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Juries and Social Media: Northwest Ohio's Response to this Phenomenon

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HONORS PROJECT

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Introduction

The ready availability of information on social networking sites has recently sparked a debate in regards to juror impartiality. The Sixth Amendment of The United States' Constitution guarantees an accused offender, "the right to a speedy and public trial, by an impartial jury" (U.S Const. Amend. VI). An impartial jury refers to a jury that is not prejudiced prior to the trial. Also in order for a jury to be seen as impartial, jurors need be selected randomly from voter registration lists (Carp, Stidham, & Manning, 2011, p. 240). When making decisions about a particular case, jurors are supposed to rely only on evidence presented in trial. However, the increasingly common dependence on social networking can threaten this aspect of an impartial jury. Currently Facebook has over 1.3 billion members (Facebook, 2014) and an average of 58 million tweets are posted daily on Twitter (Twitter, 2014). If jurors readily use social networking, it may be hard for them to not look at these sites even when they are serving on a jury. Not only is utilizing social networks a problem, but so is the accessibility of social media. Many people habitually check their social media sites on handheld devices. The automatic scroll of a finger can provide jurors with a great deal of information. The possibility of jurors using social media networks to communicate about cases threatens the Sixth Amendment in regards to impartial jury trials.

In order to address this problem, the Federal Judiciary Center's Committee on Court Administration and Case Management distributed the Federal Model Jury Instructions in 2010, which were later revised in 2012, to include the consequences of using social media (Staff Report 2012). These instructions, given before and after the trial, addressed the use of technology by jurors and listed specific social media sites that jurors cannot use (Dunn, 2011, p. 17). The model instructions tell judges to inform juries the following:

> "You many 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" (Dunn, 2011, p. 17).

Much scholarly research has looked at the use of social media by jurors on national federal and selective state levels. My research looks at a state, Ohio, which has been paid minimal attention in this scholastic field of research. My study looks to see how state courts in Northwest Ohio have used or modified these instructions to persuade jurors not to utilize social media sites. I will be assessing the responses of Northwest Ohio legal community members to gain a better understanding of tried attempts to alleviate juror bias through the use of social media.

Background Information

Implicit vs. Explicit Bias

Ideas of juror bias have always existed. Prior to the existence of social media, scholars focused on implicit and explicit bias. Judge Mark Bennett explored the ideas of implicit and explicit biases in jurors. Explicit bias is intentional bias and implicit bias often refers to hidden and automatic biases (Bennett, 2010, p. 152). Implicit bias is often illustrated by the "shooter bias" studies. In these studies participants are told to shoot at those they feel are dangerous (Bennett, 2010, p.155). The video game contains black and white perpetrators carrying guns and unarmed black and white bystanders (Bennett, 2010, p. 155). People's reaction to shoot black

perpetrators and bystanders before whites often highlights racial stereotypes. These stereotypes are linked towards implicit bias (Bennett, 2010, p. 155). Judge Bennett acknowledges that judicial system, both the federal and state, try to rid explicit bias but they do not focus on implicit bias (2010, p.152). Implicit bias is often pervasive and most people are unaware of it (Bennett, 2010, p. 153). Based on Bennett's research, implicit bias can play a role in racial discrimination by lawyers in jury selection and by jurors in deliberation (2010, p. 158). In order to avoid this problem, Bennett believes that their needs to be recognition of implicit bias in the legal system, performances of test that show implicit bias, and formation of committees to study implicit bias (2010, p. 170).

Scholar, Dale Larson, shares in the sentiments of Bennett. Larson provides information correlating with Bennett's research, that implicit bias plays a huge role when it comes to race of jurors, victims, and offenders. Implicit bias can occur when the defendant is of a different race than the juror, often referred to as out-group bias, or when the victim is of the same race as the juror, referred to as in-group bias (Larson, 2010, p. 154). Jurors are likely to find the defendant guilty due to out-group bias and innocent as a response to in-group bias (Larson, 2010, p. 154). Overall race plays a key role in the utilization of implicit bias by jurors. The race of the defendant, race of individual jurors, and the jury's overall racial composition plays a key role in jurors' implicit biases (Larson, 2010, p. 157). Larson and Bennett agree that more needs to be done to rid implicit biases of jurors. One of the first steps they recommend is making judges and attorneys aware of this bias when selecting jurors.

Larson, Bennett, and many other scholars discuss the role implicit bias plays in having impartial juries. Although not discussed in this research, it is possible that information obtained

on social networking sites could enhance our understanding of juror biases conflicting with the idea of an impartial jury.

