

# #headache: Social Media and Privacy in the Workplace



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## before Facebook



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## before Instagram

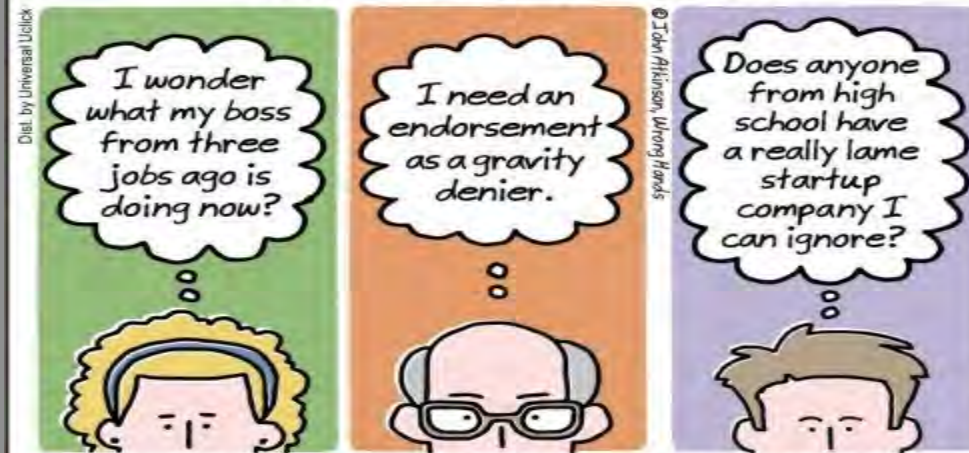


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## before LinkedIn



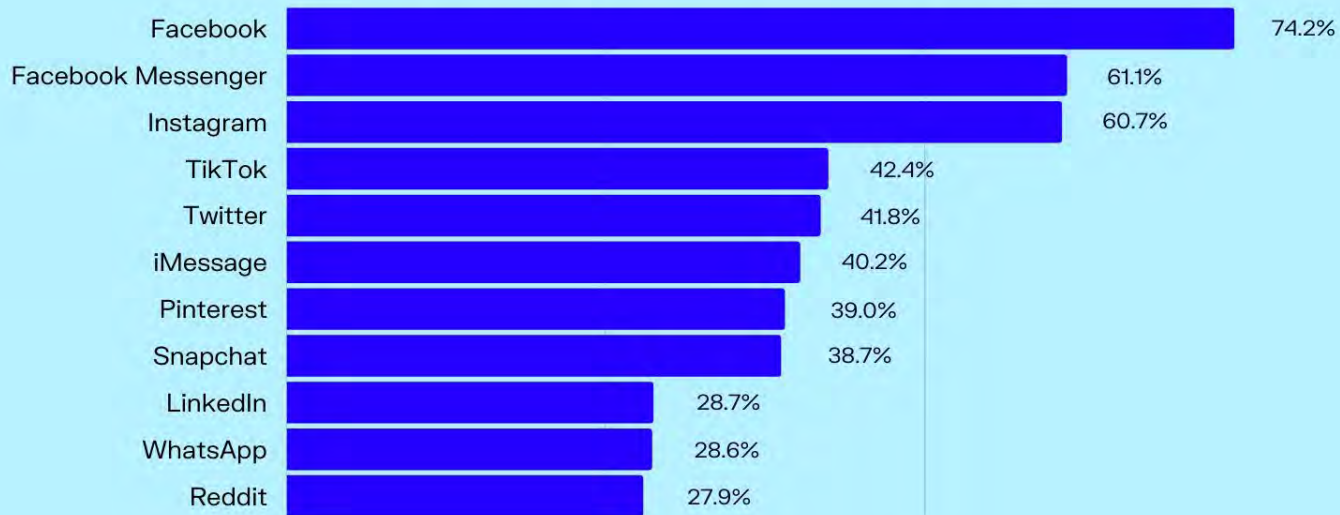
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# Reach of Social Media Sites

## Most Popular Social Media in the US



Source: DataReportal

**OBERLO**

# My Favorite Workplace Tweet ...



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@zaktoscani

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Co-worker got his lunch stolen and they've agreed to let him watch the security camera tape. This is the most excited I've ever been at any job ever. Ever.



