

Appendix B: Survey Document

Jurors' Use of Social Media

This survey seeks (1) to assess the frequency with which jurors are using social media to communicate about cases during trial and deliberation, and (2) to identify strategies judges have found to be effective and appropriate in curbing this behavior. For the purposes of this survey, social media is defined as electronic communications, usually internet-based, through which users create online communities to share ideas, personal messages and other content. It includes, but is not limited to, social networking sites such as Facebook, Twitter, LinkedIn and YouTube, as well as platforms such as blogs, chatrooms and online bulletin boards.

For the purposes of this survey, please focus on jurors' use of social media to communicate information about cases. At this point, we are not considering instances of jurors' use of the internet to conduct independent research about the case.

A. Previous Experience with Social Media

1) Have you experienced any instances of jurors using social media to communicate during a trial or deliberations?

- Yes
- No

2) In how many trials have you encountered jurors using social media to communicate in your courtroom?

- 1-2
- 3-5
- 6-10
- 11-20
- More than 20

3) Approximately how many of those instances were during a trial?

4) Approximately how many of those instances were during deliberations?

5) In what types of cases did you encounter jurors using social media to communicate?

- Criminal trials
- Civil trials
- Both criminal and civil trials

6) Which of the following forms of social media have jurors used to communicate trial or deliberation information about your courtroom or about cases in which you have presided? Please check all that apply.

- Twitter
- Facebook
- MySpace
- LinkedIn
- Google+
- You Tube
- Instant messaging service (such as AIM)
- Juror's personal blog
- Internet bulletin board
- Internet chat room
- Other (please specify)

If you selected other, please specify

7) How did you discover that a juror or jurors was using social media to communicate about a case?

8) To the best of your knowledge, have jurors in any of your cases used social media to do any of the following? Please check all that apply.

- "Friended" or attempted to "friend" participants in the case (e.g., witnesses, parties, attorneys, judges)
- Communicated or attempted to communicate directly with participants in the case (e.g., witnesses, parties, attorneys, judges)
- Divulged confidential information about the case
- Revealed aspects of the deliberation process
- Revealed identifying information about other jurors
- Other (please specify)

If you selected other, please specify

9) Please use the space below to describe more fully the way(s) in which jurors have used social media to communicate in your courtroom.

B. Use of Model Jury Instructions

In January 2010, the Committee on Court Administration and Court Management distributed to all district courts model jury instructions regarding the use of electronic technologies to research or communicate about a case. These instructions, which the Committee suggested be given at the beginning of a trial and before jury deliberations, are aimed at helping jurors better understand and adhere to the scope of the prohibition against using social media during a trial.

The text of the model jury instructions is below:

Before Trial:

During the course of the trial, you must not conduct any independent research about this case, the matters in the case, and the individuals or corporations involved in the case. In other words, you should not consult dictionaries or reference materials, search the internet, websites, blogs, or any other electronic means. It is important that you decide this case based solely on the evidence presented in the courtroom. Please do not try to find out information from any other sources.

I know that many of you use cell phones, Blackberries, the internet and other tools of technology. You also must not talk to anyone about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case on your cell phone, through e-mail, your Blackberry, iPhone, text messaging, on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, My Space, LinkedIn, and YouTube.

At the Close of the Case:

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as the telephone, a cell phone, smart phone, iPhone, Blackberry or computer, the internet, any internet service, any text or instant messaging service, any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict. In other words, you cannot talk to anyone on the phone, correspond with anyone, or electronically communicate with anyone about this case. You can only discuss the case in the jury room with your fellow jurors during deliberations.

10) Have you used the model jury instructions during a trial?

- Yes
- No

11) Why have you not used the model jury instructions during a trial?

- I didn't have a case that required them.
- I used a different set of instructions.
- I used a different strategy for preventing jurors from using social media to communicate.
- I wasn't aware of the model jury instructions.
- Other (please specify)

If you selected other, please specify

12) At what point during the trial did you use the model jury instructions?

- I instructed the jury before the trial.
- I instructed the jury before deliberations.
- I instructed the jury both before the trial and before deliberations.
- Other (please specify)

If you selected other, please specify

13) In what types of cases have you used the model jury instructions?

- Civil trials
- Criminal trials
- Both civil and criminal trials

14) To the best of your knowledge, in the cases in which you used the model jury instructions, did any jurors use social media to communicate about the trial, either during the trial or during deliberations?

- Yes
- No
- I have no way of knowing

15) At what point during the case did it occur? Please check all that apply.

- During the trial
- During deliberations
- Other (please specify)

If you selected other, please specify

16) What type of case was it? Please check all that apply.

- Civil
- Criminal

17) Please describe the nature of the communication(s).

C. Additional Measures Taken to Prevent Jurors from Using Social Media

18) When you have found jurors using social media during trial or deliberation in your courtroom, what action(s) have you taken? Please check all that apply.

- Removed juror from jury
- Cautioned juror, but allowed him or her to remain on the jury
- Fined juror
- Held juror in contempt of court
- Declared a mistrial
- Other (please specify)

If you selected other, please specify

19) What steps have you taken to ensure that jurors do not use social media to communicate about the case during trial or deliberation? Please check all that apply.

- I have not specifically addressed jurors' use of social media.
- Used other jury instructions (i.e., not the model instructions) before trial
- Used other jury instruction (i.e., not the model instructions) before deliberation
- Instructed jurors at multiple points throughout the trial (i.e., at the end of each day of testimony)
- Confiscated phones and other electronic devices at the start of each day of trial

- Confiscated phones and other electronic devices during deliberation
- Explained, in plain language, the reason behind the social media ban
- Alerted the jury about the personal consequences (i.e., personal fines, contempt of court)
- Reminded jurors at voir dire to refrain from using social media while serving as a juror
- Required jurors to sign a statement of compliance, similar to one suggested by the American College of Trial Lawyers
- Required jurors to sign a written pledge agreeing to refrain from using social media while serving as a juror
- Other (please specify)

If you selected other, please specify

20) If you use or have used a different set of instructions during a trial, please post a link to those instructions below, or email the text of those instructions to socialmediasurvey@fjc.gov.

21) How successful have these actions been?

- Very successful
- Somewhat successful
- Not at all successful
- I don't know

22) Please explain.

23) What suggestions do you have for steps judges or courts can take to prevent inappropriate use of social media by jurors? Please be as detailed as possible.

D. Demographic Information

24) What is your home district?

25) How long have you served as a federal judge?

26) If you have any additional comments about jurors' use of social media in general, please provide them here.

Thank you for completing the survey. Please click the **Submit Survey** button below to submit your responses. If you have any questions about the survey, please contact Meghan Dunn at mdunn@fjc.gov or 805-226-7497.