

BOLO

Be On the Lookout

The Newsletter for The Los Angeles Airport Peace Officers Association



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Four Ways You Could Be Fired for Using Social Media

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By now, you're probably sick of reading about an officer getting fired for posting something incriminating to his or her Facebook wall. Even though there have been a lot of incidents where officers have been suspended or investigated for both on- and off-duty social networking misuse, many cops aren't learning from others' mistakes.

Here are some of the top reasons why officers are getting in trouble for social media misuse. Let these tips serve as a reminder to patrol your social networking pages to help you avoid getting the ax for a social media misstep:

1. Visiting inappropriate social networking sites while on duty. Recently, 28 officers in Nebraska were fired for watching videos or TV shows online while working. If your department's computers restrict certain websites, then it is probably easier for you to avoid visiting inappropriate content online. But with the increased use of smartphones that can play digital media, keep in mind that watching funny YouTube videos, streaming television shows or playing games on your personal phone is

absolutely inappropriate behavior while on duty. Check with your supervisor or department policy if you're ever in doubt about what kinds of websites are considered unsuitable.

2. Violating department policies on personal social networking pages. Let's keep it simple: If you don't think you would email something to your boss, avoid putting it on your Facebook or Myspace pages. On the other hand, if there's confidential content that you'd only feel comfortable discussing in an on-duty setting, keep it that way! An officer in Massachusetts was criticized for posting a picture of a dead person (someone possibly connected to a criminal investigation) on her Facebook page. Be prudent — don't put any material on your personal pages that you think might be used against you. Posting a video of you and fellow officers burning a dummy in a department uniform off duty might sound like something you'd never do, but some Wisconsin deputies resigned for doing just that.
3. Divulging trade secrets on social networks. This tip is just common sense. Do you want gang members to get hold of information sharing how your department interrogates suspects? Didn't think so. On the Internet, everything is searchable. If you're bragging in an online forum about

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Number: 2013-16 **Date:** 06-21-13
By: Devallis Rutledge **Topic:** Flight as resistance/delay

Issue: Does flight from an attempted lawful detention or arrest violate PC § 148?

When an officer tries to make a detention supported by reasonable suspicion or an arrest based on probable cause, s/he is in the lawful performance of official duty. “[A] police officer has a **duty** to the community to carry out his or her obligation to promote law-abiding, orderly conduct, including where necessary, to **detain and arrest** suspected perpetrators of offenses.” *Hernandez v. Pomona* (2009) 46 Cal.4th 501, 519. The suspect’s flight from such a lawful detention or arrest therefore furnishes probable cause to arrest for violation of PC § 148, as confirmed by numerous cases, including the following:

- *In re Michael V.* (1974) 10 Cal.3d 676, 681: “Until appellant’s flight, the officers possessed insufficient facts to establish probable cause. ... [A]ppellant’s flight **provided** ample cause for his arrest. ...”
- *People v. Allen* (1980) 109 Cal.App.3d 981, 985-86: “Since the officer had the legal right, indeed **duty**, to detain appellant, appellant, if he was aware of the officer’s desire, had the concomitant duty to permit himself to be detained. ... [His] **flight** and concealment, which **delayed** the officer’s performance of his official duty, violated the statute.”
- *People v. Superior Court (Brown)* (1980) 111 Cal.App.3d 948, 954 (pedestrian who walked away when officer attempted stop-and-cite for traffic offense violated § 148).
- *People v. Gregory S.* (1980) 112 Cal.App.3d 764, 778 (walking away when officer lawfully tried to detain minor for questioning regarding vandalism constituted violation of § 148).
- *People v. Andre P.* (1991) 226 Cal.App.3d 1164, 1169 (minor who ran from attempted lawful curfew detention committed “garden-variety section 148 violation”).

- *People v. Lopez* (1986) 188 Cal.App.3d 592, 599: “[T]he act of fleeing from an officer trying to make a lawful arrest is proscribed.”
- *People v. Superior Court (Ferguson)* (2006) 132 Cal.App.4th 1525, 1535 (flight from lawful arrest is not only “delay” but also “resistance”).
- In *Illinois v. Wardlow* (2000) 528 US 119, 124, the U.S. Supreme Court held that **unprovoked flight** from approaching police in a **high-crime area** furnishes reasonable suspicion for detention. If officers then **attempt** such a detention (such as with red lights, siren and loud commands: “Police! Stop!”) and the suspect continues fleeing, officers now have probable cause to **arrest** for PC § 148 — which also permits a **search** incident to arrest. “An officer with probable cause to arrest can search incident to arrest **before making the arrest.**” *People v. Limon* (1993) 17 Cal.App.4th 524, 538.
- A suspect “may not defeat a detention or arrest which is **set in motion in a public place** by fleeing to a private place.” *People v. Lloyd* (1989) 216 Cal.App.3d 1425, 1429 (suspect’s failure to yield for traffic stop justified officer’s foot pursuit into a residence to capture the § 148 suspect); *People v. Lavoyne M.* (1990) 221 Cal.App.3r 154, 159 (similar facts): “Minor’s refusal to comply with the attempts to detain him provided probable case for the officer to arrest him. ... [P]ursuit of minor into his house to prevent him from frustrating an arrest **begun in public** provides an **exception to the warrant requirement.**” Areas inside into which the suspect could reach or lunge could be searched incident to arrest, *Chimel v. California* (1969) 395 US 752, 763, and the officer could look into immediately adjoining spaces that might conceal an assailant. *Maryland v. Buie* (1990) 494 US 325, 334.
- A person’s **conviction** of PC § 148 can provide substantial civil liability protection for detaining/arresting officers and their agencies against unwarranted lawsuits in some circumstances. *Heck v. Humphrey* (1994) 512 US 477, 486-87; *Susag v. Lake Forest* (2002) 94 Cal.App.4th 1401, 1413. But see *Yount v. Sacramento* (2008) 43 Cal.4th 885, 898-99 and *Smith v. Hemet* (9th Cir. 2005) 394 F.3d 689, 699 for limits on *Heck*’s application.

Bottom line: Flight from attempted lawful detention or arrest violates PC § 148. (Emphases added and citations omitted in quoted material.)

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.



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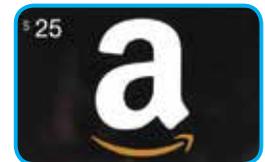
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