



Utah State Courts

Social Media Subcommittee
of the
Judicial Outreach Committee



The mission of the Utah State Courts is to provide an open, fair, efficient, and independent system for the advancement of justice under the law.



SOCIAL MEDIA SUBCOMMITTEE OF THE JUDICIAL OUTREACH COMMITTEE

Social media such as Face book, YouTube, and Twitter are transforming the way people get information and understand the world. How will this affect the courts? The court's Social Media Subcommittee looked at a number of social media issues and how this new media impacts the courts. The Social Media Subcommittee is under the umbrella of the Standing Committee on Judicial Outreach, which was formed by the Utah Judicial Council.

The Social Media Subcommittee was tasked with addressing the following issues:

1. Explore proactive use of social media to promote judicial programs and communication with stake holders.
2. Recommend a policy for use of social media by judicial employees.
3. Recommend a consistent court policy regarding use of social media in judicial proceedings in all levels of court.
4. Recommend a consistent media policy for use of computers, cell phones, PDAs and other electronic devices to tweet, blog, and otherwise communicate or report on court proceedings.
5. Study the impact of social media on judges and determine if a revision to the Code of Judicial Conduct is necessary.

The subcommittee began meeting in January 2011 and completed its work in December 2011. The subcommittee wrote and issued four reports during this time. These reports were reviewed by the Standing Committee on Judicial Outreach and forwarded to the Utah Judicial Council. Following is a list of reports and the dates the reports were presented to the Council and the action taken:

1. *Judicial Use of Social Media-October 11, 2011, adopted*
2. *Possession and Use of Electronic Devised in Court Facilities-forwarded to the Council's Study Item Committee on the Use of Electronics in the Courtroom*
3. *Judges Use of Social Media-November 11, 2011, accepted. Recommendations referred to the Policy and Planning Committee to consider methods of implementation.*
4. *Court's Use of Social Media-February 27, 2012, report received.*

Members of the Social Media Subcommittee

The Social Media Subcommittee was comprised of judges from each level of court, court staff members, and community members. These members provided valuable input on the court's use of social media and made recommendations to move the court's use of social media to the next level.

Randy L. Dryer, Chair, Parsons Behle & Latimer

Brock Beattie, Zions Bank, Legal Counsel

Duane Betourney, 3rd District Juvenile Court, TCE

Ron Bowmaster, AOC, IT Director

Judge Michele Christiansen, Court of Appeals

Megan Crowley, University of Utah Center for Public Policy and Administration

Judge Jeffrey Noland, 2nd District Juvenile Court

Rob Parkes, AOC, Director of Education and Human Resources

Tim Shea, AOC, Senior Staff Attorney

Judge Andrew Stone, 3rd District Court Judge

Jessica Van Buren, State Law Library, Director

Nancy Volmer, AOC, PIO

**REPORT AND RECOMMENDATION OF THE SOCIAL MEDIA SUBCOMMITTEE
OF THE JUDICIAL OUTREACH COMMITTEE
RE: JUDICIAL EMPLOYEE USE OF SOCIAL MEDIA**

Social Media is revolutionizing the way people communicate and provides employees with unparalleled opportunities for professional networking and development. The vast majority of Utahns, old and young alike, are utilizing Social Media in one form or another and judicial employees are no exception. The judiciary has lagged behind the private sector and the other two branches of government in terms of embracing Social Media as a viable public outreach tool in allowing employee use during work hours. The current policy of blocking employee access to Social Media sites is outdated and does not reflect the realities of the modern workplace.

The attached proposed policy allows employee use of court technology resources to access Social Media during work hours under appropriate safeguards and restrictions. Allowing employee use of Social Media during work hours will improve employee morale, enhance future recruitment and retention, foster professional development and better enable employees to perform their job duties. Employee access to and use of Social Media during work hours is not without risks and also raises concerns regarding potential loss of productivity and distraction from employee job performance. Consequently, Social Media use by judicial employees should be regulated and conducted in accordance with best practices applicable to the unique role played by judicial employees. The proposed policy attempts to recognize the benefits of Social Media to both the judiciary and judicial employees, while minimizing the accompanying risks. While the subcommittee recognizes that the proposed policy is a dramatic departure from existing policy, we fully believe the proposed policy properly balances the risks and benefits of Social Media and will bring the Utah Judiciary more in line with the other branches of government in Utah and elsewhere.

The proposed policy deals with judicial employees and contract workers, but not to judges. Judges' use of Social Media will be addressed in a separate report yet to be finalized.

Social Media Subcommittee of the Judicial Outreach Committee

Randy L. Dryer, Chair, Parsons Behle & Latimer
Brock Beattie, Zions Bank, Legal Counsel
Duane Betourney, 3rd District Juvenile Court, TCE
Ron Bowmaster, AOC, IT Director
Judge Michele Christiansen, Court of Appeals
Megan Crowley, University of Utah Center for Public Policy and Administration
Judge Jeffrey Noland, 2nd District Juvenile Court
Rob Parkes, AOC, Director of Education and Human Resources
Tim Shea, AOC, Senior Staff Attorney
Judge Andrew Stone, 3rd District Court Judge
Jessica Van Buren, State Law Library, Director
Nancy Volmer, AOC, PIO

POLICY ON THE USE OF SOCIAL MEDIA FOR UTAH JUDICIAL EMPLOYEES

1. PURPOSE

The purpose of this policy is to:

- A. Recognize the growing use of social media by the Judiciary and its employees;
- B. Recognize the value of Social Media networks as a means for the professional development of employees and as a tool for the Judiciary;
- C. Advise employees of the risks of Social Media activity and the need to adhere to applicable Codes of Conduct and other policies when using Social Media in order to preserve the integrity, dignity and independence of the judiciary;
- D. Avoid loss of productivity and distraction from employees' job performance; and
- E. Ensure that the Judiciary's IT resources are used only for appropriate purposes.

2. SCOPE

For purposes of these guidelines, Social Media is used in its broadest sense and includes:

- A. Electronic, web-based technology that allows instant, widespread and interactive communication or,
- B. Activity on the internet that involves posting by the employee.
- C. Examples of Social Media include, but are not limited to blogging, podcasting, hosting or updating any form of website, posting comments, photos, other graphics, documents, links, status updates, or multimedia materials to a third-party hosted website, saving website bookmarks to a public site, filling out surveys, or sharing or participating in any other way on a social networking site like Facebook, LinkedIn, a micro blogging site like Twitter, developing or contributing to a wiki like Wikipedia or a virtual world like Second Life, and so on.

3. APPLICABILITY

As used in this policy, "employees" means court employees, court interns, court externs, and court volunteers, and bailiffs and security officers. "Employee" does not include judges, court commissioners, senior judges or judges pro tempore, whose conduct is governed by the Code of Judicial Administration.

4. RISKS OF SOCIAL MEDIA ACTIVITY

Your online communications may be seen by others as a representation of your character, judgment and values and you may be perceived as an extension of the Judiciary regardless of your intent. Be mindful of the following:

A. You have a position of public trust and owe significant legal and ethical obligations to the public and to the Judiciary. These obligations include duties to maintain confidential information, avoid conflicts of interest, and observe high standards of conduct in order to preserve the integrity, dignity and independence of the Judiciary.

B. Any Social Media post should be presumed public and permanent. Social media posts can be copied, forwarded or subpoenaed. They are impossible to retrieve or eradicate and may be seen by wide and unintended audiences. You have no control over a post's dissemination or ultimate use.

C. Posting some types of information on Social Media may be misleading (even though it is not so intended) and may jeopardize your professional image or reputation and, by extension, the Judiciaries. You should be especially careful when posting or sharing photographs and personal information, and be similarly cautious when sharing political, religious or social opinions.

5. COMPLIANCE WITH OTHER POLICIES

Social Media shall never be used in a way that violates statutes, court rules, any Court policy or other ethical or professional responsibility. If a Social Media activity would violate a statute, court rule, court policy or other ethical or professional responsibility in another forum, it will also violate them in an online forum. In particular, the following policies should be kept in mind:

- Employee Code of Personal Conduct 500
- Professional Conduct of Court Commissioners
- Code of Judicial Conduct
- Standards of Personal Conduct to employees of the Utah State Juvenile Court

6. OFFICIAL BUSINESS AND EMPLOYMENT RELATED USE OF SOCIAL MEDIA

Use of Social Media for official business or employment-related purposes is permitted under the following conditions:

A. Only employees authorized by the state court administrator or his/her designee may prepare and modify Social Media content.

