



Social Media / Digital Communications and Civic Engagement

Cal Cities' New Mayors and Council Members Academy

January 2023

Information Sources 20 Years Ago



Today's Information Diet

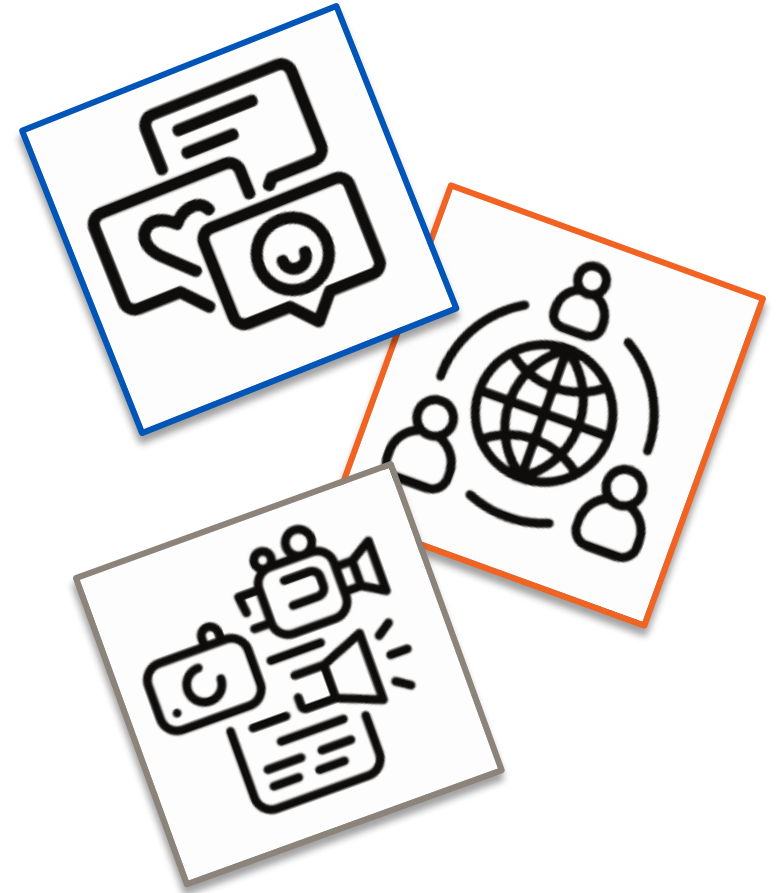


We're Addicted to Media!



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

Source: [Insider Intelligence, June 15, 2022,](#)
["US Time Spent with Media 2022."](#)



...And We're Addicted to Our Phones!

**Americans check
their phones...**



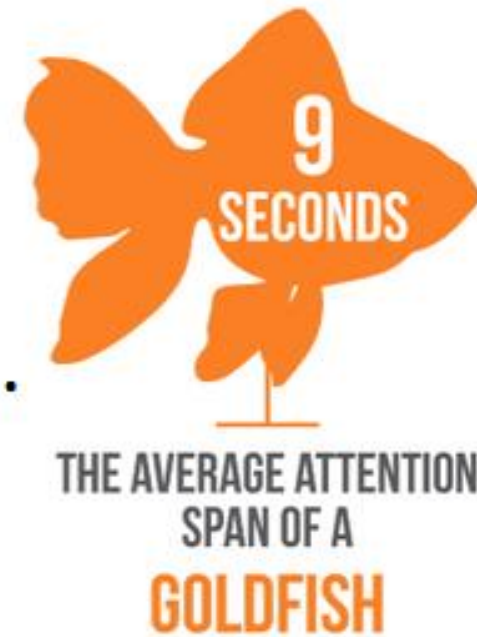
...times per day!

Source: [Zippia, October 20, 2022, "20 Vital Smartphone Usage Statistics, Facts, Data and Trends on Mobile Use in the U.S."](#)

Attention Span & Digital Media

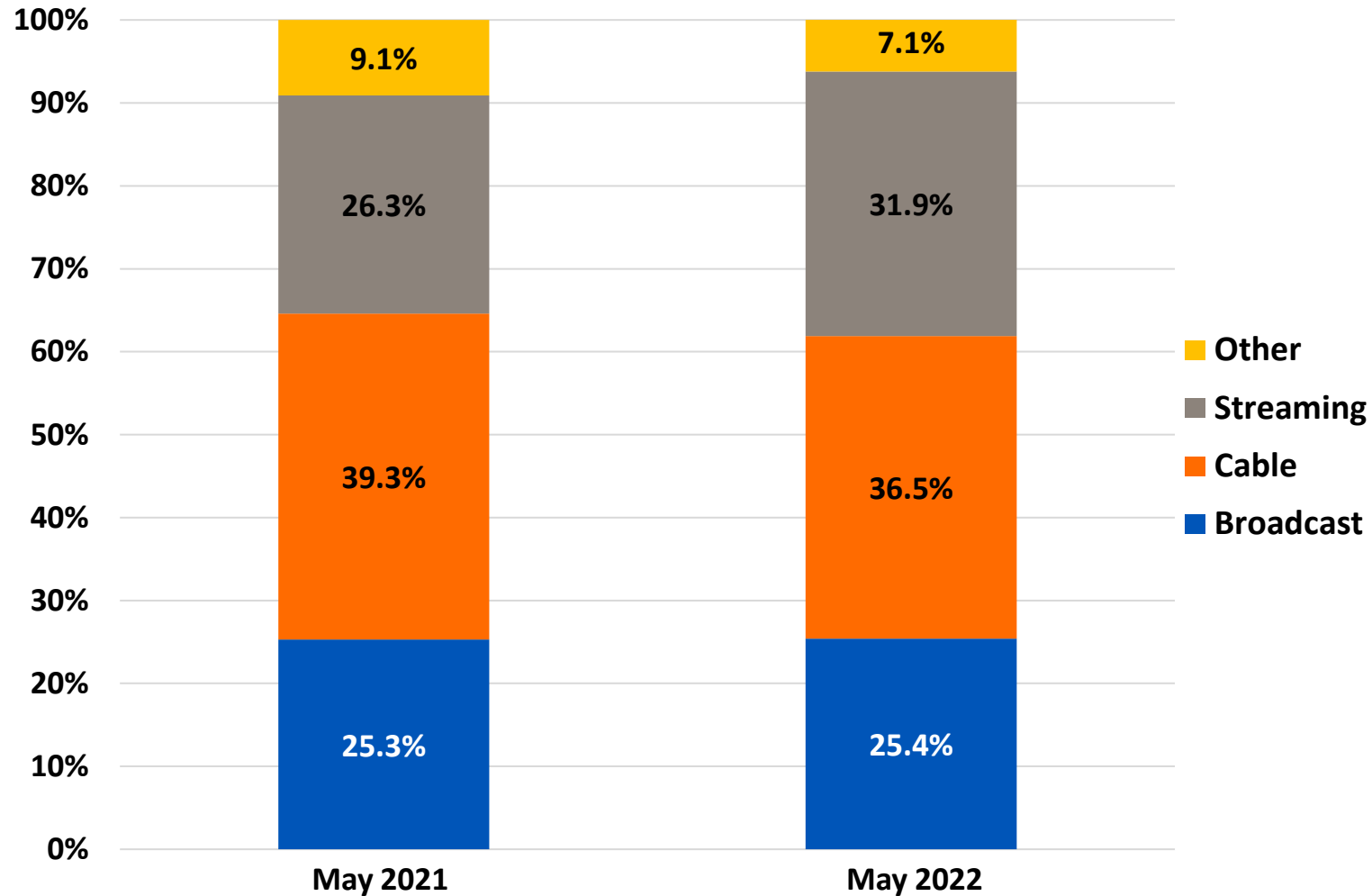


AND...



