DAVIS POLICE DEPARTMENT
EMPLOYEE SPEECH, EXPRESSION
& SOCIAL NETWORKING
Policy and Procedure 1.42-A

DEPARTMENT MANUAL

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I. 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 members 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 Davis Police Department will carefully balance the individual member’s rights against the Department’s needs and interests when exercising a reasonable degree of control over its members’ speech and expression.

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 a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit, about matters of public concern, such as misconduct or corruption.

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.

Members should carefully consider 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 Davis Police Department members, such as posting personal information in a public forum, can result in compromising a member’s home address or family ties. Therefore members shall not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member’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, or otherwise disclosing where another officer can be located off-duty.

Members must take reasonable and prompt action to remove, or cause the removal of, any content, including content posted by others, from any web page or website maintained by any member (e.g., social or personal website) when they know or become aware that it is posted and in violation of this policy.
The absence of, or lack of explicit reference to, a specific internet/mobile media/messaging site does not limit the extent of the application of this policy. Where no policy or guideline exists, members should use their professional judgment and take the most prudent action possible in keeping with this policy’s requirements. Members should err on the side of caution and should consult with the Chief of Police or available member of the command staff if there is any uncertainty.

II. PROCEDURE

A. Speech and Expression

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

To meet the Department’s safety, performance and public-trust needs, the following is prohibited, unless the speech is otherwise protected (for example, a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit, on a matter of public concern):

1. Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Davis Police Department or its members.

2. Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Davis Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Davis Police Department or its members. Examples may include:
   a. Statements that indicate disregard for the law or the state or U.S. Constitution.
   b. Expression that demonstrates support for criminal activity.
   c. Participating in sexually explicit photographs or videos for compensation or distribution.

3. Speech or expression that could reasonably be foreseen as creating a negative impact on the credibility of a member as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, bias, or illegal behavior.

4. Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the Department members. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing members by informing criminals of details that could facilitate an escape or attempted escape.

5. Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Davis Police Department.

6. Use or disclosure, through whatever means, for financial or personal gain, of any information, photograph, video or other recording obtained or accessible solely as a result of employment with the Department, or any disclosure of such materials without the expressed authorization of the Police Chief [PC § 146(g)].
7. Posting, transmitting or disseminating any photographs, video or other recordings obtained or accessible solely as a result of employment with the Department on any personal email or personal or social networking or other website or web page without written permission from the Police Chief or designee. (Note § II.B.)

8. 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 Davis Police Department on any personal or social networking or other website or web page, without the express authorization of the Police Chief. (Note § II.B.)

9. Posting any material that would constitute a violation of law or other City/Department policy, such as harassment, hate speech, or libel in relation to their employment with the City.

B. Official Department Events or Department Social Events

Notwithstanding the provisions/prohibitions of §§ II.A.7. & 8., a member may use or post photographs taken of themselves at official department events, or department social events, that do not tend to compromise or damage the mission, function, reputation or professionalism of the Davis Police Department or its members. An example of this type of photograph would be one taken of oneself at a swearing-in or awards ceremony. For safety and security reasons, however, members are cautioned about disclosing their employment with this department and shall not post information or photographs pertaining to any other member of the department: (a) without their express permission, and (b) the posting must still comply with this policy in all other respects. Members are cautioned that by displaying or using a department logo, uniform, or similar identifying item on a personal or social networking or other website or web page they may waive any expectation of privacy in the content of the posted information, photograph, or any information contained web page or website and the information, photograph, or web page or website may be subject to discovery or inquiry by the department or other persons through legal process.

C. Adherence to other Policies

In addition to this policy, members are required to follow PP 1.02-A, Use of Computers, City Administrative Policy 8.2, Electronic Communications and Voice Mail, and City Administrative Policy 8.7, Internet Usage.

D. Unauthorized Endorsements and Advertisements

While members are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, members may not represent the Davis Police Department or identify themselves in any way that could be reasonably perceived as representing the Davis Police Department in order to do any of the following, unless specifically authorized by the Police Chief (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 a member, acting in their individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Davis Police Department.

Members 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, members may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command or advise another member to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

E. Considerations

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Police Chief 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.

E. Expectation of Privacy

Members should not use personal accounts to exchange e-mail or other information that is related to the official business of the Department. Members forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, Twitter, Instagram).

The Department also reserves the right to access, audit and disclose for whatever reason all messages, including attachments, and any information transmitted over any technology that is 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. 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. The Department shall not require member to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

Darren Pytel
Police Chief