

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

COMMUNITY ENGAGEMENT FORUM AGENDA

Thursday, November 7, 2019
6:00 p.m. – 7:30 p.m.
Mississippi Boulevard Christian Church

Welcome // Introductions // Why Are We Here?
Independent Monitor Edward L. Stanton III

Remarks from the Memphis Police Department & the ACLU-TN

Rotating Breakout Sessions

Session I: What Does the *Kendrick* Consent Decree Say?

Deputy Monitor Jim Letten & John C. Henegan, First Amendment
Subject-Matter Expert

Session II: What has the Monitoring Team Been Doing?

Dave McGriff, Compliance & Auditing Subject-Matter Expert
& Gadson W. Perry, Legal Counsel for the Monitoring Team

Session III: What Makes the *Kendrick* Consent Decree Unique?

Dr. Theron L. Bowman, Police Practices Subject-Matter Expert
& Rachel Levinson-Waldman, Social Media Subject-Matter Expert.

Timeline of What's Next // Q & A

Full Monitoring Team

Closing Remarks

Independent Monitor Edward L. Stanton III

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

SESSION I: WHAT DOES THE *KENDRICK* CONSENT DECREE SAY?

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

COMMUNITY ENGAGEMENT FORUM AGENDA

Thursday, November 7, 2019

Breakout Session I: What Does the *Kendrick* Consent Decree Say?

Presenters: Deputy Monitor Jim Letten & John C. Henegan, First Amendment Subject-Matter Expert

Materials: The *Kendrick* Consent Decree;
A Short Guide to the *Kendrick* Consent Decree

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

KENDRICK CONSENT DECREE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

CHAN KENDRICK, ET AL.,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION
	§	NO. C 76-449
WYETH CHANDLER, et al.,	§	
	§	
Defendants.	§	

ORDER, JUDGMENT AND DECREE

Plaintiffs, Chan Kendrick, Mike Honey, and the American Civil Liberties Union in West Tennessee, Inc., having commenced this action on or about September 14, 1976, against defendants Wyeth Chandler, Mayor or the City of Memphis, W. O. Crumby, Chief of Police and Acting Director of Police of the City of Memphis, P. T. Ryan, Captain of the Intelligence Section of the Memphis Police Department, and George W. Hutchison, Deputy Chief of Operations of the Memphis Police Department, individually and in their official capacities, and the court having determined by Order dated September 23, 1977 that the pleadings are sufficient to state a cognizable claim for relief, and the parties having waived hearing, findings of fact and conclusions of law, and defendants having consented to entry without further notice of the within Order, Judgment and Decree (hereinafter "Decree"):

NOW, THEREFORE on application of Jack D. Novik, Esquire, American Civil Liberties Union Foundation, Bruce S. Kramer, Esquire, American Civil Liberties Union in West Tennessee, Inc., and Alex Hurder, attorneys for the plaintiffs, and upon consent of defendants, it is ORDERED, ADJUDGED and DECREED as follows:

A. Statement of General Principles

The defendants herein deny that they have acted illegally in any manner but agree to the term hereafter set out in order to dispose of the controversy between the parties.

The provisions of this Decree prohibit the defendants and the City of Memphis from engaging in law enforcement activities which interfere with any person's rights protected by the First Amendment to the United States Constitution including, but not limited to, the rights to communicate an idea or belief, to speak and dissent freely, to write and to publish, and to associate privately and publicly for any lawful purpose.

Furthermore, even in connection with the investigation of criminal conduct, the defendants and the City of Memphis must appropriately limit all law enforcement activities so as not to infringe on any person's First Amendment rights.

B. Definitions

1. "First Amendment rights" means rights protected by the First Amendment to the Constitution of the United States including, but not limited to, the rights to communicate an idea or belief, to speak and dissent freely, to write and to publish, and to associate privately and publicly for any lawful purpose.

2. The "City of Memphis" means all present and future officials, employees and any other agents, and all departments, divisions and any other agencies, of the City of Memphis, Tennessee.

3. "Person" means any individual, group or organization.

4. "Political Intelligence" means the gathering, indexing, filing, maintenance, storage or dissemination of information, or any other investigative activity, relating to any person's beliefs, opinions, associations or other exercise of First Amendment rights.

5. "Defendants" means defendants Chandler, Crumby, Ryan and Hutchinson and their successors in office.

C. Political Intelligence

1. The defendants and the City of Memphis shall not engage in political intelligence.

2. The defendants and the City of Memphis shall not operate or maintain any office, division, bureau or any other unit for the purpose of engaging in political intelligence.

D. Prohibition Against Electronic Surveillance for Political Intelligence

The defendants and the City of Memphis shall not intercept, record, transcribe or otherwise interfere with any communication by means of electronic surveillance for the purpose of political intelligence.

E. Prohibition Against Covert Surveillance for Political Intelligence

The defendants and the City of Memphis shall not recruit, solicit, place, maintain or employ an informant for political intelligence; nor shall any officer, employee or agent of the City of Memphis, for the purpose of political intelligence, infiltrate or pose as a member of any group or organization exercising First Amendment rights.

F. Harassment and Intimidation Prohibited

1. The defendants and the City of Memphis shall not disrupt, discredit, interfere with or otherwise harass any person exercising First Amendment rights. Among other things, the City of Memphis shall not disseminate damaging, derogatory, false or anonymous information about any person for the purpose of political intelligence, or attempt to provoke disagreement, dissention or violence between persons.

2. The defendants and the City of Memphis shall not engage in any action for the purpose of, or reasonably having the effect of, deterring any person from exercising First Amendment rights. As an example, the City of Memphis shall not, at any lawful meeting or

demonstration, for the purpose of chilling the exercise of First Amendment rights or for the purpose of maintaining a record, record the name of or photograph any person in attendance, or record the automobile license plate numbers of any person in attendance.

G. Criminal Investigations Which May Interfere With the Exercise of First Amendment Rights

1. Any police officer conducting or supervising a lawful investigation of criminal conduct which investigation may result in the collection of information about the exercise of First Amendment rights, or interfere in any way with the exercise of such First Amendment rights, must immediately bring such investigation to the attention of the Memphis Director of Police for review and authorization.

2. The Director of Police shall review the factual basis for the investigation and the investigative techniques to be employed. The Director of Police shall issue a written authorization for an investigation for a period not to exceed ninety (90) days only if the Director of Police makes written findings that:

- a. The investigation does not violate the provisions of this Decree; and
- b. the expected collection of information about, or interference with, First Amendment rights is unavoidably necessary for the proper conduct of the investigation; and
- c. Every reasonable precaution has been employed to minimize the collection of information about, or interference with, First Amendment rights; and

d. the investigation employs the least intrusive technique necessary to obtain the information.

3. The Director of Police may authorize an extension of such investigation for an additional period specified by the Director of Police not to exceed ninety (90) days. The Director of Police shall authorize each such extension only if the Director of Police re-evaluates the factual basis for the investigation and the investigative techniques to be employed, and makes current written findings as required in Paragraph 2, above.

H. Maintenance and Dissemination of Information

1. The defendants and the City of Memphis shall not maintain personal information about any person unless it is collected in the course of a lawful investigation of criminal conduct and is relevant to such investigation. Information which has been collected in violation of this Decree shall be destroyed.

2. The defendants and the City of Memphis shall not disseminate personal information about any person collected in the course of a lawful investigation of criminal conduct to any other person, except that such information may be disseminated to another governmental law enforcement agency then engaged in a lawful investigation of criminal conduct.

I. Restriction on Joint Operations

The defendants and the City of Memphis shall not encourage, cooperate with, delegate, employ or contract with, or act at the behest of, any local, state, federal or private agency, or any person, to plan or conduct any investigation, activity or conduct prohibited by this Decree.

J. Dissemination and Posting of this Decree

The defendants and the City of Memphis shall familiarize each of its law enforcement personnel with the contents of this

Decree in the same manner in which those personnel are instructed about other rules of conduct governing such personnel. In addition, defendants and the City of Memphis shall disseminate and make known the contents of this Decree through publication, public posting and other means.

K. Effective Date

This Decree shall be effective when approved and entered by the Court as fair, reasonable and adequate.

L. Binding Effect

This Decree, providing prospective relief only, constitutes a full and final adjudication of all the named plaintiffs' claims for injunctive and affirmative relief as stated in the Complaint. However, it shall have no binding effect upon any claims for damages that have been, might have been, or might in the future, be asserted by any other individual. Any statutes of limitations that apply to any such claims are hereby tolled from September 14, 1976 to the date of this Decree.

M. Retention of Jurisdiction

The Court will retain jurisdiction of this action, including any issue which might arise regarding payment of attorneys' fees to counsel for plaintiffs, pending disposition of all matters contained in this Decree and for the purpose of issuing any additional order required to effectuate this Decree.

SO ORDERED.

UNITED STATES DISTRICT JUDGE

APPROVED FOR ENTRY:

/s/
ARTHUR J. SHEA
Deputy City Attorney
City Hall, Room 314
125 N. Main Street
Memphis, Tennessee 38103

Attorney for Defendants

/s/
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/s/
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Attorneys for Plaintiffs

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

A SHORT GUIDE TO THE *KENDRICK* CONSENT DECREE

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

A SHORT GUIDE TO THE *KENDRICK* CONSENT DECREE¹

The *Kendrick* Consent Decree² addresses and prohibits several broad categories of conduct.³ This Guide explains in eight short points what, exactly, those categories are:

WHAT THE CONSENT DECREE PROHIBITS

1. The City and the MPD may not “engage in political intelligence.”⁴ § C(1). They also may not “operate or maintain any office . . . for the purpose of engaging in political intelligence.” § C(2).
2. The City and the MPD may not electronically “intercept, record, transcribe or otherwise interfere with any communication . . . for the purpose of political intelligence.” § D.
3. The City and the MPD may not “recruit, solicit, place, maintain, or employ an informant for political intelligence” § E. They also may not “infiltrate or pose as a member of any group or organization exercising First Amendment Rights” “for the purpose of political intelligence.” *Id.*
4. The City and the MPD may not do anything for the purpose of deterring the exercise of First Amendment rights, nor may they do anything that reasonably has the effect of deterring the exercise of First Amendment rights.⁵ § F(2).

¹ THIS GUIDE WAS PREPARED BY THE MONITORING TEAM. THE GUIDE IS NOT A SUBSTITUTE FOR THE *KENDRICK* CONSENT DECREE. NOR IS THE GUIDE LEGAL ADVICE. IF YOU HAVE QUESTIONS ABOUT YOUR LEGAL RIGHTS, IF ANY, RELATED TO THE CONSENT DECREE, YOU SHOULD SPEAK WITH AN ATTORNEY OF YOUR CHOICE.

² The decree is ECF No. 3 in Case No. 2:76-cv-000449 before the U.S. District Court for the Western District of Tennessee and has been made publicly available on the Monitoring Team’s website, www.memphisdpdmonitor.com.

³ The Auditing & Compliance Plan proposed by the Monitoring Team identifies seven categories of prohibited conduct, whereas this document identifies eight. The fourth and fifth categories below are both part of § F of the Consent Decree and are united under Section 4 of the Auditing & Compliance Plan. The categories are broken into separate paragraphs here for ease of review and discussion.

