

2012

Employer Use of Facebook as a Tool in Pre-Employment Screening of Applicants: Benefits and Ethical, Legal, and Privacy Implications

Beth E.H. Lory
St. Catherine University

Follow this and additional works at: <https://sophia.stkate.edu/maolhonors>

Recommended Citation

Lory, Beth E.H.. (2012). Employer Use of Facebook as a Tool in Pre-Employment Screening of Applicants: Benefits and Ethical, Legal, and Privacy Implications. Retrieved from Sophia, the St. Catherine University repository website: <https://sophia.stkate.edu/maolhonors/4>

This Thesis is brought to you for free and open access by the Organizational Leadership at SOPHIA. It has been accepted for inclusion in The Julie Belle White-Newman MAOL Leadership Award by an authorized administrator of SOPHIA. For more information, please contact amshaw@stkate.edu.

**Employer Use of Facebook as a Tool in
Pre-Employment Screening of Applicants:
Benefits and Ethical, Legal, and Privacy Implications**

by
Beth E.H. Lory

A thesis submitted in partial fulfillment of the requirements for the degree of
Master of Arts in Organizational Leadership at
St. Catherine University
St. Paul, Minnesota

May 3, 2011

Research Advisor:
Kathleen Rickert, M.A.

Research Reading Committee
Martha Hardesty, Ph.D.
Christopher Buckley, M.A.

Signature of Advisor

Table of Contents

List of Figures.....	3
Abstract.....	4
Chapter 1: Introduction and Purpose of Research.....	5
Chapter 2: Analysis of Conceptual Context.....	13
Chapter 3: Methodology, Validity and Limitations.....	52
Chapter 4: Results and Discussion.....	59
Chapter 5: Summary and Future Research.....	113
Chapter 6: Summary of Recommendations.....	119
References.....	124

Appendices

Appendix A	IRB Application.....	131
Appendix B	Consent Form.....	140
Appendix C	Survey Questions.....	147
Appendix D	Employer Comments.....	154

List of Figures

Figure 1.....	65
Figure 2.....	70
Figure 3	72
Figure 4	73
Figure 5	75
Figure 6	76
Figure 7	79
Figure 8	81
Figure 9	87
Figure 10	92
Figure 11	94
Figure 12	97

Abstract

The social networking Web site, Facebook, allows users to publish personal information to communicate and interact with others. Because of its online accessibility, Facebook has unintentionally provided a gateway for employers who are hiring to use as a tool in the applicant pre-employment screening process of applicants. This practice can introduce legal, ethical, and privacy implications. No laws in Minnesota currently govern employers' use of Facebook relative to this practice. Using Facebook as a tool in the pre-employment screening of applicants can offer employers a fast and efficient way to get information about prospective employees that could preempt negligent hiring decisions. My research question attempts to answer: How can employers optimize the benefits of using Facebook as a tool for pre-employment screening of applicants while managing the ethical, legal, and privacy implications?

Chapter 1: Introduction and Purpose of Research

Employment Recruiting and Applicant Assessment in the 1980s

In the late 1980s, I worked in employee recruiting for a national financial printing company. The recruiting process was straightforward: place an advertisement in the local newspaper, receive resumes through postal mail, assess candidate qualifications from the resumes, call qualified candidates to set up interviews, and conduct interviews with the candidates. If a candidate was successful in this screening process, I contacted his/her professional references to further verify the qualifications and organizational fit of the applicant. No other research about the candidate regarding his/her ability to do the job was pursued. If all the information collected on the candidate was positive, the company offered the applicant the position. The recruiting process was highly prescriptive and regulated. Straying from the legal requirements (e.g., Title VII of the Civil Rights Act, the Americans with Disabilities Act, or the Age At Employment) was unthinkable. As a recruiter, it was important for me not to break the law and also adhere to standards that ensured my searches were ethical and honored an applicant's right to privacy.

The recruiting process became challenging when employees needed to be hired and on a client site within a week or two. My hiring decisions in these situations were especially critical, as individuals I extended offers to would be working in law firms and handling highly confidential information on a daily basis. Unfortunately, I had little time under these circumstances to thoroughly and adequately investigate and assess the qualifications and the quality of the candidates. In these situations I placed employment advertisements in the local newspaper, received and reviewed resumes, and then called and interviewed candidates over the phone. If the candidate presented him- or herself professionally (or even somewhat professionally) over the phone, I offered him/her a job

immediately because our client expected employees to be at work within days. I never met these candidates face-to-face. Other than resumes and phone conversations with candidates, I had no other information on which to make solid and thoughtful hiring decisions; those phone conversations shaped decisions to hire or not to hire. As you can imagine, the results of my decisions were sometimes disastrous and negatively affected my company's relationship with the client.

Recruiting and Applicant Assessment in the Twenty-First Century

Fast-forward to the early 1990s, the birth of the Internet, and later Web 2.0 with the launch in 2004 of the social networking Web site Facebook. Facebook has transformed how hiring authorities such as recruiters and human resources professionals who are tasked with filling positions are able to learn about prospective employees. Most applicants today are still required to submit their resumes online or via other means in order to be considered for employment opportunities within organizations. In addition to this information, recruiters are now also able to log on to the Internet and non-traditional "applicant assessment" Web sites such as Facebook to get even more information on candidates than what is provided on a resume or in an application. It is this additional assessment and screening activity among some employers that can stretch legal, privacy, and even ethical boundaries.

As the popular Web site explains, Facebook is "about sharing information with others – friends and people in your communities" (Facebook *Privacy Policy*, 2010c, How we share information section, para. 1). Because of what Facebook enables users to post, the Web site opens up the possibility for hiring personnel to easily retrieve potentially vast amounts of personal information on Facebook users (and prospective job applicants)

if the information is accessible, some of which is legally-protected and private data. For example, Facebook encourages users to make their default privacy setting “Everyone” for certain personal content. If the user chooses this setting and posts accurate information about him/herself, the Everyone setting provides the greatest access to information, and therefore this content is viewable and accessible to anyone with an account on Facebook. The information which Facebook encourages users to post includes the user’s name, profile photo, gender, and networks. Facebook also encourages users to set their hometown and interests to the Everyone setting to enable people of similar backgrounds and interests to connect with one another. By default, a preview of the user’s Facebook information is also viewable to anyone using a public search engine such as Google, unless the user has established a separate privacy setting to prevent this. The person conducting a Google search does not need to have a Facebook account in order to access the Facebook user’s viewable information through a public search on the Internet.

An employers’ access to a Facebook user’s gender and profile photo, which could provide evidence of the user’s race or ethnic background, is problematic because legally-protected information has therefore been obtained. Having additional personal information about a user/job applicant (e.g., network information and interests) that is not job-related could lead to employer bias or judgment. The critical question a hiring employer needs to answer in these situations is how s/he plans to use the information obtained. It is important that the information retrieved is not used to discriminate against Facebook users as applicants for employment.

By gathering information on Facebook, employers may also risk finding profiles of some applicants but not others and are therefore assessing applicants unequally.

Another danger is that employers may misinterpret the information they find about a candidate on Facebook or judge a candidate inaccurately or unfairly. Employers may or may not know the legal or privacy risks (much less the ethical implications) associated with assessing candidates' personal information on Facebook.

Use of Facebook as a tool in the recruiting process is of concern to many constituents including higher education career services professionals, career counselors, the legal community, employment and human resources professionals, social media and privacy rights activists, online safety experts, and researchers. Currently no laws or regulations exist in Minnesota which governs employers from using this free, easily accessible resource for applicant pre-employment assessment. However, Facebook's *Statement of Rights and Responsibilities* (2010d) outlines expectations of appropriate use of Facebook and what actions may be violated if these guidelines are not followed.

Connection to My Work in Employer Relations

The impact of Facebook as a tool in the applicant pre-employment screening process interests me because of my past work experience in recruiting and hiring. It has been fascinating for me to watch how the online environment has changed the activities of networking, sourcing, and screening of employment applicants. I am also connected to these practices as a result of my current professional work in career services and employer relations at the University of Minnesota. In my position, I work closely with employers who are recruiting University of Minnesota students and recent graduates, and who may be tapping into resources such as Facebook and LinkedIn for these purposes.

One of the largest audiences using Facebook is the traditional college-aged student between the ages of 18 and 22. As these young adults seek various employment

opportunities, they can face significant and career-limiting consequences if their online content is viewed and deemed unacceptable by employers.

Likely, most young adults could not envision a world without Facebook. The Web site enables people to communicate in a wide variety of ways and stay connected with friends and family members and make new connections 24/7. Through words, photos and video, users share their interests, feelings, attitudes, and activities in typically candid and often creative detail. According to Facebook's *Principles*, "People should have the freedom to share whatever information they want, in any medium and in any format . . ." (2010b, Freedom to share and connect section, para. 1). Because Facebook was created to provide a forum for building personal connections, community, and social interaction, a hiring authority's access and use of this resource as a tool in applicant screening introduces legal, privacy, and ethical implications to the recruiting process. On the other hand, employers and others counter that Facebook is in a public domain and offers an extremely beneficial and cost-effective tool for anyone in a hiring or recruiting capacity to conduct pre-employment screening of applicants. This may be especially true during times of high unemployment when the task of finding and hiring the best and most qualified candidate from a large pool of candidates can be even more daunting.

Research shows a wide variation in whether or not employers use Facebook as a tool in their pre-employment screening efforts. The employers who choose to use Facebook as a tool in the pre-employment screening process of applicants do so for several reasons: personal information about an applicant is easily and readily available in a public domain; accessing Facebook is a low-cost, fast, and efficient way to screen applicants to potentially avoid costly negligent hiring decisions; and the information

gathered may give insight to the character, morals, values, habits, activities, and interests of an individual.

During economic periods when one job opening can yield potentially hundreds of resumes, employers want to expedite the process of finding the best candidate. “Employers are turning to social media because they ‘are under pressure to hire carefully’ in an economy where there are plenty of job seekers and few jobs” (Phelps, 2010, para. 19). Despite the legal, privacy, and ethics violations that could occur when using Facebook as a tool to screen applicants, an employer’s use of social media is appealing if it can help streamline and expedite a sometimes long and cumbersome process such as employee recruiting and hiring. Developing recommendations with a focus on ethical leadership for employers who are operating or thinking about operating in this environment is a main goal of my research.

Goals of Research

The purpose of my research was two-fold: to address the ethical, legal, and privacy implications of employers using Facebook as a tool in the pre-employment screening process of applicants, and to highlight the benefits to employers for using Facebook in this way. My goal was to identify the current best practices and guidelines for employers. My research included a comprehensive literature review, an online survey of employers to assess their current practices and to predict future trends of the use of Facebook, and interviews with both an employment law and privacy attorney. Based on the information gathered from my research, I developed recommendations for employers that consider the ethical, legal, and privacy implications as well as the benefits of using Facebook as a tool in pre-employment screening of applicants.

Relevance to Leadership

My research topic has connections to Julie Belle White-Newman's (2003) Effective, Ethical and Enduring Leadership model. Founder of the Master of Arts in Organizational Leadership program at St. Catherine University, White-Newman established this three-pronged framework for the program which has guided me in my research focus and which has influenced my recommendations to employers and career services colleagues.

To be an effective leader in my field of higher education employer relations, I believe in being courageous by assessing the current landscape about employer use of Facebook as a tool to assess applicants in the pre-employment screening process, encouraging conversation, and making recommendations to employers and other interested professionals that are based on an ethical foundation. This new environment requires hiring authorities and leaders who ask: As a role model to others in my organization, what is the best way to proceed in this unregulated environment? If I choose to engage in this activity, how might my actions impact others such as prospective or current employees and other key organizational constituents?

The relevance of my topic to Enduring Leadership (White-Newman, 2003) is my desire to persevere and tackle an ever-changing subject that has no black and white answer. I also want to be a resource to help hiring personnel and career professionals make an informed decision about this practice. The key is to continually mine the data on the topic, engage in lively conversation with others, and be willing to challenge the status quo.

Three key reasons why I am passionate about this topic are because: perspectives vary considerably; the environment is unregulated; and ethical, legal, and privacy implications of this practice exist that are worthy of exploration. Through my research process, I had the opportunity to explore, ask, and answer several key questions: How can I help inform, enlighten, and provide information and options to the employers with whom I serve? In what way can I be a positive instrument to encourage conversation on a complex and “grey” topic yet which is so critical to our legal, privacy, and ethical obligations in hiring?

I also see my research project as an opportunity to express my values and to create an environment that will facilitate continued discussion on a topic that is ever-changing. Kouzes and Posner (2007), authors of *The Leadership Challenge*, have learned through their in-depth interviews with thousands of diverse leaders worldwide that one quality inherent in all of them is having an “unwavering commitment to a clear set of values” (p. 46). Knowing what we value dictates our decisions and actions, and helps others understand what is important to us.

Minnesota law may one day govern employer use of social networking Web sites such as Facebook as a tool for the purposes of pre-employment screening of applicants. In the meantime, my leadership will endure as I stay open to and also challenge others’ ideas, ask meaningful questions, all while modeling ethical and value-based decision-making about a complex and evolving topic.

Chapter 2: Analysis of Conceptual Context

An employer's ability to learn about job applicants has become much easier with the birth of online social networking sites such as Facebook. Boyd and Ellison (2008) define social networking Web sites as follows:

. . . web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system. (para. 1)

My research is restricted to employer use of the social networking Web site Facebook as a tool for pre-employment screening of applicants.

When Facebook first launched in 2004, it was accessible only to select college students with an ".edu" e-mail address. In 2005, Facebook became available to anyone (13 years of age and older) who wanted to set up an account and establish a profile. According to the Pew Research Center, three-quarters of Millennials (those born between 1982 and 2000) have a social networking profile such as Facebook (2010, February 24). Those establishing profiles on Facebook have a primary interest in staying connected to people that they know (i.e., family and current friends). By being on Facebook, users can then build more connections with friends of friends and by joining networks and interest groups (Boyd & Ellison, 2008).

With more than 500 million users worldwide, Facebook enables users to create personal profiles and upload photos, videos, and publish events. Personal information a user can publish includes his/her current city, hometown, sex, birthday, children, siblings, relationship status, wedding anniversary, activities and interests, favorite quotations, and

work and education information. Users can also publish contact information such as mobile phone, mailing address, and work and personal email addresses. Other personal information a user may choose to publish are his/her religious, political and sexual preferences. Facebook enables users to create and join groups of other users having similar interests and backgrounds, create friend lists, and be part of networks of individuals who share a similar background, such as attended the same high school, college or professional school (Martin & Sheih, 2010). For example, a current University of Minnesota student named Erika is part of the following Facebook groups: girls who spell their name Erika with a “k;” those who enjoy scuba diving; those whose favorite TV show is CSI; and those in the University of Minnesota class of 2011.

Because of its convenient access on the World Wide Web, Facebook has also presented to hiring employers the opportunity to use it as a tool to conduct pre-employment screening and background checking of applicants. Some employers regard Facebook as a practical and useful tool in the applicant screening process (Kelly, 2009). This practice can happen with or without an applicant’s prior knowledge of such a search. Others have described employers’ practice of using Facebook as a tool for the pre-employment screening of applicants as being similar to a prospective employer arriving at an applicant’s home on a Saturday night to attend a party without an invitation, or having an employer walk into an applicant’s home and rummage through his/her personal drawers (Phillips, 2007).

Through Facebook, employers are able to gather potentially significant amounts of personal data about prospective employees and even gather information that could be in opposition to what an applicant provided during the interview process (Smith &

Kidder, 2010). For instance, an applicant may embellish his/her qualifications or provide false information on his/her resume, information that contradicts what can be found on the applicant's Facebook profile.

Because of its easy and no or low cost way to access a plethora of personal information on an individual, Facebook can be a tempting screening tool for employers. Employers do not have to admit that they chose not to hire an applicant because of information found about candidates on Facebook (Penttila, 2006). Many employers contend that because users willingly post content in a public domain for others to view, employers' act of perusing Facebook profiles lacks any legal or privacy consequences (Roberts & Roach, 2009).

This practice, however, is not without risks. An applicant's Facebook profile may contain erroneous data, and certain personal information could be obtained that should not be legally accessed or included in the pre-employment screening process (Brandenburg, 2007). Moreover, not all applicants the employer is considering may have Facebook profiles. If an employer is viewing some applicants' profiles and not others, candidates are being assessed unequally (Lory, 2010; Smith & Kidder, 2010). Furthermore, employers could be guilty of discrimination if they are choosing to check the Facebook profiles on select candidates and not others (Bolter & Merley, 2010). Depending on what and how information is accessed and how employers use that information, employers could be acting unethically, illegally, violating a Facebook user's right to privacy, and violating Facebook policies for appropriate use.

Employer: Definition, Roles, Responsibilities

Throughout my paper, I use the term “employer” to represent a range of individuals who may use Facebook as a tool to assess applicants in the pre-employment screening process. The roles of the clients with whom I work at the University of Minnesota who might use Facebook in this way include individuals with titles such as “recruiter,” “human resources representative” and “manager of talent acquisition.” Individuals in the role of supervisor, manager, chief executive officer, or anyone responsible for hiring employees may also use Facebook for this purpose.

For some social media researchers, online security experts, legal and human resources/career professionals, as well as many employers, using Facebook as a tool in the pre-employment screening process of applicants provides more information on applicants than what is likely needed or should be gathered to make a hiring decision. Some of these individuals, as well as many Facebook users themselves, have indicated that this practice also contradicts what Facebook was originally intended to provide. “There appears to be a disconnect between how members use their social networking web sites to communicate on a personal level with friends, and employers’ practice to judge job applicants based on what is posted” (Clark & Roberts, 2010, p. 512). Employers may be taking advantage of a highly vulnerable and unregulated situation. Employers who can access profile information on applicants may be seeing and making judgments (fairly or unfairly, right or wrong, accurately or inaccurately) on applicant information, activities or behaviors that have no connection to the job itself or to the user’s potential job performance and success. Because of this, some believe candidates should not be assessed based on information collected from Facebook (Kelly, 2009).

Still others claim that employers' ability to use Facebook to assess candidates in the pre-employment screening process has tremendous benefits. During periods of high unemployment and an extremely competitive job market, employers are looking for ways to both streamline the hiring process and find the best candidates possible. An employers' goal is to gather the maximum amount of information about an applicant which will help them decide if that applicant is appropriate for employment in his/her organization. This information could reveal how applicants may perform, their organizational fit, their ability to work with the organization's clients, as well as the applicants' commitment to the organization (Kelly, 2009).

Even more importantly perhaps is an employer's interest in avoiding legal repercussions from making careless hiring decisions (Kelly, 2009). For example, an employer could learn from an applicant's profile that s/he has interests that may raise safety or legal concerns, or the applicant is a member of a group that could discriminate against certain types of people, people who may be employed in the organization for which the applicant is seeking employment. If the applicant's membership in that group is tested in any way in the work environment for which s/he is being considered, the employer could be facing a potential breeding ground for disruptive or even violent workplace behavior.

Managing the Online Personal Brand

The rise in interest among employers in using Facebook as an applicant pre-employment assessment tool has caught the attention in particular of higher education career services professionals and others who counsel job and internship seekers and career changers. Career services professionals with whom I work provide information

and conduct workshops for students and alumni on how to create and build an “online personal brand” so that the “digital footprint” (Madden & Smith, 2010, p. 5) left by a young adult user is favorable. According to a survey conducted by Microsoft in December, 2009 among human resources and other professionals about their use of social media in recruiting, “Chances are you already have a reputation online, even if you don’t want one” (Hyatt, 2008, Your social media profile section, para. 1). In their book, *Born Digital*, authors Palrey and Gasser (2008) address the harsh reality of many online reputations, faced especially by young adults today. “Most young people are extremely likely to leave something behind in cyberspace that will become a lot like a tattoo – something connected to them they cannot get rid of later in life . . .” (Palrey & Gasser, 2008, p. 53). It is this kind of online leave-behind that can have career-limiting effects and which my career services colleagues help students try to avoid.

Popular press and academic publications have called this strategic online practice, “reputation management” (Madden & Smith, 2010, p. 2). It has quickly become important for anyone – from entry-level candidate to seasoned career professional – who establishes an online presence, whether on Facebook, Twitter, a Web blog, or professional networking Web site such as LinkedIn (Madden & Smith, 2010; Wayne, 2010). Establishing one’s personal brand ensures that what one publishes is how one wants to be perceived by others, such as employers, who may access profiles. This process is as simple as “Googling” oneself and then seeing what information is revealed (Lory, 2010; NACE Knowledge Center, 2009 June 24). Establishing one’s online personal brand is a thought-filled and intentional activity. When done well, a person’s online brand can make favorable impressions and facilitate connections for potential

employment opportunities. While none of us is in complete control of how others might perceive what we publish online, we do have the ability to choose to publish certain content or not. For example, a soon-to-be-college graduate getting ready to embark on the job search may want to think twice about publishing a profile photograph of him/herself in a party atmosphere consuming what may appear to others as significant quantities of alcoholic beverages. If the user chooses such a photo(s), the college senior may want to make sure his/her privacy settings are such that this and similar content is not accessible to “Everyone.” The user must also consider how his/her Facebook friends and family might use that photo on their own Facebook pages. A common rule of thumb often expressed by sage career counselors, hiring authorities, or anyone having influence in hiring decisions is: If you would not want to see it (words, photos, videos or whatever you choose to publish on Facebook) splashed on the front page of the local newspaper or seen by your parents or grandmother, you probably do not want to put it online (Roberts & Roach, 2009; NACE Knowledge Center, 2009).

Like all of the career services offices on the University of Minnesota campus, the Career Center for Science and Engineering (CCSE) is intentional about educating students about the potential dark side of Facebook. “All photos and content are part of a student’s image and are open and fair game for employers,” said Darren Kaltved, Associate Director for CCSE (Lory, 2010, p. 38). Instead of using Facebook in a carefree manner, career services professionals challenge students to think about using Facebook instead as a networking tool that can have significant career benefits.

Vic Massaglia of the Career & Professional Development Center, University of Minnesota Law School, articulated the same advice as Kaltved’s. Massaglia tells

students “to do their due diligence because employers are using Facebook to screen” (Lory, 2010, p. 39). Massaglia encourages students to think about their purpose and online brand and to ask themselves what impression they want to make. Students can choose to publish what they want on Facebook, but taking a step back and asking – How might the content be interpreted by others and is this the impression I want to leave? – may prove to be time well-spent.

Background on Facebook

Facebook was created in 2004 by former Harvard undergraduate student Mark Zuckerberg as a tool of higher education communication among Harvard students only. Because Zuckerberg’s goals for the company were growth and global expansion, Facebook began broadening its availability outside of Harvard in 2005 by becoming available to all higher education institutions, high school students, professional and regional groups, and finally, to the public worldwide (Palfrey & Gasser, 2008). Facebook’s credo is: “Giving people the power to share and make the world more open and connected” (Facebook, 2010a, para. 1).

To be part of the Facebook community, users first sign up for an account and then set up their personal profile. Users can complete a section called “Basic Info” that captures personal information such as sex, birth date, children, and relationship status. The profile section allows people to post their favorite quotes, education, and work details, email addresses, as well as specify “Likes” (content on Facebook that the users indicate liking). Users can also upload photos and videos, share Web site links, publish brief status updates and notes, and create online invitations to events that can be sent to

other Facebook users. Through their profile, users can post interests and activities with others whom they “Friend” on Facebook.

Users manage content (e.g., written text, pictures, videos) through various privacy settings, and these settings determine who is able to see what content. These privacy settings include “Everyone,” “Friends Only,” “Friends of Friends,” “Friends and Networks” and “Only Me.” Users, for example, may choose to share their family and relationship information and photos with Everyone to increase the likelihood of other family members or old friends finding the user. On the other hand, users may choose to share their contact information and birth date with Friends Only. Users can also block others from accessing his/her content or contacting the user.

Facebook helps users decide who can see various pieces of information, photos, videos, and other content by recommending default privacy settings for each level of content. These suggested settings can also be changed by users to allow content to be either more accessible or less accessible to other users. Users also have the ability to further customize the privacy settings for each piece of content beyond the five main categories.

When users create a profile, Facebook automatically sets certain information about those profiles to the default status of “Everyone.” Everyone information includes name, gender, networks, username (email login) and profile photo (if users chooses to upload one, which Facebook encourages to increase the opportunity of family and friends finding one another). Networks are groups of other Facebook users who share something in common, for example, graduates of the same high school or college, or employees of the same organization.

The “Everyone” privacy setting allows anyone on Facebook to access the users’ information unless the privacy levels are set on the respective content. Unless users make yet another setting change, their Facebook profile can also be searchable via public search engines such as Google, as explained below.

Facebook’s *Privacy Policy* (2010c) is careful to spell out that Everyone information can be retrieved by anyone using the Internet “. . . including people not logged into Facebook, be indexed by third party search engines, and be imported, exported, distributed and redistributed by us and others without privacy limitations” (Everyone information section, para. 1). For example, to learn more about two particular University of Minnesota students, Janine and Eva, as entry-level candidates for job openings, an employer would only need to conduct a Google search on their names. The first link displayed through a Google search on Janine’s name is a link to her Facebook page, and it is the third link through the same search on Eva’s name. This access to a user’s Facebook profile was not always possible because Facebook prohibited it. However, in September 2007, Facebook changed this policy in an effort to recruit more people into the popular Web site (Palfrey & Gasser, 2008). Both Janine and Eva allow their Facebook profiles to be searchable through public search engines because they have enabled the applicable setting in Facebook that allows them to be searchable. This illustrates that an employer does not need to have a Facebook account to potentially preview an applicant’s Facebook page.

If an employer accesses the Facebook page of a potential job candidate, and this individual’s content is set at the suggested default setting of Everyone, the employer has potentially retrieved legally-protected information if that individual has chosen to publish

personal information (such as gender and profile picture). If this individual is also displaying network content, hometown information, and interests, an employer has gained access to private information which is likely not job-related and could introduce employer bias or judgment. While an employer's access to this information may be innocent, how the employer uses the information obtained is problematic if hiring decisions are discriminatory.

Still another problem of employers using Facebook to learn about a prospective employee is that information posted may be inaccurate or potentially posted by a third party to cast the candidate in an undesirable way. "False or misleading information can be far more damaging to the individual when it appears on the Internet than if the same information were released verbally or in writing . . ." (Palfrey & Gasser, 2008, p. 63). Other researchers agree. "Making personal judgments . . . based on Internet searches can become a slippery slope because employers are in the position of determining what is 'normal' or 'socially acceptable.' Such decisions can lead to hurtful stereotyping and unfair treatment" (Baker, 2008, p. 2). A 2009 study conducted by the Pew Center for Research among more than 2,200 United States adults 18 years of age and older on use of the Internet found that 81% of the respondents said that "It's not fair to judge people based on the information you find online" (as cited in Madden & Smith, 2010, p. 43). Nearly half (45%) of the respondents "strongly agreed" and 36% "somewhat agreed" with this statement. If an employer has no basis on which to claim the reliability or accuracy of the posted information, it is important that the employer consider and use the information carefully.