Research on Technology/Social Networking and Jurors

The 2009 case, United States v. Bristol-Mártir, is one of the earliest cases involving jurors using technology during deliberation. Originally, four police officers were found guilty of criminal conspiracy and distributing narcotics (U.S. v. Bristol-Mártir, 2009). The United States Court of Appeals overturned the conviction because jurors used the internet to look up terms in the case, violating the instruction not to reference outside information (U.S. v. Bristol-Mártir, 2009). This case brought up a new issue regarding impartiality of jurors. Can the use of the internet by a juror ever be useful? Some may say "yes" when it is used to help a juror gain clarity about a term referenced in trial. However, a general consensus is that the utilization of the internet is never useful because the material presented online is not the same material presented as evidence in trial. Not only could the information be wrong, but it also does not allow the defendant the opportunity to refute information presented on social sites. Lastly, the burden of proof is on the prosecution. By looking up information regarding the case on social media, the jurors are conducting a task assigned to the prosecution.

The incident in United States v. Bristol-Mártir leads to another question about the wording of jury instructions, which is a key question in this paper. Should jury instructions use simple language and be shorter in length for better clarity? Many scholars have explored answers to this question in regards to mentioning why social media sites should not be utilized in jury trials. In his research, Grant Amey explains that many jury instructions do not directly mention that jurors should not post information in regards to cases on the internet (Amey, 2010, p. 114).

Amey also claims that jury instructions generally do not mention that handheld devices, like cell phones should not be used to look up information in regards to cases (2010, p.114). Based on a reading of Amey's research, it is clear that he believes that jury instructions should use simplified language, specifically stating that social media sites like Facebook or Twitter should not be used. One can also assume that Amey would prefer social media terms, like tweeting or posting a Facebook, to be cited in jury instructions to give clarity as to what conduct is unacceptable when someone is on trial. Scholars David Aaronson and Sydney M. Patterson share in this sentiment.

Aaronson and Patterson believe that it is important for jury instructions to be modified for the 21st century. As part of this modernization, Aaronson and Patterson believe that four criteria are necessary. The first criterion that is mentioned is that instructions should be simple and use social media terminology. Instead of saying that no outside information can be used in cases, Aaronson and Patterson recommend that terms like "tweeting," "posting," and "emailing" should be listed as forbidden (2013, p.31). The second criterion is to list specific examples of social media conduct that is forbidden. This would include specifically stating that one should not tweet or post a Facebook status regarding the case (Aaronson & Patterson, 2013, p. 31). The third criterion would be to explain why social media cannot be used. One reason that should be listed is that tweeting or posting information about the case provides outsiders with information that should not be stated outside the courtroom (Aaronson & Patterson, 2013, p.32). The final criterion is that consequences of violating social restrictions need to be explained. Some of these consequences include a mistrial and being held in contempt of court (Aaronson & Patterson, 2013, p. 32).

In 2010, the Federal Judiciary Center conducted a study to see the degree to which social media is utilized by jurors. All federal district judges were sent questionnaires about social media usage in their court. Fifty-three percent of the judges responded. A majority (94%) of the judges could not recall an incident where jurors used social media. Many believed that this had to do with their jury instructions which many gave before and after trial (Dunn, 2011, p. 8). Approximately sixty-two percent of the judges appeared to use simple language and clear explanations of why social media usage is prohibited by jurors (Dunn, 2011, p.8). The main conclusion of this study is that nationally courts do announce a ban on social media usage. Some of the judges use proposed jury instructions or adopt their own personal instructions. No matter what form of jury instructions are used, judges agreed that constant reminders not to use social media during trial or deliberation allows for a low rate of social media usage of jurors (Dunn, 2011, p. 10). These tactics are used to explain the low percentage (6%) of reported incidents in regards to jurors and social media (Dunn, 2011, p. 2).

Current Study

My project picks up where the Judicial Conference Committee left off. Instead of looking at the jury instructions in all states like the Judicial Conference Committee and other researchers have done, I will be looking to see how social networking has affected jury instructions in Northwest Ohio. Ohio courts have received little scholarly attention on this issue. Instead, they have looked at how states like Michigan, New York, and Florida or how nationally states have revised their jury instructions to accommodate the heavy use of social networking around the nation.

Research Questions:

1. How have Northwest Ohio courts revised their jury instructions to avoid bias among jurors in response to the sudden prevalence of social media?
2. How effective have these changes been in keeping out jury bias from social media in Northwest Ohio courts?