⁴ Political intelligence “means the gathering, indexing, filing, maintenance, storage or dissemination of information, or any other investigative activity, relating to any person’s beliefs, opinions, associations or other exercise of First Amendment rights.” § B(4).

5. The City and the MPD may not (1) spread damaging, derogatory, false, or anonymous information for the purpose of political intelligence, § F(1), or (2) record the name, photograph, or license plate numbers of people at lawful meetings or demonstrations “for the purpose of maintaining a record,” § F(2).
6. The City and the MPD may not conduct or supervise any criminal investigations that may (1) result in the collection of political intelligence, or (2) interfere with the exercise of First Amendment rights, without the direct, written authorization of the Police Director.⁶ § G.
7. The City and the MPD may not maintain personal information about any person unless the information is relevant to a lawful criminal investigation and collected in the course of that investigation. § H(1). They also may not share personal information with any person or entity except another governmental law enforcement agency that already is engaged in a lawful criminal investigation. § H(2).
8. The City and the MPD may not work with or use any other person or entity to violate the consent decree. § I.

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⁵ This prohibition includes (1) “disrupt[ing], discredit[ing], interfer[ing] with, or otherwise harass[ing]” people exercising First Amendment rights; and (2) attempting to provoke violence or disagreements between people. § F(1).

⁶ The Police Director’s written authorization must contain specific findings, described in § G(2). It also may not last more than 90 days unless the Police Director authorizes an extension, also no more than 90 days, after re-evaluating the factual basis for the investigation and the investigative techniques to be employed and makes the findings described in § G(2) again.

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

SESSION II: WHAT HAS THE MONITORING TEAM BEEN DOING?

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

COMMUNITY ENGAGEMENT FORUM AGENDA

Thursday, November 7, 2019

Breakout Session II: What has the Monitoring Team Been Doing?

Presenters: Dave McGriff, Compliance & Auditing Subject-Matter
Expert & Gadson W. Perry, Legal Counsel for the Monitoring
Team

Materials: The Sanctions Order (ECF No. 152)

Topics: The Policy Matrix
RFAs
Community Engagement
Reports to the Court
Compliance & Auditing Plan

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

ORDER MEMORIALING SANCTIONS

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ELAINE BLANCHARD, KEEDRAN)	
FRANKLIN, PAUL GARNER, and)	
BRADLEY WATKINS,)	
)	
Plaintiffs (dismissed),)	
)	
and)	Case No. 2:17-cv-2120-JPM-egb
)	
ACLU OF TENNESSEE, INC.,)	
)	
Intervening Plaintiff,)	
)	
v.)	
)	
CITY OF MEMPHIS, TENNESSEE,)	
)	
Defendant.)	

ORDER MEMORIALING SANCTIONS

The Court imposed certain sanctions on the City in its October 27, 2018 Order. (ECF No. 151.) For ease of access, the specific requirements of that Order are reproduced below.

The Court finds that the ACLU-TN is entitled to an award of attorney’s fees at the conclusion of this litigation.

To ensure compliance with the Consent Decree generally, and especially with the requirement that the City familiarize its officers with the contents of the Decree, the Court ORDERS the following:

- 1) The City shall revise Departmental Regulation 138. (Ex. 79.) The new regulation shall define “political intelligence.” The new regulation shall specify that “political

- intelligence” includes any investigation into the lawful exercise of First Amendment rights, even if the investigating officer or unit does not have a partisan political motive. The new regulation shall specify that political intelligence is not permissible as a goal of an investigation nor as the means to an end of an otherwise lawful investigation. The new regulation shall inform officers that investigations into unlawful conduct that may incidentally result in the receipt of information relating to First Amendment rights are permissible, but require approval as set out in Consent Decree § G. The City shall submit the revised Departmental Regulation to the Court no later than January 14, 2019 for review and approval.
- 2) The City shall design training for members of OHS, RTCC, and MPD’s Command Staff. The new training shall define “political intelligence.” The new training shall specify that “political intelligence” includes any investigation into the lawful exercise of First Amendment rights, even if the investigating officer or unit does not have a partisan political motive. The new training shall specify that political intelligence is not permissible as a goal of an investigation nor as the means to an end of an otherwise lawful investigation. The new training shall inform officers that investigations into unlawful conduct that may incidentally result in the receipt of information relating to First Amendment rights are permissible, but require approval as set out in Consent Decree § G. No officer may be assigned to RTCC or OHS, or be promoted to the Command Staff without receiving this training. The City shall submit a training plan to the Court no later than January 14, 2019 for review and approval.

- 3) The City shall establish a process for the approval of investigations into unlawful conduct that may incidentally result in political intelligence. While the Court does not decide at this time whether the Consent Decree permits delegation of this task, the City's proposal may, for the time being, proceed as though delegation is permitted. If the City does seek to delegate the approval process set out by § G of the Consent Decree, it shall provide that the process is administered by an officer outside of the direct chain of command of the unit or officer requesting authorization. The City shall establish this process through a proposed written policy that shall be submitted to the Court no later than January 14, 2019 for review and approval.
- 4) The City shall establish written guidelines for the use of manual social media searches and of social media collators in compliance with the Decree. The City shall make these guidelines available to all officers with access to social media collators, and to all officers assigned to OHS and RTCC. The City shall submit these guidelines to the Court no later than January 14, 2019 for review and approval.
- 5) The City shall maintain a list of all search terms entered into social media collators or otherwise used by MPD officers collecting information on social media while on duty. This list shall be filed under seal every three months until the Court orders otherwise. The first filing shall be submitted no later than January 14, 2019 and shall reflect all such social media searches conducted from November 1, 2018 through December 31, 2018.

Plaintiff ACLU-TN shall, within 21 days of receipt of materials submitted by the City pursuant to 1, 2, 3, 4, and 5 above, file any objections to said proposals or, if there are no objections, a document stating that there are no objections.

It may be impossible for the Court to provide legal guidance on every situation that MPD will face that may implicate the Consent Decree. To ensure compliance with the Decree and to provide closer guidance on what constitutes political intelligence, the Court will appoint an independent monitor to supervise the implementation of the sanctions described above. The Parties shall submit proposed monitors, including a brief statement of qualifications and experience, by December 10, 2018. Even if the Parties confer and agree on a proposed independent monitor, the Parties shall submit at least two candidates in total. The City shall bear the monitor's fees and expenses.

IT IS SO ORDERED, this 29th day of October, 2018.

/s/ Jon McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

SESSION III: WHAT MAKES THE *KENDRICK* CONSENT DECREE UNIQUE?

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

COMMUNITY ENGAGEMENT FORUM AGENDA

Thursday, November 7, 2019

Breakout Session III: What Makes the *Kendrick* Consent Decree Unique?

Presenters: Dr. Theron L. Bowman, Police Practices Subject-Matter Expert & Rachel Levinson-Waldman, Social Media Subject-Matter Expert.

Materials: Agenda from 2019 New Orleans Consent Decree Conference; Comparison Chart - PD Social Media Policies (ECF No. 219-1, Ex. 6.)

Topics: Consent decrees elsewhere in the United States.
Law enforcement social media policies around the country.

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

AGENDA FROM 2019 NEW ORLEANS CONSENT DECREE CONFERENCE

Third Annual Consent Decree Conference: Police Reform and Beyond October 17-18, 2019



TARLETON
STATE UNIVERSITY
Member of The Texas A&M University System

School of Criminology,
Criminal Justice
and Strategic Studies



**Federal Bar
Association**

THURSDAY, OCTOBER 17, 2019



Federal Bar Association

8:00 – 8:30 Coffee and Pastries

Location: Cypress

8:30 - 8:45 Introduction to Conference

Location: Magnolia

- Dr. Alex del Carmen (Associate Dean of Tarleton State University College of Liberal and Fine Arts)
- Dr. Eric Morrow (Dean of Tarleton State University College of Liberal and Fine Arts)
- Mr. Christian Adams (National President, Federal Bar Association)

8:45 - 10:15 The Role of the Community in Sustaining Police Reform

Location: Magnolia

MODERATOR:

Ms. Emily Gunston (Deputy Legal Director, Washington Lawyers' Committee for Civil Rights and Urban Affairs)

PANELISTS:

Mr. Jonathon Smith (Executive Director, Washington Lawyers' Committee for Civil Rights and Urban Affairs)

Ms. Shareese Pryor (Chief, Civil Rights Bureau, Office of the Attorney General of Illinois)

Mr. Al Gerhardstein (Partner, Gerhardstein & Branch Co., LPA)

THEMES:

- *Why is community involvement crucial to ensuring durable reform?*
- *What are the limits of consent decrees and how can community involvement in the consent decree promote judicial power and expand what is possible to achieve?*
- *Areas that are the ripest and most important for community involvement?*
- *How do we ensure the reforms in these areas actually reflect community input, including input from all impacted communities?*
- *How do we build ongoing community involvement into designing and implementing reforms?*

10:15 – 10:30 Break

10:30 – 12:00 Managing and Sustaining Reform

Location: Magnolia

MODERATOR:

The Honorable James L. Robart (United States District Court, Western District of Washington)

PANELISTS:

Chief Kathleen O'Toole (Former Chief of Seattle Police Department)

Dr. T. Bowman (Deputy City Manager, City of Arlington, retired)

THEMES:

- *Lessons learned from two successful consent decrees*
- *Managing the relationship with the court*
- *Building officer and community support for reform*
- *Police collective bargaining agreements and reform*

12:00 – 1:30 LUNCH: LOCATION: CONFERENCE BALLROOM

Introduction of Keynote Speaker:

The Honorable Gustavo A. Gelpi (United States District Court, District of Puerto Rico)

Keynote Address:

Working Through The Fragmented Relationship Between The Black Community And Law Enforcement

The Honorable Sam A. Lindsay (United States District Court, Northern District of Texas)

1:30 – 3:00 Monitoring: Lessons Learned

Location: Magnolia

MODERATOR:

Mr. Jonathan Aronie (Leader GovCon, Investigations & International Trade Practice Group, Sheppard Mullin Richter & Hampton LLP)

PANELISTS:

- Mr. Matthew Barge (Partner & Principal Consultant, 21CP Solutions)
- Mr. Kenneth Thompson (Partner, Commercial Litigation Practice Group, Venable LLP)
- Dr. Laura Kunard (Senior Research Scientist, Justice Programs, Safety and Security Division, CNA)

THEMES:

- *How do we balance technical assistance and monitoring?*
- *How do we move a department from hostility to acceptance to ownership/self-direction?*
- *How do we deal with misinformation and disinformation?*
- *How do we measure success and compliance?*
- *How do we promote innovation?*

3:00 – 3:15 Break

3:15 – 5:00 Accelerating and Sustaining Reforms with Data-Driven Management

Location: Magnolia

MODERATOR:

The Honorable James K. Bredar (United States District Court, District of Maryland)

PANELISTS:

- Mr. Arif Alikhan (Director, Office of Constitutional Policing and Policy, Los Angeles Police Department)
- Mr. Christopher Fisher (Chief Strategy Officer, Seattle Police Department)
- Mr. Ben Horwitz (Co-Founder, AH Datalytics)
- Ms. Maureen McGough (Director of National Programs, National Police Foundation)
- Mr. Danny Murphy (Deputy Commissioner, Compliance Bureau, Baltimore Police Department)

THEMES:

