

**TYLER POLICE DEPARTMENT
GENERAL ORDER**

CODE OF CONDUCT

03.200

REVISED: 04/08/14

EFFECTIVE 03/01/91

03.201 CODE OF CONDUCT

- A. The Code of Conduct of the Tyler Police Department is promulgated by the Chief of Police by authority of the Charter of the City of Tyler and takes precedence over other regulatory directives.
- B. The Code of Conduct of the Tyler Police Department is designed to promote efficiency, discipline and good public relations by setting forth policies governing the conduct of every member of the Police Department, both on and off duty. The terms "sworn member" and "officer" refer to any person commissioned as a Police Officer under the Charter and Ordinances of the City of Tyler, and qualifying as a Peace Officer under Article 2.12 of the Texas Code of Criminal Procedure.
- C. The provisions of the Code of Conduct, City of Tyler Personnel Rules, and Departmental Policies and Procedures shall apply to all employees of the Police Department and shall be observed in order to maintain the confidence, respect, and support of the public.
- D. Violations of the Code of Conduct, the City of Tyler Personnel Rules, the Charter of the City of Tyler, the ordinances of the City of Tyler, and/or the laws of the State of Texas or the United States, and Departmental Policies and Procedures shall subject the offender to disciplinary action which may take the form of a oral reprimand, written reprimand, reduction in rank and/or suspension or discharge from employment. Action taken will depend on the degree of severity of the offense, the record of the offender, and the seriousness of the consequences of the violation.
- E. Disciplinary action under the Code of Conduct for sworn members will be in accordance with Local Government Code, Section 143. All disciplinary actions will be based on substantial evidence; however, "proof beyond a reasonable doubt" is not required.
- F. It shall be the duty of all commanders, supervisors, and employees to take corrective action and/or submit a written report to the Chief of Police whenever they learn through personal observation or report of any violation of the Code of Conduct, the City of Tyler Personnel Rules, the Charter of the City of Tyler, the laws of the State of Texas or the United States, or a violation of the Departmental Policies and Procedures by any member of the Department.
 - 1. Should the violation involve an incident of a serious nature, the supervisor or commander detecting the violation shall relieve the offender from duty and take custody of any credentials and firearms issued by the Department. Should the observing supervisor be of lesser rank than the offender, the observer shall notify an on-duty supervisor of equal or superior rank to that of the offender. The Chief of Police will be notified via the Chain of Command immediately. The offender will be instructed to report to the office of the employee's Division Commander at 0800 hours the following business day.
 - 2. A written report of the incident will be submitted by the reporting supervisor or commander, who shall be present at the time the offender reports.
- G. When a violation involves neither gross misconduct nor moral turpitude, but could cause discredit to the department or any member thereof, a report will be made in writing setting out the known facts of the case and an investigation initiated by the employee's immediate supervisor to determine the nature and degree of the violation.

- H. Minor violations which do not involve gross misconduct or moral turpitude and which will not reflect discredit upon the department, but which indicates a need for some form of discipline and/or training, may be handled by the offender's commander or supervisor.
- I. The Chief of Police will have the exclusive right to suspend or terminate any employee who may be under the Chief's jurisdiction and control for violations listed in Local Government Code 143.051 and in the City of Tyler Personnel Policies.
- J. Sworn members of the department holding the position of Probationary Police Officer may be terminated from employment by the Chief of Police without cause when they fail to meet minimum standards of the employee performance, or when they violate the Code of Conduct, the City of Tyler Personnel Rules, the Charter of the City of Tyler, the Ordinances of the City of Tyler, and/or the laws of the State of Texas or the United States or the Department Policies and Procedures. Such employees have no right of appeal under the provisions of the Local Government Code, Section 143. The decision of the Chief of Police shall be final in these cases.
- K. No employee will procure appointment in the department by means of willful misrepresentation or omission of any fact concerning the employee's personal history, qualifications for employment, or physical condition.
- L. Employees are required to establish and maintain a working knowledge of this Code of Conduct, of all laws and ordinances in force in the City of Tyler, and the written policies and procedures of the department and divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the employee was familiar with the law, policy, or procedure in question.
- M. The failure to comply with the Code of Conduct, the policies and procedures, and all other orders and directives issued by proper authority will subject the offender to disciplinary action as prescribed in this manual.
- N. No supervisor or commander will impose or recommend any disciplinary action against any offender of the department other than as prescribed in this manual.
- O. Any employee who, by any act or conduct, attempts to violate or conspires with any person to violate the Charter of the City of Tyler, the Code of Conduct, Personnel Rules and Regulations, and/or Departmental Policies and Procedures shall be subject to the same discipline as though the actual violation had been accomplished.

