



U.S. Department of Justice

Criminal Division

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Washington, D.C. 20530

CRM-200900732F

**MAR 3 2010**

Mr. James Tucker  
Mr. Shane Witnov  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110

Dear Messrs Tucker and Witnov:

This is an interim response to your request dated October 6, 2009 for access to records concerning "use of social networking websites (including, but not limited to Facebook, MySpace, Twitter, Flickr and other online social media) for investigative (criminal or otherwise) or data gathering purposes created since January 2003, including, but not limited to:

1) documents that contain information on the use of "fake identities" to "trick" users "into accepting a [government] official as friend" or otherwise provide information to the government as described in the Boston Globe article quoted above;

2) guides, manuals, policy statements, memoranda, presentations, or other materials explaining how government agents should collect information on social networking websites;

3) guides, manuals, policy statements, memoranda, presentations, or other materials, detailing how or when government agents may collect information through social networking websites;

4) guides, manuals, policy statements, memoranda, presentations and other materials detailing what procedures government agents must follow to collect information through social-networking websites;

5) guides, manuals, policy statements, memorandum, presentations, agreements (both formal and informal) with social-networking companies, or other materials relating to privileged user access by the Criminal Division to the social networking websites;

6) guides, manuals, memoranda, presentations or other materials for using any visualization programs, data analysis programs or tools used to analyze data gathered from social networks;

7) contracts, requests for proposals, or purchase orders for any visualization programs, data analysis programs or tools used to analyze data gathered from social networks.

8) guides, manuals, policy statements, memoranda, presentations, or other materials describing how information collected from social-networking websites is retained in government databases or shared with other government agencies.”

While processing your request, we located one record totaling 33 pages. After careful review of this document we determined to release this item in part. We are withholding portions of the record pursuant to the exemption in 5 U.S.C. 552(b)(6) which permits the withholding of personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The withheld material consists of work telephone numbers and e-mail addresses of DOJ attorneys.

We will continue to search for any additional documents that may be responsive to your request. We estimate that it will take approximately fourteen days to complete the processing of your request.

Although your FOIA request is the subject of litigation, I am nonetheless required by regulation to inform you that you have a right to an administrative appeal of this partial denial of your request. Your appeal should be addressed to: The Office of Information Policy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530-0001. Both the envelope and the letter should be clearly marked with the legend "FOIA Appeal." Department regulations provide that such appeals must be received by the Office of Information Policy within sixty days of the date of this letter.

Sincerely,

*Catherine Gonzalez Gallego for*

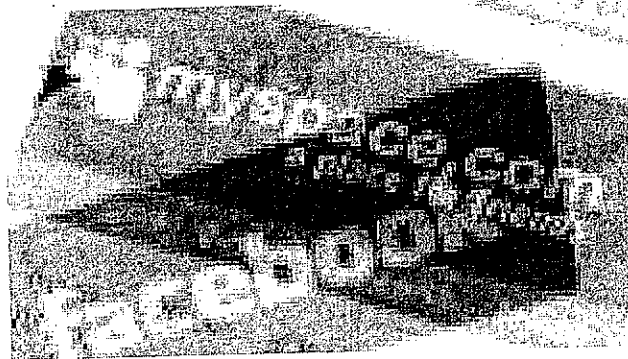
Rena Y. Kim, Chief  
Freedom of Information/Privacy Act Unit  
Office of Enforcement Operations  
Criminal Division



Computer Crime & Intellectual Property Section

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# Obtaining and Using Evidence from Social Networking Sites



Facebook, MySpace, LinkedIn, and More

**John Lynch**

Deputy Chief, Computer Crime  
Computer Crime & Intellectual Property Section

**Jenny Ellickson**

Trial Attorney  
Computer Crime & Intellectual Property Section



Computer Crime & Intellectual Property Section

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## **AGENDA**

**Introduction to Social Networking Sites**

**Overview of Key Social Networking Sites**

**Additional Legal and Practical Issues**



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## **AGENDA**



**Overview of Key Social Networking Sites**

**Additional Legal and Practical Issues**



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*Introduction to Social Networking*

