

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE May 17, 2016	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors

FROM: Gary McCullough, Chief of Police

THROUGH: Rodger Craddock, City Manager

ISSUE: Police Department's Policy/Procedure's for Social Media Sites

BACKGROUND:

At the March 1, 2016 City Council meeting, Mayor Shoji inquired about the City's social media policy, more specifically what procedures the Police Department uses to determine what and how information is posted on the Police Department's Facebook page.

In March 2015, in response to some citizen's inquiries on how they could access more up-to-date information about the Coos Bay Police Department, its activities, as well as information on current cases and arrests, the Department established its Facebook page. It was determined that the Police Department's Facebook page would be used for the dissemination of accurate information about the services we provide, job opportunities, public education events, historical information, as well as community awareness press releases.

With the establishment of the Departments Facebook page, staff needed to assure that the information that was being posted would conform to all applicable federal, state, and local laws. Staff checked with several Law Enforcement agencies that have established social media policies. Staff then began designing procedures that would conform to the rules and policies of the following:

1. The Oregon State Bar-Press Guidelines outlined in Chapter 16: appendix B "*Guidelines for disclosure and reporting of information on criminal proceedings*"
2. The City of Coos Bay Social Media Policy
3. The Coos Bay Police Department News Media Policy #346.

ADVANTAGES:

Social media sites provide a valuable means of assisting the Department and its personnel in providing service-based notifications, providing public safety education, and meeting community outreach goals.

GUIDELINES FOR DISCLOSURE AND REPORTING OF INFORMATION ON CRIMINAL PROCEEDINGS

It is generally appropriate to disclose or report the following:

- 1) The arrested person's name, age, residence, employment, marital status and relevant biographical information.
- 2) The charge.
- 3) The amount of bail and/or release conditions.
- 4) The identity of and biographical information concerning both complaining party and victim. Specific information about sexual assault or hate crime victims should be disclosed only when the public's right to know clearly outweighs the victim's or the complaining party's right to privacy or safety.
- 5) The identity of the investigating and arresting agency and the length of the investigation.
- 6) The circumstances of arrest, including time, place, resistance, pursuit and weapons used.

It is rarely appropriate to disclose for publication or to report prior to the trial the following:

- 1) The contents of any admission or confession, or the fact that an admission or confession has been made.
- 2) Opinions about an arrested person's character, guilt or innocence.
- 3) Opinions concerning evidence or argument in the case.
- 4) Statements concerning anticipated testimony or the truthfulness of prospective witnesses.
- 5) The results of fingerprints, polygraph or mental health examinations, ballistic tests or laboratory tests.
- 6) Precise descriptions of items seized or discovered during investigation.
- 7) Prior criminal charges and convictions.
- 8) Evidentiary details that were excluded in prior judicial proceedings in the same case.

PHOTOGRAPHY

- 1) Photographs of a suspect may be released by law enforcement personnel provided a valid law enforcement function is served. It is proper to disclose such information as may be necessary to enlist public assistance in apprehending fugitives from justice. Such disclosure may include photographs as well as records of prior arrests and convictions.
- 2) Law enforcement and court personnel should not prevent the photographing of defendants when they are in public places outside the courtroom. However, they should not pose the defendant.

SPECIAL STATEMENT

- 1) The above Guidelines are supplemental to and should be interpreted with the "Oregon
- 2) Bar-Press-Broadcasters Joint Statement of Principles" adopted in 1962 and revised in 1998.
- 3) The Guidelines are cautionary, not mandatory. They do not prohibit release of, or publication of, information needed to identify or aid in the capture of a suspect or information required in the vital public interest after arrest. Neither do they proscribe publication of information which is already in the public domain.
- 4) These Guidelines were adopted in 1968 and revised in 1998.

Purpose

The City of Coos Bay recognizes the value of social media in connecting and communicating with our constituents. The City finds social media to be a valuable tool in furthering its mission of accessibility and “enhancement of the cultural, historical, and natural beauty of our area” for our citizens. The following policy and guidelines are created to guide City employees using social media in performing certain aspects of authorized work for the City. The policy and guidelines do not apply to an employee’s personal use of social media while using their own equipment, resources, and time. Use of City resources is covered in various other policies within this handbook, including “Use of City Property,” “Ethics,” and others.

