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Sec. 39.02. ABUSE OF OFFICIAL CAPACITY. (a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

- (1) violates a law relating to the public servant's office or employment; or
- (2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.


(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

- (1) a Class C misdemeanor if the value of the use of the thing misused is less than \$100;
- (2) a Class B misdemeanor if the value of the use of the thing misused is \$100 or more but less than \$750;
- (3) a Class A misdemeanor if the value of the use of the thing misused is \$750 or more but less than \$2,500;
- (4) a state jail felony if the value of the use of the thing misused is \$2,500 or more but less than \$30,000;
- (5) a felony of the third degree if the value of the use of the thing misused is \$30,000 or more but less than \$150,000;
- (6) a felony of the second degree if the value of the use of the thing misused is \$150,000 or more but less than \$300,000;

There ya go, there is an "or," how can you disprove "harm?" Lol

Lie to other departments cost money. and time never stopped

<p>GENERAL ORDER</p>  <p>Kyle Police Department</p>	Effective: 01-06-14	Chapter 1.1
	Section: Administration and Organization	Subject: Mission, Values, and Written Directives
	Approved: <u>Jeff Barnett</u> Chief of Police	

I. POLICY

Law enforcement agencies provide essential services to foster safe communities through crime reduction and deterrence. Administrators of these law enforcement agencies are obligated to train, supervise, and guide personnel in performing the variety of tasks which create safe communities. At the same time, these administrators seek to improve employees' confidence and competence in performing tasks while reducing vulnerability to liability. To meet these obligations, agencies must manage themselves according to written directives. A manual of policies and procedures guides the day-to-day legal and ethical functioning of a law enforcement agency. To that end, this manual furnishes a blueprint for the performance of this agency's activities in accordance with established state and national standards. Providing all members of the department with an understanding of the department's mission and values provides guidance for decision making when situations are not covered by direct policy or procedure.

II. PURPOSE

This document outlines the organization of the Department, its Policy and Procedure Manual, its authority, and defines three kinds of statements that appear in these documents: policy, rule, and procedure. It also states the department's mission and core values.

III. AGENCY MISSION AND VALUES

A. Mission:

The mission of the Kyle Police Department is to effectively and efficiently provide for the protection of lives and property, preserve the public peace, and provide needed community services with the **highest level of professionalism and ethical standards.**

B. Core Values

Integrity: The Kyle Police Department is built upon a foundation of ethical and professional conduct. We are committed to the highest level of moral principles and ethics. All members of the department will adhere to the Law Enforcement Code of Ethics which is a part of this manual.

Honesty: We will be truthful and trustworthy at all times.

Fairness: We are committed to equal application of the law to offenders and members of the public as well as the equal application of rules and regulations to all members of the department.

Courage: We are dedicated to meeting all challenges with the courage needed to accomplish our mission.

Compassion: We understand our role as community caretakers, and temper our application of the law with compassion and empathy.

IV. DEFINITIONS

A. Policy

1. A policy is a statement of the department's philosophy on a given issue. Policy consists of principles and values which guide the performance of department employees. Further, policy is based upon ethics, experience, the law, and the needs of the community.
2. Each section of the Manual will begin with an agency policy statement.
3. Only the Chief of Police, or his designee has the authority to amend, modify or terminate any department policy.

B. Rule

1. A rule is a specific prohibition or requirement governing the behavior of employees.
2. Rules permit little, if any, deviation. Violations of rules may result in discipline.
3. Rules appear in the Policy and Procedure Manual as well as other departmental documents.

C. Procedure

1. A procedure defines the acceptable method of performing an operation or activity. It differs from policy in that it directs employees' actions in performing specific tasks in a prescribed manner within the guidelines of policy.
2. Failure to follow a procedure may result in discipline. Procedures constitute the agency-approved guide to performing tasks. Employees may depart from procedures only when, in their professional judgment, the situation warrants. Employees must be prepared to justify their actions in not following the defined procedure.

D. Memorandum

1. A memorandum provides useful, specific information to employees and may constitute a directive affecting specific behavior for a specific event or period of time, and is usually self-canceling.
2. Memoranda are not part of this manual. Memoranda may be issued by the Chief of Police or by other personnel or agencies. However, memoranda may be incorporated into future editions of this manual. Employees are advised that they may not alter components of this manual based on memoranda unless the memo was issued by the Chief of Police or designee.

V. WRITTEN DIRECTIVES


A. Departmental Policy Manual and Standard Operating Procedures.

1. The Policy Manual contains policy, rules, and procedures as defined above, and is a written directive governing organizational matters.
2. A Standard Operating Procedure (SOP) primarily contains procedures and is a written directive governing operational matters and routine daily tasks such as how to respond to alarms, how to book a prisoner, etc.

- a. Because they contain many procedural statements, SOPs permit some discretion. While SOPs are the preferred method of accomplishing a task, the agency recognizes that an employee may depart from procedures if unusual circumstances warrant, and supervisors approve. Employees must justify their actions and document any departure from Standard Operating Procedure.
 - b. While created by various offices within the department, the Chief of Police approves Standard Operating Procedures.
- B. No policy, rule, regulation, procedure or memorandum is valid unless signed by the Chief of Police or the Patrol Captain. An electronic signature will be a valid form of authorization for the document.
- C. Within the context of any directive, the use of the word "**shall**" or "**will**" denotes an action or behavior that is mandatory and unequivocal. The words "**may**," "**can**," or "**should**" denote an action or behavior that is discretionary.
- D. Any member of the department may suggest or recommend changes to the Chief of Police concerning the Policy Manual or Standard Operating Procedure by forwarding the suggestion through their chain of command using the Policy Revision Suggestion form.
- E. The Chief of Police or his or her designee will completely review the Policy Manual and Standard Operating Procedures at least biennially to ensure continued compliance with Texas law and operations. Revisions may be made at any time. Once a revision is approved and published, each employee shall be deemed to be on notice with regards to the current version.

VI. COMPLIANCE WITH DIRECTIVES

- A. All employees of this Department shall read, adhere to, and are held accountable for all directives, policies, procedures, rules, and instructional training material.
- B. All employees are responsible for the receipt of and adherence to all written directives that affect the employee and the employee's work status.
- C. All employees are responsible for receipt and maintenance of all directives that are distributed to that employee. Each employee of the Department shall sign a statement acknowledging that the member has received, read, understands and agrees to abide by the directive supplied to them in the appropriate manual(s), including revisions. If an employee does not understand the content of an order or directive, or believes that an order or directive illegal or in conflict with other orders or directives, he or she should immediately notify a supervisor who shall provide instruction or training as necessary.
- D. Copies of the statements of receipt (See C above) shall be maintained in the employee personnel file and other locations approved by the Chief of Police.
- E. All employees shall comply with the provisions of these directives and the City Employee Handbook. If an issue is not addressed in the Employee Handbook, these directives shall apply. In the event a conflict exists between these directives and the Employee Handbook, the Employee Handbook shall control unless the Department Policy Manual is more restrictive.
- F. The Policy Manual and Standard Operating Procedures apply to all sworn officers and non-sworn employees of the Police Department both on and off duty.

 Kyle Police Department	Effective: 01-01-14	Chapter 2.1
	Section: Professional Standards and Conduct	Subject: Rules of Conduct
	Approved: <u>Jeff Barnett</u> Chief of Police	
	Revised: 04-07-16	Reference: TBP 1.08, 2.02, 2.12, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22

I. POLICY

The Kyle Police Department and the public expect all personnel to maintain high standards of appearance and conduct. The mission of the department is to work with all members of the community to preserve life, maintain human rights, protect property, and promote individual responsibility and community commitment.

II. PURPOSE

To define departmental expectations for on and off-duty personal behavior. This order applies to all employees both sworn and non-sworn. (TBP 2.12)

III. LAW ENFORCEMENT CODE OF ETHICS (TBP 2.02)

All officers shall display the integrity required by the Law Enforcement Code of Ethics:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

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 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 in both 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.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice, or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

IV. DEFINITIONS

A. Affirmative Duty: The personal responsibility and obligation of an employee to report wrongdoing— rather than to provide such information only when requested.

