



# Risk Management for Elected Officials

City of Commerce City – City Council Presentation • June 8, 2026

---

Presented by: Sam Light, CIRSA Deputy Executive  
Director/General Counsel



# Introduction – Overview

- Discussion of liability exposures and risk management issues at the elected official/governing body level. Suggestions to manage and reduce risk for the City, the City Council, and you individually. Topics we will touch on include:
  - Liability protections and their limits
  - Organizational structure and liability
  - Transparency-related risks: OML, CORA, social media, etc.
  - Ethics and personal conduct
- Presentation is a training resource only; is not intended to address or provide legal advice on any specific, pending issues.

# State Tort Liability

---

- The Colorado Governmental Immunity Act (CGIA) is the state statute governing state tort claims against public entities/employees for injury or damages due to negligence or willful and wanton conduct.
  - Applies to TORT actions.
    - What the heck's a tort anyway? And what's negligence?
  - The CGIA sets the framework for tort liability claims against all public entities and public employees, including elected and appointed officials, employees, and even "authorized volunteers". Does not cover "independent contractors".
- Key protections: immunities, limits on types and amounts of damages, notice requirements prior to any suit.

# State Tort Liability



**UNITED STATES OF AMERICA } ss. CERTIFICATE.**  
**STATE OF COLORADO }**

*J. Jena Griswold, Secretary of State  
of the State of Colorado, do hereby certify*

that in accordance with C.R.S. 24-10-114(1)(b), the limitations on judgments set forth in C.R.S. §24-10-114(1)(a)(I)&(II) are as follows:

For all claims for relief that accrue on or after January 1, 2026, and before January 1, 2030, the adjusted limitation is:

\$505,000 for any injury to one person in any single occurrence.

\$1,421,000 for any injury to two or more persons in any single occurrence; except that, in such instance, no person may recover in excess of \$505,000.

# State Tort Liability

---

- The CGIA is an IMMUNITY act.
- It states public entities and public employees—including elected and appointed officials—are immune from state tort claims/liabilities **EXCEPT** in areas where immunity is expressly waived.
  - Most waivers relate to hazards arising from service operations and dangerous physical conditions; e.g., operation of motor vehicle, dangerous condition of a street or public building; dangerous condition of a public facility in a park or recreation area; or operation, maintenance or dangerous condition of public water, sanitation or swimming facility.
- It also states the public entity has the obligation to defend/indemnify its official/employee against claims arising under the CGIA for acts/omissions that are within the “course and scope” of duties, and not “willful and wanton.”

# State Tort Liability

---

- Thus, under the CGIA you have protection from personal liability if you are “within the scope of employment (SOE)” and not acting “willfully and wantonly.”
  - That is, state torts alleged to have occurred “during the performance of duties” and “within the scope of employment”—unless willful and wanton—are subject to CGIA protections.
- However, conduct that is “outside the scope” or “willful and wanton” can result in a loss of CGIA immunity and create liability, including personal liability.
  - “Outside the scope” means everyone needs to know and respect their “job description.”
  - “Willful and wanton conduct”: Conduct that is purposefully undertaken and calculated to cause harm, in conscious disregard of the consequences or rights or safety of others.

# Federal Civil Rights Liability

---

- Under federal law, the primary path to civil rights liability against a public official/public employee is 42 U.S.C. Section 1983; it states:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory... subjects, or causes to be subjected, any citizen of the United States... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...”

- Liability attaches if there is (1) action under color of law that (2) violates a constitutional or other federally protected right.
- Actions of public officials and employees in the course of performance of their official duties and responsibilities will be considered “under color of law.”

# Federal Civil Rights Liability

---

- Section 1983 is not itself a substantive statute. It is a remedial statute (the vehicle) by which one can seek money damages for violations of federal rights. Common claims v. municipal officials/employees under Section 1983 include:
  - First Amendment – free speech, religious free exercise/establishment clauses, right of assembly, right to petition government for redress
  - Fourth Amendment – search, seizure & warrants clauses (law enforcement)
  - Fifth Amendment – takings clause and due process clause
  - Fourteenth Amendment – Equal protection
- Section 1983 does not include any caps on monetary damages. Successful plaintiffs may recover attorney fees under Section 1988. Often 1983 damages awarded are “nominal” while attorney fees awarded are very significant.

