



## DEPARTMENTAL GENERAL ORDER

### D-18: MEMBER PERSONAL SOCIAL MEDIA

Effective Date: XX XX 21

Coordinator: Office of Chief of Police

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#### COMMAND INTENT

This policy is intended to provide both guidance and rules about the use of personal social media by members of the Oakland Police Department. While this policy provides guidelines for the regulation and balancing of member speech and expression with the needs of the Department, it also addresses a larger need: that the Department and its staff commit to celebrating the best selves of the members and their service to the community while at the same time protecting members – with both guidance and accountability – against some of the pitfalls of social media. **The policy also makes clear that extreme views that denigrate others, advocate violence, or promote harm have no place within the Department, and those who espouse those views have no place guarding our community.**

The community of Oakland expects that all members of the Police Department will have a “Guardian” mindset when it comes to keeping the peace and to policing in concert with the community. With this mindset must come a recognition by police personnel, especially sworn officers, of the serious power with which they are entrusted. The Department has a commitment to serve and to prevent any information shared on social media platforms that might prejudice or seemingly prejudice the perception of OPD members beyond that they serve with the utmost respect, fairness, sound judgement, and a commitment to equity.

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 individual, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Toxic, unreasonable, and inappropriate expression – such as social media posts that degrade others or promote extremism – threaten the relationship of the Department to the community and create the fear that the awesome powers given to police personnel will be misused. While this type of language may be allowed by First Amendment law, **this type of expression conflicts with the values of the Oakland Police Department and will likely lead to termination of employment by the Department and the City of Oakland.**

## A. VALUES AND RULES OF THE OAKLAND POLICE DEPARTMENT

### A - 1. Department Mission

The Oakland Police Department's mission is to provide police service focused on public safety and the *sanctity of life*, to hold ourselves accountable to a high standard of conduct, efficiency, and efficacy, and to promote mutual respect between the Department and the Communities of Oakland.

### A - 2. City of Oakland Administrative Instruction

The City of Oakland sets forth specific anti-discrimination and non-harassment policy in [Administrative Instruction \(AI\) 71](#).

AI 71 strictly prohibits any form of unlawful employment discrimination and/or harassment or other inappropriate conduct based on race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, state or local law.

Conduct includes not only physical conduct but also verbal conduct (epithets, slurs, derogatory or demeaning comments—even if not directed at a specific person or persons, innuendo, jokes or ridicule, hostile or more severe treatment based on a person's protected characteristic or status, threats of violence or comments indicating stereotyping) and visual conduct (obscene, derogatory or demeaning images, photos, cartoons, e-mail, screen savers or drawings).

### A - 3. Law Enforcement Code of Ethics

The Department expects that all members, both sworn and professional staff, adhere to the Law Enforcement Code of Ethics, including the following section:

*I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.*

### A - 4. Manual of Rules

The Oakland Police Department's Manual of Rules sets forth specific rules that members must follow. The following sections are highlighted because members' personal social media activity must also comport with these rules:

#### ➤ 314.03 – General Conduct

- **314.04 – Conduct Toward Others – Harassment and Discrimination**
- **384.32 – Political Activity**
- **384.56 – Membership in Organizations**
- **384.70 – Subversive Organization**

## **B. DEFINITIONS**

### **B - 1. Social Media**

A category of internet-based resources that integrate user-generated content and user participation. Social media includes, but is not limited to, social networking sites, photo and video sharing sites, wikis, blogs, and websites/apps such as Facebook, Instagram, YouTube, LinkedIn, Snapchat, Twitter, Reddit, Discord, Twitch, and TikTok.

### **B - 2. Personal Social Media**

Personal social media includes:

- Accounts established by Department members with third-party providers (e.g., Facebook, Instagram, Twitter, etc.) that are not officially authorized by the Department, or accounts used by Department members for purposes outside of the scope of a member's official duties.
- Social media accounts established or administered by members of the Department for fraternal or charity organizations, off-duty employment, civic or community organizations, etc., are also subject to the provisions of this policy.

Personal social media does not include:

- Official accounts of the Oakland Police Department, curated and monitored as part of the job duties of members; and
- Social media accounts that are used solely for the purposes of criminal investigation, intelligence, or other job-related duties.

## **C. GENERAL CONSIDERATIONS FOR PERSONAL SOCIAL MEDIA USE**

### **C - 1. Personal Social Media Use May Impact the Operation of the Department**

Members have the right to express themselves as private individuals speaking on matters of public concern while using social media. At the same time, members must understand that their social media activity, even on personal social media accounts, may be seen by the public as attributable to the Department and has the potential to interfere with Department operations.

