

# law enforcement action forum

## Newsletter

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By Matt Heins, Law Enforcement Action Forum Coordinator

Risk Reduction Strategies and Best Practices

### PERSPECTIVES ON: LEADERSHIP

#### Social Media Policies and Management

Police departments today operate under constant public visibility, making it essential for police chiefs to establish clear and legally sound social media policies. A well-crafted policy protects the department's reputation, ensures compliance with Michigan and federal law, and balances employee rights with the need for compliance and public trust.

Public employees, including police officers, retain First Amendment rights; however, those rights are limited.

Federal case law makes clear that speech made as part of official duties is not protected, and off-duty speech may be restricted if it interferes with the effective functioning of the department, impairs harmony among members of the department, interferes with operations of the department, or undermines the department's mission.

Departments should clearly define what employees may post. Officers should be permitted to express personal opinions as private citizens on matters of public concern, provided they do not present themselves as speaking on behalf of the department. Lawful off-duty expression that does not interfere with operations should generally be allowed.

At the same time, policies must prohibit certain content. Employees should not post confidential or non-public information, including details of investigations, victims, or law enforcement tactics. For example, posting crime scene photos, sharing body

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camera footage without authorization, or discussing ongoing cases online would be strictly prohibited. Content that reflects bias, discrimination, or hostility must also be prohibited, such as derogatory comments about protected classes or inflammatory statements that call into question an officer's impartiality. Additionally, posts that impair discipline or erode public trust should be restricted.

The unauthorized use of department insignia, uniforms, or branding—such as posting in uniform while making political endorsements or implying official support—should also be clearly addressed.

Equally important is how departments manage their official social media accounts. These platforms are considered government-controlled spaces, allowing agencies to regulate content within constitutional limits. Departments may post public safety alerts, crime prevention information, community outreach material, and official announcements.

Moderation must be handled carefully. Agencies may remove comments that include threats, obscenity, personal identifying information, or spam, provided those rules are applied consistently and are viewpoint neutral. However, comments cannot be deleted solely because they criticize the department or its leadership. Any moderation policy should be clearly posted and consistently enforced.

A comprehensive social media policy is a critical leadership tool that helps police chiefs guide employee conduct, protect constitutional rights, and maintain transparency and public trust in an increasingly digital environment.

## **LESSONS LEARNED: Protecting Lives Includes Your Own!**

### **Why Officers Should Not Enter Burning Structures**

Officers are often the first to arrive at emergency scenes, including structure fires. While their instinct is to protect and save lives, entering a burning building to perform a rescue is an extremely dangerous action for which they are not trained or equipped.

Firefighting and interior rescue operations require specialized training in fire behavior, building integrity, and survival in rapidly changing, high-risk environments. A burning structure presents hazards such as toxic smoke, extreme heat, disorientation, flashover, and structural collapse. Without proper protective equipment—such as turnout gear and a self-contained breathing apparatus—officers face an immediate and serious risk of injury or death.

Additionally, MIOSHA requires appropriate personal protective equipment for anyone entering hazardous atmospheres, which officers do not carry. Entering without this protection not only violates safety standards but significantly increases the likelihood of officers themselves becoming victims.

If an officer becomes injured or trapped during an attempted rescue, fire personnel must divert resources from the original rescue to save the officer, delaying aid to initial victims and increasing overall operational risk.

Departments should implement clear policies directing officers to support fire scenes safely while prohibiting entry into a hazardous atmosphere. Support roles include evacuating occupants from safe areas, securing the scene, and assisting arriving fire crews.

Recognizing these limitations protects both officers and the public while ensuring rescues are performed by properly trained professionals.

## RECENT COURT DECISIONS

By Dave Sperry

### ***Grady v. Cratsenburg***

US Sixth Circuit Court of Appeals, 2023

Washtenaw County Sheriff's deputies responded to a shots fired call shortly after midnight on May 26, 2020. Deputies found one gunshot victim at the scene who told officers that her shooter fled into a nearby home, but she was unsure if the shooter was still there. Sergeant Cratsenburg arrived on scene and positioned officers around the home as a perimeter and attempted to contact the home's occupants.

