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Social Media and Law Enforcement Investigations

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ABSTRACT

There are 2.8 billion social media users (Hutchinson 2017); digital crime is rising, and it is time for law enforcement (LE) to take a more active role in digital investigations. People are using social media to showcase their criminal activities whether they know they are committing or have committed a crime to gain “likes”, or to increase their popularity amongst their peers (McGovern, 2016). LE has been hesitant when it comes to the usage of technology for their investigations because of the lack of knowledge and the question of legality when it comes to violating the privacy of an individual. LE should take a step into the electronic technology age and use social media to investigate criminal activity. The usage of social media by LE assists investigators with investigating terrorism plots, witness and suspect identification in violent crimes, and public outreach to become better connected with the public and build trust. There are questionable legalities regarding the usage of social media by LE. They must provide sufficient evidence to obtain a search warrant for the social media sites. It is imperative for LE agencies to embrace the usage of social media for investigations. They must break the barriers of technology for investigators to be successful and for crimes to be solved. They must adapt to new trends and use technology to their advantage. LE will also need to implement a social media policy and standard operating procedure within their agencies. Investigators must be trained to properly use social media platforms to maximize their investigative skills. With new technology coming out every day, LE agencies should utilize social media platforms to their advantage to investigate all crimes.

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INTRODUCTION

Since the late 1890's, technology began to grow from its infancy and people began to be exposed to technology in one way or another. According to Hochfelder (2017), Alexander Graham Bell was the individual credited as the inventor of the telephone. The telephone can be credited as the first social media platform used by the American people. The clear majority of the world currently utilize some form of social media platform. According to Hutchinson (2017), there are 2.8 billion social media users worldwide, that is a 22% increase in users within the last year. Generally, youth have been most of the individuals using social media platforms, and with 86% of Americans using cellphones, this has led to an increased usage of smart phones (Staneck, 2013). The older generations are also getting involved with social media platforms, with 45% using some type of smart phone (Staneck, 2013).

The use of social media is commonly used for personal and business advertisement. Many businesses are using social media as a marketing tool, at no cost to the users, making this the perfect tool for a wide consumer outreach due to the massive presence and usage of social media. Social media platforms are a wealth of knowledge due to the personal data that is transmitted within the platform and can be analyzed to see user trends and allow for businesses to produce products that are in demand by users. The usage of social media has forever changed the way politics, health, education, and the criminal justice system are looked upon by the public and the users (McGovern, 2016).

In the early days of social media, many law enforcement agencies (LEA) were shy of technology for many reasons. One reason was many officers were not

technology savvy officers; they were afraid of the unknown. In general, from past trends, people are always reluctant to change. Having officers use computers and the internet as a resource was scary to many old school officers and detectives. As time passed and social media grew exponentially, LEAs became more exposed to the social media platforms. Training developed to teach the officers and detectives about all the platforms and their abilities, which made them more comfortable with the usage of social media. The officers quickly discovered that they could use social media as a crime fighting tool. Many suspects were found using social media sites, as suspects bragged about the crimes they committed. As number of users increased, so too was there an increase in social media sites like Facebook, Instagram, and Snap Chat; suspects' posts providing officers a new avenue for investigating and solving crimes. Officers could identify suspects from their social media pictures and file cases on the individuals. Traditionally, officers or detectives would spend numerous hours and manpower looking for suspects, but social media can save time and labor now. The use of social media has provided an advancement in technological use for police, and this advancement is wholly due to what individuals post on their social media sites (McGovern, 2016).

Many will make the argument that law enforcement agencies should not allow their officers to use social media for criminal justice purposes. Some believe that use of social media is a violation of civil rights under the Fourth Amendment of the United States Constitution. This argument was brought to the Supreme Court of the United States in the case of *Katz v. United States* (Schmidt, 2012); however, regarding this exact argument, the courts have ruled that law enforcement can use social media

information against suspects. The courts have ruled there is no expectation of privacy once the author publishes any post on a social media platform (Schmidt, 2012). The user chose to post that information onto the internet, which has public access and they are aware of it.

