

 **OHIO ELECTRONIC RECORDS COMMITTEE**

SOCIAL MEDIA

THE RECORDS MANAGEMENT CHALLENGE

DARREN SHULMAN
DELAWARE CITY ATTORNEY
dshulman@delawareohio.net

 **OHIO ELECTRONIC RECORDS COMMITTEE**

SOCIAL MEDIA AS RECORDS

- Defined in Ohio Revised Code (O.R.C.) 149.011(g)
- Electronic Records as Defined in Section 1306.01
- Evaluation of Social Media Tool and Impact on Records Management Obligations

 **OHIO ELECTRONIC RECORDS COMMITTEE**

QUESTION

- What Types Of Records, Other Than Correspondence, Are Created Through Social Media Usage?



ANSWER: PART ONE

- POSTED ON OR CREATED BY SOCIAL MEDIA:
 - Press Releases
 - Live Speech Tweets
 - Public Meeting Notices
 - Project Records (Internal)
 - Public Service Announcements
 - Requests For Service



ANSWER: PART TWO

- CREATED BECAUSE OF SOCIAL MEDIA USE:
 - User Name/Password Logs
 - Social Media Engagement Plans
 - Terms of Service Agreements
 - Authorization or Justification of Use Records



QUESTION

- Why Is It Important To Capture Content Placed On Your Organization's Social Media Tool?



CAPTURE OF CONTENT

- Why Capture Content?
 - May Need to Retain Due to Record Value
 - To Fulfill Public Records Requests
 - Litigation Hold
 - Disposition of Content in Accordance with Records Retention Policy
- Capturing Content is Difficult
 - Social Media Platform Developed Tools
 - Third-Party Tools
 - In-house Applications
- How will you find captured content?



QUESTION

- Do Social Media Records Need To Be On Schedules Of Records Retention & Disposition?



RETENTION SCHEDULES

- "Social Media" is not a record series because retention schedule is determined by content



PUBLIC RECORDS IMPACT

THINGS YOU POST

- Is the content you are posting a public record?
 - Copy of existing record
 - Does it meet the definition of a public record?
- If it is a record, how will you maintain the records?
 - Fit retention schedule?
 - Print or save PDF?
 - Remember social media is rapidly changing

THINGS SOMEONE ELSE POSTS

- Are comments a public record?
- How will you treat vulgar/offensive/spam comments?
- Accepted as an avenue to file complaints/make reports?



TO COMMENT OR NOT TO COMMENT, THAT IS THE QUESTION

How would you handle vulgar, offensive, advertising, or spam comments?

- A) Delete them
 - Not meet definition of record
 - Retention schedule
 - Post notice on site about how you will treat comments
- B) Leave them up on the site
 - Consider a disclaimer



CITIZEN CONDUCT

- Understand that by Enabling Two-Way Communication You May get Negative Feedback
- Creation of Citizen Conduct & Removal of Inappropriate Content Policy
- Consider what Information Needs to be Retained to Document the Removal of Content





SAMPLE NOTICE

This site is intended to serve as a mechanism for communication between the public and the _____ on the listed topics. Any comments submitted to this page and its list of fans are public records subject to disclosure pursuant to Section 149.43 of the Ohio Revised Code.

The comments expressed on this site by non-state commentators do not necessarily reflect the official views of _____. Comments posted to this page will be monitored during regular business hours. _____ reserves the right to remove inappropriate comments containing, but not limited to, the following types of content:

- Vulgar, profane or offensive language and sexual content or links to sexual content
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, age, religion, sex, national origin, military status, disability, genetic information or sexual orientation
- Spam or solicitations of commerce
- Content that advocates illegal activity
- Endorsement or advertisement of a vendor's products or services
- Content that supports or opposes political views, campaigns or ballot measures
- Infringement upon copyrights or trademarks
- Information that may tend to compromise the safety or security of the public or public systems



QUESTION

- Can You Permanently Delete Content Placed On A Social Media Account?



DISPOSITION OF CONTENT

- Social Media Presence = Posting Captured, Forwarded, and Used by Others
- Information Posted on Social Media Should be Considered Available Indefinitely
- Use Caution when Posting Content



MANAGEMENT OF RECORDS (SOCIAL MEDIA AND EMAILS)

Records must be maintained in an organized and accessible manner

- Store records in subject folders
- Use a folder label that is descriptive:
 - Ex: Project Name/ Date
- Set up your subject folders on server (not email) - you can drag emails into the folder to preserve them and storage space.





QUESTION

- Can Information On Your Private Email Account Be A Public Record?
- What About Social Media?



SECURITY

- Management of Records Placed on Social Media
- Username & Password Protection
- Removal of Inadvertent Posts
- Posts Containing Confidential or Protected Information





LINKS, ENDORSEMENT, ADVERTISING



If this ad appears on your Facebook page, why should you care?

- Impression that your organization endorses the product/person
- Link could go to an outside site that has a virus or is otherwise objectionable
- Impression that your organization makes money on the ad



WHAT CAN I DO ABOUT ADS?

- **Disclaimer to set expectations:**
 - For your convenience, this site may contain hypertext or other links to external Internet sites that are not provided or maintained by _____. Please note that _____ cannot guarantee the accuracy, relevance, timeliness, or completeness of these external sites.
 - In addition to material posted by _____, this page may include ads and suggestions for other profiles to view selected by [insert social media site] and links to third party sites included in user comments. The inclusion of these ads, profiles, and links is outside of the control of _____ and are not an official endorsement of any product, person, or service, and may not be quoted or reproduced for the purpose of stating or implying endorsement or approval of any product, person, or service. _____ does not receive any revenue from any of these links or sites.



IMPLEMENTING A SOCIAL MEDIA PLAN

- A Social Media plan can help you work through these issues in an organized manner.
- Ideally, you will work through your social media plan before you start using social media.
- If you are already involved in social media, when should you start working on your plan?
- Now!
- Plan Template Available:
http://ohsweb.ohiohistory.org/ohioerc/images/2/20/Plan_for_Social_Media_Engagement.pdf



GETTING THE RIGHT PLAYERS INVOLVED

■ **Why is each role important?**

5. Have You Talked With (check all that apply and insert contact person)

- Communications: _____
- Information Technology: _____
- Legal: _____
- Program(s)/Business Unit(s): _____
- Records Management: _____
- Other Areas or Offices: _____

Add additional areas or offices within as dictated by your specific mission, goals, and objectives



CLOSING THOUGHTS: WHAT YOUR SOCIAL MEDIA PLAN IS *NOT*

- Your social media plan is not the employee social media use policy for their private accounts
- You should consider adopting a social media policy for employees' use of their own accounts
 - When they can access
 - Prohibit posting confidential material
 - Criticize work/supervisor?
- Can be included in IT policy, HR policy, or work rules
- Social Media Content Created by a public employee may be a record



EXISTING GUIDANCE

www.ohioerc.org



- Social Media Engagement Plan
- Databases as Public Records
- Digital Document Imaging
- Electronic Publications
- E-mail Management
- General Schedule for Electronic Records
- Records and Archival Management of World Wide Web Sites
- Trustworthy Information Systems
- File Management
- Hybrid Microfilm Guidelines (2009)
- Social Media (2012)
- Coming...
 - Cloud Computing


