Social Media Records Management

Session 6 of 7 on records management

This training does not constitute a legal opinion or legal advice on the part of the Library, Archives and Public Records Branch, of the Secretary Of State.
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LAPR Website

www.azlibrary.gov
Archives and Records Management

The State Archives, located in the Polly Rosenbaum Archives and History Building, collects preservers and makes available to the public and all branches of government, permanent public records, historical manuscripts, photographs, and other materials that contribute to the understanding of Arizona history. The Archives and Records Management Center administers the management of public records throughout state and local government in Arizona.

Archival Research Materials

Archives and Records Management
Research at the Archives
Records Center Services
Retention Schedules, Standards, Forms and Guidance
Accessing Arizona Public Records
Conservation, Disaster Preparedness and Emergency Recovery
Programs, Training, and Presentations
Archives and Records Management Policies
Contact the Arizona State Archives and Records Management Center

We're here to help
Arizona State Archives
602-926-3720
Email
Records Management
602-926-3816
Pre-Session Quiz

1. Does your Public Body use Social Media?
   • If yes, why?
   • If no, why not?

2. Is your Public Body Facebook page a record?
   • If yes, why?
   • If no, why not?

3. What are the three biggest benefits of social media for your public Body?

4. What do you think are the three biggest challenges with managing social media?
Pre-Session Quiz

5. Is your Public Body currently managing its social media content?
   o If yes, who is doing this?
   o If yes, how is it doing this?

6. Are there RM risks to social media?
   • If yes, what are some of them?

7. Is your Public Body currently providing employee training on social media?

8. Does your Public Body have a Social Media Policy?

9. Given all the problems with managing social media, should your Public Body NOT be on social media?
Social Media

- Facebook
- LinkedIn
- Twitter
- YouTube
- Google
- Skype
- GovLoop
- and many more
Is Social Media a “Record”?

41-151.18. Definition of records

In this article, unless the context otherwise requires:

• "records" means all books, papers, maps, photographs or other documentary materials,

• Regardless of physical form or characteristics,

• Made or received by any governmental agency in pursuance of law or in connection with the transaction of public business

• As evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained in the record, and includes records that are made confidential by statute.
Benefits of Social Media: Why, Who, Where

Session 6 of 7 on Records Management
Benefits of Social Media

Social media is diversifying, but Facebook still dominates.

71% of online adults use Facebook.

- Facebook: 71%
- LinkedIn: 22%
- Pinterest: 21%
- Twitter: 19%
- Instagram: 17%

Social media isn't just for millennials:

45% of internet users aged 65+ use Facebook.
Facebook remains the most popular social media platform

% of online adults who use...

Note: 86% of Americans are currently internet users
Source: Survey conducted March 7-April 4, 2016.
“Social Media Update 2016”
PEW RESEARCH CENTER
Where Does Your Audience “Hang Out”? The Numbers Game?

http://pinterest.com/pin/112097478197769776
Among all American adults, % who use social networking sites, by age

WHERE DOES YOUR AUDIENCE “HANG OUT”?

http://pinterest.com/pin/112097478197769776/
Chart 26: ACTIVE USERS OF THE TOP SOCIAL PLATFORMS AND MESSAGING TOOLS, BY AGE

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Tumblr</th>
<th>Instagram</th>
<th>YouTube</th>
<th>Pinterest</th>
<th>Google+</th>
<th>Twitter</th>
<th>Facebook</th>
<th>LinkedIn</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 to 24</td>
<td>39%</td>
<td>37%</td>
<td>31%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>25%</td>
<td>24%</td>
</tr>
<tr>
<td>25 to 34</td>
<td>31%</td>
<td>29%</td>
<td>27%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>25%</td>
<td>24%</td>
</tr>
<tr>
<td>35 to 44</td>
<td>29%</td>
<td>29%</td>
<td>27%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>25%</td>
<td>24%</td>
</tr>
<tr>
<td>45 to 54</td>
<td>27%</td>
<td>29%</td>
<td>27%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>25%</td>
<td>24%</td>
</tr>
<tr>
<td>55 to 64</td>
<td>24%</td>
<td>29%</td>
<td>27%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>25%</td>
<td>24%</td>
</tr>
</tbody>
</table>