B. Content must be relevant to the mission and functions of the Judiciary and meet the goals or purposes developed by the Judicial Council and the AOC.

C. Supervisors are responsible for ensuring compliance with this policy. Supervisors are authorized to remove content that does not meet the requirements of this policy or that may be illegal or offensive. Removal of such content may be performed without advance notice to, or the permission of, the individual who posted the content.

D. Employees are not entitled to any expectation of privacy associated with any Social Media activity related to official business or employment-related purposes even where private technology resources are used.

7. USE OF COURT TECHNOLOGY RESOURCES

Court technology resources may be used by employees only in accordance with the following provisions:

A. Employees may use court technology resources to access and participate in Social Media for official business and employment-related purposes only in accordance with the provisions of Section 6 of this policy.

B. Employees may make occasional and incidental use of Court technology resources to access and participate in Social Media for personal purposes. However, such personal use is limited and subject to the conditions set forth in this policy and in Section 9 of the Code of Personal Conduct and must not detract from the Court's integrity, dignity or functions. Such activities also may not interfere with the timely performance of work duties.

C. Employees may not use Court technology resources to support personal business ventures. Employees may not use Court technology resources to engage in outside activities, except as permitted under Section 8 of the Code of Personal Conduct.

D. Employees are prohibited from installing software or applications on Court technology resources to support Social Media except for official purposes pursuant to Section 6 of this policy.

E. Use of the Court email address for the purpose of establishing or creating a social networking account or site (for example, blogs, Facebook, You Tube, Twitter, Second Life, etc.) is not permitted, except for official purposes pursuant to Section 6 of this policy.

F. Employees are not entitled to any expectation of privacy related to the use of court technology resources for Social Media purposes. This includes Social Media activity, which is personal in nature and done during non-work hours.

8. PERSONAL USE OF SOCIAL MEDIA DURING AND AFTER WORK HOURS WHERE YOU IDENTIFY YOURSELF, DIRECTLY OR INDIRECTLY, AS A JUDICIAL EMPLOYEE

The Utah Judicial Council respects the right of employees to use Social Media as a vehicle for self-expression and public conversation, and will not discourage or discriminate against employees who participate in Social Media. Employees are, however, required to comply with the restrictions on personal use stated in this policy and specifically, with the following:

A. In all Social Media activities, the employee must abide by the Code of Conduct for Judicial Employees, including the obligation not to reveal any confidential, sensitive or non-public information obtained through the course of employment by the Court.

B. Judicial employees are expected to avoid impropriety and conduct themselves in a manner that does not detract from the integrity, dignity and independence of the Judiciary. Common sense counsels discretion in the nature and subject matter of internet postings.

C. An employee may identify her/himself as an employee of the Utah Judiciary generally, but may not specify their title or position or identify the court, judge or department for whom they work.

D. Employees are personally responsible for comments they post on Social Media, and can be held personally liable for comments that are defamatory, obscene, discriminatory or otherwise offensive or unlawful.

F. If employees choose to identify themselves as judicial employees on Social Media, some readers may view them as spokespersons for the judiciary or the Courts. Because of this possibility, employees must state that any views they express on Social Media are their own and not those of the Judiciary or any Court.

G. The employee must regularly review the social media and websites that they create or host and promptly remove third-party posts that (1) compromise court security or the safety of judges and employees (2) reveal non-public court records or other confidential judicial information and (3) contain information that the employee could not have posted personally under this policy.

H. Employees must comply with all copyright laws and reference or cite sources appropriately. Plagiarism applies online as well.

I. You must obey the law and the rules of the website or social network site in which you participate. Further, even if not explicitly directed by this policy, you should obey other applicable legal and ethical rules.

9. USE OF PERSONAL EQUIPMENT DURING NON-WORK TIME WHERE YOU DO NOT, DIRECTLY OR INDIRECTLY, IDENTIFY YOURSELF AS A JUDICIAL EMPLOYEE

It is not the goal or intent of this policy to regulate your personal Social Media activities where you do not, directly or indirectly, identify yourself as a judicial employee and when you are not at work and are not using Court technology resources. However, certain activities might impact your working relationships or rights that the AOC has the ability to regulate. As a consequence, the following conditions apply even to your after hours, personal Social Media activities:

A. All employees must ensure that they are familiar with Judicial policies and confidentiality guidelines to avoid any Social Media activity that might violate those policies. In addition, you should ensure that your Social Media activities do not violate a State or AOC policy regarding harassment, discrimination, retaliation, or other similar policies pertaining to how employees interact with each other. If you post or say something online that makes another employee feel uncomfortable at work, your activity may result in an investigation and possible discipline.

B. Employees must at all times comply with the restrictions and prohibitions of Sections 8A, 8B, and 8G of this policy.

10. PROHIBITED ACTIVITIES

Notwithstanding any other provision of this policy, employees are prohibited from engaging in the following Social Media activity, whether the activity is during or after work or whether the activity is using personal or Judiciary technology resources and regardless of whether Judiciary employment is identified:

A. Seal and Logos

The seal, logos, trademarks or service marks of the Judiciary, the AOC and any individual court or judicial department or committee may not be used in any manner without express permission from the State Court Administrator.

B. Confidential Information

One of the most important obligations of employees is to ensure that non-public information learned in the course of employment is kept confidential. Confidential information is strictly forbidden from any discourse outside of the appropriate employees of the Court. Confidential information is not to be discussed or referred to in Social Media, even in private messages between site members who have authorized access to the information. Employees must also refrain from discussing any of the Court's internal processes and procedures, whether they are of a non-confidential or confidential nature.

C. Online Recommendations

Some sites, such as LinkedIn, allow members to "recommend" current or former co-workers. If a judicial employee does this, it may give the appearance that the judiciary or a particular judge endorses the individual being recommended. This could create a liability situation if another entity hires the recommended person on the basis of the recommendation. Accordingly, employees may not participate in employee recommendations for reasons of liability, unless permission is obtained from the State Court Administrator.

D. Creating Profiles.

Employees are prohibited from creating profiles or editing existing profiles about court employees or judges on websites without permission. Employees must have permission from the State Court Administrator before creating any profile, making edits or otherwise posting information about a judge on sites such as Wikipedia or judgepedia.com.

E. Honest Communications

You must avoid deceptive behavior and misrepresentations online. This includes engaging in online activity, such as communicating electronically or creating websites or accounts, while employing a misleading alias or suggesting that you are someone else. This provision does not apply to the routine and accepted practice on the Internet of employing a

nickname or other opaque user name to create an account or make a posting; provided the user name is not misleading or deceptive in the context used or would not otherwise violate any provision of this policy had the employee's true identity been disclosed.

F. Security Protocols

Observe security protocol. Employees must not post any content that may pose a threat to courthouse security or the personal security of any judge or court employee. For questions, contact the court security director.

G. Courtroom Employees

Unless otherwise authorized by the applicable judge, employees who work in the courtroom are prohibited from using computers, handheld wireless devices, blue-tooth enabled earpieces and headsets, and other hands-free wireless devices, for non-work related reasons when Court is in session or the courtroom is otherwise occupied.

11. MONITORING EMPLOYEES' USE OF SOCIAL MEDIA

The AOC reserves the right to monitor employees' use of Social Media by monitoring its employees' Internet activities during work hours and when using Court technology resources. The AOC further reserves the right to visit and monitor Social Media sites to ensure that employees are not violating this or other judicial policies.

12. DISCIPLINARY ACTION

Violations of this policy may result in disciplinary action up to and including termination. The AOC has the right to request employees to cooperate in any investigation regarding alleged violation of this policy by allowing access to employee Social Media used for personal purposes.