A potential problem with having a Facebook profile is its permanency. Even when users delete Everyone content from their Facebook page, a record of that information “may remain viewable elsewhere to the extent it has been shared with others” (Facebook, 2010c, Sharing information on Facebook, para. 9). Essentially, deleted Facebook content such as a photo can be a misnomer. People who might access that deleted content could view it on another Facebook user’s page and not realize that the original content owner deleted the photo. People viewing that content could form impressions about the original owner or make judgments or decisions about the information which is not or may no longer be accurate. Those judgments or decisions by employers could have career-limiting effects for Facebook users.

Employers may be well-advised to take into account that Facebook was intended as a social, non-professional medium of online communication and therefore treat the information gathered as such and be careful about drawing conclusions about users (Davis, 2006/2007). Social researcher Danah Boyd has committed her career to studying, speaking, and writing about youth and their use of social networking sites. In a blog entry about the use of social media among the employment community, Boyd explains that online profiles often reveal a great deal about a user, and that a user has created that content within a particular “context.” This context is typically social rather than professional, but the online environment does not distinguish between the two. Content that might be completely acceptable to one person may not be acceptable to another. Writes Boyd (2010):

Should employers have the right to discriminate against you because of your Facebook profile? One might argue that they should because such a profile

reflects your ‘character’ or your priorities or your public presence. Personally, I think that’s just a code for discriminating against you because you’re not like me . . . (para. 2)

If a Facebook user fails to set his/her privacy settings at the most protected level possible, the type of information that an employer could potentially see or learn about the user is practically endless and may include photos of the user in various settings (perhaps some unacceptable to employers), display the user’s political affiliation, religion, sexual orientation, and other personal information. If employers access legally-protected information and/or information not related to the candidate’s ability to successfully perform the given job duties, it can be challenging for an employer to remain objective, unbiased, and non-discriminatory in making hiring decisions. For instance, if an recruiter learns that an applicant is a member of a certain political organization or engages in certain activities in their free time, the recruiter may be swayed in their opinion about the applicant or even choose to hire or not hire a candidate because that information may conflict with (or support) the recruiter’s preferences.

Facebook’s Privacy Policy

My discussion about employer use of Facebook in the applicant screening process also includes a review of Facebook’s *Privacy Policy* (2010c). In terms of this policy and employer use of Facebook in applicant pre-employment screening, it is important to keep in mind why Facebook was created: “to make the world more open and transparent . . . by giving individuals greater power to share and connect” (*Facebook Principles*, 2010b, para. 1). This policy was also built on the premise of enabling Facebook users to connect with friends and family while also enabling users to build new connections.

Because of pressure from its users in recent years, Facebook has put more control into the hands of users with respect to their privacy and made more information about users private rather than public. Facebook also clearly explains to users the implications of setting their content to the Everyone privacy setting. While Facebook has taken significant steps to protect users and their online information, Facebook warns users that sharing information, even when tightly controlled by the user, is not without its liabilities.

Although we allow you to set privacy options that limit access to your information, please be aware that no security measures are perfect or impenetrable. We cannot control the actions of other users with whom you share your information. We cannot guarantee that only authorized persons will view your information. We cannot ensure that information you share on Facebook will not become publicly available. We are not responsible for third party circumvention of any privacy settings or security measures on Facebook.

(How we protect information section, para. 3)

The Facebook *Privacy Policy* (2010c) states to users in “buyer beware” fashion that what they put online is at their own risk and can have negative repercussions if misused by others associated or not associated with those Facebook users.

Facebook’s Statement of Rights and Responsibilities

Facebook’s *Statement of Rights and Responsibilities* (2010d) also explains how Facebook is working hard to protect the privacy of its users, while also clarifying that a user’s privacy is “not guaranteed,” despite Facebook’s efforts to protect it. According to Facebook, “Your privacy is important to us . . . We do our best to keep Facebook safe, but we cannot guarantee it” (Safety section, para. 1). A number of criteria outlined by

Facebook's *Statement of Rights and Responsibilities* (2010d) could be violated and determined unethical if employers use Facebook as an applicant pre-employment screening tool (Bolter & Merley, 2010). The following sections in Facebook's *Statement of Rights and Responsibilities* (2010d) describe what those practices include:

- “. . . solicit login information or access an account belonging to someone else” (Safety section, para. 1). Career services professionals in the Twin Cities area know of or have heard about employers who have asked applicants for access to their Facebook profiles, which could put those employers in violation of the federal law, the Stored Communications Act (M. Jennings Kruzic, personal communications, February 2010).
- “. . . use Facebook to do anything unlawful, misleading, malicious, or discriminatory” (Safety section, para. 1). Employers' access to users' photos, gender, age, race, religious affiliations and other legally-protected information could have legal and discriminatory implications.
- “. . . use your personal profile for your commercial gain . . . share your password” (Registration and account security section, para. 1). Employers' request for applicants to provide access to their Facebook account could be invading the applicant's right to privacy, especially if “coercion is implied” (D. Merley, personal communication, April 18, 2010).
- “. . . let anyone access your account, or do anything else that might jeopardize the security of your account” (Registration and account security section, para. 1). Employers may be putting applicants in an unfair position by requesting access to their account and as previously stated, violating an individual's right to privacy

especially if conditions of employment or continuing in the interview process were threatened. Employers “should not request information for which they do not have a need. Asking for information implies that the information will be used” (Anderson & Truso, 2010, p. 3).

Facebook’s *Statement of Rights and Responsibilities* (2010d) also explains what is expected of anyone accessing or using Facebook:

You will not . . . take any action on Facebook that infringes or violates someone else’s rights or otherwise violates the law . . . If you collect information from users, you will: obtain their consent, make it clear you (and not Facebook) are the one collecting their information, and post a privacy policy explaining what information you collect and how you will use it. (Protecting other people’s rights section, para. 1, 7)

Research indicates that the failure among employers to inform candidates that they are conducting an online search is in violation of this responsibility (Davis, 2006/2007; Penttila, 2006). Even though Facebook has established appropriate use guidelines, Facebook users cannot be guaranteed that their privacy will be protected nor their behavior outside of the work environment and captured on Facebook will be ignored.

Are Employers Using Facebook for Applicant Pre-Employment Screening?

Survey findings vary with respect to employer use of Facebook in the applicant screening process, but the practice is gaining more attention and is becoming an increasingly common practice (Davis, 2006/2007). Some surveys indicate that employers use it as a tool for applicant pre-employment screening somewhat or not at all; some

organizations expect or always expect that their employees use it as a tool for screening applicants. According to authors Palfrey and Gasser (2008) “. . . the lack of clarity about how companies treat personal information is a growing problem . . . for everyone living in a digital era” (Palfrey & Gasser, 2008, p. 74). Career Counselor Melody Jennings Kruzic of Capella University agrees: “Until the laws and HR catch up, no one is telling employers that they can’t [access Facebook]” (Lory, 2010, p. 39). Many surveys published within recent years reveal that employers are engaging in this practice.

- A December 2009 survey by Microsoft of 275 recruiters, human resources professionals, hiring managers (as well as 330 job seekers), revealed that three-quarters of the professionals reported that their organizations have formal policies in place that require them to research candidates online” (NACE, 2010, March 17). Moreover, 85% reported that a favorable online personal brand influences the professionals’ hiring decisions while 70% claim they have not hired applicants because of information found online (Goldberg, 2010). Surprisingly, just 7% of the job seekers felt their online information impacted their job search. The Microsoft survey also showed that of the most frequently visited sites by the recruiting professionals, 63% used social media Web sites (such as Facebook) and 57% used professional and business networking sites (such as LinkedIn). This survey suggests that employers could be forming impressions about candidates from what the employer learns online and making judgments related to the candidate’s personal or professional qualities and perhaps even his/her character, morals or values. This could be problematic because candidates may present themselves in entirely different ways if in professional settings such as in a job

interview or other employment-related environment. This also assumes that what employers find online about the candidate is accurate. It is interesting to note that employers rely more heavily on social networking Web sites versus professional and business networking sites to learn about applicants (NACE, March 2010; Goldberg, 2010).

- A 2008 CareerBuilder survey of more than 2,600 managers found that 45% use social media as an applicant screening tool, with 35% indicating that they learned information that prevented them from making a job offer (Eckle, 2008; “Nearly half,” 2009; Phelps, 2010; “Social contracts,” 2010; Wescott, 2009; Williamson, 2009).
- A 2008 survey by Vault.com, a media company focused on careers, showed that 44% of employers use social media networking sites to learn about applicants (Greenwald, 2008).
- A 2007 Society of Human Resource Management survey revealed that 15% of human resources professionals viewed social networking Web sites to learn about applicants, and 40% indicated that they do not use these sites but were considering it or planning to use them it in the upcoming year (Clark & Roberts, 2010).
- A recent survey conducted by Jump Start Social Media revealed that 48% of hiring managers use Facebook to learn about the qualifications of job applicants (as cited in Gensing-Pophal, 2009).

Legal and privacy implications aside, results from these surveys raise concerns about ethics and fairness when employers use social media Web sites such as Facebook

as a tool in the applicant pre-employment screening process, and the challenges of remaining objective when viewing Facebook profiles. For example, the 2010 National Association for Colleges and Employers (NACE) 2010 Student Survey conducted among 13,000 graduating seniors revealed that “two-thirds expect employers to view their social networking profiles, but just under 30% think employers should do so” (Social networking accounts, 2010 June 9, para 2.). The practice can squelch Facebook users’ ability to express themselves in any way that they choose out of fear that what they put online could negatively impact an employment opportunity. The ethical implications of the use of Facebook as a tool in the applicant screening process will be explored later in this paper.

Legal Implications

Certain legal implications exist when employers use Facebook as a tool in the applicant pre-employment screening process. An employer who engages in this practice could be in violation of Equal Employment Opportunity (EEO) guidelines if information obtained is used inappropriately. An employer abiding by EEO guidelines follows all laws which prevent discriminatory hiring practices (Bevis Langerin, 2010). At the same time, “no federal statute specifically prohibits employers from obtaining or utilizing information gleaned from Internet searches on applicants”– information that could be used to discriminate against an applicant (Kelly, 2009, p. 6). Employers who conduct online searches and use data inappropriately could be violating several federal statutes as outlined below (Kelly, 2009).

Several federal statutes were established within the past 50 years to prevent employers from discriminating against job applicants in hiring decisions and to consider

candidates based solely on the qualifications of the particular job. These federal statutes include the:

- Title VII of the Civil Rights Act forbids employers from discriminating against prospective employees based on race, color, religion, sex, or national origin. The Equal Employment Opportunity Commission has further specified within this Act that employers must not discriminate against prospective employees having family responsibilities such as caring for a child, parent or disabled family member (Kelly, 2010).
- Age Discrimination Act forbids an employer from discriminating against a job applicant who is 40 years or older (Anderson & Truso, 2010; Kelly, 2009).
- Pregnancy Discrimination Act forbids employers to discriminate against prospective employees because of pregnancy (Kelly, 2009).
- Americans with Disabilities Act forbids an employer from discriminating against a prospective employee who is disabled or who is associated with others having disabilities (Bolter & Merley, 2010; Kelly, 2009).
- Genetic Information Non-Discrimination Act forbids employers from discriminating based on genetic test results or collecting this information.

Many states, including Minnesota, have additional statutes to protect job applicants (Anderson & Truso, 2010; Drew & Safani, 2008). The Minnesota Human Rights Act (MHRA) forbids employers from discriminating in hiring decisions based on race, color, creed, religion, national origin, sex, and marital status, status with respect to public assistance, military service, membership or activity in a local commission, disability, sexual orientation, or age. The MHRA also requires “reasonable

accommodation of the disabilities of employees and applicants and regulates the collection of medical information . . .” (Anderson & Truso, 2010, p.1). Employers must learn and follow both federal and state statutes in order to be in compliance.

The Fair Credit Reporting Act (FCRA) was also addressed in the research. Some legal and privacy advocates believe that the FCRA should cover online searches by employers; currently it does not. The FCRA was designed to protect, among other things, individuals “whose employers perform background checks on them as . . . a pre-condition to employment” (Davis, 2006/2007, p. 6). Under the regulations of the FCRA, when an employer uses a background check when hiring an employee, that employer must inform the candidate in writing of this activity (“Pitfalls of checking,” 2006; Sotto & McCarthy, 2007). This employer must also get the candidate’s written consent before contacting a consumer reporting agency to run a background check (Kelly, 2010; Pitfalls of checking, 2006). Currently employers who do not use a third-party to retrieve information but do so themselves, are not obligated to fulfill the requirements of FCRA. Employers are not legally required to notify applicants that they searched online for applicants’ profiles, what they found online, or what they decided, if anything, from those searches. If such a move were decided, more employers may make assessments about applicants that are fair, relevant, and accurate. It would also ensure that employer and prospective employee rights and interests are both considered (Davis, 2006/2007).

Employer searches of Facebook can be especially risky when retrieving information about users that is covered under the Lawful Consumable Products laws. These laws protect individuals from legally consuming products such as alcohol or tobacco. Employers cannot use this information to decline candidates employment

opportunities (Bolter and Merley, 2010; Schmitt & Girouard, 2010). For example, it is illegal for employers not to consider a candidate simply because s/he is consuming beer and is surrounded by beer cans in their Facebook pictures. This kind of scenario could make employers liable for discrimination if applicants engaging in these kinds of activities (e.g., drinking alcohol or smoking cigarettes) were found to be consistently denied employment (Bolter & Merley, 2010).

No case law currently exists that regulates the practice of employer use of Facebook as a tool in the pre-employment screening process of applicants. Attorney Phyllis Karasov (2010) explains in her paper, "Privacy Basics," that when information is gathered from the Internet on applicants, employers should ask themselves: "Is it protected by law? Is it relevant to the duties of the position? Is the information accurate, reliable and credible? Is the employer obligated to take the information into account (e.g., foreseeable future)?" (2010, p. iv). According to legal experts, in the end, the responsibility lies with the employer to prove that legally-protected information was not a factor in the decision to offer or decline employment (Greenwald, 2008; Martin & Sheih, 2010).

National Association of Colleges and Employers (NACE) Employer Guidelines

The NACE Employer Guidelines (2010) are the principles by which employers working with most career offices in higher education institutions nationwide must follow in order to recruit students and alumni of those institutions. For example, employers are asked to read, agree to, and sign off on the NACE agreement before posting employment positions with University of Minnesota career offices. While NACE has not established specific language for career services professionals and employers about the use of

Facebook as a tool in pre-employment screening, the following NACE principles could be violated through this practice:

Employment professionals will maintain equal employment opportunity (EEO) compliance and follow affirmative action principles in recruiting activities in a manner that includes the following: Recruiting, interviewing, and hiring individuals without regard to (and reviewing selection criteria for adverse impact based upon) the student's race, color, national origin, religion, age, gender, sexual orientation, veteran status, or disability, and providing reasonable accommodations upon request . . . (Principles for employment professionals section, para. 6)

It is prudent that all employers interacting with higher education career services for the purpose of recruiting students and alumni take great care in reading and abiding by the NACE principles to ensure legal hiring practices are being followed.

Right to Privacy, Privacy Defined

A topic of debate with respect to employer use of Facebook as a tool for assessing candidates in the pre-employment process is the concept of privacy. Can a Facebook user have an expectation of privacy when s/he has chosen to publish a variety of personal information in a public domain? If a user takes great care to ensure his/her content reflects Facebook's recommended privacy settings for that content, is an employer's uninvited viewing or access to this information (with or without the user's consent) for the purposes of pre-employment screening a violation of privacy? (Brandenburg, 2007). Some would argue yes, because a person's gender and photo, for example, two pieces of content that Facebook recommends is viewable to Everyone, are legally-protected

information, and because Facebook is a social space and not designed to be used as a tool in the applicant pre-employment assessment process. If an employer learns the user is associated with certain networks, the employer could make judgments (whether favorable or unfavorable) about the user based on that information.

Privacy is defined by Merriam-Webster Online as: “the quality or state of being apart from company or observation” and “freedom from unauthorized intrusion” (“Privacy,” 2010). *Black’s Law Dictionary* defines privacy as: “The condition or state of being free from public attention to intrusion into or interference with one’s acts or decisions” (2009, p. 1315). This definition is further broken down by “autonomy privacy” and “informational privacy.” The latter is defined as: “Tort. A private person’s right to choose to determine whether, how, and to what extent information about oneself is communicated to others, esp. sensitive and confidential information” (2009, p. 1315). When an individual posts information in a public, online environment like Facebook, his/her ability to claim invasion of privacy can be difficult to prove, despite one’s efforts to utilize privacy settings to protect sensitive or confidential information.

Smith and Kidder of Towson University wrote, “Privacy involves both legal and ethical concerns, and pits the rights of the individual against the rights of the organization” (2010, p. 496). Clark and Roberts concur: “Although there is a lack of consensus about how privacy should be defined, there is a general belief that there is a natural right to have some information about oneself kept from others” (2010, p. 511). These authors cite the writings of Supreme Court justices Samuel Warren and Louis Brandeis and their influential paper published in 1890 in the *Harvard Law Review* entitled, ‘The Right to Privacy,’ which contends that mankind has a “natural right to be

left alone” (p. 511). At the same time, the justices were “clear that a person’s right to privacy ceases once the individual publishes the information or consents to its release” (p. 512). Clark and Roberts (2010) ask if a social network user is “publishing” when providing information about him/herself on a social networking site. On the other hand, the question has been raised if Facebook has “any responsibility to protect the integrity of . . . information from abuse” (Flint, 2009, p. 8). Others contend that Facebook users should not have expectations of privacy when it comes to what they willingly put online and that trying to monitor who is accessing Facebook profiles is challenging and in many cases impossible (Brandenburg, 2007). Management attorney, Mross, explains, “Privacy . . . is the right to be left alone . . . but if you open your doors and windows, you no longer have a reasonable expectation that you will be left alone” (as cited in *Managing Accounts Payable*, 2006, p. x). A Facebook user who fails to use his/her privacy settings inevitably lessens his/her expectation of privacy.

Facebook’s *Principles* (2010b) seem to imply that a user can expect to have certain rights to privacy protection on Facebook, but Facebook is unable to control how others may decide to use information they find on Facebook. The “Ownership and Control of Information” section states:

People should own their information . . . to decide with whom they will share their information, and to set privacy controls to protect those choices . . . Those controls . . . are not capable of limiting how those who have received information may use it, particularly outside the Facebook Service. (para. 5)

Facebook users applying for employment opportunities may hope that their profile information is protected to the degree that they have established the appropriate privacy

settings. However, because Facebook content can be obtained in many ways by people such as hiring authorities, it is naïve to believe that Facebook information will not be used for employment-related purposes and in ways for which the Facebook user did not intend for it to be used.

The United States lags behind other countries in terms of privacy law, and in fact a right to privacy is not explicitly guaranteed in the United States Constitution (Garner, 2009). The United States has federal statutes that are more segmented and designed to protect specific kinds of data and how that data is collected and used. Examples of these types of statutes include the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act.

Countries such as Finland, Canada, Germany, and France have much greater restrictions regarding how an individual's private data is collected and used. For example, in France, employers seeking information about job applicants must gather only information that assesses an applicants' professional competencies and employers must also notify applicants that they are conducting such searches (Smith & Kidder, 2010). In 2010 the German government announced that in 2011 it planned to implement parameters specifically around employer use of Facebook as a tool in the applicant pre-employment screening process (Jolly, 2010). Commenting on this first-of-its-kind move, social media researcher Boyd (2010), said:

There are darn good reasons in which people share information and just because you can dig it up doesn't mean that it's ethical to use it. So I'm delighted by the German move, if for no other reason than to highlight that we need to rethink our regulatory approaches. I strongly believe we need to spend more time talking

about how information is being used and less time talking about how stupid people are for sharing it in the first place. (2010, September 10, para. 6)

Boyd's argument points again to the dangers of employers using Facebook for purposes of which it was not intended. Employers need to be careful about gaining information from an applicant's Facebook profile that is not job-related, is legally-protected, or is private. If that information is then used to sway the employers' hiring decisions or prevent applicants from securing employment, employers may be discriminating against prospective employees and crossing legal, ethical, and privacy boundaries.

Common law right to privacy.

Facebook users in most states could be protected by a common law to privacy (Kelly, 2009). If employers use the Internet to gather information on prospective employees, employers could be in violation of this law in two ways: (1) "intrusion upon seclusion" which states that "when a person intentionally intrudes . . . upon the solitude or seclusion of another or his private affairs . . . if the intrusion would be highly offensive to a reasonable person" and (2) "publicizing private facts of an individual" (Kelly, 2009, p. 10). Clearly, employers need to think carefully about a user's desire and intent when publishing their Facebook content. For many users, their published content was not intended for employers to access and to use for professional purposes.

Minneapolis attorneys Bolter and Merley (2010), in their paper on the legal implications of using social networking Web sites to screen applicants, warn that users will lessen their "reasonable expectation of privacy" (Bolter & Merley, 2010, p. 2) and therefore have a challenging time contending their privacy was violated when they post

information online for anyone to view. However, users who establish privacy settings to protect their information, only to have employers take steps to “improperly access a site in order to view selected applicants and/or . . . circumvent restrictions placed on a particular account in violation of site policies” could make a strong case for having a “reasonable expectation of privacy” (Bolter & Merley, 2010, p. 2) . Others contend that corporations must take the higher ground and “. . . . preserve a natural right to personal privacy . . . invasions of privacy are wrong because they are invasions of liberty . . . they undercut individuality and create a society of conventional, mediocre persons” (Clark & Roberts, 2010, p. 514). While many in the legal community may regard access to public information one way, many privacy and civil rights advocates want to protect the ability a person has to express him/herself freely without fear of repercussions. Social media expert Boyd wrote, “Social network sites . . . challenge people’s sense of control. Yet, just because people are adopting tools that radically reshape their relationship to privacy does not mean that they are interested in giving up their privacy” (2010, p. 12.). While the concepts of public versus private may not be clear cut in the online environment, the notion that privacy has disappeared or lacks importance is unacceptable to many.

Concerns about online privacy vary.

Research among the traditional college-aged students (18 to 22 years of age) indicates that attitudes vary with respect to employer use of Facebook as a tool in pre-employment screening of applicants. Some studies reveal that students believe that employers have no right accessing the online profiles meant only for friends, family or selected groups or networks (Goldberg, 2010; Read, 2007). Other research shows, however, that young adults know (and even expect) that their online profiles are viewed

(NACE, 2009, June 9). Results of a 2009 survey by the Pew Internet and American Life Project showed that just one-third of Internet users are concerned about the amount of online information that is accessible about them, versus 40% who had the same concern in 2006 (Cowan, 2010; Madden & Smith, 2010). However, 81% of these same respondents believed it is unjust to form opinions about people according to content that is gathered about those individuals online (Madden & Smith, 2010). The same Pew survey also revealed that 50% of Internet users concurred with the statement: “It bothers me that people think it’s normal to search for information about others online” (as cited in Reputation management and social media, 2010, May 26, p. 44). Another study assessed students’ opinion about employers using social networking Web sites to learn about applicants. Feedback about the practice was evenly divided: among those students surveyed, 33% regarded this practice unethical, 36% considered it ethical, and 32% had not formed an opinion (Clark & Roberts, 2010).

The 2009 Pew Internet & American Life Project revealed other interesting findings about young adults’ “reputation management” (Madden & Smith, 2010, p. 2). According to the Pew study (as cited in Madden & Smith, 2010), those between the ages of 18 and 29 were more likely than older adults to:

- Be vigilant about establishing privacy settings so as to limit how much personal information was accessible about them online (44% of the 18 to 29 year olds compared to 33% of Internet users 30 to 49 years old, and 25% of those ages 50 to 64 years of age). These survey results contradict what Palfrey and Gasser (2008) reported just two years earlier from interviews and focus group research with

young adults who expressed that “no one . . . reads privacy policies or does much to adjust the default settings for online services” (p. 57).

- Manage their privacy settings. Among the social networkers 18 to 29 years old, 71% have established privacy settings on their personal information to restrict what they share with other online users. Only 55% of social networkers 50 to 64 years of age have done the same.
- Removed unfavorable comments. Forty-seven percent of social networkers 18 to 29 years old have removed comments that other online users have posted on their profile, versus only 29% of those between the ages of 30 to 49 and 26% of those ages 50 to 64.
- Deleted their name from photos. Forty-one percent of social networkers 18 to 29 years of age indicated that they have deleted their name from photos published online, versus only 24% of social networkers 30 to 49 years of age and 18% of those 50 to 64 years old.

Younger adults (18 to 29 years of age) were also found to be the least trusting of Web sites (such as Facebook, MySpace and LinkedIn) which host their content. Palfrey and Gasser (2008) contend that “the concept of trust is at the heart of the privacy issue on the Internet” (p. 66), and that “Trust of corporations and governments and others who hold data about us is the primary mechanism ensuring our data integrity and personal privacy” (p. 81). Effective leaders in all employment environments build, model, and sustain trust among all of their internal and external stakeholders.

The 2009 Pew Center Research report also revealed that in general, social network users specifically were highly vigilant about managing their profile information,

with two-thirds taking steps to set their privacy settings such that who can see their content was limited (Madden & Smith, 2010). According to this Pew report, 65% of adults (defined as 30 years of age and older) using social networking Web sites had updated their profile privacy settings to restrict what is viewable online to others. This research reveals that more and more online users are being driven by the desire or the need to protect their online data and are proactively taking steps to do that. The same Pew report also revealed that “a Facebook profile may get more traffic than your resume” (Madden & Smith, 2010, p. 42). According to the report, “people searchers have become more likely to seek out social networking profiles than they are to see information about someone’s professional accomplishments . . .” (p. 42). At the same time and perhaps because of their diligence in managing their online profiles, fewer social network users worry about the potential impact of what others learn about them online.

Regardless of the variations in opinion of employers perusing Facebook in order to learn more about an individual online, people need to realize that it happens. According to Microsoft’s Chief Privacy Specialist Peter Cullen, ““online reputation is not something to be scared of; it’s something to be proactively managed”” (Lory, 2010, p. 37). Cullen urges anyone creating an online profile to cultivate “the online reputation that you would want an employer to see” (Lory, 2010, p. 38). With the advent of the Internet and the ability of people to conduct online searches, no longer are we able to separate our personal lives from our work lives.

Many consider the practice of employers forming judgments about candidates from online sources (especially if what is learned does not pertain to job requirements or qualifications and reflects activities of an applicant’s personal time) as unfair, an invasion

of privacy, and a violation of the right to a personal life outside of work. Many researchers, online security experts and privacy activists are concerned that online searches “could chill free speech . . . Employees should not carry the burden of ‘watching what they say,’ rather, employers should carry the burden of ‘watching what they do’ with that information” (Davis, 2006/2007, p. 8). Still others contend that such unauthorized (or authorized) searches are the product of the world we live in today, that the practice has its benefits, and that the United States legal system is currently not regulating this practice. Furthermore, if individuals are worried or concerned about how they are perceived, they can elevate their privacy settings or simply choose not to join online communities.

Ethical Implications for Employers

In examining employer use of Facebook in the applicant pre-employment screening process, it is important to look at this topic from an ethical perspective. As a graduate student studying Effective, Ethical and Enduring Leadership (White-Newman, 2003), I am interested in understanding how leaders operate in and respond to situations that present potential ethical dilemmas and how their decisions impact others. As Johnson (2009) explains, “When we assume the benefits of leadership, we also assume ethical burdens” (p. xvi). Furthermore, “ethical leadership is a two-part process involving personal moral behavior and moral influence. . . Leaders . . . master the ethical challenges of their roles . . . and are also responsible for the ethical behavior of others. These dual responsibilities intertwine” (p. xix). Leadership does not exist in a vacuum, but affects, negatively and positively, those with whom we interact.