- B. *False Report*: A report that is not made in good faith, based on information that is known or reasonably likely to be inaccurate; intentionally or negligently ignores exculpatory or mitigating information; or made with the purpose of harassing or wrongly incriminating another employee.
- C. *Good Faith*: A report that provides allegations concerning an employee who is reasonably believed to have purposely committed a serious violation of departmental policy, procedures, rules, or laws.
- D. *Retaliation*: Retaliation of the following kinds is designed to serve as retribution against an employee who, in good faith, has filed a complaint against another employee. In the context of this policy, retaliation includes any deliberate, purposeful actions or failures to act, directed against employees that cause, or that could reasonably be expected to cause, physical harm, property damage, significant emotional stress, or otherwise negatively affect another employee's terms or conditions of employment or that could seriously impair the efficiency, safety or effectiveness of that employee, this department, or both. Such adverse actions may take many forms, including but not limited to: bullying; persistent offensive comments, threats, or intimidation; false accusations; isolating; ostracizing; or acts that malign or disparage an individual's reputation.
- E. *Serious Acts of Misconduct*: Deliberate acts or failures to act that could reasonably form the basis for significant disciplinary action against an employee. Such disciplinary action would be reasonably likely to adversely affect that employee's terms or conditions of employment up to and including termination of service.

V. GENERAL DUTIES

- A. All officers shall, within jurisdictional limits, prevent crime, preserve the peace, protect life and property, detect and arrest violators of the law, and enforce the laws of the United States, the laws of the State of Texas, and all local ordinances, according to the rules, regulations, and general orders of the department. Officers must know that when they act under color of law, they are enforcing the law according to statutes, written administrative guidance in the department, ordinances, common usage, and custom. Further, officers shall exhibit good moral character in the administration of their duties according to departmental orders.
- B. The department maintains the right to establish oral and written orders to govern and control the efficiency, effectiveness, and safe operation of law enforcement. Officers shall be trained in the rules and expectations of professional conduct prior to assuming law enforcement duties.
- C. Management may discipline personnel for violations of the rules listed in this order as well as violations of all departmental orders, directives, city policy or ordinances and state law. The decision to discipline and the measure of discipline employed depend on the rule or law violated, the consequences of the employee's actions, and the employee's prior history and experience.
- D. Duty to Report
 - 1. All employees of this department have an affirmative duty to report serious acts of misconduct or failures to perform actions, defined in departmental policy, procedures, and rules. Failure to report shall result in corrective or disciplinary action.
 - 2. Acts of retaliation against employees who make good faith complaints or disclosures of misconduct against another employee are strictly forbidden. Such acts will form the basis for charges of misconduct resulting in serious disciplinary action.
 - 3. All employees have an affirmative duty under this policy to cooperate fully during the investigation of any allegation of employee misconduct whether conducted by this

department or another authorized authority. Protection from retaliation is extended under this policy to all employees who cooperate in good faith.

4. All complaints of retaliation shall be submitted to any supervisor. If the supervisor is the subject of or is involved in the complaint, an employee shall submit the complaint to the next higher ranking employee in the chain of command.
5. In uncommon situations involving highly egregious offenses or illegality that may have departmental or governmental implications, a complaint may be made directly to the chief executive officer. Examples include but are not limited to broad-based corruption, conspiracy among employees, or offenses involving or including high-ranking officers or members of government.

E. Performance Prohibitions

1. As appropriate, disciplinary action may be taken for any of the following reasons:
 - a. Incompetent or inefficient performance or dereliction of duty;
 - b. Insubordination, discourteous treatment of the public or a fellow employee, or any act of omission or commission of similar nature which discredits or injures the public. (Insubordination may also consist of direct, tacit, or constructive refusal to do assigned work.)
 - c. Mental or physical unfitness for the position which the employee holds.
 - d. Conviction of a felony or misdemeanor involving conduct amounting to moral turpitude or a pattern of misconduct as displayed by series of misdemeanor convictions.
 - e. Failure to report to a supervisor, incompetence, misconduct, inefficiency, neglect of duty, moral turpitude, or any other form of misconduct or negligence of which the employee has knowledge.
 - f. Failure of a supervisory employee to take corrective action regarding employees under his or her supervision who may be guilty of any form of neglect of duty or misconduct where the supervisor knows or should have known of the dereliction.
2. Nothing in these rules and regulations limits the charges against employees because the alleged act or omission does not specifically appear in this manual, other orders or policies of the department, or in the laws or ordinances of which the department is responsible to enforce.
3. No member of the department shall be a member of any organization which advocates the violent overthrow of the government of the United States, the State of Texas, or any unit of local government, or participate in any organization which has a purpose, aim, objective, or any practices which are contrary to the obligations of a law enforcement officer under these rules and regulations.

F. Obedience to Rules of Conduct, laws and orders

All employees, regardless of rank or assignment, shall be governed by the following general rules of conduct. Violation of any of these rules by any officer of the department shall be considered sufficient cause for dismissal, demotion, suspension, or other disciplinary action.

1. Obedience to Laws. Employees shall abide by the laws of the United States and the State of Texas as well as the ordinances of the City of Kyle.

2. Adherence to Departmental Rules. Employees shall abide by the rules of the Civil Service Commission, the City Personnel Rules, and the Policy and Procedure Manual and other properly issued internal directives of the Police Department.
3. Applicability of Rules. Certain rules may not apply in undercover police assignments specifically authorized by supervisors in accordance with this Policy Manual. Officers will be strictly accountable for justifying their actions.
4. Insubordination. Employees shall promptly obey all lawful orders and directions given by supervisors. The failure or deliberate refusal of employees to obey such orders shall be deemed insubordination and is prohibited. Flouting the authority of a supervisor by displaying obvious disrespect or by disputing their orders shall likewise be deemed insubordination.
5. Issuance of Unlawful Orders. No commanding or supervisory employee shall knowingly or willfully issue an order that violates a federal or state law, a city ordinance, or a departmental rule or policy.
6. Obedience to Unjust or Improper Orders. If an employee receives an order he believes is unjust or contrary to a departmental General Order or rule, he must first obey the order to the best of his ability and then may appeal the order to the Chief of Police via the proper chain-of-command.
7. Obedience to Unlawful Orders. No employee is required to obey an order that is contrary to the laws of the United States or the State of Texas or the ordinances of the City of Kyle. If an employee receives an unlawful order, they shall report in writing the full facts of the incident and their actions to the Chief of Police via the chain-of-command.
8. Conflicts of Orders. If an employee receives an order that conflicts with one previously given them by a supervisor, the employee receiving the order shall respectfully point this out to the supervisor who gave the second order. If the supervisor giving the second order does not change the order in a way that eliminates the conflict, the second order shall stand and shall be the responsibility of the second supervisor. If the second supervisor so directs, the second order shall be obeyed first. Orders shall be countermanded only when necessary for the good of the department. (TBP 1.08)

G. Attention to Duty

1. Performance of Duty. Employees shall be attentive to their duties at all times, and shall perform all duties assigned to them, even if such duties are not specifically assigned to them in any departmental rules or procedures manual.
2. Duty of Supervisors. Supervisors will enforce the rules, regulations, and policies of the Kyle Police Department. They will not permit, or otherwise fail to prevent violations of the law, departmental rules, policies or procedures. They will report violations of departmental rules, policies, or procedures to their immediate superior without delay. Where possible, they will actively prevent such violations or interrupt them as necessary to ensure efficient, orderly operations.
3. Conduct and Behavior. Employees whether on-duty or off-duty shall follow the ordinary and reasonable rules of good conduct and behavior and shall not commit any act in an official or private capacity tending to bring reproach, discredit, or embarrassment to their profession or the department. Employees shall follow established procedures in carrying out their duties as police officers and/or employees of the department, and shall at all time use sound judgment.