Methods

Participants

I interviewed a total of eight legal professionals from the Northwest Ohio region. Each participant that was interviewed was male. Therefore, there is a possibility that a female professional's perspective could vary from the perspectives presented in this paper. I interviewed a total of four judges: three from a small college town near Toledo and one from a suburb of Toledo. Four attorneys were also interviewed: two from a small college town near Toledo, one from a suburb of Toledo, and one from the Toledo metropolitan area. See Appendix A for code of participants.

Materials

Informed Consent. This consent form provided participants with a brief overview about my study. This form informed participants that I would be questioning their experiences and opinions on jury usage of social media as they have developed their careers as legal professionals. This form explained that all interviews would take place over the phone and would be recorded. The participants were informed that their names may be used in the study but were offered the option to use a pseudonym. After analyzing my research I decided to allow all participants to remain anonymous. Lastly, all participants were informed that they could end their participation at any time during the duration of my research. See Appendix B.

Interview Questionnaire. I used a variety of sources to come up with the interview questions. I used prior scholarly research that discussed jurors' usage of social media and I utilized the most recent copy of the Ohio Jury Instructions. Based on these documents, I compiled a list of questions that I deemed appropriate to ask my participants in regards to my research. See Appendix C.

Procedure

Prior to talking to anyone about my project, I received approval by Bowling Green State University's Human Subjects Research Board; I was granted approval in March 2014. Once I received approval, I contacted a member of the Bowling Green State University community who has served as a legal professional for well over thirty years. This professional was able to give me a list of names to contact in regards to my project; this led me to a network of a variety of legal professional in Northwest Ohio. After receiving confirmation from participants, I sent them all a copy of the consent form. All participants sent a signed copy back to me after scheduling a date for interviewing. On the day of the interview, I presented my questions to the participants and they answered them. The duration of the interviews lasted between ten and twenty minutes. All respondents agreed to answer any follow-up questions if needed.

Results

After conducting the interviews, four themes were common among many of the participants. The participants' responses gave insight on whether social media utilization by jurors was a problem, why jurors use social media, what methods have been implemented to

eradicate juror usage of social media, and the effectiveness of these methods. These four themes will be discussed in this section according to the participant responses.

Is Jury Social Media Utilization a Problem?

Is Social Media Usage by Jurors a Problem	
Participant	Answer
Judge 1	No
Judge 2	No
Judge 3	No
Judge 4	No
Attorney 1	Yes
Attorney 2	No
Attorney 3	Yes
Attorney 4	Yes

Table 1: Participants (see Appendix A) Response to Whether Social Media Usage by Jurors is a Problem. Answers of "yes" or "no" were inferred from participant responses.

The participants had various responses in regards to whether jury social media utilization is a problem. All of the judges seemed to agree that this is not a problem. The attorneys, on the other hand seemed to be split about the idea of social media usage by jurors being a problem.

The judges all agreed that there is no problem. The idea of trust was reiterated by three of the four judges. Judge 3 stated that he has never run into a problem. However, he did admit that if there was ever a problem, no one would ever know. It is possible that jurors could look at social media sites when they go home. However, this judge mentioned that one has to trust that the jurors will do the right things when court officials are not monitoring them. Judge 4 utilized similar reasoning. He believes that jurors can be trusted once he admonishes the jury before

leaving the courtroom that they should not be on their smartphones looking at anything related to the case or discussing the case with anyone. Based on these instructions, Judge 4 believes that jurors can be trusted not to use social media sites. Judge 2 reiterated the idea of trust through admonishment. He said the use of social media by jurors is an "issue that needs to be addressed." This issue is addressed by instructing the panel not to utilize information outside the courtroom, which includes social media sites. Through proper instruction, this judge believes that faith can be put into the jurors not utilize social media.

Judge 1 takes on a different perspective than the other judges. Judge 1's reasoning for social media usage not being a problem is because of an administrative order. In his courtroom, audible mobile devices were confiscated. He believes that the fear of confiscation caused people not to use their phones, which in turn limit their use of social media.

Unlike the judges, who unanimously agreed that there was not a problem in regards to jurors utilizing social media, the attorneys expressed disagreement in this matter. Attorney 2 does not think it is a problem. Similar to some of the judges, Attorney 2 mentioned a trust aspect. He believes that though there are plenty opportunities for jurors to use social media, most decide not to. This attorney believes that the judges' admonishments against conducting research on the case outside the court are enough to ensure jurors respect for the court. Respect and fear of the court are two of the main reasons that this attorney believes that ninety-nine percent of jurors can be trusted not to use social media. This attorney was fairly certain that jurors will not use social media.

