



## *Social Media and the Courts: Innovative Tools or Dangerous Fad? A Practical Guide for Court Administrators<sup>1</sup>*

By Norman H. Meyer, Jr.<sup>2</sup>

### Abstract:

This article gives a comprehensive overview of what social media are, why social media are important in society and the courts, how social media can be used effectively, what social media platforms are well-suited to the courts, what problems can arise, and how to proactively deal with such problems. In the early years of social media use in the courts there was a lot of skepticism. As we have gained experience most problems have been shown to be less severe or have been solved. Meanwhile, many usage advantages have become apparent. Research in the United States has shown that judges are increasingly supporting social media use by themselves and their courts, and are less concerned about problems and compromising ethics.

The courts hold a special place in government as impartial arbiters of legal disputes. We, as court leaders, must fulfill the public's trust in us to achieve the highest level of service while upholding the rule of law. As we have seen, social media are excellent tools to make this a reality—the challenge is to securely and effectively leverage these tools in the court setting.

**Keywords:** social media, court administration, ICT's, courts and the public

### 1. Introduction

Overheard at a recent court conference:

Court Administrator 1: "I can't wait to have my court start using social media! Think of all the great things we can do to engage citizens and provide better service."

Court Administrator 2: "What a terrible idea! Social media are just another fad that will expose your court to hackers, ethical problems, and be a big drain on resources."

Who is right here? Actually, both of these administrators have good points. This article will explore the subject and recommend a practical course of action for courts using social media.

### 2. Why are social media important?

The world is in the middle of a technological and communications revolution. Virtually all courts are engaged with technology, even if the only technological tools in use are telephones. As the world increases its use of, and dependence on, technological tools, so will the courts. For example, in 2011 it was noted in this Journal that the CCJE (Conseil Consultatif de Juges Européens /Consultative Council of European Judges) "...welcomes IT as a means to improve the

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<sup>1</sup> This article is substantially based on the author's extensive research, writing, and experience using social media (personally and professionally), as well as presentations on the subject made at the U.S. Federal Judicial Center's conference for U.S. District & Bankruptcy Courts' Clerks and Chief Deputies (May, 2013), the IACA international conference held in The Hague (June, 2012), and the NACM annual conference held in Las Vegas (2011). However, this article does not fully address legal questions and analysis, for which the reader should look elsewhere. Special thanks go to Professor Anne Wallace in Australia for providing excellent advice as well as sharing her research and publications, and to Nora Sydow of the National Center for State Courts in the U.S. for her collaboration on the FJC program and continued work in the area of social media (<http://www.ncsc.org/Information-and-Resources/Social-Media/Managing-Social-Media.aspx>).

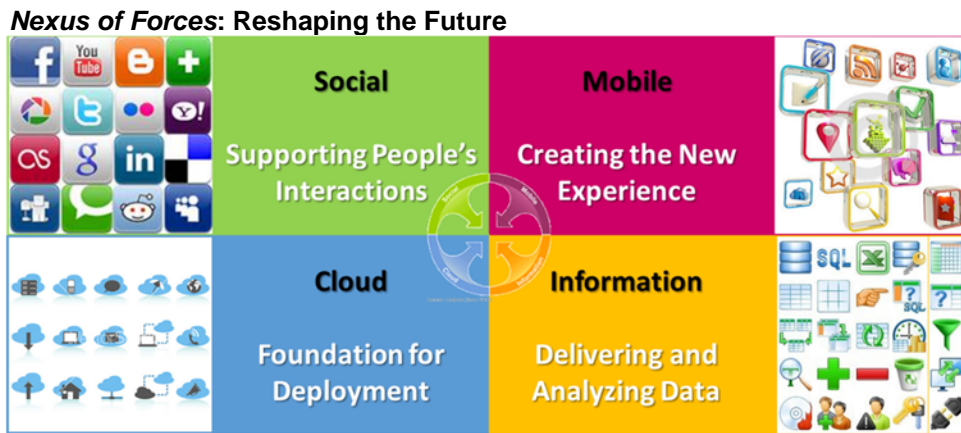
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administration of justice, for its contribution to the improvement of access to justice, case-management and the evaluation of the justice system and for its central role in providing information to judges, lawyers and other stakeholders in the justice system as well as to the public and the media. The CCJE encourages the use of all aspects of IT to promote the important role of the judiciary in guaranteeing the rule of law (the supremacy of law) in a democratic state...<sup>3</sup>

At present there are several major technological trends to which all courts must respond:

1. Mobile computing
2. Cloud computing
3. Big data and analysis
4. Electronic records management systems (ERMS)
5. Social media<sup>4</sup>

Mirroring this list, the influential Gartner Group has identified the convergence and mutual reinforcement of four interdependent trends: social interaction, mobility, cloud, and information, and labeled these the “Nexus of Forces.”<sup>5</sup>



We see that social (“new”) media use is one of several critical factors, and which continues to explode worldwide.<sup>6</sup> For instance, Facebook now has 1.23 billion monthly active users, and over 80% are outside of Canada and the United States.<sup>7</sup> Google may be the #1 Internet search engine, but YouTube is #2, and every minute 72 hours of video are uploaded to this platform.<sup>8</sup> At the same time, legacy media (e.g., newspapers, magazines, television, and radio) are in decline.<sup>9</sup> Clearly, there is a massive shift in how people access, share, and otherwise use information in the digital age – and governmental entities, including the courts, must adapt to this reality. “The benefits of social media have been well documented in the public sector. From soliciting new ideas and opinions on Facebook to sending out key announcements through Twitter, social networks have become vital communication mediums for government agencies.”<sup>10</sup> In addition, in an age where courts may be increasingly subject to scrutiny and, at times, unjustified criticism, social media can play an important role in ensuring the dissemination of accurate and effective information. “There was a time when the work of

<sup>3</sup> “Technology In Courts In Europe: Opinions, Practices And Innovations,” by Dory Reiling, *International Journal for Court Administration (IJCA)*, Vol. 4 No. 2, June, 2012, page 1; <http://www.iaca.ws/ijca-vol-4-no-2-1.html>

<sup>4</sup> Written correspondence, March 2014, between the author and Jim McMillan, Principal Court Management Consultant and editor of the “Court Technology Bulletin” blog (<http://courtechbulletin.blogspot.com/>), the National Center for State Courts, Williamsburg, VA, USA (<http://www.ncsc.org/>).

<sup>5</sup> <http://www.gartner.com/technology/research/nexus-of-forces>

<sup>6</sup> “The Internet Then and Now Infographic,” by Marianne Gallano, *Socialnomics*, February 2014;

<http://www.socialnomics.net/2014/02/04/infographic-the-internet-then-and-now/>; see also the “Social Media Revolution 2013” video cited in note 8 below.

<sup>7</sup> <http://newsroom.fb.com/Key-Facts>

<sup>8</sup> A very entertaining video about the explosion of social media around the world (with many eye-opening statistics) can be found at:

<http://www.socialnomics.net/2013/01/01/social-media-video-2013/>

<sup>9</sup> “Borrell Looks Into Future Of ‘Legacy Media,’” Borrell Media Group, January 2014; <http://www.allaccess.com/net-news/archive/story/125689/borrell-looks-into-future-of-legacy-media>; “Pew Report Shows Traditional Media in Decline,” Broadcasting & Cable/New Media LLC, January 2010; <http://www.broadcastingcable.com/news/programming/pew-report-shows-traditional-media-decline/36206>

<sup>10</sup> “What Does Your Lawyer Want You to Know About Social Media?” *Government Technology Magazine*, February 2013, <http://www.govtech.com/e-government/What-Does-Your-Lawyer-Want-You-to-Know-About-Social-Media.html>

courts was accepted without substantial criticism and the Attorneys-General of modern democratic states would speak up for and defend the courts. Those times are long past.”<sup>11</sup>

It is apparent that in this context social media are, in fact, a powerful technological trend for the courts to consider. How so? Social media can be a powerful tool that saves money and time while increasing public accessibility, accountability, and transparency. Garrett Graff, editor of the *Washingtonian Magazine*, advises court leaders that they “must not only learn how to communicate with new tools; they must also envision new means of judicial engagement with the public through the new social media that can further advance the legitimacy of courts in a democratic society.”<sup>12</sup> And the Hon. Marilyn Warren, Chief Justice of the Victoria Supreme Court, Australia, also urges courts to embrace social media: “Technology and social media provide an exhilarating opportunity for the Courts to tell the public we serve who we are, what we do, how we do it and why the rule of law matters.”<sup>13</sup>

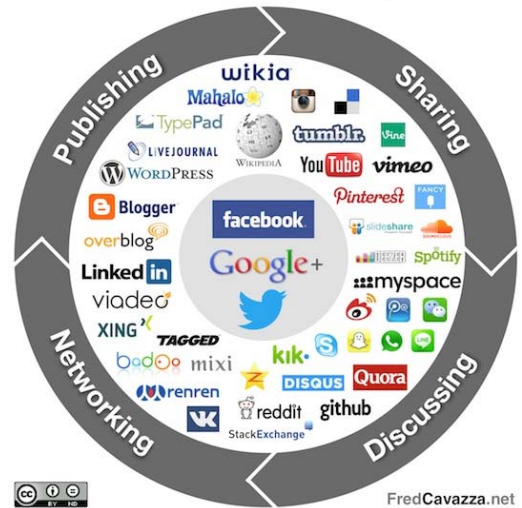
### 3. What are Social Media?

However, what exactly do we mean by social media? Social media are:

- Internet-based tools that **enhance the sharing of information**.
- Software whose goal is to **maximize user accessibility and self-publication**.
- A blending of technology and social interaction for the **co-creation of value**.
- Examples include Facebook, LinkedIn, Twitter, Wikipedia, YouTube, and Yelp.<sup>14</sup>

Social media applications can be categorized into several main zones: social and professional **networking** (e.g., Facebook & LinkedIn); **publishing** of information via blogs (short for “web log”), micro-blogging (e.g., Twitter), and wikis (e.g., Wikipedia); **sharing** of information via social bookmarking (e.g., Digg) and multimedia, including photos and videos (e.g., Flickr, Instagram, and YouTube); and **discussing** topics of interest (e.g., Quora), including threaded discussions (chronological message exchanges in a hosted online discussion group).<sup>15</sup>

### Social Media Landscape 2013



\*graphic used by permission

An essential factor to consider regarding social media is how and where we access the various formats. First, because of the growing ubiquity of Internet availability (estimated to be 66% of the world’s population at present) and the explosion of mobile devices capable of accessing the Internet (see Trend #1 above),<sup>16</sup> in essence people can and do use social media

<sup>11</sup> “Trial by Tweet? Findings on Facebook? Social Media Innovation or Degradation? The Future and Challenge of Change for Courts,” By Dr. Pamela D Schulz and Dr. Andrew J Cannon, *International Journal for Court Administration*, February 2013, page 1;

<http://www.iaca.ws/iaca-vol.-5-no.-1.html> . This article is an excellent exposition of the subject of social media as an essential component of discourse in the “public square” that the courts must engage; a version of this paper was also presented at the 2012 IACA International Conference in The Hague, Netherlands, as part of a session moderated by the author of this article.

<sup>12</sup> “Courts are Conversations: an Argument for Increased Engagement by Court Leaders,” Garrett Graff, Harvard Kennedy School, 2012. <http://www.ncsc.org/services-and-experts/court-leadership/harvard-executive-session/courts-are-conversations-an-argument-for-increased-engagement-by-court-leaders.aspx>. This site also has an excellent video interview of Mr. Graff on this subject.

