



SOUTH MIAMI POLICE DEPARTMENT

GENERAL ORDER NUMBER: 12.4	DATE OF ISSUE: May 1, 2014	EFFECTIVE DATE: May 1, 2014	NUMBER OF PAGES: 6
CFA STANDARD: 32.05 SUBJECT: Employee Conduct- Employee Use of Social Media	NEW (X) RESCINDS () AMENDS () OTHER ()	By Order Of:  Rene Landa , CHIEF OF POLICE	

CFA STANDARDS: 32.05

SECTIONS:

Computerized Social Networking

PURPOSE: This policy is intended to address issues associated with employee use of social networking sites and provide guidelines for the regulation and balancing of employee’s Constitutional Rights to speech and expression with the legitimate needs of the Department. This policy is not intended to prohibit or infringe upon any employee’s communication, speech, or expression as guaranteed by the Florida and United States Constitutions.

SCOPE: All Departmental personnel.

POLICY: Public employees occupy a trusted position in the community, and thus, their statements may have the potential to contravene the policies and performance of the 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 reasonable limitations of their speech and expression, both on and off-duty. To achieve its mission and efficiently provide service to the public, the South Miami Police Department will carefully balance the individual employee’s rights with the Department’s needs and interests.

DEFINITIONS:

Public Medium: Any internet website, social networking site, or blog.

Social Medium: Any internet website used for social networking.

Questionable Content: Any statement, posting, or photograph uploaded to any public or social medium which affords a reason to doubt, challenge or question the nature or purpose of the statement, posting or photograph regardless of the intent of the member who posted it.

Confidential Information: Privileged information which, if compromised through alteration, corruption, loss, misuse, or unauthorized disclosure, could cause serious harm to the person whom the information concerns.

Sensitive Information: Privileged or proprietary information which, if compromised through alteration, corruption, loss, misuse, or unauthorized disclosure, could cause serious harm to the department.

Statement: A communication or declaration in writing, setting forth facts, particulars, etc. via a public or social medium.

Posting: Online Statement.

F.S.S.: Florida State Statute.

General Public: Citizens or anonymous person or persons which the member does not personally know.

12.4.1 Procedures

A. Public Medium or internet shall include but not limited to:

- 1.** Video web cams
- 2.** Personal web sites
- 3.** Interactive networks
 - a.** MySpace
 - b.** Facebook
 - c.** YouTube
 - d.** Twitter, etc.
 - e.** LinkedIn
 - f.** eHarmony
- 4.** Blogs
- 5.** Skype, and/or
- 6.** Any future website or social networking site marketed towards general public medium

B. Public Medium Conduct

- 1.** Members whose public medium or websites contain reference to their affiliation with the department shall immediately remove the affiliation from their personal accounts.
- 2.** Members are afforded protection under F.S.S. 119 Public Records. As such the members are the:
 - a.** Author
 - b.** Custodian of Records, and

c. Broadcast center for all internet activity

1) Members reputation is a property right.

3. Members are not afforded protection from the public records law exemptions, F.S.S. 119.011, when uploading a photograph or making a statement or post on line, especially when:

- a. Interacting with the public on any social medium,
- b. Discussing work related matters on any public or social medium.

4. Members should understand any discussion of work related matters on a public medium which has a “Friends” list, i.e., Facebook, is in direct violation of the public records laws in accordance with Florida Sunshine Laws, F.S.S. 286 and F.S.S. 119.

5. Members should consider the possible adverse consequences of internet postings, such as,

- a. Future employment
- b. Cross-examination in criminal cases, and
- c. Public embarrassment

6. Public Records laws do not change when the member is online.

- a. As such members are discouraged from interacting with the general public in any capacity online.

7. Members shall not depict themselves or other department members through any public medium or internet in a way that identifies the member as being

- a. Employed or,
- b. Affiliated with the department and which,
- c. Contains any content which:
 - 1) Tends to compromise the integrity of the member.
 - 2) This includes but is not limited to comments or remarks which are:
 - a) Unethical
 - b) Slanderous
 - c) Derogatory, or
 - d) Likely to adversely affect the discipline, good order or, reputation of the Department.
 - e) Remarks or comments about the budget.
 - f) Remarks or comments about a person’s or business’s financial status or practice.
 - g) Business Ethics
 - h) Any current or past member’s or other person’s health status.
 - i) Any current or past member’s or other person’s mental health status.

j) Opinions about any encounters with the public as a result of the member's job related function. Including but not limited to:

- 1)** Calls for Service
- 2)** Traffic Stops
- 3)** Terry Stops
- 4)** Citizen Encounters

C. Public Medium Photographs and Statements [CFA32.05(d)]

1. If a member posts a photograph or other personal information on the internet, it is possible for attorneys or reporters to access that information and use it against the member's wishes.

a. For example, if an officer were to become involved in a shooting, the media would have immediate access to photographs of the officer posted on the internet.

2. Members shall not post images of:

- a.** Crime scenes
- b.** Crash scenes
- c.** Evidence
- d.** Suspects
- e.** Victims
- f.** Witnesses, or
- g.** Any other images captured while acting in their official capacity or
- h.** Accessed as a result of their employment.

3. Members shall remove any questionable content which they have uploaded.

a. Questionable content is any photograph or statement which viewed by itself could suggest or portray the member in a negative manner. This includes but is not limited to:

- 1)** "Party pictures."
- 2)** "Suggestive pictures."
- 3)** Members photographs and statements are exceptions to the hearsay exemption and could be used against a member during a civil trial.

a) U.S. vs. Simpson, 152 F.3s 1241 (10th Cir. 1998).

b) Federal Rule 801

c) Federal Rule 801(c) Hearsay

D. Release of Information

1. Members shall not release any confidential or sensitive information gained as a result of their positions within the department.

a. Confidential information which shall not be released includes but is not limited to:

- 1) Photographs
- 2) Home addresses
- 3) Social security numbers
- 4) Phone numbers,
- 5) Names, or
- 6) Any other identifying information of any current or, former law enforcement personnel.
- 7) Confidential Informants
- 8) Refer to FSS 119.071 for detailed information regarding confidential information.

b. Sensitive Information includes; but is not limited to:

- 1) Financial Matters
- 2) Business ethics
- 3) Health Issues
- 4) Promotions
- 5) Demotions

2. Members Right to Privacy

a. Members should understand that as an employee of the department they have no right or expectation of Privacy on any public or social medium.

- 1) Electronic Communication Privacy Act (1987)
- 2) O'Connor v. Ortega, 480 US 709 (1987)

b. The Chief of Police or his or her designee may request the respective member's activity from any public or social medium at any time for review without the consent or knowledge of the member when there is an allegation that departmental policy has been broken through the use of that medium.

3. Public Medium for Private Use

a. Members may post his/her own information.

- 1) However, the member should realize that once the information is uploaded to the internet, it can never be removed.

b. Members should understand a third party could download the pictures or postings and save them for later use, prior to the member deleting them from their own public medium.

c. Nothing in this policy prevents the members from interacting on a public medium, website, or internet as a private citizen, in which:

- 1) The member refrains from any work related
 - a) Photographs (including their uniform, badge, departmental patch, departmental firearm, or any other

thing that would identify their membership in the Department)

b) Statements, or

c) Reference to their employment.

d) Members are encouraged to seek the guidance of supervisors regarding any posting which may adversely affect either the department or the member