03.202 UNIFORM AND EQUIPMENT [CALEA 1.1.2; PC 46.15, G.O. 12.102-104]

- A. Officers shall carry their badge, and authorized City identification card, and driver's license at all times, except under the provisions of D below, or when working undercover assignments, and with the approval of the officer's immediate supervisor. When requested, the employee is to present their employee identification. Personnel involved in covert operations are exempt from this requirement. When talking on the telephone, all employees will identify themselves by verbally giving their name when requested, and inform the other party of the purpose of the call.
- B. Officers may be armed at all times in the City of Tyler. When an officer is armed, the officer is to be in compliance with General Order 12.100.
- C. No officer when dressed in civilian clothing and outside a criminal justice facility shall wear a weapon in such a manner that it will attract attention or be open to the view of the public.

- D. No officer shall wear the uniform, be armed or carry the badge or identification card while under suspension. Such officer shall immediately surrender the badge, identification card, and city-issued weapon to the Chief of Police or designate upon notification of suspension.
- E. Improper or negligent handling of or willful damage to City property is a violation of this code.
- F. Employees who have lost, damaged, or destroyed any equipment issued to them by the department may be required to make restitution if the loss or damage is the result of negligence on the part of the employee.
- G. Employees shall promptly report the need for repairs of any City-owned property issued to, used or possessed by them to the City Department officially charged with the maintenance of such property.
- H. No employee shall alter, repair or in any way change, add to or remove any parts or accessories of any City-owned property without the permission of the Chief of Police. This includes, but is not limited to, building, office equipment, machines, clothing, firearms, communications equipment, and motor vehicles.
- I. Employees may use authorized, personal equipment in the performance of their assigned duties. The cost of damaged personal equipment is generally the employee's responsibility to pay for repairs or replacement. Employees shall promptly report any lost, damaged, or destroyed personal property or equipment that occurs while the employee is performing assigned duties. The employee's chain of command will review the incident and make a recommendation to the Chief of Police regarding the replacement or repair of the personal equipment. The Chief of Police will make the final decision whether the employee will be reimbursed for the loss, repair, or replacement of the equipment.

03.203 PROFESSIONAL CONDUCT AND PERSONAL BEARING

- A. Dereliction of duty on the part of any employee is cause for disciplinary action. The offender will be punished according to the degree of severity of the violation, the results brought about by the dereliction and the affect it has upon the discipline, good order and best interest of the department. The following subsections constitute dereliction of duty:
 - 1. Failure of a supervisor or commander to immediately take action when a violation of policies or procedures comes to the supervisor's attention, regardless of the supervisor's or violator's assignment or rank within the Department.
 - 2. Failure to observe and give effect to the policies and procedures of the department.
 - 3. Failure to deliver to the official departmental custodian any property found by, confiscated by or relinquished to officers of this department without undue delay, and in any event, before their tour of duty is ended.
 - 4. Failure to place evidence in its officially designated place for preservation and storage.
 - 5. Failure to give name and badge number to any person upon request.
 - 6. The policy of the Department regarding the use of drugs shall be in accordance with Chapter 2-60 of City Administrative policies and operating procedures manual.
 - 7. Excessive force toward any person.
 - 8. Disrespect shown to a civilian supervisor, supervisory officer, commanding officer, or subordinate.
 - 9. To accept, agree to accept, or solicit a bribe. (A bribe shall be defined as a gift, emolument, money, thing of value, testimonial, appointment or personal advantage, or the promise or solicitation of same for the purpose of obtaining special privileges or personal gain by the donor or other person.)
 - 10. Cowardice or failure to perform police duties because of danger.

11. Failure to be truthful in any and all aspects of employment. Additional requirements on truthfulness are listed in section 03.207C of General Orders.

- B. Employees shall not engage in any conduct, which adversely affects the morale or efficiency of the department or which has a tendency to adversely affect, lower, or destroy public respect and confidence in the department or officer, which constitutes conduct unbecoming an officer.

When utilizing social media and networking sites, officers are free to express themselves as private citizens. However, officers will express themselves in a manner that does not impede the performance of duties, impair discipline and harmony among co-workers, or negatively affect the public perception of the department.