Source: [Muck Rack, July 14, 2020, "How declining attention spans impact your social media."](#)

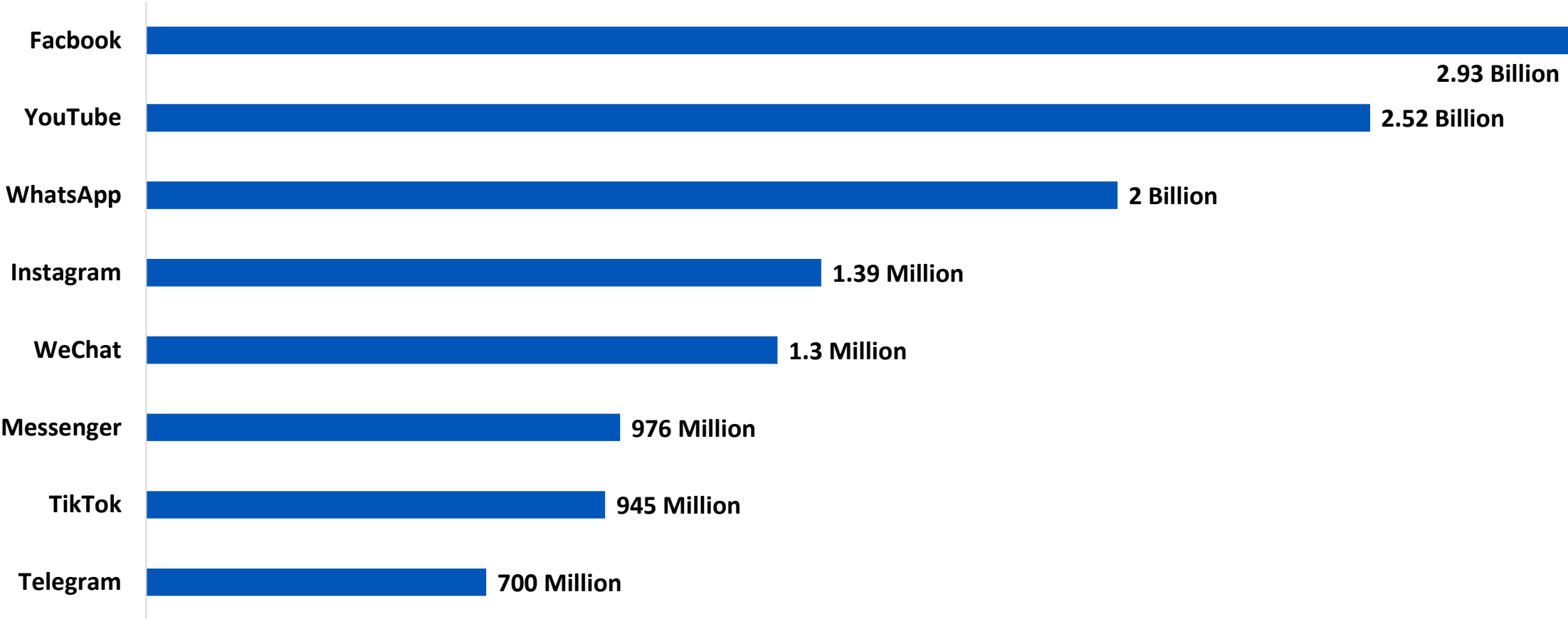
Consumers Spend Time Across Platforms



Source: Nielsen, May 2022, National TV Panel and Streaming Platform Ratings."

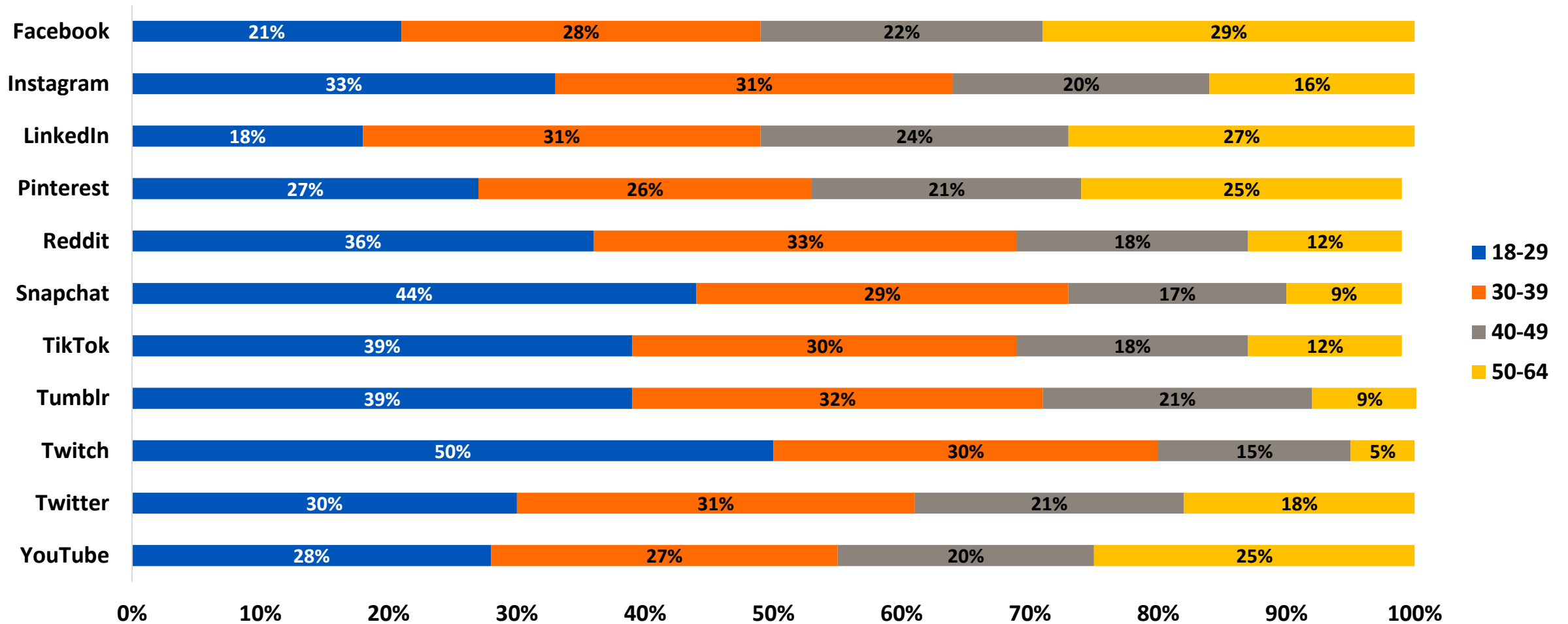
Facebook is Still the Most Used Platform