The primary parties involved with the practice of employer use of Facebook in the

applicant pre-employment screening process include the employer and the Facebook user and employment applicant. An employer will research an applicant on Facebook for a variety of reasons, one of which is to gain information that will help the employer make a good hiring decision. This means using Facebook as a tool in the applicant pre-employment screening process serves an end, typically to hire the best and most qualified applicants possible. The employer may be interested in and would be remiss for not conducting comprehensive research on applicants during the recruiting process; failure to learn as much possible would be negligent and potentially problematic for the hiring manager and/or the organization.

Moreover, employers are interested in protecting their organizational information and assets, including customers, stakeholders, and current employees. When using Facebook, the onus is on the employer to disregard legally-protected, private, and non-job related information about an applicant. Employers are wise to consider how their behavior impacts not only prospective employees but those already employed in their organizations, and how this practice supports or destroys organizational values or codes of conduct.

Clark and Roberts contend that society is harmed when online searches are conducted and that “a return to more conventional social responsibility focused on what is in the best interest of society is warranted” (2010, p. 514). These researchers state that it is valuable for society to maintain the separation between individuals’ professional and personal activities. While employers may determine that they have a “legitimate business interest” for conducting an online search, “employers should determine what impact online background checks have on the trust formation between the employer and the

future employee” (Clark and Roberts, 2010, p. 518). From a prospective employees’ perspective, trust can be compromised by an employer trying to get and potentially use information from Facebook in the recruiting process, and be a tenuous way to begin the applicant-employer relationship. Additionally, “the employer should also weigh the benefits gained against the potential negative consequences from further erosion of the boundary between a person’s private and work life” (Clark and Roberts, 2010, p. 518). A prospective employee may also want to assess if this is the type of employer with whom s/he wants to work. What other behavior in the work environment is permissible and potentially unethical?

Employer use of Facebook as a tool in the applicant assessment process has ethical implications that impact the Facebook user and employment applicant as well. In this context, an ethical theory worthy of consideration is that of care ethics. A normative ethical theory that categorizes actions as either right or wrong, care ethics emphasizes the significance of relationships between individuals, and the importance of understanding another’s situation.

What is particularly powerful about this theory of ethics is its focus on the well-being of others. “An ethic of care and responsibility develops from an individual's feeling of interconnectedness with others. It is contextual and arises from experience. It is characterized by nurturance and an emphasis on responsibilities to others” (University of Wisconsin, 2008, para. 3). According to this theory, if we honor our relationships with other people, we are able to solve moral challenges. According to Merriam-Webster’s online dictionary, morality is defined as “of or relating to principles of right and wrong in behavior” (“Moral,” 2011). Johnson’s (2009) analysis of the ethical leader supports the

theory of care ethics: “. . . we must make every effort to act in such a way as to benefit rather than damage others” (p. xvi). This commitment helps leaders maintain moral standards, decide between right and wrong, and benefits the organization and those with whom it is associated.

When an applicant applies for a position within an organization, it could be assumed that s/he wants to start the relationship with the employer in a mutually open, honest, and transparent way. If the applicant learns that his/her Facebook profile is being accessed by the employer for background screening, this action could feel non-trusting, an invasion of privacy, and less than transparent. The question has been asked by ethicists, privacy rights advocates, and others: What will the employer do with the information obtained, especially if the information is legally-protected, private, or not essential to the applicant’s ability to perform the given job duties? What is stopping the employer from making judgments or being biased in his/her decision-making about the applicant? Still others question the practice of holding, especially young adults, accountable for decisions made at one point in their life that may be etched forever online but do not truly represent the character or values of the candidate being assessed today. This action can serve to break down rather than build up the relationship an applicant is beginning with an employer.

When considering an ethical framework, an employer’s decision to use or not to use Facebook as a tool in the applicant pre-employment screening process could begin by answering several questions that take into consideration both the needs of the employer and the organization, and the interests of and respect for the applicant. Some of these questions include: If I told someone I respect . . . which option I have chosen, what would

they say? How can my decision be implemented with the greatest care and attention” that respect the interests of all constituents? (Velasquez, et al., 2009, *A framework for ethical decision-making* section, para. 3, 4, 5). In summary, Effective, Ethical, and Enduring Leadership (White-Newman, 2003) within an unregulated environment such as using Facebook as a tool in the applicant screening process, calls leaders to consider the impact on the employer and prospective employee relationship, current employees, and on an organization’s values or code of conduct.

Benefits to Employers Using Facebook

Research among small business owners and entrepreneurs indicate that learning about prospective applicants on Facebook is both efficient and cost-effective (Penttila, 2006). Many of these employers remark that online profiles can reveal a lot about the character, morals, and values of prospective applicants. This can be especially critical, for example, for jobs that require individuals to handle highly confidential information or work with vulnerable adults or children.

Investing in the cost of background checks could allow employers to avoid significant expenses and other damages to their organization, and prevent the hiring of employees who may be violent, steal, or harass other employees (Sotto & McCarthy, 2007). Some contend that social networking sites provide information that can also help employers mitigate potential legal problems long before the offer for a job (or an interview) is extended. This due diligence could circumvent a negligent hiring lawsuit.

Certain occupations, “such as those in banking, child care, health care, airline, and trucking industries [as well as property managers, those who work with vulnerable adults, financial services, law or other heavy contact positions] require criminal background

checks” and by some employers’ standards, require individuals to have spotless criminal background records and high moral and ethical standards (Sotto & McCarthy, 2007, p. 1). If an employer, through a search of the applicant’s Facebook profile, finds that the applicant has posted content that displays “racial, religious or other discriminatory bias or evidence of violent or criminal tendencies, employer liability could ensue if that applicant subsequently becomes an employee who engages in behaviors consistent with the unchecked sites” (Bolter & Merley, 2010, p. 10). Most legal professionals would counsel employers who are hoping to avoid hiring potentially problematic employees to explore what they can find on those applicants through both legal and judicious means.

Employers may claim “corporate responsibility” as a main reason that legitimizes Facebook searches.

From the employer’s position . . . It provides an easy way to gain a ‘character’ assessment of candidates without much hassle and allows the employer to learn more about a candidate than is possible any other way. Employers argue that they have a right and a need to protect themselves (i.e., shareholders) from negligent hiring. This could occur if an organization ‘fails to uncover an applicant’s incompetence or unfitness by a diligent search of references, criminal background or even general background. (Clark & Roberts, 2010, p. 513)

Some employers claim it is simply their responsibility, as stewards of their organizations and as individuals who uphold a commitment to their stakeholders, to use tools such as Facebook to learn as much as they can about prospective employees.

Choosing not to do what is in the best interest of one’s organization and its stakeholders could be considered equally unethical. According to researchers Engler and Tanoury

(2007), employers are following utilitarian ethics which say, “the ethical corporate action is the one that produces the greatest good and does the least harm for all . . .” (p. 69). If employers’ recruiting efforts “serve the ‘greater good’ by hiring superior employees,” it does not matter if a violation of privacy occurs (p. 69). In summary, many employers are most interested in protecting the viability of their organizations and will conduct applicant pre-employment searches on Facebook in order to protect their organizational interests and valuable constituents.

If applicants have not protected their personal brand on Facebook, they may incur potential risks if employers choose to seek information about them. Employers say: “job applicants . . . need to clean up their sites . . . remove anything that could be viewed negatively . . . nothing is safe online” (Clark & Roberts, 2010, p. 513-14). Without vigilantly monitoring online content, Facebook users risk having potentially unfavorable content fall into the hands of individuals who may determine their employment future.

Connection to Leadership

Leaders in the role of recruiting and hiring staff have much more information at their disposal today about applicants than in previous years with the advent of social media Web sites such as Facebook. Facebook’s significant source of personal information can tempt any curious employer to search profiles of users who have applied for jobs, internships, or other employment opportunities and aid an employer’s decision to hire or not to hire applicants.

At the same time, leaders must use this resource with thought, care, and caution. The decision to use Facebook as a screening tool has ethical implications. The availability of legally-protected and private information may or may not sway an

employer's decision to engage in this practice. Astute leaders will establish and abide by organizational guidelines on its use and make these guidelines part of their hiring personnel's training program. Ethical leaders will model appropriate behavior about their organization's use of Facebook as a tool in the pre-employment screening process of applicants, and develop and enforce policies that clearly articulate how – or if – it should be used.

Facebook users who are searching for and applying for employment opportunities are also an important component in this unregulated arena. On one hand, they have control in these situations. These individuals must think about and establish an opinion on an organization's decision to use (or not to use) Facebook as a tool in the pre-employment screening process and decide if this is the type of organization for which they want to work. Could an organization's acceptance of this practice mean that other "grey" practices are also allowed? Sara Elias, career counselor/internship coordinator at Black Hills State University in South Dakota, counsels college-aged students on what to expect in their employment search and cautions:

We stress to students that at any point during their job search process . . . if they are asked something, asked to provide something, or told something that puts up a red flag, they should think long and hard about whether or not they want to work there. If they are uneasy during the job-search process where everyone is on their best behavior, they should try to imagine what the working conditions might be like. (as cited in City requires job applicants to provide, 2009 June 24)

Users need to decide where they personally stand on this issue and if they are against it, decide what they will do about it.

Chapter 3: Methodology, Validity and Limitations

My research investigated the question: How can employers optimize the benefits of using Facebook as a tool in pre-employment screening of applicants while managing the ethical, legal, and privacy implications? I used three research methods to collect data: a literature review of existing research, an online survey of employers to capture current practices and predict future trends, and interviews with two legal professionals (further details are provided in the IRB, Appendix A).

A comprehensive literature review established the foundation of the research and provided a framework for analyzing, comparing, and contrasting data gathered from the other research methods. Because this topic is technology-related, the landscape changes quickly. A feature launched or a policy created by Facebook can be altered or become out-of-date within months or even days from the time it is created. For this reason, the information gathered on this topic was published primarily within the past three years. Nonetheless, it is important to note that the likelihood exists that some of the information will be out-of-date by the time this work is completed.

From the literature review, multiple but related components of the research topic were explored including: what Facebook is and how Facebook users engage in this space; the concept of Facebook users' online persona; whether or not employers use Facebook as a tool in the pre-employment screening process of applicants; why some employers use Facebook for this purpose and why others have chosen not to; the ethical, legal, and privacy implications employers may face when engaging in this practice; the benefits to employers by engaging in this practice; the concept of privacy rights among Facebook users; and the existence of policies that may provide guidance to employers on

appropriate use of this Web site as a tool in the pre-employment screening process of applicants.

The literature review provided a framework for outlining current thinking on employer use of Facebook as a tool in pre-employment screening. The data gleaned from the literature review was validated and/or refuted by exploring current practices through the results of an online survey and interviews. This additional research also highlighted new thinking and trends in this research area.

The second research method was an online survey (utilizing the survey tool Survey Monkey™) to gather data on whether or not employers use Facebook as a tool in the pre-employment screening process of applicants (the list of survey questions is provided in Appendix C). Some of the key findings gained from this survey included: employer perceptions, attitudes, and opinions about this practice; employer organizational policies around use of Facebook as a tool in applicant pre-employment screening; organizational awareness and knowledge of various policies; type of Facebook profile information accessed; results of Facebook searches by employers; and employer recruitment of others to access Facebook profiles not accessible to employers. Feedback was also gathered from employers about the ethics of this practice.

The survey participants were employer contacts from across the United States and internationally who post employment opportunities for University of Minnesota students and alumni and who are registered on GoldPASS (<http://goldpass.umn.edu>), the University of Minnesota job and internship database. These contacts were accessible because I am one of several University of Minnesota career services professionals who manage GoldPASS, so it was a sample of convenience and purposefully selected.

The individuals posting positions in this database hold a variety of roles in their organizations. Anyone charged with the responsibility of recruiting and hiring staff can post positions on GoldPASS. On January 2, 2011, a report was produced of employers in GoldPASS who have active accounts and who logged into the system within the past two years (2009 and 2010). A link to the survey and a short message inviting the employers to participate was emailed (refer to Appendix B). The sample size was 6,539 contacts. The group of participants represented a large and diverse sample from the for-profit, non-profit, government, and educational industries. As an incentive to participate in the research, the employers could receive an executive summary of the research findings once the project was completed.

In an effort to produce a reliable and valid survey, I sought guidance from several sources including my thesis advisor and the ORLD program director. Second, feedback was gathered from two University of Minnesota career services professionals who agreed to offer feedback on the survey questions and best practices for administering the survey. Finally, to guide development and analysis of the online survey, several research books were consulted, in particular, *Improving Survey Questions* by Floyd J. Fowler, Jr. (1995) and *Using Online Surveys in Evaluation* by Lois A. Ritter and Valerie M. Sue (Fall 2007).

For the third phase of the research, face-to-face interviews were conducted with two attorneys. One interview was with a privacy attorney/law professor from the University of Minnesota Law School, and the second interview was with a practicing employment law attorney in Minneapolis. Because the practice of using Facebook as a tool in pre-employment screening of applicants is currently unregulated in Minnesota,

employers may find themselves operating in an ambiguous area and are uncertain as to whether or not to engage in this activity. Gaining perspectives from professionals in the legal community supported the research question and provided valuable expert knowledge that can be shared with employers.

The questions asked of the attorneys focused on defining privacy; their opinions about employer use of Facebook as a tool in the applicant pre-employment screening process; laws, acts, or policies that may be implicated with employer use of Facebook in this way; recommendations for employers who engage in this practice; and what the future holds in terms of laws or regulations around employer use of Facebook as a tool in the applicant pre-employment screening process. A separate question was asked of the employment law attorney to find out if the clients with whom he works use Facebook as a tool in the applicant pre-employment screening process, and what kind of legal counsel his clients are seeking for this practice. The interviews were conducted in the attorneys' offices, notes were captured, and the conversations were also digitally-recorded. The interviews were both transcribed and the data analyzed. To ensure that the semi-structured, in-depth interviews were conducted effectively, guidance was sought from my advisor, program director, and from the textbook, *Research Methods for Business Students*, by Mark Saunders, Philip Lewis and Andrian Thornhill (FT Prentice Hall, 2007), as well as the previously cited texts.

To analyze the online survey findings, the capabilities of SurveyMonkey™ and descriptive statistics were utilized. This analysis included review of the 660 open-ended survey comments and the attorney interviews and conducting “categorization” (putting similar content into categories and comparing and contrasting that data with the two other

data sources) (Saunders, Lewis & Thornhill, 2007, p. 479). The analysis included comparing the online survey results and attorney interviews with the literature review to identify trends and themes of this practice and to gain new insights and future trends.

Validity

Producing a valid research study was critically important so various sources were engaged to reach this goal. Several key validity tests were used as outlined by Joseph A. Maxwell (Sage, 2005) in his text, *Qualitative Research Design*, including rich data, respondent validation, searching for discrepant evidence and negative cases, and triangulation. The support and guidance of my thesis advisor and program director also helped to conduct a valid research study.

The research included two, in-depth, semi-structured interviews, one with a University of Minnesota Law School professor whose expertise is privacy law, and one with an employment law attorney. Their contribution lent expertise to the research and helped validate, clarify, or correct the legal information obtained through the literature review.

An important component to ensuring that the data requested during the interviews was clear and that bias did not impact the research was to engage in respondent validation. During the interviews, questions were asked and paraphrased in order to clarify information. Permission of the interviewees was requested to contact them with follow-up questions after the interviews if the notes and/or recordings were unclear.

While validating results from the online survey could be more challenging, a validity test was accomplished by asking the same question in a couple of different ways,

and the respondents were also allowed to provide additional comments after specific survey questions.

Because of the legal, privacy, and ethical implications associated with the research topic, the possibility exists that certain information may not be addressed or is absent in the research findings. This reality required searching for discrepant evidence and negative cases. Attention was given to the information obtained that contradicted one or more of the other research methodologies. My thesis advisor and program director were consulted to discuss questions and to help clarify interpretations of the findings.

The research technique of triangulation was also used. This entails gathering information via multiple sources and modes. By conducting a literature review, an online survey and interviews, the research findings were cross-referenced against any possible assumptions that could be made. The online survey and interview data were compared to the findings from the literature review to determine how the data and findings might support or be in opposition to each other.

The practice of employer use of Facebook as a tool in the pre-employment screening process of applicants has garnered attention in recent years, especially among higher education career services professionals who work with employers who are recruiting students for employment opportunities. Passion for my topic is another factor that could influence the research and interpretation and presentation of the findings. This passion could present itself as researcher bias because I am looking at the topic with the lens of ethical leadership. An awareness of this possibility was the first step toward managing this potential problem.

Since I recognize that I am apprehensive about Facebook being used as a tool in pre-employment screening of applicants, I worked closely with my academic support to ensure that the online survey, interview questions, and the interpretation of the research results do not reflect bias. As a graduate student in an organizational leadership program which has a strong ethical foundation, my values inherently support ethical workplace practices so my research topic can present challenges to my sense of right and wrong. It was important for me to be open to hearing all sides of this controversial, ambiguous, and legally unregulated practice, and not let my bias influence my study.

Limitations

A challenge and limitation of an online survey is the inability to dig deeper with follow-up questions to responses or to gain clarification and the meaning behind written comments. The survey analysis is based on assumptions about what the employers were intending to communicate in their responses.

Writing good survey questions takes time and careful thought. Despite the extra effort expended to write clear survey questions, gain feedback from colleagues on those questions, and pre-test the survey, no guarantee exists that respondents understood the questions precisely the way that they were intended.

Chapter 4: Results and Discussion

Online Survey of Employers

My research question guided the choice of research analysis methodology. This research question was: How can employers optimize the benefits of using Facebook as a tool for pre-employment screening of applicants while managing the ethical, legal, and privacy implications?

As described earlier, the research included an online survey of employers and interviews with two attorneys. The attorney interviews discussion follow the findings and analysis of the online survey. For comparison and validation purposes, the literature review is cited at various points throughout the survey findings (or findings from the attorney interviews in the online survey results or vice versa), for comparison and validation purposes.

The main goals of the online survey were to learn if the employers believed that Facebook as a tool in the applicant pre-employment screening process has benefits, and to gain their opinions of the ethical, legal, and privacy implications of this practice. The survey also explored how prevalent the practice is among the employers, and if organizational and professional policies dictate and guide their use of Facebook.

Skip-logic was used in the survey. This means that the survey was intentionally designed for some of the employers to skip certain questions. Because some of the employers responded that they did not use Facebook as a tool in the applicant pre-employment screening process, these employers were not presented with the questions related to use of Facebook for this purpose. Most of these non-Facebook users who started the survey answered 15 questions plus a demographics section. Those who

responded that they used Facebook at some level as a tool in the applicant pre-employment screening process completed 29 or 30 questions as well as the demographics section. A certain percentage of respondents in both categories exited the survey at various points prior to completing the entire survey. Even if respondents exited early, responses to questions answered were captured and counted toward the analysis of the survey results.

The respondents were also required to answer each question before proceeding to the next question. The predominant response format for the survey was a Likert-style rating scale followed by multiple selection responses. A Likert scale asks respondents how strongly they agree or disagree with a statement(s) typically on a four-, five-, six- or seven-point rating scale. This survey had a four-point Likert scale for all questions following this format.

In an effort to obtain more details from the employers for some of the questions, respondents were able to provide open-ended comments to four of the questions. Submitting comments to these four questions was optional. Out of 854 respondents who answered Question 1, *Use of Facebook as a tool in the applicant pre-employment screening process has benefits*, 54% submitted comments which were analyzed. Comments submitted from all four questions (664 comments total) were coded to determine common themes and are discussed below.

As noted earlier, the search criteria in GoldPASS for the employers invited to participate in the survey were those who had complete profiles and who had logged into the system during 2009 and 2010. This search criteria yielded a total of 6,610 employer contacts. When the survey was emailed to these contacts between January 14 and

January 17, 2011, all but 71 emails were successfully delivered. The total receiving the invitation email and link to the survey was 6,539 contacts. Survey responses were collected through January 31st. By this date, 854 employers started the survey and 718 completed the entire survey which represents an 11% response rate. (See Appendix B for the survey email invitation.)

Demographics

Six categories of demographic information were collected from the employers (job title, organization type, number of people hired annually, organization primary industry, gender, and age range). The majority of the respondents, 77%, hold the title of either supervisor, recruiter, director, CEO, COO, president, vice president, human resources administrator, staffing specialist or campus relations specialist; work in the for-profit sector, 57%; hire approximately 1 to 10 people in their organization annually, 43.9%; are female, 66.7%; and range in age from 26 to 55 years of age, with the majority, 34%, ranging in age from 26 to 33. Respondents work in a broad range of industries. The top three industries that were selected by the employers include education, 11.1%, manufacturing, 7.7%, and non-profit/philanthropy, 5.3%.

Survey Questions

Through descriptive statistical analysis techniques, 28 of the 31 survey questions were analyzed and these questions specifically addressed the research question. The three questions omitted from analysis included Question 7, *Using Facebook as a tool in the applicant pre-employment screening process is compliant with Facebook's Privacy Policy*, Question 13, *Which social or professional networking Web sites other than Facebook do you use in the applicant pre-employment screening process?*, and Question

20, *It is cost-effective to use Facebook as a tool in the applicant pre-employment screening process.* These questions were omitted because similar information was obtained through responses to other questions, the omitted questions did not contribute significantly to answering the research question, or because they simply provided additional information related to the research topic.

A summary of the key findings of the online survey is provided below. Immediately following this section is a detailed explanation and graphical representation of the responses to the survey questions. The complete list of survey questions is provided in Appendix C.

Summary of Key Survey Findings

The following are some of the most notable findings from the survey:

- The majority of the employers, 61%, never use Facebook as a tool in the applicant pre-employment screening process.
- The employers were nearly split in their opinion that use of Facebook for this practice has benefits.
- The majority of the employers, 70.5%, do not think that Facebook *should* be used as a tool in the applicant pre-employment screening process. Only 5.9% completely *Agree* that Facebook should be used for this purpose.
- In contrast, 81.4% believe that Facebook could be used under some circumstances, while 18.6% *Agree* that it should *never* be used.
- Only 2.5% completely *Agree* that information available on Facebook is accurate.

- The majority of employers are not familiar with either the National Association of Colleges and Employers Principles for Employment Professionals, 67.3%, or Facebook's Statement of Rights and Responsibilities, 64.1%.
- Relative to the ethical use of Facebook as a tool in the applicant pre-employment screening process, the responses reflect a standard distribution with 52.7% *Tend to disagree/Disagree* and 47.4% *Tend to agree/Agree*.
- Approximately half of the employers, 50.5%, were *Not certain* if they can find legally-protected information about an applicant on Facebook, while 38% believe that they can, and 11.5% responded that they cannot.
- The overwhelming majority of employers, 93%, indicated that they have no organizational policy or they are uncertain if they have a policy on the use of Facebook. Only 4.4% have a policy and 2.5 % are developing one. Of the 2.5% who have or are developing a policy, 83% indicate that the policy would prohibit the use of Facebook while 17% indicated that the policy would require its use.
- Those who do use Facebook as a tool in the applicant pre-employment screening process, 39%, use it for the following main reasons: *Assess the character of the individual*, 60.9%, *learn if the applicant will be a good representative of their organization*, 52%, and *learn information that may not be on applicants' resumes*, 39.8%.
- The majority of the employers, 97%, indicated that use of Facebook can introduce bias, with a stronger emphasis on creating a *negative* bias.
- A large majority of the employers, 88.4%, *Tend to agree/Tend to disagree* that poor hiring decisions can be avoided by using Facebook, and 61.1% *Tend to*

- disagree/Disagree* that Facebook has helped improve the quality of hires in their organization.
- Only 5.4% of the employers indicated that they use Facebook *All of the time/Almost always* to find private, non-job related information about an applicant with 39.4% indicating that they *Never* use it for this purpose.
 - Among employers who do use Facebook, 39%, the vast majority, 96.4%, have never withdrawn an offer of employment based on what they learned on Facebook, 91.7% have never requested that applicants “Friend” them in order to get more information, 89.5% have never asked others to access the Facebook profiles of applicants with whom they do not have access, and 77.2% *Tend to disagree/Disagree* that information they have learned on Facebook has caused them not to consider an applicant for employment in their organization.
 - Among those who use Facebook as a tool to screen, the majority, 63.6%, do not inform applicants that they do, and the majority, 63.9%, do not require written permission from applicants to use Facebook for this purpose.
 - Among the employers who do not use Facebook as a tool to screen, the main reasons they indicated not using it include: *Do not want to access information that is not job-related*, 64.8%, *do not want to introduce bias in my decision-making*, 58.9%, and *do not want to access personal and private information*, 61.5% and 56.3% respectively.

Included below are the aggregated responses to the 28 survey questions, the interpretation and analysis of those responses, and the most notable themes from the open-ended comments. Also included are graphical illustrations (column and bar charts)

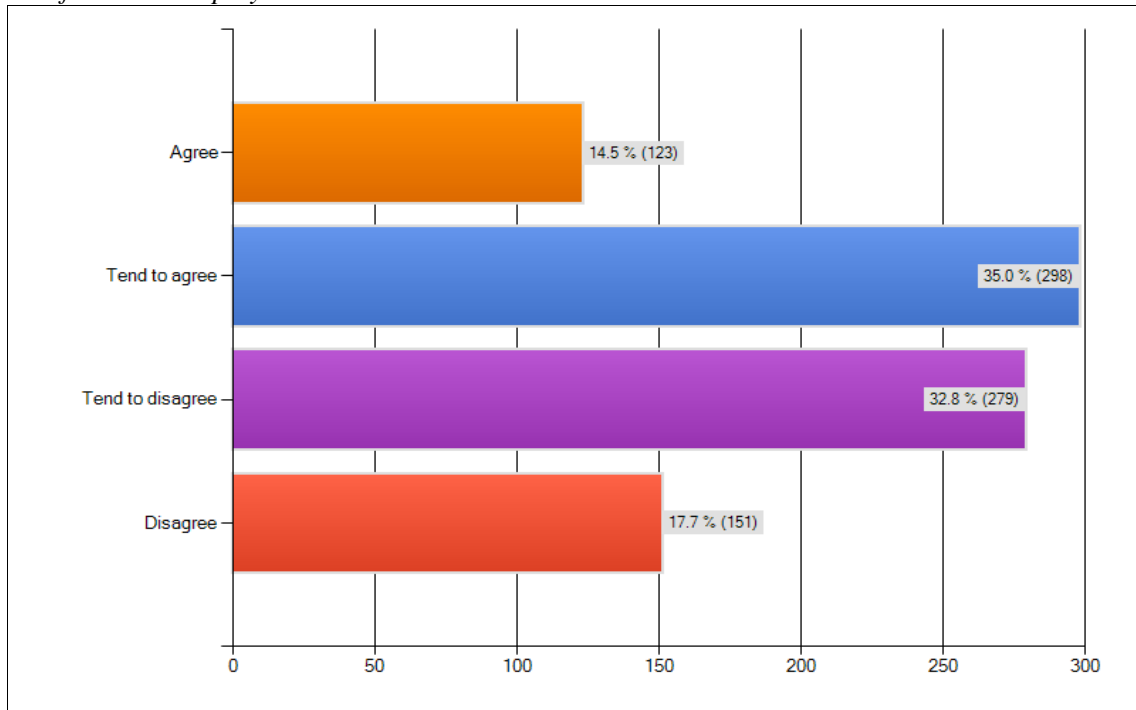
for most of the 28 questions. The charts include the percentages for the particular answers as well as the number of responses for each of those answers (e.g., 35% or 298 responses).