- C. No employee shall be involved personally in disturbances or police incidents or engage in any personal conduct or act, which, if brought to the attention of the public, could result in justified unfavorable criticism of that employee or the Department. If an employee is involved in a situation in which another law enforcement agency responds and the employee is a victim or witness in a crime, the employee's chain of command must be notified. An employee personally involved in a disturbance in which a law enforcement agency responds is required to notify the chain of command of the incident. Any incident in which an employee is arrested or is the suspect in a criminal offense requires chain of command notification. The chain of command notification will be made prior to the beginning of the employee's next tour of duty. The entire chain of command to the Chief of Police will be notified in writing, via e-mail or memo. Exceptions to the notification process would be if the employee is stopped for a Class C traffic violation, cited and released with no custodial arrest.

- D. Employees shall treat superior members, subordinates, and associates with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty in the presence of other members or the public, officers should be referred to by rank.

- E. Employees shall not publicly criticize or ridicule the Department, its policies/procedures or other employees by electronically posting information, talking, writing, or expressing in a manner which is defamatory, obscene, unlawful or tends to impair the operation of the department by interfering with its efficiency, the efficiency of supervisors being able to maintain discipline, or by a reckless disregard for the truth.

1. 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 – is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the department. Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this department.

2. 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 or his designee.

3. For safety and security reasons, department personnel are cautioned not to disclose their employment with this department.

4. Officers shall not post information pertaining to any other member of the department, their employment with the department, or images of the officer without their permission.

5. Officers shall not post images of department logos, uniforms, equipment or similar identifying items that could be considered detrimental to the department.

- F. No employee shall at any time ridicule, mock, deride, taunt, or belittle any person. Neither shall the employee willfully embarrass, humiliate nor shame any person nor do anything that might incite any person to violence.
- G. No employee shall conduct themselves in the offices, buildings, and vehicles of the department in a manner, which would discredit the police service.
- H. No employee shall engage in any form of gambling or card playing in the lounge, locker rooms, vehicles, assembly rooms or any other police facility.
- I. No employee shall use rude, indecent, profane, or harsh language, or other unprofessional conduct in the presence of or towards the public or any member of this department.

When using social media, department personnel should be mindful that their speech becomes part of the worldwide electronic domain. 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. See General Order 12.600, Bias-based/Racial Profiling, for additional information regarding pertaining to bias-based/racial profiling.
 2. Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless, irresponsible or criminal.
 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.
 4. Department personnel may not post any comment or opinion that could reasonably be considered to represent the view or the position of the Department of the City of Tyler without permission from the Chief of Police.
- J. No employee shall engage in "horseplay" or playing of pranks while on duty. Such conduct is prohibited while in/on police facilities. (i.e., pulling a weapon as a joke on another person.)
 - K. No employee will solicit any funds for the purpose of buying a gift for any member of the department. However, employees may solicit nominal amounts from members of the department for gifts for retiring fellow members or for special circumstances with permission of the Chief of Police.
 - L. No employee shall receive any money or gifts from any type of solicitation except when retiring from the department or for special circumstances approved by the Chief of Police.
 - M. Employees shall not solicit any gift, gratuity, loan, or fee where there is any direct or indirect relation between the solicitation and their departmental membership except as provided by law and approved by the Chief of Police.
 - N. Employees shall not accept for personal benefit, either directly or indirectly, any gift, gratuity, reward, loan, fee, discount, rebate or special consideration arising from or offered because of police employment, or any activity connected with such employment that might reasonably tend to influence the employee in the discharge of official duties.

1. This shall not include free or half-price meals, and/or drinks that are provided by a business or citizen when unsolicited. The meals or drinks should not be accepted if it would influence any future discharge of official duties.
 2. This shall not include functions authorized by the Chief of Police and given for the Department by some individual or company nor shall it include functions given by the Department where items are donated by individuals or companies for said function.
 3. Any discounts or rebates from merchants, such as Christmas discounts, must be approved by the Chief of Police before being given to employees.
- O. Employees shall not accept a reward or any gift, favor, privilege, or employment from any public utility corporation or licensee; the granting of whose license is subject to regulation or approval by the Chief of Police.
- P. No employee shall receive any gift or gratuity from fellow employees junior in rank without the express written permission of the Chief of Police.
- Q. Any reward paid to any employee as a result of the employee's official duties, shall be promptly turned in by that officer to the Chief of Police. Any funds will be deposited in the General Revenue fund.
- R. Uniformed officers shall render a military salute to the United States Flag and National Anthem at appropriate times. Employees in civilian clothing shall render proper civilian honors to the United States flag and National Anthem at appropriate times.
- S. Employees shall not display any written or verbal language, symbols or other form of speech that would demonstrate their displeasure and/or disagreement with any laws or ordinances while on duty or in uniform.
- T. Employees shall not neglect their duties as assigned or delegated.
- U. All employees shall have the right to know if they are being recorded. They shall also:
1. Have the right to bring a personal recording device to an interview.
 2. Both/all parties must be aware of any and all recordings being made.
 3. The recording devices must be in full sight.
 4. In the case of a criminal investigation, the Chief of Police may make an exception to this policy.