Attorney 3 believes that social media usage by jurors is a problem. He believes that it occurs all the time, estimating that about fifty percent of jurors using social media The problem is that the court is unaware of what jurors do; Attorney 4 stressed this issue as well. If it is not

directly visible, the court cannot deal with this problem. Attorneys 3, 4, and 1 believe that it is problem. Their ideas on how to fix this problem will be discussed later in the paper.

Why Do Jurors Use or Why are they Tempted to Use Social Media?

Why Would Jurors Use Social Media?	
Participant	Answer
Judge 1	Find out more information
Judge 2	Habit
Judge 3	Connect with environment outside courtroom
Judge 4	Habit
Attorney 1	Carry out task effectively
Attorney 2	Find out more information
Attorney 3	Find out more information
Attorney 4	Habit

Table 2: Participants (see Appendix A) Responses to Why Jurors Would Use Social Media

When asked about the reason jurors would use or be tempted to use social media during a trial, two themes emerged. The participants believed that jurors would use social media to obtain more information or because of a habit of using social media. Unlike the first sections, where the answer was split between attorneys and judges, this section had varying responses from both sides of the bench.

Judge 1, Attorney 2, and Attorney 3 all seemed to agree that jurors used social media to obtain more information. Judge 1 speculated that jurors have an “impulse to want to know

more." For this reason, more jurors would look towards social media sites to learn more about certain cases. This judge usually deals with OVI cases. He explained that jurors would likely try to obtain information from social media about the usage of a breathalyzer, because it is not a device used by most citizens on a regular basis. Attorney 2 shares in the idea of jurors wanting to know more information about things that seem uncommon to them. However, Attorney 2 focused more on expert knowledge. Experts give their testimony all the time in court. Typically, the experts' testimonies contradict one another. In order to figure out which one is correct, Attorney 2 believes that jurors could utilize social media. Both Judge 1 and Attorney 2 believe that jurors take to social media to get clarity on unfamiliar issues.

Attorney 3 also shares in the idea that jurors utilize social media to find out more information about the case. He believes that jurors are "naturally inquisitive." One way that jurors seek to answer their inquisitions is through social media. Attorney 3 stressed the idea that jurors are told not to be detectives, but many cannot help it. Many jurors want to know as much information as they can about the trial so sometime they may find it necessary to go outside the courtroom to find out more, specifically through browsing social media sites.

The idea of jurors utilizing social media sites because of habit is expressed by Judge 2, Judge 4, and Attorney 4. Judge 2 believes that it is possible that jurors utilize social media sites out of shear habit. People become dependent on social media sites for posting their daily experiences and being on a jury is an extraordinary experience that jurors may feel is necessary to communicate with others. Judge 4 and Attorney 4 share in the sentiment of habit. Judge 4 believes that getting on social media is "engrained in habit." Attorney 4 believes people are used to checking their devices all the time. Jurors are likely to continue to do this because many do not understand how they are damaging the judicial process. Judge 2, Judge 4, and Attorney 4 all

agree that jurors utilize social media regularly prior to being a juror. This habit is hard to break even if the reason has to deal with impartiality in the justice system.

Judge 3 and Attorney 1 list different reasons for why jurors may use social media. These reasons differ from the two themes expressed by the other participants. Judge 3 believes that jurors may use social media for reasons completely unrelated to the trial. He believes that judges will use social media during breaks to connect with the cyber world that they missed while in court. Attorney 1 believes that "jurors take what they do seriously." In response to this, social media research about the case may be a key method of jurors doing what they think is expected of them.

Finally, despite the reasoning of why judges believe jurors could use social media, all the judges agree that the current jury instructions prevent the jurors from delving into this temptation.

Court Methods used to Eradicate Problems

All participants mentioned the same method currently used to eradicate this problem. All eight participants referenced me to the 2012 Ohio Jury Instructions (See Appendix D for these instructions). These instructions directly list sources that jurors are prohibited from using when trying to make a decision on the particular case at hand. These instructions clearly state that participants should not communicate to anyone any information about the trial. The prohibited forms of communication are listed on the jury instructions. According to the instructions, "This would include blogs and social networking sites such as MySpace, Facebook, Twitter, and others" (2-CR 205 OJI CR 205.03). All participants acknowledge that listing specific social media sites gives jurors a better understanding of what information can or cannot be used. This

does not, however, guarantee that these instructions are effective. This will be discussed in the next section of the paper.