Online Survey Responses in Detail

The employers were asked in Question 1, *Use of Facebook as a tool in the applicant pre-employment screening process has benefits to the employer.* The respondents were nearly split in their opinion that benefits exist by using Facebook as a tool in the applicant pre-employment screening process. As shown in Figure 1, only a slight majority, 50.5%, *Tend to disagree/Disagree* that benefits can be gained versus 49.5% *Tend to agree/Agree*.

Figure 1

Findings for Question 1, Use of Facebook as a tool for applicant pre-employment screening has benefits to the employer.



The respondents were nearly split in their opinion that benefits exist by using Facebook as a tool in the applicant pre-employment screening process with a slight majority, 50.5%, *Tend to disagree/Disagree* that benefits can be gained versus 49.5% *Tend to agree/Agree*.

The benefits of using Facebook as a tool in the applicant pre-employment screening process was mentioned in the literature review. The benefits employers can derive from using Facebook as a tool could vary substantially, for example, based on the position(s) for which an employer is hiring and the type of service or product produced by the organization and/or clients served. As described later, employers who do use Facebook as a tool for screening do so for different reasons.

Employers had the option of providing additional comments for this question and 54% of the respondents did. Many of the employers offered a positive benefit (e.g., ability to learn more information about the applicant), as well as expressed a cautionary side to the practice (e.g., could gain legally-protected or private information or could introduce the possibility of discrimination). By providing the latter feedback, the employers did not necessarily describe this practice as a benefit in the true sense of the word. The employers' comments were categorized into the following main themes and are listed below. Included with the theme is the number of employer responses that represented the particular theme:

- Provides additional information about the applicant (155 responses).
- For friends only, employee/employer relationship is different (94 responses).
- Assess professional attitude, judgment of applicant, decision-making, and character (59 responses).
- Legal and discrimination issue (38 responses).
- My organization does not use Facebook (35 responses).
- Accuracy of information questioned (34 responses).
- Invasion of privacy issue (19 responses).

- Must be friends to see profiles so not worthwhile (14 responses).
- Helps assess organizational fit, fit in team (12 responses).
- Not job-related (10 responses).
- Could introduce bias, unfair assessment, preconceptions, and the ability judge applicants unfairly (8 responses).
- Assess applicants' understanding of social media, good for networking, and recruiting (7 responses).
- Unethical (5 responses).
- Facebook blocked by my organization (5 responses).
- Validates information on resume or in interview (5 responses).
- Useful for some public jobs (4 responses).
- We use Facebook as a tool (3 responses).
- Should not be only tool (3 responses).

An observation from the open-ended comments was that statements reflected a mixture of the benefits and the dark side of employer use of Facebook. A number of the employers articulated their concern with the tension of this issue. On one hand, Facebook can offer tremendous informational value because of what one can potentially learn about an applicant and his/her fit in a job and/or organization/team (e.g., personality, likes, interests, character). However, this practice can also introduce legal, privacy, and discrimination implications. As the literature addressed, certain legal implications could exist when employers use Facebook as a tool to screen. An employer who accesses and then uses legally-protected information (e.g., race, color, religion, sex, national origin, age, marital status, status with respect to public assistance, military status,

membership/activity in a local commission, pregnancy, disability, genetic test results) in his/her hiring decisions are in danger of discrimination and could face legal consequences.

For example, some of the employers' comments reflecting the value of using Facebook as a tool for screening yet at the same time suggesting the potential problems this activity can present included:

- “Leaning toward ‘Agree’ [using Facebook as a tool] because employers should use whatever tools they have to evaluate a prospective employee, but would check ‘Not sure’ if that was available, ‘Tend to disagree’ because it blurs the line between private/personal life and professional life, but it is up to people what they put up on their Facebook profile.”
- “Employers may look and form opinions positive or negative about the candidate, however, there are issues with using it as a screening tool.”
- “You can get an idea of how someone may or may not be acting in their social life and how that can affect their job performance . . . e.g., calling in sick, behaviors at work, etc. . . But Facebook shouldn’t be used as an accurate portrayal of someone either.”
- “It tends to show the personal character of the applicant, however, it could lead to possible discrimination issues, i.e., gender, ethnic origin, age, etc.”
- “Using Facebook as a screening tool sounded a bit intrusive to me at first, but the reality is that many times Facebook displays the person for who they really are.”

These comments reflect the ambiguity of the practice among employers; just because a perceived value exists for accessing information on Facebook does not make it

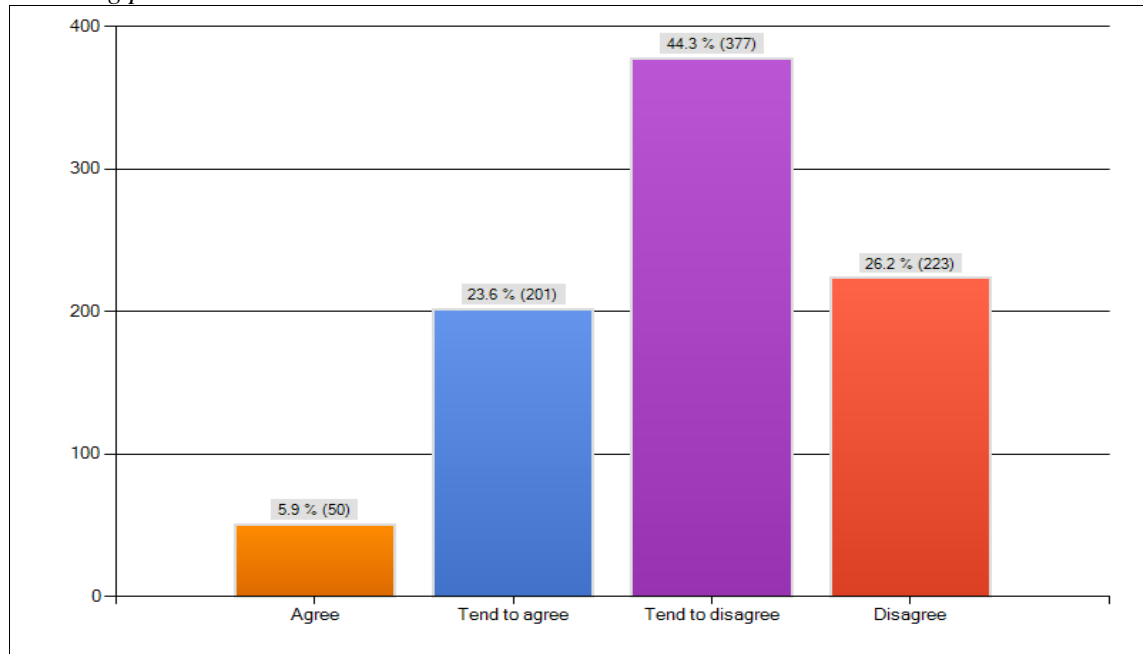
right to do it. The employers' comments also illustrate a potential ethical dilemma. In their book, *The Leadership Challenge*, Kouzes and Posner (2007) discuss the importance of identifying one's values as being critical to leading ethically. The authors recommend that leaders develop a personal credo which "gives you a point of reference for navigating the sometimes-stormy seas of organizational life. Without such a set of beliefs, your life has no rudder, and you're easily blown about by the winds of fashion" (p. 346). By developing a personal credo, decision-making has less angst, greater clarity, and consistency. Having a set of impenetrable beliefs can be especially valuable in situations such as this that are legally unregulated and ethically questionable.

Question 2.

The next question asked employers to select a response to *Facebook should be used as a tool in the applicant pre-employment screening process*. The majority of employers who responded, 70.5%, selected *Tend to disagree/Disagree*, compared to 29.5% selecting *Tend to agree/Agree*. Only 5.9% said that they fully *Agree*, as shown in Figure 2.

Figure 2

Findings for Question 2, Facebook should be used as a tool in the applicant pre-employment screening process.



The majority of the employers, 70.5%, responded that they *Tend to disagree/Disagree* that Facebook should be used as a tool in the applicant pre-employment screening process, compared to 29.5% responding that they *Tend to Agree/Agree*.

The responses to this question about benefits differ from the findings of the previous question. This finding seems to indicate that many of the employers are not advocates of this practice for several reasons: Facebook is a social network and employers are concerned about “blurring the lines,” as one employer commented, between the employer/prospective employee; Facebook does not provide an accurate reflection of the applicant; employers are able to access personal, private, legally-protected and non-job related information; employers question the truthfulness and reliability of the information on Facebook; employers are concerned about making inaccurate judgments or unfairly assessing candidates; or they do not want to introduce bias or be discriminatory in their decision-making.

Employers also expressed concern that Facebook profiles were not a fair predictor of the professional competencies of the applicant, the likelihood of an applicant's success in a certain role, or the applicant's work ethic, skills, or experience.

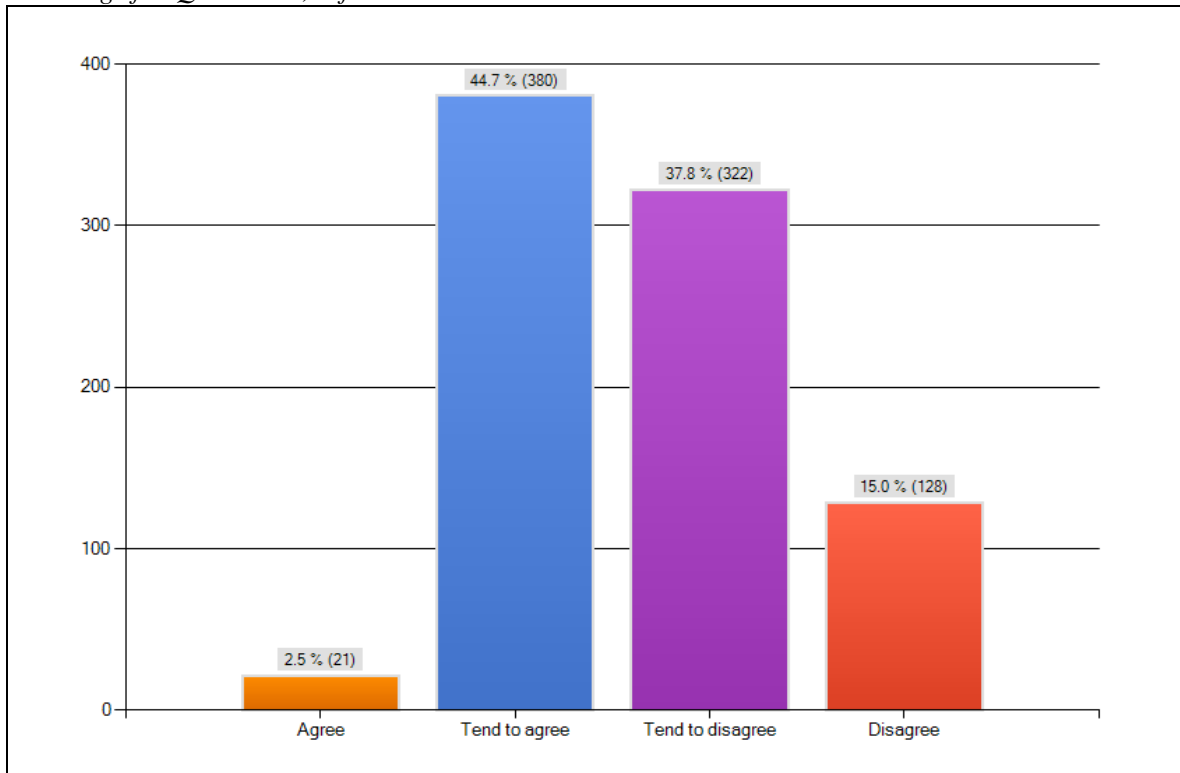
Question 3.

Employers were asked for Question 3, *Information available on Facebook about applicants is accurate*. Slightly more than half, 52.8%, indicated *Tend to disagree/Disagree* that the information available on Facebook is accurate with slightly less, 47.2%, selecting *Tend to agree/Agree* (as shown in Figure 3). While the majority of the employers, 97.5%, questioned the accuracy of the information found on Facebook at some level, nearly half indicated that they believe they can learn information that could be valuable or helpful to them about an applicant (as found in Question 1 about the benefits of using Facebook). This viewpoint is affirmed by many of the comments offered for the benefits of using Facebook:

- “An employer can see qualifications on a resume but a personality on Facebook.”
- “To learn the real thoughts and actions of the person, not just their ‘interview’ answers.”
- “It gives a valuable snapshot of who the person is and how they present themselves to the world.”

Figure 3

Findings for Question 3, Information available on Facebook is accurate.



While the majority of employers, 52.8%, questioned the accuracy of the information found on Facebook at some level, nearly half, 47.2%, indicated that they believe they can learn information that could be valuable or helpful.

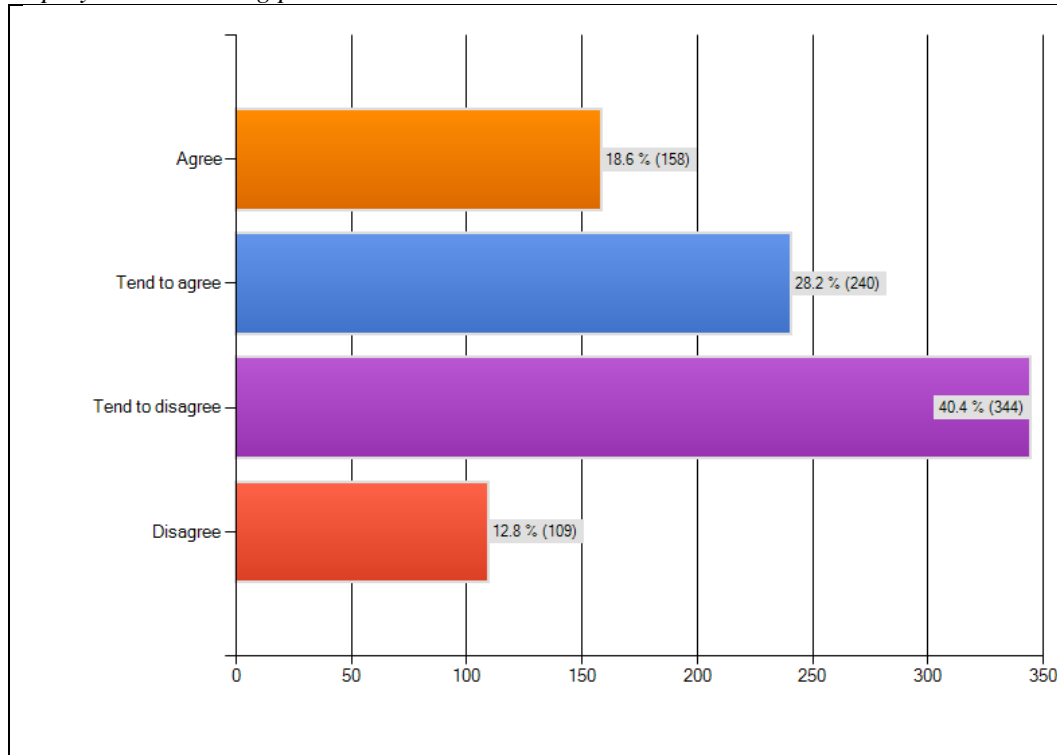
Question 4.

Employers were asked in Question 4, *Facebook should never be used as a tool in the applicant pre-employment screening process.* These findings speak to the situational benefits employers perceive in using Facebook as a tool in the applicant pre-employment screening process. Interestingly, these responses contrast with the responses to the previous question, *Facebook should be used as a tool in the applicant pre-employment screening process.* Among those who responded to Question 4, 81.4% *Tend to agree/Tend to disagree/Disagree* that Facebook should *Never* be used a tool in the screening process (see Figure 4). In other words, in some situations, the respondents feel

it is valuable or worthwhile to use Facebook as a tool in the applicant pre-employment screening process. Only 18.6% said that they *Agree* Facebook should *Never* be used.

Figure 4

Findings for Question 4, Facebook should never be used as a tool in the applicant pre-employment screening process.



The findings to this question speak to the situational benefits employers perceive in using Facebook as a tool in the applicant pre-employment screening process. Among the respondents, 81.4% *Tend to agree/Tend to disagree/Disagree* that Facebook should *Never* be used as a tool in the screening process.

Most of the employers may not feel that Facebook should be used as a tool for screening, but they believe that at times it could be beneficial. The value may be derived based on the type of position for which an organization is hiring. A number of employers mentioned the importance of the applicant projecting a positive “public facing” image for the organization and the clients with whom they serve. As mentioned in the open-ended comments about the benefits in Question 1, employers may also feel that use of Facebook as a tool aids them in the hiring decision because they learn about the applicants’

character and professionalism, they gain insight into the personal side of applicants, they have a better idea of how applicants may fit into the organizational culture and team, and they can assess the applicants' professional attitude, judgment, common sense, discretion, maturity, and character by what information applicants choose to make public on Facebook.

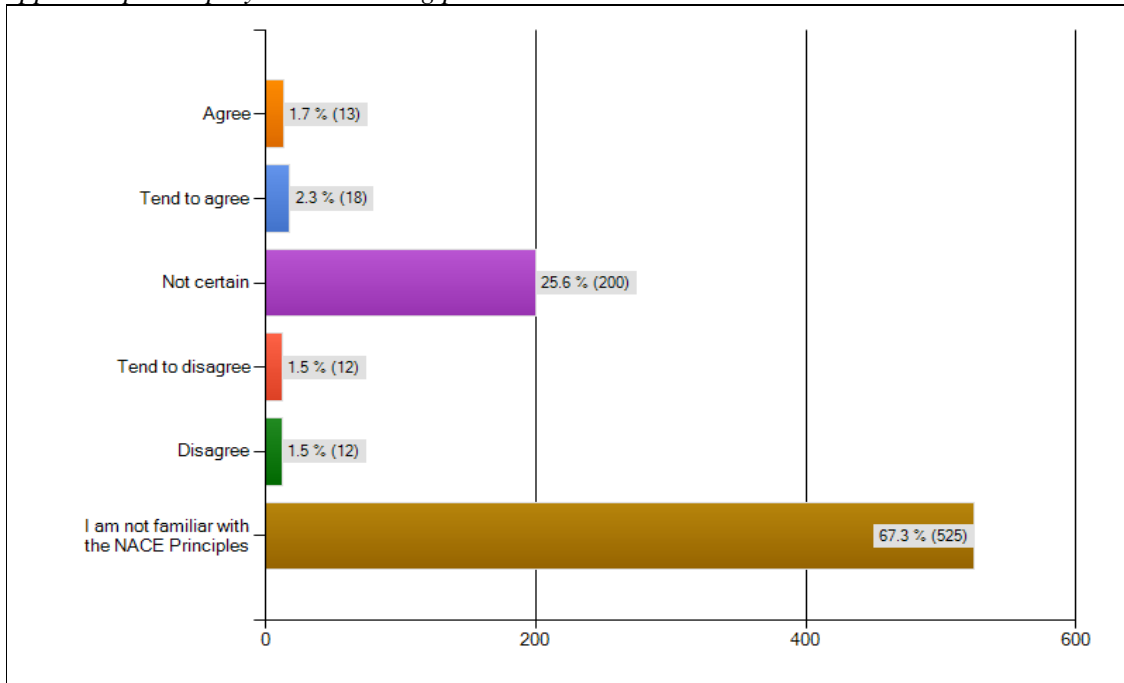
Other comments from the employers mentioned in the open-ended responses to Question 1 about the benefits of using Facebook included that Facebook allows employers to “get a holistic view of the candidate,” “shows an applicant’s personality and who they really are,” “can connect character traits to job performance,” “get information not on an application or resume,” “learn the candidate’s likes, dislikes and tendencies,” “validates interests, friends, hobbies and possible limitations,” and “shows where a candidate’s personal life might spill over into work life.”

Questions 6 and 8.

The employers were also asked to respond to specific policies that may guide them in their practice of using (or not using) Facebook as a tool in the applicant pre-employment screening process. Question 6 asked employers to make one selection to the following statement, *The National Association of Colleges and Employers Principles (NACE) provide employers legal and privacy guidance for the use of Facebook as a tool in the applicant pre-employment screening process*, and Question 8, *Using Facebook as a tool in the applicant pre-employment screening process is compliant with Facebook’s Statement of Rights and Responsibilities* (refer to Figures 5 and 6).

Figure 5

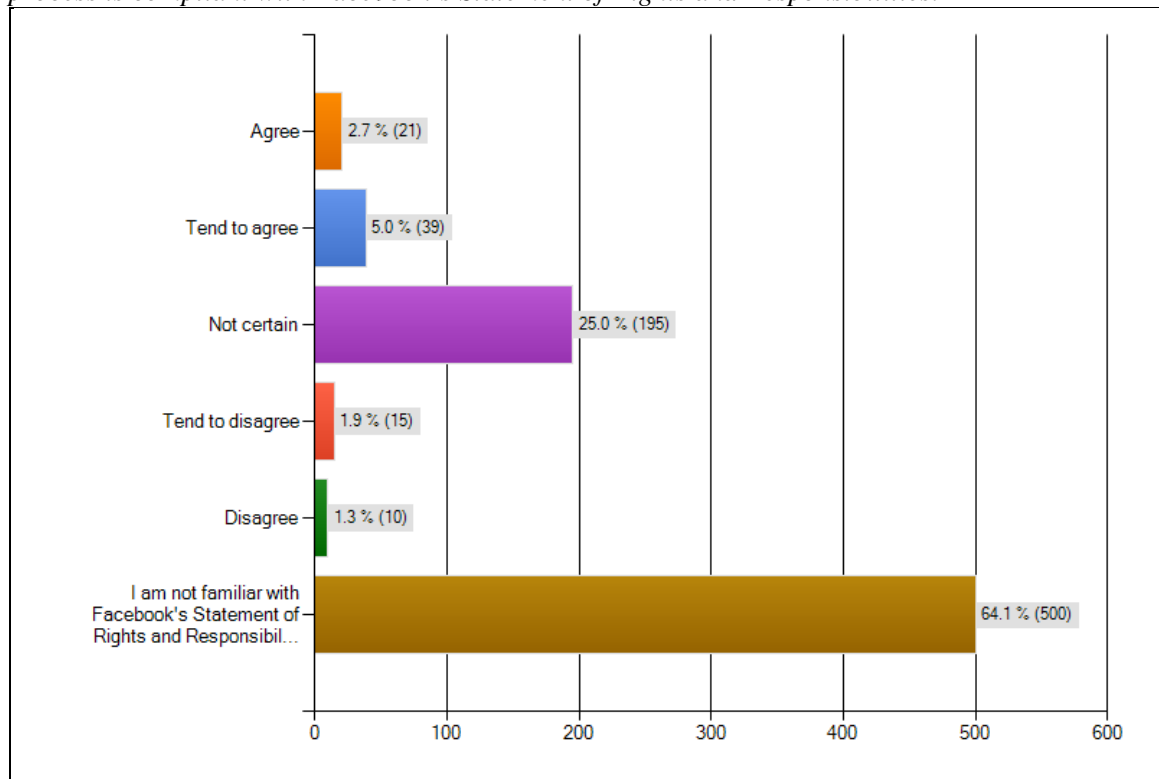
Findings from Question 6, The NACE Principles for Employment Professionals (or Third Party Recruiters) provide employers legal and privacy guidance for the use of Facebook as a tool in the applicant pre-employment screening process.



Responses from the employers to Question 6 reflect uncertainty, with 67.3% responding, *I am not familiar with the NACE Principles*.

Figure 6

Findings from Question 8, Using Facebook as a tool in the applicant pre-employment screening process is compliant with Facebook's Statement of Rights and Responsibilities.



Similar to Question 6, the responses to Question 8 also reflect uncertainty, with the majority, 64.1%, indicating *I am not familiar with Facebook's Statement of Rights and Responsibilities*.

As stated earlier in my literature review, both the *NACE Principles of Professional Practice* (2010) and Facebook's *Statement of Rights and Responsibilities* (2010d) contain language which could be interpreted as cautioning employers (or others using Facebook) from using information to discriminate or to violate equal opportunity employment guidelines. The language in either, however, does not specifically address the use of Facebook and social media. After completing the survey, one respondent sent an email expressing this point exactly:

I don't like the idea of delving that deeply into an applicant's personal life without some type of authorization behind it, as with standard background checks. . . I

don't feel Facebook or NACE has specifically addressed the use of social media so it leaves it wide open in some cases. Facebook takes zero responsibility for anything put on their site which I feel isn't their responsibility, people need to consider what they put out there. . . It could be interpreted through NACE that they don't want you using information from social media but don't specifically say it. They just say any private, personal, and legally confidential information is not to be shared or distributed. You could loosely say that includes anything you find on the Internet about a candidate. (Confidential, personal communication, January 24, 2011)

This employer's statement describes what was intended to be learned from respondents' answers to these questions. Their responses to the questions above reflected uncertainty. With respect to the question about the NACE Principles, 67.3%, selected the response, *I am not familiar with the NACE Principles*, even though users of GoldPASS are asked to read and agree to the NACE Principles when registering on GoldPASS. Part of this uncertainty may be because they do not remember the contents of the Principles or perhaps they did not register themselves on GoldPASS (Question 5 found that 56.3% of the employers indicated *I do not know or do not remember if I have read/agreed to the NACE Principles*). Regardless, employers who are unfamiliar with the Principles may inadvertently obtain information that is legally-protected and private and could use that information in ways that are discriminatory. This action could open up legal liability for those employers.

With respect to Question 8 about Facebook's *Statement of Rights and Responsibilities* (2010d), the majority of the respondents, 64.1%, indicated *I am not*

familiar with Facebook's Statement of Rights and Responsibilities. Similar to the NACE question, respondents may have read the Statement at one time and simply do not remember the specific content, or have never read it. Facebook may not take any action against employers or others who misuse information found on Facebook for hiring decisions. However, the Statement is clear in explaining that information found on Facebook should not be used for unlawful or discriminatory practices. The literature review cites specific language within this Statement that explains what activity is inappropriate on Facebook (e.g., not using Facebook to do anything unlawful or discriminatory and obtaining consent from users if you collect their information).