03.204 RESPONSIBILITIES AND GENERAL CONDUCT ON DUTY

- A. For the purpose of protecting life and property, on-duty officers shall be prepared to act any time circumstances indicate their services are required. Outside the City of Tyler, officers shall act in accordance with the applicable laws of the State of Texas governing private citizens and police officers outside their jurisdiction.
- B. Officers shall respond as designated by policy to all calls for police assistance from citizens or other members. Emergency calls take precedence; however, all calls shall be answered as soon as possible consistent with normal safety precautions and traffic laws. Except under the most extraordinary circumstances, or when otherwise directed by competent authority, no officer shall fail to answer any call for service directed to the officer.

- C. Within the City of Tyler, on-duty officers shall at all times take appropriate action to protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law, and enforce all Federal, State and local laws and ordinances coming within departmental jurisdiction.
- D. The ranking supervisor at the scene of any police incident shall be in charge and responsible for the proper conclusion of that incident. In the absence of a supervisor, the senior officer present shall be in charge and responsible for the handling of the incident until it is under control, is being properly handled in accordance with existing policies and sufficient instructions have been issued to result in proper conclusion of the incident. The only exception to this requirement is those situations or police incidents whereby an investigator is called out to assume responsibility for the incident. In this instance the investigator assumes the responsibility previously assigned to the supervisor or officer in charge as designated in this section.
 - 1. The first Patrol supervisor on scene will begin to immediately take control of the scene. When more than one sergeant is on scene, the senior sergeant shall assume command.
 - 2. Unity of command should be maintained at all scenes. When more than one supervisor is on scene, no actions should be taken without authorization from the supervisor in command, unless an emergency situation exists. Any action taken should require notification to the scene commanding officer as soon as possible. In all cases where it is possible, supervisors should actively engage in the ready exchange of information and ideas to resolve or manage the incident in the most efficient and effective manner.
- E. Failure or deliberate refusal of any employee to obey a lawful order given by a superior member shall be considered insubordination.
- F. Officers are required to take appropriate police action to aid a fellow peace officer exposed to danger or in a situation where danger might be impending.
- G. The hours of all officers shall be regulated by the Chief of Police, who has the authority to reassign any officer's hours, or call to duty any officer regardless of the hours assigned that officer.
- H. No employee shall be absent without leave. It shall be the responsibility of employees who cannot report for duty due to illness, court, or for any other reason to notify their immediate supervisor at least one (1) hour prior to their reporting time. Leaving a voice mail message or e-mail does not satisfy the notification requirement. In the event that the immediate supervisor cannot be located or if it is the immediate supervisor's day off, the employee is to notify an on-duty supervisor in the employee's Division. Employees who are unable to report to work as a result of unscheduled leave must provide the supervisor with a telephone number and address where they can be located. Absence without leave shall mean either a failure to report for duty at the time and place of duty, or the leaving of a place of duty or assignment without proper authorization.
 - 1. Employees who are late for duty must make up the time on the day they are late or during their current workweek at the discretion of the appropriate supervisor. Employees are allowed, at the discretion of a Supervisor, to use comp time, Super Flex or vacation time to make up this lost time.
 - 2. Employees who are late for duty and fail to make prior arrangements with the appropriate supervisor or who fail to call in, will be handled in the following manner (based on a one year period from time of occurrence):
 - a. First time late - Oral Reprimand.
 - b. Second time late - Written reprimand.
 - c. Third time late – One-day suspension without pay.

