



Social Media & Today's 24-Hour News Cycle

League of California Cities

January 2021

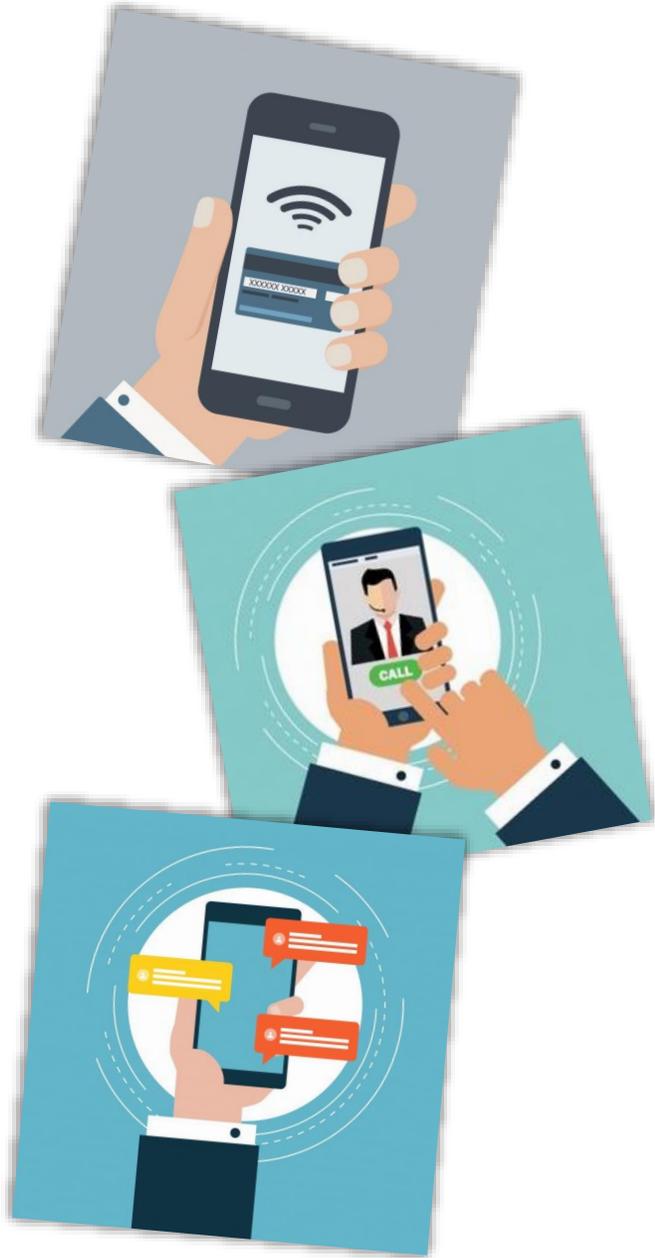
Information Sources 20 Years Ago



The New Daily Information Diet



We Are Addicted to Media!



per day watching, reading, listening or
simply interacting with media

Source: [Nielsen Total Audience Report, April 4, 2020](#)

We Are Addicted to Our Phones...

Americans check
their phones...

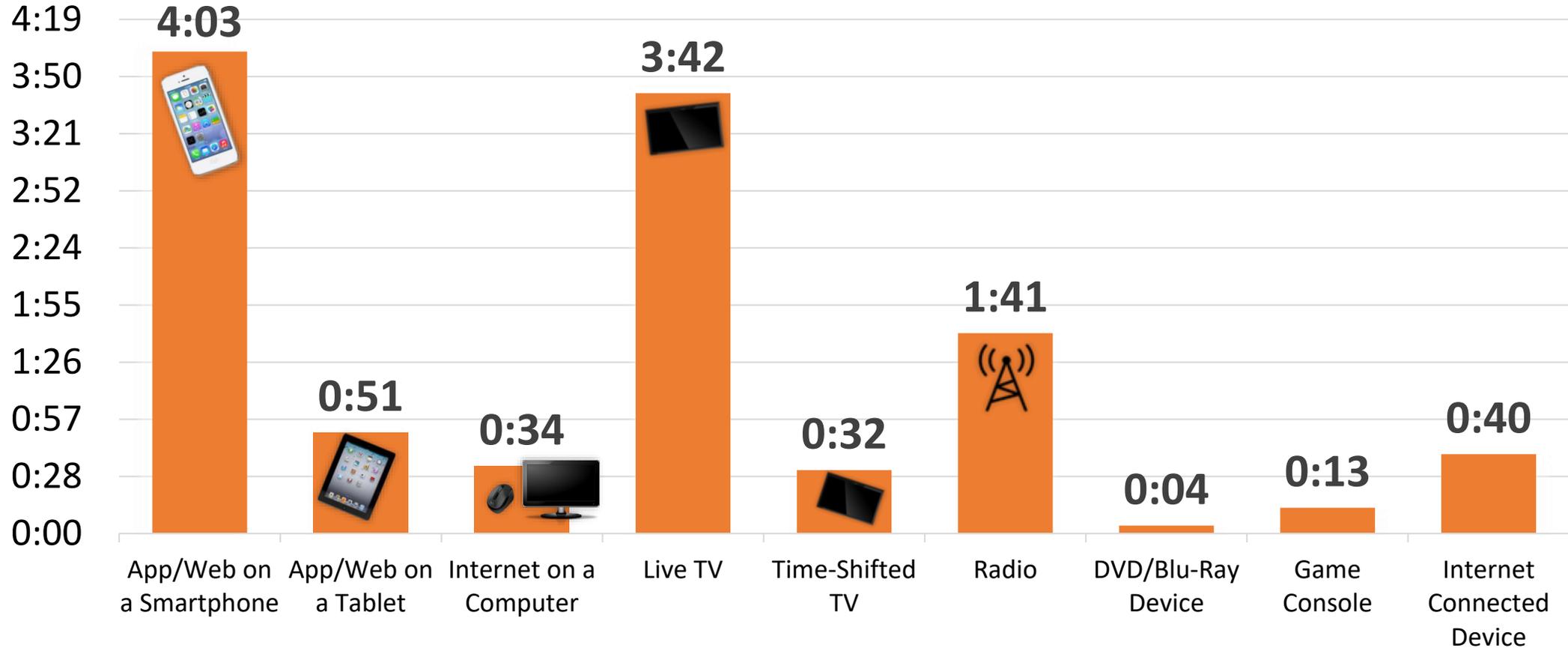


...times per day!

Sources: [Elite Content Marketer](#), "[Screen Time Statistics 2020: Your Smartphone Is Hurting You.](#)"

Mobile Reigns Supreme

Average Time Spent Per Adult 18+ Per Day (Based on Total U.S. Population)



Source: [Nielsen Total Audience Report, April 4, 2020](#)

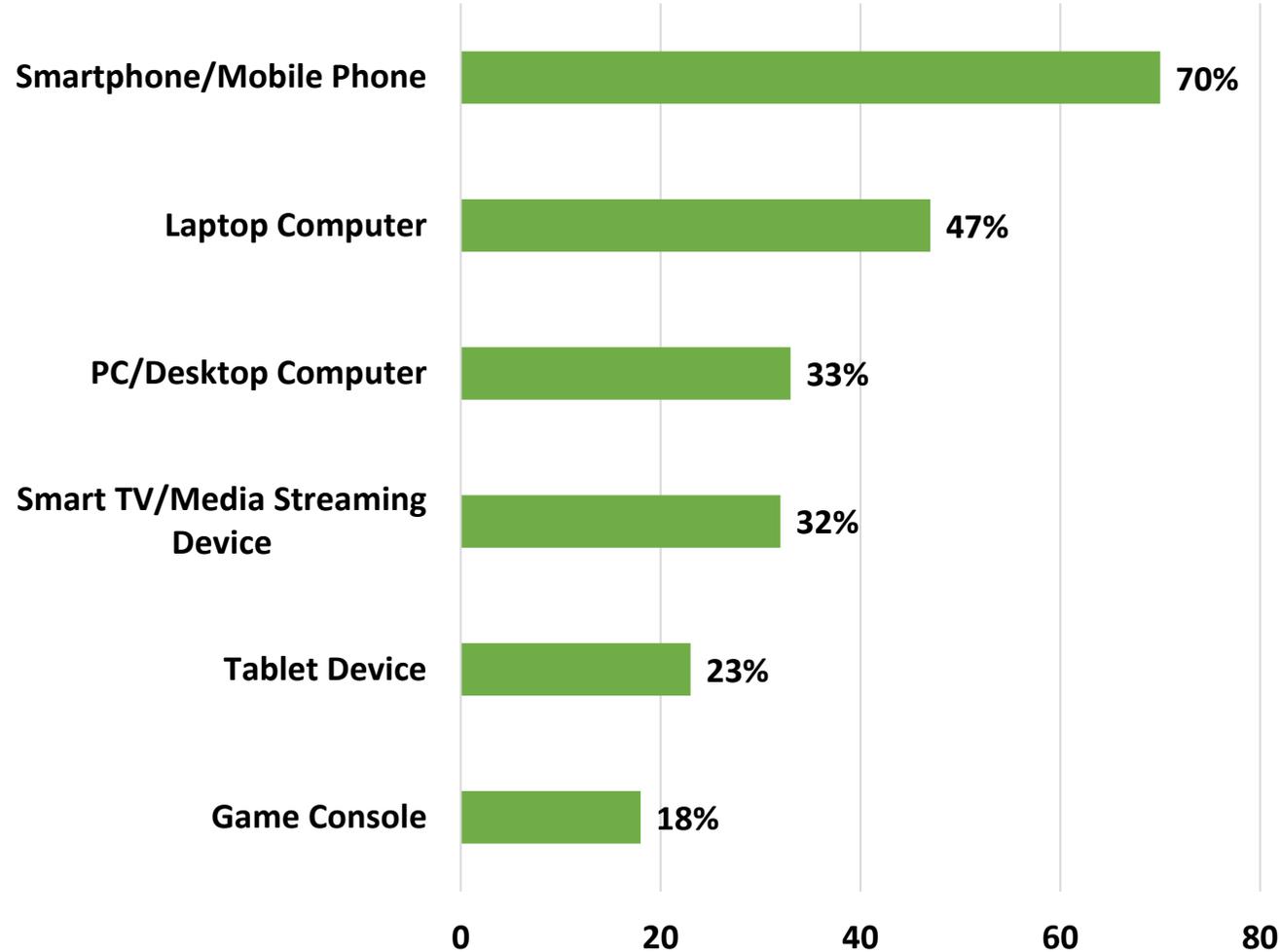
Adults aged 50-64 spend more time connected to media than any other age group at **13 hours and 40 minutes.**



Adults aged 35-49 spend the **most time on digital devices** at 6 hours and 13 minutes per day.

