



Approved:
Chief Marcia Harnden

Subject:

636. Employee Speech, Expression, and Social Networking

Effective: *Revised*
July 23, 2018

CALEA Standards:

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636.1: PURPOSE AND SCOPE

This policy addresses issues associated with employee speech, expression, and use of social networking sites, and provides guidelines for the balance and regulation of employee speech and expression with the needs of the Department.

This policy is not intended to infringe on the free speech rights of employees as private citizens or protected union activities, which are privileged or protected under law.

636.1.1: DEFINITIONS

Social Media - Digital communication platforms that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites, microblogging sites, photo and video sharing sites, wikis, blogs, and news sites. Some examples of social media include Facebook, Twitter, Instagram, YouTube, Reddit, and Tumblr.

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

Electronic Communication - Any kind of communications, created by, represented by, sent to, or stored by any user using any electronic communications system, including all information, data, and attachments to the communication.

Blog - A contraction of the term "weblog" is a type of website, usually maintained by an individual with regular entries of commentary, descriptions of events, or other material such as graphics or video. "Blog" can also be used as a verb, meaning to maintain or add content to a blog.

Personal Information - Any type of information that might lead to the identification of any individual. Examples may include social security numbers, dates of birth addresses, phone numbers, e-mail addresses, driver's license or other identification numbers.

Electronic Media - Digital photos, audio recordings, videos or digital information.

Post or Posting - Text or digital information that is placed on a website. This includes text, photographs,

audio, video, or any other multimedia file.

Confidential Information - Any information of a personal or private nature or that is deemed confidential by law. This includes information that is obtained as a result of any law enforcement activity including, but not limited to: information or digital media depicting the Albany Police Department, its employees, crime scenes, internal videos, daily work activity, or information sensitive to law enforcement that has not been authorized for public release.

Proprietary Information - Any photographs, videos or information digital or otherwise created or obtained while an employee is on duty remains the property of the Albany Police Department. The work product of the Albany Police Department is subject to all federal law, state law, City codes, and department policies regarding its confidentiality and release.

Work Product - Anything created by an employee as part of the employee's duties or activities on behalf of the City is considered to be the property of the Albany Police Department. Examples may include, but are not limited to: photos, videos, audio recordings, blog entries depicting the Albany Police Department or its employees, internal videos, daily work activity, electronic files or documents.

Employee - Any full, part-time or temporary employee, intern or volunteer.

636.2: POLICY

It is the policy of the Albany Police Department to carefully balance the rights of individual employees against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression. The social media portion of this policy is intended to supplement [City of Albany Social Media: Policy HR-ER-19-002](#).

636.3: EMPLOYEE SPEECH AND EXPRESSION

The Albany Police Department recognizes the fundamental Constitutional right of free speech; however, the Department also recognizes the need to be mindful of the safety of the Department and the public, and to guard the public trust. Employees shall be mindful that their statements in public, whether on-duty or off-duty, may be a reflection on the City of Albany, the Albany Police Department, and the law enforcement profession.

636.3.1: PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

Unless otherwise protected (e.g., speaking as a private citizen, including acting as a member of a recognized bargaining unit or officer association on a matter of public concern), the following are prohibited:

- a. Speech or expression made pursuant to an official duty that could reasonably compromise or damage the mission, function, reputation or professionalism of the Albany Police Department or its employees;
- b. Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Albany Police Department and compromises or damages the mission, function,

reputation or professionalism of the Albany Police Department or its employees. Examples may include:

- 1) Statements which indicate disregard for the law or the United States Constitution;
 - 2) Expression which demonstrates support of criminal activity;
 - 3) Participating in sexually explicit photographs or videos for compensation or distribution.
- c. Speech or expression that has a negative impact on the credibility of the employee as a witness;
- d. Speech or expression of any form that has a negative impact on the safety of the employees of the Department;
- e. Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee (or any other act that would constitute a misuse of public information in violation of [ORS 162.425](#)).

636.3.2: UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

- a. While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees shall not represent the Albany Police Department or identify themselves in any way that could be reasonably perceived as representing the Albany Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:
- 1) Endorse, support, oppose, or contradict any political campaign or initiative;
 - 2) Endorse, support, oppose, or contradict any social cause or religion;
 - 3) Endorse, support, oppose, or contradict any product, service, company or other commercial entity;
 - 4) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.
- b. When it can reasonably be construed that an employee, acting in their individual capacity or through an outside group or organization (e.g. bargaining group), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Albany Police Department.
- c. A notice of restrictions on political activities by employees will be posted and maintained by the Department in a place that is conspicuous to all employees as required by law ([ORS 260.432](#)).
- d. Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off- duty. However, employees shall not use their official authority or influence to interfere with or affect the result of an

election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes ([5 USC § 1502](#)).

636.4: SOCIAL MEDIA

The Department endorses the secure use of social media as described below to enhance community engagement, information distribution, and neighborhood safety. The Department recognizes the role that social media plays in the personal lives of some Department employees. However, the personal use of social media can have bearing on employees in their official capacity as they are held to a high standard by the community.

