 - Office of Digital Law Enforcement
 - DOJ tech policy advisory board
- **Prospective bill by Sen. Rick Scott (R-FL)**
 - FTC regulatory authority to drive improved tech platform cooperation with LE
 - Development of reporting metrics on social media policing of illicit content and responsiveness to LE inquiries
 - Require social media platforms to maintain website for LE with relevant information

Data Privacy

- **Consumer data privacy bill pending in the House**
 - **Potential impact on criminal investigations of regulating/prohibiting certain privately generated data**
 - **Biometrics – can anything with a face be shared?**
 - **Full committee markup tomorrow morning**

Investigative Tech / Data

- **Facial recognition**
 - Multiple state bills
 - Multiple federal bills (data privacy bill)
 - Policing executive order: NAS study and reccos
- **ALPR**
 - Federal data privacy bill?
- **Aggregated commercial data**
 - 4th Amendment Not for Sale Act (Wyden)
- **Drivers Privacy Protection Act (DPPA) reform**
 - Tightened access to DMV data; notice required to investigative subject

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Questions

Email Jake to receive the BBM Weekly Update

Ron Brooks

rbrooks@bbm-dc.com

(415) 748-0835

Ben Bawden

bbawden@bbm-dc.com

(202) 257-4173

Chris Moore

cmoore@bbm-dc.com

(925) 989-7230

Josh Ledden

jledden@bbm-dc.com

(202) 550-3733

Jake Schiff

jschiff@bbm-dc.com

(305) 801-1991

Dean Kueter

dkueter@bbm-dc.com

(202) 207-7196

