



## **Guidelines for Dealing with the Other Sharks!**

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# **Guidelines for Dealing with the Other Sharks! Understanding the Media**

## **Overview:**

*The media is the “watchdog” of government, (especially during ratings month). Public sector officials, whether elected or appointed, need to understand the role of the media. Just about anything that is done in the public sector is open to scrutiny. Acknowledge the public’s right to know. Accept this premise, if you do, you’re on your way to successful media relations.*

*It is critical for an attorney in the public sector to understand the role of the media and the rules he/she need to know when dealing with the media. On one hand it is critical to cultivate a working relationship with the media in order to get information to the public and for them to accept your explanation of the event or matter; on the other hand, you must remember they have a job to do and are **not** your friends.*

References for the Dealing with the Media

## **Texas Rules of Professional Conduct**

Rule 1.05 Confidentiality of Information

Rule 1.06 Conflict of Interest: General Rule

Rule 1.12 Organization as a Client

***Rule 3.07 Trial Publicity (Attached)***

Rule 4.01 Truthfulness in Statements to Others

Rule 4.02 Communication with One Represented by Counsel

## Government Attorney Standard

Government attorneys have traditionally been held to higher standards of ethical conduct than their private practice brethren. Court opinions have repeatedly stated that the duty of a government attorney is not just to win a case, but to see that justice is done.

Much of the case law on this issue arises out of fact situations involving prosecuting attorneys and administrative agency counsel, and a lot of the discussion appears to be *dicta*. Nevertheless, it is firmly established that a government attorney has a duty to the justice system as a whole, not just a duty to a particular government agency.

*Freeport v. F.E.R.C.*, 962 F.2d 45 (D.C. Cir. 1992); *Williams v. Secretary of Health & Human Services*, 779 F.Supp. 471 (W.D. Mo. 1991).

### Guidelines:

- **Understand the media's job.** Reporters are neither your friends nor enemies. They get paid to get their stories – with or without your help. If you want your views represented, open your mouth and answer their questions. When you clam up, reporters will find other sources.
- **DO NOT LIE.** Even if you think that it's an innocent lie, DON'T do it. A persistent reporter will find out that you told a lie and not only will you be embarrassed, you will lose all credibility with the media.
- Lawyers usually advise not to talk to the media. This usually does not work in the public sector. Be aware that in many situations, your potential liability may be trivial compared with the risk of alienating the public and employees by avoiding the reporters and cameras.
- Take **“no comment”** out of your vocabulary. Even when you can't disclose information, saying little is better than saying nothing and explaining why you can't talk is better than stonewalling. *Exception:* Court-ordered gags.

- **Do return the call**, especially if you tell a reporter you'll call him back. Even if you don't obtain the needed information, call and let the reporter know. You will lose credibility if you say you will call and don't.
- **Don't guess.** Only provide information you know. It's okay to tell a reporter that you will get back to them with the information.
- Know when the reporter needs the information. You might have to leave an important meeting to return the call.
- **Speak English.** Don't use legal jargon when answering questions. Explain everything in simple to understand terms. Don't assume the reporter knows the facts. Give as much background as you can.
- Call a reporter when they have made an error, especially errors where you have been misquoted or facts have been misstated. Find out how the reporter intends to correct the error. If not satisfied with reporter's answer, talk to the editor. Although you still may not get immediate relief, by calling them on their errors they will probably try harder the next time.
- Don't criticize the City's decisions to the media, even if they went against your recommendation. You still have to defend the decision of your client and continue working for them.
- Keep your composure. Some reporters will do what they can to have you lose your cool. And even if you are justified, do not yell or touch the reporter and **DO NOT TRY TO GRAB THE CAMERA.**

**Bottom Line:**

The media has a job to do and so does the lawyer representing the governmental entity. An attorney can be responsive to inquiries from the media, without compromising the client's position. Always answer the questions, and **THINK** before answering.