When asked about the current method used to eradicate juror social media usage, the judges were more vocal than the attorneys. The attorneys simply referenced me to the Ohio Jury Instructions (OJI). The judges provided some analysis of the instructions. Many judges discussed the importance of listing social media sites and one focused on the punishment aspect of not following the instructions.

All four judges acknowledged that the 2012 OJI instructions are read before trial, during breaks, and after the trial before deliberation occurs. Judges 1, 2, and 4 emphasized the importance of listing social media sites as prohibited sources to browse information or communicate about the case. Judge 2 and Judge 4 share in the idea that listing social media platforms emphasize what the judge is talking about. Before judges name prohibited sources, they inform the jurors that they are unable to rely on sources not presented as evidence in the case. Listing the social media sites provides more clarity on common sources that jurors would likely rely on if they were not on a jury. Judge 1 shares in this belief, but he explains that he takes the instructions a bit farther. Instead of simply listing social media sites that cannot be used he explains why they cannot be used. He explains that information on these sites may be incorrect or incomplete. For this reason, social media sites are not reliable sources. The explanation of this rule gives jurors a better understanding of why social media sources should not be used. Judge 1 believes that people are more likely to follow rules when they understand the reasoning behind the law.

Social media sites are mentioned as prohibited by use of jurors, but what happens when a juror uses them? Judge 3 briefly elaborated on this from a fear aspect. The jury instructions state

that, "Any violation of these orders may require a new trial and may subject those involved to sanctions, including contempt of court." Judge 3 explained that the ambiguity of sanctions is likely to cause jurors to follow the instructions. Out of fear for the unknown punishment for violating the law, jurors will likely follow the instruction not to utilize social media sites.

Effectiveness of Jury Instructions

Are Current Instructions Effective?	
Participant	Answer
Judge 1	Yes
Judge 2	Yes
Judge 3	Yes
Judge 4	Yes
Attorney 1	No
Attorney 2	Yes
Attorney 3	No
Attorney 4	Sometimes

Table 4: Participants'(see Appendix A) opinions on effectiveness of current jury instructions. "Yes" or "no" answers inferred based on participants' responses

The responses varied in regards to whether or not current jury instructions are effective. Similar to whether they thought social media usage by jurors is a problem, the judges' responses were unanimous. The attorneys' responses varied in regards to the effectiveness. The responses to effectiveness of jury instructions led to two main ideas: respect of the system and the enforceability of the jury instructions.

All the judges and Attorney 2 believe that the instructions are effective because jurors still respect the system. Judge 1 and Judge 2 believe that the current jury instructions are "good for right now." They both believe that jurors share in the idea of following jury instructions so that the judicial process is able to run smoothly and efficiently. Judge 4, who thinks that jury instructions are "adequate," and Judge 2 both share in the concept of respecting the judicial process. They also share in the idea of jury instructions being able to change as technology expands. Judge 2 explained that judges are not bound to the OJI. For this reason, he believes that judges can expand the list of prohibited social media sites as they continually change. Judge 4 explained that the OJI adapts with time. So as technology and social media sites expand, revisions will be made to the OJI. Attorney 2, believing that instructions are "very good and very thorough," focusef on future revisions as well. Instead of judges revising jury instructions, Attorney 2 believes that attorneys will submit proposals when they are necessary. No matter who makes future revisions, all three judges and Attorney 2 believe that jurors respect and willingness to cooperate with the judicial process encourages jurors to follow instructions and not use social media.

Attorney 1 and Attorney 3 discussed the effectiveness of current jury instructions on whether or not the instructions are enforceable. Both attorneys agreed that they were not. It is easy to tell jurors not to utilize social media, but who is monitoring to ensure that they are not using it? Since no one is currently monitoring every aspect of a juror's life, there is no certain way to ensure that they are not using them. Both attorneys did provide a way that they thought would be more efficient than the current jury instructions. They proposed the idea of sequestration. However, both acknowledged that the likelyhood of this happening is very low. Attorney 1 believes that sequestration would be a way to monitor jurors. Attorney 3 shares in this

belief but claimed that it would be hard to find jurors if sequestration was utilized. Jurors did not do anything wrong, but Attorney 3 believes that sequestration would treat jurors more like prisoners that people carrying out their civic duty. Sequestration is a costly and unlikely solution to the problem. Since sequestration is not a likely solution, neither Attorneys 1 nor 3 know what a better solution would be.