<sup>13</sup> Remarks of the Hon. Marilyn Warren AC, Chief Justice of Victoria, Australia, on the occasion of the 2013 Redmond Barry Lecture on Open Justice in the Technological Age, 21 October 2013

<sup>14</sup> [http://oxforddictionaries.com/view/entry/m\\_en\\_us1443359#m\\_en\\_us1443359](http://oxforddictionaries.com/view/entry/m_en_us1443359#m_en_us1443359); [http://en.wikipedia.org/wiki/Social\\_Media](http://en.wikipedia.org/wiki/Social_Media)

<sup>15</sup> *Resource Packet for Developing Guidelines on Use of Social Media by Judicial Employees*, Committee on Codes of Conduct Judicial Conference of the United States, Administrative Office of the United States Courts, pages 9 - 12, April 2010; <http://www.uscourts.gov/RulesAndPolicies/CodesOfConduct.aspx>.

The links below provide basic information about social media platforms which may be helpful:

- A portal that links to one page descriptions of a variety of social media platforms. <http://www.nyu.edu/life/student-life/hashtagNYU/social-media-explained.html>
- Brief explanations about some of the big sites: [http://webtrends.about.com/od/socialnetworking/a/social\\_network.htm](http://webtrends.about.com/od/socialnetworking/a/social_network.htm)
- This page uses analogies to explain 6 major social media platforms. <http://blog.firebrandtalent.com/2011/06/at-last-how-to-describe-social-media-to-your-mum/>
- A donut analogy to explain the purpose behind a number of major social media platforms. <http://www.geek.com/geek-cetera/social-media-explained-with-donuts-1466613/>

<sup>16</sup> “The Future of Mobile Infographic,” by Maria Onzain, *Socialnomics*, February 2014; <http://www.socialnomics.net/2014/02/10/infographic-the-future-of-mobile/>

almost everywhere they go in ever-increasing percentages of the population.<sup>17</sup> This includes their homes, work locations, and anywhere else in between. Social media can be accessed from personal computers at a desk and from mobile devices, such as smart phones and tablets. But, just because the Internet and social media platforms are accessible, why are such a high percentage of people using social media?

There are several societal forces and expectations that are driving factors behind the extensive use of social media:

- Digital natives.
- “Millennials”<sup>18</sup> who primarily communicate via social media.
- E-mail and static websites are becoming outdated.
- The public has a speed of service, or “drive-through” mentality.
- The public has a self-service approach to life (including self-represented litigants).

The first two bullet points not only reflect the accelerating penetration of technology in the world, but also the fact that over 50% of the world’s population is under 30 years old.<sup>19</sup> In developed countries, this group has grown up not knowing a world without personal computers, and the youngest cohort cannot remember anything before the Internet. “To the children of this connected era, the world is one giant social network. They are not bound—as were previous generations of humans—by what they were taught. They are limited by their curiosity and ambition.”<sup>20</sup> The result is a population significantly composed of “digital natives” who often primarily communicate via technological means.<sup>21</sup>

That leads to the third point, wherein the younger generation is abandoning the routine use of e-mail and traditional websites (which are usually very non-interactive, with static information), and embracing social media to share information, keep up with current events/news, etc.<sup>22</sup> So, what do the younger population use instead? Text messaging, electronic chat, Facebook, Twitter, and beyond! This trend has been going on for several years now.<sup>23</sup>

Modern life moves at a faster pace than ever before.<sup>24</sup> This leads to the public’s expectation that interactions with businesses, **government**, and other entities will be quick and achieve a fast resolution – and be available in a mobile manner, 24x7. This is sometimes called the “drive-through” mentality (using a label for not having to get out of one’s automobile at many businesses, including restaurants and banks, thus saving time). Similarly, the public increasingly has a DIY (“do it yourself”) approach to life.<sup>25</sup> At least in the United States courts, DIY may be reflected, at least in part, in the high rates of self-represented (*pro se*) litigants in a wide range of case types. These include domestic relations/divorce (it is estimated that over 60% of such cases have at least one party who is self-represented), landlord-tenant, petty offense, and personal bankruptcy cases.<sup>26</sup> Many courts in the U.S. have established successful “self-help centers” in response to

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<sup>17</sup> “Social Networking Reaches Nearly One in Four Around the World,” eMarketer, June 2013;

<http://www.emarketer.com/Articles/Print.aspx?R=1009976> . The author once made a blog entry from his smartphone on a boat in the middle of Lake Baikal, Siberia, Russian Federation!

<sup>18</sup> “Millennials” refers to a demographic group of persons who were born between the early 1980’s and early 2000’s;

[http://en.wikipedia.org/wiki/Generation\\_Y](http://en.wikipedia.org/wiki/Generation_Y) .

<sup>19</sup> [http://www.census.gov/population/international/data/worldpop/tool\\_population.php](http://www.census.gov/population/international/data/worldpop/tool_population.php)

<sup>20</sup> “10 Years After Facebook Launched, Social Media is Only Beginning to Shake Up the World,” Vivek Wadhwa, *The Washington Post*, February 3, 2014; <http://www.washingtonpost.com/blogs/innovations/wp/2014/02/03/10-years-after-facebook-social-media-is-only-beginning-to-shake-up-the-world/>

<sup>21</sup> For an interesting analysis there is a new book, *The App Generation*, by Howard Gardner and Katie Davis, October 2013, Yale University Press; <http://appgen.yupnet.org/>

<sup>22</sup> “Email Use Is On The Skids Among Teens: Study,” *Huffington Post*, February 2012;

[http://www.huffingtonpost.com/2012/02/10/teens-email-use-study\\_n\\_1268470.html](http://www.huffingtonpost.com/2012/02/10/teens-email-use-study_n_1268470.html). “E-Mail Gets an Instant Makeover,” by Matt Richtel, *The New York Times*, December 2010;

[http://www.nytimes.com/2010/12/21/technology/21email.html?\\_r=0](http://www.nytimes.com/2010/12/21/technology/21email.html?_r=0). “Facebook: What We Love To Loathe,” by Kristin Burnham, *InformationWeek*, February 2014; <http://www.informationweek.com/software/social/facebook-what-we-love-to-loathe/d/d-id/1113699?>

<sup>23</sup> “Text Messaging And Facebook Replace Email For Younger Generation,” CityTownInfo, January 2011;

<http://www.citytowninfo.com/career-and-education-news/articles/text-messaging-and-facebook-replace-email-for-younger-generation-11010602>

<sup>24</sup> “World’s cities step up pace of life in fast lane,” by Kate Kelland, Reuters, January 2007;

<http://www.reuters.com/article/2007/05/02/us-pedestrians-speed-study-idUSL0235779220070502>

<sup>25</sup> [http://en.wikipedia.org/wiki/Do\\_it\\_yourself](http://en.wikipedia.org/wiki/Do_it_yourself)

<sup>26</sup> “The Task Force to Expand Access to Civil Legal Services in New York,” New York Unified Court System, November 2011;

[http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT\\_web.pdf](http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf).

“Self-Represented Litigants in Family Law: the Response of California’s Courts,” by Bonnie Hough, *California Law Review*, vol. 1, January 2010; [http://www.courts.ca.gov/documents/01\\_15\\_Hough.pdf](http://www.courts.ca.gov/documents/01_15_Hough.pdf).

“By the Numbers--Pro Se Filers in the Bankruptcy Courts,” *The Third Branch* newsletter, October 2011,

[http://www.uscourts.gov/news/TheThirdBranch/11-10-01/By\\_the\\_Numbers--Pro\\_Se\\_Filers\\_in\\_the\\_Bankruptcy\\_Courts.aspx](http://www.uscourts.gov/news/TheThirdBranch/11-10-01/By_the_Numbers--Pro_Se_Filers_in_the_Bankruptcy_Courts.aspx).



this rise.<sup>27</sup> In addition, DIY-litigants will likely expect the judiciary to offer social media to them as part of their interactions with the courts (descriptions of such uses are described in depth later in this article).

A recent global development is the use of social media to communicate when traditional means are not available. Examples are where a country's communication infrastructure (e.g., land-line telephones) is not reliable, or when a government restricts access to traditional infrastructure. Under these circumstances, the public, along with both private and public sector entities, will do their best to find alternate means to communicate.<sup>28</sup> The solution is often social media accessed through cellular phone systems and Wi-Fi Internet connections. Another global phenomenon is the use of social media to rapidly mobilize a constituency, such as during mass public protests in countries like Nigeria, Egypt, Turkey, and Ukraine.<sup>29</sup> The recent Winter Olympics in Sochi, Russia were a good demonstration of how people used mobile communication devices and social networking platforms to bring world-wide attention to a wide range of content. From serious topics to highlighting amusing situations, the lesson we take from this is the public is watching everything around them **and publishing information that they think is valuable**. Courts must realize that **this spotlight can be shined on them at any time**, and often when it is least expected.<sup>30</sup> At a minimum, courts must proactively prepare for such scrutiny – the "Trial by Tweet" article in the February 2013 edition of this *Journal* is highly recommended reading on this subject.<sup>31</sup>

The widespread use of, and expectations regarding, mobile computing and social media by the public make it increasingly imperative that courts not only pay attention to these phenomena, but also take advantage of social media opportunities to better meet the needs of the consumers of court services (litigants, attorneys, witnesses, jurors, news media, other government agencies, etc.). All of this can be seen as an extension of the ongoing conversion to electronic filing and access to court records.

#### 4. Social Media and the Courts--a Cultural Clash?

It is important to understand how social media fit into the traditional nature of how courts function. In 2010, the Conference of Court Public Information Officers (CCPIO) in the United States published the first of what have become excellent annual reports on the use of "New Media" in the courts.<sup>32</sup> In the first report, the CCPIO observed that there are "three characteristics of new media that contrast sharply with basic characteristics of the judiciary."

3 Ways "New Media" are Different	
New Media	Judiciary
Decentralized/Multidirectional	Institutional/Unidirectional
Personal/Intimate	Separate/Independent
Multimedia	Textual

**Decentralized and multidirectional.** One of the defining characteristics of the new media is that they are multidirectional and decentralized. In more theoretical terms, new media are described as the third and most recent of what are essentially only three possible communications media: (i) interpersonal media as "one to one," (ii) mass media as "one to many" and, finally, (iii) new media or "many to many." ...Contrast this with the traditional *institutional and unidirectional* judicial culture and way courts have operated. ...The essence of their fundamental mission, resolving disputes, requires that courts very often

A good resource on SRL's can be found at <http://www.ncsc.org/Topics/Access-and-Fairness/Self-Representation/Resource-Guide.aspx>

<sup>27</sup> For example, see the services and materials of the author's court: <http://nmb.uscourts.gov/self-rep/understanding-bankruptcy>

<sup>28</sup> For instance, protestors have been using "Zello," a walkie-talkie type app, in the Ukraine and Venezuela: "Zello App Gains Popularity With World's Protesters," *NPR*, March 2014;

<http://www.npr.org/2014/03/05/286126479/zello-app-gains-popularity-with-worlds-protesters>

<sup>29</sup> [http://www.nytimes.com/2014/03/20/opinion/after-the-protests.html?emc=edit\\_tnt\\_20140319&nid=19284303&intemail0=y&r=0](http://www.nytimes.com/2014/03/20/opinion/after-the-protests.html?emc=edit_tnt_20140319&nid=19284303&intemail0=y&r=0)

<sup>30</sup> Here's a video looking at the top 12 social media moments from the 2014 Olympics:

[http://www.washingtonpost.com/posttv/business/technology/social-media-recap-from-the-sochi-games/2014/02/22/ba49ec76-9c03-11e3-8112-52fd646027b\\_video.html](http://www.washingtonpost.com/posttv/business/technology/social-media-recap-from-the-sochi-games/2014/02/22/ba49ec76-9c03-11e3-8112-52fd646027b_video.html)

<sup>31</sup> "Trial by Tweet? Findings on Facebook? Social Media Innovation or Degradation? The Future and Challenge of Change for Courts," By Dr. Pamela D Schulz and Dr. Andrew J Cannon, *International Journal for Court Administration*, February 2013, page 1;

<http://www.iaca.ws/ijca-vol.-5-no.-1.html>

<sup>32</sup> "New Media and the Courts Reports/2010-2011-2012-2013," Conference of Court Public Information Officers;

<http://ccpio.org/publications/reports/>

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communicate one way. Courts issue orders, and parties comply. One of the challenges of courts responding to the reality of new media will be resolving this inherent incompatibility between the two cultures.