- *Implementing data-driven management practices to improve performance*
- *Building analytical capacity to generate audits and data analyses*
- *Enhancing COMSTAT to drive organizational change*
- *Defining what success looks like in performance reviews and outcome assessments*
- *Embracing evidence-based policing practices to improve performance*

FRIDAY, OCTOBER 18, 2019

8:00 – 8:30 Coffee and Pastries

Location: Cypress

8:30 - 10:00 Evaluating Implementation of DOJ Police Department Settlements

Location: Magnolia

MODERATOR:

Mr. Steven Rosenbaum (Chief, Special Litigation Section, Civil Rights Division)

PANELISTS:

Mr. Timothy Mygatt (Deputy Chief, Special Litigation Section, Civil Rights Division)

Mr. Paul Killebrew (Special Litigation Counsel, Civil Rights Division)

Ms. Megan Marks (Trial Attorney, Civil Rights Division)

Ms. Christina Fogg (Assistant United States Attorney, U.S. Attorney's Office, Western District of Washington)

THEMES:

- *The process of evaluating the implementation of Civil Rights Division settlements*
- *Two mechanisms for evaluating compliance: outcome assessments and compliance reviews*
- *Analyze the differences between the Division's experience that led to the inclusion in settlements and methodologies that have been used to conduct these evaluations*
- *Draw upon the experience of several jurisdictions that have begun the process of evaluating compliance*

10:00 – 10:15 Break

10:15 - 11:15 Institutionalizing Police Reform Through Procedural Justice and Community Policing

Location: Magnolia

MODERATOR:

Chief Will Johnson (Arlington Police Department)

PANELISTS:

Chief Ed Kraus (Fort Worth Police Department)

Chief Reneé Hall (Dallas Police Department)

Mr. David Douglass (Partner, Sheppard, Mullin, Richter and Hampton, LLP)

THEMES:

- *The use of non-traditional partnerships to enhance police legitimacy*
- *Successful strategies for integrating citizen participation into police reform activities*
- *Enhancing public trust through effective community engagement*
- *Internal strategies and policies to produce transparency and trust*
- *Effective Inclusion: Everyone has a seat at the table*

10:15 - 11:15 Breakout Sessions Location: See Below

Judges: Oak 1

Monitors: Oak 3

Chiefs: Cedar

Attorneys: Hickory

11:15 – 11:30 Break

11:30 – 12:30 Discussions Related to Breakout Sessions

Location: Magnolia

Session 1: Moderators (The Honorable Susie Morgan & The Honorable Gustavo A. Gelpi)

- The Honorable Susie Morgan (United States District Court, Eastern District of Louisiana)
- The Honorable Gustavo A. Gelpi (United States District Court, District of Puerto Rico)
- The Honorable James K. Bredar (United States District Court, District of Maryland)
- The Honorable James O. Browning (United States District Court, District of New Mexico)
- The Honorable Curtis V. Gomez (United States District Court, District of the Virgin Islands)

Session 2: Federal Monitors and their teams (Moderator: Mr. Jonathan Aronie)

Mr. Jonathan Aronie (Leader GovCon, Investigations & International Trade Practice Group, Sheppard Mullin Richter & Hampton LLP)

Session 3: Police Chiefs and command staff (Moderator: Deputy Superintendent John D. Thomas)

Deputy Superintendent John D. Thomas (New Orleans Police Department, Investigative and Support Bureau)

Session 4: City Attorneys (Moderator: Mr. Arturo J. García-Solá)

Mr. Arturo J. García-Solá (Capital Member and Managing Director, Litigation Practice Group, McConnell Valdes LLC)

12:30 – 1:30 LUNCH: CYPRESS BALLROOM

12:30 – 12:35 Acknowledgements:

Dr. Alex del Carmen (Associate Dean of Tarleton State University College of Liberal and Fine Arts)

1:30 – 4:00 Visits available to:

- One Safe Place (Domestic Violence Center, Fort Worth)
- Fort Worth Police Department Academy

PANELISTS



Christian K. Adams is the founder and managing partner at Adams Krek LLP, headquartered in Honolulu, Hawai'i, where he concentrates his practice on complex civil and appellate litigation. Prior to entering private practice, Christian served as a judicial law clerk to Hon. David A. Ezra, then chief judge for the U.S. District Court for the District of Hawai'i. Christian has served in numerous leadership positions at both the chapter and national level since joining the Federal Bar Association (FBA) in 2006 and is a Life Fellow of the Foundation of the FBA. He received his B.A. from Clark University in Worcester, Massachusetts, and his J.D. from the University of Hawai'i Richardson School of Law in Honolulu.



Arif Alikhan is the former Director of Constitutional Policing and Policy for the L.A. Police Department having recently retired after 25 years of public service. He was the first civilian commander to serve at the rank of Assistant Chief in the 150 year-history of the LAPD. Arif served for over a decade as a federal prosecutor in L.A. and as a senior advisor to two U.S. Attorneys General and was the Assistant Secretary for Policy Development at the U.S. Department of Homeland Security. Arif is currently a Senior Fellow with the University of Chicago's Crime Lab and is now dedicating his time to research and helping agencies understand constitutional policing and the integration of technology into police operations and community policing efforts.



Jonathon S. Aronie is the Leader of Sheppard Mullin's Government Contracts and Investigations Practice Group and the former co-Managing Partner of the firm's Washington, D.C. office. In 2013, he was appointed as the federal monitor for the New Orleans Police Department consent decree. Previously he had served as the deputy monitor of the Washington DC Police Department. Mr Aronie has written more than 85 articles and coauthored three legal books. He received his B.A. from Brandeis University and his J.D. from Duke University School of Law.



Matthew Barge is a Partner & Principal Consultant at 21CP Solutions and a Senior Consultant at the Policing Project at NYU School of Law. He currently serves as a member of the Baltimore Police Department Monitoring Team. He is lead police practices expert for a retired judge overseeing an agreement between the ACLU and City of Chicago on stops, searches, and arrests. From 2015 to 2019, he was the federal monitor overseeing the consent decree in Cleveland, where he continues to serve as a subject matter expert. He also served as deputy monitor for the consent decree in Seattle.



Theron Bowman has over 35 years of public service as a police and city executive. He is President and CEO of The Bowman Group, an expert police practices consulting firm. He holds multiple federal court appointments overseeing Consent orders, teaches and trains across the United States, is a published author and an inductee into the George Mason University Evidence-Based Policing Hall of Fame. He holds a doctorate degree in Urban and Public Administration from the University of Texas at Arlington.



James K. Bredar is the Chief Judge of the United States District Court for the District of Maryland. He presides in the matter of United States vs. Baltimore Police Department, et al, the case giving rise to the Baltimore police consent decree. He previously served as a US Magistrate Judge in Maryland, as the Federal Public Defender for the District of Maryland, as a line public defender in Colorado, and as both a federal and state prosecutor in Colorado. In the early 1990s, he served as a project director for the Vera Institute of Justice in the United Kingdom, focused on sentencing reform. Before becoming a lawyer, Judge Bredar served as a National Park Ranger. He is a graduate of Harvard University and Georgetown Law.



James O. Browning is a United States District Court Judge for the District of New Mexico. President George W. Bush appointed Judge Browning in August of 2003. Judge Browning served as the United States District Court for the District of New Mexico's representative on the Tenth Circuit's Judicial Council from October 2013 through September 2015 where he served on the Magistrate Committee and Committee for Judicial Conduct. In June, 2016, Chief John Roberts appointed Judge Browning to serve on the Judicial Conference Committee on Codes of Conduct. He graduated magna cum laude from Yale University, then went on to receive his J.D. from the University of Virginia School of Law.



Alex del Carmen is Associate Dean of the College of Liberal and Fine Arts, and the School of Criminology, Criminal Justice and Strategic Studies at Tarleton State University. He serves as a Special Master for the United States District Court for the District of Puerto Rico on the police reform case. Dr. del Carmen is considered a national expert on bias-based policing, and has published numerous books, including the nationally recognized book titled "Racial Profiling in America". He has also trained thousands of police officers, including all of the Texas police chiefs. Dr. del Carmen holds a Ph.D. in Criminology from Florida State University.



David L. Douglass is the managing Partner of the Washington D.C. office of Sheppard Mullin Richter & Hampton, LLP. He is a Fellow of the American College of Trial Lawyers, serves on the Board of the Washington Lawyer's Committee for Civil Rights and Urban Affairs, as well as the Advisory Board of the Institute for Inclusion in the Legal Profession. In 2013, David was appointed as deputy federal monitor over the New Orleans Police Department. In 1993, he served as assistant director of the Treasury Department's investigation of the raid on the David Koresh compound in Waco, Texas. His prior government service includes Assistant United States Attorney (District of Massachusetts), and Department of Justice Trial Attorney, Civil Rights Section, Criminal Division. David is a graduate of Yale College and Harvard Law School.



Robert M. Dow, Jr. has served as a United States District Judge for the Northern District of Illinois since December 2007. Since 2013, he has been a member of the Judicial Conference Advisory Committee on Civil Rules and the Chair of its Rule 23 and MDL Rules Subcommittees. He has sat by designation in the United States Court of Appeals for the Sixth and Seventh Circuits and is a member of the American Law Institute. Prior to 2007, Judge Dow was a partner at the Chicago law firm of Mayer Brown LLP. Judge Dow is a graduate of Yale College and Harvard Law School. He attended the University of Oxford on a Rhodes Scholarship and earned master's and doctorate degrees in International Relations. Immediately after law school, Dow served as a law clerk to Judge Joel M. Flaum on the Seventh Circuit.



Christopher Fisher is the Executive Director of Strategic Initiatives for the Seattle Police Department. He leads the Department's analytic and research efforts, is responsible for intergovernmental relations, and supports the Chief of Police in the Department's strategic planning efforts. Previously, he was the Senior Policy Advisor on Law Enforcement at the Council of State Governments Justice Center. Chris served in various capacities in the NYC justice system including, Director of Analysis and Integrated Solutions in the Mayor's Office of Criminal Justice, Director of Research at the NYPD, Assistant Commissioner of Strategic Planning at the Department of Probation and the Administration of Children's Services. Chris holds a doctorate in criminal justice from the Graduate Center of the City University of New York.



Christina Fogg is an Assistant United States Attorney and the Civil Rights Program Coordinator for the United States Attorney's Office for the Western District of Washington (U.S. Department of Justice). Since 2011, Ms. Fogg's office, together with the Special Litigation Section of the Department of Justice's Civil Rights Division, have served as counsel to the United States of America on the policing consent decree entered into with the City of Seattle, which resolved allegations of unconstitutional and discriminatory policing practices by the Seattle Police Department. She also handles civil rights investigations in the Western District of Washington relating to disability rights, language access, housing discrimination, and veterans rights, among others. She received her B.A. from Boston University and her J.D. from George Washington University.



Arturo García-Solá has developed a general civil and commercial litigation practice with emphasis in insurance litigation, franchise and distribution laws, constitutional law, contractual disputes, and trusts and estates litigation. He also has experience in government and legislative affairs, municipal financing, and has dealt with many bankruptcy matters. He practices extensively before the federal courts, both at trial and appellate levels, and the United States Supreme Court. Mr. García-Solá served as President of the Federal Bar Association's Puerto Rico Chapter in 2001. He has served as a member of various Merit Selection Panels that assisted the United States District Court for the District of Puerto Rico in selecting magistrate judges for the court.