Source: [Shopify, November 1, 2022, "Top 10 Most Popular Social Media Platforms in 2023."](#)



*Monthly active users

Social Media Use By Age

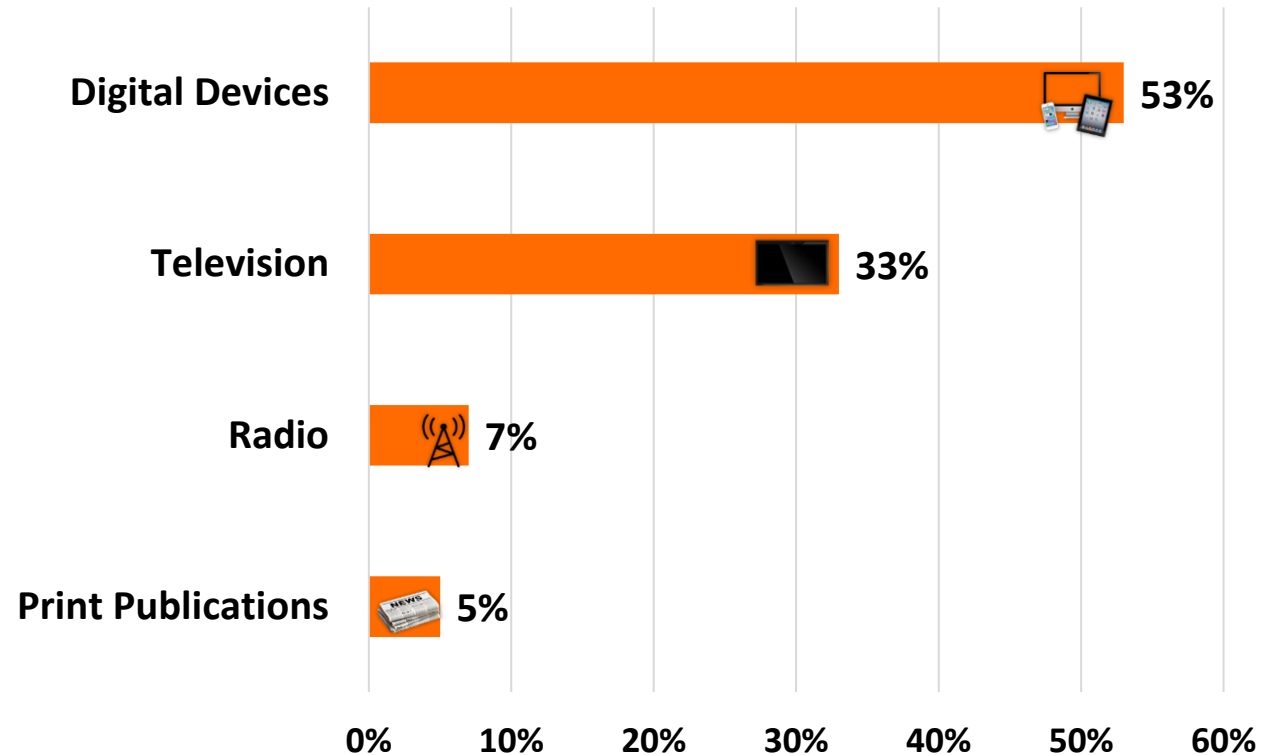


Source: [Statista, October 7, 2022, "Distribution of leading social media platform users in the United States as of August 2022, by age group."](#)

Digital Devices: #1 Way to Consume News

Total % of U.S. adults who say they prefer ___ for getting news...

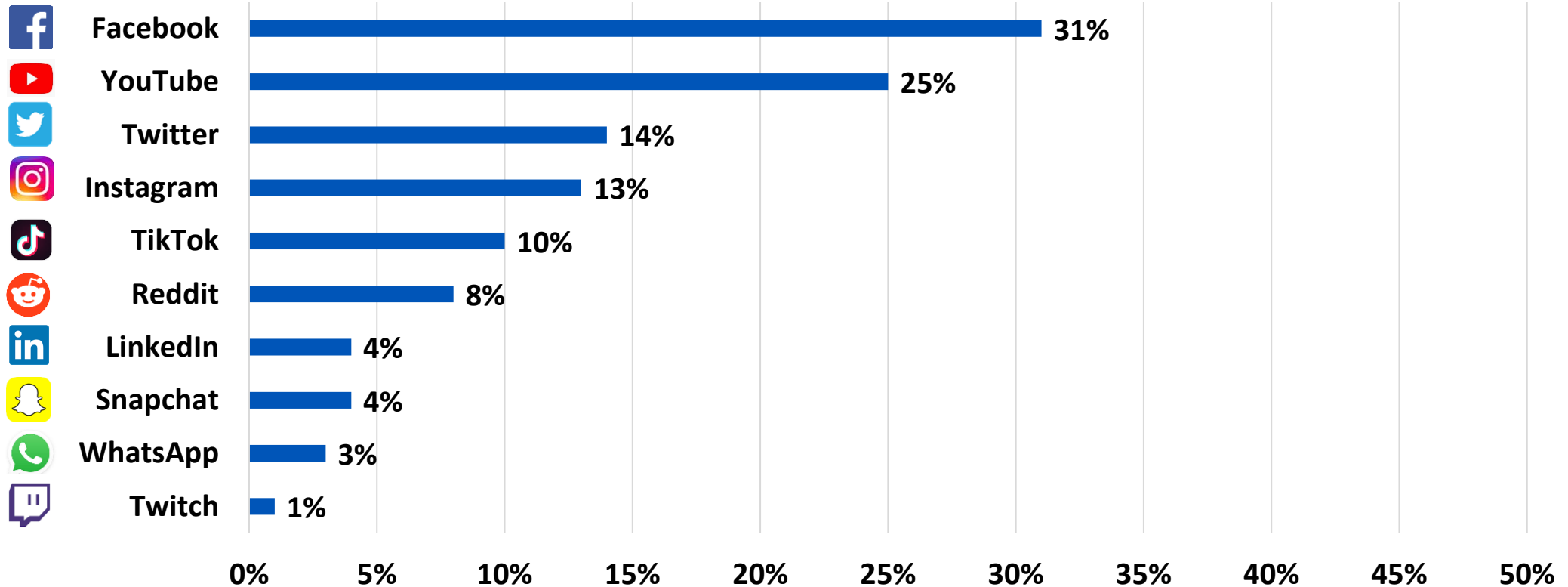
- More than half of Americans say they prefer using a digital device to get news
- Americans ages 50+ use both television and digital
- Younger age groups have almost fully turned to digital devices