4. Responsibility to Serve the Public. Employees shall promptly serve the public by providing direction, counsel and other assistance that does not interfere with the discharge of their duties. They shall make every attempt to respond to the inquiry or request for assistance themselves.
5. Responsibility to Respect the Rights of Others. Employees shall respect the rights of individuals, and shall not engage in discrimination, oppression or favoritism. Employees shall maintain a strictly impartial attitude toward all persons with whom they come in to contact with in an official capacity. (TBP 2.17)
6. Truthfulness. Members shall be truthful in all official verbal and written communications and reports. Employees will be truthful in any court related testimony or agency investigations. Officers who are undercover or conducting interviews or interrogations may find it necessary to provide inaccurate information in order to maintain their cover or determine the truthfulness or veracity of a subject. (TBP 2.14)
7. Officers Always Subject to Duty. Officers shall at all times respond to the lawful orders of supervisors, and to the call of individuals in need of police assistance. The fact that they may be off-duty shall not relieve them from the responsibility of taking prompt and proper police action or from being recalled to duty as needed.
 - a. The above shall not be construed to include enforcement of laws of a Class "C" misdemeanor nature, or traffic offenses except for breach of the peace, theft, or assault.
 - b. While off-duty, or in their personal vehicle, officers shall not enforce, or take any police action to enforce Class "C" traffic offenses.
8. Officers Required to Take Action. Except where expressly prohibited, Officers are required to take prompt and effective police action conforming to departmental policy with respect to violations of laws and ordinances coming to their attention or of which they have knowledge. Officers shall promptly and punctually perform all official duties. Officers shall render, or cause to be rendered, medical assistance to any injured person.
9. Reporting for Duty. Employees shall promptly report for duty properly prepared at the time and place required by assignments, training, subpoenas, or orders. Line officers shall remain at their posts or place of assignment until properly relieved by another officer or dismissed by a supervisor. All other officers and employees shall promptly report for duty properly prepared at the time and place required by assignment and shall remain at their post, place of assignment, or otherwise engaged in their duty assignment until having completed their tour of duty as set by established procedures or dismissed by a supervisor. Employees are subject to emergency recall and shall report for duty during emergencies when so notified by a supervisor or the Chief of Police. (TBP 2.16, 2.22)
10. Exceptional leave. Employees shall, in situations requiring emergency leave or sick leave, notify their supervisors of the circumstances as soon as possible. For patrol officers, if unable to report to work, employees shall notify the on-duty supervisor at least one hour before reporting time. All other employees shall notify their direct supervisor at least one hour before reporting time.
11. Remaining Alert to Duty. While on duty or at training, employees shall remain alert and awake, unencumbered by alcoholic beverages, prescription drugs, illegal narcotics, or conflicts arising from off-duty employment.
12. Prohibition of Personal Business while on Duty. While on duty, officers shall not engage in any activity or personal business which would cause them to neglect their duty.

13. Availability While On-Duty. Employees while on-duty shall not conceal themselves except for some authorized police purpose. Employees shall keep themselves immediately and readily available at all times while on-duty.
14. Assistance to Fellow Officers. An officer shall not display cowardice in the line of duty or in any situation where the public or another officer might be subjected to physical danger. Unless actually incapacitated themselves, officers shall aid, assist, and protect fellow officers in time of danger or under conditions where danger might be impending.
15. Prompt Response to All Calls. Officers while on-duty shall respond without delay to all calls for police service. Calls shall be answered in compliance with normal safety precautions, traffic laws and departmental policy.
16. Duty to Report All Crimes and Incidents. Employees shall promptly report all crimes, violations, emergencies, incidents, dangers, hazardous situations and police information that come to their attention. Employees shall not conceal, ignore or distort the facts of such crimes, violations, emergencies, incidents and information.
17. Responsibility to Know Laws and Procedures. Employees shall know the laws and ordinances they are charged with enforcing, all departmental orders and rules, and the duties and procedures governing their specific assignments.
18. Responsibility to Know Districts and Locations. Officers shall know the location and boundaries of their assigned areas. Officers also shall be familiar with the names and general locations of Kyle streets and highways and the names and locations of hospitals and major public buildings.
19. Keeping Posted on Police Matters. Each day while on-duty and immediately upon returning from an absence, employees shall study and become familiar with the contents of recently issued communications and directives.
20. Sleeping on-duty. Employees must be alert throughout their tours of duty. Sleeping while on-duty is forbidden.
21. Assisting Criminal Activity. Employees shall not communicate in any manner, directly or indirectly, any information that may delay an arrest or enable persons guilty of criminal acts to escape arrest or punishment, dispose of property or goods obtained illegally, or destroy evidence of unlawful activity.
22. Reading on-duty. Employees shall not read newspapers, books or magazines while on-duty and in the public view unless such reading has been assigned by a supervisory officer. Dispatchers may be excluded pending Communications Supervisor approval.
23. Studying on-duty. Employees shall not, during their regularly assigned working hours, engage in any studying activity that is not directly related to their current job assignments. Telecommunications Operators may be excluded pending the Communications Supervisor approval.
24. Maintaining Communications. While officers are on-duty or officially on call, they shall be directly available by normal means of communication, or shall keep their office, headquarters, or supervisors informed of the means by which they may be reached when not immediately available.

25. Reporting Accidents and Injuries. Employees shall immediately report the following accidents and injuries: all on-duty traffic accidents in which they are involved, all personal injuries received while on-duty, all personal injuries not received while on-duty but which are likely to interfere with performance of assigned duties, all property damage or injuries to other persons that resulted from the performance of assigned duties, and all accidents involving city equipment whether on or off-duty.
26. Report Address and Telephone Number. Employees shall have a working telephone or other means of communication in case of emergency at their residence, and shall register their correct residence address and telephone number with the department on the prescribed form to Human Resources and the Kyle Police Administrative Assistant. Any change in address or telephone number must be reported immediately.
27. Testifying in Departmental Investigations. When directed by a competent authority to make a statement or furnish materials relevant to a departmental administrative investigation, officers shall comply with the directive.
28. Carrying of Firearms. Except as approved by the Chief of Police or established procedures, all officers are required to carry department issued sidearms while on-duty. While off-duty, officers may use their own discretion as to whether to carry sidearms.
29. Registration of Firearms. All weapons carried and used by officers in the performance of their official duties must be registered with the department. Required registration information must be kept current.

H. Cooperation with Fellow Employees and Agencies

1. Respect for Fellow Employees. Employees shall treat other members of the department with respect. They shall be courteous, civil and respectful of their superiors, subordinates, and associates, and shall not use threatening or insulting language.
2. Interfering with Cases or Operations. Employees shall not interfere with cases assigned to others. Employees shall not interfere with the work or operations of any unit in the department or the work or operations of other governmental agencies. Employees against whom a complaint has been made shall not directly or indirectly contact or attempt to contact for any reason (unless authorized by a supervisor), the complainant, witness or any other persons related to the case in an attempt to intimidate or to secure the abandonment or withdrawal of the complaint, charges, or allegations.

I. Restrictions on Behavior

1. Interfering with Private Business. Employees, during the course of their duties, shall not interfere with the lawful business of any person.
2. Use of Intimidation. Employees shall not use their official positions to intimidate persons.
3. Surreptitious Recording. Use of an electronic or mechanical monitoring or recording device to record any police department employee is prohibited without the specific and expressed prior consent of all employees monitored or recorded.
 - a. This policy is not intended to interfere with the lawful and required use of recording equipment. The intent of this policy is to prohibit the surreptitious recording of police department personnel for reasons other than bona fide and authorized work functions.