The Gradys, whose daughter owned the home in question, arrived at the scene and began recording the incident with their cell phones from inside the perimeter established by the officers. Sergeant Cratsenburg told the Gradys filming was fine, but they needed to move back. Officers gave the Gradys over a dozen verbal commands to move back and informed them they would be arrested if they failed to comply.

While waiting for a warrant to enter the home to be obtained, officers arrested the Gradys. Officers walked by a number of individuals who were also filming the incident, but from behind the perimeter set up by police, to arrest them. During her arrest, Mrs. Grady accused Sergeant Cratsenburg of arresting her for reminding the officers of their oath of office.

The Gradys brought several state and federal claims against the arresting officers, including a First Amendment retaliation claim. The district court granted summary judgement to the officers on all but the First Amendment claim. While the court found that the officers did have probable cause to arrest the Gradys for failing to move beyond the perimeter set around the home, it held that their claim could proceed under the *Nieves* exception, as the Gradys had presented objective evidence that similarly situated individuals not engaged in protected speech were not arrested.

#### **Sixth Circuit Court Findings:**

The Sixth Circuit reviewed and confirmed the district court's finding that officers had probable cause to arrest the Gradys. In its review of the *Nieves* exception, the circuit court noted that the only example of similarly situated individuals offered by the Gradys were the neighbors standing in the yard across the street from the home officers had surrounded. The court held that, because the neighbors were also filming the incident, they were engaged in First Amendment conduct, just as the Gradys had been. Additionally, the court held that because these neighbors were all standing outside of the perimeter set up by police and did not receive any commands to move beyond the perimeter, they were not, in fact, similarly situated to the Gradys and therefore, the *Nieves* exception did not apply.

The district court's denial of summary judgement was reversed and the case was remanded.

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## **Sligh v. City of Conroe, Texas**

US Fifth Circuit Court of Appeals, 2023

In July 2018, 9-1-1 received a call from Ms. Sligh's partner, who stated that Ms. Sligh was suicidal, had harmed herself and left their house on foot. The caller requested an ambulance and indicated Sligh was unarmed and not a violent person.

Two officers, along with a K9 police dog, located Sligh and attempted to assess her condition. Bodycam footage shows that Sligh moved toward one of the officers, who ordered her to stop walking toward the officer or the K9 dog will bite her. The other officer ordered Sligh to place her hands behind her back. Sligh resisted him and a struggle ensued. Sligh broke free from the officer and the K9 officer released the dog and gave a "bite" command.

Sligh fell to the ground and the K9 officer commanded the dog to "release" eight seconds after giving the "bite" command. The K9 did not release immediately. Thirty-six seconds after the "bite" command, the officer attempted to pull the dog off her. He got the dog off Sligh after 64 seconds. Sligh was then arrested.

Sligh brought an excessive force claim, a failure to intervene claim, a *Monell* liability claim, and various failure-to-accommodate claims under the ADA.

The district court granted summary judgement to all defendants under qualified immunity.

### **Fifth Circuit Court Findings:**

The Fifth Circuit first analyzed the excessive force claim according to the factors under *Graham*. The court found that two factors weighted in favor of Sligh: the severity of the crime at issue and whether the suspect posed an immediate threat to the safety of officers or others. While the court did find that the factor of actively resisting arrest or attempting to evade arrest by flight weighed against Sligh, it held that the decision to command the dog to bite Sligh was an excessive use of force under the Fourth Amendment.

The court stated that after Sligh broke free from one of the officers, a more measured escalation of the use of force could have been employed, or the officers could have provided a clear warning that they would employ a dog bite if Sligh did not comply. Instead, the dog was sicced on Sligh without warning.

However, after analyzing whether the constitutional rights in question were clearly established, the court found that the precedent offered by Sligh was not applicable in this case and granted the officers qualified immunity.

The court also upheld the dismissal against the municipality for *Monell* liability, as the policy in question offered by Sligh was not related to the actions of the officers.