- d. More than three - Two or more days suspension without pay or termination.
3. In addition to any of the above actions, an employee's work schedule (or days off) may be changed.
 4. Supervisors are required to keep necessary records relating to an employee being late including the number of times, the circumstances or reasons for being late, and the amount of time the employee is late during each annual evaluation cycle for non-sworn and each six-month evaluation period for sworn. When an employee changes supervisors, this information is to be transmitted to the new supervisor. Two or more late call-ins in the six-month time period from time of occurrence will cause the immediate supervisor to initiate a review of the events through the chain of command. When a pattern of abuse of the call-in system is observed, the employee may be subject to the normal disciplinary action process.
- I. Unless otherwise directed, officers shall report to daily roll call at the time and place specified in proper uniform and equipment. They shall give careful attention to orders and instructions, avoiding unnecessary talking and movement.
 - J. Employees shall respond to requests for service that fall within departmental guidelines. A supervisor should review questionable requests.
 - K. Employees shall furnish the department a telephone number and address at which they may be reached in the event of an emergency.
 - L. Employees shall report any change in address or telephone number within forty-eight (48) hours of such change in the manner stated in the Departmental Policies and Procedures.
 - M. Employees shall not work at any outside or extra duty employment on the same calendar day that they fail to report for duty due to personal illness or injury without written permission of the Chief of Police.
 - N. Employees shall remain alert, observant, and occupied with police business during their tour of duty. When on duty, employees should devote their entire time and attention to the business of the Department.
 - O. Employees are prohibited from engaging in the following activities while on duty, including extra duty employment:
 1. Sleeping, loafing or idling.
 2. Recreational reading (except at meals).
 3. Conducting private business.
 4. Carrying any articles, which distract from the proper performance of police duty.
 5. Drinking intoxicating beverages (except in the performance of police duty, and then only with the specific consent of a commanding officer and never in uniform).
 6. Gambling (except in performance of a police duty and then only with the specific consent of a commanding officer and never in uniform).
 7. Any sexual conduct.
 8. Personal access to social media for recreational purposes.
 - P. Employees are prohibited from following any other vocation, which might conflict or interfere with their responsibility to the Department. Employees must receive permission from the Chief of Police to engage in off-duty employment or business activities. Employees are prohibited from

holding deputation or commission from any other law enforcement agency, unless authorized by the Chief of Police.

- Q. Employees shall submit reports, which are required by the performance of their duties or by competent authority. (Additional time frame for submitting reports are listed in sections 20.106B & 23.213 (B1) of General Orders.)
- R. Officers shall have prior approval of their supervisors before initiating undercover investigations. In cases where officers are already deployed in an undercover capacity and they begin another assignment unrelated to the existing assignment, they shall notify their supervisor within twenty-four (24) hours.
- S. Employees shall not consume intoxicants while off-duty to the extent that evidence of such consumption is apparent when reporting to duty or to the extent their job performance is impaired.
- T. Employees shall not be intoxicated while on duty.
- U. No officer in uniform shall purchase, possess, be under the influence of, or drink intoxicants while on or off duty.
- V. Employees shall not bring or keep any intoxicating liquor on departmental premises, except for the furtherance of a police task, and the liquor shall be properly identified and stored according to policy.
- W. Employees on duty or in uniform shall not enter taverns, theaters, or other public places except to perform a police service. Loitering and unnecessary conversation in such locations is forbidden.
- X. No employee shall smoke or chew gum while making personal contact with citizens in the performance of the employee's duties in homes, offices, and places of business, public places, or on the public street. No employee shall chew tobacco or dip snuff in uniform while in the presence of the public. The use of any tobacco product (cigarettes, cigars, chewing tobacco, snuff, or snuff substitute) by any employee is prohibited inside any city building, near any city building entrances, or in a city vehicle. The use of any tobacco product is limited to the designated areas only.
- Y. No expenditure of money shall be made or liability incurred in the name of the City of Tyler or the Department unless authorized by the Chief of Police or designate.
- Z. No employee shall permit any person to enter a police facility whose purpose is to sell goods, offer them for sale, canvass or solicit for any purpose without the permission of the Chief of Police.
- AA. Email is utilized as an important means of inter-departmental communication. Employees shall abide by Chapter 2-120 of the city policy regarding email usage. In addition, shift employees shall check their city email at least once per shift. Other employees shall check their email at least once before the close of business. Departmental personnel issued phones with access to department email should check email multiple times while on duty. Employees who have email are required to read and respond to in-coming messages in a timely manner.

03.205 PROTECTION OF PRISONERS, THEIR RIGHTS AND PROPERTY

- A. No officer shall arrest any person or search any premises or person except with a warrant of arrest, a search warrant, or where such arrest or search is authorized without a warrant under the laws of the State of Texas, the United States, or the Ordinances of the City of Tyler.

