

# SEARCH Membership Group Meeting

## Government Affairs Update

January 2023  
Seattle, WA



# New Day



# Briefing Overview

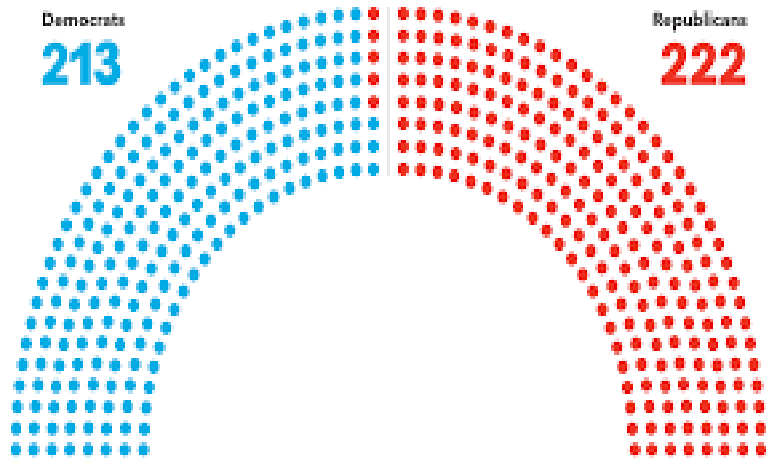
- **The 118<sup>th</sup> Congress**
- **Approps: FY23 Review and FY24 Outlook**
- **Firearms Screening Issues**
- **Criminal History Record Use/Management**
- **Police Reform Executive Order Update**
- **Investigations and Info Sharing Policy**

# 118<sup>th</sup> Congress

# Split

## HOUSE

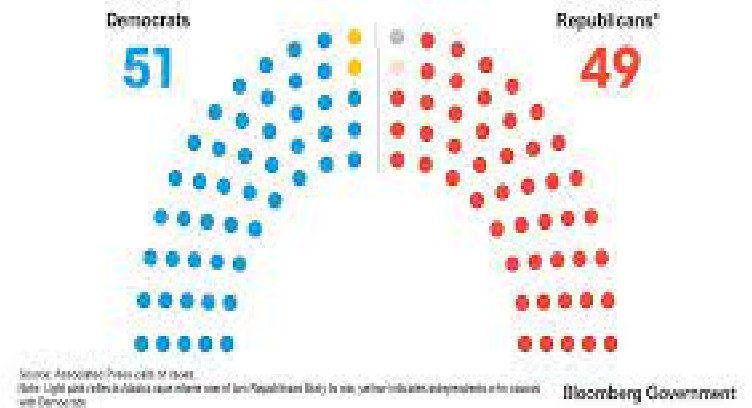
### House Balance of Power



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## SENATE

### Senate Balance of Power for New Congress



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# NO MANDATE

# Changes and Outlook

- **Office buildings open for business!**
- **Oversight vs. bills: positioning and contrast to tee up Election '24**
- **“Regular order” in the House**
- **Committee resources in the Senate**
- **Criminal justice / policing reform**
- **Debt limit and FY24 appropriations**

# Key Committees

- **Senate Judiciary**
  - **Chairman Dick Durbin (D-IL)**
  - **Ranking Member Lindsey Graham (R-SC)**
- **House Judiciary**
  - **Chairman Jim Jordan (R-OH)**
  - **Ranking Member Jerry Nadler (D-NY)**
- **Senate CJS Appropriations Subcommittee**
  - **??? Jeanne Shaheen (D-NH)**
  - **??? Jerry Moran (R-KS)**
- **House CJS Appropriations Subcommittee**
  - **Chairman Hal Rogers (R-KY)**
  - **??? Ranking Member Matt Cartwright (D-PA)**

# 2011 Parallels

- R House / D Senate / D White House
- “Shutdown showdown” in early 2011 vs. “lame duck” omnibus in late 2022
- Debt crisis averted with Budget Control Act of 2011 (August) → sequestration





**FY 2023**

# **Appropriations Review**

# FY 2023 Appropriations Highlights

- **NCHIP: \$70 million (level with FY22)**
- **NARIP: \$25 million (level with FY22)**
- **Plus \$40 million BSCA NCHIP supplemental funds**

“...supplemented through the funds provided in the BSCA pursuant to the spend plan submitted to the Committees on August 9, 2022.”