Nearly half (46%) of all time spent on media among adults 18-34 is on smartphones.





Due to COVID, People Are Spending More Time With Devices

Percentage of Internet Users Aged 16-64 in Select Countries Who Report Spending More Time Uses Each Device Due to COVID-19

Source: [DataReportal, July 21, 2020, "Digital 2020: July Global Statshot."](#)

Attention Span & Digital Media



Goldfish
9 SECOND
ATTENTION SPAN

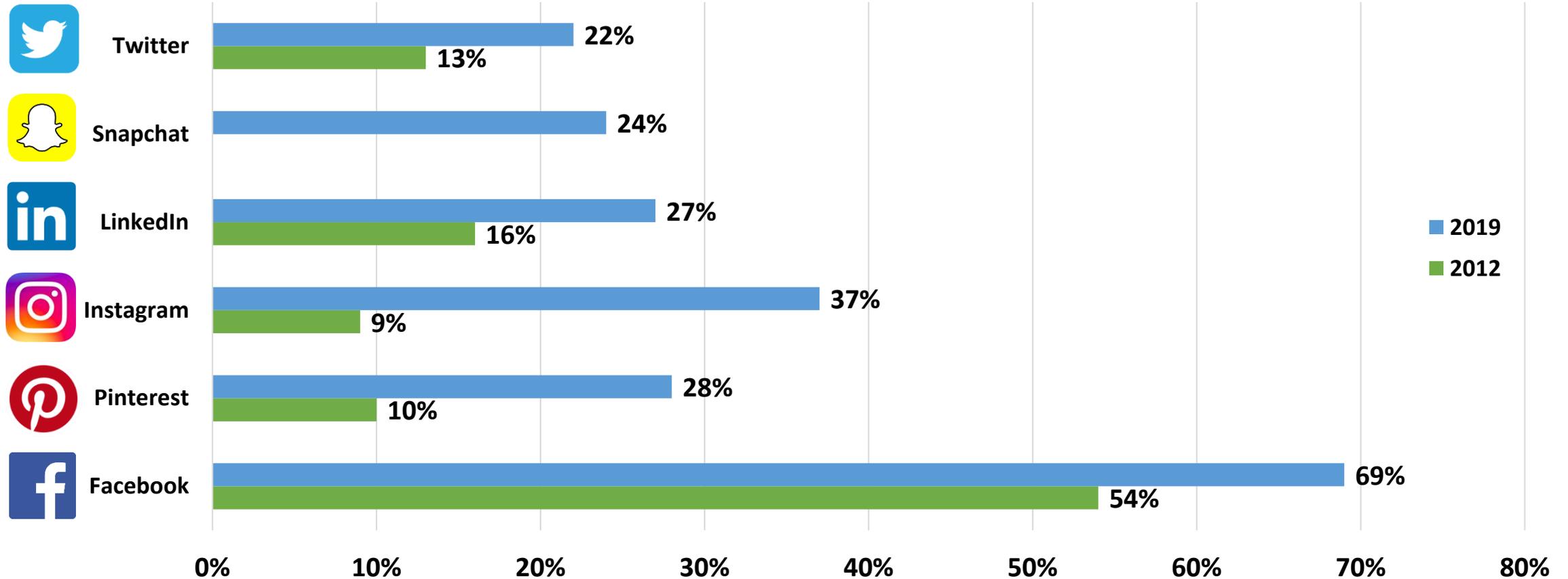


Human
8 SECOND
ATTENTION SPAN

Source: [Axios, February 10, 2017, "How tech ate the media and our minds."](#)

Facebook is the Most Used Social Platform

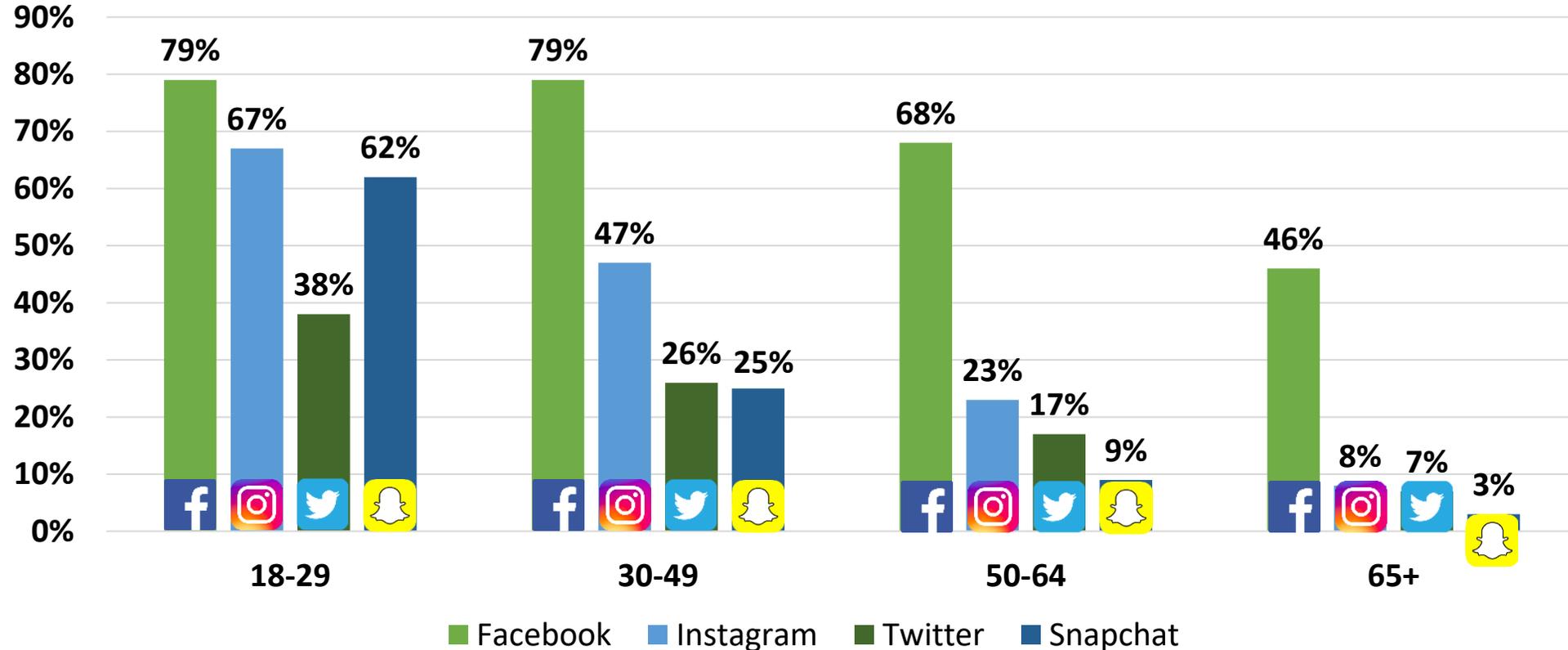
% of U.S. adults who use...



Source: [Pew Research Center, June 12, 2019, "Social Media Fact Sheet."](#)

Social Media Use By Age

% of U.S. adults who use each social media platform



Source: [Pew Research Center, April 9, 2019, "Share of U.S. adults using social media, including Facebook, is mostly unchanged since 2018."](#)

 **treva_e_hodges**
Dr. Treva Hodges, PhD

Follow

56 Following 2095 Followers 27.4K Likes

Scholar. Advocate. Mayor.
www.mayortreva.com



Rising Popularity of TikTok

- One of the most popular social platforms among Generation Z
 - Those born between *1997-2012
- 100 million users in the U.S.
- 60 second virality using relevant hashtags, trends, music and engaging content



 **torontomayor** ✓
Mayor John Tory

Follow

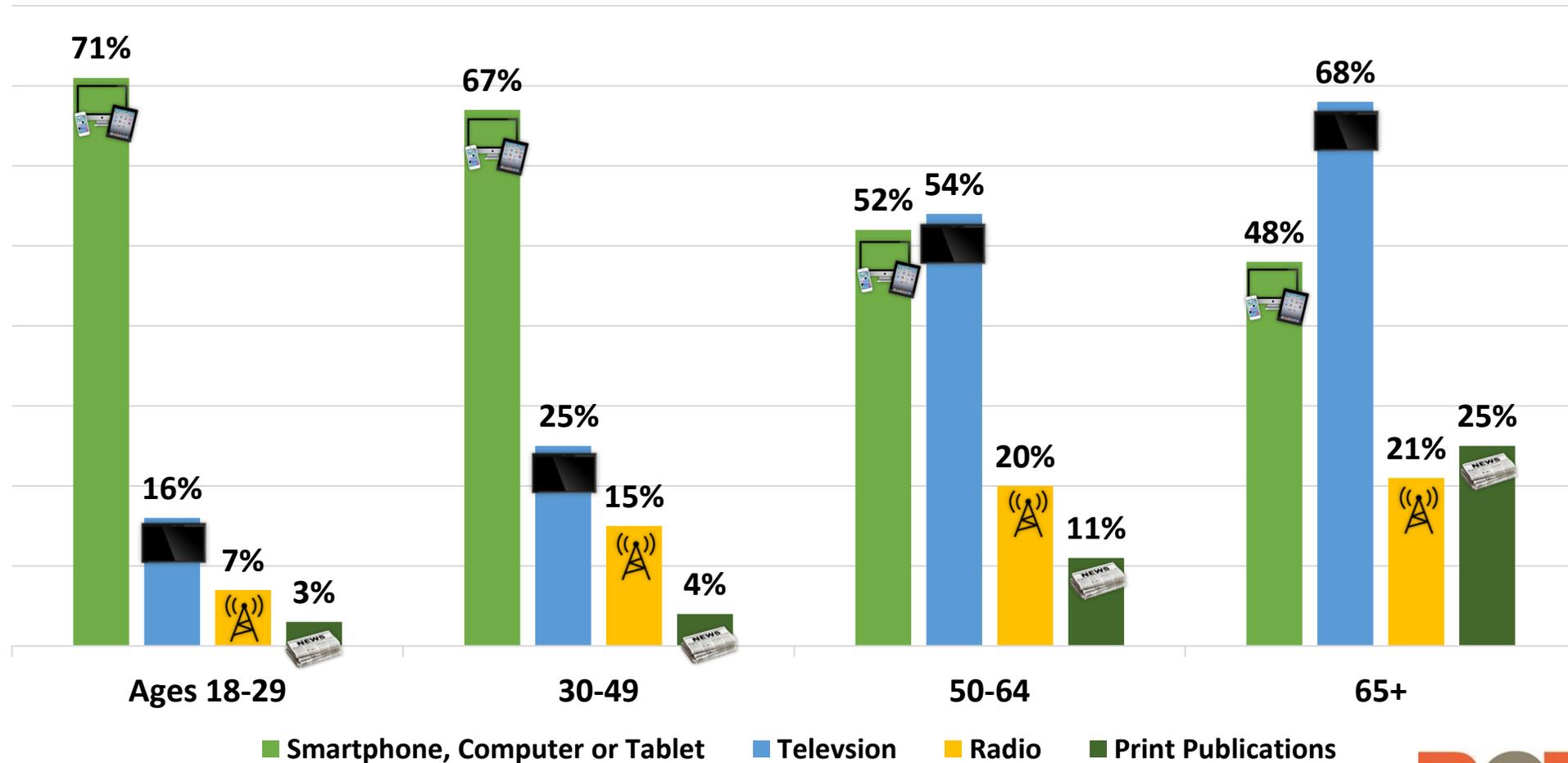
0 Following 27.6K Followers 345.1K Likes

