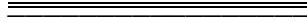
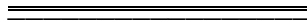


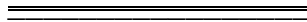
**The Bill Blackwood
Law Enforcement Management Institute of Texas**



Regulation of Social Media by Agencies



**A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**



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ABSTRACT

This paper will explain the importance of why police departments should regulate social media. Social media is used in many different ways, though not all good. Departments have been able to examine both the good and the bad of social media. Social media now is becoming popular in getting information out to the public and has even helped in solving crimes. However, social media has also been a blessing as well as a curse of administrators for departments. Employees now utilize social media for their personal use and that sometimes manifests into departmental issues as those lines between professional and personal begin to blur. There are always the possibilities of employees posting negative information about the department on their personal pages. These situations need to be regulated by departments for future use of social media. By developing clear policies, departments will be able to declare guidelines of usage for the employees of the department. Clear policies will also ensure civil rights violations are not committed and derogatory information concerning the public or other employees are not posted in an adverse or malicious manner.

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INTRODUCTION

Social media has become an intricate part of everyday life for both civilians and law enforcement personnel. Regulating employee use of social media by agencies should reduce negative impacts from the public. Social media today has a large audience. Due to the overwhelming implications and negative connotations, agencies should regulate the use of social media through policy. The policy should be clear and consistent as to what is acceptable and unacceptable on the usage of social media.

Recently, agencies have had an influx of issues related to the usage of these social media outlets. These issues have been positive and negative. An example of a positive is how Facebook can be utilized as an investigative tool to assist with solving crimes (Shuda, 2014). A negative example would be employees posting derogatory information about agency issues or fellow employees ("Impeachment," 2009).

Maintaining a professional image is something all agencies strive for. To work towards this goal, social media will need to be regulated to cover the broad spectrum of issues that may occur through information released into the social media network. Whether prepared for it or not, technology moves at a faster pace in today's world. Regulation of social media by agencies will give employees, civilian and sworn, clear and understandable limitations of their usage when concerning agency matters.

Sworn officers today are commonly issued two cell phones and or have a computer inside their patrol units. Having these accessibilities allows employees to access social media outlets at a rapid pace to disperse information. Dispersing sensitive information on their social media outlets then grants access to those who may

not be allowed to access such information. If this occurs, it should lead to the discipline of an employee through regulating usage of social media by agencies.

However, the rapid release of information into the social media outlets by employees could also benefit agencies. Agencies would benefit if the release of this information led to a successful apprehension of a suspect involved in a crime. Another benefit is usually achieved through social media outlets that are completely controlled by an agency. Agencies that do not have policies in place face concerns of dwindling professionalism.

The law enforcement profession is at an impasse regarding how departmental information is released to the public. And agencies are at a stalemate on how these policies should be implemented. Some lobby for harsh policy that would not allow employees to use social media all. Others want total freedom on the subject, even though it is protected in the commercial sense (Hawkins, 2012). Social media outlets most commonly used are Facebook, Twitter, and YouTube (Duggar, Ellison, Lampe, Lenhart, & Madden, 2015).

However, social media is not only limited to the above mentioned outlets. Another outlet that is directly related to the law enforcement field is PoliceOne. PoliceOne offers its own blogs and has links to Cops on Line ("Online networking," 2010). Registering an account for PoliceOne will allow officers to follow topics and comment on their perceptions dealing with the issue. Facebook, Twitter, Snapchat, and YouTube also allow pictures, videos, and comments. Not having policy on the usage of these social media outlets can also lead to an officer's testimony being challenged based on their character. The issues of improper use of social media are deeper than

just being disciplined by an agency. Ultimately, agencies should regulate the use of social media through policy.

POSITION

The regulating of social media by an agency should be done through setting guidelines for employees to follow when using social media while working. Employees are now able to use social media sites at their convenience during working hours. The access is gained through several means. Agencies often have computers with internet access in patrol vehicles, and officers carry cell phones with internet access, cameras, and video functions.

Having this capability provides an ease for the employee to take photographs or create video recordings of their surroundings. Having this access distracts the employee from performing their regular job functions. The Center for the disease control and prevention (CDC) considers distractions to be visual, manual and cognitive. Usage of social media on the phone or computer while driving will increase the chances of being involved in a motor vehicle accident as the employee patrols ("Distracted driving," 2016).

A habit of constantly checking social media networks can lead to a lack of attention to regular performance that needs to be completed. Paperwork could fail to be completed and time spent patrolling could decrease. This can also create a potential safety hazard where a distracted employee, made unaware of surroundings when using the sites, could be approached by a citizen with ill intent. One article has suggested that a sound set of guidelines will give protocol for when an employee can engage in the usage of social media while working ("Online networking," 2010). By not having a set of

guidelines, employees tend to make inappropriate decisions regarding the use of these social media sites when at work.

