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 may 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,

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

Introduction to Social Networking Sites

Overview of Key Social Networking Sites

Additional Legal and Practical Issues
AGENDA

Overview of Key Social Networking Sites

Additional Legal and Practical Issues
**Introduction to Social Networking**

**THE RISE OF ONLINE SOCIAL NETWORKS**

<table>
<thead>
<tr>
<th>Year</th>
<th>Social Network</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>SixDegrees.com</td>
</tr>
<tr>
<td>2003</td>
<td>Friendster, LinkedIn</td>
</tr>
<tr>
<td>2004</td>
<td>MySpace</td>
</tr>
<tr>
<td>2005</td>
<td>Facebook</td>
</tr>
<tr>
<td>2008</td>
<td>Twitter</td>
</tr>
</tbody>
</table>
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
Image courtesy Vincenzo Cosenza (www.vincos.it), data based on Alexa and Google Trends
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?
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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Introduction to Social Networking

Additional Legal and Practical Issues
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 is on Facebook

Demi Moore is checking out the "Spread" trailer

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

Fighting to End Hunger

The following video, produced exclusively for Facebook members, was created by Demi Moore - and includes video submitted by people across the country to help end hunger. Sharing videos like this helps tell the world more about hunger and how you can help. Please click on the video below to see and help support this worldwide cause by donating to Feeding America.
Overview of Key Social Networking Sites

FACEBOOK

Type any name or tag:

or choose a person:

☐ Caroline Pryce
☐ Chrissy Mingay
☐ James Norman
☐ Katy Bareham
☐ Tim Gunton
☐ Aaron Cheang
☐ Ad Majora Natus Sum
☐ Adam Macer
☐ Alex Higham
☐ Alex Tarling

Tag  Cancel
Overview of Key Social Networking Sites

FACEBOOK

Who can find you on Facebook?

- Everyone on Facebook
- Friends of Friends
- Only Friends
- None of My Networks

Who can see this?

- Friends
- Friends of Friends
- Only Friends
- Some Friends
- Only Me
- Except These People

Set visibility options for your search results.

Cancel
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

**MYSPACE**

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
Overview of Key Social Networking Sites

MYSPACE

Top Model Michelle
* New Favorite band? Millionaires! Go check them out... amazing! Mood: amorous @ 4:18 PM Jul 24
* View Photos Videos Blogs playlists

Status and Mood
Michelle Fairplay is getting ready to sign a contract that could change my life... Hello Shanghai China!
Mood: accomplished @ 11:54 AM Jul 9

Interests
General

Observe and analyze the information presented in the image. The document seems to be a page from a report or a presentation, discussing key social networking sites, with a focus on MySpace. The image shows a screenshot of a MySpace profile, which includes the profile picture of Michelle Fairplay, her status and mood updates, and her interests. The screenshot also features various sections of the MySpace interface, such as Home, Browse, and Information. The text and visual elements collectively provide a comprehensive overview of the features and functionalities of MySpace as a social networking site.
MYSPACE

Overview of Key Social Networking Sites

Computer Crime & Intellectual Property Section
Overview of Key Social Networking Sites

**MYSPACE**

- Izzybelle
- Isabelle Wonders
- Just Amy Sometimes
- Acceber
- &L^O^V^E^N^G^L^Y%
- Laura
- mz.trice
- trice trice
- Jenn
- Zee
- SEXY POOH
- jennifer
- babygirl nieves
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
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

@diablocody on Twitter

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
13 minutes ago from web

@kellyxstoc @louisvrlt I think kids should be taught the True Alphabet: R.S.T.N.I. and E.
22 minutes ago from web or reply to kellyxstoc

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

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

Verified Account
Name: Brook Busey
Bio: Blame it on the a-a-a-alcohol.
130 followers
0 following
1,595 tweets
View All...

Verified Account
Name: Brook Busey
Bio: Blame it on the a-a-a-alcohol.
130 followers
0 following
1,595 tweets
View All...
Overview of Key Social Networking Sites

GETTING INFO FROM TWITTER

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

Current: President of the 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

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

Contact Barack Obama
Add Barack Obama to your network

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

Done
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Introduction to Social Networking

Overview of Key Social Networking Sites
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.
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
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
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"?
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
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