



CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

Public Sector, Labor and Employment Law

535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
412-395-1280

One Belmont Avenue, Suite 605
Bala Cynwyd, PA 19004
610-227-2591

Plain View Project Social Media Scandal Calls For Immediate Action

By: Patrick J. Harvey, Esquire and John P. McLaughlin, Esquire

Scores of Municipalities across the Commonwealth are being called by reporters and asked to comment on offensive police officer social media posts including posts encouraging vigilantism, racist postings, anti-gay and anti-Muslim postings. Spurred on by the work of the Plain View Project (<https://www.plainviewproject.org>), which resulted in over 72 Philadelphia officers being suspended and 13 fired due to offensive social media posts, reporters are reviewing and reporting on inappropriate social media postings by police officers.

The potential reach of this issue was highlighted last week when 22 law enforcement agencies in Montgomery County received press inquiries regarding the social media posts of their officers. The resulting article cited social media posts from 32 Montgomery County police officers. The posts included an officer in blackface and an officer advocating shooting and killing unfit parents.

The publication of the objectionable posts and the resulting public outcry can cause more than just embarrassment for the officer, his or her family, and the municipality involved. Offensive social media postings can not only potentially cause liability in civil rights suits, but also can cause officers to be unable to testify or to be challenged as biased, prejudiced or pre-disposed to violence when testifying in criminal court. Inappropriate social media postings can also do great damage to the reputation of a police department and the relationship that exists between that department and the community.

Campbell Durrant has been retained by multiple municipalities to review and/or investigate potentially offensive social media posts so that appropriate corrective action is taken. The social media posts range from inappropriate to totally repugnant. The posts often necessitate some form of disciplinary action depending upon the severity of the offensive posts.

Municipalities should not be caught flat footed, waiting and hoping that the next phone call is not from a reporter asking about reprehensible social media posts. Municipalities instead should be proactive in implementing the below recommended steps to avoid liability and to take appropriate corrective action when offensive posts are discovered.

1. **Policy Review/Update**: Review and update your social media and technology usage policies. If your municipality does not have these necessary policies, then such policies should be promptly drafted. The policies should highlight the higher standard of conduct

for uniformed personnel and inform all employees, particularly uniformed personnel, that offensive social media posts are prohibited and can lead to discipline.

2. Re-publish the Policy: You should send out a memo to all employees and especially police officers, re-publishing your policy and reminding law enforcement personnel that any offensive posts including those that show bias or a proclivity for the use of lethal force, violence or vigilantism will result in appropriate discipline.
3. Updated Training: The need for updated social media/technology usage training is apparent based upon the Plain View Project, continuing social media scandal press coverage and the numerous calls we are receiving on a daily basis regarding offensive social media posts by police officers and other public employees.
4. Proactive Review: Periodic review of the public social media posts of all of your employees is also advisable. This can be done by using internal resources or a third party contractor. This review should be limited to public posts so that your municipality does not run afoul of privacy laws. The Plain View Project and the press are conducting such reviews, as are plaintiff and criminal defense attorneys in cases involving your officers. It is preferable that your municipality discover and correct any social media abuse first.
5. Investigate Incidents Promptly: Investigation of questionable postings should be prompt, thorough and act as the basis for any necessary corrective disciplinary action. While the actual post or posts are a focus of the investigation, comments relating to a post by fellow officers or the officer who made the post can be just as problematic.
6. Corrective Action: Municipalities should review any offensive social media posts with labor counsel so that a thorough review can be conducted and appropriate remedial and corrective action taken.

Campbell Durrant remains available to assist your municipality in implementing these necessary steps including performing investigations, drafting and updating social media policies, conducting social media training and advising on appropriate corrective action.