



1-2 Social Media / Employee Speech

1-2-1 Policy

The policy of the Department is to support employees' First Amendment rights while protecting the Department's ability to function efficiently, harmoniously, and maintain relationships necessary to serve the public.

The First Amendment is a right guaranteed by the Constitution of the United States. As with all rights, there are limitations and responsibilities defined by the courts. Employees utilizing social media and other forms of communications must be aware of these limitations and responsibilities, especially as they pertain to government employees.

Department employees' conduct and activities, both on and off duty, reflect upon the Department. Therefore, it is incumbent upon Department employees, using social media, to ensure their speech does not hinder the efficient operation of the Department.

Department employees should be aware there are criminal elements in society who use social media for counter intelligence and targeting law enforcement personnel. Department employees are strongly encouraged to take their safety and the safety of their families into consideration when using social media.

Speech made pursuant to the speaker's employment duties, in the course of their official duties, or relating their professional responsibilities, whether on or off duty, may not be protected by the First Amendment, and must conform to this policy.

1-2-2 Definitions:

A. Concerted Activity

The right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, as well as the right to refrain from any or all such activities. Refer to Article 7E of the New Mexico State Statutes, Public Employee Bargaining.

B. Pornography

Pornography is printed or visual material containing the explicit description or display of sexual organs or activity, intended to stimulate erotic rather than aesthetic or emotional feelings.

C. Public Domain



The term “public domain” refers to creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws. The public owns these works, not an individual author or artist. Anyone can use a public domain work without obtaining permission, but no one can ever own it.

D. Protected Classes

Protected classes are a group of people with a common characteristic who are legally protected from employment discrimination. In this section protected classes are, race, color, national origin, religion, sex, age, citizenship status, sexual orientation, gender identity, and serious medical condition.

E. Social Media

Social Media is the collective of online communications channels dedicated to community-based input, interaction, content sharing and collaboration. Websites and applications dedicated to forums, blogging, microblogging, social networking, social bookmarking, social curation, and wikis are among the different types of social media. For the purposes of this section, cellular phone applications such as, text messaging, Snapchat, WhatsApp, Kik, Facebook Messenger, Twitter, and the like, are considered social media.

F. Substantive Speech

A “like” or response to a post is considered substantive speech. Clicking on the like button suggests that the user concurs, supports, or agrees with the speech. Similar responses such as up-voting, down-voting or using an emoji is speech in favor of or against a post.

1-2-3 Permitted Social Media Use

The below content is permitted social media use. It is not possible to list every possible permitted use. Therefore, employees should contact the PIO’s office or Internal Affairs when they have doubt about speech that may violate this section of the SOP. Refer to the “Computer Use” and “Code of Conduct” Standard Operating Procedures and the City of Albuquerque’s Social Media Policy regarding restrictions on using social media during work hours or using department issued equipment for social media.

- A. Concerted activity
- B. Politics, unless otherwise prohibited
- C. Social issues, unless otherwise prohibited
- D. Personal issues, unless otherwise prohibited



E. Viewing legal content, adult or otherwise

F. Linking to and/or re-posting content not in section 1-2-4

G. Linking to and/or re-posting content from Department sanctioned websites

H. Administering a Department authorized website

1-2-4 Prohibited Social Media Use

Posting the below content is prohibited for Department personnel, regardless of whether the post is publicly accessible or not. Personnel using online aliases or otherwise obfuscating their employment and/or identity are still mandated to follow the SOP and are responsible for content they post, substantive speech, or link to. It is not possible to list every possible circumstance that may violate the SOP. Therefore, employees should contact the PIO's office or Internal Affairs when they have doubt about speech that may violate this section of the SOP.

Only when necessary during the course of official investigations, such as internet crimes against children, narcotics, gangs, or intelligence investigations, may content be posted that would otherwise violate this policy.