Toronto Mayor John Tory



Age Dictates How Americans Get Their News

% of U.S. adults who often get news on each platform

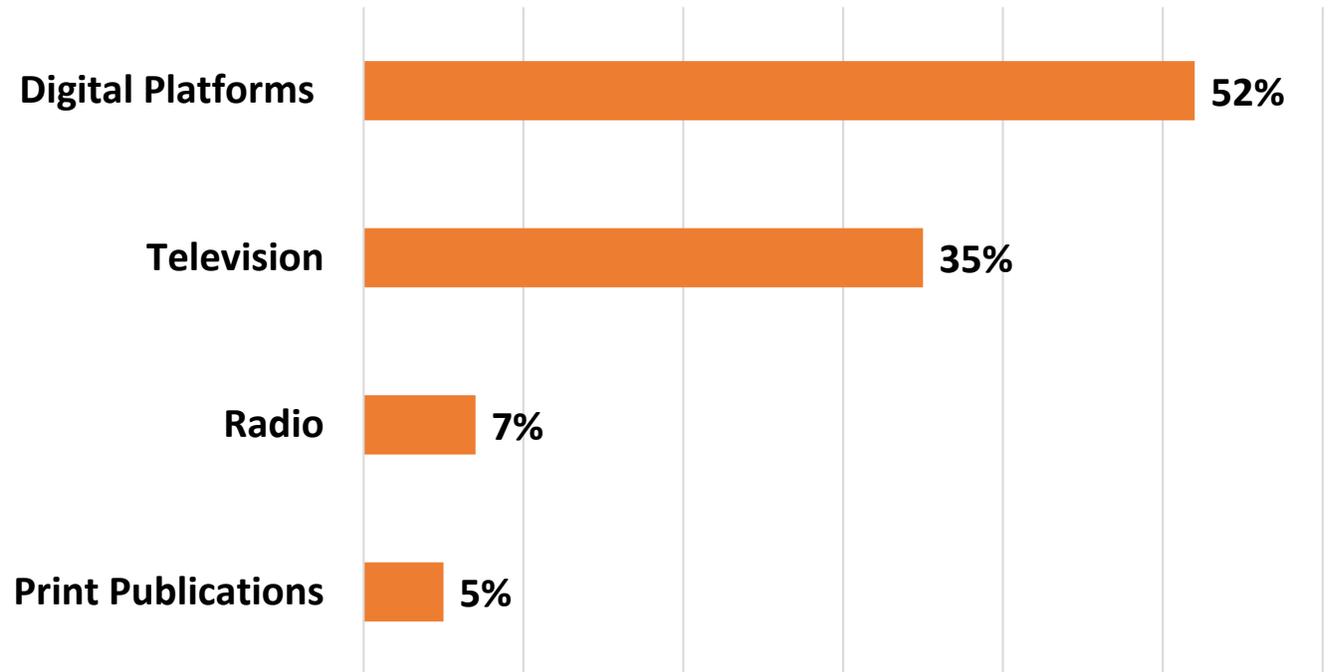


Source: [Pew Research Fact Tank, January 12, 2021, "More than eight-in-ten Americans get news from digital devices."](#)

News Consumption Shifting Away From Television

% of U.S. adults who prefer to get news on each platform

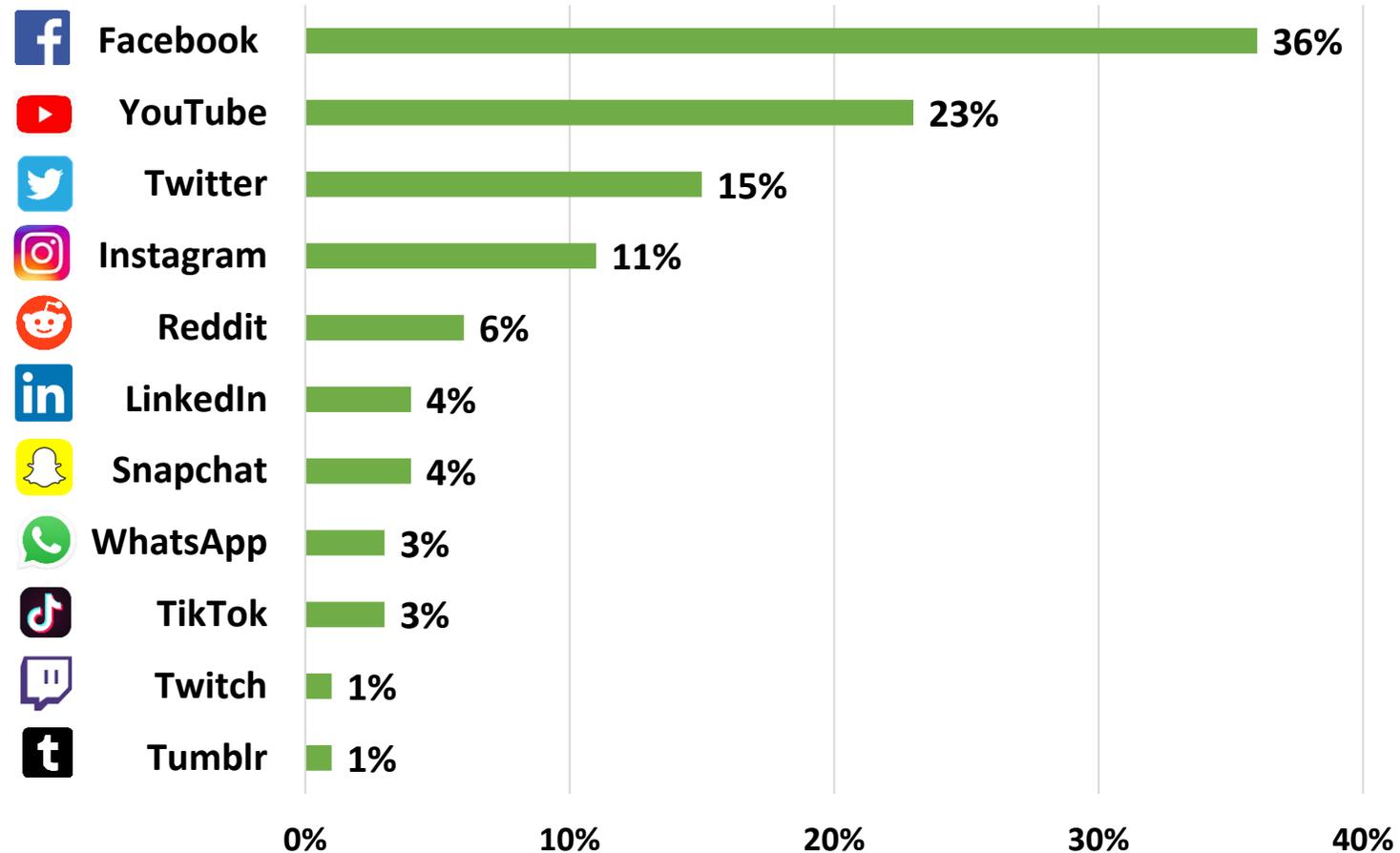
- Roughly half (52%) of Americans say they prefer a digital platform – whether it is a news website (26%), search (12%), social media (11%) or podcasts (3%).
- Americans ages 50+ use both television and digital devices for news at high rates, while the younger age groups have almost fully turned to digital devices as a platform.



Source: [Pew Research Fact Tank, January 12, 2021, "More than eight-in-ten Americans get news from digital devices."](#)