Today, many federal and local agencies are utilizing social media as an alternative tool to recruit new officers. The newer generation of officers are technology savvy and the new recruits are eager to interject their knowledge and abilities into the agency. It is also used as a community engagement enhancer. Agencies can post their activities in an effort to show transparency, building trust and unity with the community, while combatting crime. With the courts allowing the use of social media as a tool for investigations, LEA should incorporate its use as another tool in their investigative tool box, solving crimes while providing victims with a full comprehensive criminal investigation.

POSITION

Social media platforms are here to stay and are only going to increase in the future. The reader should understand that social media can be used in many ways, and for many reasons. The main reason is that there is a great benefit in the investigative field for law enforcement agencies. The goal of this paper is to educate the reader of why social media should be used by law enforcement agencies. The utilization of social media by law enforcement will assist the officers in investigating crimes like terrorism, witness, suspect identification, public outreach, and clearance rate on investigations.

Social media has an endless reach to people across the world. All that is needed is an internet connection and access is unlimited. With this endless connection and

reach of the social media networks, many people can communicate with each other doing what the social media networks were intended to do. Many people use Facebook for legitimate reasons, but this is also a gateway for violent extremists, gangs, and terrorist groups (COPS, 2014), recruitment and other use.

After the 9/11 terror attack on the World Trade Center and other government facilities, the government did a restructure of all federal government investigative agencies, and the result was the creation of The United States Department of Homeland Security ("Fusion center," 2015). This realignment of federal agencies was a promising outlook into investigating terrorism, local and abroad. The federal government played an instrumental role in the migration of social media investigations. Monies for the fight against foreign and domestic terrorism was allocated to local law enforcement agencies to create fusion centers ("Fusion center," 2015), increasing intelligence share.

The purpose of the fusion centers was to improve information sharing with the local and federal agencies. These centers were primarily focused on identifying crimes and threats to national security ("Fusion center," 2015). Over time, these centers began to evolve into a local tool that could focus on investigation within the agency's own jurisdiction without interrupting the flow of information to the Department of Homeland Security. One of the major sources of information is the social media platforms. The fusion centers discovered that terrorists were using the social sites like YouTube, Facebook, and many more sites to distribute dangerous propaganda (COPS, 2014). By having the information readily available and able to hand it over to the proper

authorities, many of the investigations have proven to be successful due to the relevant information that was found using social media ("Fusion center," 2015).

In 2009, in Dallas Texas, the Federal Bureau of Investigations (FBI) was made aware of a man plotting to carry out a violent terrorist act in the United States (Trahan, 2010). The FBI usage of social media provided by the fusion center was instrumental in preventing the terrorist attack. FBI agents were able to go undercover and build a case against Hosam "Sam" Smadi. Hosam was planning to blow up a building in Dallas (Trahan, 2010). Social media and fusion centers are very important for law enforcement investigations. If the fusion center was not monitoring social media and had not come across Hosam's post regarding his plot, law enforcement and the FBI could not have prevented the bombing.

The use of social media by law enforcement also aids investigators in locating and identifying witness and victims in various incidents. During the Dallas Police shooting on 7/7/16, the officers did not know who was shooting at the police. During the event, the counter protestors and media were broadcasting the protest live on their social media outlets like Facebook and Twitter (Downs, 2016). After the suspect began shooting, many people were recording on their social media pages as the events were unfolding. After the incident was neutralized, the police investigation began with the assistance of federal agencies. Social media played a major role during the investigation of the shooting of Dallas police officers (Downs, 2016).

According to LexisNexis, eight out of every ten law enforcement professionals are using social media as an investigative tool (LexisNexis, 2014). Agencies continue to have smaller budgets and are continually losing funding; due to this loss of funding,

agencies must think of innovative ways to save money and continue to not compromise the delivery of public safety. Agencies are having to deploy investigators to the field to maintain the call loads and public safety (Luhby, 2010). The budget cuts have left a shortage of investigators (Luhby, 2010). Investigators are having to spend more time behind the computer screens and less time running around the city trying to follow up on any investigative leads.