Engaging in prohibited speech outlined in this policy may provide grounds for discipline and may be used to undermine or impeach an officer's testimony in legal proceedings.

636.4.1: USE OF DEPARTMENT SOCIAL MEDIA SITES

- a. All Albany Police Department Social Media Pages shall adhere to the standards and requirements in the [City of Albany Social Media: Policy HR-ER-19-002](#).
- b. Only authorized members of the Department Social Media Users Group shall post to the Department social media accounts.
- c. **No confidential information may be used or posted on any department owned or sponsored social media page without authorization** of the Chief of Police or a Division Captain.
- d. Employees may create and use fictitious social media accounts with the approval of a supervisor as a tool to assist with official criminal investigations.
- e. Some examples of authorized uses of Department social media pages include, but are not limited to: information about matters of public interest, community events, crime prevention and safety information, and investigative information or requests for information.
- f. Members are encouraged to use the Department social media pages as an investigative tool for enlisting public assistance in cultivating case leads and identifying suspects.
 - 1) Posts falling into this category should include, if practical:
 - A. A photo of the suspect which could lead to identification;
 - B. Relevant information about the circumstances of the case;
 - C. The date of occurrence;
 - D. Contact information for the investigating officer/detective.

- 2) Posts should not include information which might jeopardize the integrity of a case or the safety of any victim or witness.
- 3) Social media posts related to active investigations shall be posted with authorization of the primary investigating officer/detective or a supervisor.
- 4) Posts concerning juvenile offenders, or offenders that appear to be juveniles, require extra consideration prior to posting.
 - A. Members should only post juvenile offender photos/videos to social media if the crime(s) involve serious felonies, or:
 - B. Members have other unique circumstances for lesser offenses that would greatly benefit safety to the public to post photos/videos of juvenile offenders. Consultation with the City Attorney's Office in these cases is recommended.
- g. Members who are not authorized members of the Social Media Users Group may request that authorized users post information or requests for information to the Department social media pages on their behalf.
 - 1) The authorized Social Media Users Group member will evaluate whether the request meets the criteria for posting to Department social media pages.
 - 2) Any question of whether or not a post should be made to a Department social media page should be referred to a supervisor.
- h. When evaluating whether to disseminate information via social media pages, employees shall use the following criteria:
 - 1) Can we legally release the information?
 - 2) Is the information a matter of public interest?
 - 3) Does releasing the information benefit the department and community?
- i. Members intending to post information to Department social media pages should also consult the [Media Relations: Policy 640](#), the [Records Maintenance and Release: Policy 601](#), and the [Public Alerts: Policy 641](#).

636.4.2: EMPLOYEE USE OF PERSONAL SOCIAL MEDIA SITES

- a. Employees may express themselves as private citizens on social media sites as long as employees do not:
 - 1) Make, share, or comment in support of any posting that includes harassment, threats of violence, or similar conduct;

- 2) Make, share, or comment in support of any posting that ridicules, maligns, disparages, expresses bias, or disrespect toward any race, religion, sex, gender, sexual orientation, nationality, or any other protected class of individuals;
 - 3) Make, share, or comment in support of any posting that suggests that Department personnel are engaged in behavior reasonably considered to be unlawful or reckless toward public safety;
 - 4) Otherwise violate any law or Albany Police Department policy.
- b. Employees shall make reasonable efforts to remove content appearing on their social media account that violates this policy upon learning of the offensive content.
 - c. Employees shall not post or otherwise disseminate any confidential information they have access to as a result of their employment with the Department.
 - d. Employees may not make any statements, appearances, endorsements, or publish materials that could reasonably be considered to represent the views or positions of the Department.
 - e. Employees shall not use their City email address to register a personal account on social media.

636.5: PRIVACY EXPECTATIONS

- a. Members forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site which is accessed, transmitted, received or reviewed on any department technology system (see the [Information Technology Use: Policy 630](#) for additional guidance).
- b. The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology issued or maintained by the Department, including the department e-mail system, computer network or any information placed into storage on any department system or device.
 - 1) This includes records of all key strokes or web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks. However, the Department may not require a member to disclose a personal user name or password, or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work-related misconduct ([ORS 659A.330](#)).

636.6: CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct which is otherwise prohibited under this policy, the Chief of Police or authorized designee should consider:

- a. Whether the speech or conduct will have a negative effect upon the efficiency of delivering public safety services;
- b. Whether the speech or conduct will be interpreted as contrary to the good order of the Department or the efficiency or morale of its members;
- c. Whether the speech or conduct will reflect unfavorably upon the Department or the City;
- d. Whether the speech or conduct will have a negative effect upon the member's appearance of impartiality in the performance of their duties;
- e. Whether similar speech or conduct has been previously authorized;
- f. Whether the speech or conduct may be protected and outweighs the interests of the Department.

636.7: TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.