ACKNOWLEDGEMENT OF RECEIPT AND REVIEW

I have received and read a copy of this Social Media Policy and understand its contents. I understand the Utah Judicial Council expressly reserves the right to change, modify or delete its provisions.

Date

Signature

Dated: _____, 2011



Utah State Courts

Social Media Subcommittee of the Judicial Outreach Committee



Report and Recommendations on the Possession and Use
of Electronic Devices in Court Facilities

July 14, 2011

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Report and Recommendations of the Social Media Subcommittee of the Judicial Outreach Committee on the Possession and Use of Electronic Devices in Court Facilities

Contents

(1) Introduction..... 2

(2) Possession and use of electronic devices in courthouses 4

(3) Possession and use of electronic devices in courtrooms..... 4

(4) Additional limitations on juror possession and use of electronic devices 4

(5) Possessions and use of electronic devices in court chambers 5

(6) Miscellaneous 5

(7) Appendix A: Jurors’ use of social media in judicial proceedings. Suggested notices, instructions and announcements. 6

 (a) Notice in summons to prospective jurors 6

 (b) Instruction to impaneled jurors 6

 (c) Courtroom announcement (to jurors, public, parties and lawyers) 7

 (d) Summary of restrictions for placement in the jury room 8

Report and Recommendations of the Social Media Subcommittee of the Judicial Outreach Committee on the Possession and Use of Electronic Devices in Court Facilities

(1) Introduction

Electronic devices such as PDA's, smartphones, and tablet and laptop computers have become a common and necessary tool for people observing or participating in judicial proceedings. They are the everyday tools of lawyers and the clients they represent: as necessary today as pen and paper and books have always been. Jurors, witnesses, consultants, parties and public have come to expect that their ability to communicate—and to continue the business of their everyday lives—will not automatically cease when entering a courthouse. The press are increasingly using these technologies to report on judicial proceedings in a more effective and timely manner.

We believe that banning electronic devices from courthouses or significantly restricting their use is a policy bound to fail. Consider that an electronic device—small enough to fit into a briefcase, purse or even in the palm of one's hand—accesses television, radio, newspapers, movies, whole libraries of books, the West National Reporter series, law reviews and treatises, dictionaries, mail, bank accounts, and business inventory. Plus any number of computer programs run by businesses small and large around the world. The list is nearly endless. Modern life revolves around electronic devices. The notion that the judiciary can create an island that limits their influence is naïve. Rather, the judiciary should view electronic devices as an unequalled opportunity to welcome the public into our courthouses; to make transparency and public access real, not just ideals.

The near universal use of electronic devices presents challenges for the judiciary: security and personal safety; maintaining dignity and decorum in the courtroom; and conducting fair and impartial hearings. But the judiciary has faced these challenges for centuries. The challenges are, perhaps, heightened by the proliferation of evolving technologies, but they are, in concept, nothing new.

Our recommended policy attempts to properly balance the interests of the public and the judiciary. It is built on the philosophy that the judiciary should focus not on regulating the types of electronic devices that may or may not be allowed in the courthouse, but on regulating conduct that is injurious to the judicial process. The policy regulates using electronic devices if the judiciary has an interest in controlling particular conduct, but permits free reign—or at least loose reign—while using electronic devices for other conduct, conduct which the judiciary has never attempted to control the analogue equivalent.

In formulating the proposed policy, the subcommittee has surveyed policies already in place in other judicial systems, reviewed studies and recommendations by the National Center for State Courts, the American Trial Lawyers Association and various media advocacy groups. We have reviewed the emerging case law addressing these issues.

We believe that this policy acknowledges the realities of today's technologically sophisticated and dependent society; reflects a reasoned approach and a fair accommodation of the needs of all participants in the judicial process; and preserves the fair and impartial administration of justice.

Respectfully submitted,

Social Media Subcommittee of the Judicial Outreach Committee

Randy L. Dryer, Chair
Brock Beattie
Duane Betournay
Ron Bowmaster
Judge Michele Christiansen
Megan Crowley

Judge Jeffrey Noland
Rob Parkes
Tim Shea
Judge Andrew Stone
Jessica Van Buren
Nancy Volmer

(2) Possession and use of electronic devices in courthouses

(A) Subject to the limitations herein, all persons granted entrance to the courthouse are permitted to possess and use, while inside the courthouse, any pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder, wireless device, cellular telephone, electronic calendar, and/or any other electronic device that can transmit, broadcast, record, take photographs or access the internet (hereinafter “electronic device”).

(B) Persons possessing an electronic device may use that device while in common areas of the courthouse, such as lobbies and corridors subject to further restrictions on the time, place, and manner of such use that are appropriate to maintain safety, decorum, and order.

(C) All electronic devices are subject screening or inspection by court security officers at the time of entry to the courthouse and at any time within the environs of the courthouse in accordance with Rule 3-414.

(3) Possession and use of electronic devices in courtrooms.

(A) Inside courtrooms, persons may silently use an electronic device for any purpose consistent with this policy without obtaining prior authorization.

(B) Persons may not use electronic devices to take photographs or for audio or video recording or transmission except that photographs may be taken by the media in accordance with Rule 4-401 of the Rules of Judicial Administration.

(C) A judge presiding over a proceeding may prohibit or further restrict use of electronic devices if they interfere with the administration of justice, disrupt the proceedings, pose any threat to safety or security, compromise the integrity of the proceeding, or is necessary to reasonably protect the privacy of a minor.

(D) It should be anticipated that reporters, bloggers and other observers seated in the courtroom may use electronic devices to prepare and post online news accounts and commentary during the proceedings. Judges should instruct counsel to instruct witnesses who have been excluded from the courtroom to not receive or view accounts of other witnesses’ testimony prior to giving their testimony.

(E) This policy is applicable to attorneys, but may be expanded or restricted in the discretion of the judge presiding over the relevant proceeding. As officers of the court, attorneys may be subject to additional sanctions for violating this policy.

(4) Additional limitations on juror possession and use of electronic devices

During trial and juror selection, prospective, seated, and alternate jurors are prohibited from researching and discussing the case they are or will be trying. Jurors may not use an electronic device while in the courtroom and may not possess an electronic device while deliberating.

(5) Possessions and use of electronic devices in court chambers

Persons may possess electronic devices in court chambers without obtaining prior approval, but may not use them in chambers without prior approval from the judge.

(6) Miscellaneous

(A) Nothing herein shall restrict in any way:

(i) the possession or use of electronic devices by judges, commissioners or courtroom personnel with prior approval of the judge presiding over the proceeding; or

(ii) the authority of judges or commissioners to permit others to possess or use electronic devices in chambers or administrative offices or during judicial ceremonial proceedings.

(B) All electronic devices are subject to confiscation and search by court personnel if the judge presiding over the proceeding has a reasonable basis to believe that a device is or will be used in violation of this policy. Violations may be subject to contempt of court.

(C) A person may use an electronic device to make an audio or video recording of a non judicial public meeting taking place in a court facility.

(D) Notices setting forth the permitted and prohibited uses of electronic devices should be posted in the courthouse, on the judicial website, contained in the summons to prospective jurors, reflected in the Court's instructions to impaneled jurors, posted in the jury room and contained in a courtroom announcement to the public, parties and lawyers. Suggested notices, instructions and announcements are attached as Appendix A.

(7) Appendix A: Jurors' use of social media in judicial proceedings. Suggested notices, instructions and announcements.

(a) Notice in summons to prospective jurors

You may be unfamiliar with the court system, and you may have many questions about what to expect from your jury service. To answer some common questions, see the court's webpage <http://www.utcourts.gov/juryroom/>.

A fair trial requires that jurors make decisions based on evidence presented at trial, rather than on information that has not been examined in the courtroom. It is important that you do not conduct any research about the case or about the parties or lawyers. Even research on sites such as Google, Bing, Yahoo, Wikipedia, Facebook or blogs—which may seem completely harmless—may lead you to information that is incomplete or inaccurate.

(b) Instruction to impaneled jurors

Model Utah Jury Instruction CV 101. General admonitions.

Now that you have been chosen as jurors, you are required to decide this case based only on the evidence that you see and hear in this courtroom and the law that I will instruct you about. For your verdict to be fair, you must not be exposed to any other information about the case. This is very important, and so I need to give you some very detailed explanations about what you should do and not do during your time as jurors.