- b. All recordings made by department employees regarding police matters, regardless of type of device or ownership, are property of the Police Department and shall be submitted per directives.
 - c. Chief of Police may approve recording, prior to the event, regarding an investigation on a case by case basis.
4. Soliciting and Accepting Gifts and Gratuities. Unless approved by the Chief of Police, employees of the Kyle Police Department may not accept any reward, gratuity, gift or other compensation for any service performed as a result of or in conjunction with their duties as employees of the department regardless of whether the service was performed while said persons were on or off-duty. Employees also shall not solicit any gift, gratuity, loan, present, fee or reward for personal gain. (TBP 2.21)
 5. Soliciting and Accepting Gifts from Suspects and Prisoners. Employees are strictly prohibited from soliciting or accepting any gift, gratuity, loan, fee or other item of value, or from lending or borrowing, or from buying or selling anything of value from or to any suspect, prisoner, defendant or other person involved in any case, or other persons of ill repute, or professional bondsmen, or other persons whose vocations may profit from information obtained from the police department.
 6. Reporting Bribe Offers. If an officer receives a bribe offer, he shall make a written report to his commanding officer.
 7. Accepting Gifts from Subordinates. Without approval from the Chief of Police, employees shall not receive or accept any gift or gratuity from subordinates, other than customary celebratory times such as holidays or birthdays.
 8. Soliciting Special Privileges. Employees shall not use their official positions or identification to solicit special privileges for themselves or others, such as free admission to places of amusement, discounts on purchases, or free or discounted meals or refreshments. The officer may not violate any city policy or state laws.
 - a. It is permissible for an officer to receive a discounted meal from a restaurant if the officer does not ask for it nor promise any preferred services to the business.
 9. Personal Use of Police Power. **Officers shall not use their police powers to resolve personal grievances** (e.g., those involving the officer, family members, relatives, or friends) except under circumstances that would justify the use of self-defense, actions to prevent injury to another person, or when a serious offense has been committed that would justify an arrest. In all other cases, officers shall summon on-duty police personnel and a supervisor in cases where there is personal involvement that would reasonably require law enforcement intervention.
 10. Giving Testimonials and Seeking Publicity. Employees representing themselves as members of the Kyle Police Department shall not give testimonials or permit their names or photographs to be used for commercial advertising purposes. Employees also shall not seek personal publicity either directly or indirectly in the course of their employment.
 11. Soliciting Business. Employees shall not, while on-duty, solicit subscriptions, sell books, papers, tickets, merchandise or other items of value nor collect or receive money or items of value for any personal gain to themselves or others. Employees may solicit for projects related to charitable fundraising, but only when done in a manner not to disrupt the workplace and only with the approval of the Chief of Police.

12. Drinking on-duty. Employees shall not drink any intoxicating beverages while on-duty. Exceptions to this must be made by the Chief of Police in advance.
13. Intoxication. Employees shall not be under the influence of any intoxicating beverage or substance during their tour of duty or immediately prior to their tour of duty. Nor shall officers be intoxicated off-duty while in the public view. While off-duty, officers that have consumed an alcoholic beverage to the extent that their mental and physical faculties are impaired shall refrain from exercising any police authority. Officers assigned to special units, or assignments where they may consume alcoholic beverage during the performance of their duties shall not do so to the extent that their mental and physical faculties are significantly impaired.
14. Drinking While in Uniform. At no time shall any officer consume alcoholic beverages while in uniform. (TBP 2.19)
15. Liquor on Official Premises. Employees shall not bring containers of intoxicating beverages into a Police Department building or vehicle except as evidence.
16. Entering Bars, Taverns and Liquor Stores. Officers on-duty or in uniform also shall not purchase intoxicating beverages.
17. Drug Usage. While on or off duty, employees shall not use any illegal drug or any controlled drug not prescribed by a physician. This includes any drug that is legal in another state or country but illegal in our jurisdiction. Employees shall notify their supervisor if they are using any prescribed drug or any other medication or medical device that the employee believes (or has been informed by a physician or prescription label) might impair their driving or critical decision making. (TBP 2.20)
18. Tobacco Use. Smoking is prohibited in all office and building areas under departmental control and occupied by department employees, except in designated smoking areas. Smoking and other tobacco use is prohibited in all department vehicles.
19. Public Tobacco use Prohibited. Officers shall not smoke or otherwise use tobacco products while engaged in traffic control, on an investigation, or while otherwise in contact with or in view of the public.
20. Playing Games on-duty. Officers on-duty or in uniform shall not engage in any games of cards, billiards, pool, dominoes, electronic arcade games, portable electronic games, computer games including both internally programmed games such as solitaire or Internet based games, or other games. Games on the officer's personally owned cell phone will be permissible only when out of public view and on a designated break.
21. Political Activity. While in uniform or on-duty, officers are not allowed to actively participate (e.g., make political speeches, pass out campaign or other political literature, write letters, sign petitions, actively and openly solicit votes) in political campaigns. Civilian employees are not allowed to actively participate (e.g., make political speeches, pass out campaign or other political literature, write letters, sign petitions, actively and openly solicit votes) in political campaigns while on-duty. (TBP 2.15)
22. Improper Release of Information. Employees shall not communicate to any person who is not an employee of this department any information concerning operations, activities, or matters of law-enforcement business, the release of which is prohibited by law or which may have an adverse impact on law enforcement operations or officer safety.

23. Seeking Personal Preferment. Employees shall not solicit petitions, influence or seek the intervention of any person outside the department for purposes of personal preferment, advantage, transfer, advancement, promotion or change of duty for themselves or for any other person.
24. Criticism of the Department. Employees shall neither publicly nor at internal official meetings criticize or ridicule the department or its policies, city officials or other employees by speech, writing, or other expression, where such speech, writing, or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity.
25. Disruptive Activities. Employees shall not perform any action that tend to disrupt the performance of official duties and obligations of employees of the department or which tend to interfere with or subvert the reasonable supervision or proper discipline of employees of the department.
26. Operation and Use of Police Radios. Operation and use of police radios is restricted to authorized and official police business. Personal conversations, or using vulgar, sarcastic or obscene language, or making unnecessary sounds are not permitted.
27. Use of Racial Jokes and Slurs. No employee shall engage in any form of speech likely to be construed as a racial, ethnic or religious slur or joke, whether in the presence of the public or of other employees.
28. Use of Force. Officers shall use only that amount of force reasonably necessary to accomplish their police mission.
29. Indebtedness to Subordinates. Supervisors shall not become indebted to their immediate subordinates.
30. Personal Relationships Prohibited with Certain Persons. Employees shall not become personally involved or develop a personal or social relationship with a victim, suspect, witness, or defendant while any case is being investigated or prosecuted as a result of such investigation. (TBP 2.18)
31. Duty to be Kind, Courteous, and Patient. Employees shall at all times be courteous, kind, patient, and respectful in dealing with the public. Employees shall strive to win the respect of all members of the community in the discharge of their official duties. When addressed, employees should avoid answering questions in a short or abrupt manner, and shall not use harsh, coarse, violent, profane, indecent, suggestive, sarcastic, or insulting language.

J. Identification and Recognition

1. Giving Name and Badge Number. Officers shall give their name, badge number and other pertinent information to any person requesting such facts unless doing so would jeopardize the successful completion of a police assignment.
2. Carrying Official Identification. Officers shall carry their official identification on their persons at all times while on duty and when carrying a firearm off duty. All employees will carry their official identification on or about their persons while on-duty.
3. Personal Cards. Employees are not permitted to have or use personal cards showing their connection to the department if such cards bear any information not directly pertaining to their work as police department employees.

4. Exchange, Alteration or Transfer of Badge. An employee's issued badge shall not be altered or exchanged between employees or transferred to another person except by order of the Chief of Police. Employees retiring or resigning will not be permitted to retain their badge when doing so will hamper normal operations of the department. All badges must be purchased unless exempted by the Chief of Police.
5. Plainclothes Officers – Identification. A uniformed officer shall neither acknowledge nor show recognition of another police officer in civilian clothes unless that officer first addresses the uniformed officer.