Gustavo A. Gelpi is the Chief United States District Judge of the District of Puerto Rico. He was appointed by President George W. Bush to the federal bench in 2006. Prior to that he served as a federal magistrate judge, Solicitor General of Puerto Rico, and Assistant Federal Public Defender. Judge Gelpi attended Brandeis University and Suffolk University School of Law. Currently he presided over the largest police reform case in the Nation.



Alphonse Gerhardtstein is a partner at the Cincinnati firm of Gerhardtstein & Branch Co., LPA. His practice focuses on civil rights including police misconduct, race, sex, sexual orientation and disability discrimination in housing and employment, prisoner rights, voting rights and reproductive health. Class action decrees involve juvenile institutions, adult prisons, local detention centers and jails and the Cincinnati Collaborative Agreement which has been repeatedly cited as a national model for police reform. Mr. Gerhardtstein is the Founder of the Ohio Justice and Policy Center www.ohiojpc.org and along with partner Jennifer Branch they litigate causes not just cases, pursuing reforms in all practice areas.



Curtis V. Gomez is a District Judge for the District of the Virgin Islands. After law school, Judge Gómez was primarily in commercial civil trial and appellate litigation at a private practice. Thereafter, Judge Gómez served as a federal prosecutor in the Office of the United States Attorney for the District of the Virgin Islands and the Office of the United States Attorney for the Eastern District of Virginia. He currently presides over consent decrees involving: the Virgin Islands Police Department; the Virgin Islands Bureau of Corrections; the Virgin Islands Waste Management Authority; and the Virgin Islands Water and Power Authority. He received his B.A. in Economics from George Washington University and his J.D. from Harvard Law School.



Emily Gunston is a Deputy Legal Director at the Washington Lawyers' Committee for Civil Rights and Urban Affairs where she directs and supervises the Committee's criminal-legal-system reform work. Prior to joining the Committee, Ms. Gunston was a Deputy Chief in the Special Litigation Section of the Civil Rights Division of the United States Department of Justice where she helped lead the Division's group conducting pattern or practice investigations of police departments, including litigating and negotiating settlement agreements to resolve investigative findings. She helped to lead the investigation of the Chicago Police Department in the investigation of and work to reform other police agencies, including the New Orleans Police Department and the Cleveland Division of Police. Ms. Gunston was a public defender in Contra Costa County, California from 2001-2009.



Renée Hall is the 29th Chief of Police for the City of Dallas. She is the first woman to ever hold this position. Under her leadership, she has increased internal accessibility to her office and has overseen several General Order, policy changes, and worked to implement strategic priorities within the department. Her career began in Detroit, Michigan, where she commanded the largest Bureau which included the Neighborhood Policing Bureau, East & West Patrol Bureaus, Downtown Division, and Metropolitan Division. She has completed the FBI National Academy, Major Cities Chiefs Executive Leadership Institute, two Masters of Science degrees in security Administration and Intelligence Analysis from the University of Detroit Mercy, and a Bachelor of Science degree in Criminal Justice from Grambling State University.



Ben Horwitz is co-founder of a data analytics firm, AH DataLytics. Previously, Ben was Director of Analytics at the New Orleans Police Department in which he developed the nationally recognized Management Analytics for Excellence (MAX), implemented a dynamic report platform for supervisors and commanders, and created a crime analysis unit. Prior to working at NOPD, Ben was the Data and Operations Manager at the Data Center in New Orleans in which he created methodologies, authored analyses, and disseminated economic, demographic, and other data sets to the public. Ben holds an MS in Public Policy and Management from Carnegie Mellon University with a focus on data analysis and information systems.



Will Johnson has twenty-four years of law enforcement experience and was promoted to police chief in March 2013. He currently serves on the IACP Executive Board as Vice President and as Past Chair of the IACP Human and Civil Rights Committee. He is a graduate of the FBI National Academy 245th Session, a graduate of the 35th session of the Senior Management Institute for Police, the 40th FBI National Executive Institute, and the Texas Law Enforcement Management Institute's 45th Leadership Command College. Will holds a master's degree from Texas Christian University and a bachelor's degree from Texas Tech University.



Paul Killebrew has been with the Civil Rights Division's Special Litigation Section since January 2013, first as a Trial Attorney, and, since January 2017, as a Special Litigation Counsel. He leads teams of attorneys, investigators, analysts, and paralegals on matters involving a pattern or practice of law enforcement misconduct, including cases about the Albuquerque Police Department and the Maricopa County Sheriff's Office, as well as an ongoing investigation of the Orange County Sheriff's Department and Orange County District Attorney's Office. In 2017 Paul was named one of the 40 best LGBT lawyers under 40 by the National LGBT Bar Association.



Stacy King is the executive director of the Federal Bar Association and has served in many different roles since 1998. As the chief staff executive, Stacy provides strategic leadership and oversight on all areas of governance, finance, operations and staffing. She also serves as the Executive Director of two affiliated organizations, the Foundation of the Federal Bar Association and the Federal Bar Building Corporation. In 2011, she became a certified association executive (CAE). She is an active leader in the National Association of Bar Executives and currently serves as chair of the Bylaws Committee. Stacy is a Texas native, moved to the Washington, DC area after earning her undergraduate degree from The University of Texas at Austin.



Ed Kraus is a twenty-seven year veteran of the Fort Worth Police Department. He served in several units through out the Department as an officer, detective and supervisor. He was appointed as a Deputy Chief in 2014, Executive Assistant Chief in 2018 and Police Chief in 2019. Chief Kraus earned a Bachelor's degree in Communications from Texas Tech University, and a Master's degree in Criminal Justice from Tarleton State University. He is a graduate of the FBI National Academy, the FBI National Executive Institute, and the Caruth Police Institute's Leadership Course.



Laura L. Kundard serves as Senior Research Scientist for Justice Programs in CNA's Safety and Security Division where she works on U.S. Department of Justice initiatives. Dr. Kundard is an experienced researcher, project manager, professor and police trainer. She currently serves as an Associate Monitor on the Independent Monitoring Team for the Albuquerque Police Department and as the Project Director for the Independent Monitoring Team for the Chicago Police Department. Dr. Kundard earned her B.A. in Sociology and Psychology from Northwestern University, and her M.A. and Ph.D. in Criminology from the University of Illinois at Chicago.



Megan Marks is a Trial Attorney at the Civil Rights Division's Special Litigation Section. She came to DOJ through the Honors Program in October 2016 and focuses on police and corrections matters, including through her work enforcing consent decrees with the New Orleans Police Department and the Ferguson Police Department. Megan graduated from Harvard Law School, where she was President of the American Constitution Society and an executive editor for the Harvard Civil Rights-Civil Liberties Law Review. Upon graduation, she received the Dean's Award for Community Leadership and was named a Heyman Fellow, which recognizes graduates committed to government service.



Maureen McGough currently serves as the Police Foundation's Director of National Programs. Prior to that, she served as a senior policy advisor in the Office of the Director at the National Institute of Justice (NIJ). At NIJ, she launched the Law Enforcement Advancing Data and Science (LEADS) Program, led the agency's Sentinel Events Initiative, developed and sustained a number of international partnerships. She previously served as counsel in the Office of the Deputy Attorney General. She has also served with the State Department as coordinator of AIDS relief efforts in Rwanda and as a Special Assistant U.S. Attorney for the District of Columbia. Maureen earned her J.D. from the George Washington University School of Law, and her bachelor's degree from the Catholic University of America.



Susie Morgan is a federal district judge for the Eastern District of Louisiana. Since 2012, Judge Morgan has presided over the New Orleans Police Department Consent Decree, which she has described as "a life-changing experience". During the last four years, Judge Morgan has devoted much of her judicial time and energy to working with the NOPD and her team of federal monitors toward implementation of the decree. She holds a B.A. and M.A. from Northeast Louisiana University, and a J.D. from the LSU Law Center where she was a member of the Order of the Coif.



Danny Murphy leads police reform initiatives at the Baltimore Police Department as the Deputy Commissioner over the Compliance Bureau. In this capacity, he oversees consent decree implementation, policy, training, technology, and audits and inspections. Before joining the Baltimore Police Department in April of 2019, Danny served as New Orleans Police Department's Deputy Superintendent over the Compliance Bureau, leading the implementation of sweeping organizational change as part of a federal Consent Decree. Danny joined NOPD in 2014 as a compliance manager before assuming the role of Deputy Superintendent in August 2016. Danny holds an MBA from the University of New Orleans and a BA from Georgetown University in Political Economy and English.



Timothy D. Mygatt is a Deputy Chief in the Special Litigation Section, Civil Rights Division of the U.S. Department of Justice. He is currently overseeing the implementation of consent decrees with the Commonwealth of Puerto Rico and the Cities of Baltimore, Seattle, and Cleveland. He has overseen the litigation and trial against Alamance County (North Carolina) Sheriff Terry Johnson in *United States v. Johnson*; and helped formulate the DOJ's statement of interest about the right to record public police activity in *Sharp v. Baltimore City Police Department*. In 2003, he clerked for Judge John Marshall Rogers of the United States Court of Appeals for the Sixth Circuit. He received his B.A. from the University of Michigan, Ann Arbor, and his J.D. from the University of Michigan Law School.



Kathleen O'Toole is a lawyer and career police officer who has been recognized for her principled leadership and reform efforts in the United States and Europe. She rose through the ranks of local and state policing in Massachusetts, and has served as Massachusetts Secretary of Public Safety, Boston Police Commissioner and Seattle Chief of Police. Kathleen was a member of the Independent Commission on Policing in Northern Ireland during the Peace Process, and also held the position of Chief Inspector of the Garda Síochána, the Irish National Police Service. She currently serves on the monitoring teams in Baltimore and Chicago.



Shareese Pryor is the Chief of the Civil Rights Bureau of the Office of the Illinois Attorney General. She oversees investigations, litigation and legislation to address patterns and practices of discrimination and sexual harassment in Illinois. She leads the OAG's team that enforces the consent decree that establishes a plan for sustainable reform of the Chicago Police Department. Before joining the Illinois Attorney General's Office, Shareese worked at Legal Aid - Chicago. She began as a Skadden Fellow in the Children & Families Practice Group, representing transitioning foster youth in civil legal matters. After the fellowship ended, Shareese represented tenants as a Staff Attorney in the Housing Practice Group. Shareese graduated from Barnard College and the University of Chicago Law School.



James L. Robart became a United States District Judge for the Western District of Washington in June 2004. His opinion in *Simmonds v. Credit Suisse*, construing the statute of limitations for Section 16(b) of the Securities and Exchange Act of 1934, was reversed by the Ninth Circuit, but adopted by the United States Supreme Court in an 8-0 opinion. He is the judge in *United States v. City of Seattle*, overseeing a consent decree involving an overhaul of Seattle Police Department practices and procedures. He also authored *Microsoft Corp. v. Motorola, Inc.*, which is the first court opinion in the United States setting reasonable and nondiscriminatory rates for standard essential patents. Judge Robart received his B.A. from Whitman College and his J.D. from Georgetown University Law Center.