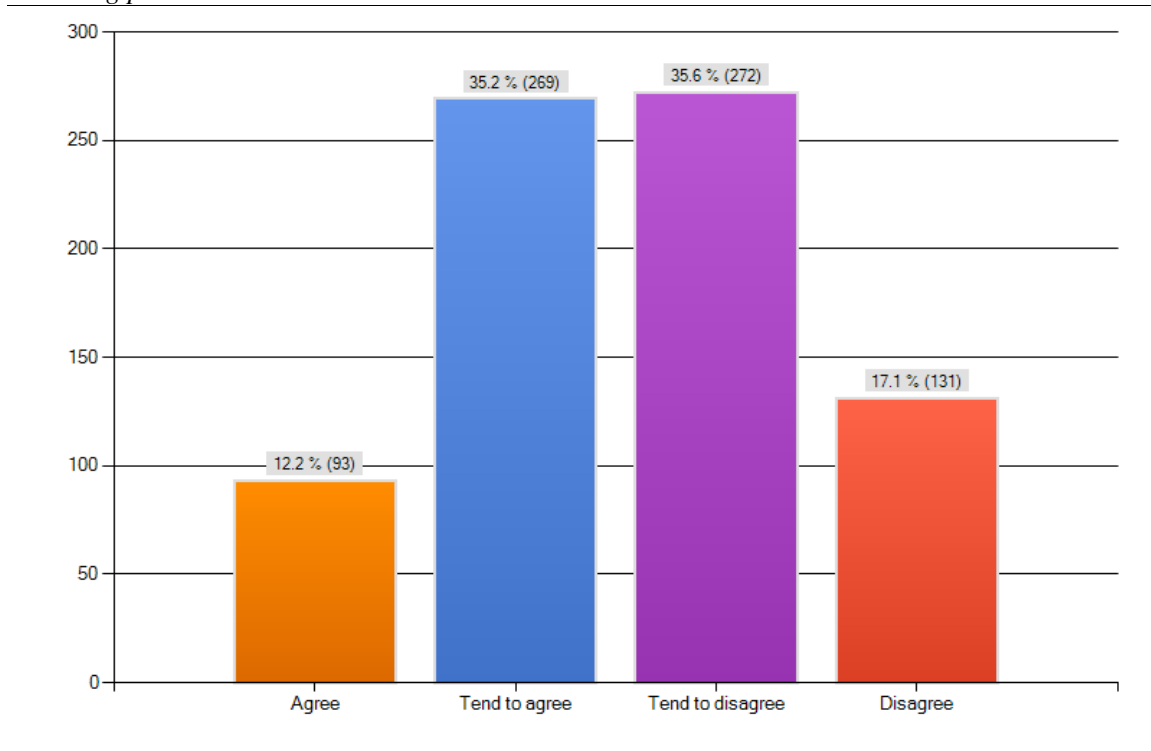
While the guideline is broad and could encompass many things, employers (or anyone using Facebook) would be prudent to carefully handle information that they are accessing for pre-employment screening purposes.

Question 9.

Addressing the use of Facebook as a tool in the applicant pre-employment screening process from an ethical standpoint was a main objective of my research. The employers were asked in Question 9, *It is ethical to use Facebook as a tool in the applicant pre-employment screening process.*

Figure 7

Findings to Question 9, It is ethical to use Facebook as a tool in the applicant pre-employment screening process.



Relative to the ethical use of Facebook as a tool in the applicant pre-employment screening process, the responses reflect a standard distribution with 52.7% *Tend to disagree/Disagree* and 47.4% *Tend to agree/Agree*.

More than half of the respondents, 52.7%, *Tend to disagree/Disagree* that it is ethical to use Facebook for this practice, while slightly less, 47.4%, *Tend to agree/Agree* that it is ethical (see Figure 7). This finding supports the majority, 70.5%, who earlier responded *Tend to disagree/Disagree* that it *should* be used, but it does not support the findings from the majority, 81.4%, who indicated in Question 4 that it could be used under some circumstances (*Facebook should never be used*). An example of a comment that alludes to some of the employers' belief that the practice is unethical is, "I feel that some people might use [Facebook] unethically to screen based on age, ethnicity, gender, religion, class or other basis that is unrelated to their capability as an employee."

The employers' response illustrates a point expressed by the privacy attorney, William (Bill) McGeveran, who agreed to be identified in this report. When asked the same question, McGeveran said, "It depends." Facebook can be useful as a tool for this purpose in certain situations for certain positions, but the practice can be problematic if an employer is making "snap judgments" about applicants (B. McGeveran, personal communication, January 26, 2011). On the other hand, the employment law attorney, Dennis Merley, who also agreed to be identified in this report, readily responded that he believes the practice is ethical if used appropriately, because "any tool which can provide more information about an applicant can be of great benefit to employers" (D. Merley, personal communication, January 28, 2011).

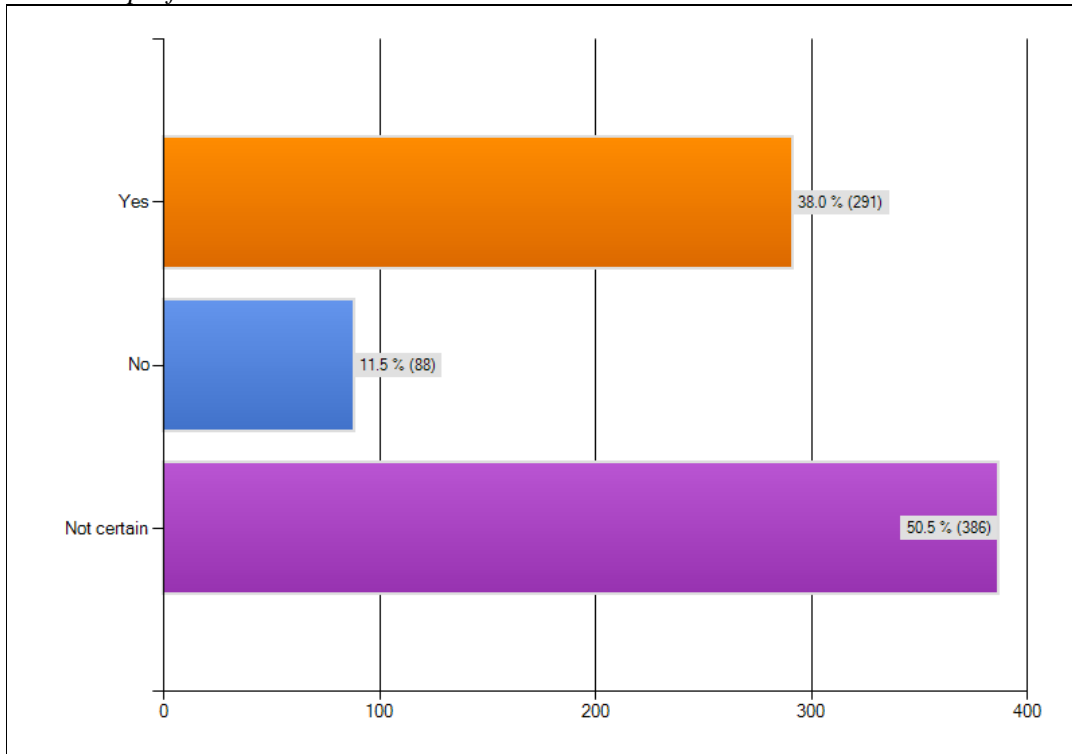
The questionable ethical practice of employer use of Facebook as a tool in the applicant pre-employment screening process is supported by the literature which described this practice not unlike an employer showing up for a party at an applicant's house without an invitation, or rummaging through an applicant's personal home drawers (Phillips, 2007). It also supports several survey findings cited earlier: the NACE 2010 Student Survey which revealed that approximately one-third of the students believed it was unethical for employers to view social networking profiles, the Pew Internet and American Life Project (2009) which revealed 81% of the respondents believed it was unjust to form opinions about individuals based on their online content, and Clark and Roberts' (2010) survey which found 33% of students regarding employer use of social networking Web sites to be unethical.

Question 10.

While responses to some of the questions allude to the legal implications, discrimination, and liability concerns of employer use of Facebook as a tool in the applicant screening process, Question 10 asked employers specifically, *I can find legally-protected information about an applicant on their Facebook profile*. More than half of the employers, 50.5%, indicated that they were *Not certain* if they can find legally-protected information about an applicant on Facebook. Those who answered *Yes* that they can find legally-protected information comprised 38%, with only 11.5% selecting *No*. This means that 88 of the 765 employers responding believe that they cannot find legally-protected information on Facebook (see Figure 8).

Figure 8

Findings to Question 10, I can find legally-protected information about an applicant on his/her Facebook profile.



More than half of the employers, 50.5%, indicated that they were *Not certain* if they can find legally-protected information about an applicant on Facebook. Those who answered *Yes* that they can find legally-protected information comprised 38%, with 11.5% selecting *No*.

This is a noteworthy finding and could have several explanations. One is that employers are not or have not been on Facebook, and therefore do not realize the type of information they can find. Comments submitted to other questions do not support this assumption. Because 50.5% answered *Not certain*, this finding seems to indicate that the respondents may not fully understand or are uncertain about what constitutes legally-protected information, therefore, they chose the answer which most closely represents their position. Comments to the earlier open-ended benefits question, however, indicate that many of the employers know that they are accessing personal information.

As stated earlier, when looking at the responses to the benefits of using Facebook, a main theme emerging from those comments points to concerns about accessing legally-protected information that could then lead to bias or discrimination. This finding may indicate a need for more education and training among hiring personnel about what constitutes legally-protected information and what should not be included in hiring decisions.

Common themes which arose among the respondents were concerns that Facebook as a screening tool is currently unregulated. These comments included:

- “Is illegal and puts the company at risk.”
- “Opens employers to legal risk.”
- “Equal opportunity employment issues – people post more information than required for professional work.”
- “It subjects employer to personal information that could be in a protected class.”
- “May show disability, race, and ethnic background which could be used against the employer.”

- “The risks outweigh the benefits. FB is considered more of a ‘personal domain’ and using it in . . . screening could open employers to legal risk.”

Clearly, employers are concerned about the legality of using Facebook in hiring decisions. Employment law attorney Merley indicated the same, commenting, “The clients with whom I have talked to want their policies to comply with the law. . . They don’t want to violate the law and that’s first and foremost with everyone I’ve worked with in this area.”

Question 11.

A majority, 78.8%, of the employers responded to Question 11, *Check the box which most closely describes your organization and the use of Facebook as a tool in the applicant pre-employment screening process*, that their organization has no policy on the use of Facebook for this purpose. Another way to look at the responses to this question is that the vast majority of respondents, 93%, indicated that they have no organizational policy or are not certain that they have a policy on the use of Facebook as a tool in the applicant pre-employment screening process. Only 4.4% have a policy and the remaining 2.5% of respondents indicated that they are developing a policy. Of those developing a policy, 83% indicated that the policy would *prohibit* the use of Facebook, while 17% indicated that their policy would *require* the use of Facebook.

This is one of the most significant findings from my research. It clearly describes the current environment and where organizations have room to improve with respect to discussing where they stand on this issue, developing and implementing a policy, and monitoring and addressing any inappropriate applicant screening practices involving Facebook. It would be prudent for organizations to put guidelines in place to help hiring

authorities make decisions on the best use of this resource. Organizations that do not have clear guidelines for appropriately assessing candidates may be making illegal and discriminatory hiring decisions.

This finding is in stark contrast to Microsoft's December 2009 survey among human resources professionals where nearly the same number, almost 75%, indicated that they have an organizational policy in place that *requires* them to use Facebook as a screening tool. Because my survey respondents represented a much broader-range of hiring personnel (nearly 13% categorized themselves as human resources administrators with the vast majority holding non-human resources positions such as supervisor, recruiter, and director), the discrepancy might be because my survey respondents may not be aware that such a policy exists in their organizations.

Question 14.

Approximately mid-point of the survey (Question 14), respondents were asked, *How often do you use Facebook as a tool in applicant screening?* The vast majority who responded indicated they do not use Facebook in this way (61% versus 38.9% who do at some level *All of the time, Almost always, Sometimes* or *Rarely*). Among the 762 employers who answered this question, 465 responded that they *Never* use Facebook for this purpose. Those who do use Facebook at some level total 297 respondents (approximately four people out of 10).

If respondents selected that they *Never* use Facebook for applicant screening, they were then asked Question 31, *Indicate the reasons you do not use Facebook as a tool in the applicant pre-employment screening process.* Employers were allowed to select from

a list of 10 response options (as many as were applicable) or to submit their own response. In order of most selected response, the employers indicated that they:

- *Do not want to access information that is not job-related, 64.8%.*
- *Do not want to access an applicant's personal information, 61.5%.*
- *Do not want to introduce the possibility of bias, 58.9%.*
- *Do not want to access private information, 56.3%.*

The next most frequently mentioned responses included:

- *Cannot rely on the accuracy of the information found, 53.7%.*
- *Do not want to access legally-protected information, 48.5%.*
- *I believe the practice is unethical, 39.1%.*

Among the employers who submitted their own response to this question, 18.3%, the key reasons were categorized into themes and are listed below by most commonly mentioned:

- Facebook is intended for friends; professional work relationships are different.
- Facebook is not currently used, only job experience, interviews, references.
- Too much irrelevant information, not a consistent resource.

Other prominent themes included: Do not have time to use, currently developing a policy to use Facebook, and the ability to find private, legally-protected information on Facebook.

As the literature revealed from the Pew Center (2009) research, young adults in particular are more vigilant about monitoring their privacy settings on social networking sites like Facebook. Some of the employers providing comments indicated that they are

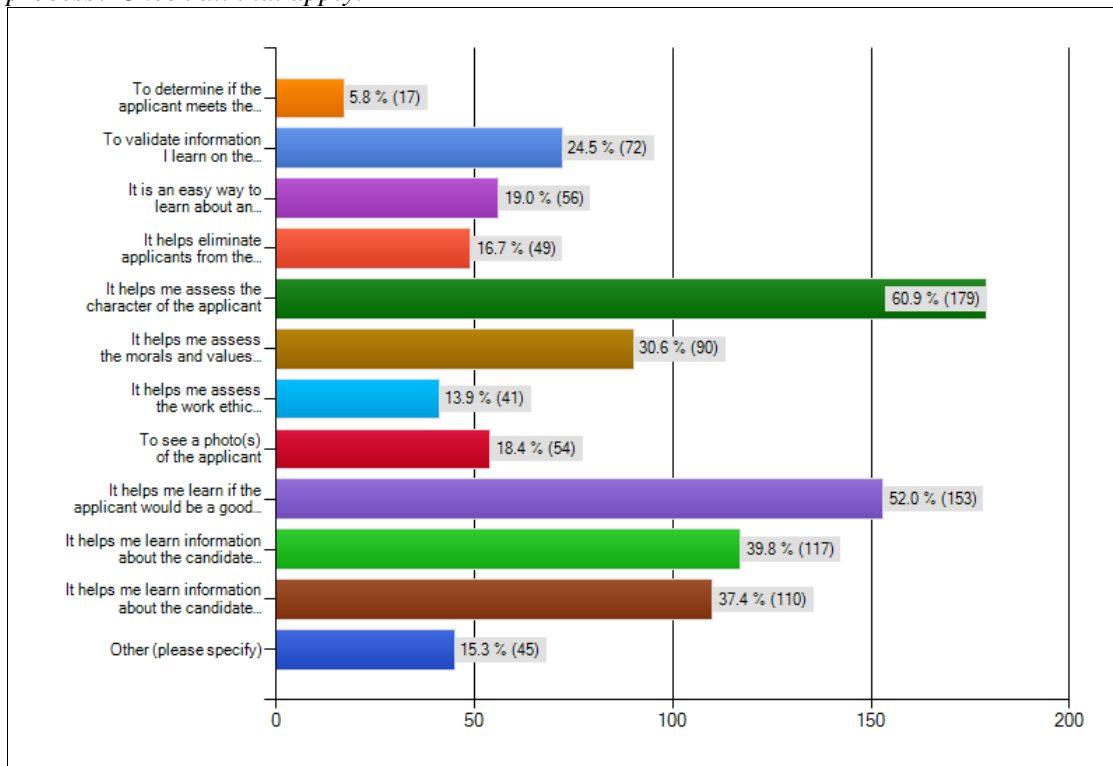
not able to attain as much information on applicants for this reason. Similarly, employers also mentioned that they access Facebook profiles simply to learn about the judgment, discretion, and decision-making process of applicants and to find out if applicants have been thoughtful about establishing their privacy settings.

Question 15.

If employers responded that they use Facebook at some level in the applicant pre-employment screening process (*All of the Time, Almost Always, Sometimes or Rarely*), they were then asked to respond to Question 15, *Why do you use Facebook in the applicant pre-employment screening process?* Multiple responses were allowed for this question (see Figure 9).

Figure 9

Findings to Question 15, Why do you use Facebook in the applicant pre-employment screening process? Check all that apply:



Of those who use Facebook, the main reasons include, *Assess the character of the individual*, 60.9%, *It helps me learn if the applicant will be a good representative of the organization*, 52%, *It helps me learn information not on a resume*, 39.8%, and *It helps me learn information I may not be able to gain through an interview*, 37.4%.

This question speaks to the benefits of using Facebook. What was poignant about these responses was that the most-selected response addressed the advantages of gaining information about the personal qualities of an applicant (i.e., the character, judgment, and professionalism), and this was also cited in the literature review. Employers believe that the kind of individual they hire is clearly an important factor when considering an applicant for a position in their organization. The character of a prospective employee may not be a bona fide job requirement for many positions, yet it is often a critical component to the match of the applicant in the organization, the team with whom the

applicant will work, and the clients or customers with whom the applicant will be expected to interact.

Of those employers who use Facebook as a tool in the applicant pre-employment screening process, the answer options selected were:

- *Assess the character of the individual, 60.9%.*
- *It helps me learn if the applicant will be a good representative of the organization, 52%.*
- *It helps me learn information not on a resume, 39.8%.*
- *It helps me learn information I may not be able to gain through an interview, 37.4%.*

To underscore the importance of character to employers, a University of Minnesota career services colleague illustrated an example. Jennifer Shofner, assistant director of business development in the Graduate Business Career Center at the Carlson School of Management, is aware of at least one employer working with her career center who asks employment applicants to “Friend” the employer before continuing to second round interviews. The employer told Shofner that his company wants to get to know the character of the person considered for employment. This is a close-to-home illustration of the importance to employers of an applicant’s character, and how Facebook allows employers to learn about it (Lory, 2010).

In studies and conversations with thousands of individuals on the critical qualities of leaders, Kouzes and Posner (2007) learned that people expect integrity in leaders. “No matter what the setting, everyone wants to be fully confident in their leaders, and to be fully confident they have to believe that their leaders are individuals of strong character

and solid integrity” (p. 32). As illustrated in this question’s main response, employers emphasized the importance of the character of the individuals they hire, and perhaps similarly, the candidate’s personal reputation. Many of the employers believe that Facebook can help them find this type of information.

Respondents were also allowed to provide additional comments to this question. Similar to what was stated for the benefits question, employers do find Facebook to be valuable for networking, sourcing, and for general hiring purposes, and to see an applicant’s portfolio or to learn contact information.

Two other themes which emerged from the comments, in order of most commonly mentioned, include:

- Assess an applicant’s discretion around making their profile private and their judgment in what they post.
- Ability to get to know applicants personally.

Some of the specific comments around these themes included:

- Access to an “open-ended inquiry” about applicants.
- “Get a feel for who they are and if they understand how to set their privacy settings.”
- “Helps me see how their judgment is in posting things out there for the public to see which carries over to their judgment in general.”
- Find out “if the person tends to go to bars, to learn about past employers, and to see what they say on their status.”

An interest in getting to know who the individual is and what they are like as a person is important to employers who choose at some level to access Facebook profiles.

Using Facebook to understand applicants' free time pursuits (e.g., do they go to bars) and then using that information in the hiring decision is legally problematic, however. With respect to drinking, laws such as the Consumable Products Law (which was also addressed in the literature and is also discussed below in the findings for the attorney interviews), protect individuals from discrimination for participation in legal activities such as drinking and smoking tobacco.

Another theme that emerged from the comments was an interest among the employers for "general information gathering" purposes to understand the chemistry that might exist between the employers and prospective candidates. "Will we click?" said one of the respondents. Another commented, "Shows hobbies, interests outside of work."

Two other themes emerged from a smaller pool of respondents. One was to assess the organization fit of the applicant to ensure s/he was "committed to the work" of the organization, and the other was to "assess applicant's consistency with corporate values."

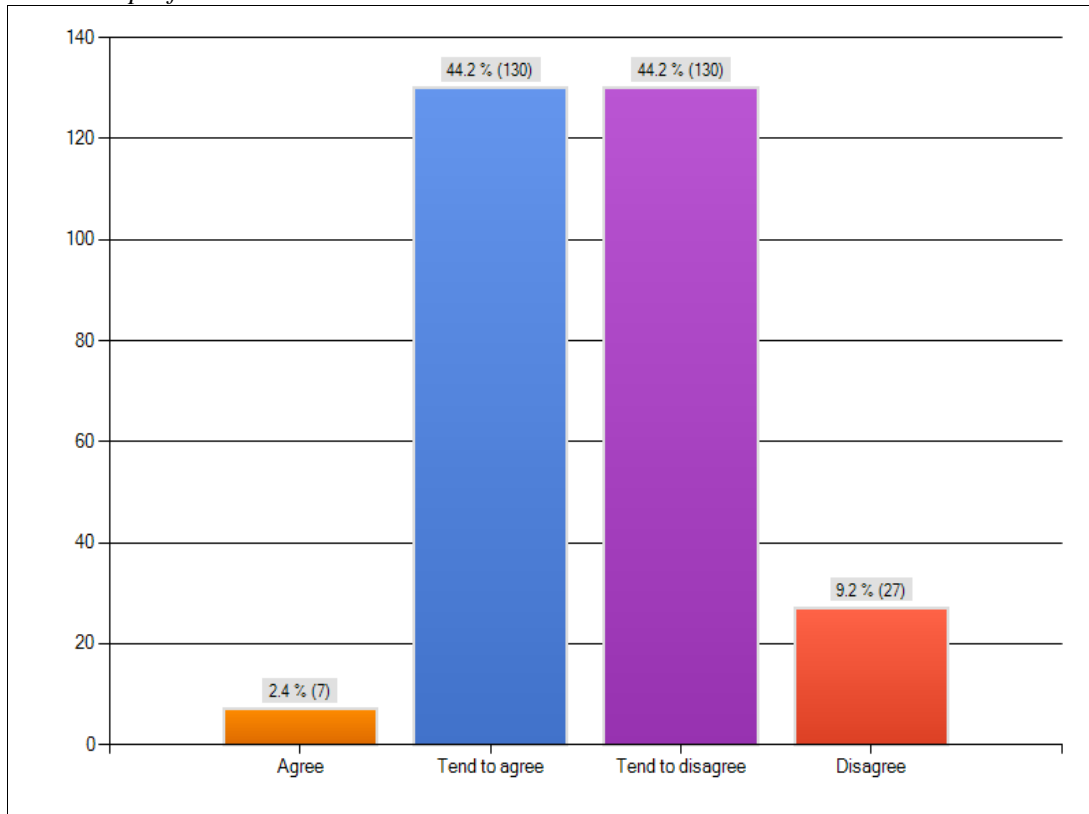
Question 16.

The employers who use Facebook as a tool in applicant pre-employment screening were asked to respond to Question 16, *Poor hiring decisions can be avoided by reviewing an applicant's Facebook profile*. The findings for this question illustrate that employers are predominantly uncertain that reviewing applicants' Facebook profiles enables them to avoid poor hiring decisions (refer to Figure 10). Among the respondents, 88.4% *Tend to disagree/Tend to agree*, and only 11.6% either *Agree or Disagree* that poor hiring decisions can be avoided. It may be used by some employers as a tool to offer additional information or insight to help them make a decision, but it does not carry

that much weight as a single entity for this purpose, nor should it, as interpreted by the comments. Clearly, while perceived benefits exist for using Facebook as a tool in the pre-employment screening process, those benefits may not be significant enough to avoid bad hiring decisions.

Figure 10

Findings to Question 16, Poor hiring decisions can be avoided by reviewing an applicant's Facebook profile.



The findings for this question illustrate employer's uncertainty that reviewing applicants' Facebook profiles enables them to avoid poor hiring decisions. Among the respondents, 88.4% *Tend to agree/Tend to disagree* that poor hiring decisions can be avoided.

Question 18.

On the other hand, in response to Question 18, *An applicant's Facebook profile has negatively influenced a hiring decision in my organization*, the majority of employers, 70.8%, responded *Tend to disagree/Disagree*. Similarly, the employers' response to Question 23, *An applicant's Facebook profile is one factor that has positively influenced a hiring decision in my organization*, the majority of the employers, 64.3%, responded *Tend to disagree/Disagree*. These findings support some of the open-ended comments the employers provided, for example, "I don't let Facebook be the deciding

factor in my hiring process” and “I think Facebook is a useful tool, but I do not think employers should rely on it alone.”

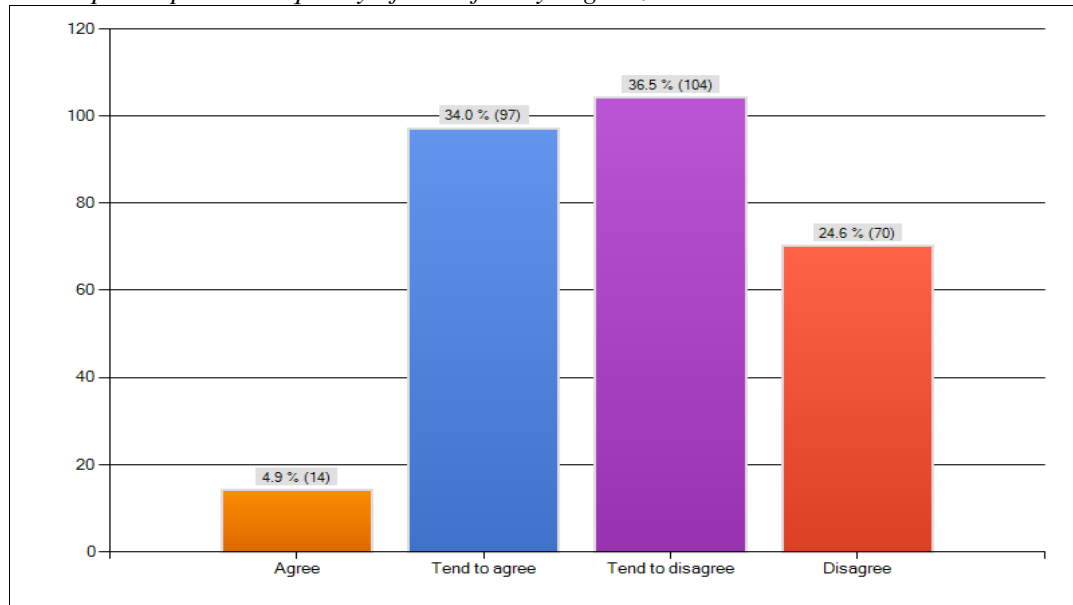
The findings to these questions reveal that, while employers admit that using Facebook can introduce the possibility of bias as mentioned in earlier questions, the employers do not believe that use of Facebook can actually assist or influence their hiring decisions in meaningful ways. These findings are consistent with the ambivalence of responses to Question 1 about the benefits of using Facebook as a tool in the applicant pre-employment screening process.

Question 19.

Similar to Question 16, the majority of respondents for Question 19, 61.1%, indicated that they *Tend to disagree/Disagree* that *Facebook has helped improve the quality of hires in their organization* (see Figure 11). While 38.9% responded that they *Tend to agree/Agree*, only 4.9% fully agree with this statement. Some of the employers believe that Facebook could offer some useful information to aid in hiring decisions, however the majority would not go so far as to say it can actually improve the quality of hires in their organizations. It is one tool but should not be the only tool to use in the applicant pre-employment screening process.