Legend:
- t: Tumblr
- : Instagram
- : YouTube
- : Pinterest
- : Google+
- : Twitter
- : Facebook
- : LinkedIn
- : Snapchat
- : Kik
- : Wechat
- : Line
- : Facebook Messenger
- : Viber
- : Whatsapp
- : Skype
- : Kakao

Question: Which of the following services have you used or contributed to in the past month using any type of device? e.g. PC/laptop, mobile phone, tablet, etc. # Which of the following mobile/tablet applications have you used in the past month? (on any device) # Source: GlobalWebindex Q4 2014 # Base: Active social network and active app users aged 16-64, excl. China
Primary Uses of Social Media by Government

Share
Inform citizens of public services through social content
(result: increased access to information)

Listen
Observe, analyze and understand what citizens are sharing
(result: improved customer service)

Engage
Respond, collaborate and create with citizens to improve public services
(involve the community directly in government decision making)
Benefits of Social Media for Public Bodies

• Provide greater transparency
• Reach citizens where they are (online)
• Provide easier access to services and information for citizens
• Save time
  o word of mouth advertising
  o allowing citizens to answer questions for one another
• Save money (otherwise spent on print materials and phone calls)
Primary Objective in Using Social Media

Results of GovLoop survey with 100 respondents from federal, state, city, and county governments. Source: GovLoop “The Social Media Experiment in Social Media: Elements of Excellence.”
Demonstrable Mission Impact

Results of GovLoop survey with 100 respondents from federal, state, city, and county governments. Source: GovLoop “The Social Media Experiment in Social Media: Elements of Excellence.”
WHAT GOVERNMENT DIVISIONS ARE USING SOCIAL MEDIA?

WHAT FUNCTIONAL AREA IN YOUR ORGANIZATION USES SOCIAL MEDIA?

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communications / Public Affairs</td>
<td>80.7%</td>
</tr>
<tr>
<td>Emergency Management / Fire / Police</td>
<td>34.9%</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>25.7%</td>
</tr>
<tr>
<td>Community Planning</td>
<td>22.9%</td>
</tr>
<tr>
<td>Public Works</td>
<td>22.9%</td>
</tr>
<tr>
<td>Health and/or Human Services</td>
<td>21.1%</td>
</tr>
<tr>
<td>Economic Development</td>
<td>19.3%</td>
</tr>
<tr>
<td>Environmental Protection / Services</td>
<td>19.3%</td>
</tr>
<tr>
<td>Transportation</td>
<td>17.4%</td>
</tr>
<tr>
<td>Budgeting / Finance</td>
<td>11.0%</td>
</tr>
<tr>
<td>Acquisition / Contracting</td>
<td>8.3%</td>
</tr>
<tr>
<td>Property Management</td>
<td>3.7%</td>
</tr>
<tr>
<td>Other</td>
<td>16.5%</td>
</tr>
</tbody>
</table>
Question #4: What are Some of the Challenges of Social Media

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The “Place" of Public Records

Why Mix Social Media and Records Management?

Isn’t Inherent Transparency of Social Media Enough?

Are Openness and Transparency the only responsibilities of Government?
Duties of All Public Bodies and Employees for Retention & Preservation

Establish and maintain an active, continuing program for the economical and efficient management of the public records of the agency.

ARS 41–151.14(A)(1)
Who is Managing all that Stuff?

Questions to think about

• What is the difference between data and records?

• Whose “responsibility” is it to provide Records Management service to their customers?

• Who is in the best position to “manage” electronic records?

• Is the creator of the content / record?

• Or, is the “post-er” of the content / record?

• Why do these questions matter?
Important RM Concept for all forms of Electronic Communication:

- **Is Content in Communication a Copy?**
- **Is that content (of original not copy) being retained and managed (from RM perspective) elsewhere?**
- **Is Content Unique information?**
- **Is Unique Content being retained and managed (from RM perspective)?**
- **Why do these questions matter?**
When is Social Media 
Not So Social?

Challenges with Social Media Records:

- A.R.S. require we (government) control (manage) our records during their entire retention period.