Steven H. Rosenbaum is the Chief of the Special Litigation Section (SPL) in the Civil Rights Division of the Department of Justice. Since Steve re-joined SPL as Chief in 2016, the Section's police practices enforcement program has produced reports identifying alleged systemic problems in the police departments in Baltimore and Chicago, and entered settlements covering the police departments in Baltimore, Ferguson, Newark, Miami and Yonkers. During his prior tenure as Chief of SPL, the Section launched its police practices enforcement program with settlements with police departments in Pittsburgh, Los Angeles and the District of Columbia, and the state police in New Jersey. Steve received his college degree from Binghamton University and his law school degree from the University of Michigan Law School.



Jonathan M. Smith currently serves as the executive director of the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Previously, Smith was the Associate Dean of Experiential and Clinical Programs at the University of the District of Columbia David A. Clarke School of Law. From 2010 to 2015, Smith served as the Chief of the Special Litigation Section of the Civil Rights Division of the United States DOJ. He has handled individual, class action and impact litigation, engaged in legislative advocacy and in institutional reform efforts. He started his career as an associate to Virginia civil rights lawyer Victor Glasberg.



John Thomas Deputy Superintendent John D. Thomas is a 28 year veteran of the New Orleans Police Department. He has worked in several different positions in his time with the New Orleans Police Department. Deputy Superintendent Thomas service was temporarily interrupted when he was called to active military duty after the September 11th terrorist attacks. Upon returning to NOPD, he was reassigned back to the academy and then to the Patrol Division. He has also spent time in S.W.A.T, Crime Lab/Central Evidence and Property Commander, Mounted/Canine Division, Deputy Superintendent of the Management Services Bureau and currently the Deputy Superintendent of the Investigative and Support Bureau. Deputy Superintendent Thomas has earned two Associate Degrees, a Bachelor's degree in Criminal Justice, and his J.D. from Loyola College of Law in 2007.

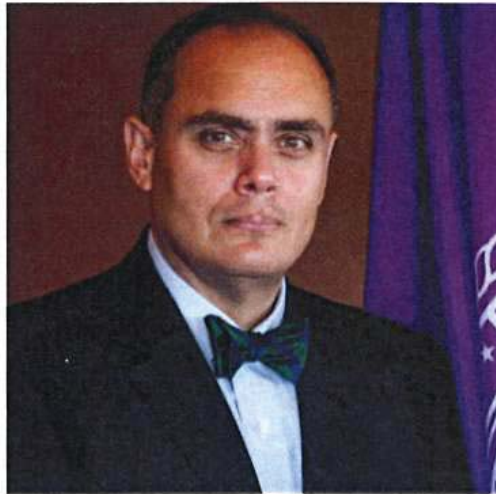


Ken Thompson is a partner in Venable LLP's Commercial Litigation Practice Group. He is a nationally recognized litigator and has considerable experience handling complex criminal and civil matters. Ken has also litigated numerous matters involving search and seizure, privacy, and electronic surveillance. Ken has managed internal investigations involving claims of race, gender, and age discrimination, and issues involving hostile work environments. In 2017, he was appointed to serve as the lead monitor over the Baltimore Police Department. In this role, Ken leads a team of former law enforcement leaders, academic experts, and other professionals who are responsible for reviewing, evaluating, and reporting on the police department's compliance with a federal Consent Decree that the city of Baltimore agreed to in January of 2017.

KEYNOTE SPEAKER



Sam A. Lindsay was appointed in 1998 as the first African-American United States District Judge for the Northern District of Texas. He was the first African-American City Attorney for the City of Dallas from 1991-1998. He has received numerous awards and commendations, including the South Dallas Business and Professional Women's Club; the J.L. Turner Legal Association; the Dallas Bar Association; the University of Texas Law School Alumni Association; the Dallas Bar Association of Young Lawyers; the State Bar of Texas; the National Forum for Black Public Administrators; the Dallas NAACP; and the Patrick E. Higginbotham Inn of Court. He received his Bachelor of Arts degree from St. Mary's University in San Antonio, Texas and his J.D. from the University of Texas School of Law.



DR. ALEX DEL CARMEN

Associate Dean and Professor, College of
Liberal and Fine Arts School of Criminology,
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Tarleton State University



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THANK YOU FOR ATTENDING!

MONITORING TEAM

MEMPHIS POLICE DEPARTMENT

COMPARISON CHART – PD SOCIAL MEDIA POLICIES
(ECF NO. 219-1, EX. 6)

Exhibit 6

Police department policies regarding use of social media for investigative purposes and situational assessment

Police department	Title & link to policy	Approved uses for social media (other than public-facing use) & requirements for use in investigations	Prohibitions on use of social media	Specific rules for situational assessment/ awareness or other non-investigative efforts?	Authorization required for non-covert uses?	Specific language on undercover/covert activity?	Language governing use of personal device or account?	Discussion of constitutional rights?
Annapolis, MD	General Order: Social Media Policy (2014) https://www.annapolis.gov/DocumentCenter/View/4865/I-11-Social-Media-Policy-July-2014-PDF	<p>“Social media is a valuable investigative tool when seeking evidence or information about:</p> <ol style="list-style-type: none"> Missing persons Wanted persons Gang participation Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and Photos or videos of a crime posted by a participant or observer.” <p>No additional guidance regarding investigative use.</p>					Use of personally owned devices in the course of official duties is prohibited without “express permission.”	
Austin, TX	Social Media for Official Use (Lexipol 2017) https://www.austintexas.gov/sites/default/files/files/Current_APD_Policy_Manual_2017-1.5_issued_7-20-2017.pdf	<p>Social media may only be used for a valid law enforcement purpose:</p> <ol style="list-style-type: none"> Pre-employment background investigations; Crime analysis & situational assessment reports; Criminal intelligence development; or Criminal investigations. <p>Specifically, employees may only use social media to seek or retain information that:</p> <ul style="list-style-type: none"> Is based on a criminal predicate or threat to public safety, or Is based on reasonable suspicion that an identifiable individual or organization: <ol style="list-style-type: none"> Has committed identifiable criminal 	<p>Social media may not be used to seek or retain information about:</p> <ul style="list-style-type: none"> Individuals or organizations solely on the basis of religion, political association, social views or activities; Individual’s participation in particular non-criminal organization or lawful event; Individual’s race, ethnicity, citizenship, place of origin, disability, gender, or sexual orientation, unless relevant to individual’s criminal conduct or activity or if required for identification; Individual’s age, 	<p>Crime analysis & situational assessment reports may be used for “special events management, including First Amendment-protected activities.” If no related criminal activity, social media info must be deleted within 14 days.</p>	<p>No authorization required for “general research, topical information, or other law enforcement uses that do not require” an online alias.</p>	<p>Use of an online alias requires:</p> <ul style="list-style-type: none"> Criminal predicate or threat to public safety, or Reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in or is planning criminal conduct or activity that presents a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity. <p>Employees must get approval from supervisor to use online alias, based on evaluation of whether online alias would serve valid law enforcement purpose. Policy sets out specific approval process, and requires deconfliction through the local fusion center (Austin Regional Intelligence Center).</p> <p>All approved undercover activity</p>		

		<p>offense or is involved in criminal conduct or activity presenting a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity, or</p> <ul style="list-style-type: none"> • Is relevant to the investigation & prosecution of suspected criminal incidents, resulting justice system response, enforcement of sanctions, orders, or sentences, or the prevention of crime; or • Is useful in crime analysis or situational assessment reports for administration of criminal justice & public safety. <p>[Note: in the written policy, the last two bullet points are inserted under the second, referring to an identifiable individual, but that doesn't make sense and doesn't track with how the identical language appears in other policies.]</p> <p>Social media info will be evaluated for source reliability and content validity.</p>	<p>other than to determine if person is a minor.</p>			<p>requests must be reviewed at least every 90 days by a supervisor, and will be discontinued if the activity does not provide information regarding a valid law enforcement purpose.</p> <p>Employees with approved online alias can use it to “make false representations in concealment of personal identity in order to establish social media accounts.”</p> <p>Note that online undercover activity = interaction with person online (not just surveillance/monitoring from afar). May only undertake online undercover operations “when there is reason to believe that criminal offenses have been, will be, or are being committed (e.g., internet chat rooms where child exploitation occurs).”</p>		
Baltimore, MD	<p>Order: Social Media (2016) https://www.baltimorepolice.org/604-social-media</p>	<p>When it's believed that social media would assist in an ongoing investigation or intelligence collection effort, the chief of the criminal investigation division must consult with the MRS [?] director.</p> <p>No additional guidance on use for investigative purposes.</p>				<p>“It may be appropriate for members to use non-official BPD social media accounts in the course of a legitimate criminal investigation, or in the course of intelligence collection efforts, related to public safety or potential criminal activity.”</p> <p>The police commissioner must approve in writing the use of non-official BPD social media accounts</p>		

						by investigative units, who must keep a log of all postings. Acceptable uses “for legitimate law enforcement purposes includes a member creating and/or using a fictitious social media account, user profile, avatar or similar form of online identification.” (Note: it’s not clear from the policy whether “non-official BPD social media account” is the same as a fictitious account.)		
Champaign, IL	Use of Social Media (2012) https://champaign.il.gov/police/about-us/policies-and-procedures/	“Social media is a valuable investigative tool when seeking evidence or information about: f. Missing persons g. Wanted persons h. Gang participation i. Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and j. Photos or videos of a crime posted by a participant or observer.” No further guidance regarding use for investigative activity.						
Cincinnati, OH	Social Media (2013) https://www.cincinnati.gov/police/assets/File/Procedures/14205.pdf Real Time Crime Center Information Requests (2012): https://www.cincinnati.gov/police/assets/File/Procedures/14210.pdf Note: the PD’s policy references a City of Cincinnati	Introduction states that “social media provides a new and potentially valuable means of assisting the Department and its personnel” in various objectives, including investigative. No specific language governing investigative use.				Only people authorized by section/bureau commander may post on social media sites in covert capacity. (Note: the RTCC’s policy states the same thing: “No Department member will engage in covert data mining without the consent of his/her commander. This includes using covert accounts on social media.” Individuals acting in covert capacity must use designated computers/devices, and may not use privately owned devices.	Use of personally owned devices to conduct official duties is prohibited without prior approval. Personnel may never conduct covert social media investigations from privately owned devices.	