The court upheld the dismissal of claims under the ADA as Sligh presented no evidence that she requested an accommodation or that her disability and limitations were known to the city.

## **LEGAL INSIGHTS**

### **Exigent Circumstances**

No warrant? Then check yourself before you enter that house.

If consent to enter or exigent circumstances don't exist, a warrantless entry into a residence to make a routine felony or misdemeanor arrest is a violation of the 4th Amendment.

As for exigent circumstances, there must be evidence that shows an emergency – such as imminent harm to others, a threat to officers, destruction of evidence or escape from the home.

Further, when assessing exigency, the courts scrutinize the severity of the crime – if it is only a misdemeanor, the court will require additional evidence to satisfy the exigent circumstances requirement.

Ask yourself, why am I going into this home?

**By Audrey Forbush  
Plunkett Cooney**



## **MIOSHA MOMENT**

### **Summer is Here—So are Heat-Related Workplace Risks**

**By Frank Demers**

MIOSHA requires employers to take proactive steps to protect workers exposed to high temperatures. When the heat index exceeds 80°F, cooling areas or shade must be provided. At 90°F or higher, enhanced precautions are required, including access to potable drinking water, adequate cooling or shaded areas, and scheduled rest breaks based on workload and conditions.

Employers must also develop a written Heat Illness Prevention Plan (see [LEO - Heat](#)), train employees to recognize symptoms, and establish emergency response procedures. Ongoing monitoring of weather conditions and heat index levels is essential to guide protective actions.

By prioritizing awareness, preparation, and early intervention, employers can significantly reduce heat-related hazards and maintain safer working environments.

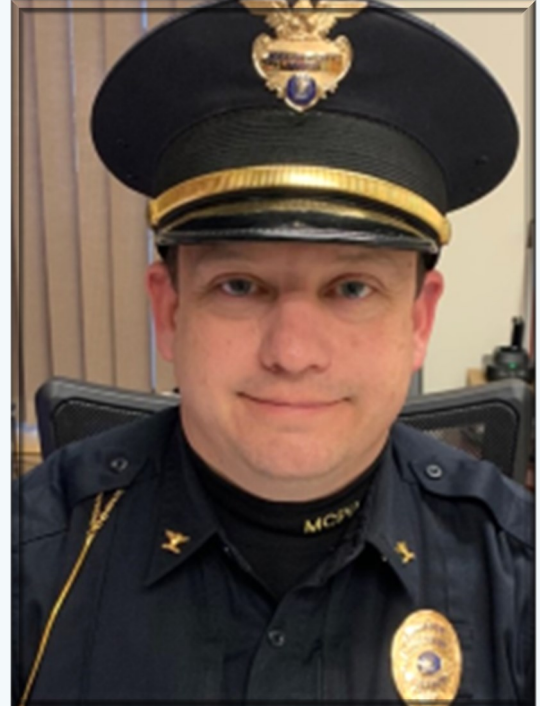
### **MIOSHA Consultation, Education & Training Division**

The Consultation Education and Training (CET) Division offers free, statewide safety and health assistance to employers and employees. Call: 517-284-7720.

## **LEAF MEMBER SPOTLIGHT**

### **Todd Woods**

Chief of Police  
Mackinaw City Police Department



Do you have questions about any material in this newsletter?

Do you have a suggestion for topics to be covered in future editions?

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## **THE LAW ENFORCEMENT ACTION FORUM (LEAF)**

LEAF includes police chiefs, sheriffs, and public safety directors from law enforcement agencies of all sizes and all over Michigan.

LEAF members meet regularly to discuss relevant public policy matters and assist in developing model policies for the MML *Law Enforcement Risk Control Manual*.

The *Manual* is available free of charge to law enforcement executives of MML Liability & Property Pool and Workers' Compensation Fund member communities.

To access to the manual of model policies, complete the request form at:  
<https://mml.org/programs-services/risk-management/leaf/request-access-form/>

(Note: If you move to a different law enforcement agency, you must reapply.)

**A service of the Michigan Municipal League  
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