**New media are personal and intimate while the courts are separate and distant.** Another inherent characteristic of new media is that they facilitate personal communication and intimacy of communication that previously were possible only through one-on-one channels. ...The social media that lie at the heart of the new media revolution are strikingly personal and intimate. ...This stands in sharp contrast to the way courts communicate. The bar that separates attorneys and judges on one side and the public on the other, the elevated bench, the black robe, the practice of formal address (“your honor”) — all of these are practices that have evolved for centuries in the judicial culture and play an important role in symbolizing and reinforcing the independence necessary to achieve impartiality. ...The way the new media culture is redefining cultural expectations and practices regarding personal information-sharing raises unique and interesting questions for courts. There is an incompatibility between the judicial culture and the new media culture.

**New media are multimedia, incorporating video and still images, audio and text, while the courts are highly textual.** Probably the most basic characteristic of new media is that they are multimedia in nature. More than anything else, the digital revolution allows for the sharing of information and knowledge and the telling of stories through multimedia methods. With more and more of the public consuming more news and information online, the new media environment now includes a substantial proportion of the citizenry that approaches institutions with the strongly held expectation that communication will include video and audio clips, text and still images wound into a matrix of information and knowledge that tells compelling stories. ...The law is an inherently verbal enterprise. It is concerned with precise definition of terms, interpretation of statutory and judicial language, and the precise parsing of speech. The multimedia nature of new media challenges courts to tell their inherently textual stories through multimedia techniques.<sup>33</sup>

Understanding these differences help us to understand what social media mean in the court setting. Further, it is essential that courts take these differences into account when crafting social media strategies.

##### **5. Why and how are social media important to achieving the court goals of transparency, accessibility, accountability, and efficiency?**

Given the decline of traditional media, with their dedicated, coherent, and professional coverage of court proceedings and justice sector matters, and the rise of citizen “reporters” and pundits (e.g., via blogs and tweets from the courthouse) who may not adhere to such standards (and in fact use social media as a platform to launch often scurrilous attacks against courts and judges), it is imperative that courts proactively step into the new technological world to effectively inform the public about the justice system. “The current media climate is different from that of only a decade or more ago. The concept of mass media where a passive audience would receive and respond to messages whether from news or from marketers has been overshadowed by the interactive form ...The new media offers many practical opportunities for court communication with staff and users, challenges and opportunities in presentation of evidence and in making outcomes and reasons available to the broader public. When controversies erupt around a court decision it offers opportunities to engage in, or inform that discussion.”<sup>34</sup> As Chief Justice Marilyn Warren of the Victoria, Australia Supreme Court recently stated:

The Internet and social media are here to stay. The courts must develop constructive strategies to engage with the new technologies. Open justice in the technological age means the ability of the community to view or access information about court proceedings through the Internet or social media as well as through traditional print and electronic mediums.

Because of the highly interactive nature of new media, the public have access to and can contribute to the public debate in ways that were previously impossible.

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<sup>33</sup> Ibid. “New Media and the Courts, The Current Status and Look to the Future,” 2010 Report, pp. 19-21.

<sup>34</sup> “Trial by Tweet? Findings on Facebook? Social Media Innovation or Degradation? The Future and Challenge of Change for Courts,” By Dr. Pamela D Schulz and Dr. Andrew J Cannon, *International Journal for Court Administration*, February 2013, pages 1-2...5; <http://www.iaca.ws/iaca-vol.-5-no.-1.html>

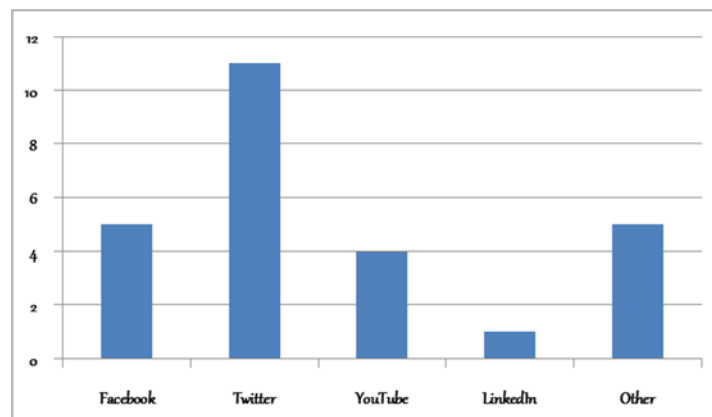
There is now an expectation that open justice involves the judiciary adopting new media technologies and engaging in a direct dialogue with the community. The judiciary must find a way to meet these expectations whilst at the same time preserve the fundamental aspects of the rule of law – fairness and judicial impartiality.<sup>35</sup>

Now that we have a fundamental understanding of what social media are and how they relate to the courts, we can explore the purposes for which courts are already using social media. There are several main categories:

- Community outreach and interaction
  - Access to court services
  - Special projects
  - Soliciting input (e.g., surveys)
  - Publicizing special events and awards
  - Volunteer opportunities
  - Public information about the court, such as locations, hours, parking, mass transit, etc.
- Self-help (forms and programs beyond general information)
- Training (both internally for judges and staff, and externally for the legal community, self-represented litigants, etc.)
- Publishing information to, and interacting with
  - News media & public at large
  - Court participants (lawyers, litigants, witnesses, jurors, etc.)
  - Other governmental agencies
- Internal communications within the court or court system; this may be quite extensive, such as blogs and wikis that document procedures, project team forums, discussion/chat forums, training videos, online directories, etc.<sup>36</sup> The use of such applications can be very beneficial with mobile and teleworking staff, involving them more directly in court operations (unfortunately, employees may not participate as much as expected.)<sup>37</sup>
- Human resources, primarily recruitment of employees

Courts around the world use a variety of social media platforms for these purposes.

In the United States federal courts (ranging from the U.S. Supreme Court to the Circuit Courts of Appeals, District Courts, and Bankruptcy Courts), as of mid-2013 approximately 25% of these 200 courts use some form of social media, as shown below (vertical scale = number of courts).<sup>38</sup>



For example, the U.S. Supreme Court has a very active Twitter account and a relatively inactive Facebook page,<sup>39</sup> and the U.S. Bankruptcy Court for the District of New Mexico has an active Facebook page and a YouTube channel.<sup>40</sup> The U.S. federal courts use these social media platforms for these purposes:

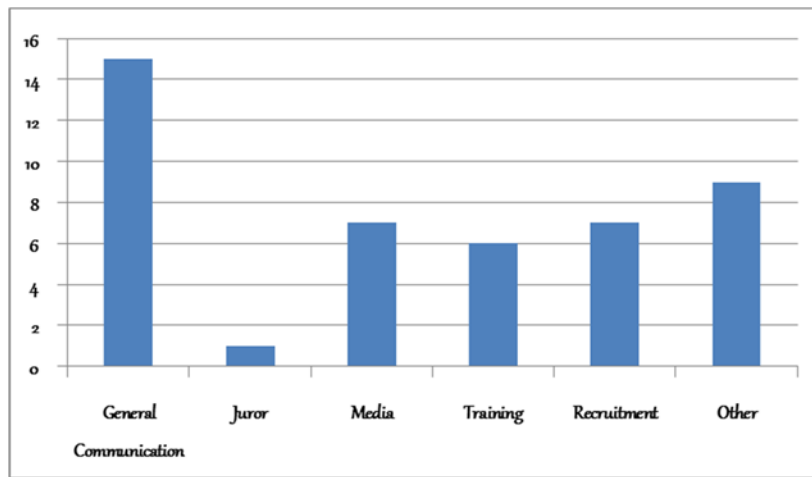
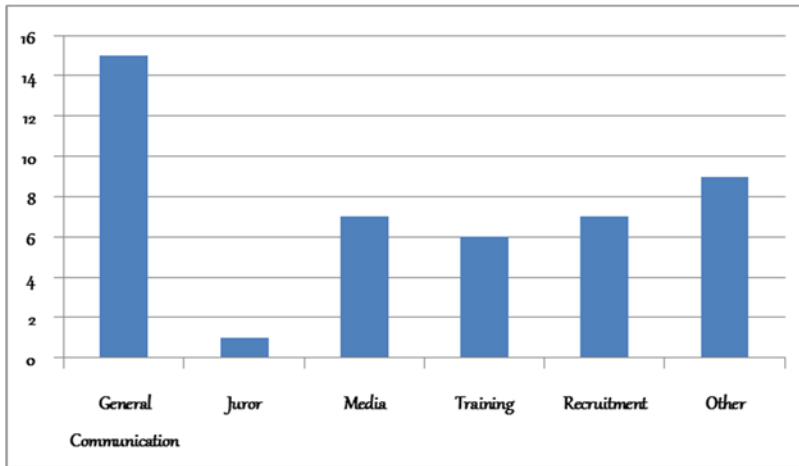
<sup>35</sup> Remarks of the Hon. Marilyn Warren AC, Chief Justice of Victoria, Australia, on the occasion of the 2013 Redmond Barry Lecture on Open Justice in the Technological Age, 21 October 2013

<sup>36</sup> Commercial products in wide use for these internal purposes include IBM-Lotus *Connections*, and Microsoft *SharePoint*.

<sup>37</sup> "Why Employees Don't Like Social Apps," by Michael Healey, *InformationWeek*, January 2012; <http://www.informationweek.com/applications/why-employees-dont-like-social-apps/d/d-id/1102352>

<sup>38</sup> 2013 survey conducted by the author.

<sup>39</sup> <https://twitter.com/ussupremecourt>; <https://www.facebook.com/UsSupremeCourt>



*Other = notices of sales; drive traffic to website; rule changes; kids court; case activity; naturalizations; law week; and time-sensitive notices.*

The state appellate and trial courts in the United States have also made wide use of social media. A great source of information, plus other excellent material about social media and the courts, is maintained by the National Center for State Courts on its website.<sup>41</sup> Approximately 50% of the states' highest appellate courts (and their administrative offices of the courts) use one or more of these platforms: Facebook, Twitter, YouTube, and Flickr (with Twitter being the most popular).<sup>42</sup>

There are a wide range of trial courts across the U.S. using social media;<sup>43</sup> a prime example of a court that makes extensive use of social media being the Maricopa County Superior Court of Arizona, based in Phoenix.<sup>44</sup>

<sup>40</sup> <http://nmb.uscourts.gov/>; <https://www.facebook.com/NMBankruptcyCourt>;  
<http://www.youtube.com/NewMexicoBankruptcy>

<sup>41</sup> <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Social-Media/Home.aspx>.

