Committee News Roundup

- If you didn't attend the 2017 NCSL Legislative Summit, Aug. 6-9 in Boston, you can check to see if the session resource documents have been posted.

- The final Considerations and Recommendations Regarding State and Local Officer-Involved Use-of-Force Investigations resource sponsored by the Bureau of Justice Assistance, with generous support of the Global Advisory Committee, the Criminal Intelligence Coordinating Council, and a number of national subject-matter experts was released at the end of August. The document sets forth recommendations and considerations for municipal, county and state law enforcement officials tasked with ensuring accountability for critical use-of-force incidents that result in death or serious bodily injury to any party. It is intended to be used prior to a critical use-of-force incident to identify and implement recommendations, address issues, and better equip agencies to effectively respond to use-of-force investigations. It is designed to follow existing laws, regulations, and statutes, and agencies should review their operating structures to ensure adherence to governing processes as they review the considerations and recommendations identified in this resource.

- The National Public Safety Partnership (PSP) was established in June 2017 under the direction of Attorney General Jeff Sessions in response to President Trump's Executive Order on a Task Force on Crime Reduction and Public Safety, which emphasizes the role of the U.S. Department of Justice in combating violent crime. The PSP will provide a framework for the Justice Department to enhance its support of state, tribal and local law enforcement officers and prosecutors.

- NCSL joined other state and local national associations representing elected officials through the State and Local Legal Center in filing a U.S. Supreme Court amicus brief in the case of Artis v. District of Columbia. The case asks the court the very simple question of what does it mean for a statute of limitations to "toll" under 28 U.S.C 1367(d)? A year after the fact, Stephanie Artis sued the District of Columbia in federal court bringing a number of federal and state law claims related to her termination as a code inspector. It took the federal district court over two and a half years to rule on her claims. It dismissed her sole federal claim as "facially deficient"
and no longer had jurisdiction to decide the state law claims. 28 U.S.C 1367(d) states that statutes of limitations for state law claims pending in federal court shall be "tolled" for a period of 30 days after they are dismissed (unless state law provides a longer tolling period).

- While Artis was waiting for the federal district court to rule, the three-year statutes of limitations on all her state law claims passed. She waited 59 days to refile her claims in state court after the federal district court dismissed her case. Was her claim timely? The District of Columbia Court of Appeals held "no." Under the suspension theory the state statute of limitations freeze on the day the federal suit is filed and unfreeze with the addition of 30 days when the federal lawsuit is dismissed. Under this theory Artis would have about two years to refile her lawsuit in state court. Under the grace-period theory, if the state statute of limitations would have expired while the federal case was pending, a litigant has 30 days from federal court dismissal to refile in state court. Under this theory Artis's lawsuit in state court is time-barred because she waited longer the 30 days to refile in state court.

- The SLLC amicus brief argues in favor of the grace-period theory. As this case illustrates, local governments are regularly sued in cases involving federal and state law claims. The longer the tolling period the greater the costs and burden are on resource constrained local governments. The brief also points out that many states have state law tolling provisions longer 30 days which would be preempted per Artis's interpretation, "despite the fact that state statutes of limitations schemes reflect careful balancing of competing policy concerns that are the province of state legislatures."

- Packingham v. North Carolina isn't all bad news for states trying to restrict sex offenders from meeting minors online. In its opinion, the U.S. Supreme Court gives state legislatures a little advice on how to write such statutes constitutionally. In Packingham v. North Carolina, the court ruled unanimously that a North Carolina law making it a felony for a registered sex offender to access social networking sites where minors can create profiles violates the First Amendment Free Speech Clause. Read more from the NCSL Blog.

- Our State and Local Legal Center will host a Supreme Court Preview webinar at 1 p.m. (ET), Oct. 24. It is rare for the Supreme Court to have such an interesting docket before its new term begins. But it is not rare that the interesting cases include partisan gerrymandering, the travel ban, free speech and free exercise of religion-affect states and local governments. Join Todd Kim, District of Columbia solicitor general, who will argue one of two cases involving the district this term, Ashley Johnson, Gibson Dunn, who co-wrote a merits brief on behalf of Governor Chris Christie in a sports gambling case, and Kevin Daley, Supreme Court reporter for the Daily Caller News Foundation, in a discussion of the most important cases so far for states and local governments to be decide in the Court's 2017 term. Register here.

Please contact your Committee staff, Alison Lawrence in Denver and Susan Parnas-Frederick in D.C., with any questions or needs.