# Federal Civil Rights Liability

---

- Public officials/employees have qualified immunity against federal liability.
- Qualified immunity is not a statute or law, it's a judicial doctrine.
- The doctrine essentially provides that a public official/employee is protected from individual liability if the official/employee has a reasonable, good faith belief in the act that deprived the claimant of a federal right.
- Stated more legalistically, qualified immunity protects public officials and public employees from liability for civil damages "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."

# Insurance Aspects

---

- Public entity/public official insurance coverages include coverage for defense and indemnification against CGIA claims and alleged wrongful acts.
- However, they follow “course and scope” and “willful and wanton” concepts. That is, they extend coverage to elected officials “in their capacity as such” (or similar) for liabilities arising from acts/omissions in the “course and scope” of performance of duties.
- 
- But actions outside the SOE or that are willful/wanton can result in potential loss of insurance coverage, as policies have provisions excluding coverage where liability is imposed for willful and wanton conduct, fraud, ill-gotten gain, or criminal or malicious acts. They also exclude coverage for punitive damages.
- Bottom line: You can be “on your own” for liabilities from conduct that is outside your SOE, willful and wanton, or similar.
- Where there may be a mix of covered/uncovered claims, defense is typically under a “reservation of rights.”

# Elected Official & Governing Body Liability Risks

---

- Where do liability risks lie for elected officials and elected governing bodies?
  - Civil rights claims (e.g., First Amendment, Due Process, Equal Protection)
  - Employment practices – e.g. harassment, discrimination, retaliation
  - Alleged “willful & wanton” conduct (state law intentional torts)
  - Breach of ethics and/or fiduciary duty
  - Open meetings/open records laws
  - C.R.C.P. 106(a)(4) challenges to a “quasi-judicial” action of Council
  - Declaratory or injunctive relief claims arising from Council action; e.g., challenging an ordinance or some other action
  - Contract and quasi-contract claims
  - Takings and regulatory takings claims

# Elected Official Liability Risks

---

- What are some real-world situations where an elected/appointed official can expose themselves to potential individual, uncovered liability:
  - Official violates code of ethics, exposing themselves to sanctions
  - Official engages in criminal conduct relating to public office for which the official is convicted
  - Conduct outside the SOE—exercising authority you don't have, risks arising from the official's own affairs unconnected to public service
  - Willful and wanton conduct—e.g. intentionally defaming someone, intentionally publishing false or private facts, tortious interference, civil conspiracy, etc.
  - Sexual harassment/sexual abuse—may be defense but individual bad actor may not be covered for individual liability
  - Official with malicious intent retaliates against someone for protected activity, giving rise to a retaliation claim

# Risk Management

---

- Know, understand and stay within the “job description”. For liability exposure purposes, applies to everyone within organization.
- Recognize that elected officials act primarily as a body, and exercise responsibilities mainly by group discussions and group decision-making in a public meeting. “Powers and duties” are exercised by the body as a whole.
- Think and act as “We” ... not “I”! If you find yourself about to act in terms of “I” rather than “We” ...that’s a red flag.
- Develop a good “risk radar” to steer clear of risky situations. Use it to identify when you need resources/support; e.g. if you have questions of whether a particular course of conduct as a City official is appropriate, consult with City Attorney or City Manager.
- Be cautious and circumspect. Liability exposure can be heightened by “bad facts” that suggest (or are perceived to be based upon) retaliatory conduct or improper animus.