A. Speech or content that ridicules, maligns, disparages, or otherwise discriminates against a protected class of people

B. Speech or content that contains racism

C. Uploading, displaying, and/or distributing any pornography

D. Viewing and/or downloading any content which would violate Federal, State, or local law

E. Speech that impairs the mission of the Department

F. Speech that impairs working relationships within the Department

G. Speech that impairs the efficiency of the Department

H. Uploading, displaying, and/or distributing information about any Department criminal or administrative investigation that is otherwise confidential or would compromise the investigation. This excludes necessary conversations among employees that are part of the investigation and not publicly accessible, for example, text messaging.



- I. Revealing the identities or displaying photographs of Department personnel who work in an undercover or covert capacity to non-employees of the Department
- J. Uploading, displaying, and/or distributing any crime scene photographs not in the public domain
- K. Substantive speech, Linking to, or reposting, social media content that would violate this policy
- L. Uploading, displaying, and/or distributing any copyrighted material not owned by the employee
- M. Revealing police practices or procedures, such as SWAT or Narcotics tactics, that could hinder the operation of the Department and/or jeopardize officer safety.
- N. Uploading, displaying, and/or distributing on social media, photographs of themselves in uniform or displaying official Department identification including, but not limited to, patches, badges, emblems, logos, or marked/unmarked vehicles on internet sites without authorization from the PIO's office. This excludes photographs taken at official Department ceremonies (e.g., promotions, awards, medals/citations, etc.).
- O. Violation of the City of Albuquerque's Social Media Policy. Speech or use of social media which violates the "Computer Use" and "Code of Conduct" Standard Operating Procedures

1-2-5 Department Sanctioned Social Media Use

Department personnel approved to run or administer a Department sanctioned social media site and speak on behalf of the Department are reminded their speech is not protected by the First Amendment. Therefore, due diligence and coordination with the PIO's office should take place prior to releasing any information. All Department sanctioned social media use will comply with Administrative Instruction 2-25(2016) and the City social media policy.

- A. All Department sanctioned social media, not used for investigations, shall be approved by the PIO's office. The approval can be revoked at the discretion of the PIO's office at any time.
- B. Social media for individual officers (in their official capacity), units, sections, divisions, and bureaus, shall be approved by the PIO's office prior to being published. These websites shall:
 - 1. Include an introductory statement clearly specifying the purpose and scope of the website



2. Contain a link to the Department's official website
3. Provide contact information for the website's administrator
4. Not promote products or political candidates
5. Be in compliance with all Federal, State, and local laws

1-2 SOCIAL MEDIA

1-2-1 Policy

The policy of the Department is to establish the Department's position on the utility, management, administration, and oversight of social media. This policy is not meant to address one particular form of social media, rather social media in general, to allow for new tools and future technologies.

Social media provides a 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 Department also recognizes the role that these tools play in the personal lives of some Department personnel. The personal use of social media can have a bearing on Department personnel in their official capacities. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by Department personnel.

1-2-2 Rules

A. Free Speech

1. As public employees, Department personnel are cautioned that speech, on or off-duty, made pursuant to their official duties is not protected under the First Amendment and may form the basis for discipline if deemed detrimental to the Department. Department personnel should assume their speech and related activity on social media sites reflect upon their office and this Department. Engaging in prohibited speech noted herein may provide grounds for undermining or impeaching an officer's testimony in criminal or civil proceedings. Department personnel are subject to discipline up to and including termination for violations of these provisions.
2. When using social media, Department personnel should be mindful that their speech becomes part of the worldwide electronic domain. Therefore, adherence to the Department's Code of Conduct (SOP General Orders section 1-1) is



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required for the personal use of social media. In particular, Department personnel are prohibited from the following:

- [1-5] 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 discrimination against any race, any religion, or any other protected class of individuals.
- [7] b. Speech which could bring the Department into disrepute or which impairs the mission of the Department and/or the ability of Department personnel to perform their duties.