Source: [Pew Research Center, September 20, 2022, "News Platform Fact Sheet."](#)

News Intake Across Platforms

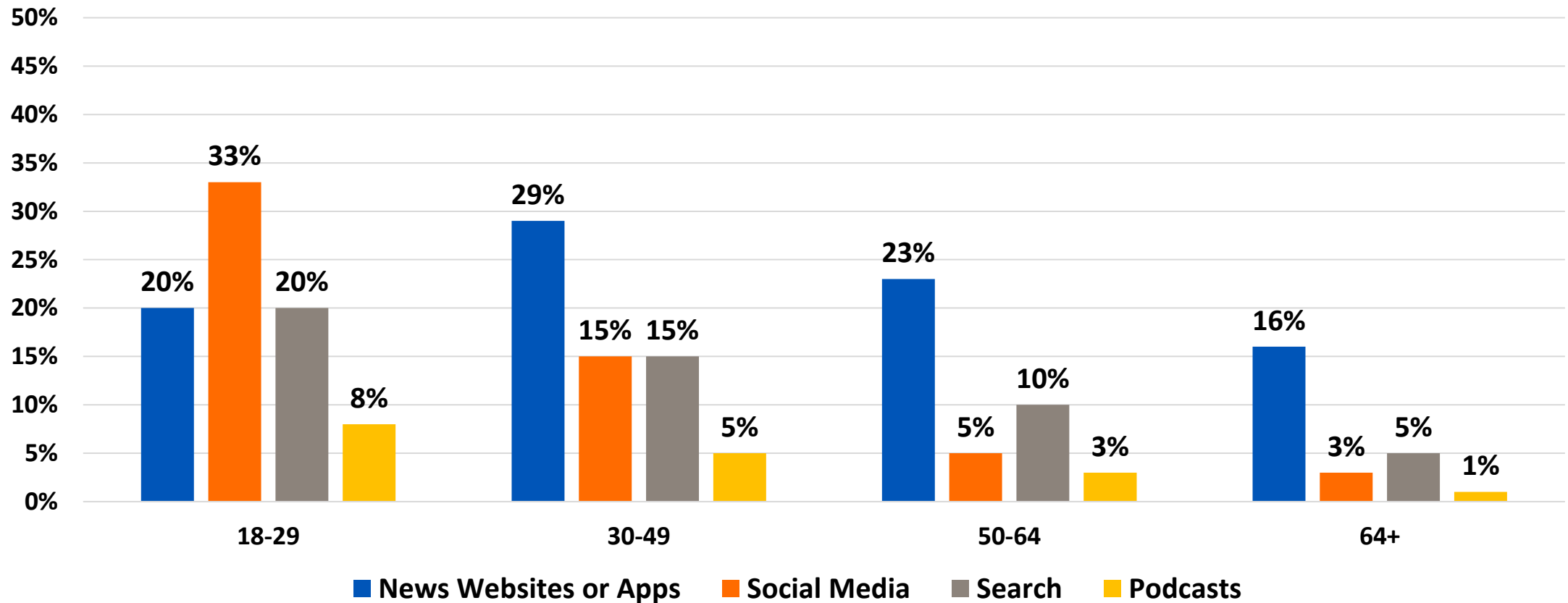
% of U.S. adults who get news on each social media site...



Source: [Pew Research Center, September 20, 2022, "Social Media and News Fact Sheet."](#)

Age Dictates How Digital News is Consumed

% of U.S. adults in each demographic group who say they prefer ___ for getting news...



Source: [Pew Research Center, September 20, 2022, "News Platform Fact Sheet."](#)



aimhighgetlow
Evan Low
Follow
1 Following 14 Followers 9 Likes
State Legislator representing Silicon Valley

TikTok News Boom

- One of the most popular social platforms among Gen Z
- 80 million monthly active users in the U.S.
- Platform is increasingly being used as a news source
 - 52% of U.S. adults aged 18-29 reported using the app as a source for news

The New York Times
TikTok Is Shaping Politics. But How?
Two researchers have studied political... since the Musical.ly era. Here's what th...
f w t e g s b +

Madison C... organized and politic...

California Governor
@cagovernor

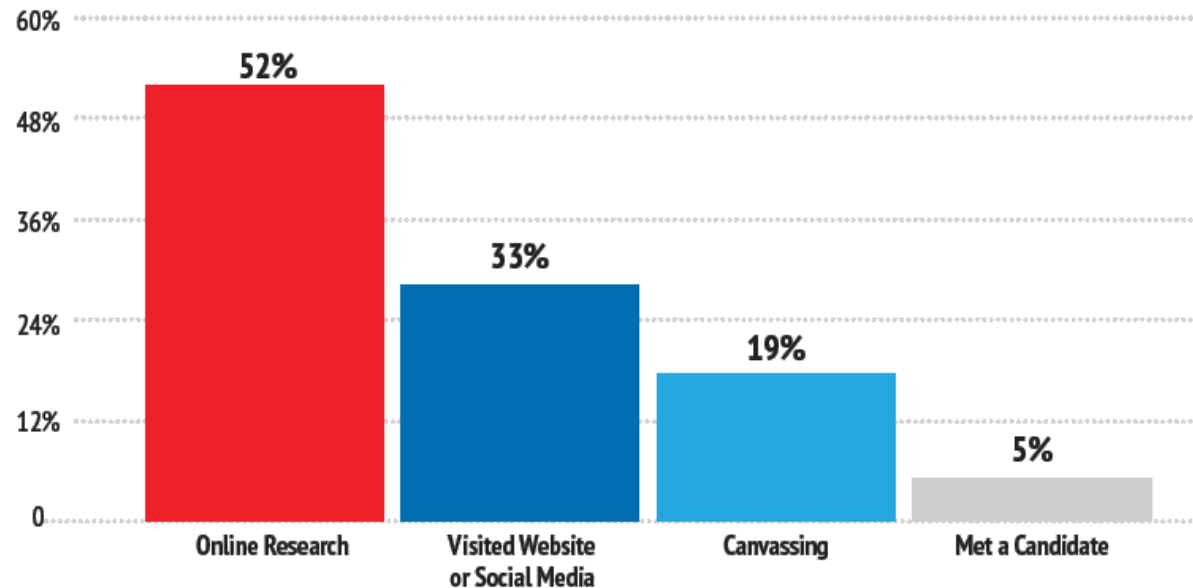
AXIOS Sections Local news Axios Pro About Axios Sign up
4. TikTok news boom
Share of adult TikTok users who regularly get news from the

torontosmayor ✓
Mayor John Tory
Follow
0 Following 50.4K Followers 790.4K Likes
Toronto Mayor John Tory

Voters Increasingly Going Online to Research Candidates & Causes

- 52% of U.S. voters sought out information about elections and candidates online
- 33% visited a candidate's website or social media

Digital Outreach Gives Campaigns More Scale



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

Elected Officials & Government Shifting Online

 City of Los Angeles
@LACity

You can watch your @LACityCouncil session starting at 10 AM.