In addition to saving wear and tear on vehicles agencies, this use can also save on manpower. Investigators can work with social media sites from the police department and not have to go out into the field looking for investigative leads. The use of social media will provide the investigators with real time data that can be used to further investigate their cases. Many of the suspects like to publish their every move on social media, giving law enforcement an advantage whenever they are tracking a suspect in relation to a crime.

According to Ng (2016), individuals are using social media platforms to showcase their crimes. The Portland, Oregon police department began a criminal investigation after finding a video where a person was committing arson and documenting it on Facebook (Lake, 2014). Suspects also document their location and where they might be going to meet up with their associates. They also record many of the crimes committed by themselves and their associates.

In 2008, the Cincinnati police department made an arrest of 71 people in a nine-month investigation involving gang activity and a variety of crimes. The success of the investigation was identifying key members of the gang via social media (Kelly, 2012). Berrill, executive director of the New York Center for Neuropsychology and Forensic

Behavioral Science, told the Daily News, Ng (2016) stated, "They are willing to foolishly sacrifice their freedom to obtain the attention and cause a commotion" (para.5). The use of social media by criminals has provided investigators an efficient way to investigate crimes.

A major way police are using social media to their advantage to investigate crimes is by reaching out to the public and asking their assistance with any information about crimes while being able to keep them anonymous. One way of reaching this goal is for all agencies to move into the 21st century of policing. In the six pillars of policing, the third pillar talks about technology and social media, the fourth pillar is community policing and crime reduction (Rosiak, 2016). In order to keep up with the 21st century of policing, agencies are actively connecting with the community to combat crimes and investigate criminal activity (Rosiak, 2016). Many law enforcement agencies are using the popular social media application called Nextdoor. Nextdoor has partnered with over 2,500 public agencies across the country, including police, fire, city, and emergency management departments (www.nextdoor.com). This application allows police agencies to reach out to the community for assistance with suspects of interest. Another social media application assisting agencies is Crime Stoppers, which allows the reporting person to leave tips for investigators. The Crime Stoppers application can send messages, photos, or videos and lets users engage in an untraceable dialogue with Crime Stoppers staff or investigators (Repard, 2011).

The Dallas Independent School District (DISD) police department is currently using the TipSoft app. The use of this app has proven to be a great social media tool for the officers. Students and staff send tips over the app and officers are then able to

investigate and determine whether an actual crime has been committed or not, and if so, develop probable cause to further pursue criminal charges. Tips are usually about drug use and weapons on school property. TipSoft has been very productive to the DISD police because once the tipster gets a payout, they are more likely to send additional tips using TipSoft and to inform their peers of the app and its benefits. Applicable usage of social media platforms for police investigations can prove to be very successful. Once the community feels confident in using social media like TipSoft or Nextdoor, there will be more community engagement assisting LEA. This allows agencies to utilize social media to reach out to the community to assist with leads to any active investigations.

The use of social media by police agencies can serve as a force multiplier providing a higher clearance rate in their case files. When the public assists the police with investigative leads, there is a higher clearance rate (Duplantier, 2015). One way of clearing cases is for police to create fake social media accounts. An officer will go undercover to investigate crimes from the police station, saving time by not having to drive all over the city and being able to work multiple cases. As the social media platform continues evolving, there will be more law enforcement presence in the internet. Fortunately, the use of social media as an investigative tool for law enforcement does not cost the department any money (Stanek, 2013).

In conclusion, the use of social media by law enforcement will assist officers in investigating crimes far more rapidly than the conventional method of “pounding the pavement.” The advantage is in adding in the detection of crimes and activities before they occur. There is also assistance in aiding in the prevention of terrorism, the location

of witnesses, the identification of suspects, public outreach, and clearance rate on investigations. Law enforcement agencies need to take advantage of this new era of policing in order to provide the maximum service possible for the overall protection of their citizens and public in general.

COUNTER ARGUMENTS

Even though social media platforms have been instrumental in assisting the law enforcement agencies with criminal investigations, there have been many questions as to the authentication of the information provided to the investigators. Today, everyone with a social media account runs the risk of being hacked and falsifying information on the site, sending false messages to others in their friends list. According to The National White-Collar Crime Center, 40% of social media network users reported being infected by a computer virus (Boone, 2013). Many defendants will argue that their accounts have been hacked and they were not the actual person posting on the accounts.