K. Maintenance of Property

1. Use of City Property or Service. Officers shall not use or provide any city equipment or service other than for official city business.
2. Responsibility for City Property. Employees shall be responsible for the proper care and use of department property and equipment assigned to or used by them and shall promptly report to their supervisors any loss, damage, destruction, or defect therein.
3. Departmental Vehicles. Employees shall operate department vehicles and other equipment in such a manner as to avoid injury to persons or damage to property. Whenever a police vehicle is involved in an accident, the operator shall notify a supervisor immediately. Under no circumstances shall an officer investigate his or her own accident.
4. Reporting Damage. At the beginning of a tour of duty, employees shall examine any vehicle assigned to them and report any operational deficiencies, damage, or defects to their supervisors. Failure to report damage or defects creates the presumption that the employee inspected the vehicle and found no damage or defects. The employee, in this case, shall be held responsible for the damage.
5. Responsibility for Private Property. Employees are responsible for protecting private property or equipment that has come into their possession by reason of their office against loss, damage, or destruction.
6. Care of Quarters. Employees shall keep their offices, lockers and desks neat, clean and orderly.
7. Property and Evidence. Employees shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence held in connection with an investigation or other official action except in accordance with established procedures. Any property or evidence coming into the possession of an employee shall be submitted to the property room prior to the end of shift.
8. Alteration or Modification of Police Equipment. Officers shall not use any equipment that does not conform to departmental policy or specifications. All equipment shall be carried and utilized only as issued and authorized, and no changes, alterations, modifications or substitutions shall be made to such equipment unless approved by the Chief of Police.


L. Relationship with Courts and Attorneys

1. Attendance in Court. Employees shall arrive on time for all required court appearances and be prepared to testify. Each member shall be familiar with the laws of evidence and shall testify truthfully on any matter. (TBP 2.16)

2. Recommending Attorneys or Bondsmen. Employees shall not suggest, recommend, advise or counsel the retention of a specific attorney or bondsmen to any person (except relatives) coming to their attention as a result of police business.
3. Testifying for a Defendant. Any employee subpoenaed or requested to testify for a criminal defendant or against the City of Kyle or against the interests of the department in any hearing or trial shall immediately notify the Chief of Police through the chain of command.
4. Interviews with Attorneys. Interviews between an officer and a complainant's attorney about a case arising from the officer's employment by the department shall be done in the presence of or with the knowledge and consent of the officer's commanding officer, department legal counsel or prosecutor.
5. Assisting and Testifying in Civil Cases. Officers shall not serve civil-process papers nor render assistance in civil cases except as required by law. No employee shall volunteer to testify in civil actions.
6. Notice of Lawsuits against Officers. Employees who have had a suit filed against them because of an act performed in the line of duty shall immediately notify the Chief of Police in writing and furnish a copy of the complaint as well as a full and accurate account of the circumstances in question.
7. Notice of Arrest or Citation. Employees who have become the subject of a citation or arrest action in any other jurisdiction shall immediately notify the Chief of Police.
 - a. If the employee receives a traffic citation, the employee must notify the Chief of Police by work email or a phone call (leaving a voicemail if not answered).
8. Arrest of Officer from another Agency. An officer who arrests a sworn officer of another law enforcement agency shall immediately notify his or her own supervisor of the fact. Officers shall take whatever action is appropriate to the circumstances including issuance of summonses or making a physical arrest. That the person cited or arrested is a law-enforcement officer shall make no difference.
9. Arrest of Kyle Officer. If an officer has probable cause to arrest a sworn officer of our department, the officer shall first contact his or her immediate supervisor to review and confirm probable cause. In most cases, the officer may obtain a warrant against the suspect officer. Some occasions may demand an immediate custodial arrest.

M. Expectation of Privacy

1. Employees shall have no expectation of personal privacy in such places as lockers, desks, departmentally owned vehicles, file cabinets, computers, or similar areas that are under the control and management of this law enforcement agency. While this agency recognizes the need for officers to occasionally store personal items in such areas, officers should be aware that these and similar places may be inspected or otherwise entered—to meet operational needs, internal investigatory requirements, or for other reasons—at the direction of the agency chief executive or his or her designee.
2. No member of this agency shall maintain files or duplicate copies of official agency files in either manual or electronic formats at his or her place of residence or in other locations outside the confines of this agency without express permission.

<p>GENERAL ORDER</p>  <p>Kyle Police Department</p>	Effective: 01-06-14	Chapter 2.4
	Section: Professional Standards and Conduct	Subject: Internal Investigation Process
	Approved: <u>Jeff Barnett</u> Chief of Police	

I. POLICY

The department's image and reputation depend on the personal integrity and discipline of all departmental employees. To a large degree, the public image of the department is determined by a professional response to allegations of misconduct against its employees. The department must competently and impartially investigate all allegations of misconduct by employees and complaints bearing on the department's response to community needs. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In these situations, actions and events frequently result in misunderstanding and confusion. It is to the advantage of all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of law enforcement work.

II. PURPOSE

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the dispositions of complaints.

III. PROCEDURES - GENERAL

A. Receipt of complaints

The department encourages any person to bring forward grievances regarding misconduct by employees. Department members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to anyone who inquires.

B. Responsibilities of supervisors

1. First-line supervisors are primarily responsible for enforcing conformance with departmental standards and orders.
2. First-line supervisors shall know the officers in their charge by closely observing their conduct and appearance.
3. First-line supervisors shall be alert to behavioral changes or problems in their subordinates and, if necessary, document these changes and confer with higher authorities. The first-line supervisor shall assess the behavior, and take or recommend appropriate action.
4. The supervisor shall recommend and, if appropriate, help conduct extra training for officers not performing according to established standards.

5. The first-line supervisor shall employ counseling techniques sanctioned by the department. Counseling is used to adjust and correct minor, infrequent errors or instances of poor performance and to ascertain the nature of any professional or personal problems that bear on performance.

- a. The supervisor shall document all instances of counseling.

C. How to make a complaint

A copy of "How to Make a Complaint" will be posted in the public area of the department. A corresponding brochure, "Citizen's Complaint And Commendation Procedures", shall be available to provide to media representatives, and may be given to any person requesting information on how to make a complaint.

D. Responsibility for handling complaints

All complaints alleging a violation of the law or policy will be investigated. Complaints regarding law-enforcement operations will usually be handled through the chain of command, beginning with the first-line supervisor. Complaints involving how law-enforcement service is provided or a failure to provide service or improper attitudes or behavior may be investigated by an assigned supervisor or by the Chief of Police. Depending on the nature of the complaint, the Chief of Police may request another agency or DPS to undertake the investigation.

E. Complaint-handling procedures

1. All complaints, regardless of nature, can be filed in person, by mail, or by phone at any time. As part of the follow-up investigation, persons making complaints by mail or phone normally shall be interviewed and a written, signed complaint prepared. A signed letter of complaint will be accepted as a signed complaint without requiring any specific form. Anonymous complaints shall be followed up to the extent possible. In case of an anonymous complaint, the officer or other person who receives the anonymous complaint shall reduce the complaint to writing in a memorandum with as much information as possible and forward the report to the Chief of Police. If complaint is not reduced to writing, the matter shall not be investigated until reduced to writing.
2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of any person's complaint. An employee of the department, who interferes with, discourages, or delays the making of complaints shall be subject to disciplinary action.
3. Normally, a person with a complaint shall be referred to a supervisor or the Chief of Police who shall assist the individual in recording pertinent information. If initially reported to a supervisor, the first-line supervisor shall conduct a preliminary investigation. The Chief of Police or his designee may, if appropriate, conduct a preliminary investigation. The preliminary investigation consists of questioning the officer, complainants, or witnesses, and securing evidence.

