

How Can You See My #Tweets? An Overview of the Law and Social Media

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Xie Zhiqiang: Mover and Shaker

- ▶ **Liyang, Jiangsu Province**
 - ▶ 150 miles west of Shanghai
 - ▶ ~780,000 population
 - ▶ Austin or San Francisco
- ▶ **Head of Health Bureau**
- ▶ **Goes to college reunion in June**
- ▶ **“You should use Weibo. All the kids are doing it.”**



Xie Zhiqiang: Extracurricular Activities

- ▶ **Woman:** What time do you want to meet me?
- ▶ **Xie:** How about this afternoon?
- ▶ **Woman:** Where?
- ▶ **Xie:** What about the Huangting [Hotel]?
- ▶ **Woman:** That works.
- ▶ **Xie:** I'll give you the room key. You go first and relax, I'll come over shortly after, OK?
- ▶ **Woman:** How will you give me the key? I won't go to the reception desk.
- ▶ **Xie:** I'll get it first and send it to you.



Xie Zhiqiang: Serious Problems

- ▶ “How did you see them? They’re not visible, right?”
- ▶ “I thought I was very discrete, I had no idea that I ruined my career and hurt my family.”
- ▶ “The Chinese Internet is morally bankrupt, everyone is looking to violate someone’s privacy on the Internet.”



Xie Zhiqiang: Serious Problems

- ▶ “I will approve your expenses as an official business expense.”



Xie Zhiqiang: **SERIOUS** Problems

- ▶ “I will approve your expenses as an official business expense.”
- ▶ Corruption = potential death sentence



Commingling of Resources

- ▶ Misuse of government property, services, personnel, or any other thing of value
 - ▶ Class C misdemeanor to first degree felony
 - ▶ TIME is a thing of value



Disclosure

▶ Legislative Advertising

- ▶ A communication that supports, opposes, or proposes legislation and that, **in return for consideration**, is published ...
- ▶ Very few opinions that interpret this statute
- ▶ Requires disclosure
- ▶ Class A misdemeanor

▶ Political Advertising

- ▶ A communication supporting or opposing a candidate for nomination or election ... in return for consideration ... appears ... on an Internet website
- ▶ Requires disclosure
- ▶ Class A misdemeanor



Records Retention

- ▶ **Section 441.031, Texas Government Code**

In this subchapter, "state record" means . . . material, regardless of physical form or characteristic, made or received by a state department or institution according to law or **in connection with the transaction of official state business**



Public Information

- ▶ "public information" means information that is collected, assembled, or maintained ... in connection with the transaction of official business



Open Meetings

- ▶ Section 551.143, Texas Government Code. CONSPIRACY TO CIRCUMVENT CHAPTER; OFFENSE; PENALTY. (a) A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.
 - (b) An offense under Subsection (a) is a misdemeanor punishable by:
 - (1) a fine of not less than \$100 or more than \$500;
 - (2) confinement in the county jail for not less than one month or more than six months; or
 - (3) both the fine and confinement.



Let's Just Be Friends. Not "Friends."

- ▶ The Committee believes that listing lawyers who may appear before the judge as "friends" on a judge's social networking page reasonably conveys to others the impression that these lawyer "friends" are in a special position to influence the judge.
- ▶ "Fan" ["Like"] okay.
- ▶ Can still contribute to judicial campaigns.



Defamation

- ▶ Causing something to appear on Internet = publishing
- ▶ Deleting offending message doesn't save you
- ▶ Winning a judgment is not always the goal
- ▶ Truth is not always a defense
 - ▶ Public disclosure of private facts
 - ▶ “Libel tourism”



Confidentiality

- ▶ **Constituent Confidentiality**
- ▶ **Special Confidentiality Statutes, Rules, and Policies**
- ▶ **Misuse of Official Information**
 - ▶ **Class C misdemeanor**



Who Owns My Information?

- ▶ **Box.net, iCloud, Dropbox**
 - ▶ Copyright?
 - ▶ Legislative privilege?
- ▶ **Who has your passwords?**



Are you saying something that's worth the risk?

