

Perceptions, Pitfalls, and Policies

Social Media and First Responders

Lake Travis Fire Rescue
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PURPOSE

To help leaders understand how social media affects reputation, operational risk, and legal exposure, and how to implement smart policies that protect personnel and the organization.



Why Social Media Matters



- Social media influences public trust and organizational reputation
- Support recruitment, transparency, and community outreach
- Preparedness education year-round
- Real-time emergency messaging

Social Media's Power and Risk



Benefits

- Brand building
- Education & awareness
- Recruitment
- Cost-effective

Risk

- Viral controversies
- Policy gaps
- On/Off-duty conduct posted on social media
- Privacy and HIPAA

What if social media is done right?



- Highlight mission & culture
- Showcase training & community engagement
- Community interaction and relationship building
- Helps with recruitment
- Informs and educates the public

What if something goes wrong?



- Damage to reputation
- Loss of trust
- Operational disruptions
- Legal exposure
- Digital footprints are forever

Social

Media

Pitfalls

Pitfalls are common mistakes made by first responders and agencies on social media, including off-duty posts, scene photos, and unclear boundaries between personal and professional accounts that can lead to reputational damage, disciplinary action, or public mistrust.



Practical Pitfalls Seen in Fire/EMS



DETROIT

Suit: Detroit firefighters who took 'selfie' at burning house 'grossly negligent'



Mark Hicks

The Detroit News

Published 11:36 p.m. ET June 17, 2020 | Updated 6:14 a.m. ET June 18, 2020

[View Comments](#)



The owner of a southwest Detroit house where firefighters posed for a photo as the structure burned on New Year's Eve is suing the department and city, claiming they were "grossly negligent" and failed to properly perform their duties.

According to the lawsuit filed Tuesday in Wayne County Circuit Court, the South Green Street home had been in Deonte Higginbotham's family for more than 50 years and was undergoing "large-scale" renovations totaling least \$100,000.

"At no time relevant to this matter was the Green family residence ever abandoned or vacant, (a) fact known and ignored by the Defendant firefighters," the filing stated.

Staying warm this morning. District 20.



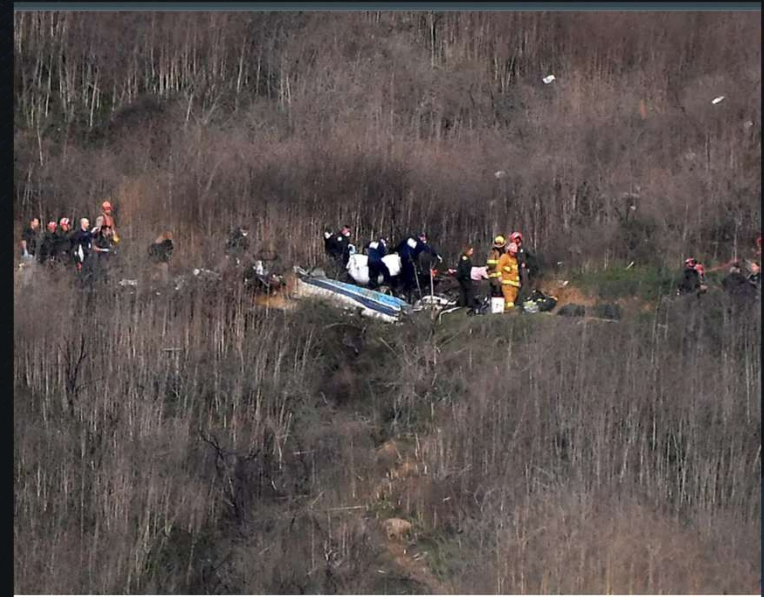
click2houston.com

Practical Pitfalls Seen in Fire/EMS



Vanessa Bryant Settles Helicopter Crash Photos Lawsuit for \$28.85 Million

Bryant, the widow of the basketball star Kobe Bryant, sued Los Angeles County after some of its employees shared graphic photos of the crash that killed her husband and one of their daughters.



Practical Pitfalls Seen in Fire/EMS



A 'sick, juvenile' game: Florida paramedics snapped selfies with unconscious patients for fun, police say



By Ben Guarino

July 22, 2016 at 5:41 a.m. EDT



FELONY CHARGES

This goes beyond department policies and disciplinary actions.

Dubois has been charged with a third degree felony for two counts of interception and disclosure of oral communications. She was arrested in Navarre, Fla., on Thursday morning. Wimmer, who Okaloosa authorities say turned himself in later that afternoon, faces the same charge — on seven counts — plus misdemeanor battery.

