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# Employee Speech, Expression and Social Networking

## **1058.1 PURPOSE AND SCOPE**

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### **1058.1.1 APPLICABILITY**

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

## **1058.2 POLICY**

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Azusa Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

### **1058.2.1 USE OF SOCIAL NETWORKING/MEDIA SITES AS AN INVESTIGATIVE TOOL**

This policy enables select Azusa Police Department personnel the ability to utilize controlled access to Internet-based, social networking/media sites as a powerful, investigative and intelligence gathering tool to benefit active cases as well as predicting and/or preventing potential crimes. This controlled access may include the use of "undercover" Azusa PD created profiles.

While subject to change based on necessity, the proposed use of social networking/media sites for investigative purposes shall be limited to two (2) officers selected by the Gang Specialist Unit (GSU) Lieutenant, as well as one detective selected by the Detective Bureau Lieutenant. A password and logon for each account will be given to the GSU Lieutenant, GSU Sergeant,

# Azusa Police Department

## Azusa PD Policy Manual

### *Employee Speech, Expression and Social Networking*

---

Detective Bureau Lieutenant and Detective Bureau Sergeant. Additional access may be granted upon request of the above mentioned supervisors.

The establishing of undercover Azusa PD created social networking/media profiles shall only be done by the selected officers and detectives as identified above. Any profile that is created must be approved by the above listed supervisors prior to use. Names, ages, addresses, etc. of undercover profiles must be "de-conflicted" to the best of the investigator's ability. This is in an effort to insure no real person can be mis-identified as the owner of the undercover profile. The de-confliction should include searching public information databases (i.e. Google, Facebook, Twitter, etc.) for matching information. If real information matching that of the undercover profile is found, the undercover profile must be changed.

The GSU Lieutenant, GSU Sergeant, Detective Bureau Lieutenant and Detective Bureau Sergeant will have full access and can monitor any social networking/media websites and material, including but not limited to undercover Azusa PD created profiles. Officers/Detectives utilizing general access shall keep at least one of the listed supervisors apprised of how the social networking/media sites are being utilized in the course of their investigative duties. Designated supervisors shall periodically monitor access by Azusa PD personnel to insure that access to social networking/media sites is not misused.

In addition to the prohibited speech, expression and conduct listed in Section 1058.4 below, employees shall not use social networking/media sites to actively or aggressively recruit informants nor shall the sites and/or profiles be used to lure, challenge or direct anyone to engage in criminal activity.

Under limited circumstances, other Azusa Police personnel may also utilize a victim's, pre-existing social networking/media site to aid in an investigation, with the approval of the GSU Lieutenant, GSU Sergeant, Detective Bureau Lieutenant, Detective Bureau Sergeant, or the on duty Watch Commander.

All investigative work on social networking/media sites that is of evidentiary value to a case that may be prosecuted shall be saved in either digital or printed format for future review or use. The saved files should be booked into evidence under the appropriate report number.

#### **1058.2.2 AUTHORIZED EQUIPMENT**

The use of social networking/media sites for investigative purposes shall only be conducted on departmental computers, tablets, or cellular devices. Use of any undercover Azusa PD created profiles should only be conducted on a department issued device that operates independent of the department's network (i.e. 3G or 4G capable devices).

Photographs that are uploaded onto any social networking/media site shall only be taken with a department-issued camera with the geotagging capabilities disabled, unless geotagging will assist in a criminal investigation. Geotagging is the adding or imbedding of navigational data (usually in the form of longitude and latitude coordinates) into files - most commonly digital-based photographs. This is a concern because savvy Internet users can unmask imbedded coordinates

# Azusa Police Department

## Azusa PD Policy Manual

### *Employee Speech, Expression and Social Networking*

---

to determine exactly where individual photographs were taken, possibly compromising fictitious profiles and investigations as a whole.

It is critical that officers and detectives do not mix personal social networking/media profiles with undercover Azusa PD created profiles in any way. Officers/detectives shall not use personal computers or devices to access undercover profiles. Co-mingling of social networking/media profiles and/or the use of personal devices can create a significant officers safety hazard for investigators.

#### **1058.2.3 PHOTOGRAPHS**

Photographs that are uploaded onto social networking/media sites, such as Facebook, will only depict images of Azusa Police Officers, posing as common social media users. This is the norm with law enforcement use of the Internet in order to maximize safety, and not implicate civilians nor put them in harm's way. These photographs will be taken in civilian clothes and will not display any insignia, symbol, or wording associated with the Azusa Police Department or the City of Azusa (eg. officers in uniform, patches, badges, etc). The GSU Lieutenant, GSU Sergeant, Detective Bureau Lieutenant and Detective Bureau Sergeant shall approve all such photographs before they are posted/uploaded.

All other photos should be screened by the officer/detective, then approved by one of the listed supervisors prior to use. This screening should include the use of public information databases (i.e. Google, TinEye, etc.) to identify any legitimate sources of the photograph. Any photos that are copyrighted or might mis-identify a legitimate source as the owner of the undercover profile shall not be used.

#### **1058.3 SAFETY**

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Azusa Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1058.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen,

# Azusa Police Department

## Azusa PD Policy Manual

### *Employee Speech, Expression and Social Networking*

---

including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Azusa 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 Azusa Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Azusa Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transports are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Azusa Police Department.
- (f) 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.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Azusa Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or

# Azusa Police Department

## Azusa PD Policy Manual

### *Employee Speech, Expression and Social Networking*

---

department-owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

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 may not represent the Azusa Police Department or identify themselves in any way that could be reasonably perceived as representing the Azusa Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Azusa Police Department.

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 may 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).

# Azusa Police Department

Azusa PD Policy Manual

## *Employee Speech, Expression and Social Networking*

---

### **1058.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

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 that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also 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 a department computer or network. However, the Department may not require an employee 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 (Labor Code § 980).

### **1058.6 CONSIDERATIONS**

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

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

### **1058.7 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.