Tune in to: lacityview.org/live
Facebook: facebook.com/CityofLosAngel...
Website: clerk.lacity.org/calendar

Let your voice be heard. Submit written comments at: LACouncilComment.com or call in.

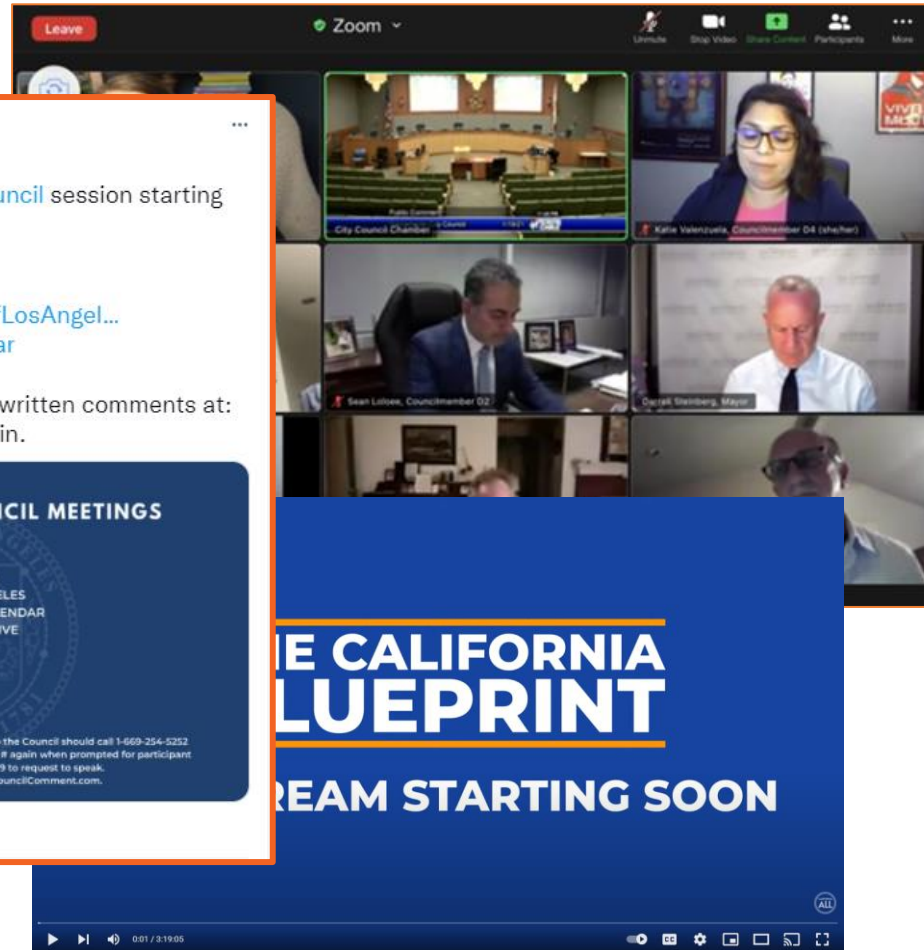
LOS ANGELES CITY COUNCIL MEETINGS

WATCH LIVE ON
FB: CITYOFLOSANGELES
CLERK.LACITY.ORG/CALENDAR
LACITYVIEW.ORG/LIVE

LISTEN AT
(213) 621-CITY

PUBLIC COMMENT:
Members of the public who wish to offer public comment to the Council should call 1-669-254-6252 and use Meeting ID No. 360 535 8466 and then press #. Press # again when prompted for participant ID. Once admitted into the meeting, press #9 to request to speak.
You can submit written comments at LACouncilComment.com.

9:30 AM · Jan 19, 2022 · Hootsuite Inc.



Zoom

City Council Chamber

Karla Valenzuela, Councilmember D4 (she/her)

Sean Lutton, Councilmember D2

Carroll Swinberg, Mayor

THE CALIFORNIA BLUEPRINT

STREAM STARTING SOON



Engaging Constituents Live & Through Video

- Elected officials are increasingly using live, online platforms to engage constituents
- Officials are also using video to post statements, make announcements and activate voters



What This Means for Elected Officials

- **Conversation is largely online** – meet your constituents where they are
- **Use social media to have ‘public conversations’ with your constituents** – and treat them like everyone is listening
- **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



What This Means for Elected Officials

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



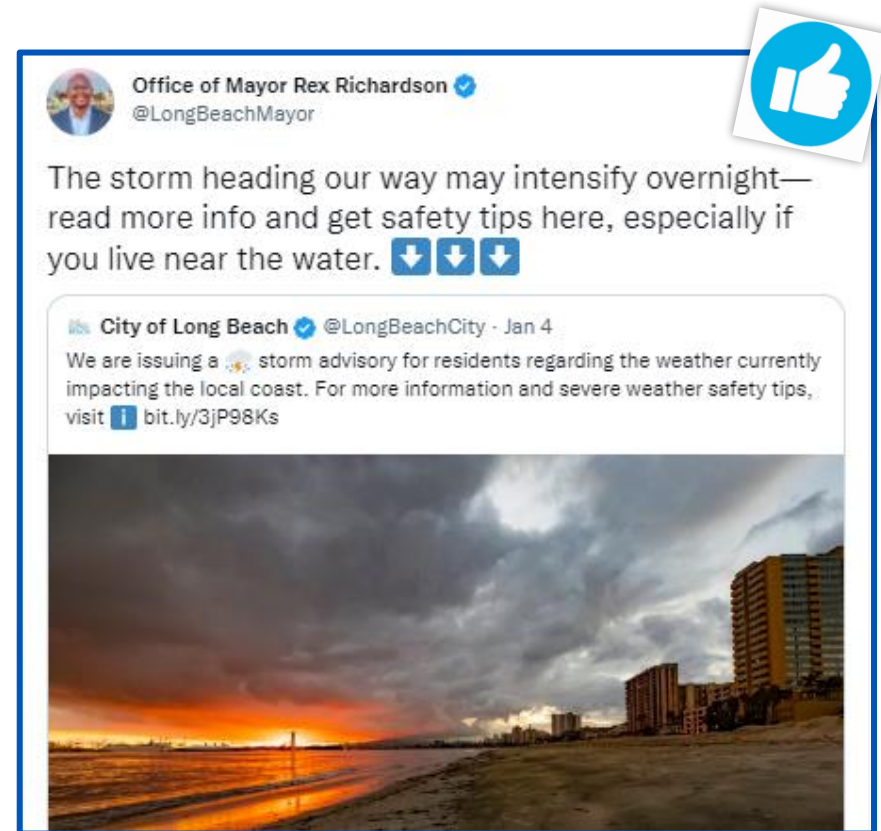
Be Proactive

- 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

The image shows a screenshot of a Twitter thread and a news article snippet. The top part of the screenshot shows a tweet from @mayor_Steinberg with the text: "Free transit to and from locations provided by @... stepping up and helping!". Below this is a tweet from London Breed (@LondonBreed) that says: "Thank you to our brave @SFFDPIO rescue swimmers!". The tweet from London Breed includes a retweet from SAN FRANCISCO FIRE DEPARTMENT MEDIA (@SFFDPIO) dated Jan 15, which contains a photo of five rescue swimmers in wetsuits standing in front of a fire truck. The photo caption reads: "Here is a photo of our rescue swimmers performing the VERY dangerous rescues today. We are sharing this photo so you can meet them here, and not in the water. Please stay out of the water. @NWSBayArea @GGNRANPSAlerts @SF_emergency". Below the photo is the text "6:09 PM · Jan 15, 2022 · Twitter Web App". At the bottom of the screenshot is a news article snippet with the heading "WEATHER R Open th" and the text "Outreach & E (3615 Auburn Blvd.) Open 24 hours".