	Administrative Rule No. 59 on Social Media, but I haven't been able to locate it.					With respect to impersonation, personnel "may not take on the identity or use the personal information or likeness/photograph of another without that person's consent."		
<p>Delaware Valley Intelligence Center (DVIC or PPD/DVIC – the fusion center under the Philadelphia police department)</p>	<p>Guidelines for the Use of Social Media by the PPD/DVIC (2015) https://www.mucrock.com/foi/philadelphia-211/philadelphia-pd-social-media-surveillance-23628/#file-84574 Note: portions of the policy are redacted. The policy begins on page 17 of the document embedded at the link.</p>	<p>PPD/DVIC personnel can use social media "for a valid law enforcement purpose" – specifically:</p> <ol style="list-style-type: none"> 1. Crime analysis & situational assessment reports; 2. Criminal intelligence development; 3. Criminal investigations; and 4. Public safety. <p>Employees may only use social media to seek or retain information that:</p> <ol style="list-style-type: none"> 1. Is based upon a criminal predicate or threat to public safety; or 2. Is based upon reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in or is planning criminal conduct or activity that poses a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity; or 3. Is relevant to investigation & prosecution of suspected crimes, the resulting justice system response, the enforcement of 	<p>Social media may not be used to seek or retain information about:</p> <ul style="list-style-type: none"> • Individuals or organizations solely on the basis of religion, political association, social views or activities; • Individual's participation in particular non-criminal organization or lawful event; • Individual's race, ethnicity, citizenship, place of origin, disability, gender, or sexual orientation, unless relevant to individual's criminal conduct or activity or if required for identification; • Individual's age, other than to determine if person is a minor. 	<p>A section on Documentation and Retention notes that "crime analysis and situational assessment reports may be prepared for special events management, including First Amendment-protected activities." A subsequent portion of that section is redacted.</p>	<p>No authorization needed for "general research, topical information or other law enforcement uses" in the public domain. Entire remainder of section of policy titled "Authorization to Access Social Media Websites," which covers "the authorization necessary to utilize social media and access social media websites for crime analysis and situational awareness or assessment reports; intelligence development; and criminal investigations" is redacted.</p>		<p>"Given the ease with which information can be gathered from public internet searches, tracking services, and other computer analytic technology, the use of employee's personal or family internet accounts, social media or internet service for official PPD/DVIC business is prohibited."</p>	

		<p>sanctions, orders, or sentences, or the prevention of crime; or</p> <p>4. Is useful in crime analysis or situational assessment reports for the administration of criminal justice and public safety.</p> <p>Note that the policy also addresses the use of social media monitoring tools – that language is not included here, as the MPD has represented that they are no longer using collators.</p>						
Denver, CO	<p>Social Media (approx. 2018) https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/OperationsManual/OMSBook/OM_Book.pdf</p>	<p>“Social media assists the department in meeting community outreach, problem-solving, investigations, and crime prevention objectives. Additionally, social media is a valuable tool when seeking evidence or information regarding missing persons, wanted persons, gang activity, crimes perpetuated online and/or photographs or videos of a crime to assist in case solvability.”</p> <p>The policy has little additional specific information or guidance; most of the policy is focused on public-facing use, and it appears that even for investigations, primarily what’s contemplated is finding information about potential suspects that could be posted as leads to the department’s social media account. Note that it does envision the use of personal accounts for investigations.</p>					<p>“Investigative units may use non-official social media accounts for investigative purposes with the written permission of the Chief of Police.”</p>	
El Paso County	Investigative Use	No guidance on how social			No supervisory		If an officer finds	

<p>Sheriff's Office</p>	<p>of Social Media and Internet Sources (Lexipol, 2019) http://shr.elpasoco.com/sites/default/files/assets/Documents/Policy/300/334_Social_Media.pdf</p>	<p>media may be used for investigative purposes.</p>			<p>approval required to access information that doesn't require an account, password, email address, alias, etc. (eg, publicly available Tweets), when used for "legitimate investigative purposes."</p> <p>Supervisory approval required when accessing information from an internet source that requires an account, password, email address, alias, etc.</p>		<p>information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should "note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable." Someone should then "attempt to replicate the finding when on-duty and using department equipment."</p>	
<p>Gaithersburg, MD</p>	<p>General Order: Social Media (2011) http://apps.gaithersburgmd.gov/general_orders/12021_Social_Media.pdf</p>	<p>Introduction states that "social media provides a new and potentially valuable means of assisting the Department and its personnel" in various objectives, including investigative.</p> <p>Policy states that "Social media can be a valuable investigative tool when seeking evidence or information about:</p> <ul style="list-style-type: none"> a. Missing persons b. Wanted persons c. Gang participation d. Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and e. Photos or videos of a crime posted by a participant or observer." <p>No further language governing investigative use.</p> 						
<p>Los Angeles</p>	<p>Social Media User</p>	<p>Social media may be used for</p>				<p>A <i>Fictitious Online Persona</i> (FOP) is a</p>	<p>"Department personnel</p>	<p>First</p>

<p>(LAPD)</p>	<p>Guide (2015) http://michaelkohlhaas.org/wp/2019/04/22/presenting-copies-of-lapd-social-media-policies-and-guidelines-including-comprehensive-handbook-promulgated-in-2015-by-charlie-beck-explaining-how-to-use-social-media-in-investigations/ Note that there is also a set of Intelligence Guidelines for Major Crimes Division, Anti-Terrorism Intelligence Section (2012). I did not include information from those here, since they apply only to terrorism investigations, not criminal investigations.</p>	<p>“listening”: “reviewing social media for items of importance.”</p> <p>Three primary recognized uses of social media:</p> <ol style="list-style-type: none"> 1. Situational awareness: “passive and active searching for information impacting operations.” 2. Investigations: use of social media to collect evidence for criminal case. SM use can be covert and/or clandestine. 3. Community relations and engagement. 				<p>“fictitious identity created on the Internet.”</p> <p><i>Online Investigative Activity</i> (OIA) is the use of a FOP to “engage in investigative activity.” Use of FOPs to look at trends & tactics or to conduct research does not constitute Online Investigative Activity.</p> <p><i>Online Undercover Activity</i> (OUA) involves using a FOP to “engage in ongoing interactive communication existing over the Internet with an identified person or group” in relation to an ongoing investigation.</p> <p>The policy sets out a process for obtaining approval from a commanding officer to use a FOP or conduct OUA. It does not set a time limit on use of FOPs or require a review at set intervals.</p>	<p>may use personal equipment to access information via social media sites when performing an authorized law enforcement mission with prior approval from the employee’s commanding officer.”</p>	<p>Amendment: Social media sites are primarily a platform for expression, & the department recognizes this right. Employees shouldn’t interfere with rights to free speech, except for non-constitutionally protected speech (eg, bomb threats), and may not act as agent provocateurs.</p> <p>Fourth Amendment: employees should comply with Fourth Amendment protections re: password-protected or otherwise private social media sites or forums. Case law is still developing. Many posts are public, but employees must be mindful of both legal issues & community expectations.</p>
<p>Lower Merion Township, PA</p>	<p>General Order: Social Media (2014) https://www.lowermerion.org/home/showdocument?i</p>	<p>“Social media provides a potentially valuable means of assisting the Department and its personnel” in meeting various objectives, including investigative.</p>						

	d=15012	<p>Policy adds that “social media is a valuable investigative tool when seeking evidence or information about missing, wanted or endangered persons, gang participation, crimes perpetrated online (i.e., cyber bullying, cyber stalking) and photographs or videos of a crime posted by a participant or an observer.”</p> <p>No additional language governing use for investigative purposes.</p>						
New York Police Department (NYPD)	<p>Use of Social Networks for Investigative Purposes – General Procedure (2012) https://assets.documentcloud.org/documents/1507881/responsive-documents.pdf; Revised Handschu Guidelines for Investigations Involving Political Activity (2017) https://www.aclu.org/legal-document/raza-v-city-new-york-exhibit-order-approving-stipulation-settlement-revised-handschu</p>	<p>“Data contained within social network sites may assist law enforcement in gathering timely information in furtherance of crime prevention, preservation of public order, and the investigation of criminal activity, including suspected terrorist activity.”</p>	<p>Under the <i>Handschu</i> decree, any NYPD investigation involving political activity must be initiated by and under the supervision of the Intelligence Division. Members “shall not conduct investigations on social networks involving political activity without the express written approval of the Deputy Commissioner, Intelligence.”</p>		<p>“No prior authorization is ever required for information contained on publicly available internet sources.”</p> <p>“No conferral or authorization is required for general research, topical information or other general uses that do not require the acquisition of an online alias/online alias access.”</p> <p>The Handschu guidelines further state that the department “is authorized to carry out general topical research, including conducting online searches and accessing online sites and forums as part of such research on the same terms and conditions as members of the</p>	<p>Where an online alias would serve an investigative purpose (other than suspected terrorist activity), policy sets out a process for obtaining approval from commanding officer with notice to bureau chief/deputy commissioner.</p> <p>Where application for an online alias involves suspected terrorist activity, the Intelligence Division must be notified and given a chance to take over the investigation.</p>	<p>Because of ease of gathering information from an internet search, NYPD recommends that members not use “personal, family, or other non-Department Internet accounts or ISP access for Department business.”</p>	

					<p>public generally.” “General topical research” is defined as “research concerning subject areas that are relevant for the purpose of facilitating or supporting the discharge of investigative responsibilities. It does not include online searches for information by individuals’ names or other individual identifiers, except where such searches are incidental to topical research, such as searching to locate writings on a topic by searching under the names of authors who write on the topic, or searching by the name of a party to a case in conducting legal research.” (emphasis added)</p>		
<p>Pasadena, CA</p>	<p>Investigative Use of Social Media and Internet Sources (Lexipol 2017) https://www.cityofpasadena.net/wp-content/uploads/sites/28/Policy-605-Investigative-Use-of-Social-Media-and-Internet-Sources.pdf</p>	<p>No explicit approved or disapproved uses. “Use of social media ... to access information for the purpose of criminal investigation shall comply with applicable laws, city’s internet use policy and policies regarding privacy, civil rights and civil liberties. The Pasadena Police Department will continually balance the use of investigative tools against concerns regarding unwarranted government surveillance. Information gathered via the Internet should only be accessed by</p>			<p>No supervisory approval required to access information that doesn’t require an account, password, email address, alias, etc. (eg, publicly available Tweets), when used for “legitimate investigative purposes.”</p> <p>Supervisory approval required when accessing information from an internet source that requires</p>		<p>If an officer finds information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should “note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable.” Someone should then “attempt to replicate the finding when on-duty and using department equipment.”</p>

		members while on-duty and for purposes related to the mission of this department.”			an account, password, email address, alias, etc.			
Philadelphia, PA	Social Media and Networking (2012) https://www.phillypolice.com/assets/directives/D6.10-SocialMediaAndNetworking.pdf	“Social media provides a contemporary and potentially valuable means of assisting the department and its personnel in meeting several police strategies,” including investigations. No additional guidance regarding use in investigations.						
Salt Lake City, UT	Investigative Use of Social Media and Internet Sources (Lexipol 2019); First Amendment Assemblies (Lexipol 2019) http://www.slcdocs.com/police/ppm.pdf	During course of an investigation, if officer finds social media profile of a victim, witness, or suspect, he or she can use social media to contact the person, using the officer’s own name (but <i>not</i> a personal account) or an alias. “If contact is established: a. A member will immediately identify themselves and provide contact information. b. Members must consider whether contacting the subject in this manner will reveal an individual’s cooperation with law enforcement and whether that will pose an undue risk to that individual’s personal safety. c. Members must consider the implications of this type of contact for the case being investigated. d. Members shall not use personal accounts to make such contacts.”		From First Amendment Assemblies policy: “In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted” – including “assessing social media outlets.”		An online alias can only be used to seek or retain information that: a. Is based upon a criminal predicate or threat to public safety; or b. Is based upon a reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in/is planning criminal conduct/activity that presents a threat to an individual/ community/ the nation, and the information is relevant to the criminal activity; or c. Is relevant to investigation & prosecution of suspected criminal incidents or prevention of crime; d. Is useful in crime analysis or situational assessment reports for the administration of criminal justice and public safety. Immediate supervisors must authorize use of online alias. (Note that the language above mirrors the language in other policies, but here it is only with respect to use of aliases, whereas in the other policies it applies to use of social	If an officer finds information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should “note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable.” Someone should then “attempt to replicate the finding when on-duty and using department equipment.” Members may not use personal accounts to make contacts with victims/ witnesses/ suspects.	