News Use Across Social Media Platforms

% of U.S. adults who get news on each social media site

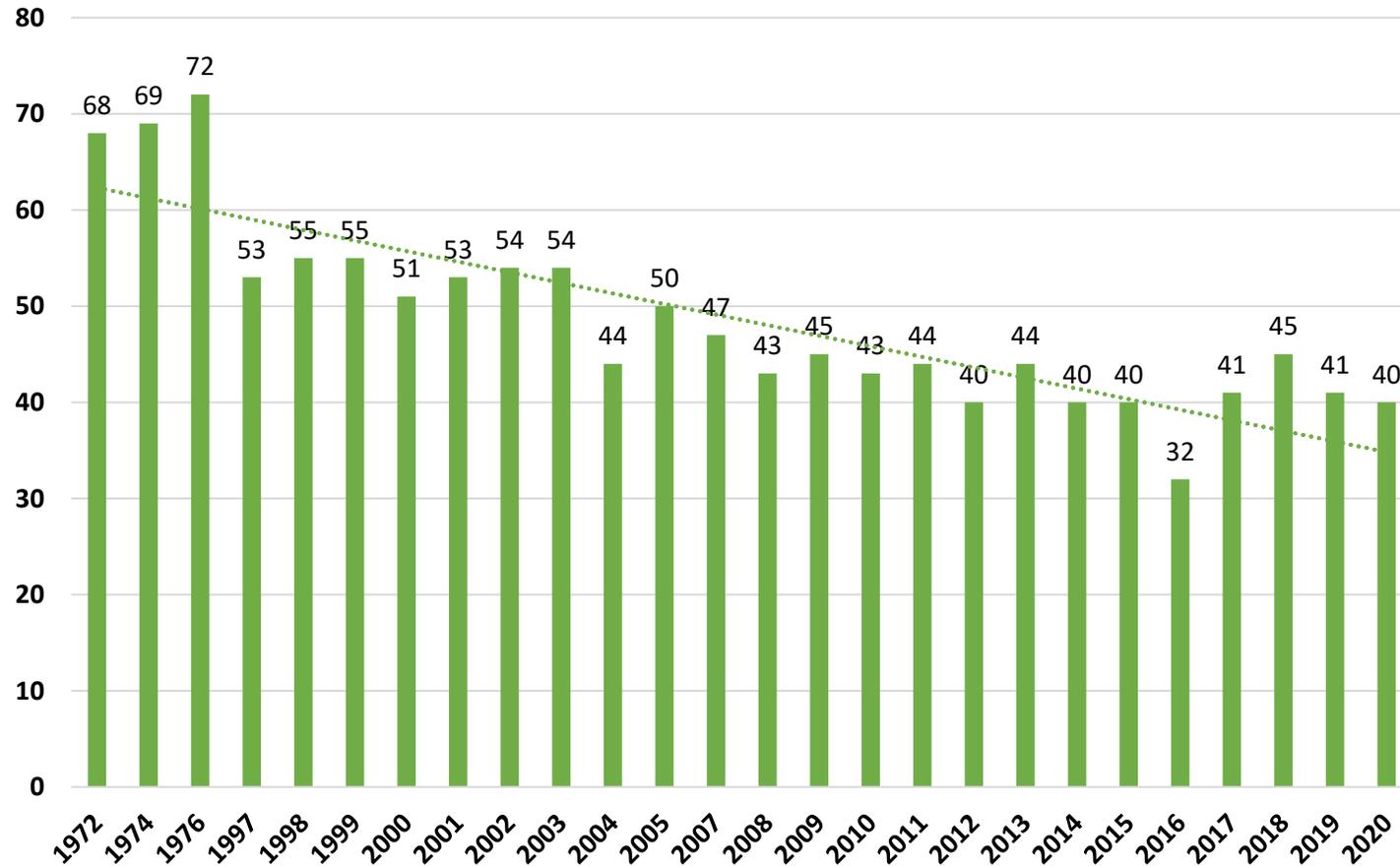


Source: [Pew Research Center, January 12, 2021, "News Use Across Social Media Platforms."](#)

American Trust in Mass Media

Steadily Declining for Decades

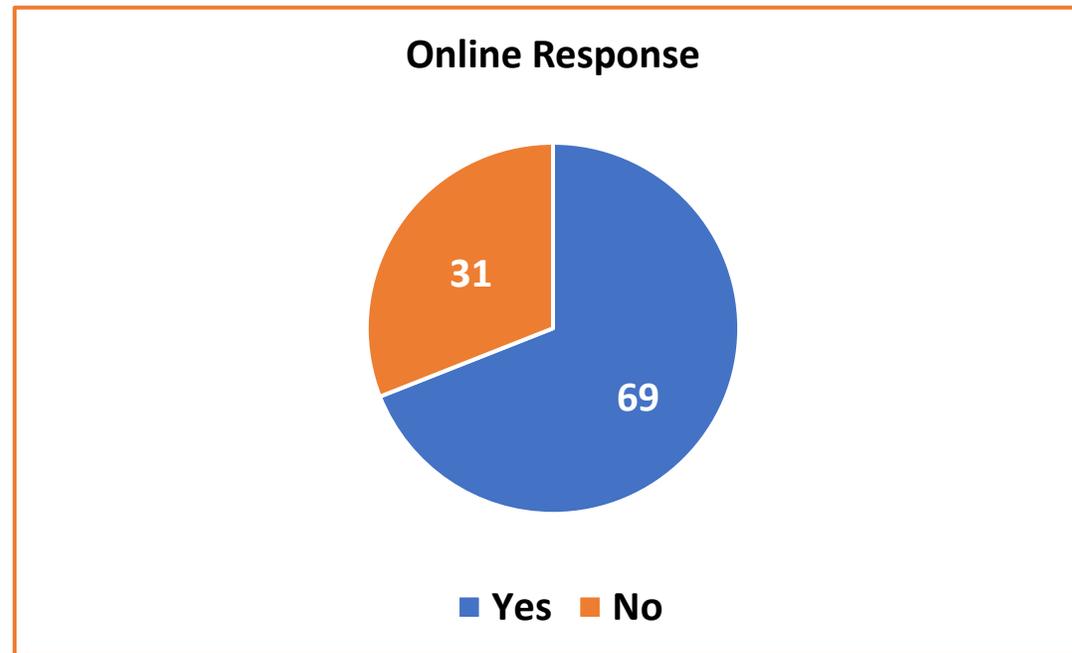
Question: *“In general, how much trust and confidence do you have in the mass media -- such as newspapers, T.V. and radio -- when it comes to reporting the news fully, accurately, and fairly -- a great deal, a fair amount, not very much, or none at all?”*



Source: [Gallup, September 30, 2020, “Americans Remain Distrustful of Mass Media.”](#)

Content Viewing Preferences Among California Voters

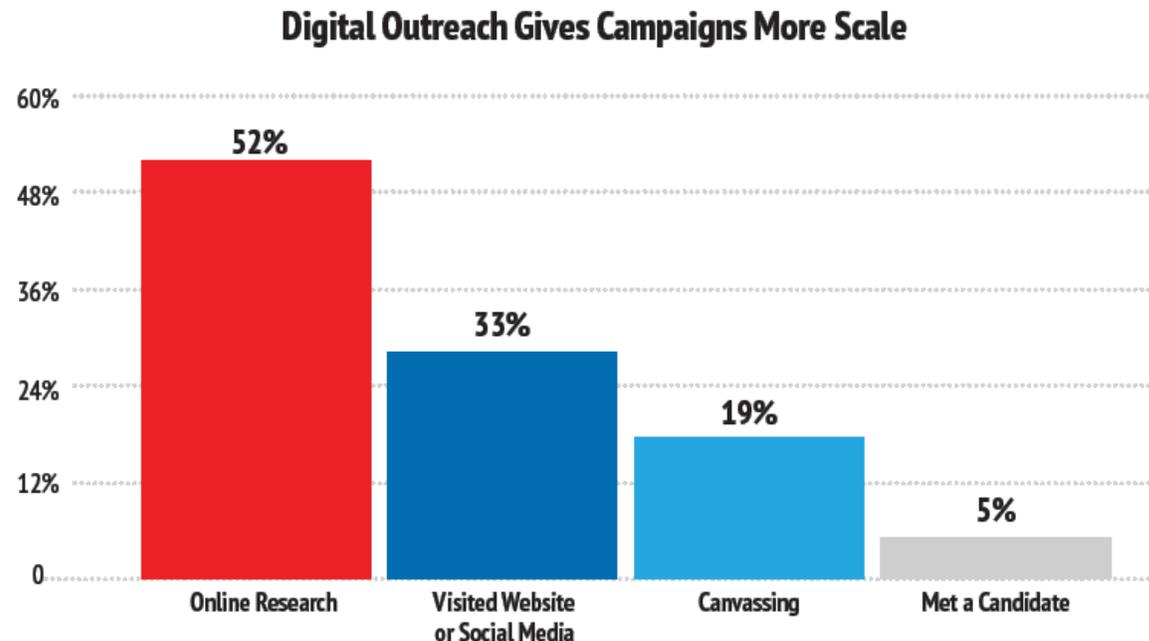
Question: *“When you watch television, do you use a streaming service or streaming app?”*



Source: “When you watch television, do you use a streaming service or streaming app?” (Public Opinion Strategies, July 2020)

Voters Increasingly Going Online to Research Candidates and Causes

- 52% of U.S. voters sought out information about elections and candidates online
 - 33% visited a candidate's website or social media
- Only 5% U.S. voters met candidate in person; including participating in a Zoom or live video



Source: Center for Campaign Innovation, January 12, 2021, "2020 Post-Election National Campaign Survey."

Elected Officials & Government Moving Online

Livestreams & Video Conferencing Platforms



CityofChico
@ChicoCityof

Tonight's City Council meeting begins at 6pm. Due to COVID-19, there is no public in-person attendance, but the meeting may be viewed on Comcast Channel 11 or at chico-ca.gov

9:42 AM · Jan 5, 2021 · Twitter Web App

Office of the Governor of California Retweeted

MayorOfLA @MayorOfLA

Join me live with @CAGovernor, Council President @CD6Nury and local leaders as we launch the COVID-19 vaccination mega-site at @Dodgers Stadium.

MayorOfLA @MayorOfLA
Vaccination mega-site launch at Dodger Stadium

1:46 PM · Jan 15, 2021 · Twitter Media Studio

What Does this Mean for Elected Officials?

- You're always “on the record”
- Privacy **does not** exist
- Be transparent and open – all the time
- Remember that everything online lives forever



Build Your Audience & Engage Your Constituents

- Use social media to have ‘public conversations’ with your constituents – and treat them like everyone is listening
- Have a direct line to your constituents
- Target your message to specific and key constituency groups
- Develop engaging content focused on issues people care about
 - Videos
 - Photos
- Build an audience gradually over time
 - Paid strategies
 - Organic
- Use #hashtags to reach a broader audience



Be Proactive on Social Media



- Share news articles, be a source for important city information
- Feature positive community work
- Show how you're helping your community and constituents
- Constructively interact in the comments with your residents
- Follow and engage with other local and state leaders

Be Proactive on Social Media

- Be prepared and have a plan for when news breaks about you or your city
- Ensure that your social media team is aware of the plan and designate a “point person”
- Coordinate your strategy with other local leaders and groups for information consistency



Social Media Don'ts:

- Argue, provoke, or respond to 'trolls' trying to start a fight
- Remove comments you don't like, because you don't like them
- Post when angry, impaired, or not in a good frame of mind
- Take on a reporter – a good fight sells newspapers
- Post over informing, long press releases
- Weigh in on everything



Emerging Legal Issues

A SOCIAL MEDIA GUIDE FOR
LOCAL AGENCY OFFICIALS





PRIVACY & THE INTERNET

SOCIAL MEDIA USERS LOVE TO SHARE!

