



**NEW JERSEY COUNTIES
EXCESS JOINT INSURANCE FUND**

NJCE 11th Best Practices Workshop

October 5, 2023



Welcome

Welcome to the 11th New Jersey Counties Excess Joint Insurance Fund Best Practices Workshop

Thank you for joining this virtual presentation.

Special thanks to all of our presenters, and to the Conner Strong & Buckelew Marketing and Information Technology Teams for helping us put this together!

Presentations

- State of NJCE
- Neuro-Covid and The Neuropsychology Evaluation
- BREAK
- How to Prepare for Large Losses & Changing Weather
- First Amendment Audits and Daniels Law
- Changes in OPRA

Zoom Contact

Please contact Shai McLeod or Robyn Walcoff if you experience any technology difficulties with Zoom during the webinar.

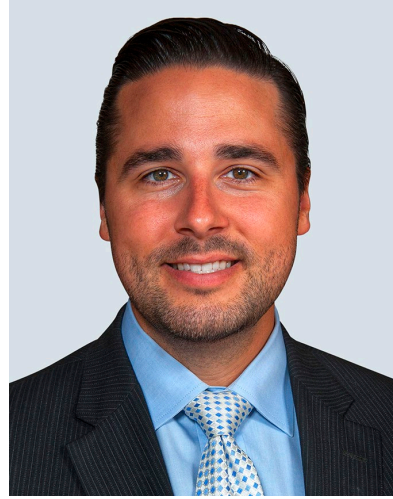
Shai McLeod: smcleod@permainc.com or 856-552-4624

Robyn Walcoff: rwalcoff@permainc.com or 856-479-2247

Introductions



Joseph P. Hrubash
Senior Partner
NJCE Executive Director
PERMA



Edward J. Cooney
Partner, Senior Account Executive
NJCE Underwriting Manager
Conner Strong & Buckelew



Keith Hummel
Associate Director, Public Sector
J.A. Montgomery



Zareena Majeed
Property Claims Supervisor
PERMA



Dr. Mary Ann Kezmarsky
President
WorkComp PsychNet



Fred Semrau, Esq.
Partner
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Sue Sharpe, Esq.
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Dorsey & Semrau

With assistance from...



Nancy Ghani

Account Executive

NJCE Deputy Executive Director

PERMA



Glenn Prince

Assistant Director, Public Sector

J.A. Montgomery



Jennifer Conicella

Workers' Compensation

Supervisor

PERMA

NJCE Membership



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NEW JERSEY COUNTIES EXCESS JOINT INSURANCE FUND

2010

CAMDEN COUNTY INSURANCE COMMISSION

Camden County, Camden County College, Camden County Board of Social Services, Camden County Utilities Authority, Camden County Health Services, Camden County Pollution Control Financing Authority (6/2010), Camden County Improvement Authority (1/2011), Camden County Dept. of Police Services (4/2013)

GLOUCESTER COUNTY INSURANCE COMMISSION

Gloucester County, Rowan College of South Jersey, Gloucester County Improvement Authority, Gloucester County Utilities Authority, Gloucester County Library

2011

UNION COUNTY INSURANCE FUND COMMISSION

Union County

2012

BURLINGTON COUNTY INSURANCE COMMISSION

Burlington County, Burlington County Bridge Commission, Burlington County Board of Social Services, Rowan College at Burlington County (7/2018), Burlington County Special Services School District (7/1/2021), Burlington County Institute of Technology (7/1/2021)

CUMBERLAND COUNTY INSURANCE COMMISSION

Cumberland County, Cumberland County Improvement Authority, Cumberland County Utilities Authority (1/2014)

2014

HUDSON COUNTY

MERCER COUNTY INSURANCE FUND COMMISSION

Mercer County, Mercer County Improvement Authority (7/2014)

OCEAN COUNTY INSURANCE COMMISSION*

Ocean County, Ocean County Utility Authority (9/2021), Ocean County Boss (9/2021), Ocean County Library (9/2021), Ocean County Mosquito Control (9/2021), Ocean County Board of Health (12/2021)

2015

ATLANTIC COUNTY INSURANCE COMMISSION

Atlantic County, Atlantic County Utilities Authority, Atlantic County Improvement Authority

2019

MONMOUTH COUNTY



TOTAL MEMBERSHIP
34 entities

*Ocean County formed as
an Insurance Commission
as of 2021
Updated: 9/2022

Benefits of the NJCE JIF Model



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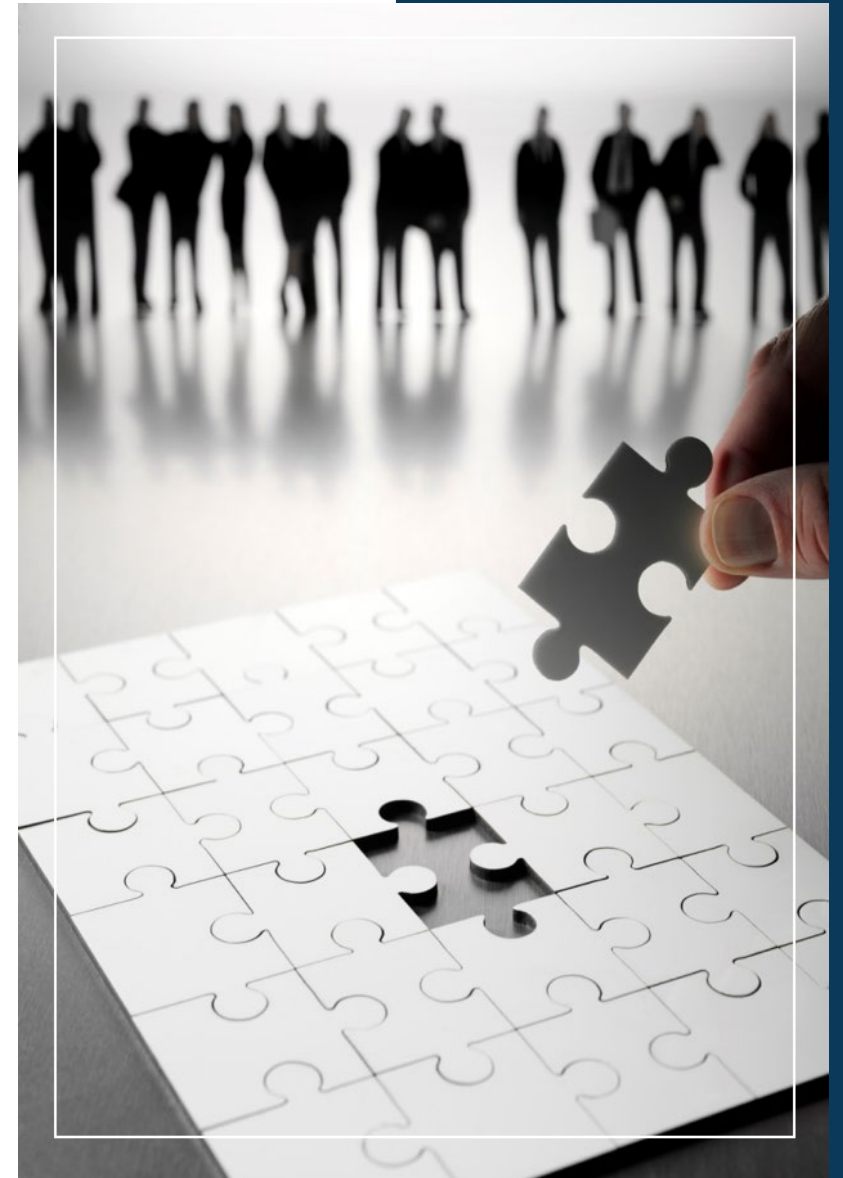
Benefits of the NJCE Model