Figure 11

Findings to Question 19, Facebook as a tool in the applicant pre-employment screening process has helped improve the quality of hires for my organization.



While some of the employers believe that Facebook could offer some useful information to aid in hiring decisions, the majority, 61%, *Tend to disagree/Disagree* that Facebook has actually helped improve the quality of hires in their organization.

Employers had the option of submitting comments for this question, and several key themes emerged from 26% of the employers who did. In order of most often mentioned, those themes included:

- Facebook provides additional information that cannot be found in a resume, cover letter, or retrieved through an interview.
- Do not use Facebook in the hiring process; only for social networking.
- Not certain it has helped improve quality of hires.
- Question accuracy of information that is difficult to validate.
- Useful in finding qualified candidates and confirming hiring decision.

Some of the comments submitted by employers supporting the first theme that Facebook provides additional information about applicants include:

- “. . . I can eliminate people that are willing to publicly publish a low standard of behavior. In a client services business we need individuals that can exhibit very positive impressions.”
- “When a student has a professional looking profile and is compared to one who has the ‘party profile,’ it is obvious who will get the interview. Being professional on Facebook is important to our company.”
- “. . . Facebook has helped me understand the person’s background better so that I know how to work better with them . . . things displayed on Facebook have made me hesitant in hiring an applicant.”
- “. . . THEY decide what is public . . . If they have their entire page public with pictures of them drunk, it is their fault and I’m not interested in hiring them.”
- “How an applicant chooses to display themselves in a social networking site has helped me understand their decision-making process.”
- “We base our hiring more on a person’s qualifications and try not to allow the personal life impede on our applicants and employees unless they are behaving in ways that would seriously affect the community’s views and trust of the person.”

Many of the responses to the Likert-style questions seem to suggest that concern for invasion of privacy is a main reason why employers do not use Facebook as a tool to screen. This is supported by open-ended responses that the employers had the option of providing. Interestingly, one theme that emerged repeatedly from the comments on the question, *Use of Facebook has benefits*, indicated that use of Facebook has privacy implications. These comments included: “Facebook in pre-employment screening is a

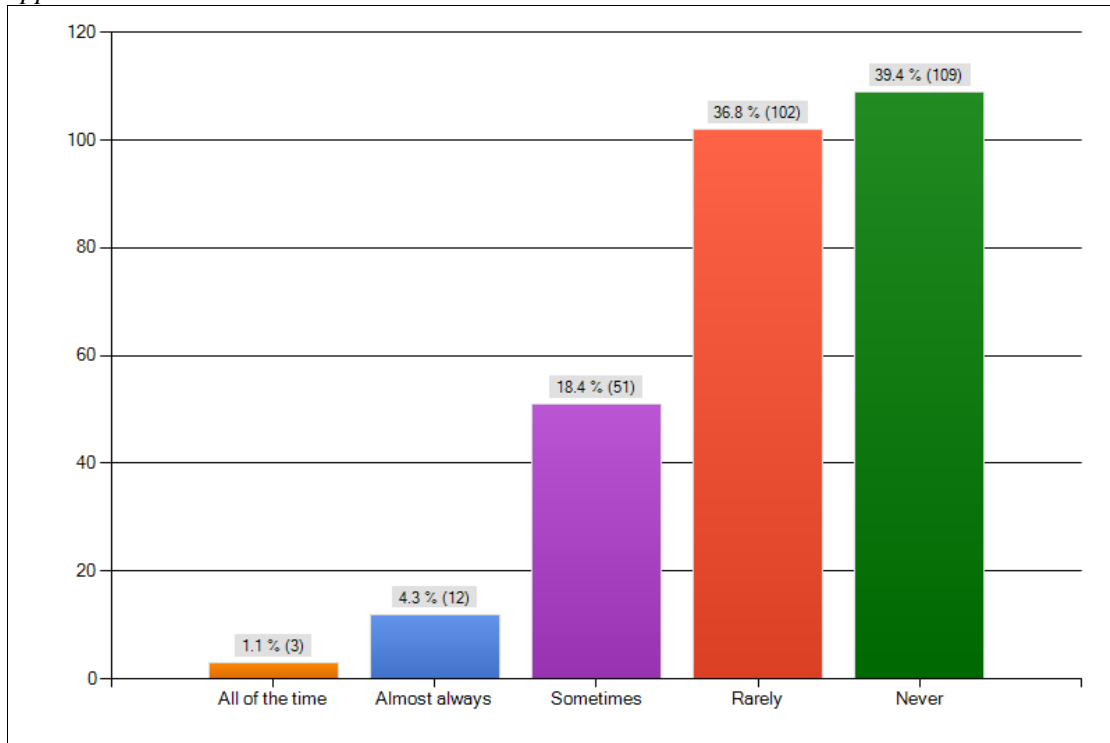
privacy violation,” “protected information employer does not need or want to know,” “personal life doesn’t predict work behavior,” and “intrusive.”

Question 22.

Question 22 addressed specifically the privacy implications of employer use of Facebook as a tool in the applicant pre-employment screening process. Among those responding who do use Facebook as a tool in the applicant pre-employment screening process, only 5.4% stated that they use Facebook *All of the time/Almost always* for this purpose, with 39.4% indicating that they *Never* use Facebook to find private, non-job related information about an applicant (refer to Figure 12). This finding seems to support employer comments provided in Question 1 about the benefits of using Facebook. These comments revealed employers’ concern with accessing legally-protected information that could put an organization at risk, that having non-job related information is unnecessary, and that the possibility of introducing bias or judgment exists by having private, non-job related information.

Figure 12

Findings to Question 22, I use Facebook to find private, non-job related information about an applicant.



Only 5.4% of the employers surveyed indicated that they use Facebook as a tool in the applicant pre-employment screening process *All of the time/Almost always* to find private, non-job related information compared to 39.4% indicating that they *Never* use it for this purpose.

Questions 17 and 21.

The aggregate of two similar questions, Question 17, *Using Facebook as a tool in the applicant pre-employment screening process can introduce unintended positive bias in hiring decisions*, and Question 21, *Using Facebook . . . can introduce unintended negative bias*, show that the overwhelming majority, 97%, feel that use of Facebook as a tool in the applicant pre-employment screening process can introduce some sort of bias. A stronger emphasis is the danger of creating a *negative* bias with 77.6% reporting this, and 57.2% indicating that this activity can create a *positive* bias.

These findings may suggest that employers recognize that they can gather a variety of information about applicants that could inappropriately influence their hiring decisions. In the comments from Question 31, *Indicate the reasons you do not use Facebook*, common concerns expressed by employers with respect to checking Facebook profiles were:

- “Unfair assessment, preconception.”
- “Could be used improperly to judge person’s character based on personal life.”
- “May misrepresent a person’s character.”
- “Sway decisions inappropriately.”

Another theme that emerged related to bias was respondents’ concern that the accuracy of the information found on Facebook is suspect, which could inadvertently lead to unfair bias or judgment that employers expressed wanting to avoid. Comments related specifically to this theme included:

- “I feel employers who look at social media outlets . . . run the risk of creating bias . . . which could lead to discriminatory hiring practices.”
- “Facebook discloses information that cannot be part of the interviewing process and would tend to create a bias good or bad.”
- “Facebook can lead to preconceived decisions on a prospective candidate and cloud objective judgment leading to a possible unfair hiring decision.”
- “Facebook creates bias toward or against the candidate based on their social or personal life.”

- “Facebook as a screening tool sets up an applicant for bias and premature judgment regarding someone’s personality, morality, and skills.”

Three questions addressed informing applicants about the use of Facebook in the applicant pre-employment screening process. Among the employers who do use Facebook for this purpose, the majority, 63.6%, indicated that they *Never* inform applicants that they engage in this practice. A subsequent question asked, *At what point in the recruiting process do you inform applicants*, and the majority of the respondents, 56.7%, indicated either *No set time – it varies* or *Not sure*. A following question asked, *My organization requires written permission from the applicant to use Facebook*, and the majority, 63.9%, indicated that they *Never* require written permission.

One interpretation of these responses may be that by telling applicants that their Facebook profile will be reviewed is counter-productive to the employers’ purpose for accessing the profile. If the applicants’ privacy settings are more liberal with certain content, or if photos or other information are viewable that an applicant would rather an employer not see, then a forewarning allows the applicant the opportunity to either change, delete, or conceal content.

These responses could also indicate the intent of employers’ use of Facebook as an applicant pre-employment screening tool, and therefore one of the inherent ethical implications. An employer may not be completely transparent by failing to inform applicants that they use Facebook as a tool in the applicant screening process.

It may also suggest that employers do not want to admit to this practice. It is not unlike the earlier discussion about the importance of Facebook users managing their online personas: Do not publish anything you would not want your mother to know.

Similarly, do not engage in activities that you would not want to admit to someone else. According to Kouzes and Posner (2007), honesty emanates as the most critical element between leaders and those with whom they engage. People follow leaders who are “truthful, ethical, and principled” (p. 32). Just as character was cited by the employers in the survey as an important quality for applicants to possess, Kouzes and Posner’s (2007) research revealed that “integrity and character” were also named as key traits that people expect of their leaders (p. 32).

Perhaps an organizational policy is establishing the expectation that, as part of the application process, applicants are informed that Facebook profiles will be reviewed. It speaks to the importance that an organization places on a prospective employee’s online persona, and this type of policy keeps the employer/applicant relationship more transparent.

The concluding portion of the survey asked the employers who use Facebook as a tool in the applicant pre-employment screening process, 39%, to respond to their specific practices. The vast majority, 96.4%, have never withdrawn an offer of employment based on what they learned on Facebook, 91.7% have never requested that applicants “Friend” them in order to get more information, 89.5% have never asked others to access the Facebook profiles of applicants with whom they do not have access, and 77.2% tended to disagree or entirely disagree that they have not considered an applicant due to information gathered on Facebook.

Interviews with the Attorneys

The second part of the research included the two interviews with privacy attorney, Bill McGeeran, and employment law attorney, Dennis Merley. Both attorneys were

asked the same questions, in addition to one or two questions specifically related to their area of legal expertise.

McGeveran is a faculty member with the University of Minnesota Law School. The primary legal focuses of McGeveran's scholarly work includes privacy law as it pertains to the Internet and intellectual property, especially trade mark law, with a focus on modern social media Internet communications. Employment law attorney and Minnesota State Bar Association Labor and Employment Specialist, Merley, is with the law firm of Felhaber Larson Fenlon & Vogt. Merley works with clients in a wide-range of industries, primarily in the private sector, and provides legal representation to most of the Twin Cities healthcare organizations. He represents management on an array of workplace issues including discrimination claims and policy development.

Both McGeveran and Merley are familiar with how Facebook functions and both have had personal profiles on Facebook since the Web site became accessible to the general public. McGeveran describes himself as a "very active" user of Facebook who checks it several times a day. He uses it for both personal and professional reasons and is vigilant about utilizing his privacy settings, keeping most of his content for "Friends Only." He said, "On the spectrum, I'm relatively private." (B. McGeveran, personal communication, January 26, 2011)

With respect to his Facebook profile, Merley said that he uses privacy settings but was unable to identify specifically how he is using them. He said that he knows what his profile looks like from the perspective of someone who is not his Facebook Friend. Merley admitted, "I'm not a big privacy guy," so his Facebook privacy settings, while

important, are not as top of mind for Merley as one would describe them being for McGeveran. (D. Merley, personal communication, January 28, 2011)

Both attorneys were initially asked to provide a definition of privacy and then specifically, privacy as it relates to the online environment of Facebook. McGeveran explained that defining privacy “is complicated because it is not a single unified explanation.” McGeveran said privacy is a “cluster of different ideas, and these ideas have family resemblances.” He defines privacy in terms of context and expectations in that individuals act differently in different situations. For example, we might act one way in a social situation and another way in a different setting. Depending on the environment, we play different roles. Privacy is “not an absolute rule,” but a presumption that we respect the boundaries of those different settings.

To take this definition one step further, when someone is acting in one capacity, McGeveran said that we do not take information or impressions from that capacity and move it over into a different context, “at least without good reason.” It is this part, said McGeveran, where it gets complicated.

Privacy and the online environment of Facebook presents what McGeveran describes as a challenge to “contextual integrity” because you are communicating to a lot of different people that you know in a lot of different ways. McGeveran added that “no real world situation exists in which so many different kinds of relationships are lumped together” the way they can be on Facebook. Depending on how a person has set his/her privacy settings, s/he may be communicating to the wider world, too. The particular challenge, said McGeveran, is that “Facebook puts all of these different people together and makes more widely available and more permanent and sometimes searchable content

that under past technology was ephemeral.” At the same time, Facebook’s interface has made it easier for an active user to take steps to maintain context specific interactions.

Merley defined privacy as “a set of expectations that one can have about what other people should know” about the individual. Those expectations are based on “one’s personal desires and an understanding of what society is willing to protect.” A person has to have certain reasonableness to his/her expectations of what is or what is not going to be private. This is where the grey area comes in as to what a person wants private versus what is reasonable to expect will be private.

With respect to Facebook, privacy is “fair game,” said Merley, “If you are intentionally online then whatever you put online you ought to expect that at least one other person will be able to access that content either because that person can or because you make mistakes” (e.g., you do not understand the privacy controls). Merley added, “if people want something to be private, they have to act as if it is private.” The best way to do this is not to say or do anything that you want other people to know about.

At the same time, Merley said that with Internet privacy, the law is going to protect individuals. Merley thinks it is unfair, however, to expect that anything a person says or does can be private online when there are so many ways for it not to be. He asked rhetorically, “How can you think something is private when you’re willing to share it, even just one other person?”

The attorneys were also asked if Facebook users have a right to privacy on Facebook and if so, under what conditions or situations. Both McGeeveran and Merley had similar responses. McGeeveran recommended that individuals do not put anything

online in any context including Facebook that they do not have at least some expectation that it might go someplace unexpected.

“In the current world we live in, you should be careful whatever you put in black and white,” said McGeveran, however, “there are ways in which we should have more either legal or cultural boundaries around the way that people use that kind of information that is on Facebook.”

Merley’s comments echoed McGeveran’s. Merley said that privacy on Facebook is matter of expectations. Facebook users “have a right to expect that whatever the product owner says will be private will stay private.” Beyond that, and until the law develops further, no one has a right to expect that their information is going to be private on Facebook. User expectation is subject to people doing things they are not supposed to be doing.

The attorneys were asked to comment on the practice of employer use of Facebook as a tool in the applicant pre-employment screening process. The attorneys’ comments and reaction to the question were slightly different.

McGeveran said a body of laws and best practices exist about what kind of information one can legally obtain and interview questions that can be asked that are designed to prevent discrimination and protect a person’s privacy. Unless someone is hacking into a Facebook profile, not much legal restriction exists for this practice provided that employers have authorized access to what they are seeing and the information is left exposed. McGeveran added, “We are talking about what the law is, not what the law ought to be.”

Merley was quick to respond to the question saying, “Perfectly fine.” Merley said that using Facebook in this way is like any other pre-employment screening device. It can be effective and valuable if used properly and if the information obtained is evaluated appropriately. It can be used for improper screening as well.

The attorneys were also asked for their personal opinion on the practice. While their basic philosophy is the same, McGeveran was more cautious in his response, saying, “It depends.” McGeveran contends that for certain employees who are legitimately “public-facing, whose personal and professional roles are going to be melded together in a way that if they are engaged in embarrassing behavior that is visible to the world, then that is a problem and a lot more legitimate” for employers to use as a screening tool.

What becomes a concern is when Facebook is used to make “snap judgments” about what someone is going to be like as an employee. Employers may question if a difference exists between a person’s Facebook presentation and his/her on-the-job performance. “Making inferential leaps is problematic,” said McGeveran. A Facebook user who shows poor judgment and makes a decision to share certain information to the wider world may create a legitimate reason for an employer to think about.

Merley indicated that his personal opinion on the topic is the same as his professional opinion. Using Facebook as tool in the applicant pre-employment screening process “can be valuable as long as people understand what they are looking at and are just using it as a tool rather than as a determining factor.”

The attorneys were also asked if a Facebook user who is also an employment applicant has a right to privacy on Facebook. The attorneys had similar responses. McGeveran said that users have “no categorical or legal right” however, if a user sets

his/her privacy settings to “Friends Only,” then only friends should have access to the user’s page unless someone is “hacking” in. In other words, if a user has strong privacy settings, s/he should have expectations that employers are not trying to violate that boundary. At the same time, users should also understand that “information moves around.”

Merley contends that according to the law, and as a matter of expectations from Facebook, a user has a right to privacy protection to the degree of privacy that was selected. “But I’m squarely in the camp that if you have made this information available you have to expect that it will be accessed.” Merley believes that many ways exist to gather lots of information about someone and getting a look at the whole person, and Facebook is one such way. The best advice is, if you don’t want your secret divulged, do not tell anybody. At the same time, if a person accesses another’s profile, it is important to use that information appropriately. Merley believes that in the future we are going to see greater privacy protections afforded to people than we do now.

Similar to the online survey, the attorneys were asked to provide feedback to the statement that benefits exist with employer use of Facebook as a tool in the applicant pre-employment screening process. Both agreed to the statement, yet McGeveran specified some parameters. McGeveran said, “For certain kinds of jobs where the public face of the employee matters it may be a useful and legitimate thing for an employer to look at, if it’s available.” Merley gave an affirming “yes” to this question, adding that using Facebook for this purpose provides employers with “more information and a better understanding of the totality of the person you are considering.”

When asked about legal implications to the use of Facebook as a tool in the applicant pre-employment screening process, both attorneys described potential dangers. Merley said, “Like any other pre-employment screening device, you run the risk of discrimination claims if you have accessed otherwise protected information. You run the risk of somebody claiming that their expectation of privacy was breached.” McGeveran warned of the legal implications if employers were to take inappropriate steps to access someone’s profile, or if an employer commits a ‘tort,’ which is explained below. The latter case is typically rare, however.

The attorneys were also asked if a potential exists for discrimination when employers use Facebook as a tool to screen, and both said “absolutely.” Discrimination can occur when legally-protected categories are used in making hiring decisions, such as sexual orientation, health condition, disability, or pregnancy. Facebook can also help employers learn characteristics about an applicant that is irrelevant to job performance and “should be off the table when thinking about it for any job,” said McGeveran.

Merley added that an individual has the ability to gather “just another bit of information that will allow a person to make a bad decision.” Facebook is no different than all of the other tools hiring personnel can use to screen applicants. It can be used effectively or improperly.

Merley clarified that the goal is to make the same decisions one always would based on legitimate and lawful factors, abiding by good HR policies, and training employees. Employers should assess the fit of the person to the job, the job expectations, the required experience and education, and organizational fit. The key factor with using Facebook understands what information can be found that complies with the law and

what is extraneous. Just because more information is available does not make screening practices different. “It just means our work is more arduous,” said Merley.

Like the employers, the attorneys were asked to give feedback on whether or not it is ethical to use Facebook as a tool in the applicant pre-employment screening process, and their responses differed. McGeveran said, “It depends,” and indicated that the context can determine whether or not the activity is ethical. The main difference is “whether or not you are using Facebook to understand the person’s judgment or how s/he presents him/herself publicly, versus using it to reach assumptions” about the applicant. “This is a difference of ethics or best practices or wisdom.”

On the other hand, Merley said that absolutely it is ethical to use Facebook for this purpose. “If I am going to post something on the Internet I have to expect that somebody is going to read it and it may be somebody that I don’t intend to read it or even want to read it.” Merley said if the information is available online then it is ethical to search for it. At the same time, Merley was clear that appropriate use of information obtained from Facebook is important to ensure an employer is not using the information to discriminate against employment applicants. The following section highlights several laws, acts, and policies which may be implicated by inappropriate use of Facebook as a tool in the applicant screening process.

Laws, Acts and Policies.

The goal was to learn from the attorneys if various laws and policies are violated through employer use of Facebook as a tool to screen, and to gain their expert advice and validate or refute the review of the literature. Given their area of expertise, the attorney(s) were asked to briefly explain their understanding of these laws, etc., to

determine if employer use of Facebook as a tool in the applicant pre-employment screening process was in violation.

- *Equal Employment Opportunity*: As addressed earlier in the literature review, Equal Employment Opportunity guidelines could be violated through employer use of Facebook as a tool in the applicant pre-employment screening process although inherently it is not, said Merley. A similar abuse would be the Minnesota Human Rights Acts. Employers should not be accessing legally-protected information for use in an employment decision. It is not illegal for employers to have the information, but it is illegal for employers to use the information to discriminate against applicants in hiring decisions. Most organizations should avoid having legally-protected information as it increases the potential for an applicant to claim discrimination, or at least expose the employer to possible claims of discrimination.
- *Common Law to Privacy*: Also referred to as invasion of privacy tort, this is a wrong recognized by a court of law. Minnesota law recognizes three categories of actions in which privacy is violated. These categories include intrusion on seclusion, publication of private facts, and appropriation of one's image, likeness or identity. The possibility exists for an applicant to claim that his/her privacy was invaded but these cases can be extremely difficult to prove. Merley was not aware of any lawsuits in which an employment applicant alleged breach of privacy by an employer during the pre-employment screening process. In general, the best course of action reiterated by both attorneys is that Facebook users should not put anything online that they would not want even one other person to access.

- *Computer Fraud and Abuse Act (CFAA) and Stored Communications Act (SCA):* Both of these acts can be implicated if employers use Facebook inappropriately such as circumventing controls or online protections to gain unauthorized access to a users' information. The goal is not to disrupt a person's reasonable expectations that information will be private. CFAA would be violated if an employer were to "hack" into a Facebook user's account. The SCA is an "anti-eavesdropping" act that would be implicated if an employer were to go to great lengths in an attempt to gain access to inaccessible information. Based on the employer survey findings, less than 10% *Sometimes/Rarely* ask or have asked others to access an applicant's Facebook profile.
- *Lawful Consumable Products Act:* This act has the potential of being violated if employers are discriminating against applicants because their Facebook profiles show them using lawfully consumable products such as alcohol or cigarettes. Because both products can be legally consumed, employers could find themselves facing possible legal liability should they discriminate against individuals they see in photos using those products, or associated undesirable behaviors they see with lawful consumption of alcohol.
- *Facebook Statement of Rights and Responsibilities:* As described in the literature review, parts of this Statement could potentially be violated if Facebook were used to discriminate against users. McGeveran said that employers who violate these principles will not face legal consequences, however, it is unclear what Facebook would do if an employer were to violate the principles in employment decision situations.

Merley commented specifically to questions related to his clients' use of Facebook as tool in the applicant pre-employment screening process, and the kind of

legal guidance his clients are seeking. Merley does not know how widespread the practice is among his clients, but he does believe the practice is growing. When clients have contacted Merley to inquire about using Facebook as a tool to screen, their questions have centered on: Can we do it? Should we do it? Would it help me? What are other people doing? He said that his clients' main goal is to have a policy that complies with the law.

The attorneys were also asked to offer their recommendations or suggestions for employers on the use of Facebook as a tool in the applicant pre-employment screening process. Both offered similar advice.

McGeveran cautions employers from using Facebook just because it is available. He thinks that time spent "digging into the personal habits of future employees is intrusive, labor intensive, and unnecessary." He says it is too easy to misunderstand what is on Facebook because it is a totally different context and the information might not be relevant to most jobs. At the same, for certain positions, using Facebook may be appropriate. If it seems appropriate to use, the distinction should be how a person presents him/herself versus what the person is like.

Merley echoed McGeveran's position. He encourages employers to have a policy that explains what lawfully attainable, usable, and job-related information is being sought and to use Facebook like any other tool you might use for applicant screening. He recommends disclaiming any interest in legally-protected information (race, creed, religion, political affiliation, union membership). Merley also encourages employers to train their employees on how to screen properly and to "separate the information gatherers from the decision-makers." He said it is important for employers

to explain to applicants that it not their intention to obtain private information or to circumvent legitimate protections for privacy.

Both McGeveran and Merley cautioned employers from drawing conclusions or over-analyzing information gleaned from Facebook because it is too easy to get the wrong idea about an applicant. Not giving candidates an opportunity to explain the context of something seen/read on Facebook could be a mistake ethically. By not giving an applicant the benefit of the doubt, an employer could potentially lose a good candidate.

The Future.

Finally, the attorneys were asked what the future holds for the practice of employer use of Facebook as a tool to screen, and if they believed that laws or regulations will be established that dictate restrictions for this practice. Both attorneys said the future is difficult to predict because this environment is an explosive area of technological growth. Both attorneys think that privacy is an important issue for many people and will play a bigger role in the future.

“I think the general trajectory of privacy law is pointing toward greater protection,” said McGeveran. “I think we can expect to see more regulation of how personal information is collected, processed, and used.” McGeveran said that since Facebook has only been around for five years the technology is still very new.

“It takes time for society to develop norms about using it but in time, society will,” added McGeveran. In the near future “there will be consensus around ‘an employer should never do’ or ‘of course an employer can,’ but I don’t know how to finish those sentences yet.”

Chapter 5: Summary and Future Research

With the birth of the Internet and Web 2.0 technologies such as Facebook, hiring personnel now have the ability to search online and gain potentially vast amounts of information with ease about employment applicants. Employer use of Facebook as a tool in the pre-employment screening process of applicants is one way for employers to conduct a type of background check on prospective employees. This practice can be beneficial to employers because it can be a fast, easy, and efficient way to expedite hiring decisions, especially when one job opening can yield potentially hundreds of resumes.

Employers have the ability to learn a great deal of information about applicants that may help assess the applicants' suitability for a position and fit within the work environment, and may help determine if s/he will be a good representative for the organization and its customers. Information an employer might learn about an applicant could help the employer avoid potentially costly and negligent hiring decisions and therefore, protect the best interests of an organization and its key stakeholders. Currently, this practice is unregulated and no laws are established in Minnesota to govern employer use of Facebook as a tool in the applicant pre-employment screening process.

At the same time, several potential dangers exist when Facebook is used as a tool for pre-employment screening of applicants: Information obtained can be legally-protected, private, and/or is not deemed job-related. Ethical implications exist because not all applicants have Facebook profiles and information retrieved is potentially unreliable and inaccurate. Therefore, the practice has the potential for introducing judgment, bias, or discrimination into hiring decisions.

Through a literature review, an online survey among a wide-range of hiring employers, and interviews with both a privacy and an employment law attorney, the goal

was to answer this research question: How can employers optimize the benefits of using Facebook as a tool for pre-employment screening of applicants while managing the ethical, legal, and privacy implications?

Several main ideas and themes emerged from the original research, and much of it was supported by what was learned through the literature review. While the majority of the employers surveyed do not use Facebook as a tool in the applicant pre-employment screening process, more than one-third indicated that they do use it on some level for this purpose. Survey respondents expressed the inherent dangers of this practice because of access to personal, legally-protected, and non-job related information, as well as the risk of introducing bias. Most of the employers also do not have an organizational policy on the use of Facebook.