<sup>42</sup> <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Social-Media/AOC-and-High-Courts.aspx>

<sup>43</sup> <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Social-Media/Home.aspx>.

<sup>44</sup> <http://www.superiorcourt.maricopa.gov/index.asp> ; <https://twitter.com/courtpio> ;  
<http://www.youtube.com/user/SuperiorCourtAZ?feature=mhee>



**Social Media Profile of the Maricopa County Superior Court, Phoenix, Arizona, USA:** <http://www.superiorcourt.maricopa.gov/>

- The Maricopa County Superior Court is a large general jurisdiction trial court (fourth largest in the United States), with over 150 judicial officers and 3,500 employees in six court locations, serving a population of 3.8 million people. In fiscal year 2013, the court had a total of over 202,000 filings (civil, criminal, family, probate, juvenile, mental health, and tax). The court has a sophisticated public information/media relations office (<http://www.superiorcourt.maricopa.gov/MediaRelationsDepartment/index.asp>).
- The court uses these social media platforms:
  - Twitter (launched February 2010; <https://twitter.com/courtpio>). The court uses Twitter for breaking news and news flashes. There are over 6,200 followers for daily tweets about such things as high profile trials, job openings, awards, and new YouTube videos.
  - Facebook (launched February 2010; <https://www.facebook.com/SuperiorCourtOfArizona>). The court daily posts court events, job openings, awards, photos, and news releases. The site has had almost 13,000 visitors and 1,716 “likes.”
  - YouTube (launched June 2011; <http://www.youtube.com/user/SuperiorCourtAZ>). The court monthly posts a large variety of videos to highlight court activities and provide public information and education (how to file cases, jury service explained, court tours, etc.). As of early 2014 there were almost 50 videos posted, with 108 channel subscribers.
- The court’s social media posts are made by the Media Relations Director and staff, under the direction of the Court Administrator.
- Public comments are allowed on Facebook, on Twitter people can retweet court tweets and tweet the court directly—but those comments do not appear on the court’s Twitter page, and court staff may or may not reply, depending on the content.

*Information provided by the Maricopa County Superior Court Media Relations Department; many thanks to its staff and to Peter Kiefer for facilitating this profile.*

Current, comprehensive, and accurate information about the extent of social media use in courts outside of the United States is not available. It is, however, apparent that courts worldwide are using social media for many of the same purposes as in the U.S. The results of a recent survey did show use in a wide range of courts.<sup>45</sup> **See Addendum A.**

## 6. Choosing Social Media Tools for Courts

It is apparent that courts primarily use three prominent, popular social media platforms: Twitter, Facebook, and YouTube. Why is this so? These platforms have enabled courts, at low cost, to nimbly and quickly engage the public much more effectively than in the past, and have these advantages:

### Twitter

The Twitter<sup>46</sup> micro-blogging platform can be a very effective means to quickly and easily communicate information with appropriate target audiences. Twitter users coalesce around six fundamental ways to interact, including community clusters that form around entities like courts.<sup>47</sup> As of February 2014, Twitter has 243 million active monthly users.<sup>48</sup> Courts are primarily using Twitter to interact with the news media, jurors, and as part of an emergency management and notification system. Twitter affords these opportunities to the court:

- Real-time communication with the news media:
  - Easily and quickly posting court/case updates directly from the court vs. adding content to websites or sending e-mails (which means the court is able to proactively get its accurate message out fast, instead of being reactive to media accounts – this ensures the media gets the information the court wants them to have and can avert distorted coverage);

<sup>45</sup> Personal knowledge of the author, and a 2013 survey conducted by Nora Sydow of the National Center for State Courts, Williamsburg, Virginia, USA.

<sup>46</sup> For a good explanation of what Twitter is, go to: <http://webtrends.about.com/od/socialnetworking/a/what-is-twitter.htm> ; and <https://about.twitter.com/>

<sup>47</sup> “Sociologists Discover 6 Game-Changing Crowd Maps for Twitter,” by Jason Shueh, *Government Technology*, March 2014; <http://www.govtech.com/internet/Sociologists-Discover-6-Game-Changing-Road-Maps-for-Twitter.html>

<sup>48</sup> “How Many People Use the Top 416 Social Media, Apps, and Tools?,” by Craig Smith, *Digital Market Ramblings*, April 2014; <http://expandedramblings.com/index.php/resource-how-many-people-use-the-top-social-media/4/#.UxZPfYV9U40>

- Immediate vs. delayed press releases, ensuring the media gets timely information (and, the tweet can embed a link to the full release);
- Fewer phone calls to/from the news media (and public), since the media get the information they seek in a timely manner;
- Tweets direct inquiries to the court's website for more extensive information; and
- Fewer news reporters need to come to the courthouse or courtrooms, freeing up seats and places in long security lines during high-profile hearings.
- Enhanced communication with jurors (or any similar target audience) in the areas of qualifying and summoning. For instance, Twitter can be used to quickly notify jurors about whether they are needed in court not only for each day's service, but also up to the minute as conditions change (e.g., a trial settles and the juror is no longer needed).
- Timely notifications to court staff and outsiders (litigants, attorneys, other governmental agencies, etc.) during emergency situations. This may be a natural disaster (flood, earthquake, etc.) or other circumstances that render the court unable to operate (fire, chemical spill, etc.).

The net result of effective Twitter use in these areas can be enhanced news media relations, more efficient use of jurors' time, and rapid response to emergency situations (for a good example, including juror notifications, go to the Norfolk Circuit Court Clerk's Office Twitter feed at <https://twitter.com/nccco>). All increase court performance and user satisfaction due to the heightened transparency of court functions. In addition, court accessibility and accountability are enhanced because the court can quickly reach a large number of people.

### Facebook

With over a billion active users, in just ten years Facebook<sup>49</sup> has become a worldwide social media juggernaut. Recognizing this, courts have created their own Facebook presence to better connect with users (litigants, attorneys, etc.), the news media, the public, etc. Facebook affords courts the ability to do several things well:

- Make available short and long term information about the court in a primary medium that users use to seek such information. This could include notifications of special events, training opportunities, awards, and other information that is time-sensitive;
- Act as a portal to guide users to the court's regular Internet web site, where more detailed, full information is usually found;
- Much like Twitter or an e-mail listserv, postings to Facebook are easily produced to enable the quick, straightforward dissemination of information; and
- Serve as a more informal medium for the court to interact with users; ideally, this includes allowing users to post curated comments.

All of these abilities serve to increase court transparency, accessibility, and accountability, fulfilling the fundamental goal of "open justice."

### YouTube

The YouTube<sup>50</sup> platform is attractive to the courts for reasons similar to Facebook, and beyond:

- Since YouTube is the second most used Internet search medium, courts can greatly enhance the ability of outsiders to access digital court information with a YouTube presence.
- YouTube acts as a portal to guide users to the court's regular Internet web site, where more detailed, full information is usually found.
- Enhancing the training of users of court services. Training videos posted to YouTube are a very common use of this medium, helping court users understand not only basic information (where is the court, directions, parking, what to wear to court, court fees, etc.) but also complex procedures (how to e-file a pleading). Videos can also be used internally for court staff.<sup>51</sup>

<sup>49</sup> For further information about Facebook, go to: <http://en.wikipedia.org/wiki/Facebook>  
<http://expandedramblings.com/index.php/by-the-numbers-17-amazing-facebook-stats#.Uv5bCYV9U40>

<sup>50</sup> For further information about YouTube, go to:  
<http://www.youtube.com/yt/about/> ; <http://en.wikipedia.org/wiki/YouTube>

<sup>51</sup> For examples, go to:  
<http://www.uscourts.gov/multimedia/videos.aspx> (not posted to YouTube, but same result)  
<http://www.youtube.com/NewMexicoBankruptcy>

- Provides multimedia content (primarily video) that can be a much more effective communication medium than text - many members of the public prefer, and learn better from, a multimedia experience.
- Provides detailed information in a very accessible, less formal way that less literate (due to low education level, language barriers, etc.) members of the public can understand.
- If done well, the content can be very entertaining, thus increasing usage.

YouTube is a powerful medium (over a billion users)<sup>52</sup> that also increases transparency and accessibility.

Collectively, these three primary platforms (Twitter, Facebook, and YouTube) exemplify how social media can help courts achieve higher performance while increasing public support for the judiciary. The challenge is to use these and other social media platforms wisely.

#### **Social Media Profile of the Supreme Court of Victoria, Australia** <http://www.supremecourt.vic.gov.au/>

- The Supreme Court of Victoria (SCV) has two parts, the Court of Appeal (11 judges) and the Trial Division (30 judges). The Trial Division has civil, criminal, commercial, probate, and appellate (over magistrate courts and administrative decisions) jurisdiction, while the Court of Appeal hears appeals from the Trial Division and County Courts. As a whole, the SCVA has over 7,500 cases initiated per year.
- The SCV has two social media sites:
  - Facebook page established in 2013 as a pilot project, <https://www.facebook.com/SupremeCourtVic>
  - Twitter account established in 2011, <https://twitter.com/SCVSupremeCourt> ; currently has almost 2,900 followers. "Today it is a vital tool as part of the media communications at SCV. It has proven to be effective as a 'sign post' to judgments, sentences, and announcements. In particular, the retweets are huge when judges in the criminal division deliver an audio sentence, and I am able to then post that link to the audio." For example, regarding a high profile criminal sentencing, 2 of the court's tweets "...were retweeted some 18 times in that hour, to a total audience of almost 40,000 Twitter followers. Needless to say the spike in web-hits at the time of sentencing was massive." "In that regards, Twitter is considered to be a positive, and extremely useful means for getting a quick message out. Our followers are wide and varied, from all media, media lawyers, law firms, university students, to general people."
  - The SCV has developed a Twitter policy. The court's Strategic Communications Manager has sole responsibility for the account.
- "In the three years SCV has been on Twitter, most other courts in Victoria have come on board, and just in the past couple of months, New South Wales Courts. The most interesting observation made when the other courts came on board, was how quickly they attracted hundreds of followers. Our account took nearly 12 months to gain 1000 followers, whereas Magistrates and County took only a couple of months. People are now looking for information from courts on Twitter and are quick to follow the various handles."
- The SCV's efforts were profiled in the "Connected" new media newsletter of the National Center for State Courts & CCPIO in October, 2013: <http://www.ncsc.org/Newsroom/Connected/2013/Oct.aspx>

*Information is from the SCV's website and provided by Anne Standford, SCV Strategic Communication Manager; many thanks go to her and Professor Anne Wallace for their help.*

## **7. What is the external perspective of the public and court users?**

Moving from inside to outside the courts, keep in mind that a multitude of "outsiders" also use the courts' social media applications. Outsiders include lawyers, litigants, witnesses, jurors, news media, bloggers (who may be quite critical of the courts), interest groups, university researchers, job applicants, the merely curious, and beyond. The potential audience essentially includes everyone! This demonstrates that courts should use great care in choosing which social media platforms to use, what content will be published, who will represent official court policy, and other key questions. Here is a graphic that helps understand the various "dimensions of access" that courts need to consider in crafting their social media strategy.

<sup>52</sup> "How Many People Use the Top 416 Social Media, Apps, and Tools?," by Craig Smith, *Digital Market Ramblings*, April 2014; <http://expandedramblings.com/index.php/resource-how-many-people-use-the-top-social-media/4/#.UxZPfYV9U40>

## DIMENSIONS OF ACCESS TO NEW MEDIA



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### 8. What kinds of concerns and problems exist?