The NJCE JIF Model has enabled member Counties and their affiliated entities to:

- Effectively “take control” of their “total cost of risk”:
- Modernized Approach to Risk Management.
- *Improved Claims Management*
- *Focused Safety/Training/Loss Prevention including cutting edge law enforcement RC program*
- Efficient Method of self-insurance and Insurance/Reinsurance Procurement.
- **Improved “Buying Power” and better insulated from adverse insurance market conditions for loss experience**
- Proven Model Used By NJ Municipal JIFs and the NJJCE JIF.
- *Successful Shared Services Concept* formed by NJ Counties for NJ Counties and their affiliated entities. (Inter-County and County to County).
- *Risk Management Information System (RMIS)* Exposure Data Collection (Since 2019) and Claims System (since 2020). Use of data analytics.

Benefits of the NJCE Model

- Control of Program Parameters and Management
- Annual payroll audits since 2017 to ensure property rating of workers compensation.
- ***Communication to Membership via:***
 - Risk Management Plan
 - Limit/Retention Schematics
 - Bylaws – NJCE and Insurance Commissions
 - Monthly Executive Committee Agendas
 - Sub-Committee Meetings
 - Finance Committee
 - Claims committee
 - Safety Committee
 - Coverage committee
 - Cyber Taskforce
- ***Budget Stability - Moderate Insurance Price Fluctuations***
- Investment Income
- ***Retention of Underwriting Profit – Financial Impact***
 - Annual review of dividend distribution
- ***Membership Stability – 10-year anniversary celebration.***
- Ongoing marketing for new membership.



Financial Impact



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Financial Impact – Past Successes

Statutory Profit as of 6/30/23

- Insurance Commissions - \$42.0 Million
- NJCE - \$20.4 Million
- Total Statewide - **\$62.4 Million**

(Surplus Before Dividend Distributions)

Financial Impact – Past Successes

Surplus as of 6/30/23

- Insurance Commissions - \$26.5 Million
- NJCE - \$13.8 Million
- Total Statewide - **\$40.3 Million**



Financial Impact – Past Successes

Cash Balances as of 6/30/23

- Insurance Commissions - \$99.8 Million
- NJCE - \$25.1 Million
- Total Statewide - **\$124.9 Million**



Financial Impact

Dividends paid by Member Insurance Commissions

Gloucester Insurance Commission - \$3,207,000

2016 - \$ 750,000

- 2017 - \$1,000,000
- 2018 - \$1,000,000
- 2019 - \$ 457,000

Camden Insurance Commission - \$6,860,000

- 2017 - \$1,000,000
- 2019 - \$1,500,000
- 2020 - \$1,500,000
- 2021 - \$1,000,000
- 2022 - \$1,000,000
- 2023 - \$ 860,000

Mercer County Insurance Fund Commission - \$4,000,000

2019 - \$ 500,000

- 2020 - \$1,500,000
- 2021 - \$ 500,000
- 2022 - \$1,500,000

Burlington County Insurance Fund Commission - \$ 400,000

- 2021 - \$100,000
- 2022 - \$100,000

Union County Insurance Fund Commission - \$1,675,000

- 2021 - \$425,000
- 2022 - \$750,000
- 2023 - \$500,000

Financial Impact

Dividends paid by NJCE

- 2013 – Total of \$607,551 from 2010, 2011 and 2012 Fund Years
- 2015 – Total of \$150,000 from 2010 and 2011 Fund Years
- 2016 – Total of \$150,000 from 2010 and 2011 Fund Years
- 2017 – Total of \$200,000 from 2010 and 2011 Fund Years
- 2018 – Total of \$500,000 from 2011, 2013 and 2014 Fund Years
- 2019 – Total of \$2,000,000 from 2010 - 2016 Fund Years
- 2020 – Total of \$1,500,000 from 2010 – 2017 Fund Years
- 2021 – Total of \$750,000 from 2010 – 2014 and 2016 Fund Years
- 2022 – Total of \$850,000 from 2010, 2013, 2014, 2016, and 2019 Fund Years

MEMBER FINANCIAL PERFORMANCE

Valued as of June 30, 2023

Commission Surplus	CEL Surplus	Total Surplus	Dividends Paid	Compounded Premium Savings	TOTAL SAVINGS
\$26,522,521	\$13,430,281	\$39,952,802	\$22,006,043	\$37,039,833	\$98,998,678

Financial Impact

Financial Fast Tracks

- Report to monitor financials on a monthly basis.
- Expected loss Ratio Report on monthly basis.

Financial Audit Reports

- The NJCE has received “clean” audits with no findings and no recommendations for all fund years 2010 through 2022.



2024 CHALLENGES

- Insurance Marketplace:
 - A continuation of hard market conditions will continue in 2024. Ed Cooney will cover this in more detail during this session.
- 2024 Budget:
 - The NJCE 2024 Budget will be challenging and will be a double-digit increase. The budgets for the underlying commission will be higher than in past but expect them to be single digit increases.
 - NJ public entity budgets have increased by almost 50% in last 3 years.
- Workers Compensation:
 - Employee Accidents: Employee accidents are the largest item in local property casualty insurance budgets. New Jersey now has the highest workers' compensation premium rates in the country based on data from the Bureau of Labor Statistics.
 - Reopened Cases: Costs have escalated because New Jersey judges are now reopening cases up to four and five times while in the past they rarely reopened a case more than once. This change has resulted in the need to substantially increase IBNR reserves for fund years going back as long as two decades.
 - Accidental Disability Claims: IBNR reserves are being substantially increased because of a 2021 Department of Labor decision that directed workers' compensation to pay many accidental disability claims that heretofore were paid by the pension plans.
 - COVID: The FF Cancer Presumption law also made COVID compensable. New Jersey's workers' compensation cost per employee for COVID is the second highest in the country. NJCE had a number COVID claims in 2020, 2021 and 2022.
- Liability:
 - Premiums have increased because of the erosion of Title 59 in New Jersey's courts. Judges are now reluctant to grant summary judgement dismissing even frivolous claims because of the 2021 New Jersey Supreme Court decision in Gonzalez v. Jersey City. The recent amendment in the sexual molestation statute of limitations also increased Title 59 liability costs. In some cases, public entities are being sued based on allegations going back to the 1970s.
- Property:
 - NJCE has had activity with larger and more complex property claims.
 - Premiums are increasing rapidly because the world-wide frequency of large natural disasters has almost tripled since 2000. Here in New Jersey, the state was hit with Irene in 2011, Sandy in 2012 and Ida in 2021. Property insurance premiums are also indexed to replacement values that have jumped because of supply chain issues and the labor shortage.
- Cyber Liability:
 - Premiums have more than doubled in recent years. Organizations without strong cyber risk controls are finding it difficult to purchase any coverage.