Another reason social media should also be regulated is because of the defamatory information that gets posted by employees of the agency. Employees have been known to interject personal beliefs through the posting of pictures, comments, and even video footage. A proud employee may post something that associates themselves with their agency, such as a picture of themselves in a uniform that is clearly marked with the patch or badge of their agency.

Both the employee and the agency's image will be scrutinized by the public, which may lead to a negative impact between the public and the agency. Since the employee is a representative of the agency, all derogatory information that he/she posts becomes a misrepresentation of the agency's common core and practices. An example would be employees taking pictures performing unprofessional acts at a social event and posting them to a social media site. Comments that employees make on current issues that involve law enforcement matters are another example.

The comments that the employee makes would be of concern to the department as the comments may not reflect the agency values. Agencies are attempting to control personal social media posts due to embarrassing or racially offensive comments and comments that disparaged the public (Marcum & Perry, 2014). No one person has the same ideology or sense of humor, and employees should always be mindful of their posts. If an employee would not say it to a citizen while in the performance of his/her duties, then it should not be posted for everyone to view it. Agencies should regulate what is tolerated through clear policy.

COUNTER POSITION

One reason why some do not believe social media should be regulated is because of the U.S. Constitution, Amendment I, Freedom of speech: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” (U.S. Const. amend. I). The Supreme Court, over time, has also weighed in on what type of speech is prohibited (Hawkins, 2012). This clearly establishes what type of language and words can be used (Hawkins, 2012).

An intrusion of privacy has become part of the discussion as well; the following is an example concerning privacy issues. The American Civil Liberties Union (ACLU) has specialized in this by assisting individuals who are presenting these arguments. The ACLU (“ACLU-TN,” 2014) reported concerning a female student whose parent would not sign a social media and internet usage policy; the parent claimed his daughter’s freedom of speech and privacy had been violated. It was reported that the school in Tennessee requested that the parents allow the school to search the devices at any time with no reasons or regard to the privacy of the students. Given the personal information on these devices, the parent did not feel he should grant the school access. Once the parent made the decision to not allow the school access to this information, the school did not allow the daughter to use electronic devices. The ACLU and the parent have both said that this is a major intrusion of privacy and freedom of speech by the school. Both have demanded the Tennessee school revise the social media and internet usage policies.

It is imperative that agencies create policy dealing with employee use of social media since the Supreme Court has voiced its opinion. In 2011, Michael Morton was released from prison in Texas. It was found that he was wrongfully convicted for the murder of his wife in 1987. There was no evidence that supported the conviction and the former Travis County Prosecutor, Ken Anderson, was found guilty of not sharing evidentiary information with Morton's defense attorneys. Legislators of Texas then created what is commonly referred to as the Michael Morton Act, Texas Code of Criminal Procedures Article 39.14 (h). The act went further in detail to include the moral character of all involved investigative parties in the case.

Agencies should regulate social media because officers may find themselves being affected by the Michael Morton Act. Officers who post too much on the social media networks may find themselves to be discredited when called to testify on the stand at a trial. Los Angeles County Sheriff's Department Newsletter stated, "In life, there are often second chances; in law enforcement, there are none when it comes to integrity" ("Impeachment," 2009, p. 2).

Defense councils will take what an officer has posted and use it against them. Statements that may have been meant as banter or a good humored argument can then be perceived as a reality directly related to the officer's character. Defense attorneys are paid to cast doubts by attacking the actual meaning behind what is posted. Posted pictures of an officer pointing a gun at another officer after a night of drinking is not a public image that an agency or officer needs to endure. Texas Code of Criminal Procedures Article 39.14 (h) discovery stated that all information collected by an agency is important and must be provided to the defense, whether the information proves

innocence or guilt. This will also include any derogatory information which the investigating parties may have created, whether personal or work related. This was added to the Code of Criminal Procedure when the Michael Morton Act, SB1611 of the 83rd Legislation was signed by then Governor Rick Perry.

Another reason why agencies have not issued policy on this issue is that the popularity of social media has created resistance within agencies and with their employees. Agencies are trying to catch up with a quickly evolving technology instead of being a step ahead, forcing them to react instead of preemptively acting. This is attributed to the technology's rapid rate of introducing new products. Agencies have learned that they cannot continuously monitor all of the employees who utilize social media because it has become so commonly used.

Generationally, base line employees are younger than administrators. Base line employees tend to follow trends closer than administrators. Today's generation is of the information age. Employees today do not seem to grasp the consequences of their actions when they post something on the social media outlets due to the blurred line of work related and personal information (Marcum & Perry, 2014).