The attorneys' perspective was not dissimilar from the survey respondents. The attorneys also offered practical guidance for employers operating in or thinking about operating in this environment. The main themes from those interviews are highlighted below:

- Facebook has established various privacy settings so that users can decide what content is viewable and to whom. Users have the responsibility for establishing privacy settings and for taking steps to ensuring protection of what information they want private. Users also incur the risk of others accessing content (on their profile or others' profiles) that is not protected. As long as legal means are used to access that content, nothing prevents hiring employers or others from accessing publicly viewable content. The best advice to Facebook users: If you do not want information to be shared, it is best not to put it online. The multiple relationship

framework of Facebook and the potential for information obtained on Facebook to be moved or used in another environment is real. This reality can be problematic for those who feel privacy should be honored for what it is within the context in which it originally exists.

- The employers who responded to the survey were nearly split in their opinion that use of Facebook as a tool to screen has benefits. Facebook could offer employers insight into the character of the applicant they are considering for employment, but using Facebook could also provide employers with more information (e.g., legally-protected, non-job related) than is needed to make a hiring decision.

While the employment law attorney was more definitive that Facebook should be used as a screening tool for employers (to enable employers to learn as much as they can about a prospective employee), the privacy attorney was less so, and responded that for most positions, using Facebook for this practice is unnecessary.

Some of the employers and the privacy attorney indicated that for certain “public facing” positions, it might be wise for an employer to use Facebook as a screening tool. In Minnesota, employers can legally use and in some cases should use Facebook as a tool in the applicant screening process to ensure an applicant is the right fit for a job. Both attorneys warned and many employers responding to the surveyed indicated that employers could be liable for discrimination and violate other laws if the information obtained from Facebook is not used appropriately.

- The employers and the attorneys were split in their opinion on the ethics of using Facebook as a tool to screen. Like many of the employers, the employment law attorney was definitive in saying that employer use of Facebook as a tool in the

- applicant pre-employment screening process was ethical because Facebook is in a public domain and potentially accessible to employers. The privacy attorney, however, questioned the legitimacy of using Facebook in this way, except to understand the judgment of an applicant or how one presents oneself publicly. Some of the employers indicated a clear benefit of being able to understand an applicant's discretion and decision-making with respect to their online content and how they utilized privacy settings. Both the employers and the attorneys warned of the danger of making assumptions and hasty decisions about applicants based on information found online.
- Facebook can (and in some cases may be beneficial to) be used by employers as a tool for applicant pre-employment screening, but it must be used appropriately and with caution, just as employers use any other screening tool to assess applicants. Organizations should have a policy that outlines appropriate use and they should also avoid using information that is legally-protected or is not job-related. Using Facebook to do anything that violates privacy or circumvents controls to gain information is illegal. The best screening process also separates the hiring information gatherers from the hiring decision-makers.
 - Finally, it is important for employers to keep the information found on Facebook in perspective. Employers should give people the benefit of the doubt and not overanalyze information. If employers learn something on Facebook that is questionable, they should not immediately pass judgment; doing otherwise could remove a good applicant from employment consideration. The best advice to employers is to make the effort to further investigate questionable information.

Several of the employers commented: “If the image on Facebook of the candidate is markedly different than that portrayed on a social networking web site, it merits further analysis,” and “. . . if I saw something negative on Facebook, I would bring [the applicant] into an interview and question him further before deciding.” This is the type of additional research the attorneys encourage employers to do, rather than making quick assessments based on what one employer described as “party profiles.” Doing otherwise is unfair and unethical.

Future Research

My research revealed that the majority of employers do not use Facebook as a tool in the applicant pre-employment screening process. We do not know what the future holds with this practice and how and if it might change. From his experience, employment law attorney Merley thinks the practice is growing. Higher education career services professionals and others who counsel job seekers will want to stay alert to this topic, and continually converse with the employment community about their practices.

Because the practice of employer use of Facebook as a tool in the applicant pre-employment screening process is relatively new, one area of future research is to determine the long-term benefits and liabilities to organizations of engaging in this practice. In particular, research may examine how leaders make decisions around this practice and similar practices when the benefits may seem to equal or even outweigh other implications such as legal, discrimination, and privacy violations. As other countries enforce and implement changes to their online data privacy policies, research to assess the impact on those decisions and what the United States can learn from those

decisions will perhaps be instrumental in shaping future laws of greater privacy protection in this country.

Another area where further research is needed is an examination of how this practice can be effectively monitored and the impact on organizations when policies are lacking or ignored. Similarly, a suggestion addressed in the literature review was that the Federal Credit Reporting Act (FCRA) could be extended to protect applicants from employer searches of social networking Web sites such as Facebook as a form of background check. Currently, employers can perform background checks of applicants using Facebook without notifying or gaining applicants' approval. Amending the FCRA would be similar to other countries' laws that enforce greater data privacy protection for users of social networking sites. Monitoring the impact of greater data privacy protections afforded to online users in other countries may provide guidance for legislation in the United States.

Finally, continued examination and discussion of the impact of the ethical implications of the use of Facebook as a tool in the applicant screening process is important. Leaders who value leading ethically will benefit by incorporating an ethical perspective into their hiring processes and as expectations of their hiring personnel.

Chapter 6: Summary of Recommendations

As discussed in the interpretation of the data from the online survey and the interviews with the privacy and employment law attorneys, the research findings revealed that employers may gain some benefits by using Facebook as a tool in the applicant pre-employment screening process. Any tool that provides more information about applicants to help make better hiring decisions, if the information is accessible and used appropriately, is something that employers may find valuable in using.

However, challenges arise when the information that is gathered from Facebook and used in hiring decisions is legally-protected, private, and used to discriminate. With no laws or regulations preventing or guiding this practice, legal, privacy, and ethical implications exist. This finding was evident in the literature review, as was the concern for accessing non-job related information and making unfair judgments about applicants. The employers surveyed and the attorneys interviewed agreed that this can be problematic in using Facebook.

Ethical leaders and organizations will think carefully about this practice and develop law-abiding policies. Doing so will bring value to organizations and its stakeholders because it helps build transparency and honesty, and sets the stage for what behavior is expected. As ethical leaders in this unregulated environment, we have the opportunity to both abide by the law and commit to what Kouzes and Posner (2007) contend is a critical leadership practice, Model the Way. When we commit to the practice of Model the Way, our beliefs are steadfast and our values unchanging. Leaders spend time clarifying their values because values “influence our moral judgments, our responses to others, and our commitments to personal and organizational goals” (Kouzes & Posner, 2007, p. 52). Values guide one’s day-to-day actions, and are especially

important in situations that are not black and white and which can test an individual's choices. Using Facebook as a tool in the applicant pre-employment screening process is one such situation. When leaders establish and follow their values, they model their expectations and show others what is important to them. "Leading by example is how leaders make visions and values tangible" (Kouzes and Posner, 2007, p. 75). If leaders want others to behave in certain ways, they must consistently practice the type of behavior they expect of others.

In reviewing the findings from both the online survey and interviews with the attorneys, five recommendations are offered for employers who use or are thinking about using Facebook as a tool in the applicant pre-employment screening process:

First, develop a policy about the use of Facebook. The survey findings revealed that the vast majority (93%) of employers do not have a policy or are not certain that they have a policy which dictates their use of Facebook in the applicant pre-employment screening process. An important first step is for organizations to begin discussing their position on this topic and establishing expectations of appropriate use (or prohibiting use) of Facebook for this purpose. Having a policy can protect the company from the behavior of its employees.

If Facebook is used, the policy should: dictate who in the organization can use Facebook in the applicant screening process (e.g., assign one person to this responsibility and therefore separate the information gatherers from the hiring decision-makers), describe when (e.g., after the applicant is interviewed) Facebook should be used for screening and when it should not be used, specify that any illegal measures to gain

information is prohibited (e.g., “hacking” into computers, asking applicants for profile usernames/passwords), and give applicants the benefit of the doubt.

This process should also include a notice to applicants that the organization uses Facebook as a tool, when it will be used in the application period, and that only job-related information will be considered. Further, employers should seek additional information from applicants when questionable information is found on Facebook so that hastily-made hiring decisions are prevented and qualified applicants are not eliminated from consideration. Employers should also ensure the practice is the same for all applicants. Finally, employers should thoroughly and consistently document the screening process for all applicants.

Second, develop and deliver legal hiring training. Whether an organization decides to use Facebook as a tool in the applicant screening process or not, all hiring personnel should be trained on what is legally-protected and private information so as to avoid legal liability and discrimination of employment applicants. Conducting (and requiring) refresher training for current hiring personnel would also be valuable to ensure current laws are reviewed and followed. Employers should learn about laws such as the Computer Fraud and Abuse Act (an anti-hacking law) and the Stored Communications Act (an anti-eavesdropping law), as well the Consumable Products Act, which forbids discrimination on the basis of legally-consumable products such as alcohol and cigarettes.

Third, review recruiting policies. As part of human resources best practices, hiring personnel should review and understand guidelines like the NACE Principles which can provide legal and non-discriminatory recruiting guidelines. Employers should stay up-to-date on any changes to these policies. In addition, organizations would be

well-advised to consult legal guidance in understanding and following all laws and policies related to applicant hiring best practices.

Fourth, incorporate a discussion about ethical leadership. As part of the policy discussion, organizations will benefit from talking about this practice from an ethical standpoint. Organizations may want to take into consideration their policies and practices regarding their code of conduct and/or values. How does this practice support or refute these codes of conduct or values? Does this practice impact current and future constituents and if so, how (e.g., employees, clients and other stakeholders)? This is where further research is prudent to fully understand the long-term impact on organizations, on building trust, and the implications on privacy.

Finally, continue dialogue and learning. Because technology is ever-changing, it is important to stay current, especially as it pertains to any new laws or regulations related to pre-employment screening. Employers are encouraged to regularly read professional literature, attend and contribute to conferences on the topic, and learn from and converse with other employers as well as legal and career professionals.

In conclusion, use of Facebook as a tool in the applicant pre-employment screening process is practiced by less than half of the employers surveyed. The majority does not use it, but nevertheless, nearly half think benefits exist to using Facebook in this way, and the majority thinks that it can be valuable or worthwhile to use it for this purpose at least in some circumstances.

Even though the majority of employers surveyed do not use Facebook for this purpose, it is not a reason to ignore the topic, especially for those organizations which lack policies around its use. The survey found that the majority of the employers do not

have an organizational policy in place. One day, laws or regulations may be developed that dictate how hiring personnel will be expected to operate in this environment. As the attorneys interviewed predicted, the United States *will* reach the point one day of greater privacy protection and greater regulation of Facebook for this activity. Until that time, the future is unclear, and part of that uncertainty is because technology is changing rapidly. During this period of ambiguity and non-regulation, hiring personnel have the opportunity to think about their ethical obligations to current and future employees. As one survey respondent said about the practice: “It’s not nice. The Golden Rule can be applied here.”

Clearly, the overwhelming majority of employers indicated that it is unethical to use Facebook as a tool to screen. In development of an organizational policy around this practice, Effective, Ethical and Enduring Leadership (White-Newman, 2003) calls for incorporating an ethical component and one that supports an organization’s code of conduct or values.

References

- Anderson, S. R., & Truso, N. A. (2010). Hiring basics: Best practices and legal guidelines. In *Employment law handbook* (Vol. 1, pp. 1-11). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Bevis Langerin, J. A. (2010). Basic employment law and practice. In *Employment law handbook* (Vol. 2, pp. 1-28). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Bolter, H. L., & Merley, D. J. (2010). Reverse networking and un-friending – Using Google, Facebook and other searches to screen potential employees. In *Employment law handbook* (Vol. 2, pp. 1-20). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Boyd, D. M. (2010). *Social network sites as networked publics: Affordances, dynamics, and implications*, pp. 1-18. Retrieved from <http://www.danah.org/papers/2010/SNSasNetworkedPublics.pdf>
- Boyd, D. M. (2010, August 26). *Regulating the use of social media data* [Web log post]. Retrieved from <http://www.zephoria.org/thoughts/>
- Boyd, D. M., & Ellison, N. (2008). Social network sites: Definition, history, and scholarship. *Journal of Computer-Mediated Communication*. Retrieved from <http://onlinelibrary.wiley.com/doi/10.1111/j.1083-6101.2007.00393.x/pdf>
- Brandenburg, C. (2008). The newest way to screen job applicants: A social networker's nightmare. *Federal Communications Law Journal*, 60(3), 597-626. Retrieved from LexisNexis Academic database.

- Clark, L., & Roberts, S. (2010). Employer's use of social networking sites: A socially irresponsible practice. *Journal of Business Ethics*, 95(4), 507-525. Retrieved from MetaPress database.
- Cowan, J. (2010). Why we'll never escape Facebook. *Canadian Business*, 83(10), 28-32. Retrieved from Academic Search Premier database.
- Davis, D. (2006/2007, Winter.) MySpace isn't your space: Expanding the Fair Credit Reporting Act to ensure accountability and fairness in employer searches of online social networking services. *The Kansas Journal of Law & Public Policy*. Retrieved from LexisNexis Academic database.
- Drew, L., & Safani, B. (2008). *New trends in employment discrimination*. Retrieved from the Career Directors International Web site: <http://www.careerdirectors.com/>
- Eckle, J. (2008). Make yourself virtually squeaky clean. *Computerworld*, 42(12), 37. Retrieved from Academic Search Premier database.
- Engler, P., & Tanoury, P. (n.d.). *Employers use of Facebook in recruiting*. Retrieved from the Ethica Publishing Web site: <http://www.ethicapublishing.com/ethical/3CH5.pdf>
- Facebook. (2010a). *Facebook*. Retrieved from <http://www.facebook.com/home.php?>
- Facebook. (2010b). *Facebook principles*. Retrieved from <http://www.facebook.com/terms.php?ref=pf#!/principles.php>
- Facebook. (2010c). *Facebook's privacy policy*. Retrieved from <http://www.facebook.com/policy.php>
- Facebook. (2010d). *Statement of rights and responsibilities*. Retrieved from <http://www.facebook.com/>

- Fowler, F. J. (1995). *Improving survey questions. Design and evaluation*. Thousand Oaks, CA: Sage.
- Garner, B. A. (2009). *Black's law dictionary*. St. Paul, MN: Thomson Reuters.
- Goldberg, S. (2010, March 29). *Young job-seekers hiding Facebook pages*. Retrieved from the CNN Web site: <http://www.cnn.com>
- Greenwald, J. (2008). Web-based screening may lead to bias suits. *Business Insurance*, 42(10), 1-6. Retrieved from Academic Search Premier database.
- Grensing-Pophal, L. (2009). Recruiting 2.0. *Credit Union Management*, 32(9), 42-45. Retrieved from MegaFile database.
- Hyatt, J. (2010, December 14). *The ethics of social media – Part I: Adjusting to a 24/7 world*. Retrieved from <http://business-ethics.com/2010/12/14/the-ethics-of-social>
- Johnson, C. E. (2009). *Meeting the ethical challenges of leadership: casting light or shadow*. Thousand Oaks, CA, Sage.
- Karasov, P. (2010). Privacy Basics. In *Employment law handbook* (Vol. 1, pp. 1-14, Appendix i-iv). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Kelly, T. S. (2009). *Lost in Myspace – How technology imposes new risks for employers*. Paper presented at the American Bar Association Young Lawyers Division 2009 Spring Conference, New Orleans, LA. Retrieved from the American Bar Association Web site: <http://www.abanet.org/>
- Kouzes, J., & Posner, B. (2007). *The leadership challenge*. San Francisco, CA: Jossey-Bass.

- Lory, B. (2010, September). Using Facebook to assess candidates during the recruiting process: Ethical implications. *NACE Journal*, 71(1), 37-40.
- Madden, M., & Smith, A. (2010, May 26). *Reputation management and social media. How people monitor their identity and search for others online*. Retrieved from the Pew Internet & American Life Project Web site: <http://pewinternet.org/>
- Martin, P. R., & Sheih, E. (2010). The social media revolution 2010 – From Facebook firings to Twittering away the workday. In *Employment law handbook* (Vol.1, pp. 1-24). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Moral. (2011). *Merriam-Webster.com*. Retrieved from <http://www.merriam-webster.com/dictionary/moral>
- NACE Knowledge Center. (2009, March). *Legal Q & A: The use of technology*. Retrieved from the National Association of Colleges and Employers Web site: <http://www.nacweb.org>
- NACE Knowledge Center. (2009, June 24). *City requires job candidates to provide social networking passwords and logins*. Retrieved from the National Association of College Employers Web site: <http://www.nacweb.org>
- NACE Knowledge Center. (2010, March 17). *Most employers call for HR to research candidates online*. Retrieved from the National Association of Colleges and Employers Web site: <http://www.nacweb.org>
- NACE Knowledge Center. (2010, June 9). *Social networking accounts for little job-search activity*. Retrieved from the National Association of Colleges and Employers Web site: <http://www.nacweb.org>

- National Association of Colleges and Employers. (2010). *Principles of professional practice*. Retrieved from the National Association of Colleges and Employers Web site: <http://www.nacweb.org/principles>
- Palfrey, J., & Gasser, U. (2008). *Born digital: Understanding the first generation of digital natives*. New York, NY: Basic Books.
- Penttila, C. (2006). History lesson. *Entrepreneur*, 34(8), 28. Retrieved from MegaFile database.
- Pew Research Center Publications. (2010, February, 24). *Portrait of the Millenials*. Retrieved from <http://pewresearch.org/pubs/1515/millenials-panel-one>
- Phelps, D. (2010, February 7). HR and Facebook: It's complicated; Companies that use social networking sites to screen applicants could be breaking the law. *McClatchy-Tribune Business News*. Retrieved from ProQuest Newspapers database.
- Phillips, L. (2007). MySpace, not your space, firms told. *People Management*, 13(15), 11. Retrieved from Business Source Premier database.
- Pitfalls of checking job applicants' personal web pages. (2006). *Managing Accounts Payable*, 6(10), 4-6. Retrieved from MegaFile database.
- Privacy. (2010). Retrieved from the Merriam-Webster Online Web site: <http://www.merriam-webster.com>
- Read, B. (2007). Online. *Chronicle of Higher Education*, 53(19), A31. Retrieved from Academic Search Premier database.
- Ritter, L. A., & Sue, V. M. (2007). *Using online surveys in evaluation*. San Francisco, CA: Wiley Subscription Services, Inc.

- Roberts, S. J., & Roach, T. (2009). Social networking web sites and human resource personnel: Suggestions for job searches. *Business Communication Quarterly*, 72(1), 110-114. Retrieved from MegaFile database.
- Saunders, M., Lewis, P., & Thornhill, A. (2007). *Research methods for business students*. London: FT Prentice Hall.
- Schmitt, J. G., & Girouard, M. (2010). Preemployment selection. In *Employment Law Handbook* (Vol. 2, pp. 1-15). St. Paul, MN: Minnesota State Bar Association Continuing Legal Education.
- Smith, W. P., & Kidder, D. L. (2010). You've been tagged! (Then again, maybe not): Employers and Facebook. *Business Horizons*, 53(5), 491-499. Retrieved from ScienceDirect Freedom Collection database.
- Social contracts. The smart way to hire workers. (2010, January 30). *The Economist*. Retrieved from LexisNexis Academic database.
- Sotto, L. J., & McCarthy, E. M. (2007). An employer's guide to US workplace privacy issues. *Computer & Internet Lawyer*, 24(1), 1-13. Retrieved from MegaFile database.
- University of Wisconsin. Women's Studies Librarians Office. (2008, March 5). *Feminist perspectives on the ethic of care*. Retrieved from <http://womenst.library.wisc.edu/bibliogs/ethicbib.html>
- Velasquez, M., Moberg, D., Meyer, M. J., Shanks, T., McLean, M. R., DeCosse, D., ...Hanson, K. O. (2009, May). *A framework for thinking ethically*. Retrieved from the Santa Clara University Markkula Center for Applied Ethics Web site: <http://www.scu.edu/ethics/practicing/decision/framework.html>

Westcott, S. (2009). Search me. *Chronicle of Philanthropy*, 21(8), 42. Retrieved from MegaFile database.

White-Newman, J.B. (2003, August). *The three E's model of leadership: Being effective, ethical and enduring*. (Based on a paper delivered at the Annual Conference of the Communication and Theater Association of Minnesota). St. Paul, MN: St. Catherine University.

Williamson, L. (2009). Employee examination. *InsideCounsel*, 20(214), 14. Retrieved from MegaFile database.

Appendix A**IRB Application Form****SCU REQUEST FOR THE APPROVAL
FOR THE USE OF HUMAN SUBJECTS IN RESEARCH
2010-2011 APPLICATION FORM****APPLICATION DATA****Date of application:** December 15, 2010**Indicate type of review:** Exempt Expedited Full**For all exempt reviews, indicate which of the following categories apply:**

- 1. Normal Educational Practices
- 2. Educational Tests
- 3. Survey/Interview Procedures
- 4. Observation
- 5. Secondary Use of Data
- 6. Evaluation of Federal Research/Programs
- 7. Taste Tests

APPLICANT DATA**Investigator name(s):** Beth E.H. Lory**Project Title:** Employer Use of Facebook as a Tool in Pre-Employment Screening of Applicants: Benefits and Ethical, Legal, and Privacy Implications**Advisor:** Kathleen Rickert**Program:** Master of Arts in Organizational Leadership**Dates of Project:** September 2010 through May 2011**Has this research been reviewed by another IRB?** Yes No

(If yes, please provide a copy of the letter of approval, or indicate the status of your application)

Will this research be reviewed by another IRB? _____Yes __X__No
(If yes, please indicate your plans for review)

ABSTRACT

The social networking Web site, Facebook, allows users to publish personal information to communicate and interact with others. Because of its online accessibility, Facebook has unintentionally provided a gateway for employers who are hiring to use as a tool in the applicant pre-employment screening process of applicants. This practice can introduce legal, ethical, and privacy implications. No laws in Minnesota currently govern employers' use of Facebook relative to this practice. Using Facebook as a tool in the pre-employment screening of applicants can offer employers a fast and efficient way to get information about prospective employees that could preempt negligent hiring decisions. My research question attempts to answer: How can employers optimize the benefits of using Facebook as a tool for pre-employment screening of applicants while managing the ethical, legal, and privacy implications?

RESEARCH QUESTION AND METHODOLOGY

My research investigated the question: How can employers optimize the benefits of using Facebook as a tool in pre-employment screening of applicants while managing the ethical, legal, and privacy implications? I used three research methods to collect data: a literature review of existing research, an online survey of employers to capture current practices and predict future trends, and interviews with two legal professionals (further details are provided in the IRB, Appendix A).

A comprehensive literature review established the foundation of the research and provided a framework for analyzing, comparing, and contrasting data gathered from the other research methods. Because this topic is technology-related, the landscape changes quickly. A feature launched or a policy created by Facebook can be altered or become out-of-date within months or even days from the time it is created. For this reason, the information gathered on this topic was published primarily within the past three years. Nonetheless, it is important to note that the likelihood exists that some of the information will be out-of-date by the time this work is completed.

From the literature review, multiple but related components of the research topic were explored including: what Facebook is and how Facebook users engage in this space; the concept of Facebook users' online persona; whether or not employers use Facebook as a tool in the pre-employment screening process of applicants; why some employers use Facebook for this purpose and why others have chosen not to; the ethical, legal, and privacy implications employers may face when engaging in this practice; the benefits to employers by engaging in this practice; the concept of privacy rights among Facebook users; and the existence of policies that may provide guidance to employers on appropriate use of this Web site as a tool in the pre-employment screening process of applicants.

The literature review provided a framework for outlining current thinking on employer use of Facebook as a tool in pre-employment screening. The data gleaned from the literature review was validated and/or refuted by exploring current practices through the results of an online survey and interviews. This additional research also highlighted new thinking and trends in this research area.

The second research method was an online survey (utilizing the survey tool Survey Monkey™) to gather data on whether or not employers use Facebook as a tool in the pre-employment screening process of applicants (the list of survey questions is provided in Appendix C). Some of the key findings gained from this survey included: employer perceptions, attitudes, and opinions about this practice; employer organizational policies around use of Facebook as a tool in applicant pre-employment screening; organizational awareness and knowledge of various policies; type of Facebook profile information accessed; results of Facebook searches by employers; and employer recruitment of others to access Facebook profiles not accessible to employers. Feedback was also gathered from employers about the ethics of this practice.

The survey participants were employer contacts from across the United States and internationally who post employment opportunities for University of Minnesota students and alumni and who are registered on GoldPASS (<http://goldpass.umn.edu>), the University of Minnesota job and internship database. These contacts were accessible because I am one of several University of Minnesota career services professionals who manage GoldPASS, so it was a sample of convenience and purposefully selected.

The individuals posting positions in this database hold a variety of roles in their organizations. Anyone charged with the responsibility of recruiting and hiring staff can post positions on GoldPASS. On January 2, 2011, a report was produced of employers in GoldPASS who have active accounts and who logged into the system within the past two years (2009 and 2010). A link to the survey and a short message inviting the employers to participate was emailed (refer to Appendix B). The sample size was 6,539 contacts. The group of participants represented a large and diverse sample from the for-profit, non-profit, government, and educational industries. As an incentive to participate in the research, the employers could receive an executive summary of the research findings once the project was completed.

In an effort to produce a reliable and valid survey, I sought guidance from several sources including my thesis advisor and the ORLD program director. Second, feedback was gathered from two University of Minnesota career services professionals who agreed to offer feedback on the survey questions and best practices for administering the survey. Finally, to guide development and analysis of the online survey, several research books were consulted, in particular, *Improving Survey Questions* by Floyd J. Fowler, Jr. (1995) and *Using Online Surveys in Evaluation* by Lois A. Ritter and Valerie M. Sue (Fall 2007).

For the third phase of the research, face-to-face interviews were conducted with two attorneys. One interview was with a privacy attorney/law professor from the University of Minnesota Law School, and the second interview was with a practicing employment law attorney in Minneapolis. Because the practice of using Facebook as a tool in pre-employment screening of applicants is currently unregulated in Minnesota, employers may find themselves operating in an ambiguous area and are uncertain as to whether or not to engage in this activity. Gaining perspectives from professionals in the legal community supported the research question and provided valuable expert knowledge that can be shared with employers.

The questions asked of the attorneys focused on defining privacy; their opinions about employer use of Facebook as a tool in the applicant pre-employment screening process; laws, acts, or policies that may be implicated with employer use of Facebook in this way; recommendations for employers who engage in this practice; and what the

future holds in terms of laws or regulations around employer use of Facebook as a tool in the applicant pre-employment screening process. A separate question was asked of the employment law attorney to find out if the clients with whom he works use Facebook as a tool in the applicant pre-employment screening process, and what kind of legal counsel his clients are seeking for this practice. The interviews were conducted in the attorneys' offices, notes were captured, and the conversations were also digitally-recorded. The interviews were both transcribed and the data analyzed. To ensure that the semi-structured, in-depth interviews were conducted effectively, guidance was sought from my advisor, program director, and from the textbook, *Research Methods for Business Students*, by Mark Saunders, Philip Lewis and Andrian Thornhill (FT Prentice Hall, 2007), as well as the previously cited texts.

To analyze the online survey findings, the capabilities of SurveyMonkey™ and descriptive statistics were utilized. This analysis included review of the 660 open-ended survey comments and the attorney interviews and conducting “categorization” (putting similar content into categories and comparing and contrasting that data with the two other data sources) (Saunders, Lewis & Thornhill, 2007, p. 479). The analysis included comparing the online survey results and attorney interviews with the literature review to identify trends and themes of this practice and to gain new insights and future trends.