- Social Media sites provide little to no tools to help manage YOUR records on THEIR sites.

- Who controls the content on Social Media sites?

=C=Challenges to compliance with RM Statutes.
SOCIAL MEDIA OVERLAP

Social Media Overlap

Social Media Policy

© Mark Smiciklas, New Marketing & Social Media Strategist, IntersectionConsulting.com
Social Media Virgins Beware!

1. If You Post it, You Own It
   • Whatever content / records government bodies post to Social Media sites belongs to the public body and NOT to the Social Media site - from a Records Management point-of-view.

2. If You Own It, You Manage It
   • If you post something to any Social Media site, and the posting (words, pics, video, etc.) is work-related, then you have a statutory responsibility to retain the posted information for the approved & correct retention period.

   • Link to Social Media Records Retention Schedule:
     • http://www.azlibrary.gov/records/documents/pdf/all%20%20email.pdf

3. If You Created It, You Own It
   • The Creator of any content being posted to social media sites (or other websites) needs to be responsible for the proper retention of the content they created.
You’ve Got the Power
- at least some

4. Unique vs. Copy
   • **Copies Are Not Records.** As such, copies do not need to be managed.
   • **Avoid posting any unique or original content** to social media sites. Post only copies of information being managed elsewhere by a specific person responsible for its retention. This is especially grievous with **Videos** posted to YouTube, and the like.

5. “**Blogs and Wall Posts, Oh My!**”
   • These are the two most likely areas for **Unique content** that will need to be managed.

6. **Email All Wall Posts**
   • Make sure you set up your social media site to generate an email to your designated email account (ex. records@azlibrary.gov) **whenever anyone posts a comment to your wall.** You can then manage that email for retention since you cannot manage the retention on your social media site.
Social Media Challenges

( Archivedsocial Graphic)

**CHALLENGES OF MANAGING SOCIAL MEDIA**

Despite the growing use of social media in the public sector, it is still relatively new and **GOVERNMENTS ARE CHALLENGED BY**:

**LIMITED RESOURCES** (staffing, etc.):

There is a retirement wave hitting government agencies:

**NEARLY HALF OF STATE WORKERS ARE BETWEEN 45-64 YEARS OLD**

**LACK OF POLICY**:

**JUST OVER HALF OF STATE GOVERNMENTS** have policy language in place governing personal use of social media by state employees.
Public records requests
(Archivesocial graphic)
What Records Managers Need to Know About Social Media

Session 6 of 7 on Records Management
What’s the ROI on Records Management?

The benefits of having a good Records Management Program in place:

**Financial Benefits:**
- Save money and resources previously being spent on storing records (physical floor space, server space, off-site storage):
- Save money and resources for records no longer needed:
  - spent in searching for, retrieving, copying, producing or redacting records in response to requests

**Risk Management Benefits:**
- If you have the information, you need to provide it for Public Records Request, Audit, Investigation, Litigation
- If you don’t have the information because you destroyed it per a Retention Schedule, you are legally OK.
  - Caveat: records were not destroyed in the face of a Public Records Request, Audit, Government Investigation or Litigation.

**Process Improvement**
- Incorporating Records Management into document workflows
- Converting paper records into move usable electronic formats
- Properly indexing electronic records for easier retrieval
- Consolidating physical records into one convenient location with better shelving and storage
Overview of What RM needs to Know

- Become familiar with Social Media
- Understand the value to the organization and subunits
- Become involved from the start (RIM reference should be in every social media policy)
- Set strategic plan to handle social media records
  - both static and dynamic,
  - including the people, objectives, strategies and technologies
- Be sure provisions are made for transfer or in place preservation
- Continue to audit results and evaluate processes
- Update your plan as necessary
- Scan the horizon for the next new technology that results in records that must also be captured and managed—it’s sure to come

Patricia C. Franks, PhD, CRM (From presentation to NAGARA - Indianapolis, given on July 12, 2013)
If Answer is **YES** to Any of the Following, your SOCIAL MEDIA Must be Supported by Recordkeeping Framework

• Is a high risk or strategic business moving to (using) social media?

• Are business or client management decisions being made or communicated via social media?

