

For the International Municipal Lawyer's Association - IMLA's 5 things to know for December 19<sup>th</sup>.

1. The federal Circuit Court of Appeals for the District of Columbia decided an interesting issue the other day in a case that raises a host of questions, some legal, some policy oriented and some political. Several years ago in an effort to catch a person who was making almost daily bomb threats at a school, the FBI profilers believing the person was narcissistic and would seek attention created a fake account appearing to be that of a journalist looking for information about the crime. The criminal fell for it and was apprehended. Somewhat recently, the press became aware of the tactics and also the testimony of then FBI director James Comey who discussed the tactic and incident mentioning a trove of information in the FBI files. Upon a FOIA request the FBI responded we can't find it to which the federal court said try harder. Apart from other issues, to what extent must government search their files for documents in this electronic age? The costs for a search of millions of records can be substantial and in this case to what end – so that criminals will better understand police tactics and resources?

[https://www.cadc.uscourts.gov/internet/opinions.nsf/A5D8CB9C0CF29477852581F700539239/\\$file/17-5042.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/A5D8CB9C0CF29477852581F700539239/$file/17-5042.pdf)

2. In Sitka, Alaska, the city voted to donate \$5000 to the restoration of a replica of the historic Orthodox cathedral lost to a fire in 1966 where the replica has become a focal point in the downtown. The city's attorney concluded that the Establishment Clause would not prevent the contribution under the terms of the donation.

<https://www.kcaw.org/2017/12/15/sitka-attorney-5000-cathedral-donation-passes-church-v-state-test/>

3. In Joliet, Illinois, the city recently considered two text amendments to its laws, one addressing bounce houses and the other electronic message centers or digital signs. Since Reed vs Town of Gilbert drafting sign laws has become more complex and IMLA has worked with communities to try to find solutions to perplexing problems of sign creep and disorder.

<https://buglenewspapers.com/joliet-tightens-rules-regulating-electronic-message-centers>

4. The First Circuit dealt with a case where a young man was arrested for saying he was going to shoot up a school. He was acquitted and sued the city which defended asserting it and its officers had probable cause. The Plaintiff's attorney failed to file a timely response and when judgment was granted sought to have it overturned for excusable negligence. Nope, insufficient reasons in this case. So, a word to the wise, if you want an extension to negotiate – ask the court for time.

<http://media.ca1.uscourts.gov/pdf.opinions/17-1385P-01A.pdf>

5. The Washington Post discussed the "60 Minutes" program on DEA agents' efforts to prosecute McKesson for its role in the opioid epidemic. The blame they claim rests with the attorneys at the Justice Department who didn't want to upset the silk stocking law firms. It's an interesting article and helps identify the groundwork for litigation against McKesson and its principals.

[https://www.washingtonpost.com/investigations/mckesson-dea-opioids-fine/2017/12/14/ab50ad0e-db5b-11e7-b1a8-62589434a581\\_story.html](https://www.washingtonpost.com/investigations/mckesson-dea-opioids-fine/2017/12/14/ab50ad0e-db5b-11e7-b1a8-62589434a581_story.html)

IMLA's distance learning programs are not just for lawyers. The issues discussed inform policies and discussions across the spectrum of local government officials' need to know. Joining IMLA allows members to get up to date training and information on a wide range of legal issues. Sign up at [www.imla.org](http://www.imla.org). Not a member? Contact us. Have a great day and make it an inspirational one.