The intended purpose behind establishing City of Coos Bay social media sites is to disseminate information from the City about the City to its citizens, and to create an avenue for dialogue between the public and the City and its various departments and employees.

The City has an overriding interest and expectation in deciding what is “spoken” on behalf of the City on any City-sponsored social media platforms by its employees.

For the purpose of this policy, “social media” is understood to be any online technology platform that enables persons to communicate (either solely or collaboratively) information including text, audio, video, images, podcasts, and other multimedia formats. Examples of social media platforms include Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Delicious, and others. “Comments” refers to any multimedia communication posted to any City-sponsored or administrated social media site.

General Policy

1. The establishment and use by any City employee of City social media sites is subject to approval by the City Manager or his/her designees. All City social media sites are under the exclusive jurisdiction of the City and may be closed or cancelled at any time without prior notice. Administration of different city social media accounts may be assigned to different City employees or other entities at the discretion of the City Manager.
2. All City social media sites should make it clear that they are maintained by the City of Coos Bay, and they follow the City’s Social Media Policy. Every City-sponsored sites should include the use of the current City logo on its home page. Wherever possible, City social media sites should provide a hyperlink to the official City of Coos Bay website (www.coosbay.org) for forms, documents, online services, and other information necessary to conduct business with the City.
3. The administrator of each City-sponsored site will monitor content to ensure adherence to both the City’s Social Media Policy and the interest and goals of the City of Coos Bay.
4. The City reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy or any applicable law. Any content removed based on these guidelines must be retained and/or archived by the administrator for the length of time specified by public records law for the particular type of record, if applicable, or for a length of time specified by management for content that does not fall under the ORS

definition of a public record. When retaining removed content, the archived record should include the time, date, and identity of the poster when available.

5. These guidelines must be displayed to users or made available by hyperlink.
6. The City will approach the use of social media tools and platforms as consistently as possible at all levels and throughout all departments.
7. The City of Coos Bay's website at www.coosbay.org will remain the City's primary and predominant internet presence.
8. All City social media sites shall adhere to applicable federal, state, and local laws, regulations, and policies.
9. City social media sites are subject to Oregon's Public Records and Meetings Laws. Any content maintained in a City-sponsored social media site that is related to City business including a list of subscribers, posted communication, and communication submitted for posting may constitute a public record and be subject to public disclosure.
10. Comments or postings on topics or issues not within the jurisdictional purview of the City of Coos Bay may be removed.
11. Employees representing the City government via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies.
12. This Social Media Policy may be revised at any time.

Creation of Social Media Accounts

Any City-sponsored social media accounts shall be opened using a valid City email address. Using a City email address will ensure:

- a. Personal and professional communications are separated;
- b. The City can back up public conversations because of the City's ownership and control of the City's email address;
- c. The City can access the site when the site administrator is out on vacation or otherwise away from the office or leaves employment with the City; and
- d. The City can determine that the site is legitimately the City's (and not a rogue site generated from a private email address).

The City Manager shall have the sole discretion to determine and assign which City employees are authorized to open City-sponsored social media accounts or are authorized to engage in social media activities on the City's behalf - only employees so authorized shall do so. The City shall determine appropriate training for employees authorized to use social media on the City's behalf.

Posting Guidelines

1. As a public entity, the City must abide by certain standards to serve all its constituents in a civil and unbiased manner.
2. The intended purpose behind establishing City of Coos Bay social media sites is to disseminate information from the City about the City to its citizens.
3. The City of Coos Bay will not discriminate against public speech based on content or viewpoint. However, site administrators or their designees will remove the following prohibited content from City-sponsored social media sites:
 - a. Comments or postings not topically related to the particular article being commented on;
 - b. Defamatory or personal attacks;
 - c. Threats to any person or organization;
 - d. Comments in support of or opposition to political campaigns or ballot measures;
 - e. Profane, obscene, violent, or pornographic language or content;
 - f. Content that promotes, fosters, or perpetuates discrimination on the basis of race, religion, gender, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or any other protected status under applicable law;
 - g. Inappropriate sexual content or links to inappropriate sexual content;
 - h. Solicitations of commerce;
 - i. Conduct or encouragement of illegal activity;
 - j. Private and/or confidential information;
 - k. Information that may tend to compromise the safety or security of the public or public systems;
 - l. Content that violates a legal ownership interest of any other party; or
 - m. Content that violates any City policy, procedures, Personnel Handbook, or any Federal or State laws.