• Are internal processes that were formerly supported by defined processes or workflows now moving to social media?

• Will clients rely on information posted to social channels?

• Will corporate reporting or accountabilities rely on the information posted to social media?

• Will any of the content being used on social media channels be reused?

  - Patricia C. Franks, PhD, CRM (From presentation to NAGARA - Indianapolis, given on July 12, 2013)
Develop a Defensible RIM Program

- Create and implement a records and information management (RIM) program.
- Consider legal retention requirements ‘before’ implementing social media initiatives.
- Publically state you will be capturing and keeping social media information you need to support your operations.
- Periodically delete ESI (Electronically Stored Information) according to your “formal” retention policy.
- Enforce, evaluate, and update your Social Media and Records & Information Management policies and practices.

Patricia C. Franks, PhD, CRM (From presentation to NAGARA - Indianapolis, given on July 12, 2013)
To Implement Social Media Recordkeeping

- Understand the specific risks that apply to social media
- Know what the organization is doing with social media
- Develop a social media information strategy
- Support social media use with a policy that supports recordkeeping
- Be proactive
- Keep abreast of emerging trends in social media systems and use

  Patricia C. Franks, PhD, CRM (From presentation to NAGARA - Indianapolis, given on July 12, 2013)
Your Social Media Records Management Arsenal

Session 6 of 7 on Records Management
Social Media Solution: a Policy, a Matrix, and a Practice (RM)

Components of a Fully Integrated RM Solution to Social Media:

- “4 Pillars” of Records Management
  - Retention Schedules
  - Policies
  - Training
  - Documentation and Auditing

- Social Media Matrix
- Implementation and execution (enterprise-wide)
- Software / Technology Solution

Understanding the Solution?
- What is required in order to be in compliance?
- What your solution can and cannot do
- Need to create a workaround
Social Media Retention Periods

Social Media Records managed by content

Public Information and Marketing Records General Retention Schedule:
http://apps.azlibrary.gov/records/general_rs/Public%20Information%20and%20Marketing.pdf
“How Long Do We Need to Keep Social Media Records?”

3 Main Retention Periods

**Retention Period: After reference value has been served**
**Type of Record:**
Graphic Art (temporary / minor, draft)

**Retention Period: 2 years after calendar year created or received**
**Type of Records:**
Advertising and Outreach Records, Broadcast Logs, Photographs, Press Releases, Public Event Records (including calendar), Public Service Announcements (PSA), Speeches

**Historical Records: Permanent. May Transfer to State Archives**
**Type of Records:**
Graphic Art (Final version)
Records of enduring value
Social Media Policy…
Records Management Perspective

- State and Understand Why You Are Using Social Media
- Define the Roles and Responsibilities
- Determine Who “Owns” the Content
- “Use the Matrix, Luke”
- Use the Terms of Use
- Execution, Implementation, Compliance and Auditing
Key Aspects to Your Social Media Policy

- **Identifying what constitutes a record** on social media platforms
- Defining **ownership of content** and **responsibility for managing** the records
- Developing **recordkeeping requirements**
- Incorporating **recordkeeping practices and requirements** into **Terms of Use**
- Communicating **records policies so employees** and the public understand how records will be managed
- Monitoring the **ongoing use of social media platforms** to determine if that use changes the value of the records
- Monitoring any **changes to third-party terms of use**

Steve Adams (From presentation to NAGARA - Indianapolis, given on July 11, 2013)
Social Media Matrix

Overall Goals of the Matrix:

- Map business (or unit) moving to social media
- Map information moving to social media
- Assess your information needs and expectations
- Assess public accountabilities
Questioning the Matrix

**Question to ask and answer BEFORE:**
- Why are you using social media?
- **Intended vs Actual** audience?
- Goals?
- Message?

