



Office of the Director of Police The University of Texas System Policy and Procedure Manual



Subject			Policy Number
Social Media			903
Effective Date	Revision Date	Reevaluation Date	Number of Pages
November 18, 2011	August 1, 2020	Annually	7
Reference Standards			
CALEA: 11.4.5, 41.3.7, 45.1.2, 54.1.1, 82.1.6 IACLEA: 13.1.4 CLERY ACT, 34. C.F.R.668.46(e) Police Magazine, “Know the Limits of Your First Amendment Rights”, by Eric Daigle, April 24, 2020; https://www.policemag.com/552280/know-the-limits-of-your-first-amendment-rights IACP Concepts and Issues Paper “Social Media”; May 2019 Social Media and Tactical Considerations for Law Enforcement; Police Executive Research Forum (PERF), May 2013			

I. PURPOSE

This agency endorses the secure use of social media to enhance communication, collaboration, and information exchange; streamline processes; and foster productivity. This policy establishes this agency’s position on the utility and management of social media and provides guidance on its management, administration, and oversight. This policy is not meant to address one particular form of social media; rather social media in general, as advances in technology will occur and new tools will emerge. In addition, this agency recognizes and respects the rights of its employees to participate on social media platforms; however, employees must ensure that their online content is consistent with the agency’s standards of conduct.

II. POLICY

Social media provides a new and potentially valuable means of assisting the department and its personnel in meeting community outreach, problem-solving, investigative, crime prevention, and related objectives. This policy identifies potential uses that may be explored or expanded upon as deemed reasonable by administrative and supervisory personnel. The agency also recognizes the role that these tools play in the personal lives of some personnel. The personal use of social media can have a material bearing on departmental personnel in their official capacity. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by agency personnel.

III. DEFINITIONS

Blog: A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for “Web log.”

Page: The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrator rights.

Post: Content an individual shares on a social media site or the act of publishing content on a site.

Profile: Information that a user provides about themselves on a social networking site.

Social Media: A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (Facebook, MySpace, LinkedIn), micro blogging sites (Twitter, Nixle), photo- and video-sharing sites (Flickr, YouTube, TikTok), wikis (Wikipedia), blogs, and news sites (Digg, Reddit).

Social Networks: Online platforms where users can create profiles, share information, and socialize with others using a range of technologies.

Speech: Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

Web 2.0: The second generation of the World Wide Web focused on shareable, user-generated content, rather than static web pages. Some use this term interchangeably with social media.

Wiki: Web page(s) that can be edited collaboratively.

IV. DEPARTMENT RELATED USE

A. Agency-Sanctioned Presence

1. Determine strategy

- a. Where possible, each social media page shall include an introductory statement that clearly specifies the purpose and scope of the agency's presence on the website.
- b. Where possible, the page(s) should link to the agency's official website.
- c. Social media page(s) shall be designed for the target audience(s) such as youth or potential police recruits.

2. Procedures

- a. All agency social media sites or pages shall be approved by the institution chief of police or his/her designee.
- b. Where possible, social media pages shall clearly indicate they are maintained by the agency and shall have contact information prominently displayed.
- c. Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies.
 - (1) Content is subject to public records laws. Relevant records retention schedules apply to social media content.
 - (2) Content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.
- d. Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the agency.
 - (1) Pages shall clearly indicate that posted comments will be monitored and that the department reserves the right to remove obscenities, off-topic comments, and personal attacks.
 - (2) Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

B. Agency-Sanctioned Use

1. Agency personnel representing the department via social media outlets shall do the following:
 - a. Conduct themselves at all times as representatives of the agency and, accordingly, shall adhere to all department standards of conduct and observe conventionally accepted protocols and proper decorum.
 - b. Identify themselves as a member of the agency.
 - c. Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions, nor post, transmit, or otherwise disseminate confidential information, including photographs or videos, related to department training, activities, or work-related assignments without express written permission.
 - d. Not conduct political activities or private business.
2. The use of agency computers by personnel to access social media is prohibited without authorization.
3. The use of personally owned devices to manage the agency's social media activities or in the course of official duties is prohibited without express written permission.
4. Employees shall observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.

C. Work Related Usage (IACLEA 13.1.4; CLERY ACT, 34. C.F.R.668.46(e))

1. Social media is a valuable investigative tool when seeking evidence or information about:
 - a. missing persons;
 - b. wanted persons;
 - c. gang participation;
 - d. crimes perpetrated online (e.g. cyberbullying, cyberstalking, child pornography); and
 - e. photos or videos of a crime posted by a participant or observer.
 - f. social media may be used by criminal offenders to organize criminal events such as riots or "flash mobs".
2. Social media can be used for community outreach and engagement by:
 - a. providing crime prevention tips;
 - b. offering online-reporting opportunities;
 - c. sharing crime maps and data; and
 - d. soliciting tips about unsolved crimes (e.g. Crimestoppers, text-a-tip).
3. Social media can be used to make time-sensitive notifications related to:
 - a. road closures;
 - b. special events;
 - c. weather emergencies;