Upon completion of the preliminary investigation, the following documents shall be prepared and forwarded through the chain of command:

- a. a report of the alleged violation;
 - b. any documents and evidence pertinent to the investigation;
 - c. recommendations for further investigation or other disposition.
4. If the first-line supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or appears to have a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note these conditions. Any visible marks or injuries relative to the allegation shall be noted and photographed.
 5. Prisoners or arrestees also may make complaints. Circumstances may require a department representative meet the complainant at a jail or prison for an interview. If appropriate, the representative will have photographs taken of prisoners' injuries.
 6. An employee who receives a complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the Chief of Police, who shall determine investigative responsibility.
 7. Complaints received by telephone by dispatchers or other employees shall be courteously and promptly referred to a supervisor, Patrol Captain or the Chief of Police. The dispatcher or employee shall record the name and telephone number of the complainant and state that the Chief of Police or, if unavailable, the supervisor will call back as soon as practical.
 8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.
 9. In every case, the Chief of Police will be notified of any complaint as soon as possible by the supervisor receiving the complaint. Complaints received overnight will be brought to the Chief's attention the next workday. Complaints alleging a violation of the law or any serious violation should be reported immediately regardless of the time of day.

F. Disposition of complaints generally

The Chief of Police or his designee shall:

1. Notify the complainant, in writing, as soon as practical, that the department acknowledges receipt of the complaint, that it is under investigation and that the complainant will be advised of the outcome.
2. Enter the complaint into the complaint log, assign a complaint number, and have the complaint investigated. Minor complaints alleging rudeness, minor policy violations and performance issues may be assigned to a supervisor for investigation and resolution. Allegations of a violation of the law or serious policy violations will be investigated by the Chief of Police, an investigator assigned by the Chief of Police, or an outside agency as determined by the Chief.
3. Maintain complaint files separate from personnel files.
4. Take disciplinary action following the investigation, if appropriate.

G. Disposition of a serious complaint

1. Allegations of misconduct that might result in discharge, suspension, or demotion, or criminal charges being sought are serious complaints. The term "serious complaint," in this manual, is synonymous with "internal investigation." Internal investigations examine alleged brutality, gross excesses of legal authority, or allegations involving supervisory or multiple personnel.
2. If a criminal offense is alleged, two separate investigations shall be conducted, a criminal investigation as well as an administrative or Internal Investigation. The criminal investigation examines compliance with the criminal law while the Internal Investigation determines compliance with policy and procedure. The Chief of Police will assign these investigations as required.
3. In cases of serious complaints the Chief of Police shall:
 - a. Determine if the officer complained on should remain on-duty, be assigned to non-contact assignments, or put on administrative leave until completion of the investigations.
 - b. Determine and assign responsibility for the investigations.
 - c. Cause the complaint to be registered and assigned an investigation number in the complaint log.
 - d. Maintain close liaison with the district attorney in investigating alleged criminal conduct. Where liability is at issue, the Chief shall similarly maintain contact with the city attorney or legal counsel.
4. All departmental investigations will be completed within 120 days to include the taking of disciplinary action when necessary. If additional time is necessary to conclude the investigation, a request for extension by the investigator will be presented to the Chief in writing providing justification for the extension. If approved by the Chief, a specific number of days will be approved and a copy will be provided to the involved officer and the original placed in the case file.
5. Upon completion of any investigation, The Chief of Police or his designee will notify the complainant in writing, of the results of the investigation and any action taken.

IV. INVESTIGATIVE PROCEDURES

- A. Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.
- B. Assistance of legal counsel
 1. Employees are permitted to have an attorney, supervisor, or other representative with them in the room during any interview regarding allegations of misconduct.
 2. The employee's representative is limited to acting as an observer at the interview, except that where the interview focuses on, or leads to, evidence of criminality, the attorney may advise and confer with the employee during the interview.

C. All Interviews

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint and provided a copy of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by the department, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
5. The employee shall be provided with the name, rank and command of all persons present during the questioning.

D. Interviews for criminal investigative purposes

1. If the Chief of Police believes that criminal prosecutions are possible and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, he or another interviewer shall:
 - a. Give the employee the rights as specified in Texas Code of Criminal Procedure Article 38.22.
 - b. In addition to the rights set forth in state law, the Chief, or his designee shall advise the employee that if he asserts his right not to answer questions in a *criminal investigation*, no adverse administrative action will be taken based upon the refusal.
 - c. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceeding.

E. Interview for administrative purposes

1. If the Chief of Police wishes to compel an employee to answer questions directly related to his or her official duties, the Chief of Police or another interviewer shall advise the employee that:
 - a. You are advised that this is an internal administrative investigation only.
 - b. You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.
 - c. All questions specifically related to employment must be fully and truthfully answered.
 - d. If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office.
 - e. Under the Garrity warning, any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.

- f. The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.

2. In an interview for administrative purpose, no Miranda rights are required.

V. INVESTIGATIVE TOOLS AND RESOURCES

A. In addition to interviews of the employee and witnesses, the Chief of Police may require other activities in support of a complaint investigation or internal investigation, includes but is not limited to:

1. Medical and laboratory examination
2. The Chief of Police or Captain may, based on reasonable suspicion or his own observation, require a department employee to submit to a test for alcohol or drug use while on duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the employee's dismissal.
 - a. If the employee is believed to be under the influence of alcohol, the Chief of Police or Captain may submit the employee to be tested in a manner described by the city's Human Resources Department. The Chief of Police or officer in authority as directed by the Chief of Police shall witness the test and sign the report.
3. If the employee has a reading of .02 or higher, or there is other competent evidence of impaired abilities to perform duties, the officer shall be relieved of duty by the Chief of Police or officer in authority.
4. If the employee is believed to be under the influence of self-administered drugs, he may be compelled to submit to the appropriate test as required by the Human Resources.
5. If the test shows positive results, or there is other competent evidence of impaired abilities to perform duties, the employee shall be relieved of duty as soon as possible by the Chief of Police or his designee in authority. The Chief of Police or his designee will ensure the employee is released to a competent adult or medical professional who agrees to supervise the employee.
6. If an employee refuses to submit to a test, (alcohol or drugs) then the Chief of Police or other officer in authority shall immediately relieve the employee from duty (on paid leave) for failure to cooperate in an administrative investigation.
7. Property assigned to the employee but belonging to the department is subject to inspection where the department has a reasonable suspicion that evidence of work-related misconduct may be found therein. Department property includes but is not limited to: files, storage lockers, desks, and vehicles.

B. Photograph and lineup identification procedures

1. Officers may be required to stand in a lineup for viewing for the purpose of identifying an employee accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and may result in dismissal if the criminal prosecution is not anticipated.
2. A book of photos of department employees may be maintained for the purpose of identification of an employee accused of misconduct.

C. Financial disclosure statements

An employee may be compelled to make financial disclosure statements when directly and narrowly related to allegations of misconduct involving any unlawful financial gain.

D. Polygraph


1. All personnel shall be required to submit to a polygraph if ordered to do so by the Chief of Police.
2. The Police Chief may order employees to take a polygraph when:
 - a. The complainant has taken and passed a polygraph concerning the incident. (Unless the complainant is willing to submit to testing but the polygraph operator determines the complainant is not a fit subject due to mental condition, age, or medication).
 - b. Regardless if the complainant takes a polygraph or is even known, but the complaint is of such a nature to bring severe discredit and suspicion on the department and cannot be satisfactorily resolved in any other manner.
3. The results of the polygraph examination shall not be used as the sole basis for disciplinary action against any employee.
4. Any polygraph examination given under the provisions of this order shall be administered by a private contractor licensed to administer polygraph examinations in the State of Texas or must be a licensed examiner from another law-enforcement agency. No employee shall administer an examination to another employee.
5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination, or deliberately impede the administration of the polygraph shall be grounds for disciplinary action and may result in dismissal from the department.

VI. ADJUDICATION OF COMPLAINTS

A. The Chief of Police will classify completed internal affairs investigations as:

1. **Unfounded** - no truth to allegations.
2. **Exonerated** - allegations true, but are the result of adherence to departmental policy or procedure. Exonerated complaints will be reviewed by the Chief of Police for policy issues.

3. **Not sustained** - unable to verify the truth of the matters under investigation.
 4. **Sustained** - allegations are true. Complaints will not be classified as sustained unless based on a finding of facts determined during the investigation.
- B. Completed investigations will be filed consistent with Texas local government code and city policy.
- C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim, and the officer's prior disciplinary history. It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.
- D. Disciplinary records
1. The department shall maintain a log of all complaints.
 2. The complaints and internal investigative files shall be kept in a secure area and shall be maintained in accordance with state law and city policy.
 3. The Chief shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.