2024 NJCE JIF Budget

- Finance Committee will meet next on 10/17/23 to review preliminary budget and dividend considerations.
- Finance Committee will meet as needed during the renewal and budget process.
- NJCE JIF Strategy will be:
 - Introduce NJCE budget on November 17.
 - Provide results of renewal insurance marketing in latter part of December – meeting date TBD.
 - Adopt NJCE budget in early January – meeting date TBD.
 - Underlying Insurance Commissions will adopt their budgets in January or in some case as late as February.
 - Underwriting Manager will conduct widespread marketing of all excess and ancillary insurance except for the the excess works compensation which is on a multi-year agreement. Annual review of program structure.
 - Property
 - Zurich will no longer be the primary insurer for excess property so new primary players will be needed along additional insurers to fill out the excess layers. This will include significant changes in the program structure.
 - Goal is to have a single excess property retention regardless of the peril.
 - Cyber
 - Most effective and efficient program pricing and limits and program restructure.
 - POL/EPL
 - Review the feasibility moving all members to the excess liability model versus stand alone ancillary cover.
 - Liability
 - Test the marketplace to ensure we have most comprehensive coverage terms at most cost effective program.
 - Monitor the impact of property appraisals for buildings and building contents of \$1 million or greater.

Risk Control



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Risk Control

Key Accomplishments/Past Successes

Risk Control continues to be a key component in the success of The NJCE JIF and we continue to focus on safety, training and accident prevention. These goals are met by participating in a variety of initiatives, which included:

- Career Survival for Police Officers and Police Supervisors
- First Line Supervisors Training for Law Enforcement
- Preparing For First Amendment Audits
- Ethical Decision Making
- Dealing With Difficult People
- Below 100 Program
- Workstation Assessments to decrease musculoskeletal injuries and claims in various departments and organizations
- Focused / Customized Safety Training
- Protection From Abuse Training Provided Via Webinar Format
- Emergency Action Plan training and assistance
- **Online & Instructor led Learning Management System**



2023 Risk Control Initiatives

NJCE LIVE - REAL TIME INSTRUCTOR-LED CLASSES

Features real-time, instructor-led, virtual classes and training Expos. Experienced instructors provide an interactive experience for the learner on a broad spectrum of safety and risk control topics.

- Current Live Monthly Training Schedules go to: <https://njce.org/safety/virtual-training-safety-classes/>

NJCE - LEARNING ON DEMAND

Provides on-demand streaming videos and online classes that can be viewed 24/7 by members. Topics pertain to many aspects of safety, risk control, employment practices, and supervision and most can be viewed in under 20 minutes.

- Over 190 Course and Video titles available.
- Go to the NJCE Learning Management System (LMS).



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LEARNING MANAGEMENT SYSTEM (LMS)

1/1/2023 – 9/30/2023

LIVE SAFETY TRAINING

- Attendance – Over 3600 in attendance
- Utilization : All Commissions & Counties

LMS LEARNING ON DEMAND (Online Training Courses & Training Videos)

- Attendance - 414
- Utilization: Cumberland County Insurance Commission, Gloucester County Utility Authority, Burlington County Insurance Commission, Hudson County, Atlantic County Insurance Commission, Monmouth County, Union County Insurance Fund Commission, Atlantic County Utilities Authority, Gloucester County Insurance Commission, Rowan College of South Jersey.



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LEARNING MANAGEMENT SYSTEM (LMS)

NJCE Website

- Attendance - 509 Hits
- Utilization : All Commissions & Counties

*Live Virtual Safety Training Webinars

- 1/1/2021 thru 8/31/2021
- Over 1800 in attendance
- Utilization : All Commissions & Counties
- *The learning for the Users that attended the training webinars is currently being recorded in the Users Transcripts on the NJCE LMS and will be completed in the near future. Once completed a notification email will be sent to the NJCE LMS Administrators.

Munich Re Safety Grant

- \$50,000.00 to be used for Safety Initiatives and Programs
- Automated External Defibrillators
- Body Worn Cameras For Law Enforcement
- Safety Training



Claims Management

Claims Management

PERMA Coordination of Primary and Excess Claims Oversight:

- Robyn D.H. Walcoff, Esq, Vice President, Claims Manager, PERMA
- Jennifer Conicella, Workers' Compensation Supervisor, PERMA
- Zareena Majeed, Property Supervisor, PERMA
- Shai McCleod, Claim Coordinator, PERMA

Scope of Services

- Active TPA Oversight and Litigation and Claims Management
- Specialty in oversight and coordination of complex claims including handling COVID 19 and recovery.
- Claims Resource and Technical Claims Support
- Coordinate Claims Committee/Claims Strategy Meetings for County and Commission Members
- Coordination with Excess Carrier
- Implementation and ongoing maintenance of Origami Risk Claims System since 2021
 - Use of data analytics for a more thorough claims analysis.
- Annual TPA Claim Reviews and Audits
- Litigation Management with Judge Millard
- Underwriting support
- Manage recovery discussions with excess carriers



Neuro-Covid and The Neuropsychology Evaluation

Presented By:
Mary Ann Kezmarsky Ph.D
President & Chief Clinical Officer
WCPN LLC



Neuro-Covid and the Neuropsychology IME

What is it ?
How to assess it.
Is it real?

Case Studies



What is Neuro – Covid?



The current pandemic, which affected all of us, is caused by:

**Severe Acute Respiratory Stress Syndrome
Corona Virus 2
(Sars Covid-2)**

The illness caused by it is called Covid-19



Covid-19 Symptoms

COVID-19 has been characterized as a respiratory illness. The most commonly reported symptoms have been: fever, fatigue, dry cough, and shortness of breath.

