

108. EMPLOYEE SPEECH



RICHFIELD POLICE DEPARTMENT POLICY

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Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The Department encourages responsible employee criticism. At the same time, the Department must preserve the management prerogative to maintain order and to discipline employees for misconduct. This Policy establishes a mechanism to resolve conflicts through the coordination of employee criticisms and work related concerns. In addition, this Policy provides special protection for what the courts have termed, "employee whistleblowers"

II. POLICY

Law enforcement employees are entrusted with special responsibilities. They must conduct themselves in a professional manner and are subject to discipline for engaging in "conduct unbecoming an officer" or "conduct detrimental to the Department." This Department recognizes that employees enjoy constitutional protection to engage in reasonable speech activity, including work-related criticism and complaints.

III. PROCEDURE

ON-DUTY SPEECH RESTRICTIONS

Employees are subject to disciplinary action for speech constituting treason, libel, slander, perjury, incitement to riot, or knowingly false statements regarding Departmental operations or personnel. Employees **shall not** publicly criticize Departmental operations, policies, or personnel by speech, writing, or expression in any other manner when such speech is factually inaccurate or is made with a reckless disregard for its truth or falsity.

Employees on duty or in uniform should refrain from using indecent or profane language. Employees should be courteous to citizens, maintain command of their temper and refrain from insolent language. Upon request, employees are required to provide citizens with their name and badge number.

Employees **shall** treat superiors, subordinates, and associates in a respectful manner. Employees are prohibited from making personal attacks that ridicule, belittle, or defame another member of the Department. No employee **shall** use epithets or terms that tend to denigrate a particular race, religion, sex, or ethnic group.

Management and supervisory level employees have a duty of loyalty to support and defend management policies when addressing non-management level employees or subordinates. The failure or deliberate refusal to obey a lawful order or command of a superior constitutes insubordination and can be grounds for termination. Employees who feel a particular order is unfair or unwise are required to obey that order to the best of their ability. Employees are, however, encouraged to express objections to orders to their immediate supervisor for processing as a formal grievance through the appropriate chain of command.

Employees must obtain permission from the Chief to circulate, while on duty or on Department property, any petitions, questionnaires, or other material relating to employee grievances or conditions

of employment. This section is not intended to restrict in any way the legitimate activities of collective bargaining units.

Chain-of-command Grievance Procedures

A Departmental chain-of-command grievance system is established to provide for the orderly and effective resolution of employee problems and concerns. Employees are strongly encouraged to express their work-related criticism and complaints to their immediate supervisor. Employees may submit to their immediate supervisor a written summary of any personal internal grievance. Such personal grievances will be processed through the chain-of-command, and employees will receive a response from the Chief within a reasonable period of time. For compelling reasons, employees may skip links in the chain-of-command or, if necessary, present their grievance directly to the Chief.

Any work related concerns must be presented to the Chief before involving the City Manager or elected officials. Any questions concerning the meaning or implementation of the Department's employee speech policies should be either directed to the Chief through the chain of command, or processed through the procedures provided for by the appropriate labor agreement.

Public Criticism

Public criticism of Departmental operations or personnel can undermine the public's confidence in law enforcement and adversely affect morale. Accordingly, employees are required to express either orally or in writing any work-related criticism to their immediate supervisor prior to expressing that criticism publicly. Constructive criticism is encouraged, and employees will not be disciplined for responsibly expressing that criticism publicly. While it is not possible to list all the factors that will be evaluated in deciding whether an employee should be disciplined for public criticism, the presence of one or more of the following factors will be considered as grounds for disciplinary action:

- 1) The employee personally criticized another person in a way that undermined discipline or a close working relationship.
- 2) The employee failed without justification to use the chain of command grievance procedures or office of the Chief prior to engaging in public criticism.
- 3) The speech related only to a personal internal grievance of the employee and did not concern a matter of significant public interest, such as serious mismanagement, a gross waste of funds, the abuse of authority, or a specific and substantial danger to public health.
- 4) The speech was delivered in an intemperate, offensive, or unprofessional manner.
- 5) The speech violated a specific provision of departmental policy.

Whistleblower Protection And Procedures

Employees are required to report immediately any evidence of another employee's criminal wrongdoing to the Chief. In the event the Chief is suspected of criminal wrongdoing or of covering up another employee's wrongdoing, employees are required to report such information directly to the City Manager. Employees are subject to termination for any activity that interferes with or hinders the successful prosecution of an employee's criminal misconduct. Employees are not subject to retaliatory disciplinary action for reporting under this rule. However, employees are subject to discipline for making frivolous reports.

Impartiality Requirement

Employees **shall not** recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, a professional service, or a commercial service including but not limited to the services of an attorney, bondsman, funeral director, ambulance service, or towing service.

Employees are prohibited while on duty or in uniform from making political endorsements or expressions of favoritism toward a particular political issue or candidate. Employees are prohibited from using their official capacity to influence or interfere with the results of any political election except for a legitimate labor association election. Any exception to the above must be authorized by the Chief.

Off-Duty Speech Unrelated To Employment

When employees are off duty and out of uniform, they enjoy speech rights as other citizens.

PUBLIC APPEARANCES


Employees must receive the prior permission of a Command Staff member before making any public appearance, outside the scope of their normal duties, officially representing the Department or one that gives the impression they are representing the Department. Officers in Departmental uniform, whether on or off duty, **shall not** make any speeches or presentation to any civic club, religious gathering, private or public organization, or any other organized gathering without the prior approval of a Command Staff member. The off-duty expression of personal views by employees in their capacity as private citizens is not covered by this rule.

Contact With The News Media

All inquiries by the news media concerning information under the control of the Department should be handled in conformance with department policies or referred to the Chief. All requests for press releases or interviews must be approved by the Command Staff.

No employee(s), without the consent of the Chief of Police shall offer or allow their opinion to be utilized by the media, nor shall employee(s) verbally formulate Department policy which has not been issued by the Chief of Police. Any discussion with members of the media shall be confined only to the facts of the situation or incident.

By Order Of:



Chief of Police