

CONNECT



MMA ANNUAL CONFERENCE 2025

Tips for Public Officials: Navigating Politically Contentious Legal Matters

Jeffrey J. Trapani, Esq.



David Dowd, Jr., Vice President of Claims
Andrew Weiner, Esq., Senior Counsel



Agenda

Introduction

The Issues, Incidents or Events

Response Toolbox

Litigation

Insurance Considerations

Introduction

The 24-hour news cycle craves content and often focuses on issues, events and incidents arising from interactions with local government such as:

- Allegations of discrimination by government officials
- The use of excessive force by police officers
- Restrictions on Free Speech
- Misconduct or bullying in schools

Municipal leaders are often caught between the public's demand for immediate answers and the many considerations that are required to address and speak on these issues.

Our goal: provide municipal leaders with tools to respond to such events.

The Issues, Incidents or Events



What Kind of “Things” Will You Have to Address?

SCHOOL CURRICULUM

POLICE USE OF
FORCE

MASKS

VOTING ACCESS

SEX ABUSE IN SCHOOLS

FREE SPEECH

FINANCIAL FRAUD

CRIME

BULLYING/HAZING

EMPLOYMENT DISCRIMINATION

Why are these charged issues?

- May implicate constitutional or state rights of residents and others
- May result in the loss of employment of a government official or employee
- May affect budgetary concerns
- May involve children or the education of children

- May be a challenge to what is perceived to be government overreach
- May challenge whether the government is being transparent or open
- May be a formal demand or presentment letter
- And the catchall – it may result in future litigation

Response Toolbox



Don't Take These Actions

- 1.** Release information protected by public records laws, privacy laws, policies, attorney-client privilege etc.
- 2.** Issue internal or external statements without knowing the facts.
- 3.** Purge any documents or things relating to the issue, even if regularly scheduled
- 4.** Other actions to avoid.



Actions to Consider

1. Review and implement mandatory actions under existing policies:

- Place individual(s) on leave
- Conduct an investigation
- Provide notice to appropriate stakeholders (other employees, law enforcement, state agencies, insurance, legal counsel)
- Acknowledge the issue and consider/promise further comment

2. Considerations for the response – uniformity; consistency; proportional; tone; adherence to policies and procedures

3. Secure information and documents

4. Engage third party resources:

- Public relations, investigators, attorneys, specialized counselors

5. Concurrent investigations – certain incidents may implicate the jurisdiction of the state or two or more municipal departments. Who acts? Does one defer to another?

6. Internal communications:

- Executive session
- Attorney-Client and Litigation Privileges
- Communications within the municipal government



Litigation

- **Notice of lawsuit or claim**
- **Communications following a formal claim or notice of lawsuit**
- **Fact gathering**

Do:

- Secure and preserve all potential evidence and contact information
- Maintain narrow communication channels
- Channel all communications through an attorney

Don't:

- Litigate in the Court of public opinion
- Destroy evidence
- Use retaliatory actions against an employee who has filed suit or claim
- Issue a statement to the media without having it reviewed by counsel (even if the statement is prepared by a public relations firm)

Insurance Considerations

- **Notice/reporting to your insurer**
- **What to expect from your insurer**



Final Tips and Takeaways

- Understand the factual issues and participants
- Identify the issue from the municipality's perspective
- Carefully consider any statements to the media
- Consult any relevant policies or procedures
- Contact counsel or city solicitor
- Provide information to decision-makers
- Inform your insurer



THANK YOU