Attorney 4 does not uphold strictly one of the themes mentioned. Instead he expressed them both. Attorney 4 explained that most jurors want to follow the rules that are given by the judges. He explains that often we put faith in people to follow these rules. Unfortunately, there are some people who have an urge to want to know more. Attorney 4 shares in the idea of sequestration, even though an unfeasible solution, as a way to monitor to people who cannot resist the urge to learn more.

Discussion

The overall question of whether or not current methods to limit social media usage are left with varying opinions. The neutral party in the trial, the judge, seems to believe that current jury instructions are sufficient to ensure that jurors do not use their social media sites while sitting as jurors. Why is this? It is possible that many people still uphold the principle of guaranteed justice through the judicial process. However, it may be possible that judges are unaware of the extent to which people utilize social media. As stated in the introduction, there are over 1.3 billion members on Facebook (Facebook, 2014) and approximately 58 million tweets posted daily (Twitter, 2014) The judges in this particular study seemed to have faith that jurors would follow instructions prohibiting social media usage when they were given. Due to the statistics presented, I began to wonder whether these instructions are enough. The high usage of social media sites could possibly lead to jurors finding sneakier ways to utilize social media.

Since there is such a high dependence on social media sites, specifically Facebook and Twitter, there potentially could be an overstated amount of trust placed in jurors by judges.

A majority of the attorneys in this study are likely to agree that there is an overstated amount of trust put in jurors. Their reasoning may be different than the statistics stated above. A majority of the attorneys in this study did not believe that jury instructions were sufficient to keep jurors off of social media sites. One of the main reasons given is that jurors cannot be monitored when they are away from the courtroom. This is true, but there is another potential reason for the lack of effectiveness attorneys have for the current jury instructions as opposed to the judges. Attorneys have to defend the people that jurors are likely to communicate about and conduct research on the most on social media. In many cases, people discuss the offender more than the victim. Facebook pages or Twitter accounts are often made to degrade the offender. If enough jurors see these pages, it is likely that they will begin to believe the information presented on them, therefore, biasing the jurors. Attorneys may believe, particularly defense attorneys that were interviewed in this study, that jury instructions are insufficient because they are vulnerable to the use of social media. If constant rants about defendants are placed on social media sites about the defendants, the likelihood of jurors rendering a guilty verdict could increase.

Overall the neutrality of judges and vulnerability of attorneys could lead to their beliefs in the effectiveness or lack thereof in current jury instructions in regards to jury instructions. There is no definite answer to whether or not the current jury instructions in Northwest, OH are sufficient in keeping jurors off of social media. Although seeking an answer to this inquiry, two more questions needing further research developed my results.

The first topic that needs further research is whether or not sanctions need to be further explained in jury instructions. As Judge 3 stated the sanctions are left unknown to the jurors when instructions are given prohibiting the use of outside research. It is possible as Judge 3 explained that fear of the unknown sanction could discourage jurors from using social media. However, the opposite could happen as well. The lack of sanction descriptions for utilizing social media sites may cause jurors to assume the sanction is minimal. This lack of clarity could encourage instead of discourage social media research by jurors. To get a better understanding of whether descriptive sanctions would work, more research needs to be conducted on whether or not jurors are more receptive to vague or descriptive sanction explanations.

Another topic that needs to be explored is whether or not sequestration would be a better method to ensure jurors do not utilize social media sites. Currently the budget of the judicial system does not have sufficient funds to sequester jurors. To some this may seem like a logical solution to the problem. If jurors are constantly monitored, then the judicial system can be sure that jurors are not using social media. This could lead to many more problems though as Attorney 3 stated. There are not many jurors who are going to give up their electric devices or agree to be monitored. After all, the jurors are not the ones of trial. So why should they use some of their privileges in order to perform their civic duty? Further research needs to be conducted on how receptive the public would be to juror sequester and whether or not there are other methods that could be used to monitor jurors social media usage without the judicial system seeming so invasive.

Conclusion

Northwest Ohio has tried to eradicate juror social media usage by specifically naming social media sites in the instructions as prohibited outside research. This particular tactic has created mixed reactions by legal professionals. Judges claim that the instructions are sufficient, while attorneys believe they are not enforceable. While creating one solution to ensuring jurors do not utilize social media, many other problems and questions are created. Should jurors be sequestered? Can jurors' social media sites be monitored? Proposed solutions continue to lead to more questions for an issue that may be unresolvable.

