

**NEW MEDIA AND THE COURTS:
THE CURRENT STATUS AND
A LOOK AT THE FUTURE**

**A REPORT OF THE NEW MEDIA COMMITTEE OF THE
CONFERENCE OF COURT PUBLIC INFORMATION OFFICERS**



CONFERENCE OF COURT PUBLIC INFORMATION OFFICERS

**IN PARTNERSHIP WITH THE NATIONAL CENTER FOR STATE COURTS AND
THE E.W. SCRIPPS SCHOOL OF JOURNALISM AT OHIO UNIVERSITY**

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EXECUTIVE SUMMARY

The Conference of Court Public Information Officers report on new media and the courts finds that more than one-third of state court judges and magistrates responding to a survey use social media profile sites like Facebook, while less than 10 percent of courts as institutions use social media for public outreach and communication. After a year of study and online collaboration, the report reveals a judicial branch that clearly recognizes the importance of understanding new media but is proceeding cautiously with concerns about effects on ethics, court proceedings and the ability to support public understanding of the courts.

The report predicts that in the coming years, courts will re-examine state codes of conduct for judges and judicial employees, model jury instructions, rules on cameras in the courtroom and other areas. It makes other predictions and also recommends further research and specific steps for the judicial community to continue to respond productively to new media.

The project was first suggested at the CCPIO 18th Annual Meeting in August 2009 in St. Paul, Minn. A proposal for pursuing the research was approved by the CCPIO board in September. About 120 judges, journalists, public information officers, court managers and academics participated in sharing ideas and information about new media and the courts on the online social media site Ning.com from November 2009 to August 2010. (See Appendix A for a list of members.) A framework for the research was presented and discussed at a workshop in Columbus, Ohio, in February 2010. A series of discussions was held with students and faculty at the E.W. Scripps School of Journalism in spring 2010. The National Center for State Courts (NCSC) assisted in the development and administration of a national survey of judges, magistrates and court administrators conducted in June 2010.

A draft of the final report was presented to the membership of CCPIO at its 19th Annual Meeting in Atlanta, Aug. 9 to 11, 2010. And the final report was released online and to the media Aug. 24, 2010.

Highlights of *CCPIO New Media and the Courts: The Current Status and a Look at the Future*:

The judicial community is actively exploring new media. The report examines efforts and involvement by the NCSC, Conference of Chief Justices (CCJ), Conference of State Court Administrators (COSCA), National Association for Court Management (NACM), Reynolds Center for Courts and the Media, and other parties.

What is “new media”? The history and meaning of this term is explored, ranging from its use by early media theorists in the 1960s to its present meaning as an umbrella term for the overarching current media landscape. Four constituent segments of the new media environment are defined and discussed: (1) legacy media, (2) traditional public relations/community outreach, (3) digital media/Web 1.0 and (4) social media/Web 2.0. This new media landscape is characterized by:

- Emerging interactive social media technologies that are powerfully multimedia in nature.

- Fundamental and continuing changes in the economics, operation and vitality of the news industry that courts have traditionally relied on to connect with the public.
- Broader cultural changes in how the public receives and processes information and understands the world.

Courts face unique challenges and opportunities. Courts have responded more cautiously to new media because of unique incongruities between the two cultures:

- New media are decentralized and multidirectional, while the courts are institutional and largely unidirectional.
- New media are personal and intimate, while the courts are separate, even cloistered, and, by definition, independent.
- New media are multimedia, incorporating video and still images, audio and text, while the courts are highly textual.

Three areas of study. While new media impact almost every facet of court operations from the delivery of services to balancing privacy and public access in managing court records, the CCPIO report focuses on three areas specifically related to the mandate that courts support public trust and confidence in the judicial system:

1. Effects on court proceedings.
2. Effects on ethics and conduct for judges and court employees.
3. Effects on courts' ability to promote understanding and public trust and confidence in the judicial branch.

Seven categories of technology. The report identifies seven categories of new media technology that impact the courts, and these technologies are explored in detail:

1. **Social media profile sites (e.g., Facebook, MySpace, LinkedIn, Ning).** These sites allow users to join, create profiles, share information, and view still and video images with a defined network of “friends.”
2. **Microblogging (e.g., Twitter, Tumblr, Plurk).** Microblogging is a form of multimedia blogging that allows users to send and follow brief text updates or micromedia, such as photos or audio clips, and publish them on a website for viewing by everyone who visits the website or by a restricted group. Microbloggers can submit messages a variety of ways, including text messaging, instant messaging, e-mail, or digital audio.
3. **Smart Phones, Tablets & Notebooks (e.g., iPhone, Droid, Blackberry).** This category is defined by those mobile devices that can capture audio, as well as still and video images, and post them directly to the Internet. These devices also enable users to access the Internet, send and receive e-mails and instant messages, and otherwise connect with online networks and communities through broadband or Wi-Fi access.