“the Fix NICS Act allows the Attorney General to waive the NCHIP match for States that are in compliance with the implementation plan required under Section 107 of the NICS Improvement Amendments Act of 2007.”

“the Department is urged to ensure that grants made under the NCHIP can be made available for supporting States in the planning and the implementation of records systems that allow for the efficient expungement or sealing of qualifying criminal history records without requiring those eligible to apply.”

# FY 2023 Appropriations Highlights

- House CJS Committee Report included language directing GAO to study **ammunition purchase** background check implementation feasibility, including whether NICS could be expanded to accommodate those checks.
- **Omnibus agreement did NOT adopt this language.**
- Overall, Democrat-controlled Congress renounced “defund” narrative by increasing funding for some key LE programs

# Select Grant Programs

Program	FY 2021 Enacted	FY 2022 Enacted	FY 2023 Enacted	22-23 %
Byrne JAG minus carveouts	\$360,100,000	\$381,900,000	\$411,500,000	+7.7%
COPS Hiring minus carveouts	\$156,500,000	\$156,500,00	\$224,500,000	+43.1%
COPS Anti-Meth Task Forces	\$15,000,000	\$15,000,000	\$16,000,000	+6.6%
COPS Anti-Heroin Task Forces	\$35,000,000	\$35,000,000	\$35,000,000	-
COPS Technology (earmarks)		\$111,744,000	\$177,800,000	+59%
COPS School Safety	\$53,000,000	\$53,000,000	\$53,000,000	-
Byrne Discretionary (earmarks)		\$184,707,000	\$229,551,000	+24.3%
HIDTA	\$290,000,000	\$296,600,00	\$302,000,000	+1.8%
UASI (*LETP)	\$615,000,000	\$615,000,000	\$615,000,000	-
State HSGP (*LETP)	\$415,000,000	\$415,000,000	\$415,000,000	-
JAG – BSCA Supplemental			\$150,000,000	-
NCHIP-SF – BSCA Supplemental			\$40,000,000	-

# **FY 2024 Appropriations Outlook**

- **President's Budget anticipated late February / early March**
- **House Budget Resolution FY22 starting point**
- **Back to "CUTGO" vs. "PAYGO"**
- **Expired program authorizations?**
- **Subcommittee bills & markups in June/July**
- **September 30???**

# Firearms Screening

# Policy Developments

- **Ghost gun final rule issued last year**
- **Final rule on stabilizing braces issued last week**
- **NICS denial reporting to local LE as of 10/1**
- **Federal support for state ERPO implementation included under BSCA supplemental JAG funding**
- **Boyfriend loophole closed under BSCA**
- **Disqualifying JJ or MH records for 18-21 / 10-day period**
- **Illegal Alien NICS Alert Act on House agenda**
- **Continued proposals to ban assault weapons and high-capacity magazines**

# High-Level Attention

January 5, 2023

## Bipartisan Congressional Visit to FBI's Criminal Justice Information Services Division

On January 5, 2023, FBI Director Christopher A. Wray was joined by DOJ Deputy Attorney General Lisa O. Monaco, Senators John Cornyn (TX), Joe Manchin (WV), Christopher Murphy (CT), Shelley Moore Capito (WV), and Thom Tillis (NC) on a visit to Clarksburg, West Virginia to visit the Criminal Justice Information Services Division (CJIS) of the Federal Bureau of Investigation (FBI).