Be Prepared

- **Have an established social media policy** for elected officials, department heads and staff
- **Be prepared and have a plan** for when news breaks about you or your city



Social Media Don'ts

- Avoid arguing, provoking or responding 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
- Post over informing, long press releases
- Weigh in on everything



Emerging Legal Issues

A SOCIAL MEDIA GUIDE FOR
LOCAL AGENCY OFFICIALS





PRIVACY & THE INTERNET

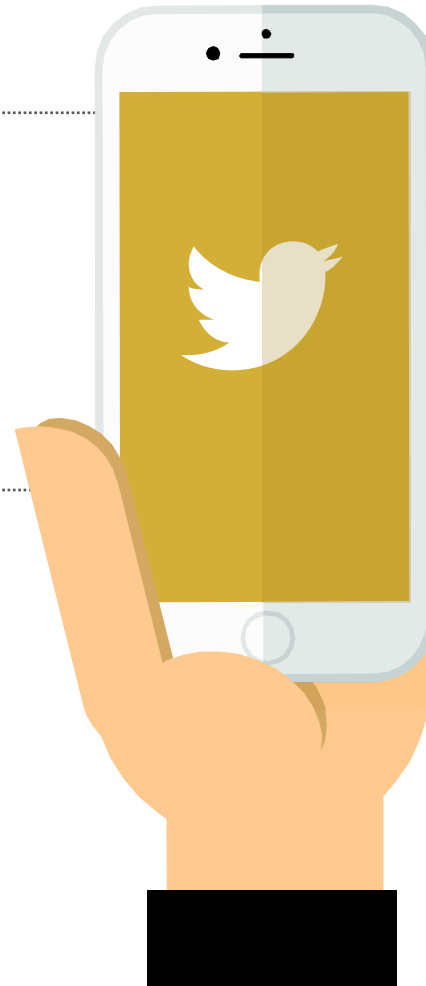
BUT, I HAVE PRIVACY SETTINGS!

Moreno v. Hanford Sentinel, 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





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

**BE
CAREFUL**

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

SOCIAL MEDIA IS AWESOME, BUT

- **The Internet never forgets**
 - **Mistakes are magnified**
- **Line between public and private is often blurred**
- **Your critics will be your closest followers**

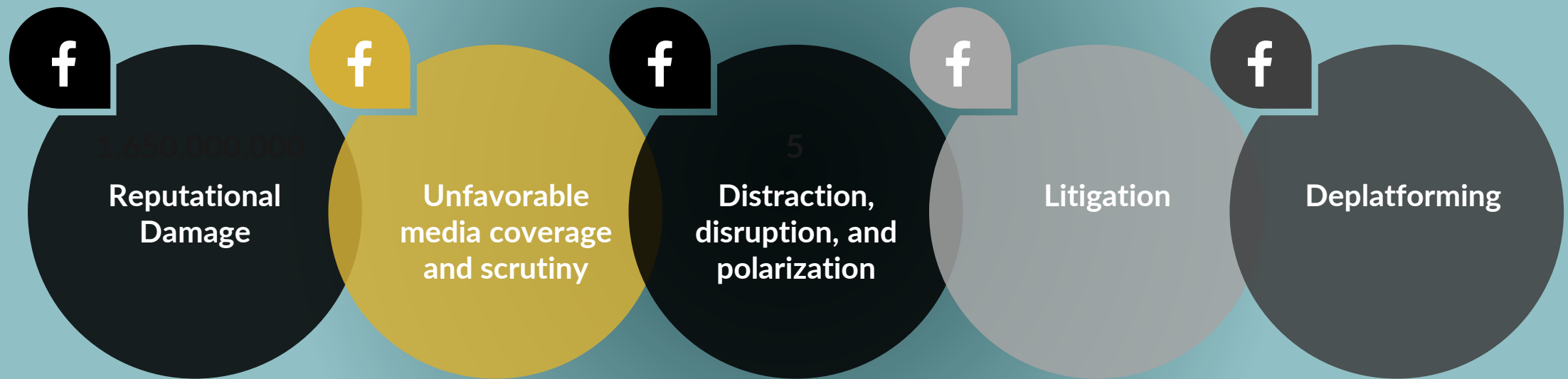
DON'T FEED THE TROLLS

- **Not everyone will love you. Get over it.**
 - **Use caution when responding with “humor.”**
- **If you MUST respond, stick to the facts – never personal attacks.**
 - **Move the conversation offline.**

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 mistake parody for real life and retweet it with great sincerity**
 - **No PUI**

INTANGIBLE COSTS OF BAD JUDGMENT





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



**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

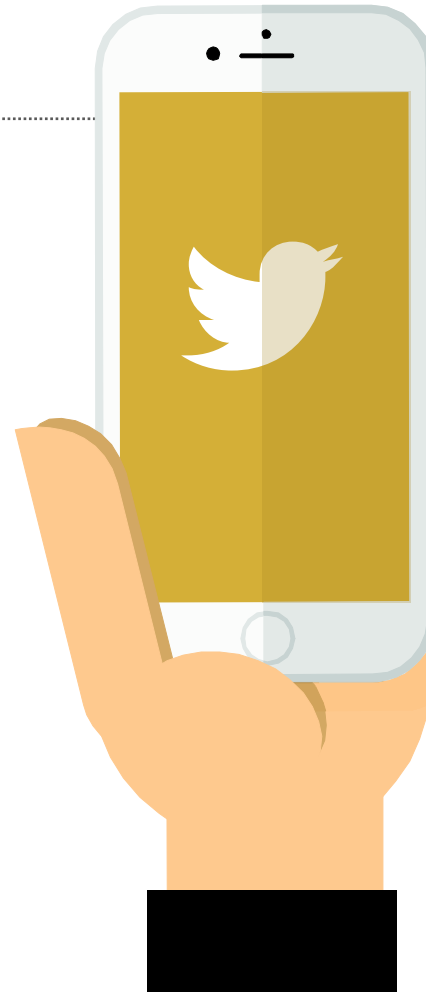
Social media has become a vital platform for speech of all kinds. Social media may now be “the most important” modern forum “for the exchange of views.”