- Birthdate
- Place of Employment
- Relationship Status
- Family Members
- Places Visited
- Home and Email Addresses and Phone Numbers
- Photos
- Schools Attended
- Political, Religious, Social Viewpoints and Causes
- Clubs, Civic Activities, Networking Groups
- Life Events
- How Much they Hate Their Boss
- Offensive Costumes and Remarks
- What They Did on the Day They Called in Sick
- How Much They Drank Over the Weekend
- Their Plans to Overthrow the Government

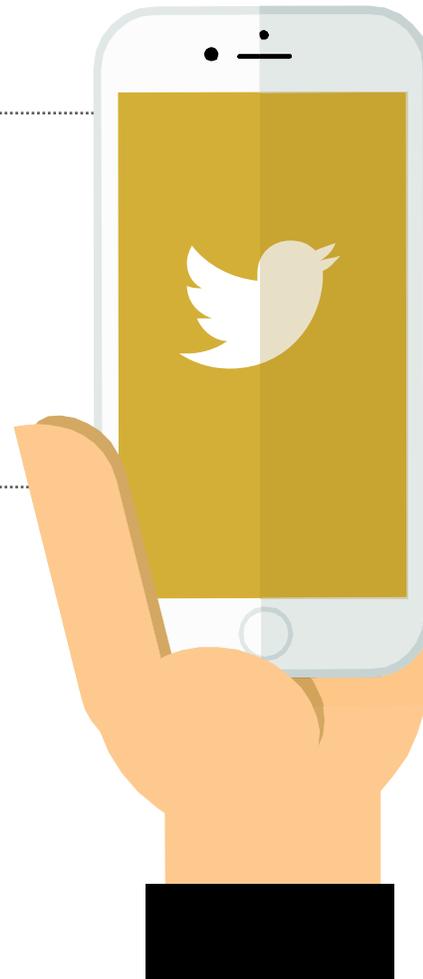
BUT, I HAVE PRIVACY SETTINGS!

Moreno v. Hanford Stentinel, Inc. (CA 2009)

No reasonable person who takes the affirmative act of posting information on a social media website has an expectation of privacy.

State v. Harris (NY 2012)

One has no reasonable expectation of privacy in information intentionally broadcasted to the world on Twitter.



Romano v. Steelcase, Inc. (NY 2010)

The sharing of personal information is the very nature and purpose of social networking sites, else they would cease to exist.

Vasquez Santos v. Matthew (NY 2019)

“Tagged” photos posted by others are discoverable in litigation if relevant to claims in lawsuit, even if user has privacy settings.

WHAT ABOUT MY “PRIVATE” CHATS?

- *Some* platforms have end-to-end encryption (*if you choose that setting*), BUT:
 - Messages can be forwarded, screen-grabbed, or otherwise distributed by another user to a larger audience
 - Messages are discoverable in litigation if relevant to the claims. For example:
 - In sexual harassment case, alleged victim was required to produce “private” sexually-suggestive FB messages with coworkers
 - *Brown v. City of Ferguson* (E.D. Mo. 2017) - Group chats of family members ordered disclosed





**APPROPRIATE USE BY
LOCAL AGENCIES & ELECTED OFFICIALS**

**BE
CAREFUL**

**THIS MACHINE
HAS NO BRAIN
USE YOUR OWN**

WHY DO IT?

- Your peeps are there
- Educate your constituents
 - Control the message
- Target your message to specific groups
- Connect with residents you might not otherwise reach
 - Show off your successes
 - Engage in personal ways

DOING IT RIGHT

- **Distribute information**
- **Embrace and get creative**
- **Online community groups have power**
 - **Listen to constituents**
- **Short video segments (10 seconds or less)**
 - **Generate engagement**
 - **Be relatable**

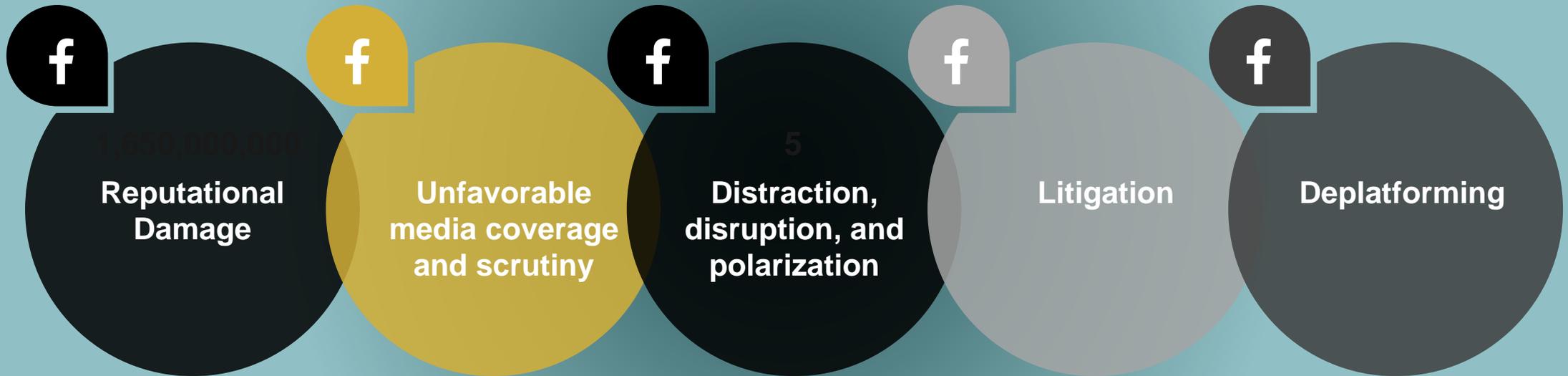
DOING IT WRONG

- **Don't start Twitter wars with sports teams, celebrities, etc**
- **Don't attack people based on looks or protected characteristics**
 - **Don't post false or misleading content**
- **Don't support or share content from violent or extremist groups**
 - **Don't forget to edit #Covfefe**
- **Don't mistake parody for real life and retweet it with great sincerity**
 - **No PUI**

SOCIAL MEDIA IS AWESOME, BUT

- **The Internet never forgets**
 - **Perception IS reality**
 - **Your critics will be your closest followers**
- **Anything you say can and will be held against you**
 - **Once you say it, you can't take it back**
 - **Mistakes are magnified**
- **Line between public and private is often blurred**
 - **Raises a number of legal issues**

INTANGIBLE COSTS OF BAD JUDGMENT



KEYBOARD COURAGE

- **Obvious hyperbole**
- **Personal attacks**
- **Lack of knowledge of Agency procedures or Governing Body's actions**
 - **Anonymity**
- **Spread of misinformation**

DON'T FEED THE TROLLS

- **Not everyone will love you. Get over it.**
- **Emerging legal issues regarding banning and blocking users.**
 - **Ignore them.**
- **Use caution when responding with “humor.” Or, just don’t.**
- **If you MUST respond, stick to the facts – never personal attacks.**
 - **Move the conversation offline.**

RESPONDING TO COMMENTS

- **Don't argue**
- **Be factual**
- **Provide links**
- **Encourage off-line communication**
- **Correct the record, then get out**



Conflicts & Bias

- 01** Duty to make decisions motivated by the public good, not personal interests
- 02** Duty of loyalty
- 03** Duty to treat all members of the public in a fair & unbiased manner
- 04** Disclosure of “ex parte” communications when item is on Agenda for discussion or action

FAIR & IMPARTIAL

- **The public is entitled to have matters heard by a body whose members are not motivated by unconstitutional bias**
 - **Discrimination based on race, religion, gender, economic standing**
- **Expressed personal animosity against applicant is sufficient to demonstrate bias**
- **The Internet is a rich source of evidence of bias**



**FREE SPEECH &
PUBLIC FORUMS**

LEGAL CONCERNS

Social media in the public sector raises numerous First Amendment issues:

- Establishment of a public forum**
- Take down policies**
- Banning/blocking users**

SOCIAL MEDIA v. TRADITIONAL WEBSITE

A traditional website pushing out information in one direction—to the public—does not establish a public forum, and that means the entity does not risk violating First Amendment rights when it excludes content.

Vargas v. City of Salinas
(Cal. 2009) 46 Cal.4th 1

SOCIAL MEDIA AS A PUBLIC FORUM

Social media has become a vital platform for speech of all kinds. Social media may now be “the most important” modern forum “for the exchange of views.”

Packingham v. North Carolina,
137 S. Ct. 1730 (2017)

PUBLIC FORUM

In a true public forum, speech restrictions are subject to the highest level of scrutiny and must be narrowly drawn to effectuate a compelling government interest.

Perry Education Ass'n v. Perry Local Educators' Ass'n,
460 U.S. 37 (1983)

LIMITED PUBLIC FORUM

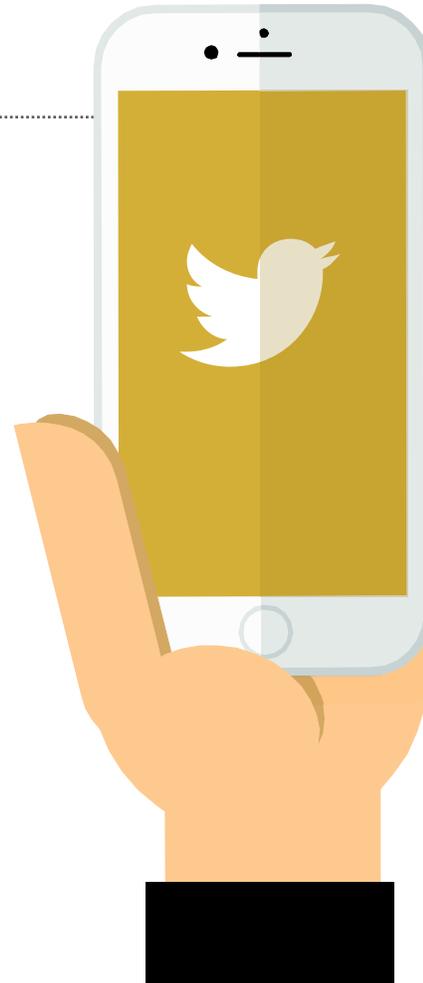
In a limited public forum, a public entity has somewhat greater latitude to regulate speech. However, any restrictions still must be reasonable and neutral as to the speaker's viewpoint.

Christian Legal Soc. Chap. of the Univ. of Calif. v. Martinez,
561 U.S. 661 (2010)

SPEECH RESTRICTIONS

PUBLIC FORUMS

- Highest level of scrutiny
- Restrictions must be narrowly tailored to achieve compelling government interest.