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U.S. Constitution, amend. IV

Appendix A

Code for Judges

Participant	Location
Judge 1	Suburb of Toledo
Judge 2	Small college town near Toledo
Judge 3	Small college town near Toledo
Judge 4	Small college town near Toledo
Attorney 1	Metropolitan Toledo
Attorney 2	Small college town near Toledo
Attorney 3	Small college town near Toledo
Attorney 4	Suburb of Toledo

Appendix B

Informed Consent Form

Consent Form for_____

Introduction: My name is Erica Lunderman and I am a senior at Bowling Green State University. I am working on my Honors thesis with Professor Martin Slavens, of the Political Science Department, to see how courts in Northwest OH have dealt with the use of social media by jurors. You are being asked to participate in this research because you deal with the criminal justice system daily and have experience dealing with the attitudes and behaviors of jurors.

Purpose: Recently the public has become accustomed to using social media on a daily basis as a means of accessing information, including current events such as pending legal cases. Due to the ease of access and habitual usage of social media, jurors can easily obtain information about legal cases. The use of social media may influence jurors about the case to which they are assigned and is a concern for courts. Some methods of controlling juror usage of social media include revisions of jury instructions and electronic device bans. I am conducting this research to better understand how Northwest Ohio courts have tried to break the habit of jurors' use of social media and the degree of success such measures have had. This project will allow you, the legal professional, to reflect and evaluate the methods you implement to control the usage of social media by jurors. It also can create future dialogue between yourself and other legal professionals who participate in my research. Lastly, the public can also benefit from my research. The public can become informed about the problem of social media usage by jurors and begin to think about this problem. The general public will also be informed of methods that Northwest courts have used to address this issue.

Procedure: I will send out a consent form via email. I ask that you sign the consent form and email it back to me. The signed consent form will be stored in a folder on my password protected laptop. Once the consent form has been emailed back to me, we will schedule a time to conduct the phone interview. You will have an option of whether or not the interview will be recorded. If you choose to have the interview recorded, this dialogue will be stored on my password protected laptop. The interview will take no more than 20 minutes; it can be longer or shorter if you wish. The actual time of the interview is at your discretion. The interview will include questions regarding why you think jurors use social media and if you think the jury instructions used in your courtroom are effective. Once the interview is complete, I will write a paper analyzing and comparing your answers to other judges and attorneys in Bowling Green, Maumee, Perrysburg, and Toledo.

Voluntary Nature: Your participation in this project is completely voluntary. You are free to withdraw at any time. You may decide to skip questions or discontinue your participation without any penalties.

Confidentiality: The responses from our interview will be stored on my password protected laptop. No one else, outside of my advisor, will have access to the interview transcripts. You will be given the option of having your name written in my paper or a pseudonym can be used. If you choose for a pseudonym to be used, you will be referenced as "a Northwest Ohio court official from the city of _____." Your city will be necessary to include in the paper because comparisons will be made to other courts in Northwest Ohio.

Risks: The risks associated with this study are no greater than the ones you experience in your daily life. The information that you provide me will only help the public understand the jury instructions involving social media in Northwest Ohio.

Contact Information: If you have any questions feel free to contact me, Erica Lunderman, by phone (937-903-3773) or by email (elunder@bgsu.edu). Also feel free to contact my advisor, Martin Slavens, by phone (217-979-2306) or by email (martids@bgsu.edu).You may also contact the Chair of the Human Subjects Review Board at 419-372-7716 or hsrb@bgsu.edu, if you have any questions about your rights as a participant in this research.

Thank you for taking the time to read and understand this consent form. Please read the consent statement below and sign where required.

I have been informed of the purposes, procedures, risks and benefits of this study. I have had the opportunity to have all my questions answered and I have been informed that my participation is completely voluntary. I agree to participate in this research.

_____

Participant Signature and Date

Appendix C

Interview Questionnaire

1. Do you believe there is currently a problem of jurors using social networking sites? How has your court responded to this problem?
2. How often do you think jurors use social media to research cases? Also, what do you think is the main reason jurors use the Internet and social networking sites?
3. Has your court implemented, in part or in whole, any recommendations made by third parties related to the problem of juries and social networking sites?
4. In 2010, the Judicial Conference of the U.S. made a Federal Model of jury instructions addressing social media. Do you use this model of instructions? If so, why? If not, have any revisions been made to your jury instructions to address the problem of social media use by jurors? (Judges only question)
5. In 2012, the Ohio Jury Committee released jury instructions, banning the use of social networking sites like, Facebook and Twitter. Do you think actually listing the name of social networking sites has a better effect than simply saying not to use the Internet to find additional information about the case? (Judges only question)
6. Do you think the current jury instructions are sustainable, considering that technology is continually updating and people continue to become more dependent on it?
7. How effective do you think the revisions to the jury instructions, incorporating the use of social media, have been? If you could, would you change anything about the instructions?
8. In NY, lawyers are allowed to view social networking sites of jurors to ensure they are not using them to communicate about the case. Do you think that this tactic should be adopted in the state of Ohio? If not, what is problematic about this case? (Attorney only questions)
9. What other, if any, changes do you feel are needed?