# Organizational Structure & Risk Management

---

- Adherence to organizational structure is an important aspect of SOE, particularly in the areas of employee relations and handling of administrative matters assigned to staff.
- Except for those employees that are “direct reports” of Council, elected officials are not employee supervisors. Thus, don’t give direction or orders to staff below the Manager or get individually and improperly involved in personnel or administrative issues.
  - Be cognizant of perceptions and impacts arising from interactions with staff. For example, your comment that “I’d like to see this” or that “This citizen needs your help...”. may be perceived as an order and/or create confusion or uncertainty.
- It’s not that administrative matters are “hands off” for elected officials – you are entitled to ask questions and get information - but it’s important to exercise role discipline to prevent entanglements, disempowerment, misunderstandings, and exposure to legal liability, including potential individual liability.

# Supporting Organizational Structure

---

- Some tips:
  - Establish, in collaboration with your Manager, a process for bringing forward your questions and concerns (or those raised by citizens) about administrative matters. Direct administrative matters to your Manager.
    - Follow your Council Policies (e.g., #CP-17, *Council Contacts with Administrative Personnel*).
  - Use your Manager as a resource for accurate information and to get things done.
  - In citizen interactions, be cautious of reacting to “one side of the story” or being “conscripted” into an attempted “end run.” Avoid being swayed by the (understandable but mistaken) view that individual members have the power to override administrative decisions vested in others.
  - Be supportive of City “processes in place”; e.g., ordinances Council itself adopted.

# Transparency Requirements & Risks – A Few Reminders

---

- Honor the openness requirement of Colorado's Open Meetings Law (OML): Applies to **three or more or a quorum, whichever is less**. Requires discussion of public business take place at meetings open to the public.
- Also, if action will be taken or a quorum will be present, there must be timely notice. Action of the body must be taken only at a duly-noticed public meeting.
- A "meeting" includes any gathering to discuss public business, in person, by phone, or electronically (e-mail, etc.). Thus, electronic communications can also raise OML issues.
- Allegations of "serial meetings" and "rubber-stamping" have become a focus of litigation, and such activities must be avoided.
- Executive sessions? Make sure you follow the requirements of the OML. Have appropriate systems in place to protect confidential information.

# Transparency & Electronic Communications

---

- Using email? *See* handout and this CIRSA article: <https://www.cirsa.org/news/how-the-colorado-open-meetings-law-applies-to-elected-officials-email/>). Separate from OML compliance issues, the correspondence of elected officials that relates to their duties or public funds is generally treated as a matter of public record (with limited exceptions).
- Thus, recognize that emails and other electronic communications discussing public business could be a record subject to disclosure under Colorado's Open Records Act.
- And electronic communications of all kinds may be subject to the civil discovery process and may be required to be divulged in litigation.
- Public officials must be cautious in their use of electronic communications to avoid getting crosswise with one or more of these legal considerations.

# Transparency-Related Risks – Social Media



**Auburn mayor resigns after posting controversial comments on Facebook**

Florida Man Arrested for Making Racially-Motivated Threats in Interference with Election in Charlottesville and Cyberstalking

**Durham man charged with harassing and cyberstalking Raleigh City Council member**



**Escondido Mayor Sued for Blocking Profile on Facebook**  
Mayor Sam Abed is one of dozens of politicians found to be blocking profiles on their social media accounts, according to NRC 7 Investigates.

**Colorado fire chief resigns after social media comment about George Floyd protesters**

**Federal Court: Public Officials Cannot Block Social Media Users Because of Their Criticism**

**Glenwood Springs mayor deletes official Facebook page following threats**



**Can Elected Officials Censor Their Critics on Social Media?**

Allegations mount against councilmember over Indian Trail Weasel Report Facebook page

**Idaho extremists target judges, prosecutors, health workers in doxxing campaigns**

Idaho activists have shared photos and home addresses in effort to interfere with court, child protection cases

**NYC council members 'doxxed' by anti-cop activists before budget vote**

# Transparency-Related Risks – Social Media

---

- Using social media? Be cognizant of risks for public officials/public bodies; e.g.:
  - Open meetings and open records issues
  - First Amendment concerns
  - Due process issues related to quasi-judicial proceedings
  - Tort liabilities (and defense/indemnification for same)
  - True threats and doxing