Site Administrators: Due care should be exercised before removing any content from social media sites. Removal of content that is simply offensive or critical in nature may violate Oregon's free speech provisions. Site administrators are advised to consult with legal counsel before removing any posted content including that which is listed in the posting guidelines above.

Any content removed based on these guidelines must be retained including the time, date, and identity of the poster when available.

Personal Blogs/Social Networking

The City of Coos Bay respects the right of employees to write blogs and use social networking sites. The City does not want to discourage employees from self-publishing and self-expression, and does not discriminate against employees who use these media for personal interests and affiliations or other lawful purposes.

If you choose to identify yourself as a City employee, please understand that some readers may view you as a spokesperson for the City of Coos Bay due to your content including text and images. Because of this possibility, we ask that you state that your views expressed in your blog or social networking area are your own and not those of the City of Coos Bay nor of any person or organization affiliated or doing business with the City.

Records Retention Requirements for Social Media Content

Administrators of City social media sites must maintain and preserve records in compliance with the Oregon Public Records laws. The definition of “public record” is found in ORS 192.410. Essentially, any comment or posting by any party on a City-hosted social media site that is “related” to the business of the City constitutes a public record. Under public records law, the City is required to maintain records for the period provided in the retention schedule for that type of record. Those engaged in social media activities must be familiar with the retention schedules and methods used for preservation of records according to those schedules. The public records law applies whether the site is hosted by the City or a third party. Requests for disclosure of public records created through a City social media site shall follow the same procedures as outlined in the City of Coos Bay Public Records Policy.

1. Managing social media content that is officially maintained elsewhere

Under the ORS definition, a public record does not include: “Extra copies of a document, preserved only for convenience of reference” (ORS 192.005 (5) (d)). Social media content that is maintained as a public record elsewhere need not be retained assuming it is maintained elsewhere according to appropriate retention schedules for its type of record.

2. Managing original social media content

It is possible that site administrators will publish content via social media that does not exist elsewhere among City records. In addition, City-sponsored sites that allow public comments or postings from outside sources may receive content that fits the definition of a public record. Greater care must be exercised to maintain this content in accordance with retention requirements. Almost all of this “original” content will fall into one of the categories below and should be managed as such.

- Speeches/statements/news releases/program activity records

For retention purposes, a City official’s blog posting (for example) is the equivalent of a public speech. An on-the-spot written or photographed account of a department event or summary of its activities posted to any City social media site should be considered a “report.” If any of these statements or reports contain policy or historically significant content, they must be retained permanently. Otherwise, they must be retained according to the retention schedule for that type of record.

- Correspondence

Incoming messages from the public that arrive via a City social media site should be treated as correspondence. Messages that are completely unrelated to the

City's mission, activities, or functions need not be retained. Correspondence that relates to the City's mission, activities, or functions must be captured and retained per the retention category that most closely corresponds to the content of the message.

- *Content associated with a specific function or activity*

If the City or a City department uses social media as a public entry point to solicit specific information (e.g. conducting a poll) or launch a process (e.g. placing an order), the information received should then be retained along with other records associated with that function or activity using the appropriate retention schedule.

Use of Social Media by City Employees

Employees using City-sponsored social media sites shall at all times comply with any City policies, regulations, and established procedures including those contained in the IT Information and Security, Harassment, Discrimination and Retaliation, Ethics, and other policies.

1. Users shall not divulge confidential information.
2. Users shall not post information that would invade the privacy of others.
3. Users shall not post information or opinions related to legal matters, litigation, or parties involved in legal and litigation matters.
4. Employees should at all times be cognizant of the fact that when acting in an official capacity they represent the City of Coos Bay and their conduct in posting to City social media sites should be reflective of that.