LIMITED PUBLIC FORUMS

- Moderate level of scrutiny
- Restrictions must be reasonable and viewpoint neutral

IS MY “PERSONAL” PAGE A PUBLIC FORUM?

Do you...

- ... identify as a government official?
- ... use it to address constituents?
- ... use it to share information of importance to the community?
- ... post photos of community events?
- ... use it to acknowledge your colleagues or Agency employees?
- ... use it to discuss your work as an official?
- ... use any Agency resources?
- ... link to the Agency’s website or social media pages?
- ... provide access to constituents?

SPEECH BY THE PUBLIC ON YOUR PAGE

- **Political speech and advocacy are at the core of the First Amendment**
 - **Online speech is the same as the town square**
- **Offensive, obnoxious and even hateful speech and hyperbole are protected**
 - **Anonymous speech is protected**
- **Criticism of government and public officials is protected**
 - **Prior restraints are not permitted**

WHAT YOU CAN LIKELY PROHIBIT

- 
- A globe is shown, covered in numerous gold-colored icons. These icons include symbols for technology (like a camera, smartphone, and Wi-Fi), commerce (like a dollar sign and a shopping cart), art (like a palette and a paintbrush), nature (like a flower and a leaf), and general symbols (like a location pin, a number '1', and a fish). The globe is set against a light background.
- Obscenity
 - Pornography
 - True threats
 - Public safety
 - Incitement of violence
 - Commercial speech
 - Confidential information
 - Encouragement of illegal activity



THE RIGHT TO FREE TWEET



***Honolulu Police
Department & San
Diego Sheriff's Dept.***

**Public entities face litigation for deleting
comments and banning users who are
critical of the entity.**

www://





***ACLU v. City of
Beech Grove (S.D.
Ind. 2016)***

Civil rights organizations are now bringing lawsuits on behalf of members of the public who have comments deleted or are blocked/banned from a public entity page.

www://





RECENT DEVELOPMENTS



Donald J. Trump

@realDonaldTrump

Follow



My use of social media is not Presidential -
it's MODERN DAY PRESIDENTIAL. Make
America Great Again!

3:41 PM - 1 Jul 2017

55,437 Retweets 194,865 Likes



76K

55K

195K

Knights First Amendment Institute v. Trump et al.

- Donald Trump established @realDonaldTrump in March 2009, which he has used since his inauguration to communicate with the public about his administration.
- The 7 individual defendants tweeted a critical message in reply to a tweet, and were blocked by the President. The government did not dispute that they were blocked because of the content of their tweets.
- Plaintiffs could not view, reply to, or retweet original tweets, but they could still engage via other users' replies. They could also see the original tweets from a secondary account or when not signed into their blocked account.

Knight First Amendment Institute v. Trump et al. (2nd Cir. 2019)

Questions considered by the
Court:

- May a public official, consistent with the First Amendment, “block” a person from his Twitter account in response to the political views that person has expressed? NO
- Is the analysis different if that public official is the President of the United States? NO



Knight First Amendment Institute v. Trump et al. (2nd Cir. 2019)



“The First Amendment does not permit a public official who utilizes a social media account for all manner of official purposes to exclude persons from an otherwise-open dialogue because they expressed views with which the official disagrees.”

NOTED BY THE COURT:

- The account was private before he was elected, and may become private again when he is out of office
- He was using the account to communicate with and interact with the public about his administration
- He has not sought to limit who can follow the account



NOTED BY THE COURT:



- He has not sought to limit the kind of speech users can post in reply to his tweets
- It “bears all the trappings of an official, state-run account”
- He and his staff have referred to his tweets as “official statements”
- The interactive space associated with each tweet is a public forum



Blocked

Donald J. Trump ✓

@realDonaldTrump

@realDonaldTrump is blocked



Jules Suzdaltsev ✓

@jules_su

First order of business now that I've been [#unblocked](#).

5:15 PM - Aug 28, 2018

♥ 472 💬 50 people are talking about this



J.D. Durkin ✓

@jiveDurkey



NEW -- important update to this -- thanks to [@KatieFallow](#) and [@knightcolumbia](#), I've been officially UNBLOCKED by [@realDonaldTrump](#) after 14 months

did I miss anything

Davison v. Randall et al. (4th Cir. 2019)

- Chair of county board of supervisors temporarily banned a resident who posted about County corruption on the Chair's Facebook page
- Chair acted under color of state law in maintaining a government official Facebook page and in banning resident from the page
- The “interactive component” of the Chair's Facebook page qualified as a public forum under the First Amendment
- Chair engaged in unlawful viewpoint discrimination by banning resident



Garnier v. Poway Unified School Dist. (S.D. Cal. 2019)

- School Board candidates operated Facebook and Twitter campaign pages that later were changed to reflect their positions as elected officials and District email addresses, and they used pages to communicate about District activities
- Board members blocked parents who were critical of the District and its officials
- Post –Trump: No qualified immunity for elected officials who blocked parents
- MSJ denied





WHAT ABOUT MY SPEECH RIGHTS?

CAN SOCIAL MEDIA CENSOR MY SPEECH?

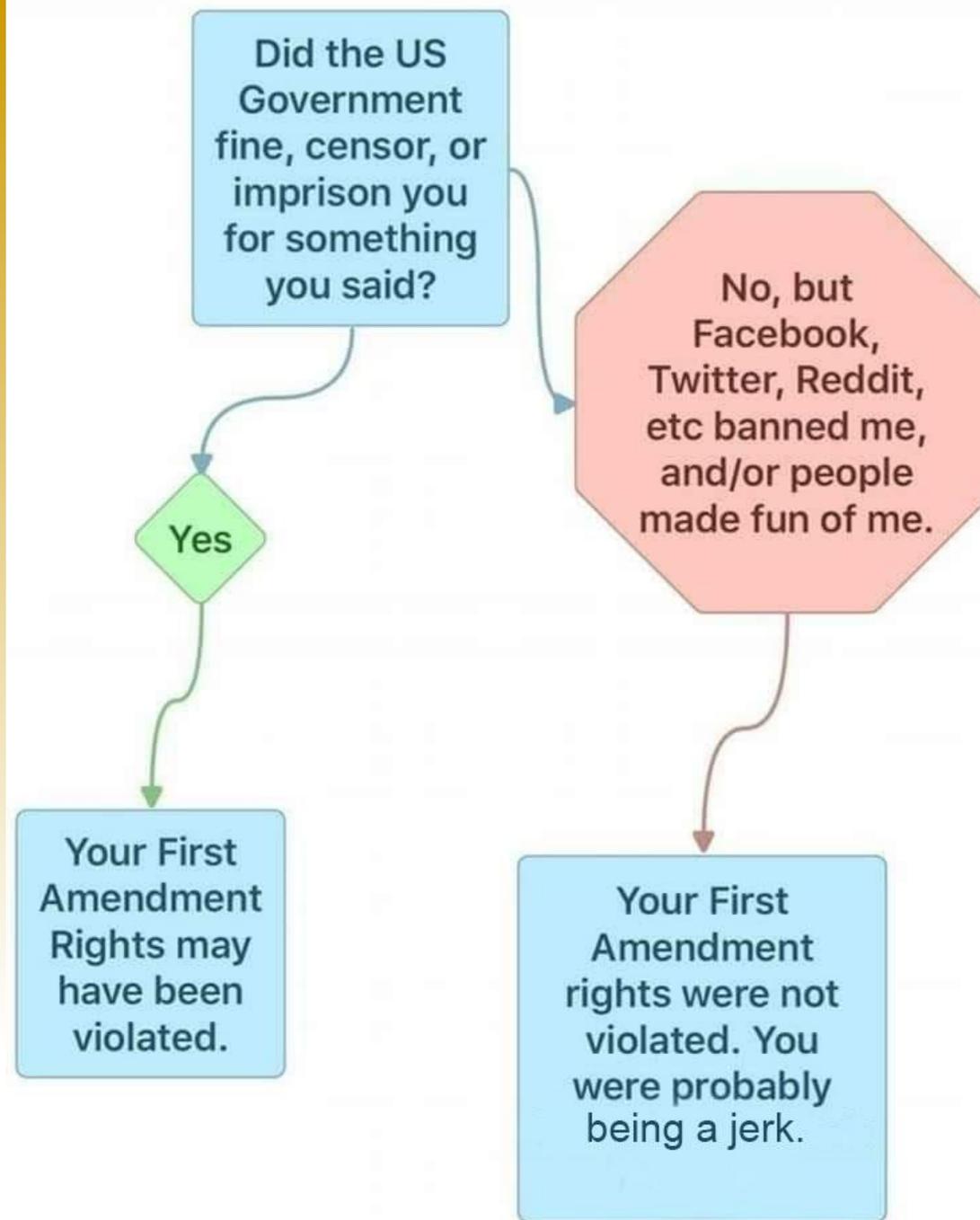


CAN SOCIAL MEDIA COMPANIES CENSOR PUBLIC OFFICIALS?

- The First Amendment provides that “Congress shall make no law...abridging the freedom of speech, or of the press...”
- Social Media platforms are private companies, not the government.
- The Terms of Service are a legally binding contract in which the user agrees to adhere to the platform’s rules in exchange for the right to use their services.
- Lawsuits raising First Amendment claims by individuals have not been successful.



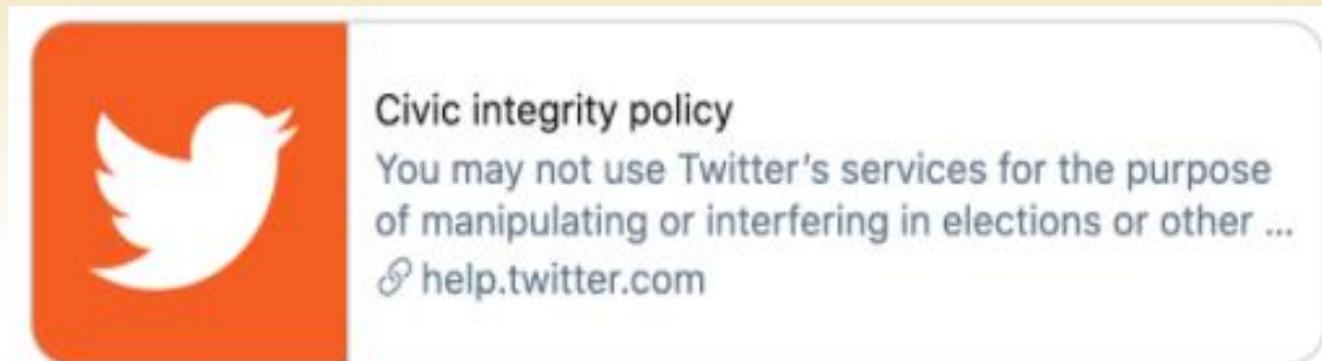
*****Terms and Conditions May Apply*****



TWITTER CIVIC INTEGRITY POLICY

You may not use Twitter's services for the purpose of manipulating or interfering in elections or other civic processes. This includes posting or sharing content that may suppress participation or mislead people about when, where, or how to participate in a civic process. In addition, we may label and reduce the visibility of Tweets containing false or misleading information about civic processes in order to provide additional context.