Due to questionable authentication, many courts will not allow the information gathered by the investigating officers because it cannot be validated without a warrant. In many cases, to receive information from Facebook or other social media platforms, a warrant must be obtained and then the information can be disclosed, providing the investigator with origin of the Internet Protocol (IP) address. The IP address provides vital information to the investor. Once the investigator has the IP address, he or she can get a location and identify the origin of the post. The investigator, will have information like the name of the network and the location where the network was transmitting from. One of many issues with officers that work social media cases is that

officers must obtain a warrant under US Code 18, sections 2701-2712 (Stored Wire, 2001). The warrant is typically not hard to obtain, but it requires special training to interpret the information recovered by the social media sites. Once the investigator has validated the information, he or she can present the information for a warrant on the suspect.

The uncertainty of civil rights violations also comes into question. Many would say the use of social media by law enforcement is an intrusion into the users' protected right to privacy afforded by the United States Constitution. Much of the information gathered by law enforcement is using misleading accounts established by law enforcement agencies to further enhance their investigations. There are many challenges facing law enforcement agencies, some coming from the public users, community activists, and civil rights groups that tend to lean toward their own political agenda to discredit police and any other governmental agency. In Boston, many organizations called on the police commissioner to ban the use of social media because it violated privacy rights and targeted individual groups (Enwemeka, 2016). However, the courts have ruled in the favor of the law enforcement agency's use of social media platforms for legitimate law enforcement activities. Unreasonable search and seizure does not apply when police use social media to investigate crimes like assaults, gang activity, and many other crimes as long as the investigators are using the content that was posted by the accused. Once the content is posted, it is then open to the public and the expectation of privacy has been lost (Schmidt, 2012).

Another reason not every officer can use social media to investigate suspects is due to officers' need to successfully complete specific training in social media

investigations and acquire the appropriate certification to be credible in any court proceedings (Wyllie, 2014). Having officers use computers and the internet as a resource can be scary to many old school officers and detectives. In Texas, the Texas Commission on Law Enforcement provides the specific training, Social Media for Law Enforcement, which provides the knowledge and skills to the officers to be properly able to use social media as an investigative tool.

Police agencies across the nation are seeing a shortage of police officers (Luhby, 2010), which puts a burden on the agencies when officers are sent out to train on social media investigations. In a survey by LexisNexis, only 10% of law enforcement had formal training in social media; the rest just learned to work social media on their own (LexisNexis Risk Solutions, 2014). Due to the lack of training in the subject of social media, there is currently a shortage of certified investigators, which leads to higher caseloads for investigators. Current shortfalls in government budgets has caused a shortage of investigators (Luhby, 2010), and there is no time to properly educate and train new investigators in the use of social media as an investigative tool, as this would cause cases to be put on hold while investigators are sent to training. In order to have a successful social media investigative team, law enforcement agencies need to send officers to be properly trained in social media investigations. There might be a short burden on the agency, but the agencies will be profitable in the long run. The agencies will have well trained investigators and will be able to work more efficiently when dealing with social media investigations. The agencies will also need to have in place General Orders and Standard Operating Procedures (SOP) so that the officers are held accountable when investigating social media cases.

In conclusion, many agencies are lacking direction and training on the use of social media as an investigative tool. To properly investigate and have credibility with the courts system, law enforcement agencies need to invest in their investigators and send them to social media investigations training. The use of social media as an investigative tool for police is changing for the best. There are more pros than cons when investigators are well trained in the use of social media as an investigative tool.

RECOMMENDATION

While the use of technology continues to grow globally, many social media platforms are becoming available to the public. Social media platforms are here to stay and are not going away any time soon. While the intended creation and use of social media is to connect people, there are many people using social media to showcase their life of crime. Many people will document incidents like assaults, drug usage, and gang activity. Law enforcement officials should take advantage of social media as a tool to enhance their investigations into crime within their jurisdictions.

Regardless of the size or the primary functions of a law enforcement agency, they should invest in social media investigative training for their department. Law enforcement can utilize social media in many capacities. Some examples are in investigating terrorism, locating suspects and witnesses, reaching out to the public for help with active investigations, and assisting in the clearance rate of investigations.