- d. missing or endangered persons;
- e. active shooters or similar circumstances, and
- f. Clery Act notifications/timely warnings

D. Recruiting, Employment, and Background Checks

1. Persons seeking employment and volunteer positions use the Internet to search for opportunities, and social media can be a valuable recruitment mechanism.
2. This agency has an obligation to include Internet-based content when conducting background investigations of job candidates.
3. Searches should be conducted by a non-decision maker. Information pertaining to protected classes shall be filtered out prior to sharing any information found online with decision makers.
4. Persons authorized to search Internet-based content should be deemed as holding a sensitive position.
5. Search methods shall not involve techniques that are a violation of existing law.
6. Vetting techniques shall be applied uniformly to all candidates.
7. Every effort must be made to validate Internet-based information considered during the hiring process.

V. **PERSONAL USE**

A. Precautions and Prohibitions

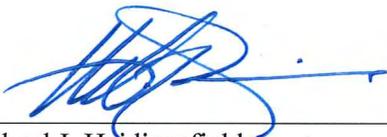
The 1967 U.S. Supreme Court case *Keyishian v. Bd. of Regents* held that an employer may not unreasonably restrict a public employee's rights, but what was unreasonable was not specified. In the 1968 case *Pickering v. Bd of Education*, the Court ruled that the public employees right to comment on a matter of public concern should be weighed against the interest of the employer to provide efficient, effective service. In protecting an employee's First amendment rights, a four-step analysis emerged in dealing with unlawful retaliation against an employee by an employer-

1. Was the employee speaking pursuant to his/her ordinary job duties?
 - if yes, then there is no First amendment protection for employment purposes
 - if no, proceed to Step 2
2. Was the employee speaking on a matter of public concern?
 - if yes, proceed to Step 3
 - if no, then there is no First amendment protection for employment purposes
3. On balance, does the employer's or the employee's interest prevail?
 - if the employer's interests prevail, then there is no First Amendment protection for employment purposes
 - if the employee's interests prevail, proceed to Step 4
4. In the event adverse employment action is under consideration and the employee's interests prevail, was the protected speech a substantial or motivating factor in the adverse employment action?
 - If yes, then the adverse employment action constitutes retaliation
 - If no, then the adverse employment action does not constitute unlawful retaliation

Barring state law or binding employment contracts to the contrary, agency personnel shall abide by the following when using social media:

1. Personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this agency for which loyalty and confidentiality are important, disrupt the organization, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the agency.
2. As public employees, personnel are cautioned that speech on- or off-duty, made pursuant to their official duties—that is, that owes its existence to the employee's professional duties and responsibilities—is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the department (see the 2006 U.S. Supreme Court decision *Garcetti v. Ceballos*, and *Lane v. Franks*). Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this agency.
3. Personnel shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without written permission from the institution chief of police or his/her designee.
4. For safety and security reasons, employees are cautioned not to disclose their employment with this agency nor shall they post information pertaining to any other member of the agency without their permission. As such, employees are cautioned not to do the following:
 - a. Display department logos, uniforms, or similar identifying items on personal web pages.
 - b. Post personal photographs or provide similar means of personal recognition that may cause them to be identified as a police officer of this agency. Officers who are, or who may reasonably be expected to work in undercover operations, shall not post any form of visual or personal identification.
5. Personnel of this agency who possess a current US Government issued security clearance should not personally use social media because of the potential for the release of personal information which can then be used to compromise, influence, blackmail or subject the participant to coercion.
6. When using social media, personnel should be mindful that their speech becomes part of the worldwide electronic domain. Therefore, adherence to the agency's code of conduct is required in the personal use of social media. In particular, personnel are prohibited from the following:
 - a. Speech containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.
 - b. Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless or irresponsible.
7. Engaging in prohibited speech noted herein, may provide grounds for undermining or impeaching an officer's testimony in criminal proceedings. Personnel thus sanctioned are subject to discipline up to and including termination of office.

8. Personnel may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of this agency without express authorization.
9. Personnel should be aware that they may be subject to civil litigation for:
 - a. Publishing or posting false information that harms the reputation of another person, group, or organization (defamation or libel).
 - b. Publishing or posting private facts and personal information about someone without their permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person.
 - c. Using someone else's name, likeness, or other personal attributes without that person's permission for an exploitative purpose.
 - d. Publishing the creative work of another, trademarks, or certain confidential business information without the permission of the owner.
10. Personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.
11. Personnel should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the agency at any time without prior notice.
12. Reporting violations— Any employee becoming aware of or having knowledge of a posting or of any website or web page in violation of the provision of this policy shall notify his or her supervisor immediately for follow-up action.



Michael J. Heidingsfield
Director of Police

Changes/Additions since last Revision

Changes made to Paragraphs I; III; IV.C & D; and V.A. include general updating to ensure currency and adding the applicable case law that informs the policy. August 1, 2020