- B. All officers shall protect the rights of any person held in custody, and no officer shall verbally abuse or use any excessive force violence against any person.
- C. No officer shall falsely arrest, imprison, or direct any malicious prosecution against any person.
- D. No officer shall willfully mistreat or give inhumane treatment to any person held in custody.
- E. Officers shall use only such force as is necessary in effecting an arrest.
- F. Officers shall use deadly force in effecting an arrest only as authorized by Chapter 9 of the Penal Code of Texas and as prescribed by the Departmental Policies and Procedures.
- G. Any officer who has lost, damaged, or destroyed any property or equipment belonging to a person in custody, or which has come into possession of said officer by reason of the officer's office, may be required to make restitution if the loss or damage is the result of negligence on the part of the officer.

03.206 PUBLIC ACTIVITIES

- A. Political activities by Department employees shall be governed by Chapter 2-40, "Conditions of Work," subsection d., of the City's Administrative Policies.
- B. No employee shall seek the influence or intervention of any person outside the department for purposes of personal preferment, advantage, transfer, or advancement. Should any employee learn of any intervention in the employee's behalf, the employee shall immediately notify the employee's Division Commander.
- C. No employee shall become a member of any organization, association, movement, or group which advocates or approves the commission of acts of force or violence to deny others their rights under the Constitution of the United States or which seeks to alter the form of government of the United States by unconstitutional means.
- D. No employee shall participate in any type of disruptive protest demonstration, nor shall any employee act as a spokesperson, representative, or agent for any group engaged in or planning to engage in any type of disruptive protest demonstration.
- E. Except for official police duties, no employee of this Department shall knowingly associate with persons of immoral character, convicted felons, gamblers or other persons who habitually commit violations of the law. This does not exclude an employee of this Department from associating with immediate members of the employee's family if they fall within the aforementioned category.
- F. Employees shall not permit their name or photograph to be used to endorse any product or service, which is in any way connected with law enforcement without the permission of the Chief of Police. Employees shall not, without the permission of the Chief of Police, allow their name or photograph to be used in any commercial testimonial, which alludes to their position or employment with the Department.
- G. Debts incurred and payment:
 - 1. Employees shall not solicit subordinate members to co-sign or endorse any promissory note or other loan.
 - 2. Employees shall pay all debts and legal liabilities incurred by them.

03.207 CIVIL, CRIMINAL, JUDICIAL AND INVESTIGATIVE ACTIONS

- A. The Department has jurisdiction in criminal cases only and no officer shall render aid or assistance in civil cases except as follows: to prevent an immediate breach of peace or quell a disturbance actually existing; to enforce the criminal provisions of Protective Orders issued under Title Four of the Texas Family Code; or to perform any functions ordered under valid mental commitment orders. This policy is not intended to prevent officers from informing any citizen as to steps necessary to institute a civil lawsuit.
 - 1. All employees will notify the Police Chief, through the Chain of Command, in writing anytime they are notified of a civil suit pending against them. One copy of the court summons will be forwarded to the Police Chief's Office and the original will be kept by the employee involved.
 - 2. All employees will notify the Police Chief, through their Chain of Command, in writing prior to any incidence of bankruptcy or other civil action taken by them. The employee will make the notice prior to suing for, seeking, soliciting, or agreeing to accept, any money or other compensation for damages sustained or expenses incurred as a result of a civil action,
- B. No officer shall investigate any criminal case, or personally file any criminal charge in a court of law against any person for a criminal offense committed against any member of the officer's family. Other offenses that may be committed against the officer or members of the officer's family shall be reported to the division of the Department or other law enforcement agency having responsibility for the investigation of such offenses. The personnel of that division or agency shall investigate and file such charges as may be proper.
- C. Employees shall be truthful at all times, whether under oath or not, when conducting any police business. Additional requirements for truthfulness are listed in section 03.203 (A11) of General Orders.
- D. Employees shall answer questions truthfully, or render material and relevant statement to, a competent authority in a departmental personnel investigation when so directed.
- E. No employee shall willfully misrepresent any matter, sign any false statement or report, commit perjury or give false testimony before any court, grand jury, board, commission, official hearing, or departmental hearing.
- F. No employee shall knowingly falsify any report, document or record, or cause to be entered any inaccurate, false or improper information on records, documents or reports of the Department or any court or alter any record, document or report except by supplemental record, document or report. No employee shall remove or destroy or cause the removal or destruction of any report, document or record without proper authorization.
- G. Employees who, for a valid reason, are unable to answer an official summons must be excused by the court or grand jury prior to the time they are scheduled to appear. The reason for the excused absence shall be reported to the employee's immediate supervisor. If the immediate supervisor is not on duty, the employee will report to any on-duty supervisor the reason for not being able to answer the official summons.
- H. Employees must be present and available to testify in any court or before any grand jury in Smith County when officially notified to appear. In criminal cases outside Smith County and in all civil cases, officers will respond to a legal subpoena only. Employees will remain at the court until they are finally excused by the court.

