



It's federal law, YOU are now Personally Liable for Social Media Policy and Training Gaps

Case In Point

Liverman v. City of Petersburg, 844 F3d 400
Police Chief Affidavit (Filed 10/27/14, Page 1 of 3)

Police Chief Believed Facebook Posts Violated Social Media Policy

Police Chief: “I believed the statements made by both Liverman and Richards on Facebook caused or had the potential to cause certain problems for the Department. These included: Operations Command would or had to devote special attention to support younger supervisors in acting sergeant positions because of the Facebook comments discrediting and demeaning them, especially saying that they would get officers killed. The Department was concerned with divisiveness among patrol officers.”

Court Disagrees, Holds Chief Personally Liable For Vague Policy (No Qualified Immunity)

The U.S. 4th Circuit Court Of Appeals: “We agree that officials are not liable for bad guesses in gray areas, and do not expect (police chiefs) to be judges and to have the training to sort through every intricacy of case law.” But, this case does not involve gray areas: the right against such a sweeping prior restraint on speech was clearly established and then some. Indeed, it is axiomatic that the government may not ban speech on the ground that it expresses an objecting viewpoint. Accordingly, there can be no doubt that prohibiting any “negative comments on the internal operations of the Bureau, or specific conduct of supervisors or peers”- even of great public concern-violates the First Amendment. We appreciate the need for order and discipline in the ranks (recognizing that greater latitude is afforded to police departments officials in dealing with dissension”). At the same time, we cannot countenance an arm of government with such enormous powers being removed to this extent from public scrutiny. This is not an all-or-nothing matter; there is a balance to be struck. But, the Department’s social networking policy, and the disciplinary actions taken to enforce it, lean too far to one side. We therefore hold Chief Dixon is not entitled to qualified immunity.”