**Information to Capture:**
- Who “owns” the product?
- Departments / Individuals using Social Media?
- Sites are they using / links?
- Access keys?
- Content?
### Go Back to the Matrix – Example of US Government

#### Matrix of Web 2.0 Technology and Government

<table>
<thead>
<tr>
<th>Technology</th>
<th>Simple Definition</th>
<th>Examples</th>
<th>Opportunity/Potential in Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blogs</td>
<td>Journal or diary with social collaboration (comments)</td>
<td>33 federal agencies have public blogs, USA.gov government blog library, Webcontent.gov advice, GovGab.gov</td>
<td>Govt info to new audiences. Puts human face on govt using informal tone. Opens public conversations. Surface issues &amp; solve them.</td>
</tr>
<tr>
<td>Wikis</td>
<td>Collaborative authoring &amp; editing</td>
<td>GSA Collab Environment, Core.gov, MAX, NASA, US Courts, Intellipedia, PTO, Diplopedia, PeaceCorps, Utah Politiopia</td>
<td>Workgroup or public collaboration for project management, knowledge sharing, public input. Contributions to 3rd party sites e.g. Wikipedia</td>
</tr>
<tr>
<td>Video Sharing (and Multimedia)</td>
<td>Videos, images, &amp; audio libraries (YouTube, AOL Video, YahooVideo, tubemogul, heyspread…)</td>
<td>USA.gov Multimedia library, NOAA &amp; NASA YouTube, Coast Guard, CA &amp; VA YouTube Channels, Americorps contest, Tobacco Free Florida contest</td>
<td>Public outreach, education, training, other communication for “connected” and on-line audiences. How To videos &amp; audios to improve service and achieve mission.</td>
</tr>
<tr>
<td>Podcasting</td>
<td>Multimedia content syndicated out for use on iPod TM, Mp3 players &amp; computers</td>
<td>White House, NASA, USA.gov federal podcast library, Webcontent.gov, Peacecorps, Census daily podcasts</td>
<td>More ways to get message out. Build trust with conversational voice. Use for updates, live govt deliberations, emergencies, how-to messages</td>
</tr>
<tr>
<td>Mashups</td>
<td>Combine content from multiple sources for an integrated experience</td>
<td>USA Search, USGS, NASA, EPA, Virtual Earth, Google Earth, Google maps</td>
<td>Lots of potential. Improved govt reach, service, usefulness, and functionality. Integrate external data. Get licenses, stay vendor neutral. Make content available to others who create mashups</td>
</tr>
<tr>
<td>Widgets, Gadgets, Pipes</td>
<td>Small applications &amp; code in Web pages or for desktop use</td>
<td>FBI widgets, Veterans Affairs, Census Population Clock &amp; NASA Planet Discoveries Desktop widgets</td>
<td>Increase awareness, use, and usefulness of .gov sites, information, and service. Bring content to the user’s home page (Google, netvibes, etc)</td>
</tr>
<tr>
<td>Social Bookmark &amp; News (Sharing, Tagging) Sites</td>
<td>Ways of sharing content with others</td>
<td>USA.gov, NASA, Govt blogs, Digg, Delicious Technorati, AddThis</td>
<td>Increase the popularity and use of .gov pages, information, and services. Viral marketing.</td>
</tr>
</tbody>
</table>

July 18, 2008    Bev Godwin, USA.gov and Web Best Practices, GSA Office of Citizen Services
### Social Media Matrix

<table>
<thead>
<tr>
<th>Technology</th>
<th>Link To</th>
<th>What is the Message?</th>
<th>Department</th>
<th>Who is Author?</th>
<th>Username</th>
<th>Password</th>
<th>Freq.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facebook</td>
<td><a href="http://www">www</a>._____</td>
<td>Current Events</td>
<td>Parks and Recs</td>
<td>Jane Smith</td>
<td>janeparks</td>
<td>playground15</td>
<td>Weekly</td>
</tr>
<tr>
<td>Blog</td>
<td><a href="http://www">www</a>._____</td>
<td>City Technology</td>
<td>I.T.</td>
<td>Jim Jones</td>
<td>JimCIO</td>
<td>ivegotthepower</td>
<td>Weekly</td>
</tr>
<tr>
<td>Twitter</td>
<td><a href="http://www">www</a>._____</td>
<td>Public Safety</td>
<td>Police Department</td>
<td>Capt. Williams</td>
<td>captsafty</td>
<td>gotyoucovered</td>
<td>Hourly</td>
</tr>
<tr>
<td>Twitter</td>
<td><a href="http://www">www</a>._____</td>
<td>Traffic Problems</td>
<td>Transportation</td>
<td>Betty White</td>
<td>BettyWhite</td>
<td>lifeisahighway</td>
<td>Hourly</td>
</tr>
</tbody>
</table>
Verifying Your Municipality’s Social Media Accounts

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Why Verify Your Municipality’s Social Media Sites?