# Social Media - Tips

---

- Make sure your personal social media accounts are labeled as personal.
- Don't engage in discussions of pending quasi-judicial matters on social media (ex parte).
- When using social media, consider "keeping it light." Consider also the value and impact of your social media activity in relation to your "24/7" role as a municipal official; e.g.:
  - Are personal opinions denoted as such?
  - Are posts for/about Council or City activities accurate as to "we" and where "we" are at?
- If you are speaking on social media for official purposes, don't delete posts or block persons based on content or viewpoint. While the U.S. Supreme Court recently heightened the standard for liability in this area, risk remains! If unsure, seek assistance.
- Review and follow your Council-adopted social media policies; *see, Council Policy #CP-24*

# Ethics

---

- A primary source of potential personal liability (which is generally not covered by public officials liability insurance) is failure to comply with applicable ethics rules. Thus, become familiar with the ethics rules governing your conduct. Some key areas:
  - Conflicts of Interest: Disclose, recuse and don't vote.
  - Don't disclose or use any confidential information for personal benefit.
  - Decline gifts that seem connected to your service (and abide by gift rules).
  - Avoid situations that may create an appearance of impropriety. In matters of ethics, fair or not, sometimes perception = reality and reality = perception.
    - Where perceptions exist, consider the value of disclosure even if not required.

# Personal Conduct

---

- Beyond compliance with ethics laws, commit yourselves to high levels of personal conduct that strengths the WE – the Council as an institution. This sometimes requires personal sacrifices, such as:
  - Setting aside a personal interest or agenda when there is lack of support.
  - Accepting “the body has spoken” though one preferred a different outcome.
  - Respecting your Council Policies and other norms of conduct.
  - Avoiding perceptions (internal or external) of “getting ahead” of or “speaking for” the voice of Council where it has not yet spoken.
  - Accepting responsibility to the group. Service on an elected, public, multi-member governing body requires recognition that the “We” is more important than the “me.”

# Concluding Thoughts

---

- While there are many aspects of risk management that municipalities and their elected officials cannot fully control—e.g., public perceptions, the actions of claimants, the inclinations of judges, the enactments of federal and state legislatures, etc.—embracing wise leadership in the areas we can control will support your success and reduce your risks.
- Key Principles...

# Key Principles

---

## Council Action

- Exercise your role by voting in a public meeting.
- Don't act individually...in almost all cases you can't! (*cf.* liaison roles).
- Accept decisions that don't go your way and don't attempt to undermine them.
- Act only within your legislative role/job description (e.g., statutes, ordinances, resolutions, policies, etc.).

## Role Responsibility & Organizational Structure

- Respect delegations of authority (matters assigned to the Manager or others by statute, ordinance, resolution, motion, financial policy, etc.).
- Don't interfere in administrative (day-to-day tasks) or personnel matters—leave those matters to your Manager!
- Don't reach down below your Manager to direct City staff.
- Provide clear direction to your Manager with one voice (1 Council of 7, not 7 Councils of 1).
- Remember that the Council and staff are part of the same team!