- I. Any employee who is subpoenaed or volunteers to testify for the defense in any criminal or civil trial or hearing against the City or Department in any hearing or trial shall notify the employee's commander in writing upon receipt of the subpoena or of the employee's intention to testify prior to the employee's appearance as a witness.
- J. Employees shall not engage in any of the following conduct:
 - 1. Interfering with the service of lawful process.
 - 2. Interfering with the attendance or testimony of witnesses through coercion, bribery, or any other means.
 - 3. Attempting to have any Notice to Appear or traffic citation reduced, voided, or stricken from any docket without approval of the appropriate Division Commander.
 - 4. Recommending a dismissal, reduction of charges, or other disposition of a pending criminal case that has been previously filed in any criminal court or before any Grand Jury except by written approval of the appropriate Division Commander.
 - 5. Taking any other action that interferes with the efficiency or integrity of the administration of criminal justice or having knowledge of such interference and failing to inform a superior in writing.
 - 6. Directly or indirectly becoming involved in negotiations or discussions with an attorney or any person representing a defendant in a criminal case regarding the disposition of the defendant's case, or any matters relating to the defendant's desire to cooperate in return for certain concessions or agreements without the approval of the attorney representing the state or sovereign, and further that such attorney representing the state or sovereign must be present during such negotiations or discussions, and then only with the approval of the appropriate Division Commander or designate.
- K. Employees shall not suggest, recommend, advise, or otherwise counsel the retention of any attorney or bail bond broker to any person coming to their attention as a result of police business. This does not apply when a relative or personal acquaintance of the officer seeks such services. In no case may such advice be given where a fee, gratuity, or reward is offered by, solicited, or accepted from the attorney or bail bondsman.
- L. No employee shall give any attorney, bondsman, or the agent of either or any other person unauthorized information regarding prisoners in confinement, property in custody, or the records of the department.
- M. Employees shall not furnish bail or act as a principal or surety on any bail bond or bail bond application for any person charged with any type of criminal offense except members of their immediate family, unless authorized by the Chief of Police.
- N. No employee shall reveal any confidential information to anyone unless authorized to do so, and then only to a person or persons authorized to receive such confidential information. Any information contained in police records, other information ordinarily accessible only to police personnel and names of informants, complainants, witnesses, or other persons known to the police is confidential information, and will be released only pursuant to department policy and state law. A violation of the security of this type of information is considered gross misconduct.
- O. No employee shall make known any information concerning the progress of an investigation, a known or reported law violation, a condition against which action is to be taken at a future time, or any proposed police operation to any person not authorized to receive such information.
- P. Employees shall not communicate in any manner, either directly or indirectly, any information which may assist persons guilty or accused of criminal or quasi-criminal acts to escape arrest or

punishment or which may enable them to dispose of or secret evidence of unlawful activity, money, merchandise or other property unlawfully obtained.

- Q. No employee shall release any police report, police record, arrest report, prosecution report, criminal history file, mug shot picture, or other record or report to any person or agency which does not have a criminal justice function, unless ordered by a lawful subpoena, in response to a lawful Public Information Act request or approved by the Chief of Police. Unauthorized posting, display, or release of protected information obtained by utilizing a cellular phone or other device is prohibited.