A recent Australian survey of 62 judges, court staff (including public information officers), and academics working in the judicial administration field highlights some key concerns many courts have regarding social media.<sup>54</sup> In ranked order, the concerns were:

1. Juror misuse of social media (and digital media) leading to aborted trials.
2. Sub judice issues/breach of suppression orders (by tweets, Facebook or other social media), that "go viral", and the difficulties associated with enforcement of restraining orders.
3. Increased risk of cyberstalking/opportunities for invasion of privacy or intimidation/bullying of the private lives of court case participants, including victims, jurors, judges, workers.
4. Misrepresentation of court work and activity to a community that may not understand the processes or issues involved/rapid spread of misinformation about trial processes and courts.
5. Disclosure of information to witnesses or others waiting outside or inside court.
6. Difficulty in testing authenticity and credibility of social media journalism/lack of verification of social media publications.
7. Need to educate judges, court staff, the public and media, risk of disenfranchisement of people and institutions that do not use social media.
8. Using social media to communicate court decisions and engage with the community.
9. Improper recording of court proceedings, confidential matters, evidence.
10. Defamatory statements that "go viral" on social media, creating the spectre of increased litigation.
11. Using social media to enhance court procedure (e.g. service via Facebook).
12. The use of social media posts as relevant evidence.
13. Difficulty in ascertaining ownership of information sources on social media.
14. Public expectation that courts will adopt social media quickly/effectively.
15. Impact of social media on court orders, including orders relating to social media use, jury directions, sentencing.
16. Social media can be distracting in court/potential for disruption of court activity.
17. Whether to have central control of court communications.
18. Need for information technology systems/staff to support social media (lack of resources for social media officers).
19. Failure of courts to use social media affects timeliness of news.
20. Locating the origins of the user/tweeter/contributor.

Not all of the responses were negative. The participants in this research exercise recognized the need to educate judges, court staff, the public and the media about the work of the courts, and that social media should be part of that strategy

<sup>53</sup> Graphic Source: R. Roper, NCSC-CCPIO *Connected* newsletter, Sept. 2011; <http://www.ncsc.org/connected>

<sup>54</sup> "The courts and social media: what do judges and court workers think?" by Keyzer, Johnston, Pearson, Rodrick, and Wallace; *Judicial Officers' Bulletin*, Judicial Commission of NSW, Australia, Volume 25 No 6, July 2013. <http://www.judcom.nsw.gov.au/publications/bulletins-and-journals>

(issue no 7). There was strong interest in using social media to communicate court decisions and engage with the community (issue no 8).

Even though this list of issues derives from Australia, the concerns expressed are consistent with those expressed elsewhere, such as in the annual CCPIO surveys in the United States. It is interesting to note that these concerns are directed primarily at the social media use of “outsiders,” and not very much internally by judges and court staff. It is vital, however, to address social media activity by all users to ensure effective communication and the avoidance of serious problems.

What kinds of problems might arise from social media use by external (non-court) users? The Australian list above highlights several kinds of social media posts that compromise the judicial process. The term “Google mistrials” has been used to label this serious problem. “The use of social media has resulted in dozens of mistrials, appeals and overturned verdicts in the past couple of years.”<sup>55</sup> The ability of almost anyone involved in court proceedings to easily (anytime, anywhere) access the Internet and conduct professional and personal research (e.g., a witness or juror trying to corroborate evidence, or attorneys who do background checks on witnesses and potential jurors—which alone presents a challenge to judges “to establish parameters for juror vetting and within the courtroom itself”)<sup>56</sup> is a distinct, and real problem. In response, courts have instituted rules, policies, warning signs, training programs, etc., to set acceptable use requirements – along with sanctions for violations.<sup>57</sup>

Even more forcefully, the British Parliament has passed a new (2014) law which makes it a criminal offense for a juror to use social media sites in violation of the instructions of the court. Courts found that the prior method of using contempt powers was insufficient. “The new law...make(s) it illegal to share website information with other jurors or to decide a case on the basis of evidence not heard in court. The new two year penalty will also apply to jury members who post messages about cases on social media sites or engage in other conduct prohibited by a judge...The reform...has been prompted by concern that modern technology is posing an increasing threat to the fairness of trials. It follows cases in which jurors have caused trials to collapse by researching details on the internet or by contacting defendants via social media sites.”<sup>58</sup> Juries and social media have received a lot of attention; an excellent, in-depth examination of the issue can be found in a 2013 report to the Victorian Department of Justice, *Juries and Social Media*,<sup>59</sup> and in a 2014 article in the *Duke Law and Technology Review*, “More From the Jury Box, the Latest on Juries and Social Media.”<sup>60</sup>

In regards to the news media (or others) using mobile devices to access and transmit to the Internet (e-mail, tweets, etc.) from inside courtrooms, “courts in the UK, USA and Australia are seeking to balance the right to freedom of speech, and transparency and openness in court proceedings, against concerns that this development might also impinge on the right to a fair trial and the due administration of justice.”<sup>61</sup> Several different approaches have been taken, from outright banning of all electronic devices to unfettered use.

The courtroom use of electronic devices has come to a head at the U.S. Supreme Court, which has just experienced a breach of its rules barring media video coverage and electronic device use in its courtroom. Someone smuggled a device

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<sup>55</sup> “Social Media, a Trove of Clues and Confessions,” by Ian Urbina, *The New York Times*, February 2014; [http://www.nytimes.com/2014/02/16/sunday-review/social-media-a-trove-of-clues-and-confessions.html?\\_r=0](http://www.nytimes.com/2014/02/16/sunday-review/social-media-a-trove-of-clues-and-confessions.html?_r=0)

<sup>56</sup> *ibid*

<sup>57</sup> The author has a personal library of examples; the NCSC is also a good resource on its social media page, and its *Jur-E Bulletin* often has social media related news and references: <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Social-Media/Home.aspx> ; <http://www.ncsc.org/jure>.

The United Kingdom has a 2012 juror orientation video that specifically addresses social media, <http://www.youtube.com/watch?v=JP7slp-X9Pc> (14:31 min.; social media at 11:00 min. mark).

<sup>58</sup> *Jur-E Bulletin*, National Center for State Courts, February, 2014; <http://www.ncsc.org/Newsroom/JurE.aspx>.

“Jail for jurors who research cases online,” by Martin Bentham, *London Evening Standard*, February 2014; <http://www.standard.co.uk/news/uk/exclusive-jail-for-jurors-who-research-cases-online-9108786.html>.

<sup>59</sup> “Juries and Social Media, a report prepared for the Victorian Department of Justice,” by Jane Johnston, Professor Patrick Keyzer, Geoffry Holland, Mark Pearson, Sharon Rodrick, and Anne Wallace, 2013; <http://www.sclj.gov.au/agdbasev7wr/sclj/documents/pdf/juries%20and%20social%20media%20-%20final.pdf>

<sup>60</sup> “More From the Jury Box: The Latest on Juries and Social Media,” 12 *Duke Law & Technology Review* 64-91 (2014).

<sup>61</sup> “Courts and Social Media” paper presented to 2013 EGPA Annual Conference Edinburgh, Scotland UK, 11-13 September 2013, by Professor Anne Wallace, Edith Cowan University, Australia, page 14 (copy supplied by author); abstract available at [https://www.conftool.pro/egpa2013/index.php?page=browseSessions&form\\_session=130&CTSID\\_EGPA2013=NX3TfJTf9kflBeW8R1xmEepBP2d](https://www.conftool.pro/egpa2013/index.php?page=browseSessions&form_session=130&CTSID_EGPA2013=NX3TfJTf9kflBeW8R1xmEepBP2d)



into court and recorded a protestor speaking out from the audience, then posted videos to YouTube.<sup>62</sup> The court is adjusting its procedures and security to avert a reoccurrence.

A contrasting example is the U.S. District Court for the District of Rhode Island, which after a pilot experiment has decided to allow approved news media members to use electronic devices inside the courtroom to report on proceedings, as long as they are not disruptive. "This will allow reporters to file blog posts and stories, live tweet, and send email messages from the courtroom. Previously, reporters had to check their cell phones and devices with security upon entering the courthouse. ...Members of the media interested in taking advantage of the new policy must apply via the court's website."<sup>63</sup>

The Nieman Journalism Lab at Harvard University has posted a nice summary of courtroom/legal issues with "Facebook friend of the court: The complicated relationship between social media and the courts." The article is worth reading and includes links to several recent resources and articles.<sup>64</sup>

## 9. Employment Recruitment

A specialized use of social media in the private sector and by courts is in the recruitment of employees. "According to the Society for Human Resource Management, 77 percent of employers now use social networking to recruit candidates, up from 34 percent six years ago."<sup>65</sup> CareerBuilder has published an eBook on the subject: *Will Tweet for Talent, a User's Guide to Talent Recruitment Through Social Media*.<sup>66</sup> Sites such as Monster, CareerBuilder, and Craigslist have been used by courts in the United States to post job vacancies and screen candidates, for example. Courts have also done Internet searches to gather and verify information about job candidates. These actions track the private sector, where, for example, many employers do on-line background research about candidates, including social media sites like LinkedIn,<sup>67</sup> and employers have rejected candidates because of online information. In fact, "research shows that employers are discriminating based on what they find on social media."<sup>68</sup> Courts must be very careful in the use of such searches and sites, however, as such use is subject to factors which may cause problems ranging from hiring poor employees to expensive employment discrimination lawsuits:

- Online job postings tend to be brief, and may not do a good job of fully and legally representing the recruitment's parameters;
- Information (including professional credentials) posted or provided by candidates may be false, misleading, or be out of date (e.g., reflecting youthful indiscretion rather than suitability for employment);
- Information may be falsely posted by a third party (maliciously or not); and
- Information may be protected by the laws in the court's jurisdiction (e.g., in the U.S., information about race, religion, medical condition, sexual orientation, etc.).

So, what should a court do to avoid problems and effectively use the Internet and social media in job recruitments? Here are some key actions to take:

1. Only use reputable job sites for online recruitments;
2. In the vacancy announcement, advise applicants what background checks will be conducted, including Internet searches;
3. Have background checks done by Human Resources staff, not by managers involved in the hiring decision;

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<sup>62</sup> "Inside the Supreme Court, a protestor makes himself heard," by Al Kamen, *The Washington Post*, February 2014; [http://www.washingtonpost.com/politics/inside-the-supreme-court-a-protester-makes-himself-heard/2014/02/27/096f4464-9feb-11e3-b8d8-94577ff66b28\\_story.html](http://www.washingtonpost.com/politics/inside-the-supreme-court-a-protester-makes-himself-heard/2014/02/27/096f4464-9feb-11e3-b8d8-94577ff66b28_story.html)

<sup>63</sup> "U.S. Court in Rhode Island Clears the Way for Media to Use Cellphones," *Providence Journal*, January 2014; <http://news.providencejournal.com/breaking-news/2014/01/us-court-in-ri-clears-the-way-for-media-to-use-cellphones-live-report-from.html>

<sup>64</sup> "Facebook friend of the court: the complicated relationship between social media and the courts," by Justin Ellis, Nieman Journalism Lab, Harvard University, February 19, 2014; <http://www.niemanlab.org/2014/02/facebook-friend-of-the-court-the-complicated-relationship-between-social-media-and-the-courts/>

<sup>65</sup> "Can't Ask That? Some Job Interviewers Go To Social Media Instead," by Juki Noguchi, *NPR All Tech Considered*, April 11, 2014; <http://www.npr.org/blogs/alltechconsidered/2014/04/11/301791749/cant-ask-that-some-job-interviewers-go-to-social-media-instead>

<sup>66</sup> <http://www.careerbuilder.com/jobposter/resources/page.aspx?pagever=ReportsAndeBooks>

<sup>67</sup> "Current and potential employers are looking at your social media pages," *The Examiner*, February 2013; <http://www.examiner.com/article/current-and-potential-employers-are-looking-at-your-social-media-pages>

<sup>68</sup> "Can't Ask That? Some Job Interviewers Go To Social Media Instead," by Juki Noguchi, *NPR All Tech Considered*, April 11, 2014; <http://www.npr.org/blogs/alltechconsidered/2014/04/11/301791749/cant-ask-that-some-job-interviewers-go-to-social-media-instead>

4. Ensure protected information is not disclosed to selecting officials;
5. Conduct background checks only near the end of the process (e.g., after interviews), and then only on the final one or two candidates as necessary;
6. Verify any discovered adverse information to the extent possible; and
7. If a candidate is rejected because of adverse information, document that action.