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**Case facts:**

Lunch was in fridge for less than an hour before it vanished. No shrimp smell remnants in the microwave or kitchen area. This was a professional hit no doubt





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HOLY [REDACTED]. He's back. He watched the tape. He knows who did it.



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So the man who's lunch was stolen sits across from me. The person who stole his lunch sits RIGHT NEXT TO ME! She left for the day before the investigation started



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According to the video, this psychopath DIDNT EVEN EAT THE FOOD. She took it out of the fridge and threw and buried it in the trash



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Update: Ok so when dude watched the video with HR they asked “what do you want to do about it?” he told them he was solely interested in who did it and that he didn’t want to be responsible for someone getting fired



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After charges were dropped, HR sent a company wide email about not stealing people’s lunches. She is scheduled to arrive at work in 20min. My blood is on cocaine



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She has walked into the room. And the room is dead silent. Dead [REDACTED] silent yet there is a palpable explosive energy pulsing through everyone but her



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!!!! After seeing the HR email she says out loud “woah. Someone stole a lunch? Who would do something like that?” !!! I may have to run out of this room



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After she said that, shrimp guy responds “well yea it’s not ok to throw someone’s food away” we’re all about to start screaming



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This ██████ about to get crazier. After he says that she goes “oh it was your lunch?” BEAT she continues “well why would you go to HR about that?!”



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Dude just sighed and went back to work after she said what she said. She looks frightwningly calm





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Unbeknownst to the guy and the woman, I just ordered 3 shrimp fried rice plates for lunch and will be hand delivering them



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She took the fried rice from me with a big smile on her face. She's eating it and loving it. This is utter ruthlessness



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“I LOVE shrimp fried rice” - the thief



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I wish I could close this up with a neat little bow, but, it appears that we may never know why she did it. Maybe she doesn't know she did it. Either way I'm now forced to work 40hrs a week next to a cold blooded individual

# Why be Concerned About Social Networking?

- Use by employees
  - Employees may now communicate faster, to more people
  - Broad reach
  - Speed
  - Comments about workplace, supervisors, co-workers, clients or customers
- Easy to hit send/post without thinking things through completely ...









# Employee Privacy?



# So, Do Employees Have an Expectation of Privacy for Their Personal Social Media Accounts?

# Potentially Applicable Laws

- Electronic Communications Privacy Act
- Stored Communications Act
- Computer Fraud and Abuse Act
- Virginia Code § 40.1-28.7:5

# So What Does This Mean?

- No bright line rule
- Fact specific inquiry
- Language of company policy is instrumental to analysis
- Courts may also look at implementation and enforcement history

# Cyber Spying or Screening Applicants?



“We were ready to hire you until we saw the photo of you on Facebook sliding on the ice at Rockefeller Center wearing only bowling shoes and a viking helmet.”







# Just Stupid ...



Cella 🌞  
@Cella\_

Ew I start this f[REDACTED] a[REDACTED] job  
tomorrow 👎👎👎👎👎👎👎

2/6/15, 11:43 PM

# Maybe Stupider ...



**Cisco just offered me a job! Now I have to weigh the utility of a fatty paycheck against the daily commute to San Jose and hating the work.**

*3:17 AM Mar 18th from web*









# What If They Already Work for You?

# “Central Park Karen”



**EXCLUSIVE**





**crunk\_bear** CarlyCrunkBear  
Naked. Wet. Stoned.

3 days ago Reply Retweet Favorite







# Potential Social Media Risks

# Discrimination



# Harassment



# Retaliation



# Unfair Labor Practice Charges













# So, What Are Employers to Do in this New World of Rampant Social Media?

CONSISTENCY  
IS THE KEY!





# WHY IT'S A BAD IDEA TO 'FRIEND' YOUR BOSS ON SOCIAL MEDIA

HUFF  
POST







- Do not hesitate to ask employee to remove anything from a social networking site that might have detrimental impact on image of your organization
- Do not listen to arguments about First Amendment rights unless you are truly a “State Actor”

# Questions?

# Thank You!

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