Social Media Policies

Clear, consistent social media policies set expectations for employee conduct, define official versus personal use, and help protect the organization, its personnel, and public trust in a digital-first environment.



What a Good Policy Should Do



- Define official accounts and role holders
- Clarify expectations for personal posts
- Provide examples of prohibited conduct
- Describe consequences clearly and enforce them
- Have your attorney review your policy

Training and Awareness



- Regular policy briefings
- Enforcement of policies
- Scenario-based training (what posts go wrong?)



NEW AT 10

CAPT. DAN COWSERT
ST. ANN POLICE DEPT.

10:03
59"



Social Media and the Law

This section outlines the legal landscape that governs social media use by public employees and agencies, with a focus on First Amendment protections, employer rights, and evolving case law.



Foundational Case Law: Pickering v. Board of Education (1968)



Facts of the Case: A public school teacher Marvin Pickering wrote a letter to a local newspaper criticizing the school board's handling of bond proposals and allocation of funds between athletics and academics. The board fired him, claiming the letter contained false statements and harmed the school system's interests, and Illinois courts upheld the dismissal. The U.S. Supreme Court reversed, holding that Pickering's letter was citizen speech on matters of public concern and that the board had not shown sufficient disruption to justify his termination.

Foundational Case Law: Pickering v. Board of Education (1968)



Rule

- Applies when an employee speaks as a **private citizen** on a matter of public concern.
- Courts weigh the employee's free-speech interest against the government's need for efficient, disciplined, and trusted operations.
- Speech that is purely personal (workplace gripes) or highly disruptive gives the employer much more room to discipline.

Foundational Case Law: Pickering v. Board of Education (1968)



Fire/EMS Example

- A firefighter posts on a personal Facebook page, off-duty, criticizing a proposed county tax rate or statewide emergency-response funding model; that is citizen speech on a public concern, so the Pickering balancing test is likely to apply.
- A firefighter posts a personal rant naming supervisors and accusing them of being “idiots” about the shift schedule; that looks more like an internal personnel dispute than a public policy issue, making it less likely to be protected as “public concern” speech.

Foundational Case Law: Pickering v. Board of Education (1968)



BOTTOM

LINE

- Public employee speech on matters of public concern may be protected.
- Courts balance employees' speech interests against the employer's need for efficient services.
- Used to evaluate discipline over social media posts.

Foundational Case Law: Pickering v. Board of Education (1968)



BOTTOM

Even when a post addresses a public concern, such as criticism of department leadership or response tactics, discipline may still be appropriate. This is especially true if the post can be shown to damage public trust, seriously disrupt workplace operations, or weaken the teamwork and close working relationships needed for safe and effective emergency response.

Supreme Court Update: Lindke v. Freed (2024)



Facts of the Case: U.S. Supreme Court looked at whether a public official can be sued under the First Amendment for blocking someone on social media. Kevin Lindke had criticized Port Huron, Michigan's city manager James Freed on Freed's Facebook page. Freed deleted some of Lindke's comments and blocked him from the page. Lindke argued this violated his free-speech rights because Freed's page included government-related posts.

Supreme Court Update: Lindke v. Freed (2024)



Rule

1. The official has actual authority (by law or custom) to speak for the government on that subject, and
1. The official is using that authority in the specific social-media interaction (post, comment, blocking, etc.).

Supreme Court Update: Lindke v. Freed (2024)



Fire/EMS Example

- A chief's account used routinely for official announcements, where the chief is authorized spokesperson, will likely be treated as an official account when blocking comments.
- A line firefighter's personal Instagram, even if it mentions the job, usually is not government action because the firefighter lacks authority to speak for the department.

Supreme Court Update: Lindke v. Freed (2024)



BOTTOM LINE

- Public officials' social media actions are subject to the First Amendment only if:
 - They actually had the authority to speak for the agency, and
 - They exercised that authority with social media interactions.
 - Authority must be actual, not implied or assumed
- This clarifies when an official's account is treated as government speech vs. private speech.

Foundational Case Law: O'Connor-Ratcliff v. Garnier (2024)



Facts of the Case

- School board members used public Facebook/Twitter pages to discuss school business and blocked persistent critics; the critics sued for First Amendment violations.

Foundational Case Law: O'Connor-Ratcliff v. Garnier (2024)



Outcome after Lindke

- The Supreme Court vacated the earlier decision and told the lower court to apply the Lindke two-part test for state action.
 - Do they have the actual authority to speak for the government entity?
 - Do they use that authority when posting on PERSONAL social media?