# **THE RISE OF ONLINE SOCIAL NETWORKS**

<b>1997</b>	<b>SixDegrees.com</b>
<b>2003</b>	<b>Friendster, LinkedIn</b>
<b>2004</b>	<b>MySpace</b>
<b>2005</b>	<b>Facebook</b>
<b>2008</b>	<b>Twitter</b>



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Introduction to Social Networking  
**POPULAR SOCIAL NETWORKS**

***Worldwide: Facebook***

***U.S. and Canada: MySpace, LinkedIn, Twitter***

***Europe: MySpace, Twitter, Hi5, V Kontakte***

***Latin America: Hi5, Orkut, Tagged***

***Asia: QQ, Friendster, Xiaonei, Orkut, Mixi, Hi5***

***Middle East and Africa: Maktoob, Hi5***

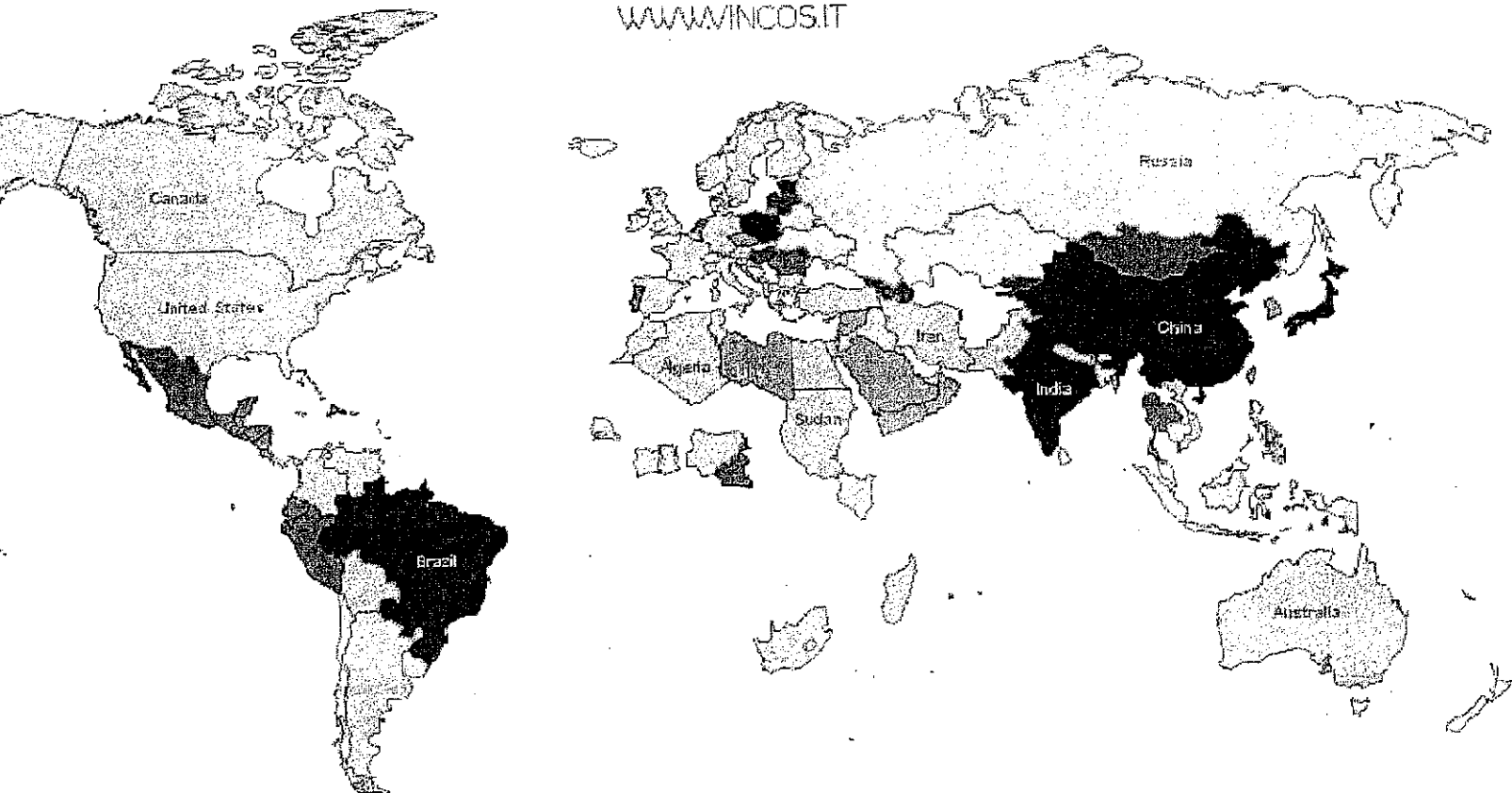


## Computer Crime & Intellectual Property Section

# WORLD MAP OF SOCIAL NETWORKS

WWW.VINCOS.IT

- Cyworld
- Facebook
- Friendster
- Hi5
- Hyves
- Iwity
- Lidé
- Maktoob
- Mixi
- MySpace
- Nasza-klasa
- Odnoklassniki
- One
- Orkut
- QQ
- Skyrock
- V Kontakte
- Wretch
- Zing



Created on Many Eyes (<http://many-eyes.com/>) © IBM

Image courtesy Vincenzo Cosenza ([www.vincos.it](http://www.vincos.it)), data based on Alexa and Google Trends





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Introduction to Social Networking  
**POPULARITY IN THE UNITED STATES**

**Most-visited websites in the U.S. (August 2009)**

1. Google
2. Yahoo
3. Facebook
4. YouTube
5. MySpace
- ...
13. Twitter
- ...
27. LinkedIn

Source: Alexa.com – August 12, 2009 list of Top 100 websites in United States.



## Introduction to Social Networking **THE BASICS**

**Most social-networking sites allow users to:**

- **Create personal profiles**
- **Write status updates or blog entries**
- **Post photographs, videos, and audio clips**
- **Send and receive private messages**
- **Link to the pages of others (i.e., “friends”)**

**How can LE obtain data from these sites?**

- **Some info may be public**
- **Use ECPA to get info from providers**
- **Undercover operations?**



