SOCIAL MEDIA – “THE NEED TO ADOPT A POLICY”

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Thank You: John Brose, Perry Township Trustee: allowing me to share their Fire Department policy.

Thank you: Barbara Dean, Program Manager, OhioHealth Emergency Medical Services, Columbus, OH (Cell 614-774-9977) – playing role of “witness” in Mock Trial

See my article: Ohio Township News, Nov / Dec. 2017:

SOCIAL MEDIA – THE NEED TO ADOPT A POLICY
– The Importance Of Educating Fire, EMS, Police And Other Township Employees About Their Limited First Amendment Rights Under The “Balancing Test”

http://ceas.uc.edu/content/dam/aero/docs/fire/Ohio%20Township%20news%20-%20Social%20Media%20article.pdf
Social Media Policy

PTFD has developed a social media policy to address the quickly and ever-changing landscape of the Internet and its usability as a communication tool. Nothing contained in the PTFD’s policy shall be construed as denying employees their civil or political liberties.

Personal Social Media Presence

Employees may express themselves as private citizens on social media sites. Their use of any social media site must comply with copyright laws, data security and privacy regulations, criminal laws, and any other applicable federal, state, or local law.

Privacy and Social Media

Social media and Internet use should not be considered anonymous. Be aware that privacy settings for social media sites are constantly changing and it should not be assumed that personal information posted on such sites is protected. Published social media content may be explored, transmitted, stored, and archived by external entities. Even the strongest privacy settings cannot prevent an approved friend or authorized recipient from independently choosing to forward or report information. In short, there is no such thing as a “private” social media site.

For instance, if PTFD firefighter A has Facebook set so that only friends can view content and posts something negative about PTFD firefighter B, their friends could forward the comments, posts, and pictures to anyone (direct share or screen shots of content), including members of the community we serve. As a result, what was posted could negatively impact the work environment or have consequences in the workplace. Social media postings that relate to coworkers, Township employees, supervisors, management, or activities that occur at work can be taken into consideration when evaluating human resource or equal opportunity investigations and inquiries.

The best advice would be to use the “Headline Test” when posting content or pictures to social media sites. If it is not something you would feel comfortable seeing about yourself or your family in the media or being seen by family and friends, co-workers, supervisors, or management, do not post it.

Speaking on Behalf of PTFD
Only those employees authorized specifically by management may speak on behalf of PTFD. Employees must not mislead or imply that they officially speak for the department or any of its other members.

Identification of Employment on Social Media

Employees using social networking and professional networking sites may decide to include information about their work with PTFD as part of their personal profile as it would relate to a typical social conversation. This may include:

- Work information included in a personal profile to include township name, job title, and job duties;
- Status updates regarding an employee’s own job promotion or other professional or work-related advancements, achievements, and honors; and
- Personal participation in township-sponsored events, including volunteer activities.

Perception

Social media can blur the lines between public and private, personal and professional. Employees identifying themselves as working for PTFD should be aware that they may be creating perceptions about themselves and about the township by customers, business partners, and the general public in addition to perceptions about themselves by co-workers, other township employees, supervisors, and management.

Employees must not represent or speak on behalf of the PTFD on their personal social media sites when not authorized to do so. They must not give the appearance that they are speaking on behalf of the department or posting comments as an official fire department representative on personal social media sites when not authorized to speak on behalf of PTFD. This perception may be avoided by choosing to not post work-related information, featuring themselves wearing PTFD uniform items or apparel with the PTFD logo, public safety patches, or PTFD vehicles on a personal site and/or in profile images. These types of postings could cause people to believe an employee is posting as an authorized department spokesperson, official department representative, or on behalf of the township.

Working Time and Department Resources

Employees should be engaged in department business while at work and on department time. Accessing and posting to a personal social media site while at work or on department time is not appropriate. This activity should be reserved for personal time such as breaks, meals, etc. per the daily schedule.

In addition, employees should not use PTFD e-mail addresses for communication of a personal nature on personal networking sites.

Reposting
Employees may repost official PTFD information and posts to their personal social media sites on their own time using their own devices. This includes department news, events, and information from official PTFD sources.

Confidential or Proprietary Information

Social media postings that contain proprietary images or materials belonging to PTFD are prohibited except where authorized by official designees of the township. This includes, but is not limited to, the following:

- Personal identifying information of individuals
- Restricted township information
- Information about township business development, partnership negotiations and projects, investigations, or procurements

Employees may not disclose information on any social media site that is confidential to PTFD or its employees or that is protected by data privacy laws.