## 10. Use by Judges and Court Staff

Another aspect of social media use in the courts is how these platforms are being professionally and personally used not by courts themselves, but by the judges<sup>69</sup> and court staff who work there.<sup>70</sup> This article primarily focuses on court staff; excellent recent treatments of judicial use are contained in the law review article “Why Can’t We Be Friends? Judges’ Use of Social Media,”<sup>71</sup> as well as a paper entitled “Technology and Judicial Ethics.”<sup>72</sup>

- Professionally.

Many judges have created Facebook and LinkedIn pages, have Twitter accounts, and even publish legal/court blogs (either alone or as contributing authors). In jurisdictions which have elected judges, these activities are more common as a means to connect with voters. Unfortunately, there have been many instances of ethical violations by judges using social media in their election campaigns. To avoid this, many judges’ social media election platforms are maintained by campaign staff instead of the judges themselves in the hope of avoiding some of the ethical pitfalls.

A prime reason for judicial social media use is to network with other judges, overcoming to some degree the isolation that many judges feel once they take office. Overall, the purposes overlap those of the courts themselves, as outlined above in this article. In many jurisdictions, however, there are constraints on what judges and staff may do while using social media – this will be discussed more thoroughly below.

Many court administrators participate in LinkedIn to facilitate networking with peers around the globe. IACA has a LinkedIn group, for example (as do other court and justice organizations). The American Bar Association has published a relevant book, *LinkedIn in One Hour*, which has many good tips on how to effectively and properly leverage this platform.<sup>73</sup>

- Personally.

Judges and staff use social media in their personal lives almost the same as any other citizen. The exception is where employment by the judiciary has constraints which extend to personal use.

Problems may arise from social media use by judges and court staff. “Online tools have made interacting with the public more convenient, but the legal pitfalls associated with social media have also been exposed.”<sup>74</sup> A 2014 survey found that “...71% of the...responding businesses have had to take disciplinary action against an employee for misusing of social media...a tremendous jump from last year’s iteration of the survey, in which only 35% reported they had to take this kind of action.”<sup>75</sup> Inappropriate postings about pending cases, lawyers, witnesses, litigants, and the news media can compromise the integrity of the court and judicial process. Areas of judicial and employee ethics that immediately come into question include: an appearance of, or actual impropriety (such as *ex parte* communication); conflict of interest;

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<sup>69</sup> Judges, in particular, should be careful in the use of social media. The American Bar Association in the U.S. has recently issued an advisory opinion on the subject:

[http://www.abajournal.com/magazine/article/aba\\_opinion\\_cautions\\_judges\\_to\\_avoid\\_ethics\\_pitfalls\\_of\\_social\\_media/](http://www.abajournal.com/magazine/article/aba_opinion_cautions_judges_to_avoid_ethics_pitfalls_of_social_media/). The NCSC has compiled a list of state-level ethics opinions in the U.S.: <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/State-Links.aspx?cat=Judicial%20Ethics%20Advisory%20Opinions%20on%20Social%20Media>

<sup>70</sup> This article is not intended to comprehensively treat the personal (and even professional) use of social media by judges and staff – especially judges. The primary focus here is on social media use by courts themselves.

<sup>71</sup> “Why Can’t We Be Friends? Judges’ Use of Social Media,” by John J. Browning, *Miami Law Review*, February 2014, vol 68:487; <http://lawreview.law.miami.edu/>

<sup>72</sup> “Technology and Judicial Ethics,” paper by Professor David Hricik, Mercer University School of Law, March 2014, <http://ssrn.com/abstract=2418268>

<sup>73</sup> *LinkedIn in One Hour*, by Allison C. Shields and Duncan Kennedy, ABA Book Publishing, 2013; <https://apps.americanbar.org/abastore/index.cfm?fm=Product.AddToCart&pid=5110772>

<sup>74</sup> “What Does Your Lawyer Want You to Know About Social Media?,” by Brian Heaton, *Government Technology*, February 2013; <http://www.govtech.com/e-government/What-Does-Your-Lawyer-Want-You-to-Know-About-Social-Media.html>

<sup>75</sup> “More Social Media in the Workplace, More Problems,” by R. Mintzer, *Corporate Counsel*, May 5, 2014; <http://www.corpcounsel.com/id=1202653798925/More-Social-Media-in-the-Workplace.-More-Problems>

breach of confidentiality; improper political activity; and the violation of professionalism standards. A fuller treatment of this subject is contained in my article, "Social Media and the Ethical Court Employee."<sup>76</sup> Of course, these areas are subject to local jurisdictional norms (what might be inappropriate in one jurisdiction may be perfectly acceptable in another).

Court managers should consider these additional examples of potential problems with employee social media activity:

- Waste of official time;<sup>77</sup>
- Consumption of bandwidth on the court's Internet connection;
- Making inappropriate public statements about the employing office, judges, managers, or colleagues;
- The "friending" of attorneys on Facebook (which may or may not be acceptable, depending on the circumstances);
- Inadvertent/intentional disclosure of confidential information;
- Harassment or other misconduct toward colleagues;
- Political or advocacy activities; and
- Breach of court or judicial security.

Given the potentially severe problems outlined above, courts should take action to prevent the inappropriate use of social media by judges and staff. Some common actions are: controls placed on court computers to block access to the Internet in general or specific websites; appropriately monitoring employee social media use; promulgating policies about acceptable social media use; and banning the use of personal electronic devices at work.<sup>78</sup> Specific, recommended guidance about what courts should do is presented later in this article.

Before taking action *vis a vis* employees, consideration must be given to the fundamental question of whether employees have unfettered constitutional/legal rights, such as freedom of expression or protection from unwarranted search and seizures, when they use social media at work or in their personal life.<sup>79</sup> This issue has been addressed by the United States Supreme Court:

In applying these canons to use of social media after-hours, do judicial employees retain freedom of expression, privacy rights, and other rights of citizens? The answer is yes. The law is well-established that government employees do not forfeit their Constitutional rights by virtue of their employment. *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968). However, government employment does require some restrictions that might not be applicable to private citizens. The government, as an employer, must have wide latitude to manage the work to promote the efficiency of the public service it performs through its employees. *Id.* A balancing of interests of government employees as citizens and of the government as an employer accomplishing its mission must be achieved.<sup>80</sup>

Of course each court jurisdiction must assess its own legal framework in addressing the question of employee rights, as the example above cannot be used as precedent outside of the United States. It is outside the means of this article to cover this topic more thoroughly in this regard.

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<sup>76</sup> "Social Media and the Ethical Court Employee," Norman Meyer, *The Court Manager* journal of the National Association for Court Management (NACM), vol. 26 no. 1, 2011; [www.nacmnet.org](http://www.nacmnet.org). Electronic copy also available from the author.

<sup>77</sup> "Are Your Employees Wasting Time on Social Media?," by Heather Legg, *Socialnomics*, February 2014; <http://www.socialnomics.net/2014/02/21/are-your-employees-wasting-time-on-social-media/>

<sup>78</sup> The monitoring of employees is a particularly sensitive issue, so great care must be taken before embarking on such an activity. A good debate on the subject: "Should Companies Monitor Their Employees' Social Media?" *The Wall Street Journal*, Page R1, May 12, 2014; <http://online.wsj.com/news/articles/SB10001424052702303825604579514471793116740#printMode>

<sup>79</sup> A good example arose in a court in Kent County, Delaware, USA in 2011: <http://www.govtech.com/policy-management/Social-Media-Free-Speech-Question.html>

<sup>80</sup> Federal Court Clerks Association (FCCA) *Journal*, Summer/Fall 2010, "From the Editor" (Pat McNutt), page 4; <http://www.fcca.ws/>

### Social Media Profile of the Norwegian Courts

- Norway has a Supreme Court, 6 Courts of Appeal, 66 District Courts, and several special courts; [http://en.wikipedia.org/wiki/Courts\\_of\\_justice\\_of\\_Norway](http://en.wikipedia.org/wiki/Courts_of_justice_of_Norway). The Norwegian Courts Administration (NCA) office administers these courts of justice; <http://www.domstol.no/en/Domstoladministrasjonno/>.
- Since 2009 the NCA has created several social media outlets:
  - NCA on Twitter: <https://twitter.com/Domstoladm>; with over 2,000 followers—the target groups are the news media and the judicial branch.
  - NCA also has a Twitter account for lay judges: <https://twitter.com/lekdommer>
  - The NCA on Facebook: <https://www.facebook.com/Domstoladministrasjonen>
  - And NCAs page for lay judges on Facebook is here: <http://www.facebook.com/lekdommere>
- The NCA has made three policies.
  - A guide for courts who are considering professional use of social media (deciding target groups, responsibility to answer, some good practices etc).
  - A strategy for The Norwegian Court Administration's work with social media [target group for each social media, examples of content for each media, a goal to increase visitors to the courts website(s)].
  - Guidelines for use of social media for people within The Judiciary.
- The NCA has this observation about its social media use: "We don't put a lot of work in this, but we do it every day. It's a small effort and sometimes it is very efficient. A good example is when we had a case with a mass murderer and bomb man, "the Brevik case". Suddenly our twitter account was the most efficient way to communicate with international media."
- The Oslo District Court has its own Twitter account: <https://twitter.com/OsloTingrett>; with over 3,000 followers.
- Judge Rune Lium of the Trondheim District Court has a blog: <http://dommere.blogspot.no/>;
  - "My experience of writing the blog has been very positive. I have particularly experienced input from readers as very valuable, and I feel that my own understanding of the individual's perception of the Court has increased. This applies in particular matters relating to child welfare."
- Several individual judges have Twitter accounts.

*Information provided by Judge Lium and Senior Advisor Iwar Arnstad of the NCA; many thanks to them and Kersti Fjørstad, Deputy Director General of the NCA for facilitating this profile.*

Overall, what should courts do to ensure the appropriate use of social media by judges and staff?

