



Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Robert L. Davis
Chief of Police

**SUBJECT: USE OF SOCIAL
NETWORKING SITES**

DATE: September 1, 2009

Approved

Date 2009-027

BACKGROUND

The San Jose Police Department (SJPD) has seen an increased popularity of social networking sites (including, but not limited to, MySpace, Twitter, YouTube and Facebook) being utilized by Department members. Employees should be aware that information that is posted on such sites may be considered part of the public domain, and as such privacy of information should not be assumed. There is no violation of Departmental policy in the mere act of maintaining a page or commenting on social networking sites and blogs. However, the Department has a right to regulate speech in certain circumstances which could result in discipline.

An article published March 10, 2009 in the New York Times detailed the recent experience of a NYPD Officer who was discredited in open court in a criminal trial after a defense attorney presented posts from his MySpace account to the jury (New York vs. Gary Waters). In the MySpace posts, the officer made statements that he modeled his police work after Denzel Washington's corrupt character in the movie "Training Day." He also commented on a use of force incident by another NYPD Officer (the officer claimed some of the posts were meant to be humorous). The defendant was subsequently acquitted of the felony charge. Polled jury members indicated that they found the officer lacked credibility based on the posts.

Additionally, Department members are reminded that City Policy Manual Chapter 1.6.2 prohibits employees from using City cell phones, computers or other City-owned equipment for personal use or private business. Therefore, employees may be subject to discipline for such actions. Members should also be reminded that accessing social networking sites for personal use while on-duty is a violation of Duty Manual Section C 1432, which prohibits employees from devoting any on-duty time to any activity that doesn't relate to a police function.

ANALYSIS

Members who interact on social networking sites are subject to the standards outlined in SJPD Duty Manual section C1404, which states: "A member's conduct, either on or off duty, which adversely reflects upon the Department will be deemed conduct unbecoming an officer. Each case of misconduct will be examined to determine if the act was such that a reasonable person would find such conduct was unbecoming a police officer."


In order to avoid engaging in conduct that a reasonable person would find unbecoming a police officer, Department members should carefully consider whether or not to identify themselves as a member of the SJPD or an employee of the City of San Jose. Members should know that any information posted will be visible to the public at large, including: potential citizen contacts, suspects, witnesses, and attorneys. If you choose to identify yourself as a member of the San Jose Police Department, the following guidelines should be considered when posting information on social networking sites.

1. Do not post photographs of yourself or other Department members wearing uniforms or other identifying items in compromising or inappropriate positions.
2. Do not post photos or images depicting crime scenes, evidence or city property.
3. Do not post images of persons working in an undercover capacity, or identify them as undercover personnel.
4. Do not post items or information that may harm the reputation of the City or Department or its employees.
5. Do not use abusive or inappropriate text to attack colleagues or Department and City policies. Duty Manual section C1423 prohibits employees from publicly disparaging or ridiculing written orders or instructions issued by a senior officer.
6. Do not post derogatory or offensive comments related to your official duties.
7. Be mindful that you may be perceived as supporting political and/or social issues or causes. Duty Manual section C1437 prohibits on-duty members from engaging in activities related to political campaigning and willfully being photographed in uniform (on or off duty) with political candidates.
8. Do not post or release confidential or privileged records or information as outlined in Duty Manual section C1912 and further detailed in Duty Manual Chapters C2000, C2100 and C2200.

ORDER

No Department member shall knowingly post photographs, video images, audio files, or text documents that relate to official Departmental activities (i.e. crime scenes, photos depicting potential evidence, photos of personnel performing official duties, or investigation reports) without the express written permission of the Chief of Police. Department members are also cautioned that the use of images, files or texts depicting Departmental property, equipment or personnel, if posted on the internet, in any manner that tends to reflect adversely against the reputation of the San Jose Police Department or the City of San Jose, could be subject to appropriate discipline.

Additionally, Members are prohibited from accessing social networking sites from Department computers, cell phones or other city owned equipment for non-police related purposes. Members are also prohibited from accessing sites for personal use while on-duty.



ROBERT L. DAVIS
Chief of Police