However, the heterogeneity of COVID-19 symptoms has been increasingly recognized, not all of them respiratory. Increasingly, neurological symptoms are being reported



Worldwide Studies of Neuro Covid

US

Spain

UK

China

Italy

Others



LONG TERM SEQUELAE

As more time passes since the beginning of the Pandemic ,we are in a better position to assess the long-term effects of COVID-19 on the brain. What was a matter of dire predictions a few months ago, is becoming a matter of empirical reality now

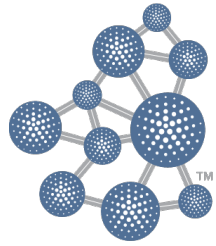


“Emerging Spectrum of COVID-19 Neurology” (UK)

Five major categories of Neurological Disorders have been identified:

- Encephalopathies
- Neuroinflammatory Syndromes
- Peripheral nervous system disorders
- Stroke
- Hypoxia

RW Patterson et al (2020) The Emerging spectrum of COVID-19 neurology: Clinical, Radiological and laboratory findings. *Brain*, 143: 3104-3120



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Quick Neuro / Bio Information

Where it comes from:

- Nasal passages > Olfactory > Brain
- Increasing research shows it crosses the Blood Brain Barrier.
- Pathological clotting > ischemic CVA
- Auto immune response > Demyelination
- Hypoxia > Encephalopathy
- Cytokine storm > Encephalopathy

Additionally:

- Found in the CSF
- Trouble breathing > Infiltration of the lungs or
- Possible infiltration > of the respiratory centers of the brain.



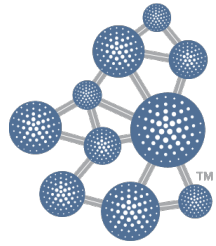
NEUROANATOMICAL VULNERABILITIES

Three brain structures appear to be particularly vulnerable:

Mesial Temporal Lobe/Hippocampus

Frontal Lobes

Brain Stem



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Functions

Mesial Temporal Lobe:

Declarative Memory – Temporary deposit of information
Conscious Memory

Hippocampus (part of the limbic system):

Regulates emotions, learning and memory
Regulates spatial memory i.e. directions, locations, orientation

Frontal Lobe –

Higher Executive Function – capacity to plan ,
organize, initiate, self monitor
expressive language, memory, problem solving
spontaneity, judgement, impulse control

Brain Stem – regulates certain involuntary actions: heartbeat and breathing,
temperature, sleep wake cycle.



Long Term Effects

1. COVID-19 patients with significant intensive care time are not infrequently left with lasting cognitive impairment referred to as Post Intensive Care Syndrome
2. Hypoxia ; Encephalitis, Stroke
Likely results in long term consequences after acute illness resolution.
3. Neurons have high levels of ACC2 receptors which allows SARS-COVID-2 virus to penetrate. This may make patients vulnerable to dementing neurodegenerative diseases.
4. Cost factors for long term care / rehab



Typical Neuropsych Symptoms

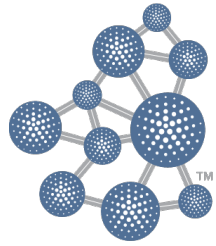
- Inattention
- Disorientation
- Sleep Disorder
- Hyposmia / Anosmia
- Dysquasia
- Postural Tremor
- Fatigue
- Semantic problem solving
- Visual attention
- Spatial working memory
- Semantic and Phonemic fluency
- Brain fog
- Processing Speed
- Anxiety and Depression



Question: How to assess it?

Answer: Neuropsychological IME

Which is what exactly?



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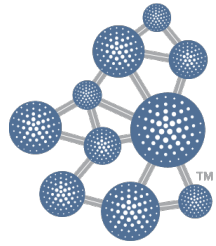
It is NOT THIS!





It is:

Objective, standardized testing, normed to age, sex and education, which produces data (numbers) and a summary of conclusions



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What Are These Tests?

COGNITIVE TESTING:

WAIS IV: Wechsler Adult Intelligence Scale IV (WAIS-IV) : IQ Test

WMS IV: Wechsler Memory Scale IV (WMS-IV): Memory testing, visual and verbal

CVLT-2: California Verbal Learning Test II (CVLT-II): Verbal learning Test, List Learning

Rey Complex Figure: Visual Perception and Visual Memory Testing

Trail A: Visual Motor Tracking

Trail B: Visual Motor Double Tracking and Simultaneous processing, executive functioning

Oral Word Association (FAS): Word Retrieval, Executive Functioning

WCST: Wisconsin Card Sorting Test, Executive Functioning

EMOTIONAL FUNCTIONING TESTING:

BDI: Beck Depressive Inventory

BAI: Beck Anxiety Inventory

PTSD ss: Post Traumatic Stress Disorder Symptom Scale

VALIDITY TESTING:

Rey 15

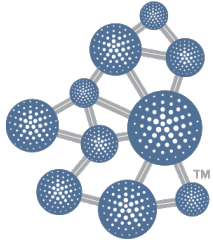
TOMM 1, 2: Tests of Memory and Malingering I, II (TOMM-I,II)

MMPI: Minnesota Multiphasic Personality Inventory (MMPI)