Appendix D
2012 Ohio Jury Instructions

Ohio Jury Instructions

Part II Criminal Instructions
Title 2 Basic Criminal Outline and Sample Instructions
Chapter CR 205 PRELIMINARY INSTRUCTIONS: SAMPLE INSTRUCTIONS

2-CR 205 OJI CR 205.03

CR 205.03 Admonitions to the jury: sample instruction [Rev. 8-15-12]

1. FAIR AND ATTENTIVE. It is important that you be fair and attentive throughout the trial. Do not discuss this case among yourselves or with anyone else. This includes family, friends, and the media. You must not post or read anything about this case on the Internet or on any electronic device including cell phones. This would include blogs and social networking sites such as MySpace, Facebook, Twitter, and others. Any such violation could lead to a mistrial and would severely compromise the parties' right to a fair trial. Do not permit anyone to discuss this case with you or in your presence. Do not form or express any opinion on this case until it is finally submitted to you.
COMMENT

Drawn from R.C. 2945.34.

2. AMONG YOURSELVES. You may not discuss this case among yourselves until it is finally submitted to you. You will receive the opening statements, the evidence, the closing arguments,

and the law in that order. It would be un-fair to discuss the case among yourselves before you receive everything necessary for your decision.

3. DO NOT DISCUSS OUTSIDE COURT. You should explain this rule prohibiting discussion of the case to your family and friends. When (the trial is over) (your jury duty is completed), I will release you from this prohibition. At that time, you may, but are not required to, discuss the case and your experiences as a juror.

4. REPORT VIOLATION. You are instructed not to talk with the attorneys, parties, or witnesses during the trial. Likewise, they must not talk with you. You must also not talk with anyone else about this case during the trial. If any-one should attempt to discuss the case with you, report the incident to me or to the bailiff immediately.

5. WARNING. Do not investigate or attempt to obtain additional information about this case from any source outside the courtroom. (This includes visiting the scene of the event or viewing pictures obtained on your own, including those obtained on the Internet, such as on Google Earth. This case involves the scene as it existed at the time of the event, not as it exists today. Viewing the scene, pictures, or other materials without the benefit of explanation in court is unfair to the parties who need you to decide this case solely upon the evidence that is admitted in this case.)

You are prohibited from performing your own experiments and conducting your own research, including Internet re-search. Such information may be incomplete, inaccurate, or irrelevant to the issues in this case. It is vital that you care-fully follow these instructions. The reason is simple. The law requires that you consider only the testimony and evidence you hear and see in this courtroom.

6. NEWSPAPER, RADIO, AND TV. You must consider and decide this case only upon the evidence received at the trial. If you acquire any information from an outside source, you must report it to the bailiff immediately.

You are instructed not to read, view, or listen to any report in the newspaper or on the radio or television on the subject of this trial; do not permit anyone to read or comment upon them to you or in your presence. Media reports may be incomplete or inaccurate. You must consider and decide this case only upon the evidence received at the trial. If you acquire any information from

an outside source, you must not report it to other jurors and you must disregard it in your deliberations. In addition, you must report the outside source of information to the bailiff or to the court at the first opportunity.

7. MEDIA DISTRACTION (OPTIONAL). These proceedings may be (broadcast) (photographed) (recorded) by members of the news media. You must not allow this fact to divert your attention from this case or to interfere with your duties as jurors. Further, you are not allowed to talk to members of the media during this trial.

8. VIOLATION. Any violation of these orders may require a new trial and may subject those involved to sanctions, including contempt of court.

9. PERSONAL PROBLEM. If, during the trial, issues arise that would affect your ability to pay attention and sit as a fair and impartial juror, you must explain the matter to the bailiff who will inform me. At any time if you cannot hear a witness, an attorney, or me, please make that fact known immediately by raising your hand.

10. RECESS. I will remind you of these instructions at each recess. If I forget to do so, however, they nevertheless apply to your conduct throughout the trial.

11. JURORS TAKING NOTES. OJI-CR 401.19.

12. JURORS ASKING QUESTIONS. OJI-CR 401.21.

13. INTERPRETERS AND TRANSLATORS. OJI-CR 401.29.