While members may consider the views, opinions, and actions expressed on social media as only reflecting their own personal views, this may not be the case in the eyes of the public. Once a member has been identified by the media or public as a member of the Oakland Police Department, any

documented social media activity associated to the member will naturally be scrutinized. This scrutiny may increase with the member's assignment (e.g., Internal Affairs, OIG) or holding of a higher rank within the Department. The demonstrated views, opinions, and actions may not be scrutinized in the context of a private individual, but instead in a generalized context, representing the views of Department as an institution and/or all members of the Oakland Police Department.

Any views, opinions, and actions (taken in or out of context) that erode public trust and confidence in the members of the Oakland Police Department are unnecessarily distracting, and potentially detrimental, to the overall mission and operations of the Department.

**C - 2. Any Social Media Content May Become Public**

Members must be mindful that any activities or statements made on social media are made in an online setting, where confidentiality cannot be assured even if the member creates "private" or "limited access" accounts or customizes privacy settings. Any statements, photographs, video clips, or other information sent over the internet may still be viewed and disseminated by third parties, via screen shots or other methods, even after the content has been edited or deleted by the user.

**C - 3. Personal Social Media May Create Safety Risks**

Certain types of information or digital images posted on personal social media may endanger the safety of members of the Department and/or their family members, even if unintentionally. Members are urged not to disclose or allude to their status as a member of the Department on personal social media accounts. Divulging identifying information on personal social media could possibly compromise ongoing investigations, as well as limit a member's eligibility for certain assignments (e.g., work in an undercover capacity, work in highly sensitive assignments, etc.).

**C - 4. Public Content May be Reviewed by the Department**

Any social media interactions by members that are public or become public through the efforts of third parties (e.g., press, hackers, authorized viewers sharing posts) may be reviewed by the Department. If this content violates this policy or other policies, the content may lead to discipline.

**C - 5. Member Personal Social Media Content May be Used to Impeach a Member in Court**

Personal social media activity that is public or becomes public may form the basis for undermining or impeaching a member's testimony in criminal or other court proceedings.

**C - 6. Content Accessed or Posted Using Department Resources May be Reviewed by the Department**

Members forfeit any expectation of privacy in any content published, maintained, or viewed on any Internet website that is accessed on any Department technology system or Department-issued device.

The Department reserves the right to access, audit, and disclose for whatever reason any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the Department e-mail system, computer network, Department-issued smartphone or other device, or any information placed into storage on any Department system or device. It also includes records of all keystrokes or web-browsing history made on any Department computer or any Department-issued smartphone or other device, or over any Department network.

The fact that access to a website requires a username or password will not create an expectation of privacy if it is accessed through a Department computer or network, or using a Department-issued device. The Department may request or require a member to disclose a personal username, password, or other method for the purpose of accessing an employer-issued electronic device. (California Labor Code § 980).

**C - 7. Department Requests for Personal Social Media Passwords or Access**

Generally, the Department may not require or request that an employee disclose a personal username or password for, or grant access to, a personal social media website, or involuntarily divulge any personal social media. However, the Department may request that an employee divulge personal social media reasonably believed to be relevant to an investigation of allegations of member misconduct or member violation of applicable laws and regulations, provided that the social media is used solely for purposes of that investigation or a related proceeding. (California Labor Code § 980).

**D. SPECIFIC RULES FOR PERSONAL SOCIAL MEDIA USE BY MEMBERS**

**D - 1. Compliance with City and Department Rules**

Members' social media use must comply with other City and Department rules and policies including but not limited to those rules and policies highlighted above in A - 2. through A - 4.

**D - 2. Prohibition on Discriminatory Posts and Interactions**

Members shall not post, transmit, share, adopt, advocate for<sup>1</sup>, and/or disseminate any content, in any form, that denigrates, demeans, or shows

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<sup>1</sup> While social media is ever changing, advocating for may include such actions as "liking" or "re-posting" another user's content, even if that content was not created or modified in any way by the member.

hostility or aversion toward any person or group based on race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, political affiliation, pregnancy, medical condition, sexual orientation, military or veteran status, or status in any other group protected by federal, state or local law or the putting down of persons for personal attributes or political beliefs.

**D - 3. Prohibition on Harassment and Threats of Violence**

Members shall not post, transmit, share, and/or disseminate on personal social media any content that constitutes or advocates harassment, violence, or threats of violence.

**D - 4. Prohibition on Personal Social Media that Compromises or Detracts from the Department's Mission**

Members shall not post, transmit, share, and/or disseminate any content on personal social media that is significantly linked to, or related to, the Department and which that interferes with or has the potential to interfere with members' performance of their job duties and/or Department operations. Examples include, but are not limited to, the following (unless otherwise protected by law):

- Expression that indicates disregard for the law or the state or U.S. Constitution.
- Expression that demonstrates support for criminal activity.
- Expression that could reasonably be expected to have a negative impact on the credibility of the member as a witness, such as any expression that glorifies or endorses dishonesty, unlawful discrimination and/or harassment, or illegal behavior.
- Expression that could reasonably be expected to have a negative impact on the safety of Department members, such as operational plans or security precautions at Department buildings.
- Content that depicts any person in an obscene or sexually explicit manner.
- Content that advocates for, celebrates, or otherwise furthers the cause(s) of extremist political, racial, or gender-based positions or groups that espouse violence, a denigration, "othering", or subjugation of another person or people based on the actual or perceived race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, political affiliation, pregnancy, medical condition, sexual orientation, military or veteran status, or status in any other group

protected by federal, state or local law or the putting down of persons for personal attributes or political beliefs.