4. **Monitoring and metrics (e.g., Addictomatic, SocialSeek, Social Mention, Google’s Social Search, Quantcast).** This category includes the large and increasing body of sites that aggregate information about Internet traffic patterns and what is posted on social media sites. They display analyses of how a particular entity is portrayed or understood by the public.
5. **News categorizing, sharing and syndication (e.g., blogs, RSS, Digg, Reddit, del.iciou.us).** This is a broad category that includes websites and technology that enable the easy sharing of information, photos and video, and the categorization and ranking of news stories, posts to blogs and other news items.
6. **Visual Media Sharing (e.g., YouTube, Vimeo, Flickr).** These sites allow users to upload still and video images that are stored in searchable databases and easily shared, and can be e-mailed, posted, or embedded into nearly any website.
7. **Wikis.** A wiki is a website that allows for the easy creation and editing of multiple interlinked Web pages via a Web browser using a simplified markup language or a WYSIWYG (what-you-see-is-what-you-get) text editor. Among the uses for wikis are the creation of collaborative information resource websites, power community websites and corporate intranets. The most widely recognized and used wiki is the collaborative encyclopedia Wikipedia. Another much lesser known wiki that has impact on the judicial system and is the subject of study in the New Media Project is [Judgepedia](#).

Survey results. An estimated 16,000 individuals in the court community were invited to participate using an online survey tool administered by NCSC between June 16 and 25, 2010. Federal judges were not included in the distribution. About 810 respondents completed the entire survey while another 789 submitted partially completed surveys.

Highlights include:

- About 40 percent of responding judges reported they are on social media profile sites, the majority of these on Facebook. This is almost identical to the percentage of the adult U.S. population using these sites.
- Judges who are appointed and do not stand for re-election were much less likely to be on social media profile sites. About 9 percent from non-elected jurisdictions reported they were on these sites.
- Nearly half of judges (47.8 percent) disagreed or strongly disagreed with the statement “Judges can use social media profile sites, such as Facebook, in their professional lives without compromising professional conduct codes of ethics.”
- Judges appear to be more comfortable with using these sites in their personal lives, with 34.3 percent disagreeing or strongly disagreeing with the statement “Judges can use social media profile sites, such as Facebook, in their personal lives without compromising professional conduct codes of ethics.”
- More than half (56 percent) of judges report routine juror instructions that include some component about new media use during the trial.

- A very small fraction of courts (6.7 percent) currently have social media profile sites like Facebook; 7 percent use microblogging sites like Twitter; and 3.2 percent use visual media sharing sites like YouTube.
- About three-quarters of all respondents agree or are neutral that courts as institutions can maintain a social media profile site, or use microblogging technologies or visual media sharing without compromising ethics.
- However, only about 25 percent of total respondents believe these are necessary tools for public outreach.
- A smaller proportion of judges than might be expected (9.8 percent) reported witnessing jurors using social media profile sites, microblogging sites, or smart phones, tablets or notebooks in the courtroom.
- Almost all (97.6 percent) respondents agree that judges and court employees should be educated about appropriate new media use and practices.

Future Trends. The report concludes with predictions about the near future of new media and the courts:

- More courts will develop official presences on Facebook, Twitter, YouTube and other social media sites.
- More judges will be on Facebook, both professionally and personally.
- Courts will continue to become primary content providers and develop multimedia communication capabilities.
- Public information officers and information technology officers will form stronger partnerships and collaborative operations.

Recommendations. The report concludes with a set of specific recommendations for future action, including:

- *Continuation of CCPIO New Media Ning site.* More than 120 people participated in the nearly yearlong online conversation about new media at <http://ccpionewmedia.ning.com/>. The site proved to be an invaluable tool for sharing timely information, news stories, and research concepts and ideas. CCPIO should continue to maintain this site and take steps to encourage even broader participation.
- *National coordination and collaboration among the judicial associations.* New media will continue to evolve rapidly in the coming years, and the courts will benefit from an ongoing, coordinated national response in this area. CCPIO proposes that NCSC, CCJ and COSCA, in partnership with CCPIO, form a standing committee to study and report on new media issues on an ongoing basis. The effort should invite the participation of other partner organizations with designated liaisons to the CCPIO New Media Project, including: NACM, National Association of Women Judges, Court Information Technology Officers Consortium, National Association of State Judicial Educators, and the National Conference of Appellate Court Clerks.
- *Administer the survey as a longitudinal study.* The survey of judges and court administrators was the first of its kind, and it was designed to allow for trend data to be collected and compared over time. CCPIO should plan to administer the survey

- annually to measure changes in court use of, experiences with and attitudes toward new media.
- *Develop a survey for the general public.* While we now have a baseline measurement of what courts experience with new media, a valuable comparison would be a look at how some of these same questions are viewed by the general public. CCPIO should work with NCSC to develop and administer a similar survey of the general U.S. population.
 - *Develop tools.* To help courts maintain the delicate balance between free speech and open access to courts on one side and fair trial issues on the other, the CCPIO New Media Committee should be established as a standing committee to develop online resources, checklists (see Appendix B), best practices and other tools for courts responding to and managing new media.