Investigators can properly investigate potential threats of terrorism when they are well-trained in cybercrime investigations. The investigators can monitor social media sites and chat rooms for potential targets of terrorism. It is not uncommon for extremists to use social sites to show support for individuals who desire to attack the nation. It is

important for investigators to share any suspicious activity with the federal agencies and local agencies in their area. With the proper monitoring of social media, investigators can prevent terror attacks. In Dallas, Texas, FBI agents were able to go undercover and build a case against Hosam "Sam" Smadi. Hosam was planning to blow up a building in Dallas (Trahan, 2010). This investigation was a great example of investigators sharing information with other agencies. If the investigators had not shared their findings, they would have never been able to properly investigate the terror plot against Dallas, Texas.

Another benefit for using social media as an investigating tool is the identification of suspects. Detectives can use the information on a person's profile page and start to work leads and even start to locate the person, whether they are a suspect or complainant. This method of investigation can save time and money for the department. What would usually takes a detective hours of driving around town looking for leads, they can now do it from their desk in the police station, saving the department countless resources. There are 2.8 billion social media users (Hutchinson 2017), meaning there is a great number of pictures that are open to the public. With today's technology, the investigators can take advantage of this resource. Investigators can cross-reference possible suspects' picture and upload it to a face recognition program. This will allow the investigator to save time away from the office and continue to work on multiple cases keeping their caseloads down.

In addition, LEAs can use social media to reach out to the public to aid them in ongoing investigations. Many agencies use social media applications to make connections with neighborhoods in efforts to get leads on criminal activity. Agencies

can post pictures of wanted people and unsolved crimes, looking to find any workable leads. Crime Stoppers has a social application called TipSoft (Repard, 2011), where the public can submit tips to the police and get money for a good tip. As law enforcement continues to move forward with the community policing model, agencies need to continue to utilize social media as a tool. With 2.8 billion social media users (Hutchinson 2017), LEAs need to capitalize on social media as a friend. The use of social media is at no cost to the agencies, so there is no reason why agencies should not be taking advantage of social media platforms. Not all LEAs are perfect, so when there is negative light on police agency, they can use social media to spin the narrative in a positive story by posting positive information on the social media sites. Agencies can also use social media to refute false allegations against the agency by posting the body cameras of the alleged incident and proving that the allegations are false.

The use of social media is a definite advantage into investigating crime. Information gathered by the public through the use of social media is a force multiplier to the agencies, leading to higher clearance rate of active investigations. The information provided to the investigators provides them with active leads. Investigators can follow up on the leads and take the appropriate actions.

The question of social media and police agencies using it as an investigative tool has been questioned by many groups saying it violates civil right of users. The courts have ruled that once the author of the social media application posts and publishes it, it does not meet the expectation of privacy and is open to the general public to see and can use the content (Enwemeka, 2016). The courts have ruled on the side of LEAs and approves the use of social media as an investigative tool (Enwemeka, 2016).

While it would be great asset for all officers to be able to investigate social media cases, it is just not feasible. An investigation into social media cannot be done just by any officer; they must successfully complete specific training in social media investigations and acquire the appropriate certifications in order to be credible in any court proceedings (Wyllie, 2014). It is recommended that LE agencies send officers to be trained and hold the most up to date certifications while investigating social media cases. If the officers are current on their certifications, they will be able to prepare solid cases against the defendants and clear up caseloads.

In conclusion, it is imperative for law enforcement agencies to embrace the use of social media for investigations. Law enforcement must break the barriers of technology for investigators to be successful. They must adapt to the new trends and use the technology to their advantage. Agencies will also need to implement a social media policy and standard operating procedure within their department. Investigators must be trained to properly use social media platforms to maximize their investigative skills.

