SOCIAL MEDIA: THE RECORDS MANAGEMENT CHALLENGE

Purpose

As society shifts from traditional methods of recordkeeping to electronic recordkeeping, the issues surrounding the management of electronic records have become more significant. The use of social media by governments is growing rapidly because it creates new avenues for and dramatically speeds up communication between public offices and their constituents. This guideline provides insight into what social media is and the records management challenges associated with social media use in the public sector.

Introduction to the Guidelines

Government agencies are increasing their use of social media to provide improved services, enable citizen interaction and increase overall transparency. Social media sites, such as Facebook and Twitter, provide governments the ability to explore new ways of working and shifting communication patterns. Because these sites are available to government offices and citizens with internet access, they add valuable audio, video and interactive capabilities without substantial costs.

These guidelines are intended to assist local government and state agencies in understanding the challenges related to social media implementation and how to mitigate risks associated with social media use. Before embracing these tools, agencies should reflect on their mission and vision and have a clear understanding of how social media can support those core functions.

Developing a Social Media Management Guideline should be considered as an important first step for government agencies that want to engage social media tools. Retention, management, and disposition of content of these sites, to the extent that it constitutes "records" of the agency, must be taken into consideration to ensure compliance with Ohio's public records law.

The Ohio Electronic Records Committee has developed these guidelines as a resource for governments to manage the creation, retention, disposition and preservation of social media records.

Social Media Definition

Social media are media for social interaction using highly accessible and scalable publishing techniques. Web 2.0 and social media are terms used to define the various activities integrating web technology, social interaction and content creation. These Internet based applications allow for the creation and exchange of user generated content. Through social media, individuals or collaborators create, organize, edit, comment and/or share content online. Social media is designed to support rapid interactive communications. Examples include, but are not limited to the following:

1. **Web-Publishing** – Creating a Web site and placing on the Web server. A Web site is a collection of HTML pages accessed via the Internet.
    a. *Blogs* – Web sites generally used to post online diaries or serve as a platform to express ones ideas and opinions, a particular topic or set of topics. These sites often allow for interactive commenting and feedback. The term "blog" derives from "web log."
    b. *Microblogging* – Microblogging services enable users to send/post content similar to traditional blogs, albeit much smaller in size that is typically character limited. Examples of microblogging include Twitter, Tumblr and Yammer. Other social media services include microblogging functionality such as Facebook, Google+ and LinkedIn.
    c. *Wikis* – Web sites that allow multiple users to collaboratively create and edit its content. Levels of access and control over editing rights such as adding and removing material can be controlled.
    d. *Mashups* – Web sites that combine data and functionality from multiple sources to create a new service or a "mashup". Example: data from Google Maps can be utilized to add location maps in a real estate listings website.
2. **Social Networking** – Communicating informally with other members of a site by posting messages, status updates, photographs, videos, and other materials. Allows multiple users to share content and interact.
    a. *Social* – A free online service for individuals or groups to connect and interact with other people or organizations. Examples include Facebook, MySpace and Google+.
    b. *Business/Professional* – A Web site that enables companies and industry professionals to communicate with colleagues and build business relationships. Typically a base service is provided free of charge with enhanced capabilities for a fee. Examples include LinkedIn, Plaxo and Yammer.
    c. *Virtual Worlds* – A type of online community that takes the form of a computer-based simulated environment through which users create an avatar to interact with one another and create objects. Enables the user to perform operations on a simulated system in such a way that it appears and feels like a real environment and often have their own economy. Virtual worlds are often used for massively multiplayer online games but can be used for research, educational and business purpose. An example of the latter is SecondLife.
3. **File Sharing and Storage** – A public or private sharing of computer data or space in an online network with various levels of access privilege. Users download or upload digital information such as music and movies in a network that allows a number of people to view, write to, copy or print.
    a. *Photo Library* – An online service that allows users to post and view their photos and share them with specified individuals or freely with anyone. The service provider may also supply various ecommerce options for repurposing of the images. Examples of Photo libraries include Flickr, Picasa and Snapfish.
    b. *Video Sharing* – An online service that users can upload, share and view videos. Examples include YouTube and Vimeo.
    c. *Document Sharing* – An online service that allows users to store, share and potentially collaborate on documents. Examples range from Dropbox that is free and allows for storage and sharing to GoogleDocs, which is also free and allows storage sharing and

rudimentary online collaboration to Microsoft SharePoint, which must be purchased by an organization, but can provide enterprise level online collaboration.

