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## *David Turch and Associates*

### WASHINGTON UPDATE

OCTOBER 20, 2016

#### **JUSTICE DEPARTMENT ANNOUNCES PLAN TO COLLECT USE OF FORCE DATA**

Last week, US Attorney General Loretta E. Lynch announced steps to be undertaken by the Justice Department to enable the nationwide collection of law enforcement interactions with civilians on force data. This initiative is part of the President's Task Force on 21<sup>st</sup> Century Policing recommendations to "collect, maintain and report data... on all officer involved shootings, whether fatal or nonfatal, as well as any in-custody death." This new DOJ mandate is aimed at addressing a gap in the Death in Custody Reporting Act (DCRA), which was enacted in 2014. DCRA requires states and federal law enforcement agencies to submit data to the Justice Department about civilians who die during interactions with law enforcement or in their custody (whether resulting from use of force or some other manner of death, such as suicide or natural causes). The Act authorizes the AG to impose a financial penalty on non-compliant states. The statute, however, does not impose a similar reporting requirement for non-lethal uses of force by law enforcement. The AG's new plan addresses this issue.

According to a DOJ press release, the following steps have been taken:

- J) **National Use-of-Force Data Collection.** At the request of local, state, tribal and federal law enforcement agencies, the FBI has been working with such agencies to develop a National Use of Force Data Collection program. The pilot study will evaluate the effectiveness of the methodology used to collect the data and the quality of the information collected. The FBI is seeking comment from all interested parties, including local, state, tribal and federal law enforcement, civil rights organizations and other community stakeholders. After reviewing and addressing these comments, the FBI will issue a final proposal and plans to begin the pilot data collection program in early 2017. The pilot study participants are expected to include the largest law enforcement agencies, as well as the FBI, Bureau of Alcohol, Tobacco, Firearms and Explosives, Drug Enforcement Administration and U.S. Marshals Service.
- J) **DCRA Compliance.** Earlier this summer, the Department's Bureau of Justice Statistics (BJS) issued a draft proposal outlining its plan for collecting death-in-custody data from state and local law enforcement agencies. The Department is currently reviewing those comments and it plans to issue an updated proposal in the near future.

- J) **Federal Reporting under DCRA.** The DCRA requires federal law enforcement agencies to report information on deaths that occur during interactions with federal law enforcement agencies or in their custody, beginning with Fiscal Year 2016 (FY2016) data. FY2016 ended September 30. The Attorney General has issued a memorandum to federal law enforcement agencies formally notifying them of their reporting obligations under the DCRA and directing them to BJS for further coordination.
- J) **Police Data Initiative (PDI).** The Department’s Community Oriented Policing Services (COPS) Office has assumed leadership of the Police Data Initiative (PDI), a data transparency project initiated by the White House in 2015. Through PDI, participating law enforcement agencies commit to publicly releasing at least three policing datasets, which can include data on stops and searches, uses of force, officer-involved shootings, and other police actions. The PDI currently includes 129 law enforcement agencies, covering more than 44 million people across the country. To assist with this effort, the COPS Office recently awarded the Police Foundation a \$750,000 cooperative agreement through FY2016 funding to support PDI. Over the next two years, the Police Foundation will work with a cohort of approximately 100 law enforcement agencies to develop promising practices for police open data usage, support community engagement regarding policing data and provide technical assistance to law enforcement agencies to collect and publish open data sets.

## **FISCAL YEAR 2016 DEFICIT**

The federal deficit for FY 2016 is \$587 billion. That’s \$148 billion (34%) more than the deficit of \$439 billion accumulated in FY 2015. If there is a silver lining in this number, it rests with the fact that as a percentage of the gross domestic product, the fiscal 2016 deficit is 3.2 percent or about two-thirds lower than in FY 2009, according to the Treasury Department. The Office of Management and Budget (OMB) reports that total receipts to the federal government was \$3.3 trillion with outlays approaching \$3.9 trillion in FY 2016. As a comparison, total receipts for FY 2015 was \$3.2 trillion with outlays of \$3.7 trillion. From the vantage point of the White House, the responsibility for increasing the red ink in 2016 rests with Congress because it enacted business tax cuts in 2015 without offsetting its costs. While that is certainly part of the reason for higher deficit spending in the last fiscal year, the driving force behind our nation’s mounting annual deficits, according to federal budget experts, is entitlement spending on Medicare, Medicaid, Social Security and interest on the public debt. The discretionary, non-entitlement portion of the federal budget which funds day-to-day operations amounts to less than one-third of government spending. Therefore, any serious deficit reduction plan, if it is to make a measurable dent in the size of our national debt, will have to tackle entitlement spending – an issue Congress has thus far proven unable to seriously consider. We will have to wait until next year, with the inauguration of a new White House administration and Congress, to see if the political dynamics on this matter change in any significant way.

## **MANY OF OUR NATION’S DAMS IN STATE OF DISREPAIR**

While much has been written about the troubling state of our nation’s transportation infrastructure – from crumbling bridges, roads and interchanges -- less has been said about the status of our nation’s network of two million dams. The Center for American Progress (CAP) released a timely new report on the status of US dams. The report’s findings are rather bleak. According to CAP, by 2020, at least 65 percent of dams will be more than 50 years old and 27 percent will be more than 80 years old. Thirty-one percent of dams are classified as a “significant” or “high” hazard. One cost-saving measure being advocated by the report’s authors is to dismantle, rather than rebuild, a number of obsolete dams across the country. The arguments presented for such

an action plan centers on the cost of replacing obsolete dams that no longer hold environmental, economic and flood control benefits. Not all dams hold equal value. For instance, there has been an increased awareness through various studies on “the potential environmental impacts of dams, such as fragmented river and water flows, obstructed fish movement and collapse of fish stocks.” The CAP argues that the price tag of maintaining obsolete dams may outweigh their benefit. The report’s conclusion, Congress and the US Army Corps of Engineers need to be smart about the dams we keep and fix and the dams we dismantle.

## **MINI-BUSES VS. OMNIBUS VS. CONTINUING RESOLUTION**

As we close in on a lame duck session in mid-November, House Speaker Paul Ryan is aiming to complete the FY 2017 budget process by enacting mini-buses – clusters of three to four appropriations bills – as opposed to passing one mammoth, multi-trillion dollar omnibus spending package. Speaker Ryan’s strategy, however, may be nearly impossible to implement in light of the severe time constraints imposed by the upcoming congressional calendar. Congress is due back in session on November 14. The federal government is currently operating under a short-term continuing resolution which expires at midnight on December 9. Essentially, House and Senate leaders will have about 15 legislative business days to enact federal spending for the remainder of the fiscal year (through September 30, 2017). So far, only one of the twelve appropriations bills (VA-Military Construction) has been adopted by Congress and signed by President Obama.

With the endemic political divisions racking the House Republican conference, let alone with Congressional Democrats and President Obama, House and Senate GOP leaders will be lucky to pass a spending package that keeps federal agencies operating past December 9. The real question at hand is whether Congress and the White House will be able to agree to an omnibus spending bill, allowing for programmatic and funding changes, or are forced to enact another continuing resolution (CR) that freezes government spending, policies and programs at last year’s level. House Tea Party members are pushing for another short-term spending measure through March 2017 but that position is opposed by a powerful constellation of political players including President Obama, House and Senate Democrats, and a majority of congressional Republicans.

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