1. Verification ensure the public we are who we say we are

2. More important now than ever: thousands of government pages on social media and more all the time

3. Impersonation and Parody accounts are common

4. Fake accounts can create confusion and chaos
   Examples: Baltimore riots saw as many as 100 fake government accounts
   Hurricane Sandy impersonation accounts gave misleading information

5. Fake accounts can hijack your message

6. Verify NOW and not later – after an emergency, problem
How to Verify Facebook Accounts

https://www.facebook.com/help/100168986860974
How to Verify Twitter Accounts

THE BASICS

Verification on Twitter

Verified accounts
Twitter proactively verifies accounts on a regular basis to make it easier for users to find who they’re looking for. We concentrate on highly sought users in music, television, government, politics, religion, journalism, fashion, media, advertising, business and other categories where people might be highly visible. We verify qualified business partners and individuals who are at high risk of impersonation, such as celebrities and politicians.

Verification makes it clear to our users, and others on the Internet who can view your Twitter feed, that the Tweets being posted to your account are really coming from you. When you’re verified, we put a blue badge with a check mark next to your @username. All accounts with this badge have been checked and authenticated by Twitter.

To be considered
- The Twitter accounts you request verification for must be connected to a company domain email address.
- The account must be actively tweeting and have a complete profile, including the user’s real name, bio, photo and a URL link.

Please note
Twitter currently does not accept applications for verification. If we identify your account as being eligible, we will reach out to you to start the verification process.

https://media.twitter.com/best-practice/how-to-get-verified
How to Verify Pinterest Accounts

How to Verify Your Account

Pinterest's verification feature lets you validate that you own the website listed on your Pinterest profile.

To verify your website, visit your Settings page and click on the Verify Website button. Pinterest supports only top-level domains, but you can send suggestions on alternative verification options using this Google Docs Spreadsheet.

Pinterest will ask you to download a HTML verification file and upload it to your Web server. Once Pinterest verifies your website, other Pinterest users will see a checkmark next to your domain in search results and the full website URL and checkmark on your profile.
Federal Government Verification Tool

Verify U.S. Federal Government Social Media Accounts

The government uses social media tools like Twitter, Facebook and YouTube to connect with people and communicate official information, so it’s important to know if a social media account is really managed by the federal government.

This tool lets you verify if a social media account is managed by the U.S. federal government.

You can look up accounts managed by federal agencies, elected officials, heads of agencies or members of the President’s Cabinet.

To see if a social media account is managed by the U.S. federal government, please paste its complete URL here:

Example: http://twitter.com/whitehouse

Types of accounts we can verify:

- Blip
- Disqus
- Facebook
- Flickr
- Foursquare
- Github
- Google+
- IdeaScale
- LinkedIn

Share:  Facebook  Twitter
Legal Challenges of Social Media for Municipalities

Session 6 of 7 on Records Management
Risk Component – Terms of Use (TofU) Contracts

Problem - If you want to use the Social Media site you Agree!

- Employee mindset toward setting up Social Media account is trained by their own personal use of Social Media

- We have been trained by previous use to “Click to Agree” to Terms and Conditions – but this is a CONTRACT

- Contract between Public Body and Social Media site very likely to be established by employee NOT Lawyer or Procurement professional

  - Employee likely did not even scroll through TofU to review for acceptability

  - If they did, they probably would not know what is significant, what is in violation of Public Body procurement policies & practices, etc.
Facebook – California is Jurisdiction

- If you (or your employees) click “Accept” – **Your Public Body** Agrees to:
  - You agree to handle any legal challenges in California
    - Santa Clara County
    - California State Laws apply
    - Agree to limit Indemnity
    - Are your Public Body Attorneys licensed in California?