The Data Measures Cognitive Function

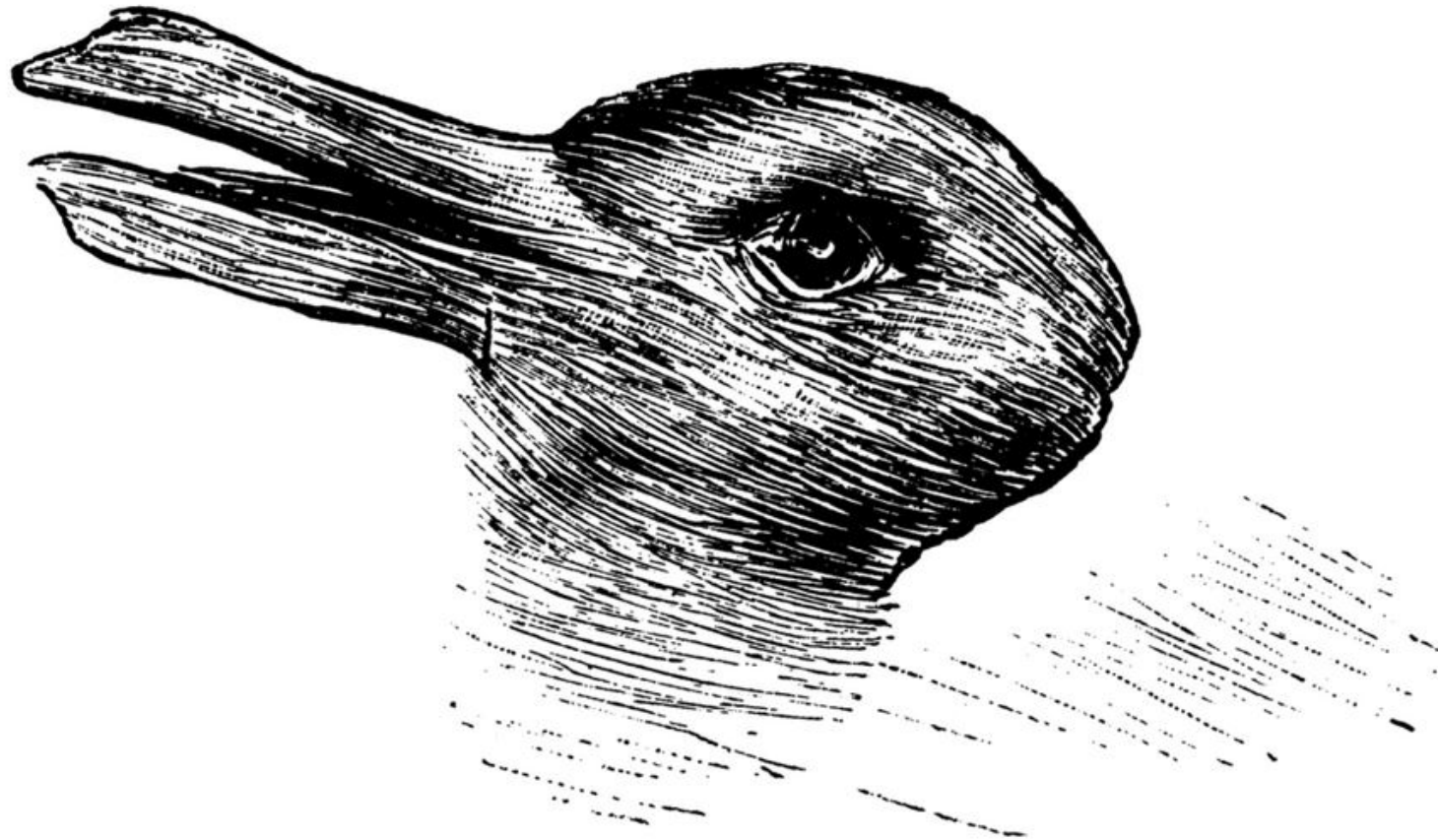
- IQ
- Attention
- Concentration
- Language
- Visual and Verbal Memory
- Executive Functioning
- Processing Speed
- Visual Perception



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What is in a Neuropsych IME?

- **Records Review**
Background History
Clinical Interview
Behavioral Observations
Validity Testing
Cognitive Testing
Emotional Functioning Testing
Diagnosis
Causality
Recommendations – (if needed) Cognitive Rehab,
Psychotherapy, Biofeedback



History: Deep and Detailed

- **Previous injuries, work and non-work**
Motor vehicle accidents
Slip and Falls
Sports injuries (Has the “Bell been rung?”)
Education
Early family history
Marital
Work history
ETC.



Pre-morbid Ability

We need to discriminate between the pre-Covid cognitive ability and post-Covid cognitive ability.

We do this through examining areas such as:

- Vocation**
- Education**
- “Hold” Tests**
- Test of Pre-morbid functioning**



Is it Real?

Validity Testing



Validity Testing

- The Rey 15
- TOMM 1 and 2
- MMPI - 2

The Rey 15

A

B

C

1

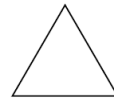
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a

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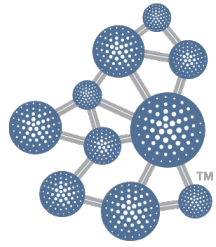
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I

II

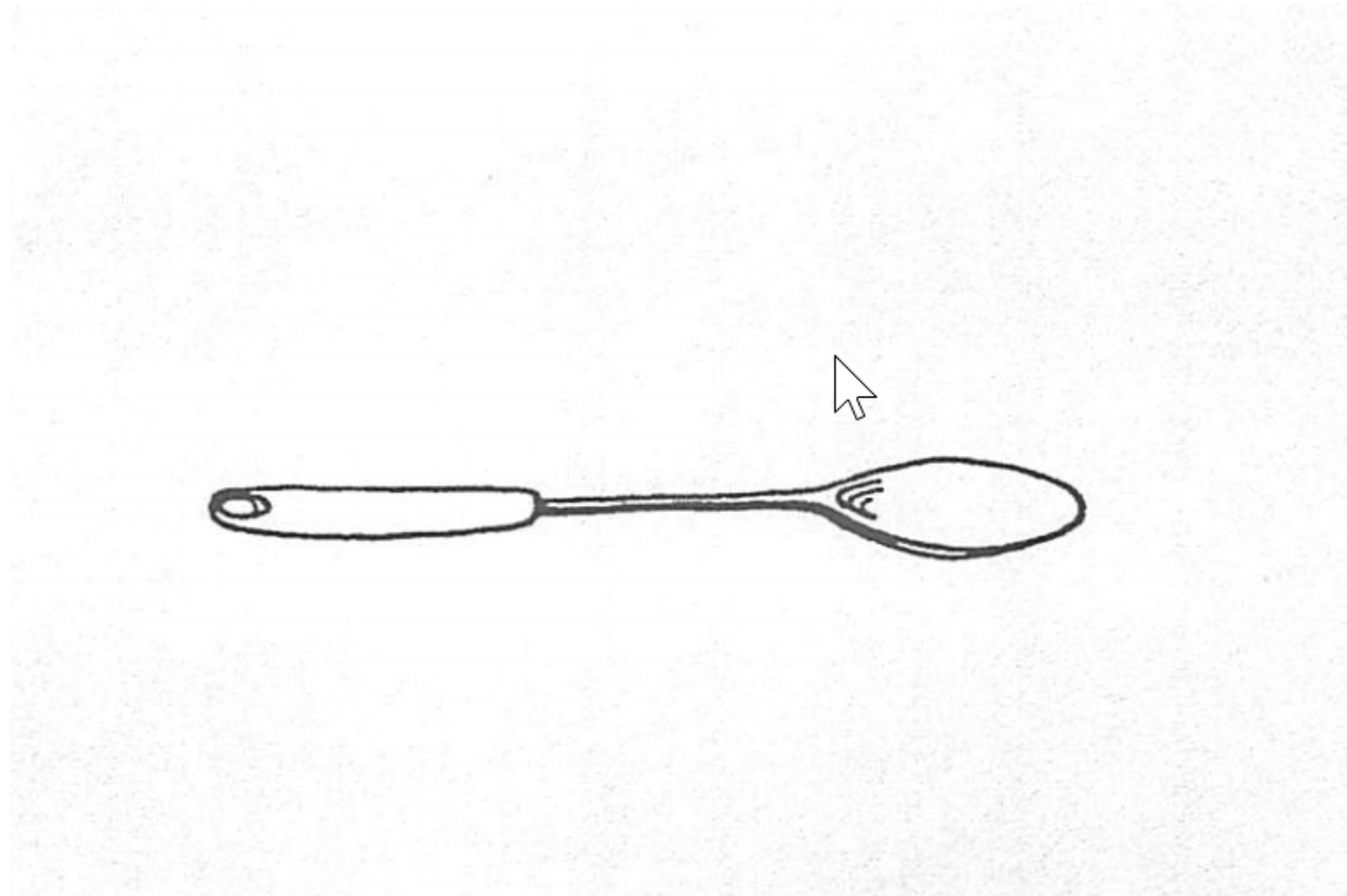
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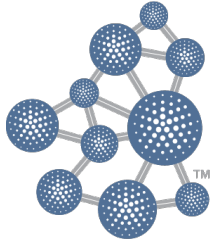