Here are some key elements of a court's social media strategy regarding usage problems and employee rights:

- Have a clear, understandable, Code of Conduct (also known as a Code of Ethics) which outlines what is acceptable and unacceptable behavior in all areas of work. Besides such a Code, the Ethics Committee of the Judicial Conference of the United States Courts has issued an extensive 2014 Advisory Opinion on "The Use of Electronic Social Media by Judges and Judicial Employees."<sup>81</sup> At the very least, clearly define and communicate behavioral requirements, even if a formal Code of Conduct does not exist.
- Enact a court Social Media Policy that specifically addresses the issues raised in this article,<sup>82</sup> with particular attention to these elements:
  - Recognize that policy cannot possibly anticipate all situations, so require employees to self-regulate their conduct;
  - Advise employees that they are responsible to adhere to the court's Code of Conduct (or equivalent);
  - Where specific rules are impractical, provide broad guidelines;
  - Define social media broadly to cover technology that will be released in future;
  - Make it clear whether, and to what extent, the policy can apply to both on duty and off duty conduct;
  - Remind employees that disclosure of confidential information is strictly prohibited;
  - Define whether employees can identify themselves as such, either specifically (law clerk to Judge X) or generically (clerk's office employee);

<sup>81</sup> Examples of codes of conduct for judges and staffs, along with "Advisory Opinion #112," are found at: <http://www.uscourts.gov/RulesAndPolicies/CodesOfConduct.aspx>

<sup>82</sup> *Resource Packet for Developing Guidelines for the Use of Social Media by Judicial Employees*, Administrative Office of the United States Courts, April 2010, is an excellent resource, found at <http://www.uscourts.gov/RulesAndPolicies/CodesOfConduct.aspx>. Another excellent paper, "Designing Social Media Policy for Government," by Natalie Helbig and Jana Hrdinová, Brookings Institution, January 2011, is found at <http://www.brookings.edu/research/papers/2011/01/social-media-policy>. Examples of court policies can be found at <http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Social-Media/Home.aspx>.

- Designate whether an employee may use an official court e-mail address (suggest not, except in officially-sanctioned activities);
  - State that managers and supervisors—and HR personnel at all—may not “friend” employee subordinates;
  - State that employees may not “friend” or be “fans” of lawyers or organizations that frequently litigate in court; and
  - Explain that social media may not be accessed at work except as part of official duties, and whether personal use may be done while on breaks.
- Design and implement an effective employee orientation and training program on the use of social media;
  - Pay attention to hiring ethical staff as part of job recruitments, and appropriately monitor staff behaviors;
  - Follow through on substantiated violations of policy;
  - Enact appropriate and effective I.T. controls – with particular attention to security;<sup>83</sup> and
  - Have a media relations plan that clearly sets forth expectations and requirements for the news media, and that prepares for newsworthy cases (high-profile) and usage problems (whether by judges, staff, or “outsiders”). For instance, can the news media use portable devices in courtrooms to make real-time social media posts (to Twitter, for example)?<sup>84</sup>

A court cannot totally prevent problems, but by taking these actions the risk will be greatly reduced. A brief outline that reinforces this point appeared in a recent commentary in *Government Technology* magazine: “How Government Leaders Can Stay Out of Social Media Hell:” Ensure you emphasize training, have a “no-no” content list, do not mix professional and personal content (in fact, if judges and staff do both, they should have separate social media presences for each), and double-check every posting for accurate and appropriate content.<sup>85</sup>

Although the concerns about social media cited above are very real, there are also quite a few myths about social media use in the government setting. Here are a few:<sup>86</sup>

Myth	Reality
1. Social media is simply another avenue for disseminating content as a function of public affairs.	1. Social media is a dialogue, and can be used internally, between courts, and with targeted users; not just with the public.
2. All the feedback we receive on social media will be negative and cast our agency in a poor light.	2. A minority of feedback is negative, and often other users defend the agency, correcting mistakes, etc. Negative or corrosive feedback does need to be quickly dealt with, however—the nature of social media can lead to viral spreading of misinformation.
3. You have to be on the cutting edge of technology to use social media effectively.	3. Facebook and other major social media sites are now quite commonly in use and do not require complex tech know-how.
4. Most comments on social media are not well thought out or constructive.	4. Most people take the effort to leave thoughtful comments and seek to contribute. Negative comments can offer constructive lessons for improvement.
5. We will be inundated with responses and feedback, and this will overwhelm our people or systems.	5. Experience has shown that the volume of feedback is usually not overly large. But, resources do have to be dedicated.
6. No one is interested in the material we would put on social	6. Don't underestimate your audience. It may take time to build a

<sup>83</sup> *Social Networking: Seven Security Pitfalls to Avoid*, Administrative Office of the U.S. Courts Office of Information Technology, March 2012. AOUSC, One Columbus Circle NE, Washington, DC 20544; [AO\\_ITSO@ao.uscourts.gov](mailto:AO_ITSO@ao.uscourts.gov).

<sup>84</sup> There are wide differences of opinion about allowing the use of mobile devices in courtrooms. Many believe that the news media should be allowed to do so to enhance the accuracy and timeliness of reporting and increase public interest and awareness, thus increasing public trust and confidence in the courts.

<sup>85</sup> “How Government Leaders Can Stay Out of Social Media Hell,” by Mike Schlossberg, *Governing*, January 2014; <http://www.governing.com/gov-institute/voices/col-how-government-leaders-stay-out-social-media-hell.html>

<sup>86</sup> “Social Media Myths Debunked,” *#Connected.Gov, Engaging Stakeholders in the Digital Age*, Partnership for Public Service, January 2013, pp. 22-23; Booz Allen Hamilton; <http://www.boozallen.com/insights/insight-detail/connectedgov-engaging-stakeholders>



Myth	Reality
media. It is simply too boring.	following, though. The news media love social media.
7. Social media is only for the younger generation. My audience is not going to be on that medium.	7. Social media attracts a wide range of users, including a fast-growing older demographic, many of whom are linked to their grandchildren via social media.
8. Maintaining a social media presence takes too much money.	8. The use of most social media often is inexpensive or free and can save money spent on other methods for getting the message out.

## 11. Effective Social Media Implementation Strategies

Once a court decides to use social media, there are many things to keep in mind to ensure an effective social media presence:

- Include a disclaimer and a terms of service statement on all social media platforms;
- Choose the right tool for the job, focusing on your target audience;
- Always consider data privacy in platform settings and postings (see below);
- Decide if you are going to allow public comments and participation and, if so, include parameters in the terms of service (and seriously consider moderating submissions before they go “public”);
- Use plain language online, with good etiquette (be respectful, etc.);
- Make frequent updates of content to engage your audience;
- Publicly define the commenting capability/policy of the court;
- Ensure your platform(s) comply with legal requirements (e.g., accessibility by handicapped persons and public records retention);
- Define and implement organizational responsibility and editorial control (i.e., who approves content and who can make postings/update content) – keep this to a select, trusted group who can represent official court policy, etc.;
- Define your goals and start simply by using only one platform as a pilot project, emulate another court’s successful activity, etc.

Other valuable tips are contained in an excellent book: *Social Media in the Public Sector Field Guide, Designing and Implementing Strategies and Policies*.<sup>87</sup> A wonderful, colorful infographic, “How to Make Awesome Social Media Content,” can also be useful.<sup>88</sup>

<sup>87</sup> <http://www.wiley.com/WileyCDA/WileyTitle/productCd-1118109937.html> ; The U.S. Federal Judicial Conference and its Committees are currently considering whether to provide guidance to courts on the official use of social media for court business. Contact is Beth Grabo in the AOUSC Office of Public Affairs, [beth\\_grabo@ao.uscourts.gov](mailto:beth_grabo@ao.uscourts.gov)

<sup>88</sup> “How to Make Awesome Social Media Content [Infographic],” *Social Media Today*, February 2014; <http://socialmediatoday.com/irfan-ahmad/2179536/how-make-awesome-social-media-content-infographic>

## Social Media Profile of the Dubai International Financial Centre Courts (DIFC)

<http://www.difccourts.ae/>

- The DIFC Courts are an independent common law judiciary with jurisdiction governing civil and commercial disputes, hearing cases with the consent of all parties. The court has an internationally renowned bench of eleven judges from Singapore, the UK, the UAE, New Zealand, Malaysia, and Australia. Since its establishment in 2007, the court has decided over 400 cases.
- The DIFC uses several social media platforms:
  - Twitter since 2012; <https://twitter.com/DIFCCourts> ; has over 1,850 followers.
    - > “...it has since become one of our most effective tools for keeping people updated about our activities. The account is linked to Instagram for sharing photos.”
    - > “The great advantage of Twitter is that it enables you to share information instantly with people who you know for certain are interested. Of course, the fast paced nature of Twitter creates its own problems, with followers expecting responses to their queries within a matter of hours, which is not always practical. Indeed, in the UAE, where mobile phone penetration is among the highest in the world, this sense of immediacy can be especially acute. That said, having engaged followers is a welcome situation to be in. There’s also the potential for negative Tweets, but that’s part and parcel of the medium.”
  - YouTube ; <http://www.youtube.com/channel/UCorwFrKh51vXwJH0BRR7zFA?feature=guide>
    - > “... is useful for uploading videos of the various workshops, seminars and lecture series we run throughout the year.”
- Instagram ; <http://instagram.com/difccourts/#>
- “First and foremost, we use social media as a way to keep people connected and engaged with the Courts. We deal with commercial cases and are fully aware that not everyone in the UAE will be interested in what we have to say, so we focus our efforts firmly on the legal and business communities. Our Twitter account has become an important tool for staying connected with these groups, and allows us to quickly and cheaply share information such as the dates of upcoming hearings and trials, or the monthly Pro Bono clinics we run. We also use Twitter as a tool to connect with media, and the account regularly gets direct messages from journalists with specific requests.”
- “Our sister courts, the Dubai Courts are a great example of a judiciary that has really embraced social media and we very often retweet each other’s updates.”
- “We sometimes get asked if courts have enough to say on social media or if it is even the right platform for this type of organisation. I would answer yes to both questions as I firmly believe that courts have a duty to engage with their community, and social media offers them one of the most effective ways to do so.”

Information provided by Hajar AlMas, Manager Events and External Relations, DIFC Courts; thanks go to her and Mark Beer, Registrar, DIFC Courts, for their help.

## 12. An Emerging Issue: Privacy

Privacy is an increasingly important issue that pervades Internet usage, and social media applications are no exception. Nowadays there are routine personal data breaches due to corporate and government errors, along with massive database and transaction hacking. In addition, criminals are using social media to facilitate their activity, in part by accessing user data.<sup>89</sup> All of these activities compromise user information, some of which is quite sensitive (e.g., financial/banking data). The market is responding to the need for greater user privacy with applications and devices that, for instance, automatically encrypt, and delete data.<sup>90</sup>

Courts need to be ever-vigilant to protect court and user information in their custody. This includes confidential case and litigant information as well as information that compromises court security. If a court has a social media presence, extreme care needs to be taken that information posted to social media sites are appropriate, and that privacy settings are

<sup>89</sup> Thus, care must be taken with social media settings (like geotagging). For a quick primer about criminal activity and what one may do to protect oneself, see: “The Shocking Truth About Social Networking & Crime,” by Drew Hendricks, *Socialnomics*, March 2014; <http://www.socialnomics.net/2014/03/04/the-shocking-truth-about-social-networking-crime/>

<sup>90</sup> For example, “Encrypted Phones Emerge to Keep Prying Eyes Out,” *The Wall Street Journal*, page B5, March 5, 2014. There are many new apps that “self-destruct” e-messages and photos, such as SnapChat and Kik. See also “Give Me Back My Privacy,” *The Wall Street Journal*, p.R1, March 24, 2014.

made that protect court and user data.<sup>91</sup> This is not altogether simple, however. For instance, Facebook privacy settings are notoriously complex and are often changed.<sup>92</sup> One must make sure that privacy is a key component of a court social media policy, and then put that policy into action.<sup>93</sup> Failure to do so may lead to a very harmful and embarrassing information breach with the kind of news media attention no court wants.