First, you must not try to get information from any source other than what you see and hear in this courtroom. It's natural to want to investigate a case, but you may not use any printed or electronic sources to get information about this case or the issues involved. This includes the internet, reference books or dictionaries, newspapers, magazines, television, radio, computers, Blackberries, iPhones, Smartphones, PDAs, or any social media or electronic device. You may not do any personal investigation. This includes visiting any of the places involved in this case, using Internet maps or Google Earth, talking to possible witnesses, or creating your own experiments or reenactments.

Second, you must not communicate with anyone about this case or your jury service, and you must not allow anyone to communicate with you. This also is a natural thing to want to do, but you may not communicate about the case via emails, text messages, tweets, blogs, chat rooms, comments or other postings, Facebook, MySpace, LinkedIn, or any other social media.

You may notify your family and your employer that you have been selected as a juror and you may let them know your schedule. But do not talk with anyone about the case, including your family and employer. You must not even talk with your fellow jurors until I give you the case for deliberation. If you are asked or approached in any way about your jury service or anything about this case, you must respond that you have been

ordered not to discuss the matter. And then please report the contact to the clerk or the bailiff, and they will notify me.

Also, do not talk with the lawyers, parties or witnesses about anything, not even to pass the time of day.

I know that these restrictions affect activities that you consider to be normal and harmless and very important in your daily lives. However, these restrictions ensure that the parties have a fair trial based only on the evidence and not on outside information. Information from an outside source might be inaccurate or incomplete, or it might simply not apply to this case, and the parties would not have a chance to explain or contradict that information because they wouldn't know about it. That's why it is so important that you base your verdict only on information you receive in this courtroom.

Courts used to sequester jurors to keep them away from information that might affect the fairness of the trial, but we seldom do that anymore. But this means that we must rely upon your honor to obey these restrictions, especially during recesses when no one is watching.

Any juror who violates these restrictions jeopardizes the fairness of the proceedings, and the entire trial may need to start over. That is a tremendous expense and inconvenience to the parties, the court and the taxpayers. Violations may also result in substantial penalties for the juror.

If any of you have any difficulty whatsoever in following these instructions, please let me know now. If any of you becomes aware that one of your fellow jurors has done something that violates these instructions, you are obligated to report that as well. If anyone tries to contact you about the case, either directly or indirectly, or sends you any information about the case, please report this promptly as well. Notify the bailiff or the clerk, who will notify me.

These restrictions must remain in effect throughout this trial. Once the trial is over, you may resume your normal activities. At that point, you will be free to read or research anything you wish. You will be able to speak—or choose not to speak—about the trial to anyone you wish. You may write, or post, or tweet about the case if you choose to do so. The only limitation is that you must wait until after the verdict, when you have been discharged from your jury service.

So, keep an open mind throughout the trial. The evidence that will form the basis of your verdict can be presented only one piece at a time, and it is only fair that you do not form an opinion until all of the evidence is in.

(c) Courtroom announcement (to jurors, public, parties and lawyers)

(Conform to final policy adopted by the Judicial Council)

While court is in session, lawyers are permitted to use their electronic devices, such as computers and smart phones, because so much of a lawyer's job depends on those devices.

Also, parties and the public can use electronic devices, but they cannot record these proceedings by audio or video and they cannot take pictures inside the courtroom. Further, the devices must be used silently, so they do not disrupt the proceedings. If these rules are violated, I will tell the person to leave the courtroom or I will tell the bailiff to confiscate the device.

Jurors, however, are not allowed to use electronic devices in the courtroom. Jurors must decide the facts based only on the evidence presented in this courtroom, and they must not discuss the case with anyone. But electronic devices and the social media they access are made primarily for those two purposes: research and communication. Experience has shown that the risk of a mistrial is simply too great to allow jurors to use electronic devices. Consequently, Utah law allows jurors to possess but not to use electronic devices while you are in the courtroom. Later, when you deliberate among yourselves to reach a verdict, you will not even be allowed to possess these devices. I realize this is contrary to what many of you do every day, but it is required because of the special needs of a trial, and I thank you for your understanding.

(d) Summary of restrictions for placement in the jury room

A fair trial means:

- Jurors must decide the facts based on the evidence presented in the courtroom.
- Jurors must not be influenced by information from sources outside the courtroom.
- Jurors must not communicate with anyone about the trial until the trial is over, and must not allow anyone to communicate with them, including by electronic devices and social media.
- Jurors must not research the case until the trial is over, including by electronic devices, social media, television, radio and newspapers.



Utah State Courts

Social Media Subcommittee of the Judicial Outreach Committee



Report and Recommendations for Judges Using Social Media

October 18, 2011

TABLE OF CONTENTS

	Page
REPORT AND RECOMMENDATIONS FOR JUDGES USING SOCIAL MEDIA	
(1) SOCIAL MEDIA PLATFORMS	1
(2) CODE OF JUDICIAL CONDUCT.....	2
(3) POSSIBLE INQUIRIES FOR THE ETHICS ADVISORY COMMITTEE	2
(4) CAUTIONS AND BEST PRACTICES	3
(5) OPINIONS APPLYING THE CODE OF JUDICIAL CONDUCT	4
(6) SUMMARY OF RECOMMENDATIONS.....	7

(1) Social media platforms

Social media, although relatively new, has quickly become as common a means of communication today as are mail, newspapers and magazines, radio and television, telephone, and email. For example, there are now almost 800 million Facebook accounts. To put that number in perspective, if Facebook were a country it would be the third largest country in the world, behind only China and India. There are an average of 3 billion videos viewed on YouTube every day and Wikipedia—the open source online encyclopedia—consists of almost 18 million articles. There are almost 280 million people on Twitter with an average of 1,200 tweets per second. Social media has evolved beyond a simple way to stay socially connected with friends and has become a primary method of news, research, marketing and business.

For a variety of personal, professional and societal reasons, judges' use of social media, nationally and locally, is rapidly increasing. In Utah, for example, there are dozens of judges at every level of court who participate in social networks such as Facebook. Not using social media means cutting oneself off from a significant portion of local and larger communities. Politicians, including judges who must run for office in contested elections, have embraced social media as another tool in their election efforts. The Social Media Subcommittee believes that social media will play an increasingly important role in Utah's judicial retention elections as more and more people obtain information online. Traditional public outreach, although it remains important, fails to reach a growing number of people. Courts throughout the country are recognizing the value of social media as a means of communicating with the public and other judicial constituencies. A recent survey by the National Center for State courts reveals that a full third of state judiciaries use one or more of the social media communications platforms of YouTube, Facebook and Twitter.

How then should judges cope with the many ethical issues presented by social media? One way is to learn from the mistakes of others who are sanctioned by the Judicial Conduct Commission of Utah and other states, a methodology that relies on others to sacrifice themselves and often results in unfavorable publicity. The Social Media Subcommittee of the Judicial Outreach Committee recommends instead that prospective guidelines and education for judges be formulated, (i.e. cautions and best practices) so that the guidelines for the ethical use of social media are not developed at the expense of judges who have made mistakes.

The term “social media” includes an ever-growing number of media in which a person simultaneously communicates with a large number of people, including—potentially—any person in the world with an internet connection or mobile phone service. Examples include:

- Blogging
- Podcasting
- Hosting a website
- LinkedIn
- Wikipedia
- Judgepedia

- Facebook, MySpace and Google+
- Twitter
- Second Life
- RatelyCourt.com
- The Robing Room

Different social media platforms offer different capabilities and so present different ethical questions. This report is necessarily a general discussion of those questions. Particular facts and circumstances may affect outcomes.