<https://help.twitter.com/en/rules-and-policies/election-integrity-policy>



WHAT CONSTITUTES A VIOLATION?

- **Misleading information about how to participate**
 - misleading information about procedures to participate in a civic process
 - misleading information about requirements for participation, including identification or citizenship requirements
 - misleading claims that cause confusion about the established laws, regulations, procedures, and methods of a civic process, or about the actions of officials or entities executing those civic processes
- **Suppression and intimidation**
 - misleading claims that polling places are closed, that polling has ended, or other misleading information relating to votes not being counted
 - misleading claims about process procedures or techniques which could dissuade people from participating
- **Misleading information about outcomes**
 - disputed claims that could undermine faith in the process itself, such as unverified information about election rigging, ballot tampering, vote tallying, or certification of election results
 - misleading claims about the results or outcome of a civic process which calls for or could lead to interference with the implementation of the results of the process, e.g. claiming victory before election results have been certified, inciting unlawful conduct to prevent the procedural or practical implementation of election results
- **False or misleading affiliation**
 - No fake accounts which misrepresent their affiliation, or share content that falsely represents its affiliation, to a candidate, elected official, political party, electoral authority, or government entity

WHAT IS NOT A VIOLATION?

Not all false or untrue information about politics or civic processes constitutes manipulation or interference. In the absence of other policy violations, the following are generally not in violation of this policy:

- inaccurate statements about an elected or appointed official, candidate, or political party;
- organic content that is polarizing, biased, hyperpartisan, or contains controversial viewpoints expressed about elections or politics;
- discussion of public polling information;
- voting and audience participation for competitions, game shows, or other entertainment purposes; and
- using Twitter pseudonymously or as a parody, commentary, or fan account to discuss elections or politics.

WHAT HAPPENS IF YOU VIOLATE THE POLICY?

The consequences for violating our civic integrity policy depends on the severity and type of the violation and the accounts' history of previous violations. In instances where accounts repeatedly violate this policy, we will use a strike system to determine if further enforcement actions should be applied. We believe this system further helps to reduce the spread of potentially harmful and misleading information on Twitter, particularly for high-severity violations of our rules. The actions we take may include the following:

- **Tweet deletion**
- **Profile modifications**
 - **Labeling**
- **Account locks and permanent suspension**

<https://help.twitter.com/en/rules-and-policies/election-integrity-policy>

PUBLIC INTEREST EXCEPTION

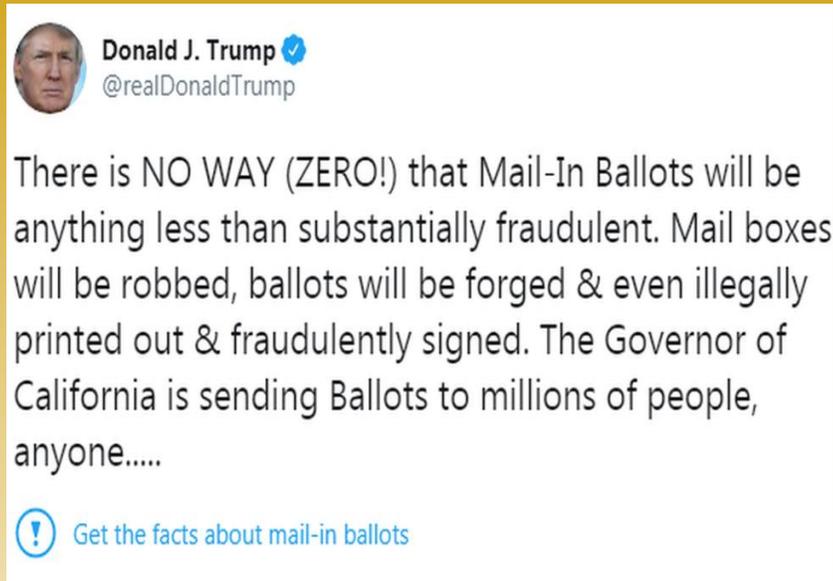
We recognize that sometimes it may be in the public interest to allow people to view Tweets that would otherwise be taken down. We consider content to be in the public interest if it directly contributes to understanding or discussion of a matter of public concern.

At present, we limit exceptions to one critical type of public-interest content—Tweets from elected and government officials—given the significant public interest in knowing and being able to discuss their actions and statements.

This Tweet violated the Twitter Rules about [specific rule]. However, Twitter has determined that it may be in the public's interest for the Tweet to remain accessible. [Learn more](#)

<https://help.twitter.com/en/rules-and-policies/public-interest>

WHAT CONTENT MODERATION LOOKS LIKE



Donald J. Trump 
@realDonaldTrump

There is NO WAY (ZERO!) that Mail-In Ballots will be anything less than substantially fraudulent. Mail boxes will be robbed, ballots will be forged & even illegally printed out & fraudulently signed. The Governor of California is sending Ballots to millions of people, anyone.....

 [Get the facts about mail-in ballots](#)



Donald J. Trump 
@realDonaldTrump
51 Following 88.7M Followers

Account suspended

Twitter suspends accounts that violate the [Twitter Rules](#).



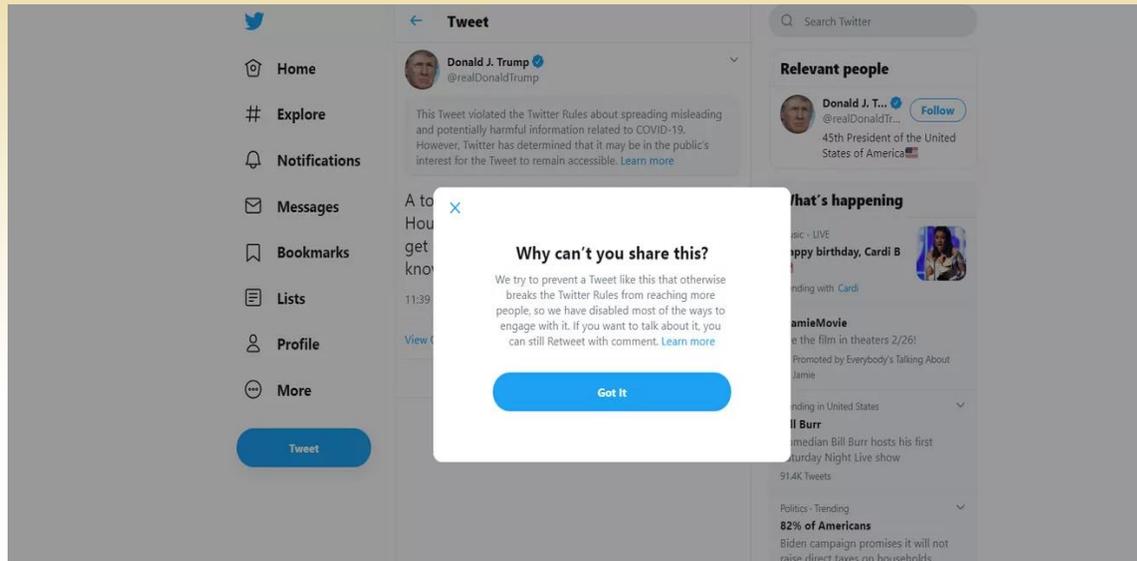
Donald J. Trump 
@realDonaldTrump

Some or all of the content shared in this Tweet is disputed and might be misleading about how to participate in an election or another civic process. [Learn more](#)

Big problems and discrepancies with Mail In Ballots all over the USA. Must have final total on November 3rd.

 [Learn how voting by mail is safe and secure](#)

11:43 PM · Oct 26, 2020 · Twitter for iPhone



Donald J. Trump 
@realDonaldTrump

This Tweet violated the Twitter Rules about spreading misleading and potentially harmful information related to COVID-19. However, Twitter has determined that it may be in the public's interest for the Tweet to remain accessible. [Learn more](#)

Why can't you share this?

We try to prevent a Tweet like this that otherwise breaks the Twitter Rules from reaching more people, so we have disabled most of the ways to engage with it. If you want to talk about it, you can still Retweet with comment. [Learn more](#)

[Got it](#)



Donald J. Trump 
@realDonaldTrump

This Tweet violated the Twitter Rules about glorifying violence. However, Twitter has determined that it may be in the public's interest for the Tweet to remain accessible. [Learn more](#)

...These THUGS are dishonoring the memory of George Floyd, and I won't let that happen. Just spoke to Governor Tim Walz and told him that the Military is with him all the way. Any difficulty and we will assume control but, when the looting starts, the shooting starts. Thank you!

12:53 AM · May 29, 2020 · Twitter for iPhone

PARODY ACCOUNTS

Twitter provides a platform for its users to share and receive a wide range of ideas and content, and we greatly value and respect our users' right to expression. Our users are solely responsible for the content they publish. Because of these principles, we do not actively monitor users' content, and we do not edit or remove user content except in response to a [Terms of Service](#) violation or valid legal process. Users may create parody and fan accounts. Twitter will review accounts under this policy based on trademark or impersonation complaints.

- **Bio must make non-affiliation with the subject clear**
- **Account name must make clear that user is not affiliated with subject**

<https://help.twitter.com/en/rules-and-policies/parody-account-policy>

← **Devin Nunes' cow** 🐮
89K Tweets




Devin Nunes' cow 🐮
@DevinCow

Hanging out on the dairy in Iowa looking for the lil' treasonous cowpoke.