						<p>media overall. In addition, the situational assessment language is quite broad & offers a lot of latitude for collection of information via fictitious accounts.</p> <p>Online undercover activity (OUA) occurs when a member using an online alias interacts with someone via social media. OUA may only occur “when there is a reason to believe that criminal offenses have been, will be, or are being committed” – that is, members may not interact with people online via an alias for the purpose of situational assessment.</p>		
Seattle, WA	<p>Social Media (2019) http://www.seattle.gov/tech/about/policies-and-directors-rules/social-media-use-policy</p>	No particular guidance on use for investigative purposes.				<p>“Any employees using non-official social media accounts for investigative purposes will obtain written permission from the Chief of Police, regardless of duty assignment.” They must maintain a log of all postings.</p>		
Topeka, KS	<p>Social Media (2016) https://s3.amazonaws.com/cot-wp-uploads/wp-content/uploads/police/policies/3.11SocialMedia.pdf ; Investigations and Crime Scenes (2018) https://s3.amazonaws.com/cot-wp-uploads/wp-content/uploads/police/policies/4.16InvestigationsandCrimeScenes.pdf</p>	<p>“Access and use of social media may be valuable investigative tools and may be used in conformance with this order to assist with investigations and intelligence gathering, including but not necessarily limited to:</p> <ol style="list-style-type: none"> 1. Missing persons; 2. Wanted persons; 3. Gang participation; 4. Criminal activity generally; 5. Crimes perpetrated online (e.g., cyber bullying, cyber stalking); and 6. Photos or videos of a crime posted by a participant/observer.” <p>Few additional details, except that Manual on Investigations and Crime Scenes states that</p>				<p>Bureau Commander must authorize prior to using a fictitious account/identity as part of an investigation.</p> <p>No details provided regarding authorization process.</p>		

		“public domain computer searches” are a potential source of background information during a follow-up investigation on a crime scene.						
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Police department policies regarding use of social media for investigative purposes and situational assessment

Police department	Title & link to policy	Approved uses for social media (other than public-facing use) & requirements for use in investigations	Prohibitions on use of social media	Specific rules for situational assessment/awareness or other non-investigative efforts?	Authorization required for non-covert uses?	Specific language on undercover/covert activity?	Language governing use of personal device or account?	Discussion of constitutional rights?
Annapolis, MD	General Order: Social Media Policy (2014) https://www.annapolis.gov/DocumentCenter/View/4865/I-11-Social-Media-Policy-July-2014-PDF	<p>“Social media is a valuable investigative tool when seeking evidence or information about:</p> <ol style="list-style-type: none"> Missing persons Wanted persons Gang participation Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and Photos or videos of a crime posted by a participant or observer.” <p>No additional guidance regarding investigative use.</p>					Use of personally owned devices in the course of official duties is prohibited without “express permission.”	
Austin, TX	Social Media for Official Use (Lexipol 2017) https://www.austintexas.gov/sites/default/files/files/Current_APD_Policy_Manual_2017-1.5_issued_7-20-2017.pdf	<p>Social media may only be used for a valid law enforcement purpose:</p> <ol style="list-style-type: none"> Pre-employment background investigations; Crime analysis & situational assessment reports; Criminal intelligence development; or Criminal investigations. <p>Specifically, employees may only use social media to seek or retain information that:</p> <ul style="list-style-type: none"> Is based on a criminal predicate or threat to public safety, or Is based on reasonable suspicion that an identifiable individual or organization: <ul style="list-style-type: none"> Has committed identifiable criminal 	<p>Social media may not be used to seek or retain information about:</p> <ul style="list-style-type: none"> Individuals or organizations solely on the basis of religion, political association, social views or activities; Individual’s participation in particular non-criminal organization or lawful event; Individual’s race, ethnicity, citizenship, place of origin, disability, gender, or sexual orientation, unless relevant to individual’s criminal conduct or activity or if required for identification; Individual’s age, 	Crime analysis & situational assessment reports may be used for “special events management, including First Amendment-protected activities.” If no related criminal activity, social media info must be deleted within 14 days.	No authorization required for “general research, topical information, or other law enforcement uses that do not require” an online alias.	<p>Use of an online alias requires:</p> <ul style="list-style-type: none"> Criminal predicate or threat to public safety, or Reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in or is planning criminal conduct or activity that presents a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity. <p>Employees must get approval from supervisor to use online alias, based on evaluation of whether online alias would serve valid law enforcement purpose. Policy sets out specific approval process, and requires deconfliction through the local fusion center (Austin Regional Intelligence Center).</p> <p>All approved undercover activity</p>		

		<p>offense or is involved in criminal conduct or activity presenting a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity, or</p> <ul style="list-style-type: none"> • Is relevant to the investigation & prosecution of suspected criminal incidents, resulting justice system response, enforcement of sanctions, orders, or sentences, or the prevention of crime; or • Is useful in crime analysis or situational assessment reports for administration of criminal justice & public safety. <p>[Note: in the written policy, the last two bullet points are inserted under the second, referring to an identifiable individual, but that doesn't make sense and doesn't track with how the identical language appears in other policies.]</p> <p>Social media info will be evaluated for source reliability and content validity.</p>	<p>other than to determine if person is a minor.</p>			<p>requests must be reviewed at least every 90 days by a supervisor, and will be discontinued if the activity does not provide information regarding a valid law enforcement purpose.</p> <p>Employees with approved online alias can use it to “make false representations in concealment of personal identity in order to establish social media accounts.”</p> <p>Note that online undercover activity = interaction with person online (not just surveillance/monitoring from afar). May only undertake online undercover operations “when there is reason to believe that criminal offenses have been, will be, or are being committed (e.g., internet chat rooms where child exploitation occurs).”</p>		
Baltimore, MD	<p>Order: Social Media (2016) https://www.baltimorepolice.org/604-social-media</p>	<p>When it's believed that social media would assist in an ongoing investigation or intelligence collection effort, the chief of the criminal investigation division must consult with the MRS [?] director.</p> <p>No additional guidance on use for investigative purposes.</p>				<p>“It may be appropriate for members to use non-official BPD social media accounts in the course of a legitimate criminal investigation, or in the course of intelligence collection efforts, related to public safety or potential criminal activity.”</p> <p>The police commissioner must approve in writing the use of non-official BPD social media accounts</p>		

						by investigative units, who must keep a log of all postings. Acceptable uses “for legitimate law enforcement purposes includes a member creating and/or using a fictitious social media account, user profile, avatar or similar form of online identification.” (Note: it’s not clear from the policy whether “non-official BPD social media account” is the same as a fictitious account.)		
Champaign, IL	Use of Social Media (2012) https://champaignil.gov/police/about-us/policies-and-procedures/	“Social media is a valuable investigative tool when seeking evidence or information about: f. Missing persons g. Wanted persons h. Gang participation i. Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and j. Photos or videos of a crime posted by a participant or observer.” No further guidance regarding use for investigative activity.						
Cincinnati, OH	Social Media (2013) https://www.cincinnati.gov/police/assets/File/Procedures/14205.pdf Real Time Crime Center Information Requests (2012): https://www.cincinnati.gov/police/assets/File/Procedures/14210.pdf Note: the PD’s policy references a City of Cincinnati	Introduction states that “social media provides a new and potentially valuable means of assisting the Department and its personnel” in various objectives, including investigative. No specific language governing investigative use.				Only people authorized by section/bureau commander may post on social media sites in covert capacity. (Note: the RTCC’s policy states the same thing: “No Department member will engage in covert data mining without the consent of his/her commander. This includes using covert accounts on social media.” Individuals acting in covert capacity must use designated computers/devices, and may not use privately owned devices.	Use of personally owned devices to conduct official duties is prohibited without prior approval. Personnel may never conduct covert social media investigations from privately owned devices.	

	Administrative Rule No. 59 on Social Media, but I haven't been able to locate it.					With respect to impersonation, personnel "may not take on the identity or use the personal information or likeness/photograph of another without that person's consent."		
<p>Delaware Valley Intelligence Center (DVIC or PPD/DVIC – the fusion center under the Philadelphia police department)</p>	<p>Guidelines for the Use of Social Media by the PPD/DVIC (2015) https://www.mucrock.com/foi/philadelphia-211/philadelphia-pd-social-media-surveillance-23628/#file-84574 Note: portions of the policy are redacted. The policy begins on page 17 of the documented embedded at the link.</p>	<p>PPD/DVIC personnel can use social media "for a valid law enforcement purpose" – specifically:</p> <ol style="list-style-type: none"> 1. Crime analysis & situational assessment reports; 2. Criminal intelligence development; 3. Criminal investigations; and 4. Public safety. <p>Employees may only use social media to seek or retain information that:</p> <ol style="list-style-type: none"> 1. Is based upon a criminal predicate or threat to public safety; or 2. Is based upon reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in or is planning criminal conduct or activity that poses a threat to an individual, the community, or the nation, and the information is relevant to the criminal conduct or activity; or 3. Is relevant to investigation & prosecution of suspected crimes, the resulting justice system response, the enforcement of 	<p>Social media may not be used to seek or retain information about:</p> <ul style="list-style-type: none"> • Individuals or organizations solely on the basis of religion, political association, social views or activities; • Individual's participation in particular non-criminal organization or lawful event; • Individual's race, ethnicity, citizenship, place of origin, disability, gender, or sexual orientation, unless relevant to individual's criminal conduct or activity or if required for identification; • Individual's age, other than to determine if person is a minor. 	<p>A section on Documentation and Retention notes that "crime analysis and situational assessment reports may be prepared for special events management, including First Amendment-protected activities." A subsequent portion of that section is redacted.</p>	<p>No authorization needed for "general research, topical information or other law enforcement uses" in the public domain. Entire remainder of section of policy titled "Authorization to Access Social Media Websites," which covers "the authorization necessary to utilize social media and access social media websites for crime analysis and situational awareness or assessment reports; intelligence development; and criminal investigations" is redacted.</p>		<p>"Given the ease with which information can be gathered from public internet searches, tracking services, and other computer analytic technology, the use of employee's personal or family internet accounts, social media or internet service for official PPD/DVIC business is prohibited."</p>	

		<p>sanctions, orders, or sentences, or the prevention of crime; or</p> <p>4. Is useful in crime analysis or situational assessment reports for the administration of criminal justice and public safety.</p> <p>Note that the policy also addresses the use of social media monitoring tools – that language is not included here, as the MPD has represented that they are no longer using collators.</p>						
Denver, CO	<p>Social Media (approx. 2018) https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/OperationsManual/OMSBook/OM_Book.pdf</p>	<p>“Social media assists the department in meeting community outreach, problem-solving, investigations, and crime prevention objectives. Additionally, social media is a valuable tool when seeking evidence or information regarding missing persons, wanted persons, gang activity, crimes perpetuated online and/or photographs or videos of a crime to assist in case solvability.”</p> <p>The policy has little additional specific information or guidance; most of the policy is focused on public-facing use, and it appears that even for investigations, primarily what’s contemplated is finding information about potential suspects that could be posted as leads to the department’s social media account. Note that it does envision the use of personal accounts for investigations.</p>					<p>“Investigative units may use non-official social media accounts for investigative purposes with the written permission of the Chief of Police.”</p>	
El Paso County	Investigative Use	No guidance on how social			No supervisory		If an officer finds	