While in Clarksburg, they received a series of briefings and demonstrations on how the recent changes made to the National Instant Criminal Background Check System (NICS), following the passage of the NICS Denial Notification Act and the Bipartisan Safer Communities Act (BSCA), are protecting Americans across the country. NICS is the FBI's national system that, as required by law, conducts a background check on people in over 40 states and





# **SEARCH Input for the Hill**

- **What are states planning to do with BSCA NCHIP supplemental funds?**
- **Anecdotal input on NCHIP SF collaboration between repositories and court systems in the states?**
- **Challenges with NCHIP SF rounds 1 and 2 plus regular FY23 NCHIP back-to-back?**
- **Anecdotal input on experiences with 18-21 JJ/MH background check?**

# Criminal History Record Use & Management

# Marijuana Policy

- **“SAFE Plus” combined bill fell short in December**
  - SAFE Banking enables cannabis businesses access to banking system
  - HOPE Act authorizes grants for state/local expungement efforts for non-violent marijuana offenses
  - GRAM Act exempts gun ownership restrictions for cannabis users in legalized states
  - Combined package has broad bipartisan support
- **October 2022: POTUS blanket pardon for all federal marijuana possession offenses; marijuana scheduling review by HHS/DOJ**

# Clean Slate Act

- **Clean Slate Act (Rep. Blunt Rochester)**
  - 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”
  - Bipartisan support
  - House Judiciary Committee markup approved September 2022 (20-12 vote)

# Fresh Start Act (Rep. Trone)

- **Summary**

- Authorizes DOJ grant program for states that have record-sealing or expungement laws to help improve record-clearing infrastructure
- Requires state recipients to report re: individuals eligible for expungement/ sealing; number of expungements/seals disaggregated by race, ethnicity, and gender
- Bipartisan support
- House Judiciary Committee markup approved September 2022 (22-13)

- **118<sup>th</sup> Congress version expected to authorize the new program as part of NCHIP (not stand-alone)**

# Second Chance Task Force

- **New bipartisan House task force in the 118<sup>th</sup> Congress**
- **Identify legislative opportunities, educate other members of Congress re: reentry**
  - E.g. “reentry simulation”
- **Co-chairs**
  - Rep. Trone (D-MD)
  - Rep. Rutherford (R-FL)
  - Rep. Blunt-Rochester (D-DE)
  - Rep. Armstrong (R-ND)

# Criminal History Record Issues

- **Possible congressional interest in broader review of CHRI issues**
  - opportunities for improvement
  - identification of best practices
    - Disposition reporting
    - Lack of integration between repositories and reporting agencies
    - Missing transaction control numbers
    - Local agency non-reporting
    - Unstructured data maintained by contributing agencies
    - Personnel shortfalls and turnover in relevant agencies

# Implementation Update: Policing Reform Executive Order



# 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**
- **DOJ accreditation standards**
- **Grant program leverage (incentives?)**

# Policing Reform

- **No path forward for major legislation**
- **Will see stand-alone bills introduced to codify parts of the Executive Order**
- **Unless significant triggering events, D's and R's will continue to renounce "defund"**
  - House budget impact?
  - House R oversight focus on FBI and "weaponization of the federal government"?

# Investigations and Information Sharing

# Digital Evidence Capacity

- **Technology in Criminal Justice Act**
  - Training and technical assistance
  - Office of Digital Law Enforcement
  - DOJ tech policy advisory board
- **VICTIM Act**
  - Grants for local LE to build violent crime investigative capacity
- **Project Safe Neighborhoods Reauthorization**
  - Expand authorized use of funds
- **Justice for All Act**
  - Reauthorize / expand DNA grant programs

# Data Privacy

- **Bipartisan support to rein in “Big Tech” and “surveillance capitalism”**
- **Legislation**
  - American Data Privacy Protection Act
  - Fourth Amendment Not for Sale Act
  - Children and Teens’ Online Privacy Protection Act
- **Regulation**
  - Federal Trade Commission Advanced Notice of Proposed Rulemaking
  - Policing Executive Order implementation re: surveillance and forensic technologies

# Investigative Tools

- **Facial recognition**
  - Facial Recognition Act
  - Ethical Use of Facial Recognition Act
  - Facial Recognition and Biometric Technology Moratorium Act
- **Automated License Plate Recognition**
  - ADPPA (commercial)
  - State bills
- **DNA**
  - Rapid DNA
  - Forensic Genetic Genealogy
- **Ballistics forensics**

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# Questions

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