Social Media as Records

As defined in the Ohio Revised Code (O.R.C.) 149.011(G), the term 'records' includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office." Therefore, an agency must look beyond the electronic social medium and analyze the content to determine if information is a "record" that must be managed and kept in accordance with retention schedules.

If the content demonstrates that the information was both (1) created or received by and (2) documents the office's business activities, the posted information may well be a record. The analysis to determine record or non-record is necessarily fact-specific. More information on how to conduct this analysis can be found in the Ohio Sunshine Laws: An Open Government Resource Manual (www.OhioAttorneyGeneral.gov/Sunshine). If the agency evaluates the particular social media content and determines that it is a record, the agency must then decide whether that record is the agency's official record or a secondary copy. If the information or social media content is duplicated and kept elsewhere (i.e. Press Release, Meeting Minutes), then the social media version should be considered a secondary copy and therefore not need to be maintained in accordance with the records retention schedule. If it is determined that the information is the agency's official record, the information must be retained in accordance with agency records retention and disposition policy. Agencies must also consider whether each posting constitutes a unique record, or whether a record is composed of a collection of posts, such as an internal account used for a specific project.

When considering the use of a social media tools, agency records officers, legal counsel and information technology professionals should conduct an evaluation of the social media tool to determine what features or components should be included and how it will affect agency records management obligations.

Records Management Challenges

When considering the use of social media, it is important to understand the records and information management challenges that these tools may present users.

1. **Capture of Content** – Capturing records created by social media is important for a variety of reasons. An agency may need to retain a posted record due to the administrative, fiscal, legal or historical value of the information, to fulfill public records requests, as part of a litigation hold, or to ensure that the entity fulfills its responsibility for disposing of those records in accordance with its retention and disposition policy. Retaining social media records can be difficult, especially those that are frequently updated. Some social media platforms have developed tools

to assist users with capturing content for retention purposes. It may be necessary to purchase third-party tools or develop in-house applications to electronically capture social media records. Capture strategies must be crafted for particular circumstances and tools. Once captured, agencies must also consider how they will access and search the captured information, which may accumulate quickly. For technical recommendations, consult Information Systems Security Agency (ISSA) or ARMA International.

2. **Ownership and Control of Data** – Most social media tools are managed by third-party companies and are generally free of charge. Yet, governmental agencies are responsible for the management of record information to the extent that it is available on the agency's accounts. One of the main concerns for many agencies is the possibility of termination of service and the loss of information that the agency is obligated to maintain. Generally, social media companies provide a generic "terms of service" agreement for all customers. Internal use policies should clarify who has the authority to enter into terms of service agreements with social media providers. Where possible, agencies, along with legal counsel and information technology professionals, should read and negotiate, where applicable, the "terms of service" agreement to incorporate language for the proper retention and disposition of records in accordance with state and federal laws.

3. **Implementation of Retention Policy** – Many times existing retention schedules can be applied to social media content and an agency should make every effort to map the information value of the content within the social media tools to existing records retention schedules or determine it to be a non-record. However, if the content is determined to have record value and cannot be mapped to an existing schedule, a new retention schedule or schedules will need to be created and approved. An inventory of data and records created across various social media will be helpful in assessing the strengths and weaknesses of one's current retention schedule in managing social media. Records that may be created through the use of social media include user agreements, user input forms, and user identification data. Retention of communication sent and received via social media should be managed in accordance with existing communication or e-mail policies. Retention policies should work in conjunction with policies governing employee use of social media.

4. **Duplication of Content** – Much like other formats, agencies must be careful to manage the duplication of information in social media. Similar content with different naming conventions, employee turnover, and lack of employee access and use controls are just a few of the issues that can lead to duplicate content. The effective management of duplicate content is critical to ensure records are not maintained longer than necessary. When the official record becomes eligible for disposal, duplicate content maintained on social media accounts should also be purged. It is important to keep track of where duplicate content is posted to ensure the efficient disposal of eligible record information.