<p>Sheriff's Office</p>	<p>of Social Media and Internet Sources (Lexipol, 2019) http://shr.elpasoco.com/sites/default/files/assets/Documents/Policy/300/334_Social_Media.pdf</p>	<p>media may be used for investigative purposes.</p>			<p>approval required to access information that doesn't require an account, password, email address, alias, etc. (eg, publicly available Tweets), when used for "legitimate investigative purposes."</p> <p>Supervisory approval required when accessing information from an internet source that requires an account, password, email address, alias, etc.</p>		<p>information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should "note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable." Someone should then "attempt to replicate the finding when on-duty and using department equipment."</p>	
<p>Gaithersburg, MD</p>	<p>General Order: Social Media (2011) http://apps.gaithersburgmd.gov/general_orders/12021_Social_Media.pdf</p>	<p>Introduction states that "social media provides a new and potentially valuable means of assisting the Department and its personnel" in various objectives, including investigative.</p> <p>Policy states that "Social media can be a valuable investigative tool when seeking evidence or information about:</p> <ul style="list-style-type: none"> a. Missing persons b. Wanted persons c. Gang participation d. Crimes perpetrated online (i.e., cyberbullying, cyberstalking); and e. Photos or videos of a crime posted by a participant or observer." <p>No further language governing investigative use.</p> 						
<p>Los Angeles</p>	<p>Social Media User</p>	<p>Social media may be used for</p>				<p>A <i>Fictitious Online Persona</i> (FOP) is a</p>	<p>"Department personnel</p>	<p>First</p>

(LAPD)	<p>Guide (2015) http://michaelkohlhaas.org/wp/2019/04/22/presenting-copies-of-lapd-social-media-policies-and-guidelines-including-comprehensive-handbook-promulgated-in-2015-by-charlie-beck-explaining-how-to-use-social-media-in-investigations/ Note that there is also a set of Intelligence Guidelines for Major Crimes Division, Anti-Terrorism Intelligence Section (2012). I did not include information from those here, since they apply only to terrorism investigations, not criminal investigations.</p>	<p>“listening”: “reviewing social media for items of importance.”</p> <p>Three primary recognized uses of social media:</p> <ol style="list-style-type: none"> 1. Situational awareness: “passive and active searching for information impacting operations.” 2. Investigations: use of social media to collect evidence for criminal case. SM use can be covert and/or clandestine. 3. Community relations and engagement. 				<p>“fictitious identity created on the Internet.”</p> <p><i>Online Investigative Activity</i> (OIA) is the use of a FOP to “engage in investigative activity.” Use of FOPs to look at trends & tactics or to conduct research does not constitute Online Investigative Activity.</p> <p><i>Online Undercover Activity</i> (OUA) involves using a FOP to “engage in ongoing interactive communication existing over the Internet with an identified person or group” in relation to an ongoing investigation.</p> <p>The policy sets out a process for obtaining approval from a commanding officer to use a FOP or conduct OUA. It does not set a time limit on use of FOPs or require a review at set intervals.</p>	<p>may use personal equipment to access information via social media sites when performing an authorized law enforcement mission with prior approval from the employee’s commanding officer.”</p>	<p>Amendment: Social media sites are primarily a platform for expression, & the department recognizes this right. Employees shouldn’t interfere with rights to free speech, except for non-constitutionally protected speech (eg, bomb threats), and may not act as agent provocateurs.</p> <p>Fourth Amendment: employees should comply with Fourth Amendment protections re: password-protected or otherwise private social media sites or forums. Case law is still developing. Many posts are public, but employees must be mindful of both legal issues & community expectations.</p>
Lower Merion Township, PA	<p>General Order: Social Media (2014) https://www.lowermerion.org/home/showdocument?i</p>	<p>“Social media provides a potentially valuable means of assisting the Department and its personnel” in meeting various objectives, including investigative.</p>						

	d=15012	<p>Policy adds that “social media is a valuable investigative tool when seeking evidence or information about missing, wanted or endangered persons, gang participation, crimes perpetrated online (i.e., cyber bullying, cyber stalking) and photographs or videos of a crime posted by a participant or an observer.”</p> <p>No additional language governing use for investigative purposes.</p>						
New York Police Department (NYPD)	<p>Use of Social Networks for Investigative Purposes – General Procedure (2012) https://assets.documentcloud.org/documents/1507881/responsive-documents.pdf; Revised Handschu Guidelines for Investigations Involving Political Activity (2017) https://www.aclu.org/legal-document/raza-v-city-new-york-exhibit-order-approving-stipulation-settlement-revised-handschu</p>	<p>“Data contained within social network sites may assist law enforcement in gathering timely information in furtherance of crime prevention, preservation of public order, and the investigation of criminal activity, including suspected terrorist activity.”</p>	<p>Under the <i>Handschu</i> decree, any NYPD investigation involving political activity must be initiated by and under the supervision of the Intelligence Division. Members “shall not conduct investigations on social networks involving political activity without the express written approval of the Deputy Commissioner, Intelligence.”</p>		<p>“No prior authorization is ever required for information contained on publicly available internet sources.”</p> <p>“No conferral or authorization is required for general research, topical information or other general uses that do not require the acquisition of an online alias/online alias access.”</p> <p>The Handschu guidelines further state that the department “is authorized to carry out general topical research, including conducting online searches and accessing online sites and forums as part of such research on the same terms and conditions as members of the</p>	<p>Where an online alias would serve an investigative purpose (other than suspected terrorist activity), policy sets out a process for obtaining approval from commanding officer with notice to bureau chief/deputy commissioner.</p> <p>Where application for an online alias involves suspected terrorist activity, the Intelligence Division must be notified and given a chance to take over the investigation.</p>	<p>Because of ease of gathering information from an internet search, NYPD recommends that members not use “personal, family, or other non-Department Internet accounts or ISP access for Department business.”</p>	

					public generally.” “General topical research” is defined as “research concerning subject areas that are relevant for the purpose of facilitating or supporting the discharge of investigative responsibilities. It does not include online searches for information by individuals’ names or other individual identifiers , except where such searches are incidental to topical research, such as searching to locate writings on a topic by searching under the names of authors who write on the topic, or searching by the name of a party to a case in conducting legal research.” (emphasis added)		
Pasadena, CA	Investigative Use of Social Media and Internet Sources (Lexipol 2017) https://www.cityofpasadena.net/wp-content/uploads/sites/28/Policy-605-Investigative-Use-of-Social-Media-and-Internet-Sources.pdf	No explicit approved or disapproved uses. “Use of social media ... to access information for the purpose of criminal investigation shall comply with applicable laws, city’s internet use policy and policies regarding privacy, civil rights and civil liberties. The Pasadena Police Department will continually balance the use of investigative tools against concerns regarding unwarranted government surveillance. Information gathered via the Internet should only be accessed by			No supervisory approval required to access information that doesn’t require an account, password, email address, alias, etc. (eg, publicly available Tweets), when used for “legitimate investigative purposes.” Supervisory approval required when accessing information from an internet source that requires		If an officer finds information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should “note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable.” Someone should then “attempt to replicate the finding when on-duty and using department equipment.”

		members while on-duty and for purposes related to the mission of this department.”			an account, password, email address, alias, etc.			
Philadelphia, PA	Social Media and Networking (2012) https://www.phillypolice.com/assets/directives/D6.10-SocialMediaAndNetworking.pdf	“Social media provides a contemporary and potentially valuable means of assisting the department and its personnel in meeting several police strategies,” including investigations. No additional guidance regarding use in investigations.						
Salt Lake City, UT	Investigative Use of Social Media and Internet Sources (Lexipol 2019); First Amendment Assemblies (Lexipol 2019) http://www.slcdocs.com/police/ppm.pdf	During course of an investigation, if officer finds social media profile of a victim, witness, or suspect, he or she can use social media to contact the person, using the officer’s own name (but <i>not</i> a personal account) or an alias. “If contact is established: a. A member will immediately identify themselves and provide contact information. b. Members must consider whether contacting the subject in this manner will reveal an individual’s cooperation with law enforcement and whether that will pose an undue risk to that individual’s personal safety. c. Members must consider the implications of this type of contact for the case being investigated. d. Members shall not use personal accounts to make such contacts.”		From First Amendment Assemblies policy: “In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted” – including “assessing social media outlets.”		An online alias can only be used to seek or retain information that: a. Is based upon a criminal predicate or threat to public safety; or b. Is based upon a reasonable suspicion that an identifiable individual or organization has committed a crime or is involved in/is planning criminal conduct/activity that presents a threat to an individual/ community/ the nation, and the information is relevant to the criminal activity; or c. Is relevant to investigation & prosecution of suspected criminal incidents or prevention of crime; d. Is useful in crime analysis or situational assessment reports for the administration of criminal justice and public safety. Immediate supervisors must authorize use of online alias. (Note that the language above mirrors the language in other policies, but here it is only with respect to use of aliases, whereas in the other policies it applies to use of social	If an officer finds information relevant to a criminal investigation while off-duty or using his or her own equipment, he or she should “note the dates, times, and locations of the information and report the discovery to his/her supervisor as soon as practicable.” Someone should then “attempt to replicate the finding when on-duty and using department equipment.” Members may not use personal accounts to make contacts with victims/ witnesses/ suspects.	

						<p>media overall. In addition, the situational assessment language is quite broad & offers a lot of latitude for collection of information via fictitious accounts.</p> <p>Online undercover activity (OUA) occurs when a member using an online alias interacts with someone via social media. OUA may only occur “when there is a reason to believe that criminal offenses have been, will be, or are being committed” – that is, members may not interact with people online via an alias for the purpose of situational assessment.</p>		
Seattle, WA	<p>Social Media (2019) http://www.seattle.gov/tech/about/policies-and-directors-rules/social-media-use-policy</p>	No particular guidance on use for investigative purposes.				<p>“Any employees using non-official social media accounts for investigative purposes will obtain written permission from the Chief of Police, regardless of duty assignment.” They must maintain a log of all postings.</p>		
Topeka, KS	<p>Social Media (2016) https://s3.amazonaws.com/cot-wp-uploads/wp-content/uploads/police/policies/3.11SocialMedia.pdf ; Investigations and Crime Scenes (2018) https://s3.amazonaws.com/cot-wp-uploads/wp-content/uploads/police/policies/4.16InvestigationsandCrimeScenes.pdf</p>	<p>“Access and use of social media may be valuable investigative tools and may be used in conformance with this order to assist with investigations and intelligence gathering, including but not necessarily limited to:</p> <ol style="list-style-type: none"> 1. Missing persons; 2. Wanted persons; 3. Gang participation; 4. Criminal activity generally; 5. Crimes perpetrated online (e.g., cyber bullying, cyber stalking); and 6. Photos or videos of a crime posted by a participant/observer.” <p>Few additional details, except that Manual on Investigations and Crime Scenes states that</p>				<p>Bureau Commander must authorize prior to using a fictitious account/identity as part of an investigation.</p> <p>No details provided regarding authorization process.</p>		

		“public domain computer searches” are a potential source of background information during a follow-up investigation on a crime scene.						
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