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

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

GRAY AREAS OF PROHIBITED CONTENT

- 
- Profanity
 - “Defamatory” Statements
 - Personal attacks
 - “Offensive” statements
 - Implied threats
 - Off-topic comments



THE RIGHT TO FREE TWEET



Garnier v. O'Connor-Ratcliff (9th Cir. 2022)

Ninth Circuit Issues Binding Decision Relating to Blocking Constituents' Comments

www://





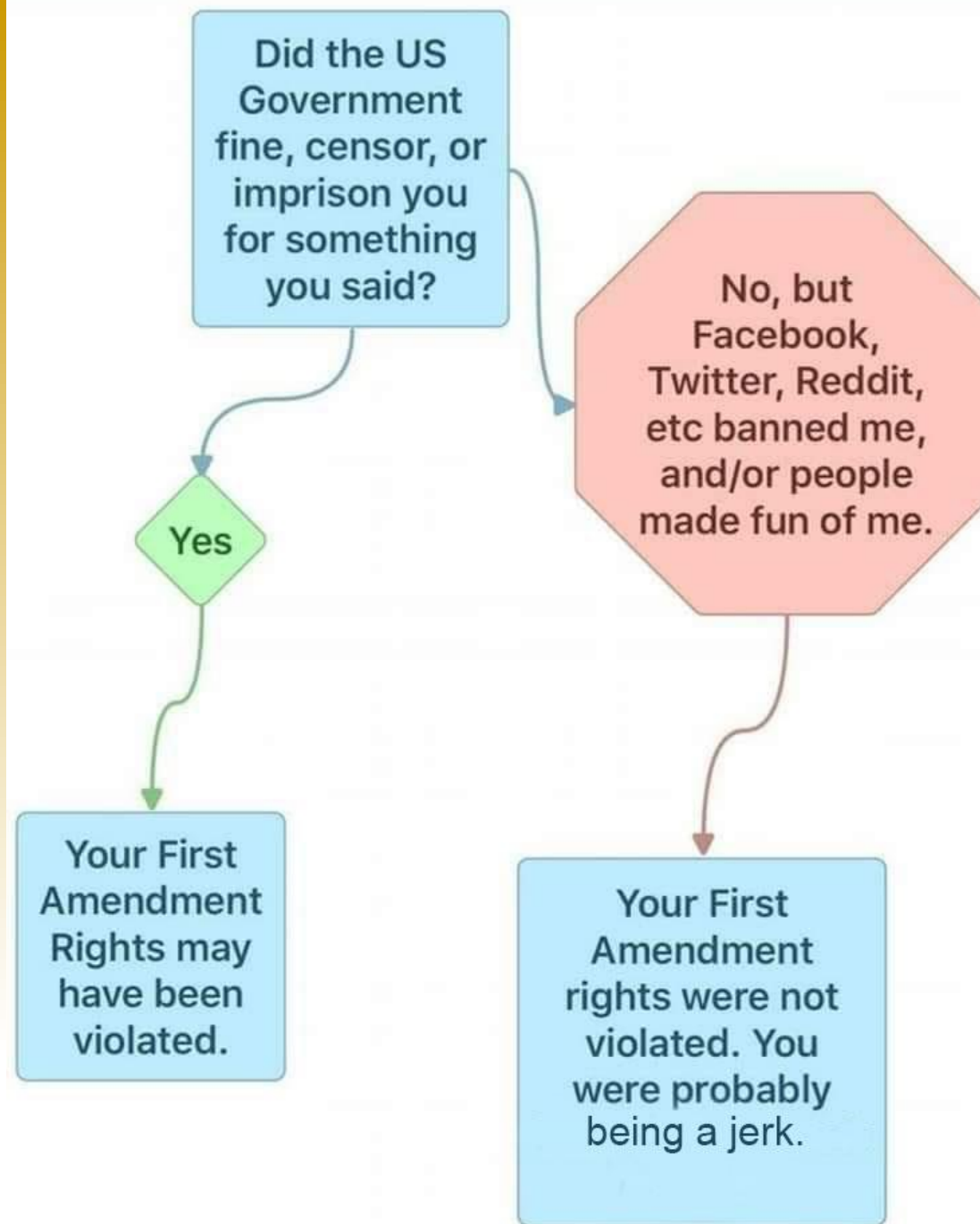
WHAT ABOUT MY SPEECH RIGHTS?

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 TERMS OF SERVICE

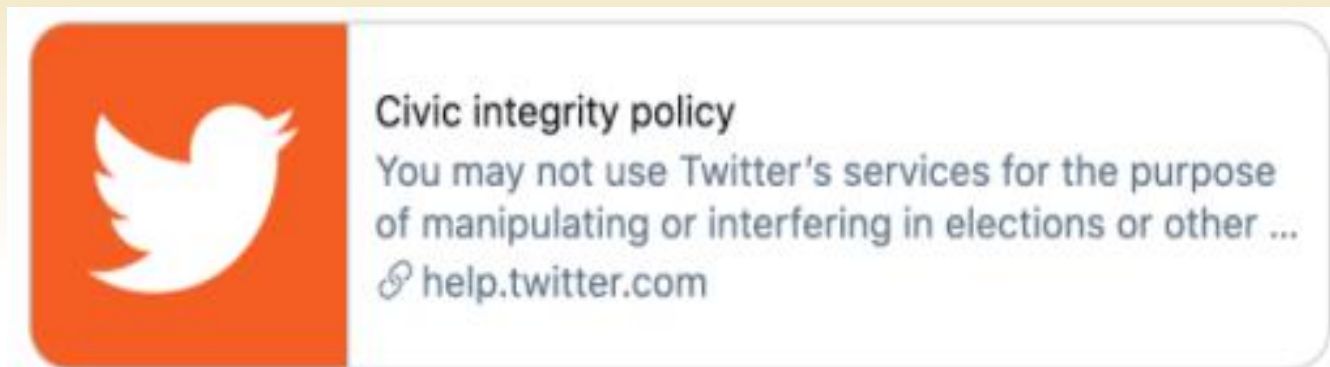
- Abusive/harassing content
- Violent threats or glorification of violence
- Violent extremism
- Hateful conduct
- Doxing
- Sensitive media
- Non-consensual nudity
- Civic integrity



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**
 - **Suppression and intimidation**
- **Misleading information about outcomes**
 - **False or misleading affiliation**

WHAT IS NOT A VIOLATION?

- 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?