📍 United States gofundme.com/f/21x5q5a4ao 🕒 Born October 1, 1973
📅 Joined July 2017

129.8K Following **771.7K** Followers

👤 Followed by Republicans against Trumpism 🇺🇸, Prez 🇺🇸, and 52 others you follow

← **Barack Obama** 🇺🇸 Fan
4,264 Tweets




Barack Obama 🇺🇸 Fan
@ThePresObama

The 44th President of The United States of America. The most famous black man alive. Parody, NOT @BarackObama. That account is run by Carrot Top.

📍 Washington DC obama.org 📅 Joined November 2011

425 Following **123.8K** Followers

👤 Followed by Tea Pain, Sheri Bentsen, and Michael Skolnik

← **Real Peoria Mayor**
100 Tweets

Peoria, Illinois

From Wikipedia, the free encyclopedia

Peoria ⁱ/piːˈɔːriə/ is a city in and the county seat of Peoria County, Illinois, United States,^[1] and the largest city on the Illinois River. Established in 1691 by the French explorer Henri de Tonti, Peoria is the oldest European settlement in Illinois,^[2] and is named after the Peoria tribe. As of the 2010 census, Peoria was the seventh-most populated in Illinois, with a population of 115,007.^[3] The Peoria Metropolitan Statistical Area had a population of 373,590 in 2011. Peoria had a population of 118,943 in 2000, and a population of 115,007 in 2010. Peoria was also included. Peoria is the headquarters for Caterpillar Inc., one of the Dow Jones Industrial Average.



Real Peoria Mayor
@JimArdisMayor

Completely Real Mayor of Peoria AND I WILL HUNT YOU DOWN IF YOU PRETEND TO BE ME

📍 Peoria, Illinois 📅 Joined April 2014

← **Devin Nunes' Mom**
119 Tweets




Devin Nunes' Mom
@mom_nunes

I'm gonna sue my son for being too sensitive

📍 Washington, DC devinnunescow.com 📅 Joined March 2019

8 Following **9,251** Followers

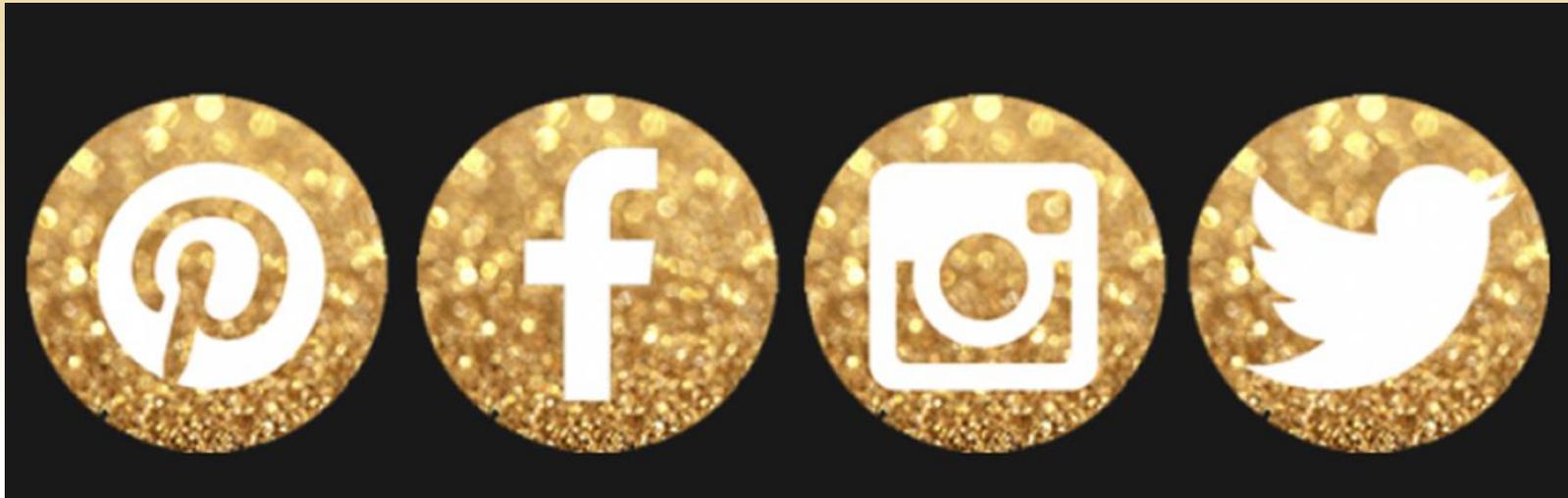
👤 Followed by Devin Nunes' cow 🐮 and Patricia Arquette



PUBLIC RECORDS & BROWN ACT

PRA & PUBLIC ENTITY SOCIAL MEDIA

“Records” include all communications related to public business
“regardless of physical form or characteristics, including any
writing, picture, sound, or symbol, whether paper...magnetic or
other media.”



IS MY CITY'S SOCIAL MEDIA COVERED?

- Content that has to be produced includes anything that relates to the conduct of government
- Polls, surveys, data collection
- Metadata, which shows how and when a document was created or revised and by whom may also have to be produced
- Retention guidelines are based on content, not medium
- What about comments and deleted content?



WHAT ABOUT RECORDS ON PRIVATE DEVICES?

City of San Jose v. Superior Court

EMAILS & TEXTS



Emails and text messages are subject to the CPRA regardless of location, including personal accounts and devices

PRIMARY FOCUS



Primary focus is whether the message is related to public business, based upon context, content, purpose, audience, and role of individual when message was written or received



EMPLOYEES + OFFICIALS

May now be required to search personal emails or phones for responsive records if account or phone is used to communicate with others concerning public business, and to provide such responsive records



COMPLIANCE

Claiming that the records are not on entity email accounts, computers or servers is NOT enough for compliance now

IS MY PERSONAL SOCIAL MEDIA PAGE COVERED?



Were public resources used?

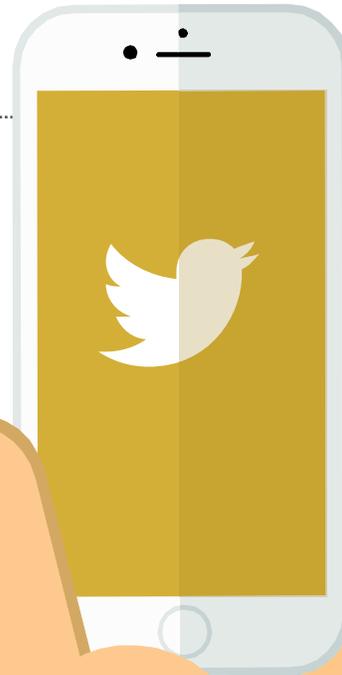
Is there a definable, well-publicized use for the site, i.e., acting as a candidate, purely personal use, or a separate business use?

Do users visit the site based on personal or official contacts?

Is it being used for any official purpose?

SOCIAL MEDIA & BROWN ACT

**Cannot meet to discuss
official business unless
meeting complies with
Brown Act**



**Must have public
notice and
access to the meeting**



**Does not prevent individual
members from publishing
their own comments and
opinions**

SOCIAL MEDIA & SERIAL MEETINGS

A “Serial Meeting” is a series of communications that individually do not include a quorum but collectively involve a quorum



HYPOTHETICAL

A local newspaper writes an online article critical of your City's proposal to build a new community center. Dozens of comments by members of the community are posted on-line in response to the article. One Council Member reads the article and posts her own comment about the issue.

A second Council Member also posts a comment. A third Council Member "Likes" the comments of the first two Council Members.

Has the Brown Act been violated?

SOCIAL MEDIA & THE BROWN ACT: AB922

f

Do not discuss
specific
business as a
quorum

f

Individual posts
are OK

f

Do not respond
to directly to
posts of other
officials

f

“Discuss”
includes
emojis, GIFs, or
“Likes”

f

OK to provide
information,
answer
questions,
and solicit
feedback



KNOW YOUR POLICIES!

THREE POLICY MUST-HAVES

AGENCY

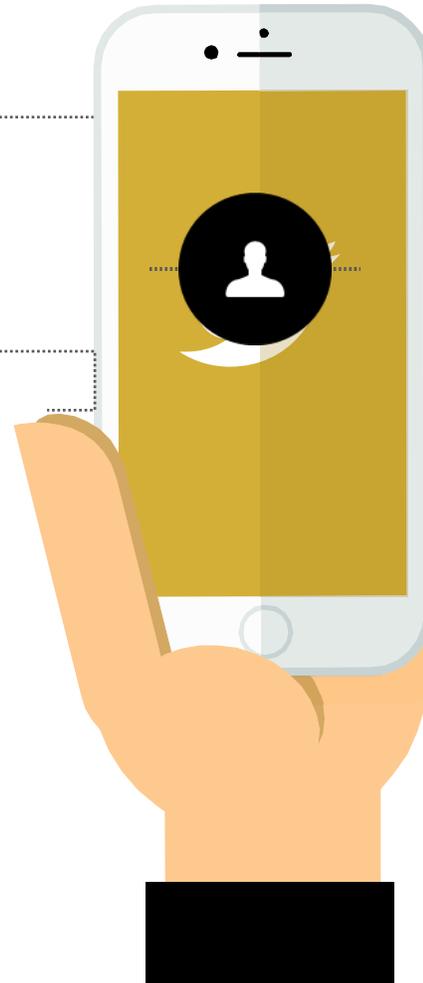


- Regulating Agency activity and public comments on social media

OFFICIALS



- Compliance with Brown Act, decorum standards, and ethics rules



EMPLOYEE S



- Regulating employee social media activity

AGENCY POLICY

**Designate person
responsible and provide
time and tools to
manage**

**Regularly monitor use
and commentary**

**Establish limited public
forum and user
guidelines**

AGENCY POLICY

Post user guidelines on the page itself, and post link to policy on the page

Take down policies must be narrowly tailored

No viewpoint discrimination – facially or as applied

EMPLOYEE POLICY

**Signed
acknowledgement of
receipt and
understanding**

**Limitation on
expectation of privacy**

**Advise that content can
be used as evidence in
disciplinary,
administrative and legal
proceedings**

EMPLOYEE POLICY

**Maintain right to search,
monitor, and disclose all
content on public
devices**

**No harassment,
discrimination, or
conduct that violates
other policies**

**Involve IT, HR, and
Legal in development,
reviews, and updates**



OFFICIALS POLICY

Online decorum should mirror conduct on the dais

Do not engage with other officials online about City business

Avoid expressions of bias and conflict

Emerging Legal Issues

A SOCIAL MEDIA GUIDE FOR
LOCAL AGENCY OFFICIALS