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## Introduction to Social Networking **UTILITY IN CRIMINAL CASES**

**Evidence from social-networking sites can**

- **Reveal personal communications**
- **Establish motives and personal relationships**
- **Provide location information**
- **Prove and disprove alibis**
- **Establish crime or criminal enterprise**

**Also: instrumentalities or fruits of crime.**



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## **AGENDA**

### **Introduction to Social Networking**



### **Additional Legal and Practical Issues**



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## Overview of Key Social Networking Sites

# FACEBOOK

**Founded in 2004, primarily catering to students**

**Now over 250m active members worldwide**

**Over 10b photos in Oct 2008; adds over 1b monthly**

**Applications run on Facebook platform**

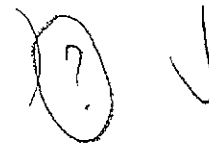
**True names encouraged but not guaranteed**

**Privacy model is highly granular; present different information to different groups or individual users**

**Messaging includes mail, real-time chat, "wall"**

**Now used in private background checks**

**Koobface – virus/worm vector**





## Overview of Key Social Networking Sites

# FACEBOOK

Demi Moore | Facebook - Microsoft Internet Explorer provided by Criminal Division

http://www.facebook.com/demimoore

File Edit View Favorites Tools Help

Convert Select

Demi Moore | Facebook

Demi Moore is on Facebook  
Sign up for Facebook to connect with Demi Moore.

Demi Moore

Wall Info Photos YouTube Box Notes

Just Fans

Demi Moore is checking out the "Spread" trailer

Apple - Movie Trailers - Spread  
Source: www.apple.com  
SPREAD is a fresh, funny, and sexy look at the trials and tribulations of sleeping your way to a life of privilege in Los Angeles. Come and learn, the film is an "inspiration tale" about a gorgeous guy who gives women what they want in order to live exactly as he likes...