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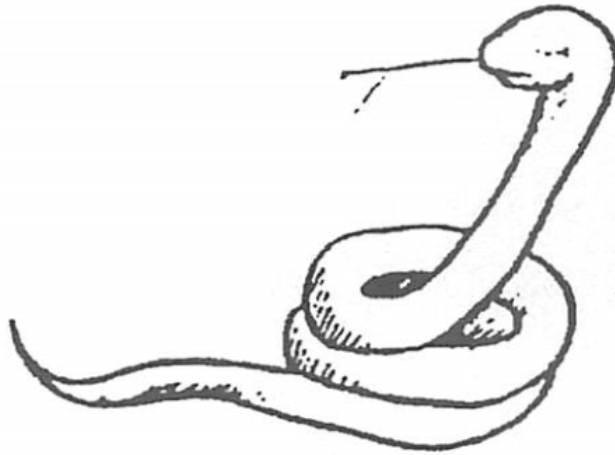


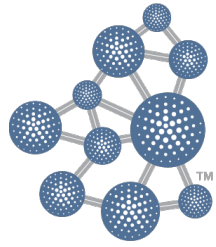


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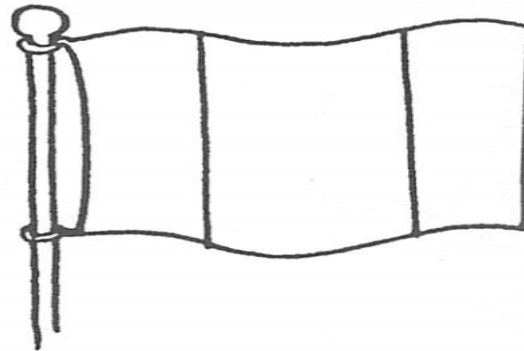
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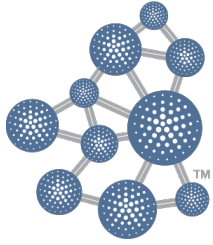
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A



B



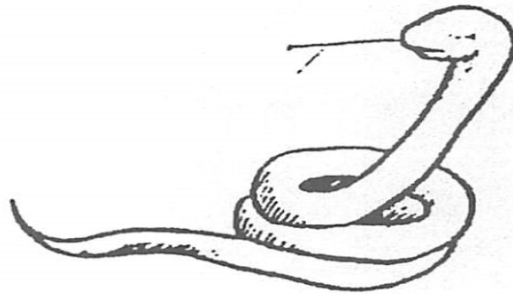
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A



B



Case Studies

1. RC 46YO M

Covid from work

2 week hospital stay – no ventilator

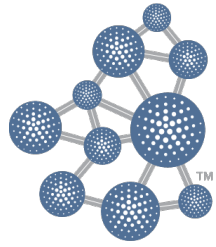
Visual hallucinations

No loss of smell or taste

Cognitive complaints

High anxiety

NP evaluation – deficits in everything but executive function



WCPN

Recovery: Sooner • Faster • Smarter

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Case Studies

RK 55 yo F

Contracted Covid at work.

Respiratory therapist

Hospitalized

Validity WNL

Cognitive impairments: Attention, list working memory

processing speed

visual spatial

verbal fluency

Frontal – executive impairment

**Cognitive rehab – improving but processing speed
and verbal fluency remain impaired.**



Case Studies

NY 51 yo F

Contracted Covid at work as a respiratory therapist

Hospitalized 1 month

Complications – co-morbid stroke

Inpatient rehab 5 weeks

Rehospitalized after a fall at home – 5 days

Neuropsych test: Validity WNL

**7 months post : Processing speed
Initial encoding
Verbal memory**



Case Studies

CP 49 yo M

Contracted Covid at work.

Corrections Officer

MOCA 13 / 30

Review of previous NP eval MOCA was 23 / 26

Validity testing: TOMM 28 / 50 32 / 50

MMPI

Symptom magnification



Thank you for your attention!



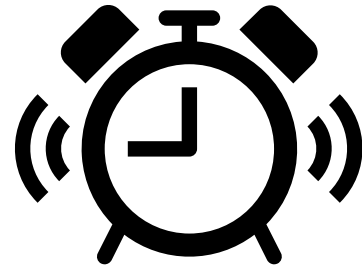


The WCPN Mission: ***Recovery: Sooner – Faster – Smarter***

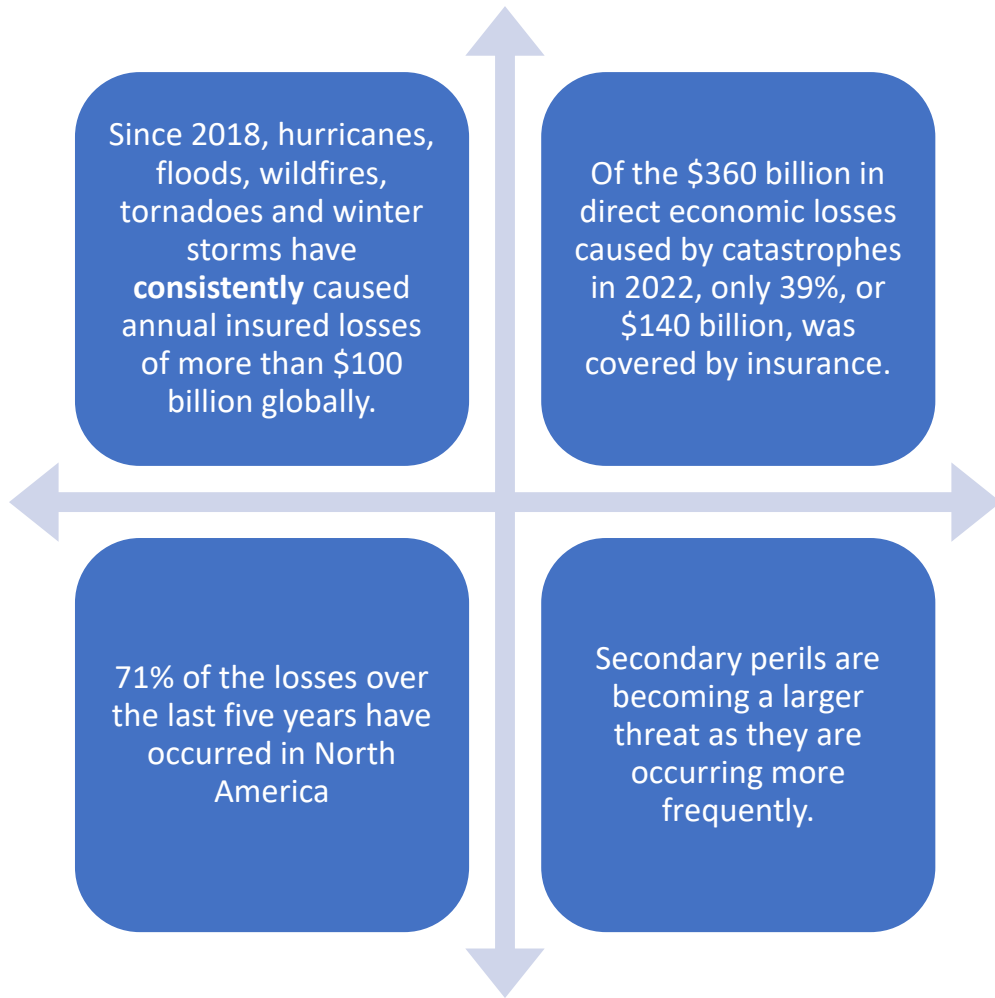
Which Means:

Helping injured workers reach Maximum Medical Improvement and, if possible, return to work in some capacity as soon as is medically possible.

15 Minute Break



How to Prepare for Large Losses & Changing Weather



PERIL TYPE	EXAMPLES
PRIMARY PERILS	Tropical cyclones, earthquakes, winter storms
INDEPENDENT SECONDARY PERILS	Floods, heatwaves, drought, wildfires
SECONDARY EFFECTS OF PRIMARY PERIL	Storm surges, tsunamis and fire following an earthquake

Flood Damage Prevention

- Elevate utilities like heating and cooling appliances off the floor or onto higher levels of the building. If relocation or elevation is not possible, you can protect contents and equipment using floodwalls and shields. Alternative options such as replacing traditional hot water heaters with tankless units should also be considered.
- Raise the height of electric service panels, outlets, switches, and wiring to at least 1 foot above the potential flood elevation
- Install a flood alert system, flood openings in basements or other fully enclosed areas below the lowest elevated floor
- Replace building materials with flood resistant materials such ceramic tile, vinyl, rubber, lime plaster, cement board, concrete, or pressure-treated and decay-resistant wood
- Activate sump pumps, close backflow valves, clear drainage ditches or storm drains
- Deploy temporary flood barriers, such as portable flood gates or shields, sandbags, inflatable floodwalls, and flood skirts
- Inspect exterior waterproofing and reapply as needed
- Move vehicles to elevated structures such as above ground parking garages

Freeze Damage Prevention

- **Ensure insulation is sufficient, especially in the attic**
- **Insulate pipes throughout the property and protect exterior water fixtures such as spigots**
- **Install water leak detection on water supply lines**
- **Set thermostat to at least 65 degrees even when building is expected to be vacant (winter breaks, planned holidays, etcetera)**
- **Routinely inspect and replace worn and/or improperly installed pipes**
- **Clear gutters of debris to prevent ice damming**
- **Keep faucets on a slow cold-water drip**
- **Clearly label water shut off valve and make sure the location is easily accessible**

Fire Damage Prevention

- Place high value electronic equipment such as control towers, communication servers, and computers under sprinkler protection or store away from sprinklers
- Consider installing innovative technology such as smart burners and Waterless Fire Suppression Systems
- Ensure property is adequately heated to minimize the employees' and residents' need to utilize portable heating devices
- Identify and repair all damaged and/or overloaded electrical outlets, cords and cables
- Make fire extinguishers and electricity shut off easily accessible
- Institute annual Portable Appliance Testing procedures to
- Prohibit the use of candles, smoking materials

WHAT TO DO AFTER A LOSS



Shut off the water/electricity as needed



Contact emergency services to mitigate the damages.



Report your claim to the third-party administrator assigned to your account



Photograph/Video and inventory all damaged contents; include the item name, purchase price, date of purchase, location of purchase, and receipt if able



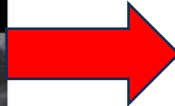
**NEW JERSEY COUNTIES
EXCESS JOINT INSURANCE FUND**

First Amendment Audits

Presenter: Chief Keith f. Hummel (Ret.)



**WE ARE WATCHING
YOU**



Welcome

DISCLAIMER

The training materials provided in this program are for general informational and educational purposes only and are not intended to be and should not be considered legal advice or opinions. Prior to making any policy or rule changes seek the advice of your organizations attorney.



In today's world government employees are faced with numerous challenges, and one of those challenges includes dealing with people who claim to be "First Amendment Auditors." These auditors can be extremely difficult to deal with and they can become obstinate, critical and nasty.

Why Train For These Events?

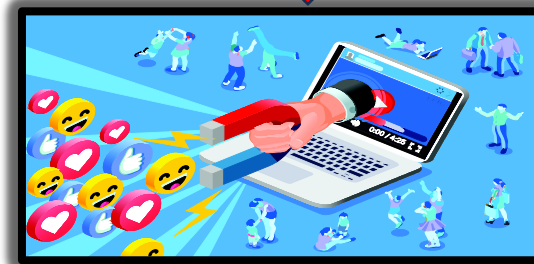
- Allegations of Civil Rights Violations – No Immunity
- Allegations of Misconduct → Discipline?
- Loss of Reputation – Organization and Personal
- Allegations of Retaliation for Exercising their First Amendment Rights

Who are they?

- Claim to be an American social movement that usually involves photographing or filming of public spaces
- They are known as auditors, activists and citizen journalists that are determined to test our knowledge and exercise their constitutional rights
- They believe that the movement promotes transparency and open government

Current Trends:

- Visit government facilities, record and livestream public employees performing their duties
 - Test your knowledge of the law
 - May ask questions and demand answers
 - May not engage in any conversation



Financials - Go Fund Me pages, advertisements on their YouTube channels, accept donations!

Case Law

- Fields v. City of Philadelphia (3rd Circuit)
 - The First Amendment provides the public a “right to record – photograph, film, or audio record police officers conducting official police activity in **public areas** – this **extends** to all **governmental employees**
- U.S. Supreme Court
 - has held, that the First Amendment protects the right to collect and record publicly available information and to publish that information in any medium of a person’s choosing

This right is not absolute, but rather governed by reasonable time, place and manner

- Is the facility open to the public
- Is the facility open to the public
- Protecting limited and non-public material
- Is it disrupting the governments' ability to conduct business?

Accessible and open to the public – legal right to be?
Which includes - Parks, streets, sidewalks and public portions of governmental buildings!