 GENERAL ORDER Kyle Police Department	Effective: 01-06-14	Chapter 2.8
	Section: Administration and Organization	Subject: Social Media
	Approved: <u>Jeff Barnett</u> Chief of Police	

I. POLICY

Social media provides a new and potentially valuable means of assisting the department and its personnel in meeting community outreach, problem-solving, investigative, crime prevention, and related objectives. The department supports and utilizes the secure and appropriate use of social media to enhance communication, collaboration, and information exchange. The department also recognizes the role that these tools play in the personal lives of department personnel. Because the improper use of social media platforms by employees may impact department operations, the department provides information of a precautionary nature as well as prohibitions on the use of social media by department personnel. These policies and procedures apply to all personnel including sworn and non-sworn employees, and any volunteers working with the department.

II. PURPOSE

This policy establishes guidance on the management, administration and oversight of social media. This policy is not meant to address one particular form of social media; rather social media in general, as advances in technology will occur and new tools will emerge.

III. DEFINITIONS

Blog: A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for “Web log.”

Page: The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrator rights.

Post: Content an individual shares on a social media site or the act of publishing content on a site.

Profile: Information that a user provides about himself or herself on a social networking site.

Social Media: A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (Facebook, MySpace), microblogging sites (Twitter, Nixle), photo- and videosharing sites (Flickr, YouTube), wikis (Wikipedia), blogs, and news sites (Digg, Reddit).

Social Networks: Online platforms where users can create profiles, share information, and socialize with others using a range of technologies.

Speech: Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

Web 2.0: The second generation of the World Wide Web focused on shareable, user-generated content, rather than static web pages. Some use this term interchangeably with social media.

Wiki: Web page(s) that can be edited collaboratively.

IV. DEPARTMENT SPONSORED SOCIAL MEDIA

1. Requirements for Department Sponsored Public Social Media Sites

- a. The Support Services Bureau Sergeant is responsible for the management, posting, and monitoring of the department's public social media network sites. Other members of the department may post and monitor specific social media sites as approved by the Chief of Police.
- b. The Chief of Police, with input from departmental members and the Support Services Bureau Sergeant will determine the extent of the department's official use of social media platforms. No social media platform will be utilized by the department without the express approval of the Chief of Police.
- c. Each social media page shall include an introductory statement that clearly specifies the purpose and scope of the agency's presence on the website.
- d. Where possible, the page(s) should link to the department's official website.
- e. Social media pages shall clearly indicate they are maintained by the department and shall have department contact information prominently displayed. Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies.
- f. Content is subject to open government laws. Relevant records retention schedules apply to social media content. Content must be managed, stored, and retrieved to comply with open government laws, records retention laws, and e-discovery laws and policies.
- g. Social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the department.
- h. Pages shall clearly indicate that posted comments will be monitored and that the department reserves the right to remove any posting.
- i. Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

2. Operation of Department Sponsored Public Social Media Sites

- a. Department personnel approved by the department to post to social media outlets shall do the following:
 - i. Conduct themselves at all times as representatives of the department and, accordingly, shall adhere to all department standards of conduct and observe conventionally accepted protocols and proper decorum.
 - ii. Identify themselves as a member of the department.
 - iii. Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions, nor post, transmit, or otherwise disseminate confidential information, including photographs or videos, related to department training, activities, or work-related assignments without express written permission from the Chief of Police.
 - iv. Not conduct political activities or private business.

- v. Department personnel use of personally owned devices to manage the department's social media activities or in the course of official duties is prohibited without express written permission.
- vi. Employees shall observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.

3. Uses of Departmental Sponsored Social Media Sites

- a. Social media can be used to make time-sensitive notifications related to
 - i. road closures,
 - ii. special events,
 - iii. weather emergencies,
 - iv. missing or endangered persons, and
 - v. any other notification authorized by the Chief of Police.
- b. Social media is a valuable investigative tool when seeking evidence or information about
 - i. missing persons;
 - ii. wanted persons;
 - iii. gang participation; and
 - iv. crimes perpetrated online and photos or videos of a crime posted by a participant or observer.
- c. Social media can be used for community outreach and engagement by
 - i. providing crime prevention tips;
 - ii. offering online-reporting opportunities;
 - iii. sharing crime maps and data; and
 - iv. soliciting tips about unsolved crimes (i.e., Crimestoppers, tip411).
- d. Persons seeking employment and volunteer positions use the Internet to search for opportunities, and social media can be a valuable recruitment mechanism.
- e. Background Investigations
 - i. This department has an obligation to include Internet-based content when conducting background investigations of job candidates.
 - ii. Methods shall not involve techniques that are a violation of existing law.
 - iii. Vetting techniques shall be applied uniformly to all candidates.

- iv. Every effort must be made to validate Internet-based information considered during the hiring process.



V. PERSONAL USE OF SOCIAL MEDIA

1. Precautions and Prohibitions


- a. Barring state law or binding employment contracts to the contrary, department personnel shall abide by the following when using social media.
 - i. Members of the Department may not access social networking or social media sites through the use of Department provided information systems--unless authorized to do so on behalf of the department or for official duties or purposes.
 - ii. While on duty, employees may only use personal communications devices to access social networking sites strictly during **authorized** meal breaks, provided such usage does not in any way interfere with the performance of job duties.
 - iii. Due to concerns for officer safety and to preserve tactical advantage, the posting of information related to any police response by any officer or assisting agency is absolutely prohibited without the approval of the Chief of Police.
 - iv. All matters of, by, within, and about Department details regarding calls for service, and the customers we interact with, are generally considered confidential information which may not be released, blogged about, posted, or otherwise shared outside the department without prior authorization, without it having been obtained through an official open records request, or without the information already being in the public realm [already otherwise released officially].
 - v. Display of the department logos, uniforms, uniform patch, or departmental badge on their own or other's social media sites is prohibited without written approval of the Chief of Police.
 - vi. Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this department for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the department.

- vii. As public employees, department personnel are cautioned that speech on or off-duty, made pursuant to their official duties—that is, that owes its existence to the employee’s professional duties and responsibilities—may not be protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the department.
- viii. Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this department.
- ix. Department personnel shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without written permission from the Chief of Police.
- x. Misuse of official information by a public servant is a criminal offense under Penal Code Section 39.06.
- xi. For safety and security reasons, department personnel are cautioned not to disclose their employment with this department nor shall they post information pertaining to any other member of the department without their permission. As such, department personnel are cautioned not to do the following:
 - 1. Post personal photographs or provide similar means of personal recognition that may cause them to be identified as a police officer of this department. Officers who are, or who may reasonably be expected to work in undercover operations, shall not post any form of visual or personal identification.
 - 2. Personnel are reminded that many individuals that we contact in our profession become angry and on occasion seek revenge for official actions taken. Employees are encouraged not to post any information that could be used to identify the employee’s residence, vehicle or family members.
- xii. When using social media, department personnel should be mindful that their speech becomes part of the worldwide electronic domain. Employees are required to be credible witnesses in criminal prosecutions and that credibility can be attacked using inappropriate posts on social media sites. Therefore, adherence to the department’s code of conduct is required in the personal use of social media. In particular, department personnel are prohibited from the following:
 - 1. Speech containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.
 - 2. Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless or irresponsible.
 - 3. Engaging in prohibited speech noted herein, may provide grounds for undermining or impeaching an officer’s testimony in criminal proceedings. Department personnel thus sanctioned are subject to discipline up to and including termination of office.