(2) Code of Judicial Conduct

The principles of the Code of Judicial Conduct apply to judges’ use of social media even though social media are not mentioned in the Code. Our research concludes that no state has amended its code to explicitly account for online conduct. Without more—and there is likely no need for more—the Judicial Council’s Ethics Advisory Committee and the Utah Judicial Conduct Commission will eventually apply those principles to hypothetical and actual judicial use of social media and determine whether that use is:

- willful misconduct in office; or
- prejudicial to the administration of justice which brings a judicial office into disrepute.¹

Usually the Ethics Advisory Committee prepares advisory opinions only when requested by the Judicial Council, the Boards of Judges or judicial officers about personal or proposed conduct. However, the committee may respond to an inquiry into the conduct of others if the inquiry is made by the Judicial Council or a Board of Judges and the inquiry is about matters of general interest to the judiciary.²

We encourage the Judicial Council to make such an inquiry as suggested below. The growing use of social media by judges as a means of communication and personal and professional development is surely a matter of general interest to the judiciary.

We have assembled below a summary of treatment by other states. This may be helpful, but not determinative because opinions vary. For example, a South Carolina ruling stated that a magistrate judge may be social media “friends” with law enforcement officers and employees as long as there is no discussion of anything relating to the judge’s position. In Florida, however, a ruling determined that judges may not “friend” lawyers on Facebook and vice versa, as it creates an inappropriate appearance of a special relationship between the parties.

¹ Utah Const. Art VIII, Section 13. The other three grounds for sanctioning a judge—conviction of a felony, willful and persistent failure to perform judicial duties, and disability that seriously interferes with the performance of judicial duties—appear not to apply to the use of social media.

² Code of Judicial Administration Rule 3-109(3)(A).

Will Utah side with the integrative³ or restrictive⁴ rule on whether a judge may be social media friends with a lawyer? The Ethics Advisory Committee and Judicial Council have the authority to give judges a formal, binding answer without anyone making a misstep.

(3) Possible Inquiries for the Ethics Advisory Committee

- Are there social media that should be “off limits” for judges?
- What information should judges include and not include in their online profile?
- May judges identify themselves in their profile as a judge?
- May a judge’s profile photo show him/her in judicial robes?
- May judges participate in social media using an opaque user name or pseudonym?
- May judges “recommend” someone on sites such as LinkedIn?
- May judges “like” a particular company, event, article, person, etc.?
- May judges be “friends” with lawyers who appear or may appear before them?
- From whom may judges accept friend requests?
- May a judge have social media interaction with a lawyer, party, or witness during a pending matter, even if the interaction is not related to that matter?
- May a judge presiding over a matter access social media that is likely to deal with that matter?
- Should judges who make online posts or comments be required to display a disclaimer indicating that the views are personal and not those of the court?
- Should judges using social media maintain the same professional decorum as they would in court?
- What social media limitations, if any, should be placed on judges’ immediate families or immediate staff?

(4) Cautions and best practices

At an ABA Annual Meeting session August 6, 2011 titled “‘Friend’ Is Now a Verb: Judicial Ethics and the New Social Media,” keynote speaker Herbert B. Dixon Jr., a judge on the District of Columbia Superior Court, shared his “Judicial Commandments Re: Social Media,” with citations to the relevant sections of the Model Code of Judicial Conduct. His “Social Media Commandments” include the following:

- (1) A judge must maintain dignity in every comment, photograph and other information shared on social networking sites (Rule 1.2, Promoting Confidence in the Judiciary).

³ Integrative jurisdictions permit “friending” because it “promotes public confidence in the judiciary.”

⁴ Restrictive jurisdictions bar or limit “friending” as “an impermissible activity that compromises public confidence in the judiciary.”

- (2) A judge should not make comments on a social networking site about any matters pending before the judge — not to a party, not to a counsel for a party, not to anyone (Rule 2.9, Ex Parte Communications).
- (3) Independent of the parties' submissions, a judge should not view a party's or witnesses' pages on a social networking site and should not use social networking sites to obtain information regarding the matter before the judge (Rule 2.9, Ex Parte Communications).
- (4) A judge should disqualify himself or herself from a proceeding when the judge's social networking relationship with a lawyer creates bias or prejudice concerning the lawyer or party (Rule 2.11, Disqualification).
- (5) A judge may not give legal advice to others on a social networking site (Rule 3.10, Practice of Law).
- (6) A judge should be aware of the contents of his or her social networking page, be familiar with the social networking site policies and privacy controls, and be prudent in all interactions on a social networking site ("common sense").⁵

Judges can no longer rely exclusively on mainstream media to know what others are saying about them. We strongly recommend that judges do the research to discover what information is already online about themselves. Websites such as *The Robing Room*, *Judgepedia*, and *Ratethecourts.com* contain information about judges, much of it inaccurate or incomplete. Other sites, such as Spokeo and People Finder, while more general in nature, have assembled significant amounts of information about individuals, including judges, from a variety of public and private databases, much of it private or sensitive information. The public view of the judiciary as a whole, and individual judges in particular, is being shaped by online information. This information will become increasingly important in judicial retention elections. Creating a positive, appropriate, ethical and accurate online presence is facilitated through use of social media.

In January 2011, Justice Crothers of the North Dakota Supreme Court cautioned that, while judges and court personnel may use social media, online comments must "stay clear of courts, court business and matters that frequently appear in the courts." Justice Crothers stated that judges were prohibited from ex parte communication via social networking sites, and that judges should take care not to compromise the impartiality of their office or compromise their position. Justice Crothers does not expressly adopt the Florida position (barring Facebook friending) but he cautions that judges should be aware that friending suggests to the public that an individual might be in a "special position to influence the judge."

A judge should be aware of physical security issues associated with location-based services and applications that are sometimes included in social media and smartphones. Programs, such as FourSquare, access embedded GPS systems to broadcast a person's current physical location. A

⁵ <http://www.americanbar.org/newsletter/publications/youraba/201109article03.html>

judge should also be aware that friends and family are able to broadcast information that would alert the public to their location and would be prudent to discuss this issue accordingly.

An essential component in the use of new technology is training. Providing ongoing education about social media—as well as the issues surrounding its use—should be offered to judges on an ongoing basis through the Utah Judicial Institute.

(5) Opinions applying the Code of Judicial Conduct to judge online activity

California

In November 2010, the California Judges Association, a voluntary non-profit professional association, noted that a California judge could include lawyers in online social networking activities, so long as the lawyer does not have a matter currently pending before the judge. The rules suggest that a judge must unfriend any lawyer with a matter before the judge. The association’s advisory opinion cautioned about preserving privacy and the appearance of impartiality.

Florida

Florida was one of the first states to consider adopting limitations on the use of social media by members of the judicial branch. Judges may use social networking sites; so long their conduct does not otherwise violate the state’s Code of Judicial Conduct. In an advisory opinion, the committee categorized online interaction as “extrajudicial activities” subject to the provisions of the code. Because an online friendship could jeopardize the appearance of impartiality, a majority of the committee expressly prohibited judges from “friending” any lawyer who could appear before the judge.

Indiana

An informal article written by the counsel to Indiana’s Commission on Judicial Qualifications concludes that judges may participate in online social networking activities. According to the author, online social networking activities fall within the category of extrajudicial activities. The article suggests that a judge “unfriend” attorneys who have cases pending before the judge in order to reduce the possibility of ex parte communication. However, the author sees no reason for judges to remove attorneys from their LinkedIn profile because there is little likelihood of inappropriate conversation. Citing the New York advisory opinion, the author urges judges to take precaution and to “employ an appropriate level of prudence, discretion, and decorum” in online activities.

Kentucky

The Ethics Committee issued an advisory opinion addressing whether a judge may participate in online social networking or friend an individual with a matter pending before the judge. Although the state’s ethics committee noted that social networking sites are “fraught with peril for judges, and . . . this opinion should not be construed as an explicit or implicit statement that judges may participate . . . in the same manner as . . . the general public[,]” The committee found that a member of the judiciary may use social media, so long as his or her “participation does not

otherwise result in violations of the Code of Judicial Conduct.” The Kentucky committee rejected the Florida approach, and instead the committee permitted judges to friend legal professionals on Facebook. Echoing cases in other jurisdictions, the committee expressed particular concern about ex parte communications and the preservation of impartiality.

Massachusetts

In response to a request for an advisory opinion, the Ethics Committee suggested that volunteer interns who have deferred working at a law firm not disclose on any social networking sites the name of the firm for which they plan to work at the completion of their internship.

