



Open Government & the Web

BOJORQUEZ
LAW FIRM, PLLC

TexasMunicipalLawyers.com

Social Networking

- *My Face?*
- Facebook
- Twitter
- MySpace
- LinkedIn
- Blogs



LinkedIn®



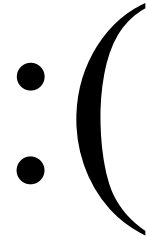
Usage Increasing

- February '08 - February '09, Facebook, the most popular social networking website, grew 228 % to add 65.7 million new users.
- Twitter saw 1,374 % increase during that same time, growing to 7 million users



Alan's Intro to Facebook

- You do not have any friends.
- Once you find some friends, they will appear here.



Linkedin

- Friend? Colleague? Baby Momma??
- Option: “I don’t know this *user*”
- Fact: Harvard Business School graduates average **58** connections. You have **4**.



Social Media

- Create online using highly accessible publishing technology
- Shift in how people discover, read & share information
- Fusion of sociology & technology, transforming monologues into dialogues
- Democratization of information -- transforming people from content readers into publishers
- Allows people to connect in online world to form relationships for personal, political & business use

Share Content

- Photos
- Videos
- Notes
- Blogs
- Web links
- News stories
- Diaries



City Use of Sites



- Blogs
- Official City Website
- Departmental Websites
- Individual Employee Profiles on Facebook
- Department Profiles on MySpace



artfully yours



Troy P.D.



- 07/29 - 3 accidents on the northbound side of IH 35
- 07/30 - Graffiti - 205 College Street
- 08/02 - Warrant arrest on IH 35 northbound at the 310 mile marker
- 08/02 - Accident on IH 35
- 08/05 - Accident on Church Ave.
- 08/09 - Accident on IH 35 southbound
- 08/10 - Accident at 5 N. Central
- 08/11 - Construction theft on W. Main
- 08/13 - Drug Paraphernalia on N. Central



Public Information Act

- All data collected, assembled, or maintained by the City in connection with transaction of official business
- All data collected, assembled, or maintained for the City—the City owns the data or has a right of access
- Regardless of format
- Includes Paper, Film, and Digital

Duty to Provide Data

- Give any existing data ever posted on websites
- Can't simply refer to website



Attorney General

- No opinion on Social Media, yet
- Email is clearly subject to PIA
- Duty to Provide copies of Online Data



Right to Privacy?

- Password ≠ Private
- Social Media is only “Semi-Private”
- Personal v. Official:
 - Who has access?
 - What is content?
 - How is it used?
- Anonymous
 - Delaware Case of Mayor “Proud Citizen”

Personal or Private?

- City of Dallas case
- Former Mayor Laura Miller
- Blackberry:
 - Device & Service Paid for with Personal Funds
 - Utilized Personal Email Address
 - Used to Conduct City Business
- Trial Court Ruled: Public
- Appellate Court Overturned



Think Before You Post

- Does this reveal any potentially embarrassing private information?
- Am I discussing official city business?
- Is this information subject to Open Meetings?
- Is this information subject to Open Records?
- How long must this information be kept?
- What will current or future employers think about what I post?
- Who will be able to view the information I post?

Records Retention

- Texas State Library and Archives Commission
- Two years for email
- No current established policy for the preservation or destruction of online data
- *Bulletin B, Electronic Records Standards and Procedures*

Open Meetings

- Public business should be conducted in public
- A “Meeting” is:
 1. Deliberations (talking and/or voting)
 2. Quorum (majority)
 3. Governing Body (city council, P&Z)
 4. City Business
- Action without Meetings
- Washington: Email Exchange = Meeting

Freedom of Speech?

- *Rangra v. Brown* (5th Cir. 2009)
- City of Alpine
- Email Exchanges by Quorum of City Council
- Content-Based:
 - Narrowly-Tailored
 - Compelling Government Interest

City Policy

1. Restriction on Personal Use of City Resources
2. Apply to Computers & Phones
3. Clarify Role & Opinions
4. Protect Privacy, Confidentiality & Privileges
5. Remember Respect & Safety
6. Work Comes First



City Policy (cont.)

7. Reflection on City's Image
8. Caution with trade secrets, competitive info
9. Plagiarism will not be tolerated
10. Honor Logos or Trademarks
11. Online Activities can have Job Consequences

City Policy

- Mandatory staff meeting
- Distribute agenda to all officials & employees with discussion of the policy as action item
- Have all officials & employees sign attendance roster & hand out copies of the policy
- Discuss it & hold a question & answer session
- Pass out copies of policy receipt acknowledgment forms for everyone to sign
- Collect signed forms before adjourning

Alan's Desk?





TM

BOJORQUEZ

LAW FIRM, PLLC

TexasMunicipalLawyers.com