No recording in bathrooms, locker rooms, changing rooms and locations where there is a reasonable expectation of privacy

EACH INCIDENT IS VERY FACT SENSITIVE – COMPLETE AND THOROUGH REPORTS

Building Relationships

- Most times we are interested in building a relationship, promotes understanding and respect!
- Many First Amendment Auditors are not interested in building relationships
- Don't take the position they are lost, and you can save them!
- Just follow the rules and they will leave!

TACTICS



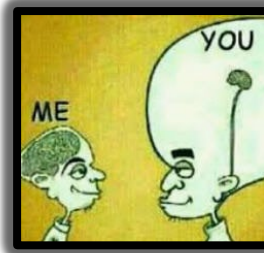
Tank – Straight up verbal attack, may be vulgar, pointed and confrontational



Sniper – engage you in a conversation, looking for an opportunity to make you look bad on camera



Grenade – after a brief period of calm they explode into a rant and rave about things that have nothing to do with the current circumstances



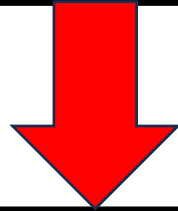
Know it all – seldom in doubt, will test your knowledge of the law, dominate and embarrass you!

Communication



Expect adversity, distractions and insults!

- Testing your resolve
- May make inflammatory comments
- Conversation may be unnecessary



Develop tactics that help you disengage

- Act as if you didn't hear it
- Deflect provocative questions
- Disengage, walk away
- Work on it, words, actions, and facial expressions



- Do your best to identify the problem
- Actively listen, do not allow your emotions to take over the situation!
- If you cannot help them, you may have to walk away!

Preparation and Training

- Signage – backed up with an ordinance
- Tabletop Exercises
- Be aware of when your fellow employee has had enough – step in and help
- Who to call to warn others that a First Amendment Auditor is in the facility
- Provide Strong Policy Guidance!



Daniel's Law – A Real Tragedy!

Enacted in response to the death of Daniel Anderl, son of U.S. District Judge Esther Salas

Purpose – is to allow a means for certain public servants to request redaction of personal information from public facing State, county and municipal websites

The responsibility is on them to register

Who - Active and retired federal and state court judges, prosecutors and law enforcement members may request redaction of certain personal information from public-facing sites

Individuals covered under the law **may** register through Daniel's Law Portal, which was established by the Office of Information Privacy, an agency created within the New Jersey Department of Community Affairs to carry out the mandate of Daniel's Law.

Ensure that the pathway to register is available!

Why is this a matter of discussion – If we fail to fulfill our obligations?

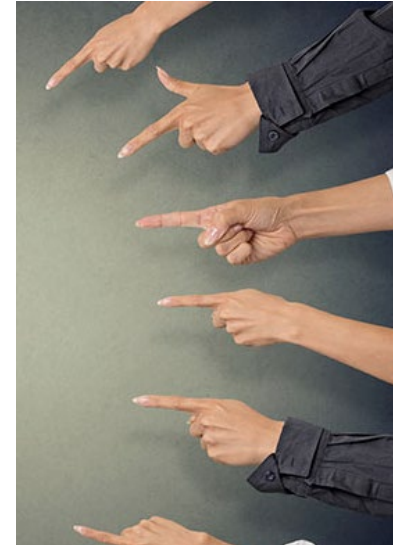
You want to stay out of the red circle

Liability Matters!
Conduct a word search on the law – shall is mentioned 125 times!
Highlights – “A public agency shall redact or cease to disclose, in accordance with section 6 of P.L. 2001, c.404 ...”

Shall and Will – No immunity for failing to perform our ministerial duties in a prescribed fashion!



Finger pointing will occur!



If something goes wrong – questions will be asked! Did you perform to the best of your abilities?

Governmental Employees can be sued for failure to perform ministerial duties!

Due diligence –documentation is your salvation

Ask yourself 5 times did I perform to the best of my abilities at all times? Check your rules and oath of office – plaintiff’s attorneys are asking this question during depositions and trials!

Let’s fulfill our obligations by engaging in the process of due diligence so we can stay out of the red circle!



**NEW JERSEY COUNTIES
EXCESS JOINT INSURANCE FUND**

BEST PRACTICES FOR OPRA REQUESTS

DORSEY & SEMRAU – PRIVILEGED & CONFIDENTIAL
Fred Semrau, Esq.
Sue Sharpe, Esq.



WHAT'S CHANGED IN THE OPRA LANDSCAPE?

- OPRA Machine
- Aggressive requestors
- Overbroad, far-reaching requests State-wide
- Emails & texts (meta-data)
- Seeking “research”
- Focus on police records
- Attorney invoices
- OPRA as discovery
- Harassment

HOW CAN WE MANAGE REQUESTS?

- Narrow request before circulating
- Know the backstory/requestor
- Use extensions - you're entitled to them - carefully
- Don't assume everything gets released
- Provide only what's requested - no extra credit for extras!
- Redact carefully (e.g. attorney invoices)
- No Vaughn Index unless requested
- Don't forget common law
- Special service charge in some cases

RELEASE OR NOT?

REQUEST #1:

Electronic copies of all e-mails from Bettina Bieri's personal and work e-mail accounts regarding township business or referencing Joseph A. Elcavage from January 1, 2008 to June 17, 2008.

Electronic copies of all e-mails from Bettina Bieri's township account from January 1, 2008 to June 17, 2008.

DECISION

Elcavage v. West Milford Township (Passaic), GRC Complaint No. 2009-07:

The first request, to which the custodian timely complied, was valid. The second request was overbroad because it failed to request a “specifically identifiable” government record.

A request for emails must include the (1) content and/or subject, (2) specific date or range of dates, and (3) identity of sender and/or recipient.

RELEASE OR NOT?

REQUEST #2:

OPRA and common law request for internal affairs records of former director of the Elizabeth Police Department. The investigation found that the director engaged in racist and sexist behavior for many years while in office.

DECISION

Rivera v. Union County Prosecutor's Office, 250 N.J. 124 (2022)

IA records are exempt from disclosure under OPRA, but should be disclosed under the common law when interests favoring disclosure outweigh concerns for confidentiality.

The public interest in transparency may be heightened based on the nature and seriousness of the misconduct, whether misconduct was substantiated, nature of discipline, nature of position, and record of misconduct.

RELEASE OR NOT?

REQUEST #3:

OPRA request for settlement agreement between former corrections officer and County employer, where employee had been accused in disciplinary action for improper fraternization with two other inmates and bringing contraband items to jail.

DECISION

Libertarians for Transparent Gov't v. Cumberland County, 250 N.J. 46 (2022)

A settlement agreement was a government record subject to disclosure with appropriate redactions. The reasons the employee separated from government service should be redacted pursuant to N.J.S.A. 47:1A-10.

Q & A