

Recent Claims Trends

Heather White



SpencerFane®

Agenda

- Police Liability
- Premises Liability
- Media



Police Liability



Media

- Timing is crucial
- Get on top of before public outcry
- Do not ignore negative publicity or have no comment
- Get counsel involved to help guide public statements in the event of litigation



Danger Creation: Tenth Circuit Cases

- *Allen v. Muskogee*
 - Eyewitness testimony
 - Dispute
- *Ceballos v. Husk*
 - No immediate danger
 - Never retreated
- *Hastings v. Barnes*
 - Suicidal man
 - Officers precipitated confrontation
- *Tenorio v. Pitzer*
 - Suicidal man
 - Officers precipitated confrontation
- *Bond v. City of Talequah*
 - No immediate danger
 - Officers moved in on man
 - SCOTUS reversed

Search and Seizure



- Warrant applications
 - Misleading judge
 - Leaving out information
- Entry

De-Escalation



Policy



Training

IAs

- Discoverable in civil actions
- Multiple interviews will lead to inconsistent statements
 - Do not ask questions already asked in prior interview
- Not time to teach, counsel or criticize
 - Limited to whether policy violated or not
 - Not time to editorialize on policy violation
 - Do not include prior policy violations, discipline or issues
- Consult with civil counsel
 - Prior to beginning
 - Prior to putting anything in writing
- Include civil counsel on all drafts

Premises Liability



Premises Liability



- Facilities, sidewalks, roads, parking lots
- Nature has not changed
- Success or failure largely dependent on record keeping
 - Inspections and maintenance
 - Policies and procedures
 - Fielding and recording complaints
 - Timely repairs
 - History of accidents or injuries

Media

GRAMA Requests

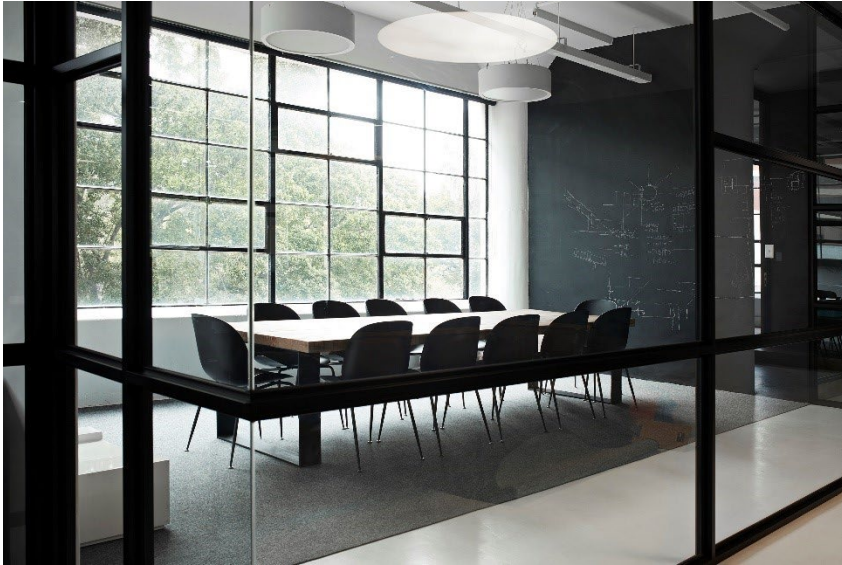
- Review requests carefully
- Redact and produce where possible
- Where do not produce based on statutory authority, cite specific statutes and reasons



“Investigative” and Incident-Based Stories

- Officers scrutinized not only in court of law but court of public opinion
- Public no longer satisfied with no comment during pending investigation
 - Provide information that can
 - Do not provide information that will compromise investigation
- Public relations specialists
 - Educate public
 - Build public trust
 - Minimize prejudice to jury pool
- Communicate with involved officers before release information

Political Challenges



- Impress importance of not talking about litigation or pending litigation at all levels
- Have a strategy that includes a unified front
- One narrative
- One mouthpiece
- Best if outside counsel – discovery cannot be had

Thank You!



Heather White

Partner

Salt Lake City

801.322.9125

hwhite@spencerfane.com