5. **Management of Non-Record Content** – Agencies may determine that a considerable amount of information transmitted via social media is not a record under state and federal law. This content, however, still needs to be managed and properly disposed of. Otherwise, non-records can cause difficulty in retrieving information, wasted records storage resources, and additional discovery burden in the event of a lawsuit.

6. **Disposition of Content** – Once a government agency creates a presence on a social media site, any third party postings can be captured, forwarded, and used by others. Be cautious about what type of content is posted. Absent an existing records request or litigation hold, public

agencies are encouraged to delete social media in accordance with their retention schedule and use policies. The removal of obscene content should be treated as transparently and consistently as possible in accordance with internal policy. With that being said, it is also important to remember that information posted on social media should be considered available indefinitely, even if not through the government agency's site.

7. **Public Records Requests** – When evaluating social media, consideration should be given to features and components such as two-way communication. Be aware that public records requests could be made for social media content provided by both the public agency and the public. Agencies must determine whether comments and responses posted on the social media by the public meet the definition of 'record.' Also be aware that if two-way communication is enabled, it is possible to receive public records requests via social media. Consider who will monitor social media accounts for such requests and how the response will be provided and documented. Finally, while social media can be used both internally and externally, even social media tools that are not public facing, such as internal microblogging services (e.g. Yammer) or internal instant messaging, have the potential to be subject to public records inquiries.

8. **Legal Issues** – Agencies need to ensure that all federal, state and local laws and regulations are followed. Consider issues related to privacy, freedom of information, accessibility and applicable records management and public records laws; especially as it relates to how your agency handles requests for public records, the removal of inappropriate comments or posts, or use of copyrighted materials. It is important to consult your agency's legal representative to examine these issues, but a multidisciplinary approach is valuable. Professionals serving in other areas, such as human resources, accounting, or information technology, may have an intimate knowledge of the legal implications of social media within their areas of expertise.

9. **Preservation** – By law, records must be retained in an organized and accessible manner for the duration of their retention periods (O.R.C 149.351, O.R.C. 149.43(B)(2)). The preservation of social media content can be challenging. Over time, you may not be able to rely on maintaining it in the third party provider's environment. Some social media sites provide tools to extract information in open formats, while other sites do not. Agencies must consider how frequently record information will need to be captured, the stability of the social media site, and the functionality of the tools used to extract the information. Depending on how your agency uses social media and how frequently, consideration must be given to how you will find captured information. This is particularly important when social media content is subject to a legal hold. Commercial tools may be available to assist agencies in archiving and searching social media content, but many times these tools are not "one-size fits all." It is also important to remember that the social media tools do not consist of just posts, but embedded files, links, photos, videos, etc., which need to be addressed in your agency's preservation strategy.

10. **Employee Use & Access** – Public sector workers must be trained to understand that the social media content they create as a public employee may be a record and subject to disclosure as a public record. Therefore, agencies must develop a policy identifying expected agency uses for social media, restrictions for personal use and consequences for violating the policy. Consider using a disclaimer that specifies that comments posted by employees are personal in nature and do not represent the views of the agency. Control which employees are allowed access to social media sites and limit the types of sites they can access. Request an official business justification in order to access and use pre-approved social media sites.

11. **Security** – Policies concerning how to manage records placed on social media sites, username and password protection, and how to handle the removal of inadvertent posts must be established. The last point is particularly important if posts contain confidential or protected information. Agencies must also understand their security risks, meaning certain social media sites may only be appropriate for certain types of information. Ensure the security of data and technical infrastructure by developing best practices. Implement password security and add controls to monitor web site content as posted or viewed.

12. **Citizen Conduct** – Agencies must develop policies concerning citizen conduct and the removal of inappropriate content. Consider what information should be retained to document the removal transaction. Again, a disclaimer on the social media tool will inform the user of your policy and terms for removal. Agencies must also determine whether two-way communication is appropriate. Many social media tools allow the administrator to adjust the setting to clock user feedback. Just remember if your agency allows two-ways communication, you may get negative commentary.