Members are reminded that expression or content that compromises or detracts from the Department's mission (such as the examples above) will not be excused nor ignored because it is couched or explained as humor, and abusive humor which compromises or detracts from the Department's mission is similarly prohibited by this policy.

#### **D - 5. Display of Department Uniforms or Logos**

Members are cautioned against posting, on personal social media, images of themselves or other members in uniform. While celebration of achievements – such as successfully helping the community, progressing within the profession, or otherwise making a difference – is encouraged by the Department, members must curb their enthusiasm with an understanding of the messages their post may present, even if unintentional.

Members are cautioned against displaying images of official Department identification on their personal social media, including but not limited to patches, badges, emblems, logos, or marked/unmarked vehicles. Any such pictures shall be in accordance with all Department policies or similar rules about conduct, both in this policy and other policies.

These warnings do not apply to images or photographs taken at official Department events or that have been released or posted to official social media by the Department (e.g., promotions, awards, official photographs, photographs released to the public by the press information office, etc.).

Members should understand that posting photographs of themselves or others in uniform, or posting images or photographs from official Department events, will identify them as members of the Department and more closely tie a member's personal social media account and activity to the Department and opens the member's social media activity to closer scrutiny.

#### **D - 6. Display of Department Identification for Commercial or Endorsement Purposes**

Members shall not use Department identification, including but not limited to patches, badges, uniforms, emblems, logos, or marked/unmarked vehicles, on personal social media for commercial or endorsement purposes without authorization from the Department. Such authorization shall be limited to organizations that have 501(c) tax exemption from the Internal Revenue Service and which do not take positions or engage in activities which violate this or any other Department or City policy.

#### **D - 7. Using Department or Organizational Identifiers on Social Media**

Members are urged not to use Department or organizational identifiers (including but not limited to Bureau, Division, Section, or Unit names) as part

of a personal or privately held social media moniker (e.g. @OPD\_JohnDoe, @BFOIII\_JaneDoe).

Members should understand that using Departmental or organizational identifiers more closely ties a member's personal social media account and activity to the Department and opens the member's social media activity to closer scrutiny.

#### **D - 8. Limitation on Use of Personal Social Media on Duty**

Members are prohibited from using personal social media while on duty, except in the following circumstances:

- When brief personal communication may be warranted by the circumstances (e.g. to inform family of extended hours); or
- During authorized breaks. Usage during breaks should be out of sight and sound of the public if feasible and shall not be disruptive to the work environment or interfere with the performance of any member's job duties.

#### **D - 9. Prohibition of Use of City Email for Personal Social Media**

Members shall not use their City email address to sign up for personal social media. However, the Chief of Police or designee may designate a list of specified social media whose sole purpose is professional networking that is exempt from this constraint.

#### **D - 10. Prohibition Against Disclosing Confidential Information**

Members shall treat all official Department business as confidential. Members shall not post, transmit, share, and/or disseminate any information obtained as a result of their position with the Department (e.g., witness statements, crime scene photographs, etc.) on personal social media except as authorized, in writing, by a commander of the rank of Captain of Police or above.

#### **D - 11. Removal of Personal Social Media Content**



Members shall take reasonable and prompt action to remove any content posted by others on the member's social media account (e.g., inappropriate comments) that is in violation of this policy from any web page, website, or user account maintained or controlled by the member (e.g., personal social media or personal website).

Members shall take reasonable and prompt action to remove any content from their personal social media depicting another member in which the other member requests its removal.

#### **D - 12. Mandatory Reporting of Social Media Violations**



Pursuant to [Manual of Rules](#) section 314.48 and DGO M-03<sup>2</sup>, members shall report social media content or activity by other members which violates this policy.

**E. TRAINING**

**E - 1. Initial Training**



All newly hired members, either as part of recruit training (for newly-sworn members) or within six months of hire (for lateral or professional staff members) shall receive training on this policy and on personal use of social media.

**E - 2. Ongoing Training**

Subject to available resources, the Department should provide training regarding member speech and the use of social media periodically to all members of the Department.

By order of

LeRonne L. Armstrong  
Chief of Police

Date Signed: \_\_\_\_\_

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<sup>2</sup> Ref. DGO M-03, Section II, E, 1, k.