  - What You Lose – Your right to handle dispute in Arizona
Successes from State & Municipal Partnership - New Facebook ToU for Public Bodies

New Option for 2011
State and Local Government Exception – What You Get

- Strikes Jurisdiction / venue in CA
- Strikes Application of CA Law
- Strikes the indemnity clause except to the extent indemnity is allowed by a state’s constitution or law
- Encourage amicable resolution between public entities and Facebook over any disputes
Government Terms

Amended Terms for Federal, State and Local Governments in the United States

If you are a federal, state or local government or government agency in the United States ("You"), and You are using Facebook Services in your official capacity ("Official Use"), the following terms apply solely to such use and all other terms remain in effect.

1. Disputes

You and Facebook will endeavor to resolve any disputes in an amicable fashion. To the extent arbitration is prohibited by applicable law, terms related to binding arbitration do not apply to Official Use by federal users.

2. Venue and Governing Law

Terms relating to venue and governing law do not apply to your Official Use. For federal government and federal government agencies, any action You have with us will be governed by the laws of the United States of America (without reference to conflict of laws) and, in the absence of federal law and to the extent permitted under federal law, the laws of the State of California will apply.

3. Indemnity

If You are the federal government or a federal government agency in the United States:

Terms relating to indemnification do not apply to your Official Use except to the extent expressly authorized by federal law.

If You are a state government or state government agency in the United States:

Terms relating to indemnification will apply to You only to the extent expressly permitted by your jurisdiction's laws.

If You are a local government or local government agency in the United States:

Terms relating to indemnification will apply to You only to the extent permitted by your jurisdiction's laws.

4. Disclaimer Requirement

If You have an official website, your Page must contain, in a prominent location: "If you are looking for more information about [Government Entity], please visit [website URL]."

5. Endorsement

For federal government agencies, Facebook will not use your name, seals, trademarks, service marks, trade names, and the fact that You have a presence on Facebook or use other Facebook Services, to state or imply an endorsement of Facebook Services. However, Facebook may use your seals, trademarks, services marks, trade names, and the fact that You have a presence on Facebook or use other Facebook Services, as necessary for Facebook's regular operation of its Services.

6. Advertisements

For federal government agencies, if You submit a written request to Facebook to block the display of any commercial advertisements, solicitations or links on your page, Facebook may so agree provided that it has decided to make such blocking technology generally available for pages. Your sole remedy for Facebook's failure to implement such blocking technology shall be for You to terminate your use of pages.
Facebook Government Exception – How to Get It

• State and Local Government Exception Applies ONLY IF:

  o Select “Community / Government” Designation

  o MUST Link Facebook page to your Government website

  o Do NOT click “Education” or “Organization”

  o If you opened Facebook page before 2011 – MUST change page to “Government”
Additional Legal Challenges of Social Media

• Harassment
• Defamation
• Copyright/Trademark infringements
• Breach of Confidentiality
• Endorsement Advertising Violations
• Recordkeeping
Social Media Court Case (online personna)


One of the first trials on the issue of who owns social media accounts: the individual employee who first created the account? or the employer whose business was promoted using the account?

The U.S. District Court for the Eastern District of Pennsylvania held that an employer's conduct, absent a company social media policy, resulted in the torts of unauthorized use of name, invasion of privacy by misappropriation and misappropriation of publicity.

http://www.socialmedialawupdate.com/2013/03/articles/social-media/who-owns-your-online-persona/
The employer may have prevailed if it had implemented a social media policy that covered factors relevant to ownership, such as whether:

1. the employer paid the social media account fees;
2. the employer dictated the precise contents of the employee's account;
3. the employee acted expressly on behalf of the employer due to their position, role or responsibility; or
4. the social media account was developed and built through investment of the employer's time and resources.

http://www.socialmedialawupdate.com/2013/03/articles/social-media/who-owns-your-online-persona/
Specific Problem Areas

Session 6 of 7 on Records Management
#1. Beware “Executive Communication” and Social Media

- **Executive Correspondence is a Permanent record if it “sets or discusses policy”**

- **Any communication / correspondence** that either discusses or sets policy, and takes place in any “physical form or characteristic” (ARS § 41-151.18), involving an executive (any Board, Commission or Council member, an Agency Director, elected official, County / Department / Division Leadership) will meet the definition of “Executive Correspondence”

- Since Policies are Permanent, then executive discussions of Policies become important Permanent records to help provide context to the Policy(ies)

- **Where** this discussion takes place does not matter: could be on paper, on a website, in an email, on Social Media, in a blog, in a shared workspace, definitely in Sire, etc.

