

INSTRUCTIONAL ORDER

November 2019

Immediately

V.3:08

Distribution: All Employees

Subject: **CONSENT TO USE PHOTOGRAPH**

| | | | | |
|-----------|---------------------------|------------------|-------------------|----------------------|
| Index as: | Blog | Follow | Podcast | Speech |
| | Comment | Followers | Post | Tweet |
| | Concerted Activity | Informed Consent | Profile | VLOG |
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| | Consent to Use Photograph | On-duty | Social Media | WIKI |
| | Data Extraction | Page | Social Networking | World Wide Web (WWW) |
| | Decoy | | | WWW |

Accreditation Standards: 43.1.2
 Cross Reference: I.O. V.3:07 Human Trafficking
 ISB SOP II-02 Informant Control Restricted
 ISB SOP II-05 Equipment
 City Administrative Policy #070700 Social Media
 Replaces: NEW POLICY

This Order establishes guidelines for the use of any St. Petersburg Police Department Officer's photograph(s) on the internet or mobile devices. It consists of:

- I. Policy
- II. Purpose
- III. Definitions
- IV. Procedures
- V. Storage of Photographs
- VI. Photographs for Court Proceedings
- VII. Training

I. POLICY

A. It is the policy of the St. Petersburg Police Department that all sworn personnel, when consenting to the release of their photograph via the internet or mobile devices for the purpose of criminal investigations, shall sign the Consent to Use Photograph form authorizing its use.

II. PURPOSE

A. Through the course of an investigation, a Unit within the Department may need to use photographs in an undercover/fictitious capacity while communicating with subjects online via the internet or mobile device, i.e. subjects who are seeking to engage in illegal activities with children.

B. This Order details the policies and procedures to be used by Department Units for obtaining informed consent from Officers for the use of their individual photographs in the course of an investigation.

III. DEFINITIONS

- A. Blog – A commentary or self-published journal allowing visitors to post comments, feedback, or reactions.
- B. Comment – The expression of a reaction or opinion on a webpage through remarks, in text, or video.
- C. Concerted Activity – An activity that is protected under federal labor law.
- D. Consent – The voluntary agreement or acquiescence by a person who is of age; has the requisite mental capacity, knowledge, and understanding; and is not under duress or coercion.
- E. Data Extraction – The process of extracting and/or finding pertinent data from an array of social media and internet related sources. This process can be used as an investigative tool due to the frequency of persons often posting information about crimes they have committed on social media websites.
- F. Decoy – An Officer who assumes the identity or physical appearance of a victim or potential victim of a crime with the goal of apprehending a suspect in the commission of a crime.
- G. Follow – A term closely associated with social media websites that refers to the ability to see others' updates on a personal timeline, newsfeed, message board, or home page.
- H. Followers – People who receive updates for a blog or social media website (e.g., Twitter, Facebook, etc.).
- I. Informed Consent – An agreement to do something or to allow something to happen, made with complete knowledge of all relevant facts, including the risks involved and/or any available alternatives.
- J. Off-duty – The time frame outside of a regular tour of duty and/or assigned duties.
- K. On-duty – A regular tour of duty and/or assigned duties, participant in a special assignment for the Department, or when an incident occurs requiring members to act in the capacity of an Officer.
- L. Page – A section of a social media website where the material included is managed and displayed by an individual(s) with access or administrator rights.
- M. Podcast – A program (audio or video) made available in digital format that can be downloaded or streamed over the Internet.
- N. Post – Any content uploaded, entered, or placed on a blog, any type of computerized bulletin or message board, forum, or social media site. This includes but is not limited to the act of creating, uploading, editing, or adding text, photographs, audio, video, or any other multimedia file to any social media outlet.
- O. Profile – Information that a user provides about himself or herself on a social networking site. For the purpose of this Order, profiles on social media sites will contain information about the Department.
- P. Proof of Life – Documents, photographs, videos, or phone calls used as an investigative tool to confirm or solidify the undercover persona.
- Q. Social Media – Online sources that allow people to communicate, share, and/or exchange information with others via some form of online or cellular network platform. Information may include, but is not limited to, text, photographs, video, audio, and other multimedia files.
- R. Social Networking – The development of social and professional contacts; the sharing of information and services among people with a common interest.
- S. Speech – Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.
- T. Tweet – A posted message on the social networking website Twitter.

U. VLOG – Similar to a blog except it is presented as video instead of text.

V. Website – A site (location) on the World Wide Web (WWW).

1. This is a broadly used term generically covering the various social media sites as well as news, information, and other similarly organized locations on the WWW.

2. Each website contains a home page, which is the first document a user sees when they enter the site. The website might also contain additional documents and files.

3. Each website is owned and managed by an individual, company, or organization.

W. WIKI – A web page that can be edited collaboratively. Wikipedia is a well-known example, but a wiki can be dedicated to any topic.

IV. PROCEDURES

A. The consent process includes presentation, reading, and the discussion of the consent form prior to the signing of the document. The Detective will follow the procedures outlined below to ensure the Officer understands the process and procedures.

1. The consent to use photograph form, shall be reviewed with the Officer by the Detective requesting the photographs.

2. The Officer shall be notified that the materials collected are confidential with the exception of those materials provided to the State Attorney and Defense Attorney during criminal proceedings.

3. Only the Detective obtaining consent from the Officer will view and chart the use of the photographs.

4. The Detective will notify the Officer regarding the use of their photograph(s).

5. The Officer can terminate or withdraw consent for the use of the photograph(s) by notifying the Detective and the Detective's Supervisor through written and verbal notification.

6. The Detective will give the Officer the option to freely and voluntarily sign and date the consent form.

7. The Detective shall not use coercion or undue influence to obtain consent.

V. STORAGE OF PHOTOGRAPHS

A. The Detective responsible for obtaining the photograph(s) of the Officer is responsible for the secured storage, management, and use of the photograph(s).

B. The Officer's photograph(s) shall be stored on an external hard drive device which is file encrypted and which is secured in a locked storage case in the Unit's office.

C. During an active investigation:

1. The photograph(s) shall be temporarily stored on an undercover laptop assigned to the Detective that is password protected.

2. At the conclusion of the investigation the photograph(s) shall be deleted from the laptop. The original photographs shall remain on the secured external hard drive device.

3. The photograph(s) shall not be on the agency network.

4. Only the Detective and the Detective's Supervisor will have access to the external hard drive device.

VI. LEGAL PROCESS

- A. The Unit Supervisor shall ensure the proper compliance with response to court documents and legal process.
- B. The Unit shall respond to all public records requests via the Records and Evidentiary Services Division.
- C. The Unit shall make available upon request via subpoena all copies made of the Officer's photographs as well as voice recording if applicable.
- D. The Detective shall upon request via subpoena be available for court proceedings.

VII. TRAINING

- A. Authorized Detectives shall receive training on:
 - 1. The legal issues related to the appropriate use of social media sites for investigative purposes, and
 - 2. The use of the Consent to Use Picture form and legal obligations.
- B. Members giving consent to use their photographs should review:
 - 1. I.O. V.3:08, Consent to Use Photographs_Attachment A, and
 - 2. City of St. Petersburg Administrative Policy #070700, as it relates to the use of social media sites.

Anthony Holloway
Chief of Police