Policy Number: 1013 – Speech, Expression and Social Networking
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Approved By: Brandon Gatlin, Interim Chief of Police

1013.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites by members of the Montana State University Billings Police Department (Department). The policy provides guidelines for the regulation and balancing of member speech and expression with the needs of the Department.

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, and use of all internet services, including the Web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file sharing sites.

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

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

1013.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to affect 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 Department will carefully balance the individual member's rights against the needs and interests of the Department, when exercising a reasonable degree of control over its members' speech and expression.

1013.3 SAFETY

Department 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 Department members, such as posting personal information in a public forum, or

posting a photograph taken with a GPS-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information, on any forum or medium, which 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:

1. Disclosing a photograph, name, or address of an officer who is working undercover.
2. Disclosing the address of a fellow Department member.
3. Otherwise disclosing where another officer can be located off duty.

1013.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the safety, performance and public trust needs of the Department, the following are 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, or an employee group 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 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 Department and tends to compromise or damage the mission, function, reputation or professionalism of the Department or its members. Examples may include:
    a. Statements that indicate disregard for the law, or the state or U.S. Constitutions.
    b. Expression that demonstrates support for criminal activity.
    c. Participation in sexually explicit photographs or videos for compensation or distribution.
3. Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting to a website statements or expressions that glorify or endorse dishonesty, unlawful discrimination 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 members of the Department.
5. Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics, as adopted by the Department.
6. Use or disclosure of any information, photograph, video or other recording obtained or accessible as a result of employment, or appointment with the Department, for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police, or their designee.
7. 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 Department on any personal or social networking, or other website or web page, without the express authorization of the Chief of Police.

Department members 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 (i.e. social or personal website).

1013.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

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

1. Endorse, support, oppose or contradict any political campaign or initiative.
2. Endorse, support, oppose or contradict any social issue, cause or religion.
3. Endorse, support or oppose any product, service, company or other commercial entity.
4. Appear in any commercial, social or nonprofit publication or any motion picture, film, video or 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, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this Department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Department.

Members retain their rights to vote as they choose, to support candidates of their choice, and to express their opinions as private citizens, including as authorized members of recognized bargaining units or employee groups, 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 elections or nominations for office. Members 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).

1013.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published or maintained through file sharing software or any internet site (i.e. Facebook) that is accessed, transmitted, received or reviewed on any Department technology system (see Policy 317 - Information Technology Use for additional guidance).

However, the Department may not require a member to disclose a personal user name or password, or open a personal social website, except when the employer has specific information about activity by an employee and access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (§ 39-2-307, MCA).

1013.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police, or their designee, should consider include:

1. Whether the speech or conduct would negatively affect the efficiency of delivering public services.
2. Whether the speech or conduct would be contrary to the good order of the Department, or the efficiency or morale of its members.
3. Whether the speech or conduct would reflect unfavorably upon the Department.
4. Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
5. Whether similar speech or conduct has been previously authorized.
6. Whether the speech or conduct may be protected and outweighs any interest of the Department.

1013.7 TRAINING

Subject to available resources, the Department should provide training regarding the limitations on speech, expression and use of social networking to all members of the Department.