Lenhart (2009) wrote a little over one third of adult users in the US have social media profiles online. This is up from about four years ago, but teens from the US are still the dominant users on the networks. She wrote that this shows that adults are still a bulk of internet social media users based off of a study done by the Pew Research Center (2009). Pew Research Center updated its findings from data collected in 2014 via telephone interviews. The data concluded the usage of social media users have increased dramatically in all age groups. Three fourths of adult users created profiles

for social networking sites. According to Pew Research (as cited in Duggar et al., 2015), 57% of online adults ages 25 to 34 have a profile on a social network. Thirty percent of online adults aged 35 to 44 have one. Nineteen percent of online adults aged 45 to 54 have a profile. Ten percent of online adults aged 55 to 64 have a profile, and 7% of online persons 65 years or older have a profile. Among the sites used, Facebook is the most commonly used by an average of 71%, which is up 4% from 2012. The prevalence of these numbers is to inform of the increased participation of social media outlets toward an employee's personal interests (as cited in Duggar et al., 2015).

Agencies now recognize the benefits of social media and how they can regulate usage by creating their own Facebook pages and twitter accounts. Establishing these social media accounts has proven very productive on many levels. Social media has given law enforcement a faster track to information in identifying suspects involved with criminal acts.

Shuda (2014) wrote an article on how a personal picture of a suspect was taken, posted, and somehow wound up stored in the cloud of the victim. This picture was then used to assist in an attempt to identify the suspect who will subsequently be charged with the crime when positively identified. Thankfully, the victim continued to check their cloud, found the evidence, and shared it with law enforcement to provide a lead in the crime.

Social media has also proven effective for citizens to learn about crimes in their area and to relay information of any employee wrong doing through agency social media sites. Bryan Texas Police Department maintains a Facebook page and has

followers on Twitter. John Agnew, public information officer for the agency, said they release safety concerns and allows citizens to complain or point out concerns on the maintained sites ("Crime," 2012).

The usage of social media is a technology driven resource and hindrance. It provides usefulness for future crime fighting. With its growing popularity, it is difficult to monitor and maintain trends. Creating policy is the only way agencies can regulate the standards which employees should adhere too. Employees will be mindful on their usage when using social media once the standards are put into place. Not having these standards will cause agencies to enter into litigation issues that could be prevented.

This applies to the employees as well. Not following these policies could jeopardize future cases that they are involved in or possibly even cost them their jobs. Though social media is useful, employees also need to resist forming habits that prevent them from performing the duties they were hired to do. Regulating social media will reduce employees misrepresenting the agency through the employees own personal opinions and beliefs.

The hard part of grasping where to begin will be attempting to familiarize the agency with the many types of social media outlets. Agencies should utilize tech savvy employees to assist with the familiarization. Agencies should learn what types of privacy functions are associated with each social media outlet. Learning the privacy functions would reduce public individuals from seeing what employees post concerning pictures and written comments. Agencies should also create and provide training for the employee. The training should cover what an employee can and cannot do when using the social media sites.

RECOMMENDATION

Clear policies and training on regulating social media should be implemented. Policies should have to explain that there will be disciplinary action, including termination, when social media is misused. Agencies should also prohibit the use of any agency identifying information such as badges, patches, marked units, official uniform, or similar attire that could be construed as official. Agencies should also ban disclosing any information that would be considered confidential or proprietary from being posted. Agencies should require employees not be allowed to post, text, or blog during duty hours. This could include an exception for agency purposes. Agencies should require employees to display a disclaimer disassociating their personal opinions from that of the agency's when blogging or remarking on blogs.

The Supreme Court has clearly established that there has to be oversight in a commercial setting (Hawkins, 2012). With this in mind, agencies not only have to monitor employee's social media outlets but outside sources also. Any social media outlets created by a department should have a clear process in place to filter any derogatory information toward the department or other entities that may be affected. Privacy also should be considered when issuing devices such as phones or computers.

Agencies need to prepare for potential hazards that could derive from the use of issued phone, tablets, or other devices. Most devices have preloaded securities built into the operating system itself. These would include disabling internet access or some sort of parental device limiting functions. If an agency is not familiar with the securities or devices, then they should acquire the assistance of the agency's approved technical support.

Even though there are successful outlets, there should be a regulation against posting false information about the agency, coworkers, public officials, civilian employees, anyone with an interest within the agency, or superiors. Agencies should expand on that to include any information that may depict known personnel or officials. Exceptions must be approved by the chief or any agency designee. Once all of this has been put into a policy, the agency should then hold training for employees. The training will document that the employee has received the new policies and will assure that the employees retained the information provided. Clear policies coupled with a clear understanding will help maintain an effective work place. Finally, agencies should feel confident in the regulation of social media. Regulations are important to law enforcement because it enhances reliability through accountability.

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