4. Department personnel may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of this department without express authorization.
5. Department personnel should be aware that they may be subject to civil litigation for:
 - a. publishing or posting false information that harms the reputation of another person, group, or organization (defamation);
 - b. publishing or posting private facts and personal information about someone without their permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person;
 - c. using someone else's name, likeness, or other personal attributes without that person's permission for an exploitative purpose; or
 - d. publishing the creative work of another, trademarks, or certain confidential business information without the permission of the owner.
- xiii. Department personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected or private.
- xiv. Department personnel should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the department at any time without prior notice.
- xv. Department personnel are reminded that the department policies and Code of Conduct apply to on-line activities. There should be no expectation of privacy for items or activities conducted on-line.

2. Monitoring of Social Media

- a. Supervisors within the department may make random investigations into the postings of employees for purposes of protecting the integrity and reputation of the department, protecting the integrity of investigations, and ensuring privacy and security of departmental records and information.
- b. Any employee becoming aware of or having knowledge of a posting or of any website or web page in violation of the provision of this policy shall notify his or her supervisor immediately for follow-up action.
- c. No supervisor or member of the department below the rank of Chief of Police is authorized to cancel, modify or make exceptions to the contents of this order at any time.

 GENERAL ORDER Kyle Police Department	Effective: 01-06-14	Chapter 7.1
	Section: Legal Issues	Subject: Constitutional Safeguards
	Approved: <u>Jeff Barnett</u> Chief of Police	

I. POLICY

The federal and state constitutions guarantee every person certain safeguards from government intrusion into their lives. These safeguards have become the cornerstone for the application of criminal justice in America. **The department expects officers to observe constitutional safeguards.** The department further expects that officers understand the limits and prerogatives of their authority to act. **Respect for the civil liberties of all persons shall be the paramount concern in all enforcement matters.**

II. PURPOSE

The purpose of this general order is to define the legally mandated authority for the enforcement of laws, to establish procedures for ensuring compliance with constitutional requirements during criminal investigations, to set forth guidelines concerning the use of discretion by officers, and to define the authority, guidelines and circumstances when officers should exercise alternatives to arrests and pretrial confinement.

III. PROBABLE CAUSE AND REASONABLE SUSPICION

A. Probable Cause

1. Searches and arrests are based on the existence of probable cause. According to the U.S. Supreme Court, "Probable cause exists where the facts and circumstances within their [the arresting officers'] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed."

An officer must have probable cause to make an arrest or conduct a search of the person.

2. When an officer has sufficient probable cause, he or she may arrest a person, conduct a search of the person, record the suspect's fingerprints, take the person's photograph, and detain him. The aim of an arrest on probable cause is to make a formal charge. While in some cases, formal charges may not be filed for any number of reasons, officers should only make a custodial arrest if a formal charge is anticipated.

B. Reasonable Suspicion

1. Reasonable suspicion involves a standard less than probable cause, generally defined by the courts as a circumstance or collection of circumstances that would lead a trained, experienced officer to believe that criminal activity may be occurring or have occurred.

An officer must have reasonable suspicion to temporarily detain a person.

2. When an officer has reasonable suspicion that an individual is armed and has committed, is committing or is about to commit a crime, he or she may undertake a pat-down of a suspect's outer clothing for weapons and record the circumstances of the encounter. The aim of a detention based on reasonable suspicion is to resolve an ambiguous situation and determine if criminal activity is occurring or has just occurred.

IV. AUTHORITY AND DISCRETION

A. Law-enforcement authority

State law invests peace officers with authority to prevent and detect crime, apprehend criminals, safeguard life and property, preserve the peace, and enforce state and local laws and ordinances.

B. The use of discretion by officers

1. While officers have the authority to arrest an offender under many circumstances, officers seldom are able to arrest individuals for every offense they observe. Officers must prioritize their activities to provide the highest level of service to their community. As a result they must often use discretion in deciding the level of enforcement action based on the circumstances.
2. Departmental policy gives officers procedures to follow for common or critical enforcement tasks. Departmental policies and procedure are to be followed unless unusual or extreme circumstances dictate another course of action. In these cases, officers shall make reasoned decisions in their discretion based on good judgment, experience, and training. It is up to the individual officer to consider the relevant facts, the situation, and then, using knowledge, training, and good judgment, make appropriate decisions. Supervisors must closely observe the use of discretion by their subordinates and point out factual errors or alternatives that may be more appropriate.
3. The vast majority of persons an officer will contact during their shift are typically law abiding people who have made a mistake or error in their behavior. In many of these cases there are underlying circumstances that contributed to those mistakes or decisions. Officers are encouraged to exercise understanding and compassion when deciding to take enforcement action, and consider how they, or a member of their family, would like to be treated in similar circumstances.
4. Officers should understand that their decisions regarding arrests and searches are in all cases subject to review by their supervisors.
5. Supervisors shall observe and review the activities of officers and counsel them as needed regarding the use of discretion.

C. Alternatives to arrest/pre-arraignment confinement

1. Officers are required to arrest suspects for all felony offenses and those major misdemeanor offenses where a victim was injured, property was stolen or damaged, or the public or an individual was placed at risk of great harm.

After an arrest has been made in these circumstances, if pre-arraignment detention is not advisable due to the suspect's health, age, infirmity, or family situation, the officer should contact a supervisor for disposition. A supervisor of the Chief of Police can authorize a field release if the individual is known or proper identification is present; or

authorize booking and release on personal recognizance.

2. In misdemeanor criminal cases where there is no victim or property loss, where an individual or the public was not placed in danger of great harm, and in traffic offenses, officers may occasionally be faced with situations where an arrest is not advisable. In such cases, officers may elect to exercise alternatives such as the issuance of citations, referral to a social service agency, or simply to give a warning.
3. In determining whether a citation should be used, the officer shall:
 - a. Decide whether the offense committed is serious.
 - b. Attempt to understand the contributing factors to the incident and evaluate whether a reasonable person would be influenced by those factors.
 - c. Make a judgment as to whether the accused poses a danger to the public or himself.
4. Officers often deal with situations where the public interest would be better served by social service agencies or crisis and professional organizations. When in the judgment of the officer a better solution to the problem will be achieved by use of alternatives to enforcement, he or she should refer the person to an appropriate social services agency.
5. The use of warnings may sometimes provide a solution to a problem and may enhance the public perception of the department. Normally, the use of a warning occurs in traffic offenses, but occasionally may be applied to criminal offenses. In determining if a warning should be issued, the officer shall consider:
 - a. The seriousness of the offense.
 - b. Whether a victim was injured or had property damaged by the offender.
 - c. Attempt to understand the contributing factors to the incident and evaluate whether a reasonable person would be influenced by those factors.
 - d. The likelihood that the violator will heed the warning.

V. PROTECTION OF INDIVIDUAL RIGHTS

- A. Officers will at all times act to preserve and protect the rights of all persons.
- B. Officers making arrests will ensure suspects are informed of the rights if they intend to question them about an offense. *Miranda* warnings are required and shall be administered prior to any "custodial interrogation." Officers are expected to understand the requirements of Code of Criminal Procedure 38.22 before taking any statements from suspects.
 1. The following represent examples of situations that are **not** "custodial" and do **not** require *Miranda* warnings.
 - a. Investigatory stop and frisk.
 - b. Questioning during a routine traffic stop or for a minor violation; to include driving while intoxicated (DWI) stops until a custodial interrogation begins.

During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.

- c. During voluntary appearances at the police facility.
- d. When information or statements are made spontaneously, voluntarily and without prompting by police. (Note: Follow-up questions that exceed simple requests for clarification of initial statements may require *Miranda* warnings.)

2. Administering Miranda.

- a. Miranda warnings shall be read by officers from the card containing this information to all persons subjected to custodial interrogation.
- b. Freelancing, recitation from memory or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.
- c. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. If a suspect does not understand English, an officer who speaks the language of the suspect may provide the Miranda warnings. Suspects may be questioned only when they have knowingly and intelligently waived their rights. Threats, false promises or coercion to induce suspect statements is prohibited.
- d. Waivers of the Miranda rights must be performed affirmatively. Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the appropriate agency form.
- e. Officers arresting deaf suspects or those suspects that appear to have limited proficiency in English shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.