## Openness, Transparency, and Due Process

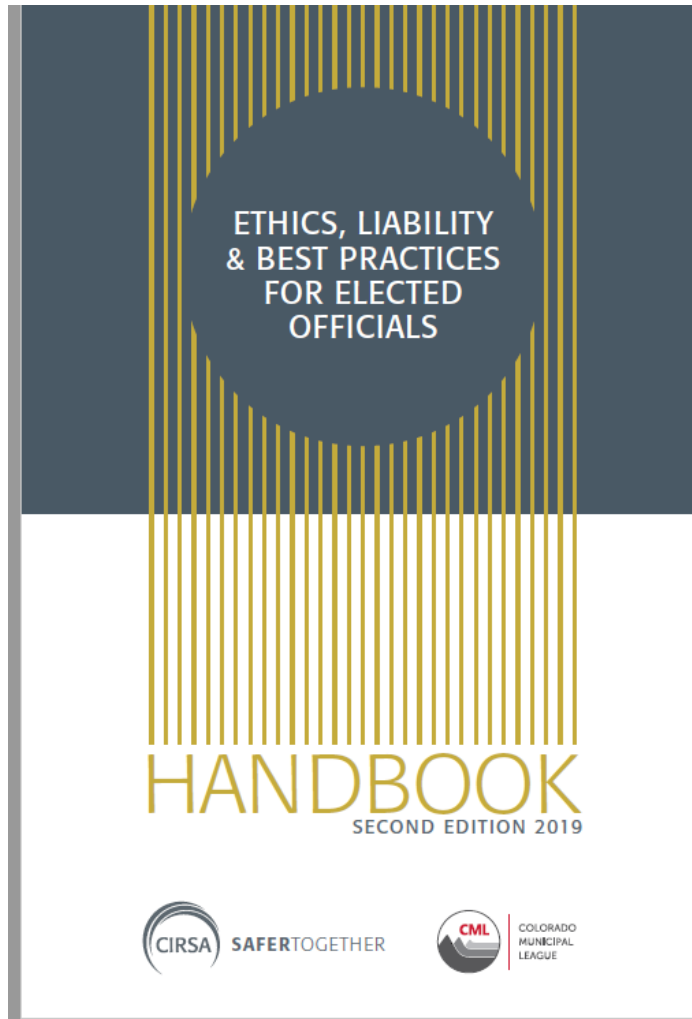
- Adopt a no surprises approach for your meetings; give the agenda/packet the time they deserve and stay on topic.
- Use and expect professionalism, civility, and mutual respect in your interactions with other members, staff, and the public.
- Don't discuss the merits or substance of public business in a group consisting of 3 or more Council members outside of a public meeting (in person, by phone, email, etc.).
- Adhere to the due process rules of engagement in quasi-judicial matters; be evenhanded and predictable in your decisions.

## Ethics & Personal Conduct

- Don't share the City's confidential information (e.g., executive sessions).
- Become familiar with your ethics rules and don't participate when you have a conflict of interest.
- Honor your fiduciary duty to the City and the Council as an institution.
- *Tout your Council's, your organization's, and your staff's successes—builds faith/trust that the City is getting things done!*

# Resources

---



CIRSA Elected Officials Handbook:  
<https://www.cirsa.org/wp-content/uploads/2019/06/EthicsLiabilityBestPracticesHandbookForElectedOfficials.pdf>

CIRSA elected and appointed officials' resources:  
<https://www.cirsa.org/safety-training/elected-officials/>.

CIRSA news & events page:  
<https://www.cirsa.org/news-and-events/news/>

CIRSA Training & Events Calendar:  
<https://www.cirsa.org/news-and-events/events-calendar/>

CIRSA Safety YouTube Channel:  
[https://www.youtube.com/@CIRSA\\_Safety/videos](https://www.youtube.com/@CIRSA_Safety/videos)

# About the Colorado Intergovernmental Risk Sharing Agency (CIRSA)

---

- Public entity self-insurance pool for property, liability, and workers' compensation coverages.
- Formed by in 1982 by 18 municipalities pursuant to CML study committee recommendations.
- Not an insurance company, but an entity created by intergovernmental agreement of our members.
- Total membership today stands at 295 member municipalities and affiliated legal entities
- Member-owned, member-governed organization.
- No profit motive – sole motive is to serve our members effectively and responsibly.
- CIRSA Board made up entirely of municipal officials.
- Seek to be continually responsive to the liability-related needs of our membership – coverages and associated risk management services, sample publications, training, and consultation services, as well as specialty services such as home rule charter review.
- We have the largest concentration of liability-related experience and knowledge directly applicable to Colorado municipalities.

# Speaker Bio

---

Sam Light is Deputy Executive Director / General Counsel for the Colorado Intergovernmental Risk Sharing Agency (CIRSA). Previously, Mr. Light was a partner with the Denver law firm of Light | Kelly, P.C., specializing in municipal and other public entity law, insurance law and defense of public entities and elected officials. Sam is a frequent speaker on public entity risk issues and municipal law and has practiced in Colorado since 1993.