Nothing in this policy and guidelines should be construed as an attempt to limit an employee's personal use of social media (including personal postings to any City-sponsored social media sites) while using their own equipment, resources, and time.

News Media Relations

346.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

346.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Captains, Sergeants, Watch Commanders and designated personnel may prepare and release information to the media in accordance with this policy and the applicable law.

346.2.1 MEDIA REQUEST

Telephone media requests for information or access to a law enforcement situation shall be referred to a Captain or the Chief of Police. Media requests in the field should be referred to a supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or public information officer (PIO).
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

346.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Press Information Officer or other designated spokesperson.
 2. Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for TFRs should be routed through the Patrol Sergeant. The TFR should

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include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR § 91.137).

- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody shall not be permitted without the approval of the Chief of Police and the express consent of the person in custody.
- (e) Media representatives will not be allowed to enter the inner perimeter of a tactical situation or a crime scene while an incident or investigation is in progress.

A tactical operation should be handled in the same manner as a crime scene, except that the news media should be permitted within the outer perimeter of the scene, subject to any restrictions as set forth by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Press Information Officer.

346.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

346.4 INFORMATION SUBJECT TO RELEASE

The Department will maintain a public information log of significant law enforcement activities that shall be made available, upon request, to media representatives. The public information log will generally be faxed or e-mailed to local media representatives on a daily basis by the on-duty dispatcher. This log will generally contain the following information:

- (a) The date, time, location, case number or log number, type of crime, extent of injury or loss (if known), and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (b) The date, time, location, case number, name, age and charges for each person arrested by this department unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

Information pertaining to a juvenile arrestee, victim, or witness shall only be released as articulated in Policy Manual § 810.43.

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Identifying information concerning victims of sex crimes shall not be included in the log.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Medical Examiner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the custodian of records (Support Services Supervisor), or if unavailable, a Captain. Such requests will generally be processed in accordance with the provisions of this policy.

346.4.1 SCOPE OF INFORMATION SUBJECT TO RELEASE

The release and inspection of public records is controlled by Policy Manual § 810 and Oregon Revised Statutes 192.410 through 192.505.

The record of an arrest or the report of a crime shall be disclosed unless there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Once the clear need to delay release is no longer present, the following information must be released.

For purposes of this subsection, the record of an arrest or the report of a crime includes:

- (a) The arrested person's name, age, residence, employment, marital status and similar biographical information.
- (b) The offense with which the arrested person is charged.
- (c) The conditions of release.
- (d) The identity and biological information concerning both the complaining party and the victim.
- (e) The identity of the investigating and arresting agency and the length of the investigation.
- (f) The circumstances of the arrest including time, place, resistance, pursuit and weapons used.
- (g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

346.4.2 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Restricted information as outlined in detail in Policy Manual § 810.
- (b) Any specific operational or contingency plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity. Oregon Revised Statutes 192.501(18).
- (c) Criminal history information
- (d) Information pertaining to pending litigation involving this department
- (e) Information obtained in confidence

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- (f) Any information that is otherwise privileged or restricted under state or federal law.
- (g) Confidential peace officer personnel information (See Policy Manual § 1026)
 - 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act (Oregon Revised Statutes 192.502).
- (h) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (i) Investigative information other than as listed above, without the expressed authorization of the Detective Supervisor in charge of an investigation

**Coos Bay Police Department
Protocol and Operations' Practice
POP#16-001**

Subject: SUBMISSION OF PRESS RELEASES AND
DEPARTMENT INFORMATION

Date: May 11, 2016

Distribution: ALL POLICE DEPARTMENT MEMBERS

By: CHIEF GARY MCCULLOUGH

Effective immediately any member of the police department wishing to submit department related information or any press releases pertaining to civil or criminal cases being investigated by department personnel must use the attached authorized department Press Release Form.

Once completed forward the form to either the Operations Captain or the Chief of Police for their review and approval. Once the information document or press release is approved it will be submitted to the appropriate outlet for publication.