New York

In 2009, the advisory committee compared online interactions with socializing with friends and colleagues. The committee cautioned that a judge’s online activities should not violate the Rule of Judicial Conduct. Judges should not link to advocacy groups. Judges should be mindful of whether an online relationship rises to the level of a “close social relationship” that could compromise the appearance of impartiality. Judges are prohibited from offering legal advice or engaging in ex parte communications via social networks. The committee stated that its guidelines were not exhaustive, particularly because social networks change and adopt new features over time. The committee concluded by stating, “[We] urge all judges using social networks to, as a baseline, employ an appropriate level of prudence, discretion and decorum in how they make use of this technology, above and beyond what is specifically described above.”

North Carolina

The Judicial Standards Commission, publicly reprimanded a judge for (a) Facebook friending an attorney after that attorney began litigating a matter before the judge, (b) subsequently engaging in ex parte communications with the attorney, and (c) independently gathering information on the case from Facebook, even though the information was not offered into evidence. The Committee admonished the judge for failing to preserve the integrity and impartiality of the state’s judiciary.

Ohio

Ohio judges may use social networking sites. However, Advisory Opinion 2010-7 expresses particular concern about the following activities: the posting of imprudent or improper comments, photographs, or information; interactions that erodes the public’s confidence in the judiciary’s impartiality; comments on pending matters; the independent use of social media to investigate a pending matter; and a judge’s failure to disqualify himself after establishing a social relationship with an attorney in a pending matter. A judge may not give legal advice via social networking sites and judges should be aware of privacy controls.

Oklahoma

In 2011, the Oklahoma Judicial Ethics Advisory Panel addressed the question of whether a judge may use a social internet account without violating the Code of Judicial Conduct. The panel commented on discussions in New York, Florida, South Carolina, Kentucky, Ohio, North

Carolina, and Georgia. The panel expressed particular concern about conduct that compromises the appearance of impartiality. Adopting the stricter position, the panel concluded that a judge may not friend anyone who regularly appears or is likely to appear before the judge. Quoting the New York advisory opinion, the panel reminded members of the judiciary that “social networking sites are fraught with peril for Judges.”

South Carolina

The Advisory Committee on Standards of Judicial Conduct concluded that a judge is able to join Facebook, so long as online discussion does not pertain to his or her position in the judiciary. The committee compared online social networking to extra-judicial activity, which was regulated but not prohibited by the Code of Judicial Conduct.

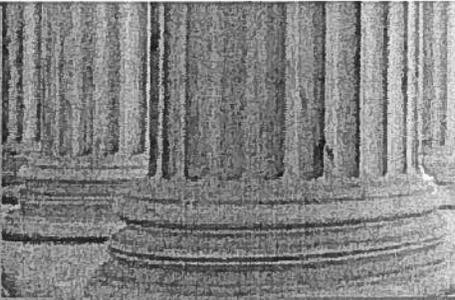
South Dakota

The Supreme Court of South Dakota has held that a judge was not required to recuse himself after a witness posted a happy birthday message on the judge’s Facebook page, where the post did not in any way relate to the case.

(6) Summary of Recommendations

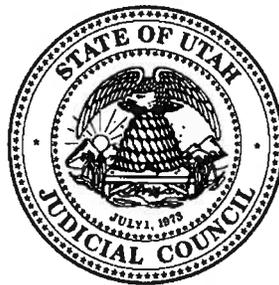
In conclusion, the Social Media Subcommittee makes the following recommendations in regards to the use of social media by judges:

1. Allow judges to use social media within appropriate guidelines established by the courts.
2. Urge judges to regularly monitor their online presence and status.
3. Recommend the Utah Judicial Council’s Ethics Advisory Committee proactively issue guidelines about the appropriate use of social media by judicial officers, rather than address ethical issues on a case by case basis.
4. Make social media training a regular component of judicial education offered by the AOC, including educating judges and their families about ethical issues and potential security concerns.



Utah State Courts

Social Media Subcommittee
of the
Judicial Outreach Committee



Recommendations for the Court's Use of Social Media
February 2012

Recommendations for Court’s Use of Social Media

(1)	Introduction.....	3
(2)	Use of Social Media by Other Court Systems	4
(3)	Use of Social Media by the Utah Executive and Legislative Branches of Government.....	6
(4)	Current Use of Social Media by Utah’s Court System.....	7
(5)	Reasons for Establishing a More Robust Social Media Presence	8
(6)	Prospective Use of Social Media by the Utah State Courts	9
(7)	General Recommendations	10
(8)	Specific Recommendations.....	10
(9)	APPENDIX A.....	12
(10)	APPENDIX B.....	13

(1) Introduction

The recent growth of social media and other Web 2.0 communication technologies has been explosive. Facebook now has more than 800 million members and is the most visited site in the world; four years ago it didn't register in the top 10.¹ LinkedIn has over 180 million members. Sixty-six percent of American adults who are on the Internet and 85 percent of teens ages 12-17 now use social media on a daily basis.² These platforms provide an easy and convenient way of generating and instantaneously sharing information globally.

The amount of information posted on the Internet and shared through social media is staggering. For example, every 60 seconds there are:

600 videos uploaded on YouTube, amounting to 25+ hours of content

700,000 Facebook status updates

1,500 new blog posts

90,000 tweets

13,000 iPhone apps downloaded

20,000 new posts on micro-blogging platform Tumblr

100 new LinkedIn accounts opened

Mobile access to social media and the Internet is also growing at a dizzying rate. Of the world's 4 billion mobile phones in use, 1.08 billion are "smart phones." In the fourth quarter of 2010, for the first time, the number of smart phones sold outnumbered PCs.³ Almost 40% of all Americans own smart phones and by 2014, it is projected that mobile Internet usage will exceed desktop Internet usage.⁴

Social media permeates every aspect of our lives, from how we do business, to how we learn, to how we communicate with each other, to how we entertain ourselves, to how we organize and express ourselves politically, to how we interact with government.

The judicial system must adapt to and incorporate the new communications platforms and the growing use of mobile devices in order to stay relevant and meet the demands of its various users and other constituencies. More and more Americans are obtaining their news from the Internet. According to a January, 2011 report by the Pew Research Center, more Americans obtain their news from the Internet than from newspapers or radio. And the public's views and opinions of government institutions, including the

¹The Business of Social Media [Infographic] by Shea Bennett, November 16, 2011 available at http://www.mediabistro.com/alltwitter/business-social-media_b15829.

²Pew Internet & American Life Project report "Why Americans Use Social Media," November 15, 2011.

³Huffington Post, January 8, 2011.

⁴"Infographic: Mobile Statistics, Stats & Facts 2011," Digitalbuzzblog, April 4, 2011.

judiciary, are increasingly being formed and shaped by social media. With the decline of resources devoted by the legacy media to reporting on the courts, public information about the judicial system will increasingly come from three sources: (1) citizen journalists and bloggers; (2) mainstream reporters who rely on social media as sources of news; and (3) the court system itself.

Live streaming of court proceedings on the Internet is becoming a reality. In Massachusetts, a pilot program in Quincy County District Court has been live streaming court proceedings on the Internet since May of this year. The site has had tens of thousands of views.⁵ The West Virginia Supreme Court of Appeals offers live webcasts of its oral arguments, as do several other appellate courts across the country. There are now two television networks, The Courtroom View Network and In Session (formerly Court TV) that offer live Internet streaming of court proceedings in almost a dozen states. The Casey Anthony murder trial in Florida was watched by millions on the Internet and citizens could download apps to obtain real time trial updates on their mobile phones. The Fox News app for the trial of Michael Jackson's doctor Conrad Murray, was the number one seller on the Apple store the day after it was released.⁶

Increasingly in other states, audiences are viewing high-profile case proceedings using mobile apps.

One way to improve the public's access and understanding of the court system is to provide information through the communications platforms the public is already using—video streams, social media, smart phones and wireless networks. These platforms not only promote judicial transparency, but offer multiple opportunities for the judiciary to tell its story in an unfiltered, real-time way.