03.208 OFF-DUTY CONDUCT AND POWERS OF ARREST

- A. Despite the fact that a police officer has police powers and responsibilities 24 hours a day throughout the jurisdiction, the off-duty officer should not attempt to make arrests or engage in other enforcement actions except in situations involving potential loss of life, serious bodily injury, self-defense, or where a significant loss of property may occur. Off-duty officers must comply with state law restrictions on out-of-jurisdiction law enforcement. Off-duty enforcement may place an officer in the dangerous position of not having a back up or the means of summoning assistance. The officer may not have access to all the available equipment that would normally be available when on-duty. The officer may have family or friends present that might be placed in harms way. The violator may not recognize that an off-duty officer is confronting them and the responding officers may not recognize the off-duty officer.
- B. Off-duty officers will not take enforcement action for Class C traffic offenses when out of uniform and off duty. Personnel assigned marked take home vehicles should use discretion when involved in an enforcement action when operating the marked unit. When engaged in an authorized off-duty employment assignment, officers are not to take enforcement action only in furtherance of the interests of the private employer. Refer to General Order 07.904 for additional information concerning enforcement of traffic violations while off duty.
- C. If an off-duty officer witnesses a criminal offense, the officer is to notify on-duty personnel as soon as possible. If enforcement action is immediately necessary, the off-duty officer will respond appropriately and notify the department as soon as possible. No arrestee will be transported by private motor vehicle. The off-duty officer will submit a written report on the incident as soon as practical.
- D. Off duty officers shall not become involved or intervene in public disturbances or fights except in situations involving potential serious bodily injury or loss of life. The officer will report the disturbance to the agency having jurisdiction and provide witness information. An off-duty officer that is under the influence of alcohol or drugs may take no police action.
- E. Officers may not take enforcement action when they are personally involved in an incident except when required to immediately protect self or others. Personally involved means where the off-duty officer, a family member, or associate becomes engaged in a dispute or incident with a person against whom enforcement action could be taken. This does not apply to situations where the officer is the victim of a crime. Officers who are victims of a crime are to report the offense to on-duty authorities as soon as possible.
- F. While off duty, the officer is responsible for immediately reporting any suspected or observed criminal activities to on-duty authorities. The officer shall act as a trained observer and witness to the offense and shall summon on-duty personnel as soon as reasonably possible. When an arrest is necessary, all departmental policies shall be followed.

- G. Officers of this agency have liability and worker's compensation insurance protection for the on- and off-duty performance of official duties. This protection does not extend to those actions that the officer knew, or reasonably should have known, were in conflict with the law or the established policies of the department.

03.209 TAKE HOME VEHICLE USE POLICY

- A. The Chief of Police is authorized to designate those positions that are assigned to participate in the City's home storage vehicle program. The vehicle may be a marked or unmarked police fleet vehicle, may be designated as a lease, rental, or undercover vehicle, or may be any other vehicle in which the City has a controlling interest.
- B. Employees permitted the use of a take home vehicle shall abide by Chapter 2 of the City policies.
 - 1. The vehicle may only be used for official city purposes.
 - 2. The vehicles may not be used to transport unauthorized persons and any unauthorized use may subject the employee to disciplinary action. Non-City personnel are not permitted to ride except in an emergency situation or while conducting official City business. The Chief or designate may authorize the transport of other persons and/or require a written waiver of the passenger.
 - 3. The employee must have a valid operator license and follow all laws, policies, rules and procedures for the safe and proper use of the vehicle.
 - 4. The employee is required to inspect the vehicle for safe and effective operation such as checking the tires, the fluid levels, and other essential maintenance functions. Any problems or malfunctions are to be reported through the chain of command for repair. The employee is to adhere to the scheduled maintenance program for the vehicle. The employee may be required to submit a monthly use log showing mileage, fuel consumption/cost, and vehicle condition.
 - 5. The employee is to immediately report any collision to a supervisor so the incident can be investigated.
 - 6. The employee is to report to a supervisor any health status change which may affect the ability to operate the vehicle safely such as the taking of prescription medication or some other physical impairment.
- C. City policy allows that designated public safety employees may use the home storage vehicle for personal use to enhance emergency response capabilities to civil disturbances.
 - 1. This personal use is limited to those employees that are on-call.
 - 2. Unauthorized riders are not permitted.
 - 3. If the employee has consumed any intoxicants, the home storage vehicle is not to be operated.

NOTE: The only exception is when drinking intoxicating beverages as described above in section 03.204 O (5). The consumption must occur while in the performance of an assigned police duty and only with the approval of the Division Commander. Should the employee consume any amount of an intoxicant while performing a police assignment and when necessary to maintain the confidentiality of the investigation, the employee may be permitted to briefly operate the vehicle to get away from the immediate area. At the earliest possible moment, the employee is to park the vehicle and have someone come to the location and take over the operation of the vehicle. If the employee believes that they cannot drive the vehicle from the location without endangering themselves or others, the employee may call for assistance and if necessary abort the operation.

- D. Each employee permitted to participate in the home storage vehicle program is required to submit a Home Storage Vehicle Request form for approval by the City Manager. A new form must be submitted whenever changes occur in personnel, employee address, or vehicle numbers.
- E. The home storage vehicle privilege may be revoked at any time for any reason including the following:
 - 1. Two chargeable accidents or two moving violations within 12 months.
 - 2. Failure to comply with policy.
 - 3. A change in assignment.
 - 4. Moving outside the City limits without submitting an updated request.
 - 5. Administrative discretion.

A handwritten signature in black ink, appearing to read "Andy M. Swartz". The signature is fluid and cursive, with the first name "Andy" being the most prominent.

Approved: 04/08/14