- This specific records series is from General Schedule GS 1021 Officials Records

Why is this a challenge?
#2. Beware of Historical Records

If a record is historically significant, it is a permanent record. **Permanent Records are of interest to the State Archives and future researchers.**

Records are deemed historically significant records when they:

- Document a controversial issue
- Document a program, project, event or issue that results in a significant change that affects the local community, city, county or state
- Document a program, project, event or issue that involves prominent people, places or events
- Document a program, project, event or issue that resulted in media attention locally, statewide or nationally

Why is this a challenge?
#3. Elected Officials and Social Media

- Avoid “cleaning house” to make room for the newly elected official.
- Include both in-house and vendor / media produced
- Controversial Topics / Topics of Interest (prev. 2 slides)
- What records on Social Media will be of interest to the State Archives and the future:
  - Videos / Tweets / Media attention specifically involving the elected official
  - Inauguration
  - Speeches / Statements
  - Letters / Proclamations
  - Press Releases
  - Significant Events
  - Photos
  - Bio Statements
  - Involving Core Values / Duties of Office
#4. Video as Record / Permanent Record

Videos and Tweets: Your website, YouTube, Facebook, Twitter, etc.

- Make sure your only copy of the video / tweet is NOT online @ Social Media site.

What types of videos / tweets would be of interest:

- Involving Core Values / Duties of Office

- Deal with controversial topics and/or topics of interest – You will recognize many of these issues, especially if you suddenly get a large number of letters, calls or e-mails on a hot topic:
  - in opposition to an issue
  - in support of an issue
  - expressing a concern

- Examples of Current / Recent Issues
  - Abortion, Alternative fuels, Environmental issues, Fiscal concerns, Forests, wildfires and forest management, Gambling / casinos, Gas prices, Gay rights, Gun control, Freeways or highways, Illegal immigration, Land and development issues, Legalization of drugs, Legislation (involving your Agency), Important landmarks (if you still have correspondence), Terrorism/terrorists, Water issues, Welfare issues (for or against)
Social Media Retention
Tools Available From …?

Session 6 of 7 on Records Management
Social Media Tools for Capturing Content - WARNING

- Some social media sites now provide built-in “archiving” tools that will help you capture the content in a location outside of the social media site.

- Most of these tools are NOTRM approved tools, because they don’t have any retention capabilities, but merely a way of grabbing and saving content.

- These may not provide a legally defensible audit trail in court, so choosing between the tools requires a critical analysis, and may require additional technology layers.

- Since Facebook and Twitter did not initially provide archiving tools themselves, some other third-party applications have popped up to perform the task.

- Ask your potential vendor about the retention management capabilities.
State of Arizona Social Media Policy:
https://aset.az.gov/sites/default/files/P505%20Social%20Networking%20Policy_0.pdf

National Archives Guidance on Social Media:

Social Media Database of 113 Policies:
http://www.socialmediatoday.com/SMC/155843

Web 2.0 Governance Policies and Best Practices:

Social Media Policies Database:
http://socialmediagovernance.com/policies.php
Got Questions?

Of course you do!!
HELPFUL CONTACTS

**Records Management Center** (LAPR):  
http://www.azlibrary.gov/records/  
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**State Ombudsman’s Office**  
http://www.azleg.gov/ombudsman/default.asp

**State Attorney General – Records Publication**  
https://www.azag.gov/sites/default/files/sites/all/docs/agency-handbook/ch06.pdf

**ARMA International:**  
http://www.arma.org/

**Institute of Certified Records Managers** (ICRM):  
http://www.icrm.org/

**National Archives and Records Management** (NARA):  
http://www.archives.gov/records-mgmt/

**National Association of Government Archivists and Records Administrators** (NAGARA):  
http://www.nagara.org/index.cfm

**AIIM – Global Community of Information Professionals**  
http://www.aiim.org/