Employees may not post any non-public images of PTFD premises and property, including floor plans.

Personal Use

Employees are prohibited from posting any photographs, video, or audio recordings taken on department property and/or in the performance of official duties (including training, activities, or work specific assignment) that are detrimental to the mission and functions of PTFD, that undermine respect or public confidence in the department, that could cause embarrassment to the department or township, that could discredit the department or township, or that could undermine the goals and mission of the department or township on any networking or internet site.

Employees have no expectation of privacy for any personal communication or information sent or received via PTFD network or devices.

PTFD personnel should expect any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the department at any time without prior notice.

Compliance

As with all other PTFD policies, violation of the social media policy may result in disciplinary action up to and including termination of employment.
SC - White Columbia Firefighter Files Discrimination Suit After Losing Job Over Facebook Posts -
A white Columbia Fire Department captain who was fired from his $53,722-a-year job for making threatening remarks on social media about a Black Lives Matter protest has filed a lawsuit against the city alleging racial discrimination. The remarks by James “Jimmy” Morris were made in two posts on the veteran firefighter’s personal Facebook in 2016. *** Morris posted on his Facebook page, “Idiots shutting down I-126. Better not be there when I get off work or there is gonna be some run over dumb asses.” He also posted, “Public Service Announcement: If you attempt to shut down an interstate, highway, etc on my way home, you best hope I’m not one of the first vehicles because your ass WILL get run over. Period! That is all ...”The next day, city officials fired Morris, who worked at the North Main Street Fire Station. [http://www.thestate.com/news/local/crime/article192621834.html](http://www.thestate.com/news/local/crime/article192621834.html)

10/19/2017


9/27/2017:

PA - Chief Resigns After Labeling Steelers' Tomlin With Slur — A Pittsburgh-area volunteer fire chief has lost his post after using a racial slur to describe Steelers coach Mike Tomlin. Paul Smith of the Muse fire company in Cecil Township wrote on Facebook that he added Tomlin to a list of "no-good" people he describes with the slur. Smith says he was upset that Tomlin had instructed his team to stay in a stadium tunnel instead of standing on the field for the national anthem ahead of Sunday's game against the Chicago Bears. The Cecil Township Board of Supervisors says on its website Tuesday that Smith "is no longer the volunteer fire chief. [http://www.fireengineering.com/ap-news/2017/09/27/chief-resigns-after-labeling-steelers-tomlin-with-slur.html](http://www.fireengineering.com/ap-news/2017/09/27/chief-resigns-after-labeling-steelers-tomlin-with-slur.html)
9/18/2017

OH: Middletown NAACP President Calls For Firing Of Firefighter - Bishop indefinitely suspended Roysdon Sept. 12 after learning of the racially charged comment on Facebook. Roysdon, 20, is facing a disciplinary hearing for conduct unbecoming a township employee before the Franklin Twp. Board of Trustees on Sept. 27, which will be held in closed session, according to township officials. Roysdon indicated in the post that if he had to choose between saving a dog or a black man from a burning building that he would save the dog first because “one dog is more important than a million” and then used a racial slur.


8/16/2017

NM: - [Santa Fe] Police Union Head Placed On Desk Duty Over Facebook Posts – “The head of the Santa Fe police union has been put on desk duty after new information emerged during an internal investigation into rancorous Facebook posts he shared earlier this year, Police Chief Patrick Gallagher said Wednesday. Sgt. Troy Baker came under internal investigation in February when the Santa Fe Reporter published Baker’s posts about transgender people, immigrants and Muslims on his personal Facebook page. One of the posts was a meme with a car running over stick figures with the text, ‘All Lives Splatter. Nobody cares about your protest. Moral of the story... stay off the road!!’ Baker told the Reporter the post was a joke.


8/15/2017

First Responders In Three States Under Investigation For Allegedly Mocking Charlottesville Violence

PA: A Philadelphia firefighter has apologized for an apparently racist photo making light of the protests that turned violent over the weekend in Virginia. Philadelphia firefighter John Deluisi reportedly tagged an African American colleague in a Facebook photo showing Deluisi wearing a hat emblazoned with the Confederate battle flag and holding a tiki torch. ‘Headed to VA,’ the caption read.