June 25 at 1:28pm

Yang, Jasmyne, Richard and 1,927 others like this.

View all 437 comments

Making my way through Eat Pray Love by Elizabeth Gilbert

Information

Location:  
Los Angeles, CA

Birthday:  
November 11

Fans

6 of 1,115,626 fans See All

Kate Theo Jules

Despo nani Eres

Demi Moore Please help get the word out 1 in 8 Americans is at risk of hunger. Join a community that cares. Go to [www.facebook.com/kelloggcares](http://www.facebook.com/kelloggcares) and become a FAN to help end US hunger. Watch the video below that we created with all of YOU!! Let me know how you like it...

Fighting to End Hunger

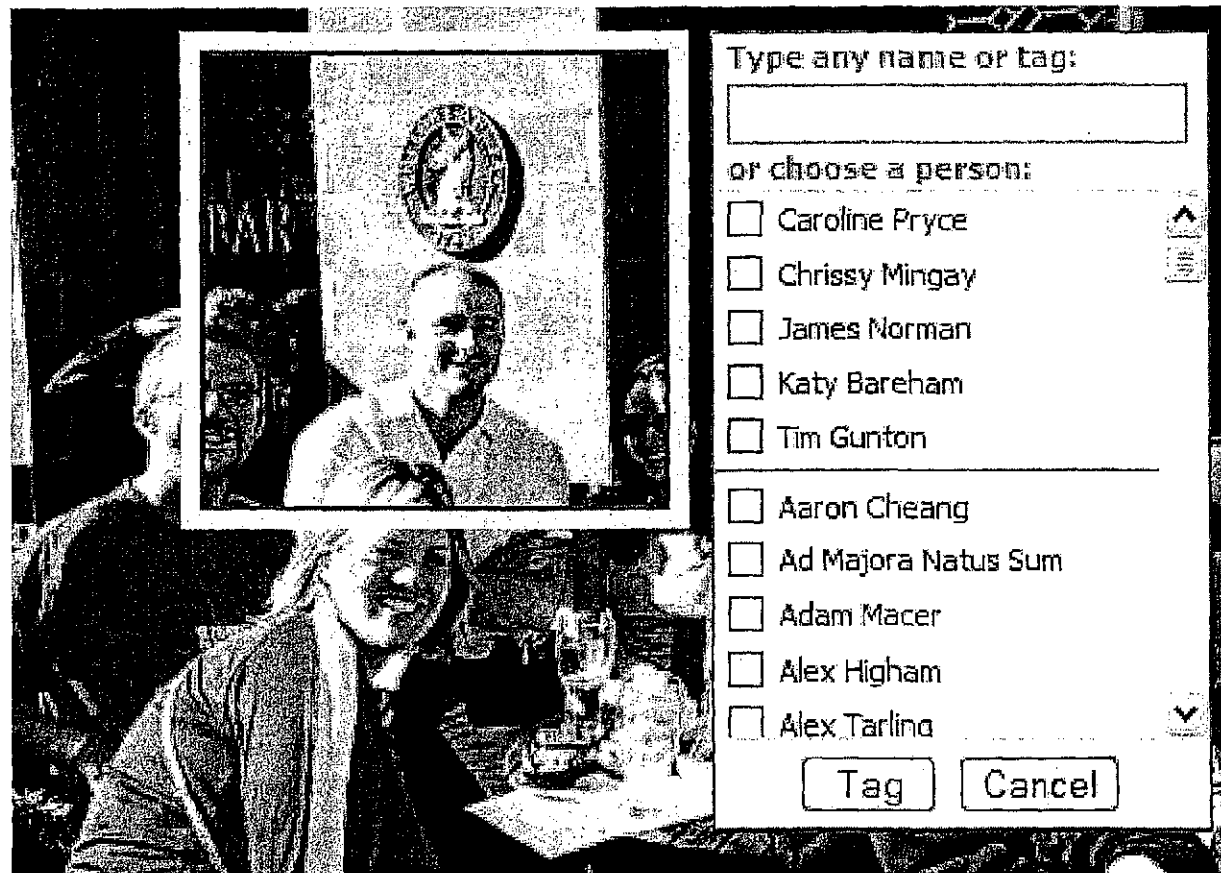
The following video, produced by Katelyn & partners with Kellogg and directed by Demi Moore, features user-generated content submitted by people moved to end hunger following requests that Barack (Ashton Kutcher) and Jane (Demi Moore) posted on their respective Twitter feeds and Facebook Pages. Kellogg is a proud supporter of Feeding America. Please click on the video Kellogg logo above and help support this incredible cause by donating to Feeding America.