Foundational Case Law: O'Connor-Ratcliff v. Garnier (2024)



BOTTOM LINE

Accounts that are heavily used for official business and presented as official, run by people who are authorized to speak, are likely to be treated as government accounts when they block or delete comments.

Foundational Case Law: Hedgepeth v. Britton (2025)



Facts

- A high school teacher with prior discipline history posted inflammatory comments about racial protests on her personal Facebook; the district fired her; she claimed First Amendment protection.

Note: The teacher was suspended twice for earlier misconduct in the classroom, both times for using profanity with students

Foundational Case Law: Hedgepeth v. Britton (2025)



The court applied the Pickering balancing test.

- Was the public employee's speech on matters of public concern?
- Does the speech shown to damage public trust, seriously disrupt workplace operations, or weaken teamwork?

Ruling

The district's interests (avoiding disruption, protecting students, and preserving public trust) outweighed her speech interests, especially given her prior discipline.

Foundational Case Law: Hedgepeth v. Britton (2025)



Fire/EMS Example

- An off-duty firefighter posting memes that appear to endorse violence or show contempt for parts of the community.

Can they be disciplined if those posts?

Answer: Probably

Foundational Case Law: Hedgepeth v. Britton (2025)



Lessons from [Hedgepeth v. Britton](#)

- Posts that encourage violence will be less likely to receive First Amendment protection than posts that offer opinions on political issues.
- Posts from teachers, police officers, and other public-facing positions of trust will be less likely to receive First Amendment protection than those from employees with little public interaction.

First Amendment Protections



- The employee must speak as a citizen, not pursuant to official job duties.
- The speech must involve a matter of public concern (a political, social, or community issue), not just a personal workplace grievance.
- If both are true, the court applies the Pickering balancing test
 - The employee's speech rights are weighed against the agency's interest in efficiency, discipline, and workplace effectiveness.

First Amendment Protections



- **Balancing Test**

- Did the speech disrupt the government's operations?
- Did the speech create problems in maintaining discipline or harmony among co-workers?
- Is the employment relationship one in which loyalty and confidence are necessary?
- Does the speech impede the employee's ability to perform their responsibilities?

Employee Discipline & Speech:



Court Outcome:

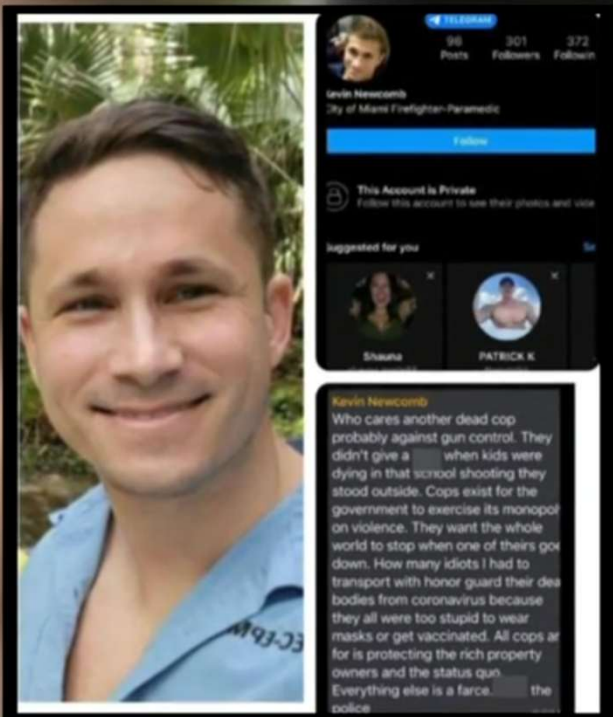
The court(s) generally support a department's decision to discipline an employee, IF the court finds the social media posts hurt public trust, harmed the department's reputation, and made it harder for the firefighter (first responder) to do their job effectively in the community.

Fire Law Blog: Curt Varone



Off-duty social media activity can still justify discipline when it compromises public confidence, operational effectiveness, or the agency's mission, even when posted from a personal account.

Try the balancing test...



“ Who cares? Another dead cop, probably against gun control. They didn't give an [expletive] when kids were dying in that school shooting they stood outside. Cops exist for the government to exercise its monopoly on violence. They want the whole world to stop when one of theirs goes down. How many idiots I had to transport with honor guard their dead bodies from coronavirus because they all were too stupid to wear masks or get vaccinated? All cops are good for is protecting the rich property owners and the status quo. Everything else is a farce. [Expletive] the police.”

Summary & Key Takeaways



- Social media is powerful, but can be risky
- Legal landscape continues to evolve
- Strong policy + training = protection and clarity
- Leadership sets the tone for policy, enforcement, and culture.

Questions

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Contact Info

