

Employee Speech, Expression and Social Networking

326.1 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.

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, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

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

326.2 AUTHORITY AND REFERENCES

- California Penal Code § 647.9;
- California Government Code § 3206;
- California Government Code § 3302;
- 5 USC § 1502;
- California Labor Code § 980.

326.3 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 Riverside County Probation Department will carefully balance the individual employee's rights in relation to the department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

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Private social media is any social space allowing users to choose exactly who they want to communicate with, without sharing information in a public forum. For example, the Facebook Messenger app is private social whereas traditional Facebook is public social media. Therefore, any communication in a public forum is generally considered public record.

326.4 SAFETY

Employees shall carefully consider the implications of their speech or any other form of expression when using the internet, including speech and expression that may negatively affect the safety of the Riverside County Probation Department employees. Posting personal information in a public forum can reveal a member'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, but not limited to:

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

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

- (a) Speech or communication that would in any way compromise the confidentiality of the identity of the department's clients or their families.
- (b) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Riverside County Probation Department or its employees.
- (c) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Riverside County Probation Department and tends to compromise or damage the mission, function, reputation or professionalism of the Riverside County Probation Department or its employees. Examples may include, but not limited to:
 1. Statements that indicate disregard for the law or the state or U.S. Constitution or incite insurrection.
 2. Expression that demonstrates support for criminal activity.
 3. Content that is abusive, discriminatory, inflammatory, offensive or sexually explicit.
 4. Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal, or local laws.

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5. Any information that could compromise an investigation.
 6. Any information that could tend to compromise or damage the mission, function, reputation, or professionalism of the Riverside County Probation Department.
 7. Any information that could compromise the safety and security of department operations, employees of the department, victims, probationers, or the public.
 8. Any content that has not been properly authorized by this policy.
 9. Use your position for your own private gain or for the gain of persons or organizations with which you are associated personally.
- (d) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of an employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (e) 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 youth/client transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (f) Speech or expression that is contrary to the canons of the Code of Ethics as adopted by the Riverside County Probation Department.
- (g) 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 Probation Officer or authorized designee.
- (h) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, buildings, equipment or other material that specifically identifies the Riverside County Probation Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer or authorized designee.
- (i) 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 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.
- (j) Sworn employees who respond to the scene of an accident or crime in the course of their employment are prohibited from capturing the photographic image of any part

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of the scene, like, location, a deceased person, etc., for any purpose other than an official law enforcement purpose. (647.9 PC)

326.6 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 shall not represent the Riverside County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Riverside County Probation Department in order to do any of the following, unless specifically authorized by the Chief Probation Officer or authorized designee (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 Riverside County Probation 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 shall 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).

326.7 PRIVACY EXPECTATION

The department shall not require an employee 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 or employee violation of applicable laws and regulations, provided that the social media is used solely for purposes of the specific investigation or a related proceeding. (Labor Code § 980).

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326.8 CONSIDERATIONS

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

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