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## Overview of Key Social Networking Sites

# FACEBOOK





## Overview of Key Social Networking Sites

# FACEBOOK

who on Facebook can find you through search. Your friends will always be

**Search Visibility**

**Who Can Find You on Facebook?**

☒ Everyone on Facebook

**Friends**

☒ Friends of Friends  
My friends and their friends can see this.

☐ Only Friends  
Only friends can see this.

**Networks**

☒ All of My Networks  
☐ Some of My Networks...  
☐ None of My Networks

**Okay** **Cancel**

er your search result is available outside of Facebook.

**Photos Tagged of You**

**Who Can See This?**

**Friends**

☐ Friends of Friends  
My friends and their friends can see this.

☐ Only Friends  
Only friends can see this.

☐ Some Friends  
Choose specific friends who can see this.

☒ Only Me  
Only you and selected networks can see this.

**Networks**

**None of My Networks**

☒ Except These People

Type the name of a friend or friend list...

**Okay** **Cancel**





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Overview of Key Social Networking Sites  
**GETTING INFO FROM FACEBOOK**

Data is organized by user ID or group ID

Standard data productions (per LE guide):

Neoprint, Photoprint, User Contact Info,  
Group Contact Info, IP Logs

**HOWEVER, Facebook has other data available.**

**Often cooperative with emergency requests.**



## Overview of Key Social Networking Sites

# **MYSPE**

**Founded 2003, now owned by Fox Interactive Media**  
**2006: Most popular SN; passed by Facebook in 2008**  
**Currently tens of millions of active users monthly**  
**True names less encouraged than Facebook**  
**Messaging through messages, chat, friend updates**  
**Application platform rolled out early 2008**  
**Young user base, history of child safety concerns**  
**Privacy is currently less granular than Facebook**



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# Overview of Key Social Networking Sites MYSPACE

Top Model Michelle (Michelle Fairplay) | MySpace - Microsoft Internet Explorer provided by Criminal Division

http://www.myspace.com/glamazon1

File Edit View Favorites Tools Help

Convert Select

Top Model Michelle (Michelle Fairplay) | MySpace

Home Browse People Find Friends Local Music Video Games More Login Sign Up

**Top Model Michelle**

My new Favorite band: Millionaires! Go check them out...amazing! Mood: amorous at 8:18 PM Jul 24 view more

View My: Photos Videos Blog Playlists

Michelle Fairplay  
23 / F. male  
Virginia, US  
Last login: 8/1/2009

Send Message  
Add to Friends  
Add Comment

Videos Slide: On

00:00 03:16

Just Got Paid Lets Get Laid  
MILLIONAIRES (part 2)

Interests

General

**Status and Mood**

Michelle Fairplay My new Favorite band: Millionaires! Go check them out...amazing!  
Mood: amorous at 8:18 PM Jul 24

Michelle Fairplay I've lost a 1/2 inch off my hips!  
Mood: exhausted at 8:02 PM Jul 19

Michelle Fairplay is eating Special K and working out..  
Mood: knighted at 13:41 PM Jul 16

Michelle Fairplay is getting ready to sign a contract that could change my life! Hello Shanghai China!  
Mood: accomplished at 12:08 PM Jul 8