Effective use of social media requires resources and a strong commitment to increasing judicial outreach through technology. In the age of austere budgets, it is a challenge to fund all but the essentials of administering justice. It is the subcommittee's view, however, that adapting to the new mobile, social media-driven world is essential to maintaining public trust and confidence in the judiciary. Fortunately, many of the technologies presented in this report are free and easy to use.

(2) Use of Social Media by Other Court Systems

In 2011, the Conference of Court Public Information Officers (CCPIO) conducted a survey in partnership with the National Center for State Courts and the E.W. Scripps School of Journalism at Ohio University. The survey findings are part of a national collaborative research project now entering its third year.⁷

⁵<http://opencourt.us/quincy-district-court/>

⁶"Fox's Michael Jackson Doctor Trial App Tops iTunes," September 28, 2011, available at <http://www.mediabistro.com>

⁷"2011 CCPIO New Media Survey, New Media and the Courts: The Current Status and A Look at the Future," <http://ccpio.org/documents/newmediaproject/CCPIO2011Report.pdf> (visited November 22, 2011).

The survey revealed that the institutional use of social media in court settings is gaining acceptance. The survey shows a 7.6 percent increase in the number of respondents who agree that courts as institutions can maintain a social media site without compromising ethics.

According to Thomas Hodson, director of the E.W. Scripps School of Journalism at Ohio University, “the research continues to clearly show that judges and courts recognize the importance of understanding new media and the value in communications in new ways to build public trust and confidence in the judicial branch.”

The CCPIO Report reads:

“The judicial branch has a particular interest in studying the effects of new media technologies because it has long been recognized that the courts have a special obligation to be transparent, accessible, and understandable. For as long as mass media has had primary control of driving the public’s perceptions of the courts and courts have had a desire to instead deliver the message directly, courts have had to work to understand the evolving changes in how information is communicated and how people understand the world. This has become more complicated in recent years with the rise of social medias a major force when compounded by other significant continuing changes in the media world.”

The 2011 survey looked at the actual and planned uses by courts as institutions of five categories of new media technology. The survey also queried the actual and planned functions for the technology, expanding the 2010 survey list to include: to post job openings, for internal communications, for media relations, for juror communications, to drive traffic to the court’s main website, or to gather and monitor news and information.

Respondents identified Facebook as the social media profile site most often used by their court (83.3 percent), followed by LinkedIn (6.0 percent) and MySpace (4.8 percent). The top five reasons for using these sites were as follows: public education, promote events, media relations, explain court processes and procedure, and release decisions.

Most courts that use Facebook nationwide are local courts, and they are primarily communicating information to the public about courthouse activities and operations: announcements of new staff and judges, courthouse-closure dates, and specific court events.

Microblogging technology, such as Twitter, is used by 10.9 percent of respondents in the following top five ways: promote events, public education, media relations, release decisions, and drive traffic to the main website.

According to the *Future Trends in State Courts 2011*, approximately 25 courts nationwide use Twitter. Visual media websites, such as YouTube, are used by 6 percent of survey respondents for the following top five ways: public education, media relations, promote events, explain court processes and procedure, and drive traffic to the main website.

Posting videos on visual media sharing sites is the most popular method of using social media to share information with self-represented litigants. These short videos, usually one to six minutes, educate litigants about what to expect when filling out forms, filing documents with the clerk, or appearing in court.⁸ The Indiana Supreme Court was one of the first courts to post videos for self-represented litigants on a visual-media-sharing site. The California Administrative Office of the Courts has also posted videos on YouTube.

Just 6.9 percent of respondents reported working at courts that, as institutions, maintain blogs. The top five uses were as follows: media relations, internal communications, promote events, public education, and explain court processes and procedure.

For a chart of states currently using social media, go to Addendum A.

(3) Use of Social Media by the Utah Executive and Legislative Branches of Government

There are many Utah state agencies and public officials using social media. About 60 different agencies of Utah’s executive branch use Facebook.

The levels of communication from agencies run from one-way announcements to two-way conversations with the public. The table below lists some of the content from Utah executive and legislative agencies and Utah’s congressional representatives.

Entity	Social Media Tool	Content
Governor’s Office	Facebook	Public appearances, new initiatives, links to blogs and other social media content, links to related press articles
Governor’s Office	Twitter	Announcements, links
Governor’s Office	YouTube	Utah.gov channel – economic development, tourism
Senate	Facebook	Seeking comments, links to media articles, allows moderated postings
Senate	Twitter	Links, actual conversation with others, retweets
Senate	YouTube	Interviews or short presentations by legislators on bills and hot legislative topics

⁸Future Trends in State Courts 2011: Using Social Media to Support Self-Represented Litigants, <http://www.ncsc.org/sitecore/content/microsites/future-trends/home> (visited November 22, 2011).

Entity	Social Media Tool	Content
House of Representatives	Facebook	Links to blogs, articles and press, no user postings or comments
House of Representatives	Twitter	Links to articles, retweets
Congress:		
Rep. Jim Matheson	Facebook	Public appearances, links
Rep. Jim Matheson	Twitter	Thanks and acknowledgements, announcements
Rep. Rob Bishop	Facebook	Political opinion, allows user comments
Rep. Jason Chaffetz	Facebook	Links, allows user comments
Sen. Orrin Hatch	Facebook	Policy statements, allows user comments
Sen. Mike Lee	Facebook	Policy statements, allows user comments
All of the above are also on Twitter.		

(4) Current Use of Social Media by Utah's Court System

The Administrative Office of the Courts presently uses the following social media tools to communicate with Utah State Court audiences, including the media, court users (such as attorneys and self-represented litigants) students and the public.

Facebook. The court's Facebook profile was created in September 2009. The page is used to post information about court events and happenings, judicial vacancies and appointments, and public education information. As of November 2011, the site had 700 "friends." Comments are not enabled and there is no opportunity for conversations between the court and friends.

Twitter. The court's Twitter account was created in September 2009. The account is used primarily to post information about high-profile cases. Followers are limited primarily to members of the media; however, there are also public information officers from other courts, judges, TCE's, and a few others with an interest in following the tweets. As of November 2011, the site had 165 followers.

YouTube. The court's YouTube channel was created in August 2010. The channel includes presentations produced by the court and the State Law Library. The

current videos include jury orientation, courtroom etiquette, the rights of criminal defendants, guardianship, small claims, collecting a judgment, landlord-tenant issues and child welfare mediation. Recently a State of the Judiciary Address and Constitution Day Celebration videos were added. As of November 2011, there were nearly 1500 views.

Appellate Courts. The Utah Supreme Court began audio streaming oral arguments in February 2004. In October 2005, the Utah Court of Appeals began audio streaming oral arguments. Audio streaming is accessible via the court's website at <http://www.utcourts.gov/courts/sup/streams> and <http://www.utcourts.gov/courts/appell/streams>

The **Utah State Law Library** also uses a Facebook page and blog to communicate with patrons and to provide information about court resources. The library's Facebook page has 200 "likes" and the blog averages more than 700 visitors each month.

(5) Reasons for Establishing a More Robust Social Media Presence

Promoting positive public opinion and transparency. Many governmental entities are using social media to help explain and discuss reasons behind actions and decisions and to promote mechanisms for appropriate feedback. This connection creates a more accessible government and better understanding about how the courts work.

Promoting understanding and public trust and confidence in the judicial branch. Traditionally, the most important influence on the public's understanding and opinion of the judicial system has been the news media. The media's long-standing role is in significant decline. Emerging new media have the potential to have a greater impact on how the public receives information and understands the world. More people get news and information from a wide range of new and emerging media and rely on those sources to form their opinions. Governments at all levels are starting to experiment with many of these technologies in the hope that their collaboration can transform the relationships between governmental entities and their constituents.⁹

Mitigating negative public opinion. Governments should create their own social media presence to pre-empt someone else from creating an unofficial or "fake" presence.¹⁰

An official social media presence allows government agencies to provide accurate information. The judiciary will be better able to respond to negative or inaccurate information about judges on the Web in judicial retention elections. The state's printed voter information pamphlet setting forth the results of the Judicial Council's performance

⁹ The National Association for Court Management's Media Guide for Today's Court, "Putting Social Media to Work for the Court," authored by Chris Davey, Director of Public Information, The Supreme Court of Ohio and Treasurer, The Conference of Court Public Information Officers

¹⁰ Story by ABC4's Chris Vanocur, http://www.abc4.com/content/news/state/story/More-fake-Twitter-pages-of-Utah-politicians-now/d_09RSPp00WRqfbNQp7Crg.csp?rss=1451.

evaluation of judges now competes with an ever growing number of online judge evaluation sites, which are primarily a forum for disgruntled litigants. We live in an era of search and “reputation by Google.” The judiciary must recognize that public opinion is shaped through social media and must be fully engaged in this arena.