MA: In Massachusetts, Springfield police Officer Conrad Lariviere is under investigation after he reportedly commented on a Facebook post about the crash, writing, ‘Hahahaha love this, maybe people shouldn’t block roads.’
KY: Officer Morris Rinehardt has been placed on administrative leave during an investigation into a meme posted over the weekend on Facebook, police said. The Courier-Journal reported Rinehardt posted a meme depicting the damaged vehicle. It read: “When you were born a Challenger but identify as a Ram.”


4/25/2017

IA: Firefighter's Social Media Discipline Stands

The post suggested residents of flood-prone areas find a safe place to stay for the weekend. He added, "If I have to come get you in a boat because you were smarter than the weatherman or too stubborn to leave your property you will get a stern talking to on the boat ride to dry land," adding, "A case of beer may also be requested as punishment for your poor decision."


1/24/2017

CO: Secret Service Agent May Face Disciplinary Action Over Her Ant-Trump Facebook posts — would “not take a bullet” for Trump

1/20/2017

CT: State Police Union: Trooper’s Posts On Sandy Hook “Insensitive, Inappropriate And Offensive”

"Sandy Hook...for you news...for me baggage I was there. I watched as those children were taken from the school stacked like cord wood. I watched Dr. Carver walk through the scene like a butcher through a slaughter house," he wrote.


“BALANCING TEST” – LEGAL LESSONS LEARNED

Note: Cases from FIRE& EMS LAW newsletters – saved in ONLINE BENNETT library; send me e-mail if wish to receive: http://ceas.uc.edu/aerospace/FireScience/fire-ems-safety.html

3/20/2017

U.S. COURT OF APPEALS FOR 4th CIRCUIT: HOWARD COUNTY, MD BATTALION CHIEF TERMINATION UPHELD - REPEATED POSTS IN VIOLATION OF SOCIAL MEDIA POLICY

MARK GRUTZMACHER, Plaintiff, and KEVIN PATRICK BUKER v. HOWARD COUNTY (3 to 0): http://www.ca4.uscourts.gov/Opinions/Published/152066.P.pdf

On January 20, 2013, Plaintiff was watching news coverage of a gun control debate in his office and posted the following statement to his Facebook page while on-duty:

“My aide had an outstanding idea . . lets all kill someone with a liberal . . then maybe we can get them outlawed too! Think of the satisfaction of beating a liberal to death with another liberal . . its almost poetic”

COURT: Just as there is a “public interest in having free and unhindered debate on matters of public importance,” Pickering [v. Bd. of Educ., 391 U.S. 563, 573 (1968), 391 U.S. at 573, “[t]he efficient functioning of government offices is a paramount public interest...”
On Dec. 15, 2016 in Herbert E. Liverman and Vance R. Richards v. City of Petersburg, the U.S. Court of Appeals for 4th Circuit (Richmond, VA) held (3 to 0):

http://www.ca4.uscourts.gov/Opinions/Published/152207.P.pdf

“This case concerns the Department's application of the social networking policy to the following conversation between Liverman and Richards. While off-duty on June 17, 2013, Liverman posted a message to his Facebook page:

Sitting here reading posts referencing rookie cops becoming instructors. Give me a freaking break, over 15 years of data collected by the FBI in reference to assaults on officers and officer deaths shows that on average it takes at least 5 years for an officer to acquire the necessary skill set to know the job and perhaps even longer to acquire the knowledge to teach other officers. But in todays world of instant gratification and political correctness we have rookies in specialty units, working as field training officer's and even as instructors. Becoming a master of your trade is essential, not only does your life depend on it but more importantly the lives of others. Leadership is first learning, knowing and then doing. J.A. 398.

COURT: “Running a police department is hard work. Its mission requires capable top-down leadership and a cohesion and esprit on the part of the officers under the chief's command. And yet the difficulty of the task and the need for appropriate disciplinary measures to perform it still does not allow police departments to wall themselves off from public scrutiny and debate. That is what happened here.”
In an embarrassing verdict for the city of Charlotte, a jury Thursday found the Fire Department retaliated against former fire investigator Crystal Eschert for raising questions about the safety of construction work at a new office building, awarding her $1.5 million.

The jury rejected Charlotte’s claims that Eschert’s firing wasn’t retaliation. It also cast aside the city’s defense that the firing was necessary because Eschert had made what the city said was an offensive and inflammatory Facebook post.

