

*Social Networks:
An Insurable Risk for Local Governments*

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What do we mean by “social networking?”

Most commonly:

- Facebook
- Twitter
- LinkedIn
- MySpace

Similar issues presented with:

- Wikis
- Blogs
- Various new gov-to-citizen comm. services (Nixle, etc.)

In general, issues are familiar, only magnified...

How are local governments using social media?

- Exploding use of social media tools by local governments, starting in 2009
- Various levels of activity . . .
 - Aggressive, innovative, enthusiastic adopters
 - Cautious adopters
 - No officially sanctioned activity, or even officially prohibited due to liability fears
- . . . Various methods of control
 - Centralized
 - Decentralized

How are local governments using social media?

- 1,000+ estimated official local government Twitter accounts
- >75% local governments with Facebook pages
- Interesting Examples:
 - Baltimore:
 - Comprehensive “open government” initiative based on social media
 - St. Paul, MN:
 - Facebook to show crime information, neighborhood alerts, etc.
 - San Carlos, CA:
 - Extensive use of Twitter during San Bruno natural gas explosion/fire
 - San Francisco:
 - Facebook for citizen interaction, discussion boards, etc
 - Memphis Light, Water & Gas:
 - Twitter for outages, service promotion

Social media risks for local governments

- Public disclosure of damaging / privileged information
 - Easy and quick to divulge, instantaneous large audience = possible significant damage
 - Intentional or unintentional
 - Bids and procurement, development plans, official deliberations, personal information
 - Can govt. employer restrict employees' speech on non-govt. social media?

Social media risks for local governments

- Defamation

- Communication by citizen or government on govt. social media may be defamatory
- Typically want some control over citizen discussion forum, but moderation may open up liability

- Privacy

- Govt. possesses sensitive citizen information
- Integration of online service with social media presents significant risk of damaging disclosure
- Advanced services (location-based, etc.) may create unanticipated privacy issues

Social media risks for local governments

- First Amendment Issues

- Need to be extremely careful about restricting citizen speech
- What if the KKK asks the City to be its Facebook friend?
- Significant risk of litigation, if not damages

Social media risks for local governments

- Data retention / open records compliance
 - Wide variety among states
 - Likely to have an obligation to retain all “records” – including ephemeral electronic communications – which may include all Facebook, Twitter, etc. communication
 - Some risk of civil liability, cost of technical compliance may be significant

Social media risks for local governments

- Technical security risks
 - Hacking of city social media tools:
 - Unauthorized access to information
 - Spoofing of city communication
- City marks and identification
 - Control over city trademarks, etc.

Social media risks for local governments

- Risk of the unknown:

This is a brand new, rapidly changing medium. We will likely encounter a variety of unanticipated risks over the next several years as the technology develops, and as governments make more extensive use of it.

Social media insurance for local governments?

- Social media liability coverage emerging as a way to address risks to local governments:
 - Chubb Insurance company offers “new products tailored to social media risks” http://socialtimes.com/new-insurance-concerns-for-companies-social-media-brand-profile_b11515
 - “Monitor Liability Managers, LLC has introduced a new social media endorsement for its employment practices liability (EPL) insurance policies.”
<http://www.insurancejournal.com/news/national/2011/02/17/186507.htm>
 - “The Hartford CyberChoice 2.09sm expands protection for Web 2.0 and social media liability; offers enhanced coverage for data privacy...”
<http://ir.thehartford.com/releasedetail.cfm?releaseid=423320>

Social media insurance for local governments?

- “Do you Need Social Media Liability Insurance?”
<http://www.retailonlineintegration.com/article/do-you-need-social-media-liability-insurance/1>
- “Insurance Coverage for Social Media Liability”
http://www.naplia.com/social_media/insurance.shtml
- Social Media Liability Risks:
<http://gbwinsurance.wordpress.com/2010/10/01/social-media-liability-risks/>
- “State and Local Governments Concerned About Social Media Liability” <http://www.thetransitwire.com/2010/05/02/state-and-local-governments-concerned-about-social-media-liability/>

Social media policies as a means to address risk

Having a formal social media policy in place – with clear identification of controls, procedures and responsibilities – not only reduces the likelihood of a problem, but also protects the local governments from liability in the event a problem does arise.

Social media policies as a means to address risk

Some elements of a successful social media policy:

- Specific descriptions of services, applications, equipment, technology
- Description of administrative control over communication (e.g., identified personnel, level of approval for Twitter communication, etc.)
- When personnel must identify themselves as speaking on behalf of the government
- Emergency situations: what to do when rapid response outweighs the need for close administrative control
- Acceptable personal use, employee liability for content

Model social media policy?

A model social media policy could be useful for local governments, and entities that seek to insure them.