B. Social Networks and Other Websites

- [7] 1. Employees who have personal web pages, memberships with social networking websites or other types of internet postings, which can be accessed by the public, shall not engage in any type of speech, expression, or communication as prohibited in this portion of this policy.
- [6] 2. Photographs or other depictions of Department uniforms, badges, patches, marked patrol cars, or any other item or material which is identifiable to the Department shall not be used on personal employee internet postings without written permission from the Chief of Police or his designee.
- [6] 3. Employees shall not authorize any other party to use photographs or other depictions of Department uniforms, badges, patches, marked patrol cars, or any other item or material which is identifiable to the Department without written permission from the Chief of Police or his designee.
- [6] 4. Posting the following types of criminal justice information to social networking sites is explicitly prohibited:
 - a. Confidential, sensitive, or copyrighted information to which you have access due to your employment with the City;
 - b. Data from criminal or administrative investigations including photographs, videos, or audio recordings;
 - c. Photographs of suspects, arrestees or evidence;
 - d. Personal statements about any investigation that are not included in an official police report including;
 - e. Comments related to pending investigations and/or prosecutions.

C. Department Sanctioned Presence of Social Media

- 1. Where possible, each Department-created social media page shall include an introductory statement clearly specifying the purpose and scope of the agency's presence on the website.
- 2. Where possible, the page(s) should link to the Department's official website.



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- [7] 3. All Department-related social media sites or pages shall be approved in writing by the Chief of Police or his designee.
- [7] 4. Pages for specific officers, divisions, or programs within the Department must be approved in writing by the Chief of Police or his designee. Care must be taken to maintain the integrity of the Department's brand online.
5. Where possible, social media pages shall clearly indicate they are maintained by the Department and have Department contact information prominently displayed.
6. Social media content shall adhere to applicable laws, regulations, and policies, including all information technology, records management, Department, and City policies.

D. Department Sanctioned Use of Social Media

1. Department personnel representing the Department via social media outlets shall:
- a. Conduct themselves at all times as representatives of the Department and adhere to all Department standards of conduct;
 - b. Identify themselves as a member or employee of the Department;
 - c. Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecution, nor post, transmit, or otherwise disseminate confidential information; and
 - d. Not conduct political activities or private business.
 - e. Observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.
2. Uses
- a. Social media is a valuable investigative tool when seeking evidence or information and/or disseminating information.
 - b. Social media can be used for community outreach and engagement.
 - c. Social media can be used to make time-sensitive notifications.



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Effective: 01/14/16 Review Due: 01/14/17 Replaces: 04/27/15

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Policy Development Form
Office of Policy Analysis



Name and Title: Det. John Gallegos

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SOP: Social Media 1-2

Date Completed: 11/6/2018

In order to gain a clear understanding of the reason for the policy change, please answer the questions below with as much detail as possible as this information will be shared with internal and external stakeholders interested in participating in APD's policy development process.

Explain the rationale or purpose for the new policy or amended policy? Example: Best practices, case law, liability, conflicts with other policies or regulations, CASA related.

This is a complete re-write of the policy.

Clarify the Department's policy and rationale behind some restrictions. Use case law and current political environment to protect employees' First Amendment Rights as well as Protect the Department from employee speech that may negatively affect the Department's mission and efficiency.

What is the policy intended to accomplish? Explain the general intent with respect to the specific topic of the policy.

Establish clear social media and First Amendment guidelines and a better understanding of employee rights and responsibilities.

How will the policy be measured to determine its effectiveness? (Example: Will data be collected, if so, in what format and who will maintain the information?)

No formal measuring plan in place at this time. This is a clarification re-write.

Please list any references used to draft the policy such as policies from other agencies, case law, directives from the CASA, research papers, etc.

Pickering v. Board of Education (truth, public importance, agency efficiency, personal attack, impair discipline, impact on relationships related to employment)

Garcetti v. Ceballos (employee speech relating to official duties)

New Mexico Whistle Blowers Protection Act (protect employees from retaliation)

Roe v. San Diego (posting adult content)

Unk Det. v. Boulder Co. (public importance)

Cromer v. Lexington (agency efficiency)

Please submit this form to OPA@cabq.gov

Should you have any questions or concerns regarding this form, contact Jolene Luna at 768-2223 or email jjluna@cabq.gov.

Updated 7/25/18

Policy Development Form
Office of Policy Analysis



Foley v. Randolph Mass. (employee speech relating to official duties)
Snyder v. Millers Univ. (agency efficiency/conduct)
NLRA (does not apply to government employees)
IACP generic policy (review)
Multiple other agency policy reviews