Michelle Fairplay maybe packing her bags soon...giggle..  
Mood: accomplished at 11:24 PM Jul 7

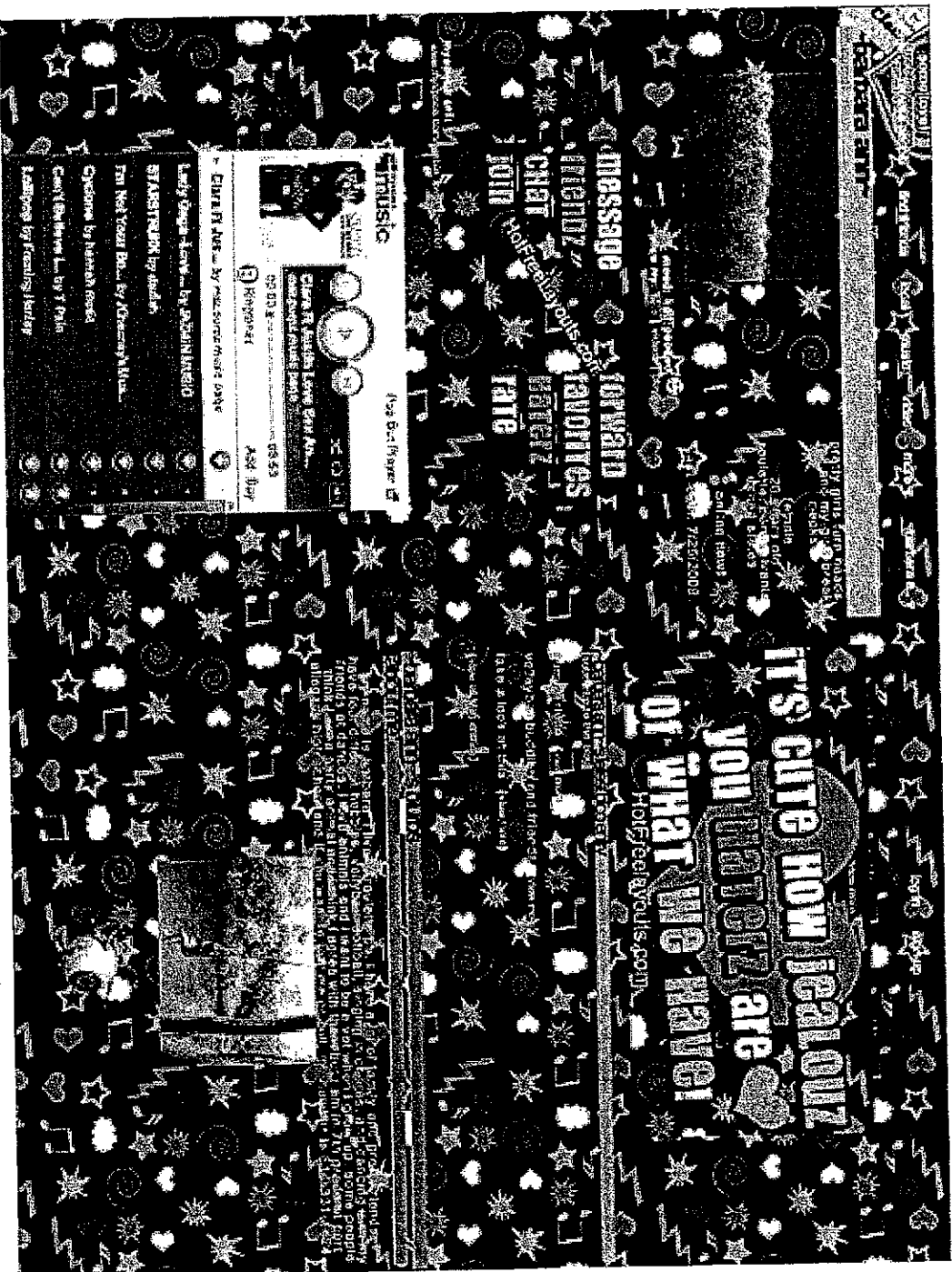
View More

Internet | Protected Mode: Off 100%



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## Overview of Key Social Networking Sites MYSPACE





## Computer Crime & Intellectual Property Section

# Overview of Key Social Networking Sites MYSPACE

Izzybelle



Isabelle  
Wonders

Just Amy  
Sometimes



Acceber

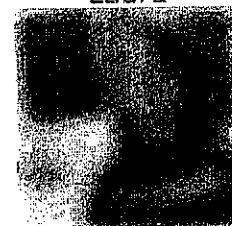


Online Now!

