

# **1058 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 balance of employee speech and expression with the legitimate needs of the Department. Nothing in this policy is intended to prohibit or infringe upon any employee's communication, speech or expression which has been clearly established as protected or privileged.

### **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, wikis, video and other file sharing sites. (Reference to 1058.4 a & b)

## **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 Fremont 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.

## **1058.3 SAFETY**

Employees 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 Fremont 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 expected to compromise the safety or privacy of any employee, employee's family or associates.

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

In order to meet the Department's safety, performance and public-trust needs, the following are prohibited:

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Fremont 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 Fremont Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Fremont Police Department or its employees.

(c) Speech or expression that could reasonably be foreseen as creating 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 or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as creating 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 transportations are made could reasonably be foreseen to jeopardize 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 Fremont Police Department.

(f) 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 gain, or any disclosure of such materials without the expressed authorization of the Chief of Police or his/her designee (Penal Code § 146g).

(g) All electronic media created while on duty is the property of the Fremont Police Department and subject to all federal law, state law, city codes, and department policy regarding its confidentiality and release. Dissemination outside of the police department is strictly prohibited without specific written authorization of the Chief of Police or his/her designee.

(h) Employees who use social networking sites as part of their normal duty assignment are specifically authorized to do so. For example, using pseudonyms for user name(s), locations, etc. to gain access to electronic communication(s) or information relevant to an investigation.

(i) 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 Fremont Police Department on any personal or social networking or other website or web page, without the express written permission of the Chief of Police.

(j) Failure to take reasonable and prompt action after notification (Identification) to remove any content that is in violation of this policy and/or posted by others from any web page or website maintained by the employee (e.g., social or personal website).

(k) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours).

2. During authorized breaks, however, 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. [Refer to City of Fremont Administration Regulation 1.14]

#### **1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, employees may not represent the Fremont Police Department or identify themselves in any way as being affiliated with the Fremont Police Department in order to do any of the following (Government Code §§ 3206 and 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 any website.

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

### **1058.5 PRIVACY EXPECTATION**

Employees are cautioned their expectation of privacy is diminished or eliminated with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., FaceBook, MySpace, etc.). Employer access to digital information supporting any electronic communication is subject to prevailing law.

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.

All messages, pictures and attachments transmitted, accessed or received over department networks are considered department records and, therefore, are the property of the Department. The Department reserves the right to access, audit and disclose for whatever reason all messages, including attachments, that have been transmitted, accessed or received through any department system or device, or any such information placed into any department storage area or device. 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 accessed through a department computer or network.

The Department extends no privacy interests beyond existing law to the contents of any writing or communication generated on personally owned devices during work hours. Employees are cautioned these writings may be subject to disclosure under public records laws, civil or criminal discovery, or administrative investigations when permitted by law.

This policy is not intended to restrict the content of reasonable communication validly made in furtherance of protected collective bargaining rights.