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# Employee Speech, Expression and Social Networking

## 1029.1 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 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 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.

### 1029.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or public 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.

## 1029.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contradict 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 Fargo 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.

## 1029.3 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 Fargo 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 or privacy 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.

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- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following is prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen 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 Fargo 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 Fargo Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Fargo Police Department or its employees.
- (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 transportations 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 principles of the Law Enforcement Code of Ethics as adopted by the Fargo 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 an authorized designee.

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).

##### **1029.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

While employees are not restricted from engaging in the following activities as private citizens, employees may not represent the Fargo Police Department or identify themselves in any way that could be reasonably perceived as representing the Fargo Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

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- (a) Endorse, support, oppose or contradict any political campaign or initiative (N.D.C.C. § 44-08-19)
- (b) Endorse, support, or oppose any product, service, company or other commercial entity.
- (c) 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 is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Fargo 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 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).

#### **1029.5 PRIVACY EXPECTATION**

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 (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

#### **1029.6 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.