&L^O^V^I^N^A  
G^L^Y%



Laura

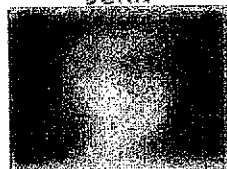


mz.trice



trice trice

Jenn



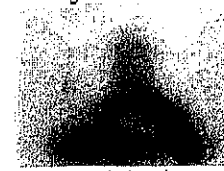
Zee



SEXY POOH



jennifer



babygirl nieves



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## Overview of Key Social Networking Sites

# GETTING INFO FROM MYSPACE

**Many profiles have public content.**

**Data is organized by FriendID – (see LE guide.)**

**MySpace requires a search warrant for private messages/bulletins less than 181 days old**

- **Also considers friend lists to be stored content**

### **Data retention times**

**User info and stored files – indefinitely**

**IP logs, info for deleted accounts – 1 year**



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## Overview of Key Social Networking Sites

# TWITTER

**Market leader in “micro-blogging”**

**Began in mid-2006 as “status message” service**

**Ubiquity and ease of updating, but limited space**

**Breaking news, real-time updates: USAir, Iran**

**Most multimedia handled by 3d party links**

**Simplified privacy model: updates public or private**

**Direct messages are private; sender can delete**

**Short URLs used to serve malicious links and code**



## Overview of Key Social Networking Sites

# TWITTER

Brook Busey (diablo Cody) on Twitter - Microsoft Internet Explorer provided by Criminal Division

http://twitter.com/diablo Cody Live Search

File Edit View Favorites Tools Help

Convert Select

Brook Busey (diablo Cody) on Twitter

diablo Cody

Verified Account

Name Brook Busey  
Bio Blame it on the a-a-a-a-alcohol.

130 following 90,507 followers

Tweets 1,595

Favorites

Following

View All

RSS feed of diablo Cody's tweets

El Pollo Normal #unpopularstores  
1 minute ago from web

Halved Foods #unpopularstores  
7 minutes ago from web

RT @serafinowicz I love the Transformer who changes into a hotel lobby - Reception  
11 minutes ago from web

@kellyoxford @louisvritel I think kids should be taught the True Alphabet: R,S,T,N,L and E.  
22 minutes ago from web in reply to kellyoxford

I endorse this sentiment heartily. RT @rainnwilson fart noise  
about 1 hour ago from web

Potatoes, Tabasco and Dos Equis for my hangover.  
about 4 hours ago from web

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## Overview of Key Social Networking Sites

# GETTING INFO FROM TWITTER

21

### The good news

- Most Twitter content is public
- Private messages kept until user deletes them

### The bad news

- No contact phone number
- Only retain last login IP
- Will not preserve data without legal process
- Stated policy of producing data only in response to legal process (i.e., no 2702)
- No Law Enforcement Guide



## Overview of Key Social Networking Sites

# LINKEDIN

**Business-focused with enforced limits to interaction**

**Profiles focused on education and work experience**

**Use for criminal communications appears limited**

**But can be used to identify experts**

**Can check background of defense experts**

**Privacy model similar to Facebook**

**Profile information is not checked for reliability**



## Overview of Key Social Networking Sites

# LINKEDIN

Barack Obama - LinkedIn - Microsoft Internet Explorer provided by Criminal Division


http://www.linkedin.com/in/barackobama?PHPSESSID=3acd0526a08c81af9fc560b340 Live Search