### 13. What About The Future?

The social media uses described in this article are innovative and futuristic to many courts around the world. As we have seen, however, many courts are already successfully implementing social media in ways that essentially all courts can benefit. What about the future? How might courts expand the use of social media? Here are a few ideas:

- Many governments struggle with collecting funds that are past due. Courts may have substantial amounts of unpaid fees, fines, restitution, and other court-ordered obligations to collect. Why not use social media platforms to enhance communications by using microblogging (Twitter), sharing collections and compliance information with other courts (Facebook), monitoring and contributing to blogs and wikis with relevant discussion threads (e.g., the at the Government Revenue Collection Association; <http://www.govcollect.org/>), and sharing video training modules on YouTube.<sup>94</sup>
- Search for mentions of the court on social media sites as a means to receive feedback from the public about how the court is performing (are you mentioned/reviewed on Yelp?!?). "...agencies can search for mentions of their departments to collect unsolicited, and potentially brutally honest, feedback from citizens. They aren't the only source for public opinion, but comments made on social media sites can help capture feedback from individuals who haven't been engaged by standard communication methods."<sup>95</sup> Searches can be done manually or there are private companies that will do this for a fee. Another way to monitor the Internet is to set up a "Google Alert" for the name of the court—and for each of the judges' and other key officials' names.
- Create an "open innovation platform" that uses crowdsourcing to solicit and analyze citizen input on policy questions, program ideas, etc. An example of this is found at <https://challenge.gov/>.<sup>96</sup>
- Use social media for legal acts, such as service of process/noticing.<sup>97</sup>
- Leverage multimedia platforms beyond YouTube, such as Flickr and Instagram, to make a visual impact. People "...are being attracted more towards content that they can comprehend within a short time. And this is where the old adage, a picture speaks a thousand words, becomes relevant."<sup>98</sup>

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<sup>91</sup> Excellent books on this subject: *I Know Who You Are and I Saw What You Did, Social Networks and the Death of Privacy*, by Lori Andrews, Free Press (Simon & Schuster), 2011; <http://www.socialnetworkconstitution.com/>; for very practical advice, *What Happens in Vegas Stays on YouTube*, by Erik Qualman, (Equalman Studios), 2014; and *Dragnet Nation, a Quest for Privacy, Security, and Freedom in a World of Relentless Surveillance*, by Julia Angwin, 2014 (<http://www.npr.org/books/titles/281981849/drag-net-nation-a-quest-for-privacy-security-and-freedom-in-a-world-of-relentless>).

There are a multitude of articles on this subject, here are cites to a few good resources:

[http://www.infoworld.com/d/security/the-paranoids-survival-guide-how-protect-your-personal-data-237493?source=IFWNLE\\_tlead\\_2014-03-05](http://www.infoworld.com/d/security/the-paranoids-survival-guide-how-protect-your-personal-data-237493?source=IFWNLE_tlead_2014-03-05) ;

<http://www.techlicious.com/guide/the-guide-to-facebook-privacy-settings-2013/> ;

<http://threatblog.org/identity-theft/privacy-settings-in-social-media-how-to-protect-your-profile-on-all-4-major-networks/> ;

<http://online.wsj.com/public/page/what-they-know-digital-privacy.html> ;

<http://www.consumerreports.org/cro/2012/05/protect-your-privacy-on-facebook/index.htm> ;

<http://www.npr.org/blogs/alltechconsidered/2014/02/24/282061990/if-you-think-youre-anonymous-online-think-again> ; and a recent article about how to protect children's privacy which has tips that are useful for any social media/Internet user,

[http://online.wsj.com/news/article\\_email/SB10001424052702303775504579395262543045176-1MyQjAxMTA0MDIwNDEyNDQyWj](http://online.wsj.com/news/article_email/SB10001424052702303775504579395262543045176-1MyQjAxMTA0MDIwNDEyNDQyWj)

<sup>92</sup> <http://www.facebook.com/help/445588775451827>

<sup>93</sup> This correlates to the subject of privacy for court records in general. A source of information on this subject can be found at:

*Privacy/Public Access to Court Records Resource Guide*, National Center for State Courts; <http://www.ncsc.org/Topics/Access-and-Fairness/Privacy-Public-Access-to-Court-Records/Resource-Guide.aspx>

<sup>94</sup> "Court Debt Collection and New Media," *Courts Today*, October/November 2013, page 20; [www.courtstoday.com](http://www.courtstoday.com)

<sup>95</sup> "Social Media: The Future Will be Focused," *Government Technology*, December 2013, page 15;

<http://www.govtech.com/magazines/gt/Government-Technology-December-2013.html>

<sup>96</sup> *Social Media in the Public Sector Field Guide*, pp 149-155; <http://www.wiley.com/WileyCDA/WileyTitle/productCd-1118109937.html>

<sup>97</sup> "Facebook Notification -- You've Been Served: Why Social Media Service of Process May Soon Be a Virtual Reality," by Pedram Tabibi, 7 *Phoenix L. Rev.* 37 (2014).

<sup>98</sup> "Anticipated Social Media Trends for 2014," by Erik Haskell, *socialmedia today*, January 2014; <http://socialmediatoday.com/eric-haskell/2082851/anticipated-social-media-trends-2014>

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As we move forward there undoubtedly will be other, creative ways to leverage social media. Courts should always be looking for such opportunities to improve. An excellent way to stay informed about social media and the courts is to subscribe to the “Connected” newsletter of the National Center for State Courts, <http://www.ncsc.org/connected>.

## 14. Conclusion

This article has given a comprehensive overview of what social media are, why social media are important in society and the courts, how social media can be used effectively, what social media platforms are well-suited to the courts, what problems can arise, and how to proactively deal with such problems. In the early years of social media use in the courts there was a lot of skepticism. As we have gained experience most problems have been shown to be less severe or have been solved. Meanwhile, many usage advantages have become apparent. Research in the United States has shown that judges are increasingly supporting social media use by themselves and their courts, and are less concerned about problems and compromising ethics.<sup>99</sup>

Chief Justice Warren of the Victoria Supreme Court is right, social media is a tremendous opportunity to improve communication with the public and enhance the rule of law. The Partnership for Public Service concurs in a recent report, succinctly summing up where we stand as public servants *vis a vis* social media:

*“While government adoption and use of digital technologies remains uneven across federal agencies, the compelling value of social media to federal agencies has become clear:*

- *This phenomenon is here to stay. Its immediacy, ease of use and relatively low barrier to entry mean it will continue to displace other forms of communication and will become even more embedded in everyday life.*
- *Social media is more than just another route for one-time, one-way dissemination of static information. Government agencies can receive information back from populations, iteratively communicate with them about next actions, and reach and organize groups that then communicate with each other.*
- *Social media can connect large populations and remote groups, and content can be customized and updated almost instantly, at relatively low cost.*
- *And, most significantly, an entire generation of voters and taxpayers now expects to communicate and conduct transactions through social media. Many citizens do not even remember life without such interaction. This is the new normal.”<sup>100</sup>*

The courts hold a special place in government as impartial arbiters of legal disputes. We, as court leaders, must fulfill the public’s trust in us to achieve the highest level of service while upholding the rule of law. As we have seen, social media are excellent tools to make this a reality—the challenge is to securely and effectively leverage these tools in the court setting.

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<sup>99</sup> Conference of Court Public Information Officers (CCPIO) annual surveys of U.S. judges; <http://ccpio.org/publications/reports/>

<sup>100</sup> #Connected.Gov: *Engaging Stakeholders in the Digital Age*, Partnership for Public Service, January 2013; Booz Allen Hamilton, page 3. <http://www.boozallen.com/insights/insight-detail/connectedgov-engaging-stakeholders>

## ADDENDUM A

### I. Courts, Ministries of Justice, and Court Administrations

#### Constitutional Court of Columbia

Facebook: <https://www.facebook.com/corteconstitucionaldecolombia>  
Twitter: <https://twitter.com/CConstitucional>  
YouTube: <http://www.youtube.com/user/Cconstitucional/videos?sort=da&view=1>

#### Dominican Republic's Supreme Court of Justice

Twitter: <https://twitter.com/poderjudicialrd>  
YouTube: <http://www.youtube.com/user/poderjudicialrd>

#### Supreme Court of El Salvador

Facebook: <https://www.facebook.com/CorteSupremaJusticiaSv>  
Twitter: <https://twitter.com/CorteSupremaSV>

#### Courts of Georgia

Facebook: <https://www.facebook.com/geocourts>

#### Court Service of Ireland

Facebook: <https://www.facebook.com/CourtsServiceofIreland?v=wall>

#### Court of Appeal of Lithuania

Facebook: <https://www.facebook.com/pages/Lietuvos-apeliacinis-teismas/162768620471758>

#### Norwegian Courts Administration

Facebook: <https://www.facebook.com/Domstoladministrasjonen>  
Twitter: <https://twitter.com/Domstoladm>  
Flickr: <http://www.flickr.com/photos/domstoladministrasjonen/>  
-Oslo District Court is also on Twitter:  
<https://twitter.com/Osloetingrett>

#### Supreme Court of Mexico

Twitter: <https://twitter.com/scjin>

#### Constitutional Court of Peru

Facebook: <https://www.facebook.com/tribunalconstitucionalperu>  
Twitter: [https://twitter.com/tc\\_peru](https://twitter.com/tc_peru)  
YouTube: <http://www.youtube.com/user/tctusderechos#p/u>

#### Republic of Serbia, First Basic Court in Belgrade

Facebook: <https://www.facebook.com/pages/Prvi-osnovni-sud-u-Beogradu/207551739258879>

#### Surveillance Court of Rome

Facebook: <https://www.facebook.com/tribunaledisorveglianza.roma>  
Twitter: <https://twitter.com/tribsory>

#### Constitutional Council of France

Twitter: [https://twitter.com/conseil\\_constit](https://twitter.com/conseil_constit)

#### Republic of Turkey Ministry of Justice

Facebook: <https://www.facebook.com/lynn.crowley.9#!/tcadaletbakanligi>

#### UK Ministry of Justice

Twitter: <http://twitter.com/mojgovuk>  
YouTube: <http://www.youtube.com/user/MinistryofJusticeUK>  
Flickr: <http://www.youtube.com/user/MinistryofJusticeUK>

### II. International Courts and Tribunals

#### International Criminal Court

Twitter: <https://twitter.com/IntlCrimCourt>  
Flickr: <http://www.flickr.com/photos/icc-cpi/>

#### International Criminal Tribunal for the Former Yugoslavia

Facebook: <https://www.facebook.com/ICTYMKSJ>  
Twitter: <https://twitter.com/ICTYnews>  
YouTube: <http://www.youtube.com/ICTYtv>

#### Special Tribunal of Lebanon

Twitter: <https://twitter.com/stlebanon>  
YouTube: <http://www.youtube.com/stlebanon>  
Flickr: <http://www.flickr.com/photos/stlebanon>

#### Special Court of Sierra Leone

Twitter: <https://twitter.com/SpecialCourt>

#### Dubai International Financial Centre Courts

Twitter: <https://twitter.com/DIFCCourts>

#### Special Judicial Tribunal Established to Resolve Disputes Involving Dubai

Twitter: <https://twitter.com/DWTribunal>



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  - [http://www.infoworld.com/d/security/the-paranoids-survival-guide-how-protect-your-personal-data-237493?source=IFWNLE\\_tlead\\_2014-03-05](http://www.infoworld.com/d/security/the-paranoids-survival-guide-how-protect-your-personal-data-237493?source=IFWNLE_tlead_2014-03-05)
  - <http://www.techlicious.com/guide/the-guide-to-facebook-privacy-settings-2013/>
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  - <http://online.wsj.com/public/page/what-they-know-digital-privacy.html>
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