On Aug. 20, 2014, about 10 days after the shooting of Michael Brown set off riots in Ferguson, Mo., Eschert wrote this post on her Facebook page, which was restricted to her Facebook friends:
“White guy shot by police yesterday near Ferguson ... Where is Obama? Where is Holder? Where is Al Sharpton? Where are Trayvon Martin’s parents? Where are all the white guys supporters? So is everyone MAKING it a racial issue? So tired it’s a racial thing. If you are a thug and worthless to society, it’s not race – You’re just a waste no matter what religion, race or sex you are.”

Much of the trial focused on free speech and political correctness. One juror, who asked not to be identified for privacy reasons, said Eschert had a right to speak her mind.

“After reading the post in its entirety, she was expressing the frustrations people had with what was going on in the country. She has a right to do so. I don’t agree with it, but she has a right to do so,” the juror said.

It’s unclear if the city will appeal the verdict to the Fourth Circuit Court of Appeals. It’s likely the City Council and Mayor Jennifer Roberts will discuss in closed session whether the city wants to continue the fight.

City Attorney Bob Hagemann declined to comment on the verdict Thursday, saying “a judgment has not been entered as there are a number of legal rulings that still must be made.”

Maloney said she expects the city to argue the jury’s verdict should be lowered or nullified by U.S. Chief District Judge Frank Whitney. She said the city will be arguing technicalities, and she said she expects “the judgment to follow the verdict.”

After the verdict, Meg Maloney, Eschert’s attorney, called on City Council to stop what she said is a retaliatory culture in the city.

“The city needs to take a hard long look at how it works,” Maloney said.

Fire Chief Jon Hannan was not in the courtroom when the verdict was read. Two of his deputy chiefs, Rich Granger and Pete Key, were there, but they did not speak with the media.

City Manager Marcus Jones couldn’t be reached for comment Thursday.

At the time of the Facebook post, Eschert was a fire investigator who had received good performance reviews.

But she had recently raised questions about the quality of renovations at a building on North Graham Street that was to house her unit. She believed the building wasn’t safe, and she contacted her father-in-law Ray Eschert, a prominent Ballantyne political activist. Eschert then contacted City Council member Claire Fallon, who asked for a tour of the building.

Maloney said Eschert’s decision to go outside the chain of command upset the Fire Department.
Soon after Fallon was contacted, someone named Linda Havery emailed then-police chief Rodney Monroe and Hannan. Havery complained about Eschert’s Ferguson Facebook post, saying it could cause unrest in the community.

Maloney told the jury that Linda Havery doesn’t exist, and was created by someone associated with the city as a way to retaliate against Eschert.

Eschert was fired soon after the complaint.

In its closing arguments Wednesday, Sara Lincoln, an attorney for the city, said Eschert’s job as an arson investigator means she should be held to a high standard. She said because fire investigators must sometimes testify in court, a Facebook post using words like “thug” could make it hard for her to do her job.

“What she wrote was a judgment on human life,” Lincoln said her closing statement.

But the city struggled to explain why Eschert was fired for her post, while firefighters made a number of other questionable social media posts with little or no discipline.

One was a meme that made fun of the names that some black women give to their children. Another showed a photo of Daquan Westbrook, who was shot and killed inside a Northlake Mall store by police in December. The posting showed his corpse lying on the floor, and said he was a “Black Lives Matter Thug.”

None of those employees was terminated.

Maloney said that if Eschert should be held to high standards, so should firefighters.

“Firefighters come into people’s homes,” she said Wednesday.

Lincoln said one reason that the posts were different is that Eschert made hers soon after the riots in Ferguson, at a time when Charlotte was worried about similar unrest.

She also said that the person who emailed the posts to city officials and the media wasn’t complaining about the content and didn’t seem offended. That differed from the person who emailed the city about Eschert’s Facebook post. That person, Linda Havery, said the post could cause racial unrest.

“Ferguson wasn’t on fire,” Lincoln said about the other posts.

Lincoln said Maloney offered no proof that anyone associated with the city is Linda Havery. She also said the email was sent from a non-city computer.
Lincoln also said that Eschert’s claims there were safety problems at the renovated building on North Graham Street were wrong. She portrayed Eschert as a disgruntled employee who wanted a nicer office – not a legitimate whistleblower.

The city got one win on Thursday. The jury found Eschert wasn’t discriminated against because she was a woman – only because she was a whistleblower.