File Edit View Favorites Tools Help

Convert Select

Barack Obama - LinkedIn

**Barack Obama**  
President of the United States of America  
Washington D.C. Metro Area



- Contact Barack Obama
- Add Barack Obama to your network

**Current**

- President at United States of America


**Past**

- US Senator at US Senate (IL-D)
- Senior Lecturer in Law at University of Chicago Law School
- State Senator at Illinois State Senate

**Education**

- Harvard University
- Columbia University in the City of New York
- Occidental College

**Connections**

 500+ connections

**Industry** Government Administration

**Websites**

- White House website
- Join Barack's LinkedIn Group
- My RSS feed

Public profile powered by: **LinkedIn**

Create a public profile: Sign In or Join Now

**View Barack Obama's full profile:**

- See who you and Barack Obama know in common
- Get introduced to Barack Obama
- Contact Barack Obama directly

[View Full Profile](#)

**Name Search:**  
Search for people you know from over 40 million professionals already on LinkedIn.

Done Internet | Protected Mode: Off 100%



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## **AGENDA**

**Introduction to Social Networking**

**Overview of Key Social Networking Sites**





Legal and Practical Issues  
**FEDERATED IDENTITY ISSUES**

- **Social networking sites increasingly adopting federated identity schemes**
  - OpenID, Facebook Connect
- **Facebook, MySpace, Yahoo!, and Google act as identity authenticators – “Single Sign-In” model**
- ***Example:* A user can log in to a Facebook account using Google credentials**
  - After a link is established between two accounts, Google will check and vouch for identity of its user
  - Authentication information split from activity information
  - In turn, a Facebook login may be used to authenticate to sites using “Facebook Connect”
- **If attribution is necessary, must determine identity provider – not simply the domain.**



Introduction to Social Networking

## **TERMS OF SERVICE / PRIVACY POLICIES**

- **Social networks have extensive terms of service and privacy policies**
  - Most permit emergency disclosures to LE
  - All specify exceptions to respond to legal process and protect service against fraud/damage
- ***U.S. v. Drew* – can failure to follow TOS render access unauthorized under 1030?**
  - Employment policy cases tend to say yes
  - But concerns that transforms TOS into private criminal code for site misconduct



Legal and Practical Issues  
**DOES THE PPA APPLY?**

- **Growth of social networks raises questions of breadth of PPA**
  - Is Facebook/Twitter a “similar form of communication” to a newspaper, book, broadcast? (Ashton Kutcher? CNNbrk? Iran?)
  - No easy answers, but look to intent to communicate news to sizable audience
  - In many cases, *Guest v. Leis* rule will be sufficient; CCIPS can help with analysis
- **Congress continues to examine media shield**



Legal and Practical Issues  
**UNDERCOVER OPERATIONS**

**Why go undercover on Facebook, MySpace, etc?**

- Communicate with suspects/targets
- Gain access to non-public info
- Map social relationships/networks

**Undercover operations after *U.S. v. Drew***

- If agents violate terms of service, is that “otherwise illegal activity”?

Release  
ex. 5  
AWP





Legal and Practical Issues

## **WITNESSES & SOCIAL NETWORKS**

**Many witnesses have social-networking pages**

- Valuable source of info on defense witnesses
- Potential pitfalls for government witnesses

**Knowledge is power**

- Research all witnesses on social-networking sites
- Discovery obligations?

**Advise your witnesses:**

- Not to discuss cases on social-networking sites
- To think carefully about what they post



Legal and Practical Issues

## **OTHER COURTROOM ISSUES**

**Social networking and the courtroom  
can be a dangerous combination**

- Use caution in “friending” judges, defense counsel
- Warn jurors about social-networking sites

**Social networking + mobile devices =  
real-time updates on courtroom events**



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**CCIPS Duty Line: 202-514-1026**

**John Lynch**

B6

*Release*

**Jenny Ellickson**

B6



**WWW.CYBERCRIME.GOV**

Computer Crime and Intellectual Property Section (CCIPS)  
of the Criminal Division of the U.S. Department of Justice