- **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 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](#)

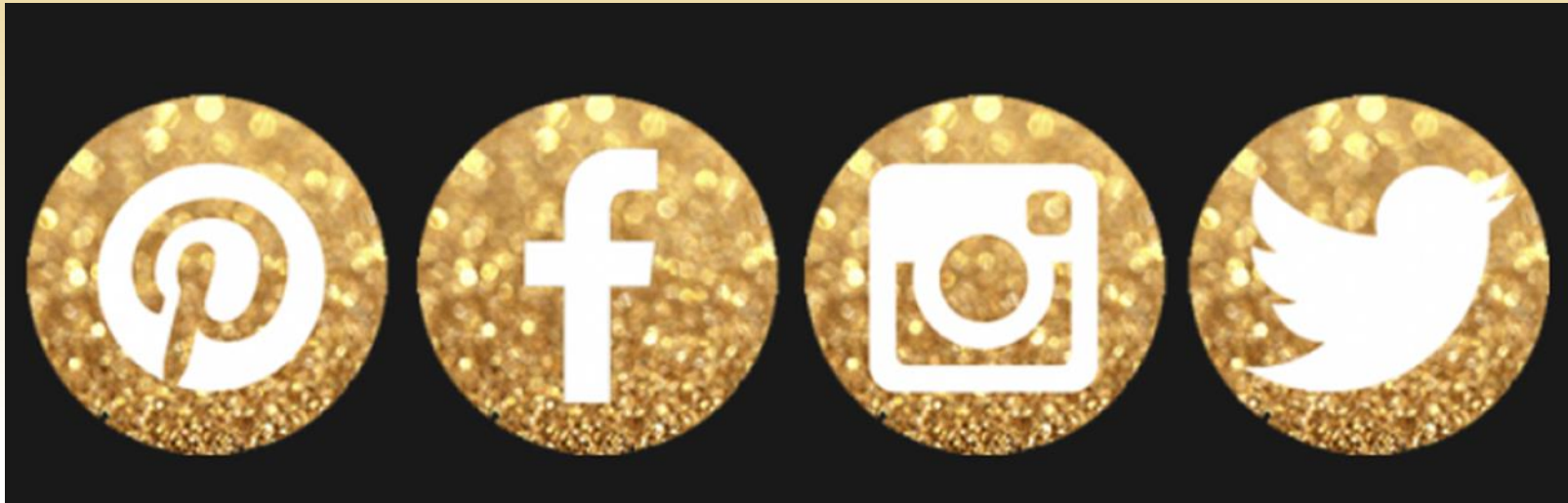
<https://help.twitter.com/en/rules-and-policies/public-interest>



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?

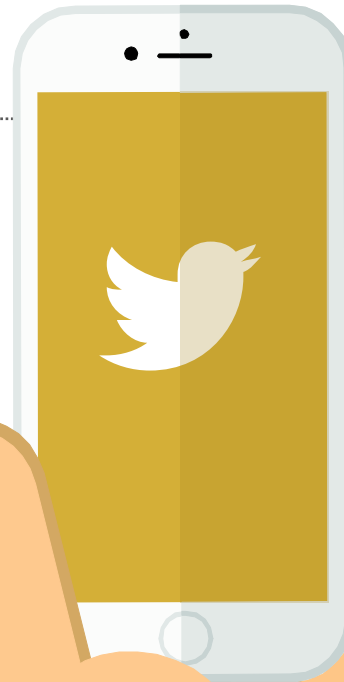
Is there a definable, well-publicized use for the site, i.e., acting as a candidate, purely personal use, or a separate business use?

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



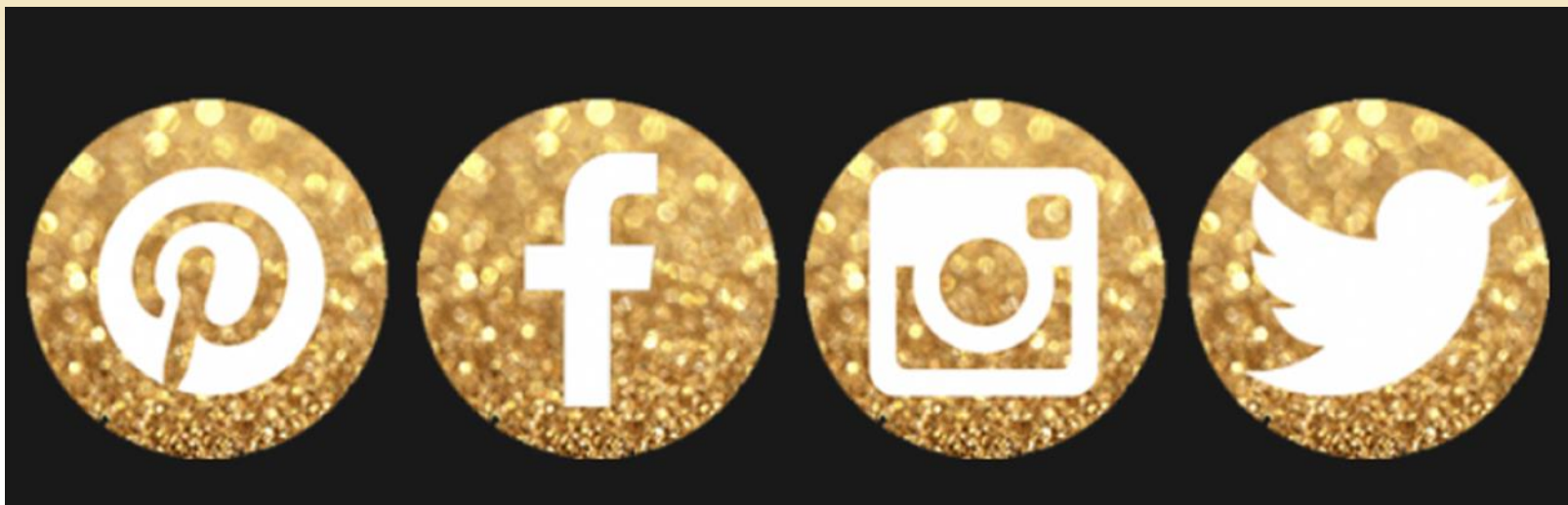
Must have public
notice and
access to the meeting



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

5
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

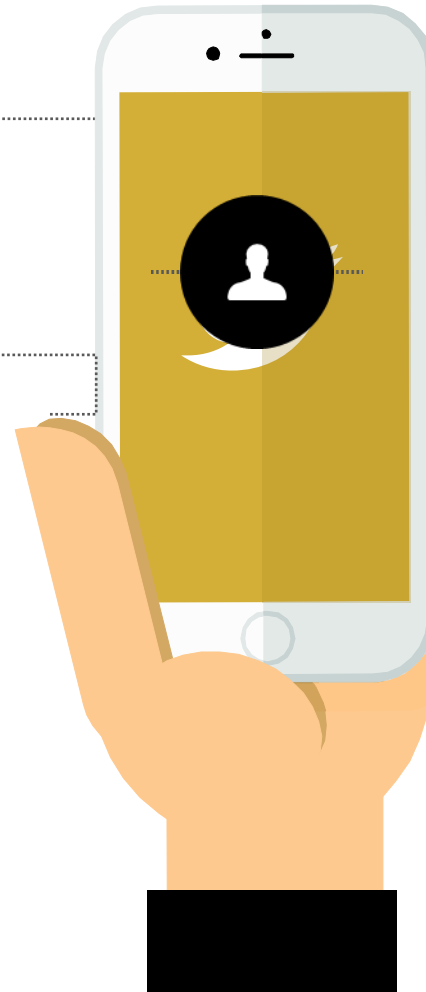


- Regulating Agency activity and public comments on social media

OFFICIALS



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



EMPLOYEES



- Regulating employee social media activity



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

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