REFERENCES

- Boone, J. (2013). Criminal use of social media. Retrieved from
<http://www.nw3c.org/docs/research/criminal-use-of-social-media.pdf?sfvrsn=6>
- COPS. (2014). Facebook and violent extremism. Washington, DC: Office of
 Community Oriented Policing Services. Retrieved from
<http://www.theiacp.org/Portals/0/documents/pdfs/FacebookAwarenessBrief.pdf>
- Downs, C. (2016, July). How social media helped, hurt police during Dallas ambush,
 other crises. *Dallas Morning News*. Retrieved from
<https://www.dallasnews.com/news/dallas-ambush/2016/07/21/social-media-helped-hurt-police-dallas-ambush-crises>
- Duplantier, W. (2015, October 27). Social media a 'game-changer' for police
 investigations. Retrieved from <http://www.govtech.com/social/Social-Media-a-Game-Changer-for-Police-Investigations.html>
- Enwemeka, Z. (2016, December 13). Groups call on Boston Police to drop social
 media monitoring plan. Retrieved from
<http://www.wbur.org/news/2016/12/13/boston-police-social-media-monitoring-opposition>
- Fusion center success stories, (2015, July 23). Retrieved from
<https://www.dhs.gov/fusion-center-success-stories>
- Hochfelder, D. (2017, June 23). Alexander Graham Bell. Retrieved January 11, 2018,
 from <https://www.britannica.com/biography/Alexander-Graham-Bell>

- Hutchinson, A. (2017, March 21). Top social network demographics 2017. Retrieved from <https://www.socialmediatoday.com/social-networks/top-social-network-demographics-2017-infographic>
- Kelly, H. (2012, August 30). Police embrace social media as crime-fighting tool. Retrieved from <http://www.cnn.com/2012/08/30/tech/social-media/fighting-crime-social-media/index.html>
- Lake, H. (2014, November 22). Portland Police find video on social media, start arson investigation. Retrieved from <http://katu.com/news/local/portland-police-find-video-on-social-media-start-arson-investigation>
- LexisNexis Risk Solutions. (2014, November). Social media use in law enforcement. Retrieved January 16, 2018, from <https://www.lexisnexis.com/risk/downloads/whitepaper/2014-social-media-use-in-law-enforcement.pdf>
- Luhby, T. (2010, May 26). City budget cuts mean fewer cops on the beat. Retrieved January 16, 2018, from https://money.cnn.com/2010/05/26/news/economy/cops_state_budget_cuts/index.htm
- McGovern, A., & Milivojevic, S. (2016, October 16). Social media and crime: The good, the bad and the ugly. Retrieved from <http://theconversation.com/social-media-and-crime-the-good-the-bad-and-the-ugly-66397>

- Ng, A. (2016, July 20). Forensic psychologists reveal why people are posting evidence to their crimes on Facebook and Snapchat. Retrieved from <http://www.nydailynews.com/news/national/psychologists-reveal-people-post-crimes-social-media-article-1.2719307>
- Repard, P. (2011, February 22). Crime Stoppers offers iPhone app to call in tips. Retrieved from <http://www.sandiegouniontribune.com/sdut-crime-stoppers-offers-iphone-app-call-tips-2011feb22-story.html>
- Rosiak, J. (2016, April). The pillars of 21st century youth-focused policing. Retrieved from https://cops.usdoj.gov/html/dispatch/04-2016/plliars_of_21st_century.asp
- Schmitd, L. (2012) "Social Networking and the Fourth Amendment: Location tracking on Facebook, Twitter, and Foursquare. Retrieved January 11, 2018, from <http://www.lawschool.cornell.edu/research/JLPP/upload/Schmidt-final.pdf>
- Stanek, R. (2013, July/August). Social media in law enforcement. *Sheriff*, 65(4), 40-43. Stored wire and electronic communications and transactional records access, 18 USCS §121.
- Trahan, J. (2010, October). Dallas bombing plotter Hosam Smadi sentenced to 24 years in prison. *Dallas Morning News*. Retrieved from <https://www.dallasnews.com/news/news/2010/10/20/20101019-Dallas-bombing-plotter-Hosam-Smadi-sentenced-2540>
- Wyllie, D. (2012, July 31). Social media for investigators: Why departments should invest in training. Retrieved from <https://www.policeone.com/investigations/articles/5885816-Social-media-for-investigators-Why-departments-should-invest-in-training/>