Obtaining appropriate feedback and input. Social media's usefulness as a communication tool goes beyond just a one-way means of informing the public. The convenience and instantaneous nature of it offers an excellent way to receive public comment, concerns, and feedback. Its flexibility allows moderating the publicly generated content actually published to maintain appropriate and ethical decorum on any court website. Its often anonymous nature may provide candid input that some members of the public or the Bar might otherwise be hesitant to provide. By soliciting and establishing a forum for public input, we advance the goals of transparency and public confidence discussed above. While substantive input on specific pending cases would not be appropriately received in this way, litigants' perception of procedural justice could be enhanced by providing a forum for both positive and negative comments about their experiences with the courts. Legitimate comments might concern the mundane (e.g. concerns about parking, or cafeteria food), practical (I waited too long in security, or for court to begin) or the process itself (the opposing attorney was rude, the judge wouldn't listen to me, or your forms are confusing). The courts regularly solicit public input regarding how the courts are fulfilling their mission. Social media provides an inexpensive, obvious and convenient way of both soliciting and publishing that input.

(6) Prospective Use of Social Media by the Utah State Courts

As referenced in *Future Trends in State Courts 2011*, the courts must decide not *if* to use social media, but *when*, and to what degree. Utah courts should use social media in a more robust way to inform public opinion. This will require the judiciary to commit additional resources to the effort.

In recent years, news has become an increasingly two-way conversation. The challenge for the courts is to keep accurate information in the public forum and help educate citizens and the media about how the courts work. Despite all of its pitfalls, social media offers the tremendous benefit of reaching an audience that may not typically read about the courts. Social media use skews to a younger audience, which creates a great opportunity to inform and educate this population about how the legal system works. Instead of relying solely on journalists to disseminate information about the judicial branch, courts can employ social media to make their own news.¹¹

Social media can be used in the ongoing challenge to build public trust and confidence in the court system. Posting a welcome from the presiding judge on our YouTube channel or having a judge explain a court procedure not only helps educate viewers, but

¹¹Laura Click, *Future Trends in State Courts: From Sketch Pads to Smart Phones: How Social Media Has Changed Coverage of the Judiciary*, <http://www.ncsc.org/sitecore/content/microsites/future-trends/home> (visited November 22, 2011).

also puts a face on judges who often are seen as shielded and inaccessible. There are numerous examples throughout the country where judges blog on a variety of court-related topics. The California state court system features regular videos of judges talking about topics ranging from jury service to the concept of judicial independence on their YouTube channel.

One of the most obvious changes that social media has created in media coverage is the rapid pace at which information is disseminated. Twitter is an indispensable tool to communicate quickly with the public and the media, especially in a crisis situation where events change rapidly.

Using social media to support self-represented litigants may be a new trend for courts, but educating self-represented litigants about the legal system is not.¹² The use of Twitter as an online help desk, especially for self-represented litigants is a viable use of this social media tool.

Posting content and responding to questions and comments requires someone who has knowledge of court policies, who can be trusted to represent the court in a professional manner, and who understands the needs of self-represented litigants.

(7) General Recommendations

- a. Integrate social media and other emerging communications platforms into existing and future court functions and programs as appropriate for the purpose of fostering transparency and promoting public trust and understanding of the judicial system.
- b. Emphasize the development of tools and applications to make court information easily accessible by the public and the media through mobile devices.
- c. Educate judges and court staff about the appropriate use of social media.

(8) Specific Recommendations

- a. Post educational videos on video sharing sites to educate and inform the public about the courts and how they operate.
- b. Add social media monitoring to existing media monitoring activities for stories and commentary about the courts and judges. Use Twitter to disseminate information to the media.
- c. Create apps or mobile-friendly web pages to enhance access to court dockets, court calendaring, hearings, court website and other information.

¹²Katherine Barlow and Joyce Raby, Future Trends in State Courts: Using Social Media to Support Self-Represented Litigants and Increase Access to Justice, <http://www.ncsc.org/sitecore/content/microsites/future-trends/home> (visited November 22, 2011)..

- d. Provide video or live Internet streaming of Judicial Council meetings on the Judiciary's website.
- e. Expand access to wireless networks in court facilities to allow the media and the public to use mobile devices.
- f. Explore a pilot program for judges interested in having an electronic bench book to facilitate dissemination to various audiences.

APPENDIX A

NCSC New Media State List

State Supreme Courts and ADCs Using New Media (As of April 22, 2011)											
	Facebook			Twitter			YouTube			Notes	
	Using	# of Fans	First Post	Using	# of Followers	First Tweet	Using	Upload Views	Joined Date		# of Videos
Arizona				√	121	3/25/2010					Supreme Court
California				√	539	1/23/2010	√	18456	1/27/2009	93	Judicial Branch
District of Columbia	√	93	9/30/2010	√	499	6/24/2009					Superior Court and Court of Appeals
Florida				√	942	1/5/2010					
Georgia	√	46	2/19/2010	√	25	1/11/2010					ALL
Hawaii	√	796	1/8/2010	√	534	1/6/2010					State Judiciary
Illinois				√	1261	6/14/2009					Supreme Court
Indiana				√	627	11/16/2009	√	154,807	9/3/2008	129	Supreme Court
Kentucky	√	439	2/3/2011	√	98	3/15/2011					Judicial Branch
Michigan				√	145	6/30/2009					Supreme Court PIO
New Hampshire				√	837	6/25/2009					
New Jersey	√	1255	6/1/2009	√	1200	1/27/2009	√	10,329	3/17/2009	13	Judicial Branch
Ohio				√	216	2/13/2009					Supreme Court PIO
Tennessee				√	1432	5/12/2009					Supreme Court PIO
Utah	√	480	9/1/2009	√	134	9/1/2009	√	70	8/15/2010	8	Judicial Branch
West Virginia				√	96	10/1/2010					Supreme Court

APPENDIX B

List of Utah Agencies Using Facebook

Attorney General
Be Ready Utah
Bear Lake State Park
Camp Floyd / Stagecoach Inn State Park
and Museums
Clear the Air Challenge
Department of Agriculture and Food
Department of Natural Resources
Department of Workforce Services -
Bear River Area
Division of Wildlife Resources (DWR)
Envision Utah
GEW Utah
Governor Herbert
Healthy Utah
Heart - Healthiest 2010
Lt. Governor Greg Bell
Meals on Wheels Utah
Parents Empowered
Pete Suazo Utah Athletic Foundation
Relay Utah
State of Utah
TravelWise Utah
UDOT
Unified Fire Authority
Utah Act Early
Utah Air National Guard
Utah AMBER Alert
Utah Archives Month
Utah Arthritis Program
Utah Commission on Volunteers
Utah Council for Citizen Diplomacy
Utah Department of Public Safety
Utah Department of Workforce Services
Utah Department of Workforce Services
Director, Kristen Cox
Utah Diabetes Program
Utah Driver License Division
Utah Envirothon
Utah Film Commission
Utah Fire
Utah Fire and Rescue Academy
Utah Flu Fighters
Utah Geological Survey
Utah Health Department - Utah Asthma
Program
Utah Highway Safety
Utah Highway Safety Office
Utah National Guard
Utah of Natural History
Utah Public Art Program
Utah Science Technology and Research
Initiative
Utah State Capitol
Utah State Courts
Utah State Fair
Utah State Law Library
Utah State Parks and Recreation
Utah State Senate
Utah Task Force 1
Utah TeleHealth Network
Utah Travel Council
Utah's Own
VIP Program (Health)