SUBJECTS AND RECRUITMENT

Age Range of Subjects: 20 – 75 years of age

Number: 6,500 **Male** 2,000 **Female** 4,000 **Total**

The subjects for my research were a combination of males and females, and in professional roles primarily in the areas of human resources and recruiting. Some of the subjects were in other roles but what was common among all of them is that they recruit and hire employees. My research methodology included an online survey (which will provide the vast majority of my research data) and interviews with two legal professionals.

Describe how you will recruit your subjects: be specific. Attach a copy of any advertisement, flyer, letter, or statement that you will use to recruit subjects.

Online survey: For my online survey, I recruited individuals by emailing them a brief message and invitation to complete my online survey. A link to my survey was provided within the message. (See following.)

Interviews: For my interviews, I recruited individuals by emailing them a statement describing my research purpose and a request for an interview. (See following.)

Will the subjects be offered inducements for participation? If yes, explain.

No financial incentive or gift was offered. However, I offered my subjects the opportunity to receive the results of my research project in the form of an Executive Summary.

Please clearly identify any special populations or classes of subjects that you will include and provide a rationale for using them.

N/A

RISKS AND BENEFITS OF PARTICIPATION

Check all that apply. Does the research involve:

- Use of private records (medical or educational records)
- Possible invasion of privacy of the subjects and/or their family
- Manipulation of psychological or social variables
- Probing for personal or sensitive information in surveys or interviews
- Use of deception
- Presentation of materials which subjects might consider offensive, threatening or degrading
- Risk of physical injury to subjects
- Other risks

If any of these are checked, describe the precautions taken to minimize the risks.

N/A

List any anticipated direct benefits to your subjects. If none, state that here and in the consent form.

None.

Justify the statement that the potential benefits of this research study outweigh any probable risks.

CONFIDENTIALITY OF DATA**How will you maintain confidentiality of the information obtained from your subjects?**

Online survey: While I generated a report from GoldPASS (<http://goldpass.umn.edu>), the University of Minnesota job and internship database, of employers who have active accounts and who have logged onto the system in the past two years (2009 and 2010), I will not know who completed the survey because the responses will be anonymous.

Interviews: Because they are experts in their field (one individual is an employment law attorney and the other is an attorney with a specialty in privacy law), I received permission to cite my interviewees' names and titles in my project.

Where will the data be kept, how long will it be kept, and who will have access to it?

For any written notes, records, research results, data or digital recordings associated with either my online survey or interviews, I keep this information in a locked file cabinet in my home office. Only I have access to this information (my advisor knows where I keep it and can access it if needed). I will finish analyzing the data by approximately February 28, 2011. In 12 months I will then destroy all original reports and identifying information that can be linked back to my subjects. (At this point in time, none of my information associated with my research will be presented to others for educational purposes unless prior approval is granted by my subjects. All information collected during my research period, including recordings, will be destroyed and erased after 12 months.)

Will data identifying subjects be made available to anyone other than you or your advisor? Who?

No.

Will the data become a part of the medical or school record? If yes, explain.

No.

INFORMED CONSENT

How will you gain consent? State what you will say to the subjects to explain your research. Attach consent form or text of oral statement. (Note: if you propose to work with children ages

7-18 and you are gaining consent from their parents, you must also develop and attach an age-appropriate assent form.)

When will you obtain consent (that day?, several days before the project?, a week before?)?

For the interviews, I sought my subjects' consent one week prior to the interviews. I emailed them a consent form which I collected at the start of the interview.

How will you assess that the subject understands what he/she has been asked to do?

I asked my subjects to explain what they understood as the intent behind my research project and explained what they have been asked to do in order to participate in the study.

ASSURANCES AND SIGNATURES

The signatures below certify that:

- The information furnished concerning the procedures to be taken for the protection of human subjects is correct.
- The investigator, to the best of his/her knowledge, is complying with Federal regulations governing human subjects in research.
- The investigator will seek and obtain prior written approval from the Committee for any substantive modification in the proposal, including, but not limited to changes in cooperating investigators, procedures and subject population.
- The investigator will promptly report in writing to the Committee any unexpected or otherwise significant adverse events that occur in the course of the study.
- The investigator will promptly report in writing to the Committee and to the subjects any significant findings which develop during the course of the study which may affect the risks and benefits to the subjects who participate in the study.
- The research will not be initiated until the Committee provides written approval.
- The term of approval will be for one year. To extend the study beyond that term, a new application must be submitted.
- The research, once approved, is subject to continuing review and approval by the Committee.
- The researcher will comply with all requests from the IRB to report on the status of the study and will maintain records of the research according to IRB guidelines.
- If these conditions are not met, approval of this research may be suspended.

Note: Approval of your final proposal indicates that your advisor and instructor have signed off on the IRB at the departmental level. Therefore you do not need the following signatures on this form unless you need to send it on to the university review board.

As primary investigator, I understand and will follow the above conditions.

Signature of Investigator

Date

As Advisor or Sponsor, I assume responsibility for ensuring that the investigator complies with University and federal regulations regarding the use of Human Subjects in research.

Signature of Advisor or Sponsor

Date

(Student investigators must have an advisor. Staff and non-SCU applicants must have a departmental sponsor)

As Program Director, I acknowledge that this research is in keeping with the standards set by our program and assure that the investigator has met all program requirements for review and approval of this research.

Signature of Program Director

Date

Appendix B

Beth E.H. Lory Research and Interview Consent Form

Research Project Title:

Employer Use of Facebook as a Tool in
Pre-Employment Screening of Applicants:
Benefits and Ethical, Legal, and Privacy Implications

Investigator:

Beth E.H. Lory
belory@stkate.edu
2218 Rogers Court
Mendota Heights, MN 55120
Cell: 612-889-5129
Work: 612-624-7387
Home: 651-681-1563

Introduction:

You are invited to participate in a research study investigating employer use of Facebook as a tool in the pre-employment screening process of applicants. This study is being conducted by Beth E.H. Lory, a graduate student at St. Catherine University under the supervision of Kathleen Rickert, a faculty member in the Master of Arts in Organizational Leadership Program. You were selected as a possible participant in this research because of your professional expertise. Please read this form thoroughly and please ask questions before you agree to participate in the study.

Background Information:

The purpose of this study is to learn how employers can optimize the benefits of using Facebook as a tool for pre-employment screening of applicants while managing the ethical, legal, and privacy implications. Approximately 6,000 people (for an online survey) and two individuals for interviews will be invited to participate in this research.

Procedures:

If you decide to participate, you will be asked to sign this consent form and agree to an interview session of 60 minutes which will be digitally-recorded. You will receive a copy of the interview topics at least five days in advance of the interview session and a reminder about the purpose of the research. At the beginning of the interview, you will be asked to (read and) sign this Interview Consent Form. For the interview you will be asked a series of questions. Beth will digitally-record the interview and also take notes.

The interview will take approximately one hour (one session) to complete.

Risks and Benefits of Being in the Study:

The study has minimal or no risks. While your participation in this research study will derive no direct benefits, your participation may enhance the knowledge base and professionalism of the following industries or professions: higher education career services and employer relations; employment recruiting; human resources; and the legal profession.

No direct benefits exist to you for participating in this research. If interested, you are welcome to receive results of this research study in the form of an executive summary. Please let me know if this is of interest to you.

Confidentiality:

Any information obtained in connection with this research study that can be identified with you will be disclosed only with your permission; your results will be kept confidential. I will seek the approval from my interview subjects to use their real names and titles. However, if they are unable to comply, the name/s of individuals being interviewed will be changed to pseudonyms to protect subjects' identity.

I will keep the research results in a locked file cabinet in my home office, and only I will have access to this information (my advisor will be aware of where these records will be stored while I work on this project). I will finish analyzing the data by approximately February 28, 2011. I will then destroy all original reports and identifying information that can be linked back to you. Digital recordings will only be accessible by me, and I will gain your consent first in the event I wish to present these recordings to others for educational purposes. The recordings will be erased or destroyed after 12 months.

Voluntary Nature of the Study:

Participation in this research study is voluntary. Your decision whether or not to participate will not affect your future relations with St. Catherine University or the University of Minnesota in any way. If you decide to participate, you are free to stop at any time without affecting these relationships.

Contacts and Questions:

If you have any questions, please feel free to contact me, Beth E.H. Lory, at belory@stkate.edu or (cell) 612-889-5129. You may ask questions now, or if you have any additional questions later, my faculty advisor, Kathleen Rickert, at kdrickert@stkate.edu or 651-690-8738 will be happy to answer them. If you have other questions or concerns regarding the study and would like to talk to someone other than Kathleen or me, you may contact the Masters of Arts in Organizational Leadership Graduate Program Director, Dr. Rebecca Hawthorne, at rkhawthorne@stkate.edu or 651-690-6838.

You may keep a copy of this form for your records.

Statement of Consent:

You are making a decision whether or not to participate. Your signature indicates that you have read this information and your questions have been answered. Even after signing this form, please know that you may withdraw from the study at any time.

Please check one:

- I consent to participate in the study and I agree to be digitally-recorded.
- I consent to participate in the study but I do **not** agree to be digitally-recorded.

Please check one:

- I consent to have my name, title and organization name used in this research project.
- I do **not** consent to have my name, title and organization name used in this research project.

Signature of Participant

Date

ONLINE SURVEY PARTICIPANTS EMAIL INVITATION

TO: Contacts in Employer Database, GoldPASS
FROM: Beth Lory (send from belory@stkate.edu)
DATE: January 14, 2011
RE: Employer Use of Facebook As A Tool To Screen Applicants: Survey Participation Requested

Dear Employer:

My name is Beth Lory, and I am the Lead Employer Relations Coordinator in the College of Liberal Arts at the University of Minnesota. I am also one of the administrators of GoldPASS, the University of Minnesota job posting database. Because of your recent use of GoldPASS and your professional expertise, I am writing to invite you to participate in a brief survey about employer use of Facebook as a tool in the applicant pre-employment screening process.

I am conducting this survey as part of the research portion for my graduate thesis. I selected you to participate because of your knowledge of and involvement in recruiting and hiring.

The survey will take less than 10 minutes to complete. Your responses will be confidential—your name and email address will not be linked to your survey responses. The data I receive will be anonymous and only aggregated data will be used for my thesis.

Click on this link to access and complete the survey:

<http://www.surveymonkey.com/s/25CP9KV>

I would appreciate you completing it by **Friday, January 28, 2011**.

This survey is one of the most valuable components of my research. I hope you can find time to participate. Thank you in advance!

If you would to receive an executive summary of my research findings, please email me at belory@stkate.edu

Thank you!

Warm regards,

Beth E.H. Lory
belory@stkate.edu
W: 612-624-7387

Questions About This Research?

Please contact me or one of the following individuals:

--Thesis advisor, Kathleen Rickert, kdrickert@stkate.edu or 651-690-8738, St. Catherine University, St. Paul, Minn.

--Program Director, Dr. Rebecca Hawthorne, rkhawthorne@stkate.edu or 651-690-6838, St. Catherine University, St. Paul, Minn.

--Supervisor, Director of CLA Career Services, Paul Timmins, timmi004@umn.edu or 612-624-7577, University of Minnesota, Minneapolis.

PROPOSED ONLINE SURVEY TIMELINE:

Send out survey

Friday January 14-17, 2011

Request survey completion by

January 28, 2011

INTERVIEWS EMAIL INVITATION

TO: Attorney Research Participants
FROM: Beth Lory (send from belory@stkate.edu)
DATE: December 17, 2010
RE: Employer Use of Facebook As A Tool To Pre-Screen Applicants:
Interview Requested

Dear NAME:

My name is Beth Lory and I am an Employer Relations Coordinator in the College of Liberal Arts at the University of Minnesota. I am conducting research as part of my graduate program at St. Catherine University on employer use of Facebook as a tool in the pre-employment screening process of applicants – the benefits, as well as the ethical, legal and privacy implications.

I am writing today to ask if you would be willing to be interviewed about this topic. You are one of the professionals who I selected to be interviewed because of your professional background and experience in [employment law OR privacy law].

If you agree to participate, I will ask you to complete an interview consent form (attached) when we meet. I will bring a copy of this form to the interview. Please let me know if you have any questions about it. I will also send you my interview topics prior to the interview.

I would like to have your permission to use your real name and title in my thesis project. If you are unable to accommodate this, I will keep your responses from the interview completely confidential and anonymous. Your name or identity will not be revealed in any way in my project.

I am hoping to conduct an interview with you for one hour the week of January 24 and I am happy to conduct the interview at your office.

All of my interview participants are welcome to attend my presentation on the research findings on DATE/TIME/LOCATION. If you are unable to attend and would like to receive an executive summary of my research findings, please email me at belory@stkate.edu.

Your willingness to be interviewed is a critical component in my completion of a high quality research study so I hope you will agree to participate.

If you have any questions or concerns about my research, please contact me or one of the individuals listed below.

Thank you for your time and consideration of my request. I will follow up by phone in a few days to determine your interest.

Warm regards,
Beth E.H. Lory
belory@stkate.edu
612-889-5129

Questions About This Research?

Please contact me or one of the following individuals:

- Thesis advisor, Kathleen Rickert, kdrickert@stkate.edu or 651-690-8738, St. Catherine University
- Program Director, Dr. Rebecca Hawthorne, rkhawthorne@stkate.edu or 651-690-6838, St. Catherine University
- Supervisor, Paul Timmins, timmi004@umn.edu or 612-624-7577, University of Minnesota.

PROPOSED INTERVIEWS TIMELINE:

Email sent to request interview sent	By December 31, 2010
Follow up by phone, as needed	January 7, 2011
Interviews conducted	Week of January 24, 2011

Appendix C

Facebook As A Tool In The Applicant Pre-employment Screening Process

Survey Questions For Employers

1. Use of Facebook as a tool in the applicant pre-employment screening process has benefits. (Check one):

Agree
Tend to agree
Tend to disagree
Disagree
2. Facebook SHOULD be used as a tool in the applicant pre-employment screening process. (Check one):

Agree
Tend to agree
Tend to disagree
Disagree
3. Information available on Facebook about applicants is accurate. (Check one):

Agree
Tend to agree
Tend to disagree
Disagree
4. Facebook should NEVER be used as a tool in the applicant pre-employment screening process. (Check one):

Agree
Tend to agree
Tend to disagree
Disagree
5. As a user of GoldPASS, the University of Minnesota job posting database, I have read and agreed to the National Association of Colleges and Employers (NACE) Principles for Employment Professionals (or Third-Party Recruiters). (Check one):

Yes
I do not know if I have read/agreed to the NACE Principles or I do not remember
I am not familiar with the NACE Principles

6. The NACE Principles for Employment Professionals (or Third Party Recruiters) provide employers legal and privacy guidance for the use of Facebook as a tool in the applicant pre-employment screening process. (Check one):

Agree
Tend to agree
Not certain
Tend to disagree
Disagree
I am not familiar with the NACE Principles

7. Using Facebook as a tool in the applicant pre-employment screening process is compliant with Facebook's *Privacy Policy*. (Check one):

Agree
Tend to agree
Not certain
Tend to disagree
Disagree
I am not familiar with Facebook's Privacy Policy

8. Using Facebook as a tool in the applicant pre-employment screening process is compliant with Facebook's *Statement of Rights and Responsibilities*. (Check one):

Agree
Tend to agree
Tend to disagree
Disagree
I am not familiar with Facebook's *Statement of Rights and Responsibilities*

9. It is ethical to use Facebook as a tool in the applicant pre-employment screening process.

Agree
Tend to agree
Tend to disagree
Disagree

10. I can find legally-protected information about an applicant on his/her Facebook profile

Yes
No
Not certain

11. Check the box which most closely describes your organization and the use of Facebook as a tool in the applicant pre-employment screening process. (Check one):

- Has a policy that **REQUIRES** the use of Facebook as a tool in the applicant pre-employment screening process
- Has a policy that **PROHIBITS** the use of Facebook as a tool in the applicant pre-employment screening process
- Is currently **DEVELOPING** a policy that **REQUIRES** the use of Facebook as a tool in the applicant pre-employment screening process
- Is currently **DEVELOPING** a policy that **PROHIBITS** the use of Facebook as a tool in the applicant pre-employment screening process
- Has **NO POLICY** on the use of Facebook in the applicant pre-employment screening process
- I am **NOT CERTAIN** if my organization has a policy on the use of Facebook as a tool in the applicant pre-employment screening process

12. How often do you use social or professional networking sites **OTHER THAN FACEBOOK** as a tool in the applicant pre-employment screening?

- All of the time
- Almost always
- Sometimes
- Rarely
- Never

13. Which of the following social or professional networking Web sites other than Facebook do you use in the applicant pre-employment screening process? (Check all that apply):

- Bebo
- Classmates
- Friendster
- LinkedIn
- MyLife
- MySpace
- Ning
- Plaxo
- Twitter
- Other

14. How often do you use Facebook as a tool in the applicant pre-employment screening process? (Check one):

- All of the time
- Almost always
- Sometimes
- Rarely
- Never (These respondents skipped to Question 31)

15. Why do you use Facebook in the applicant pre-employment screening process? (Check all that apply):

To determine if the applicant meets the qualifications of the position
To validate information I learn on the applicant's resume
It is an easy what to learn about an applicant's personal life
It helps eliminate applicants from the pool of candidates
It helps me assess the character of the applicant
It helps me assess the morals and values of the applicant
It helps me assess the work ethic of the applicant
To see a photo(s) of the applicant
It helps me learn if the applicant would be a good representative of our organization
It helps me learn information about the candidate that may not be on their resume
It helps me learn about the candidate I may not be able to gain through an interview
Other

16. Poor hiring decisions can be avoided by reviewing an applicant's Facebook profile.
(Check one):

Agree
Tend to agree
Tend to disagree
Disagree

17. Using Facebook as a tool in the applicant pre-employment screening process can introduce unintended POSITIVE bias in hiring decisions.

Agree
Tend to agree
Tend to disagree
Disagree

18. An applicant's Facebook profile has negatively influenced a hiring decision in my organization.

Agree
Tend to agree
Tend to disagree
Disagree

19. Facebook as a tool in the applicant pre-employment screening process has helped improve the quality of hires for my organization.

Agree
Tend to agree
Tend to disagree
Disagree

20. It is cost-effective to use Facebook as a tool in the applicant pre-employment screening tool. (Check one):

- Agree
- Tend to agree
- Tend to disagree
- Disagree

21. Using Facebook as a tool in the applicant pre-employment screening process can introduce unintended NEGATIVE bias in hiring decisions. (Check one):

- Agree
- Tend to agree
- Tend to disagree
- Disagree

22. I use Facebook to find private, non-job related information about an applicant.

- All of the time
- Almost always
- Sometimes
- Rarely
- Never

23. An applicant's Facebook profile is one factor that has positively influenced a hiring decision in my organization.

- Agree
- Tend to agree
- Tend to disagree
- Disagree

24. I have withdrawn an offer of employment based on information I found on Facebook about that applicant.

- Yes
- No

25. How often during the pre-employment screening process have you asked an applicant to "Friend" you on Facebook (i.e., to get more access to their information)?

- All of the time
- Almost always
- Sometimes

Rarely
Never

26. I ask or have asked others (e.g., colleagues, friends) to access an applicant's Facebook profile if I do not personally have access to that profile.

All of the time
Almost always
Sometimes
Rarely

27. Information I have learned on Facebook has caused me NOT to consider an applicant for employment in my organization.

Agree
Tend to agree
Tend to disagree
Disagree

28. I inform applicants that I use Facebook as a tool in the applicant pre-employment screening process.

All of the time
Almost always
Sometimes
Rarely
Never

29. At what point in the recruiting process do you inform applicants that you use Facebook as a tool in the applicant pre-employment screening process?

When I receive the applicant's resume
Before the applicant is invited in for an interview
After the applicant has completed some interviews with my organization
Before the applicant receives an offer of employment
After the applicant has received an offer of employment
No set time during the applicant pre-employment screening process – it varies
Not sure

30. My organization requires written permission (e.g., application form) from the applicant to use Facebook as part of the pre-employment screening process.

All of the time
Almost always
Sometimes
Rarely

Never

Not certain

31. If you do NOT use Facebook as a tool to access information in the applicant pre-employment screening process, please indicate the reasons. (Check all that apply):

Another resource (e.g., Human Resources) does this on my behalf

I cannot rely on the accuracy of the information found

I do not want to access an applicant's personal information

I do not want to access private information

I do not want to access legally-protected information

I do not want to access information that is not job-related

I do not want to introduce the possibility of bias in my decision-making

My organization has a policy against using Facebook for this purpose

I believe the practice is unethical

I do not have the time to use Facebook for this purpose

Other

Appendix D

Employer Comments

The following are some of the 660 comments submitted by the employers to four of the survey questions. These remarks, which illustrate the benefits of the use of Facebook as a tool in the applicant screening process as well as the ethical, legal, and privacy implications, are the most representative of the comments received, are the most insightful, and show a diversity of opinions.

“Provides some insight on personality of applicant.

“Facebook is a social network, it has nothing to do with a professional environment. “

“From a legal standpoint, I am not sure if the benefits of using Facebook as a pre-employment screening tool outweigh the possibilities of discrimination.”

“We would end up screening more and more candidates based on false impressions of who they are professionally. One picture could be misread/misinterpreted and change an employers’ mind on who the person actually is.”

“It is a personal social tool and should not be used for professional screenings. It limits the right to free speech if people are concerned their Facebook postings can be used against them in employment practices. ”

“I have not and would not use this as a tool. It opens us up to various charges of discrimination and is intrusive. ”

“Can see if they have a professional attitude. ”

“Has some benefits to get a better picture of employee, but may not reflect what employee is like in the professional world. ”

“Facebook postings by potential employees can indicate various aspects of a potential employee such as professionalism, judgment, discretion. ”

“You can learn about their interpersonal relationships.”

“Facebook is generally thought of as personal and used for non-business related activities. I think a comprehensive interview and reference/background check process is more effective and less subject to possible discrimination claims. ”

“It is an unfair tool to use to make any judgments or preconceived ideas about a candidate before they have had a chance to make their own impression on you.”

“Snapshot of character, personal judgment...individuals’ priorities. ”

“It’s an invasion of privacy. Applicants’ personal life doesn’t necessarily predict work behavior.”

“If I can only see the profile picture and not their entire profile then I judge their profile picture. Is it family oriented? Party oriented? As they say, a picture is worth a thousand words.

“The applicant’s profile can demonstrate...awareness of privacy options and the willingness to post information online. It can be a ‘red flag’ for behavior or information that would disqualify for employment consideration.”

“Any additional tool that can be used to see what a ‘true picture’ looks like on a prospective employee can only help.”

“Facebook is part of a candidate’s private life that generally does not tell me whether a candidate can perform the duties of a job. Facebook reveals things such as marital status, sexual orientation, and birth date of candidate. A candidate could easily create a lawsuit for discrimination if there was proof that the employer had access to this information during the selection process.”

“Facebook can lead to preconceived decisions on a prospective candidate. At times, it can cloud objective judgment leading to a possible unfair hiring decision. However, Facebook is a public source and if a candidate decides to display content on their Facebook page that could be viewed either positively or negatively by a potential employer, that is a personal decision.”

“An employer can see qualifications on a resume but a personality on Facebook.”

“I do not feel it is an ethical way to screen someone for employment.”

“I’m very mixed on this question [Use of Facebook as a tool has benefits]. I guess if I had concerns about an applicant, I may look on Facebook. But overall, I think Facebook is personal and not related to work.”

To learn the real thoughts and actions of the person, not just their ‘interview’ answers.”

“It gives a valuable snapshot of who the person is and how they present themselves to the world.”

“Can determine the personality of the person you are considering to bring on and have a better idea if they will be a positive image for the company in their daily lives.”

“Simply being able to find a student on Facebook or not (due to their acknowledgement of privacy settings), says a lot. They should be aware that their information is out there if they have not hidden their profile. If we can it contains so many telling signs of their personality. If we see a ton of drinking photographs or groups where they support drugs, etc., it automatically takes them out of the running of any position.”

“Ability to gauge whether the applicant generally presents themselves to the public in an appropriate, well-considered manner. Particularly for public facing positions. . .”

“It gives a glimpse into an applicant’s personal life.”

“Gives me an idea of their character.”

“I feel uncomfortable looking at a personal web page regarding new employees.”

“This is illegal.”

“While it does not provide job skills data, it does offer insight to one’s social connections and moral compass.”

“Great insight into the actual person. Gives insight into the character, attitude, writing and communication ability, etc.”

“I feel Facebook doesn’t accurately represent whether or not an applicant will be successful in a certain role.”

“To see the personal side of the candidate, what they are not showing or telling in their resume.”

“Any background can shed some light on the person you are hiring.”

“Private and professional lives can be different. There is also a problem with invasion of privacy.”

“Simply having [college students and recent graduates] understand their responsibility as an employee and how they are perceived (they are normally front-facing) is of utmost importance.”

“[Facebook] helps streamline the process so more time can be spent with the better candidates.”
“We are using it to weed out candidates.”

“It might also help identify special risks, such as having a criminal record.”

“Misleading, not sure of the right person.”

“Skewed view based on what applicant makes viewable.”

“Question reliable representation of applicant.”

“Do not always portray people truthfully as people may create personas that may not truthfully represent their qualifications relevant to the job.”

“An employer can view information about the applicant that can provide information on the applicant’s political views, character, ethics, morals. By viewing the FB profile, we can eliminate the applicants who may appear as ‘drunk,’ ‘wild,’ or otherwise unsuited for the work we do here.”

“I feel it has given me insight that I appreciated having. However, it did not impact my decision to hire any of the applicants.”

“What I look for is if there are any photos of the person using alcohol and if so how many.”

“Facebook is a supplementary tool. It gives a good idea of what a person is like, but does not tell the whole story. If I saw a person who looked like a good fit on paper, then saw something negative on Facebook, I would bring them into an interview and question them further before deciding.”

“I am deeply upset by the practice of using Facebook . . . as screening tools. While I believe this practice is unethical . . . students should be educated about their public/digital image and how to manage it.”

“I’d rather not compromise the purpose of social networking. If it becomes too ‘business proper’ people aren’t free to communicate how they want with friends.”

“I’m not sure there has been proper training planned for using FB or other sites as ‘pre-screening’ tool. HR and other hiring staff need to be properly trained before they should consider using open media as a tool for candidate screening.”

“Our employer’s ‘head’ HR division is particularly wary of legal ramifications and is in the process of developing a social-networking policy.”

“...while individual candidates should take responsibility for what they post to their pages and ensure that their privacy settings are set so as to share any information, it is wrong to search because it creates the opportunity for incorrect biases to be formed...I believe the practice is unfair to candidates...”

“Integrity, behavior, interests and other information shared on Facebook could be valuable to employers in making hiring decisions. I tend to think it would be most helpful in ‘weeding out’ potential employees who may be undesirable due to the information shared.”

“How a person presents themselves publically can affect the image of the company they represent.”

“[Facebook] at a glance can create an impression in either direction.”

“What people show on their personal page may not accurately represent their professional side and therefore bias opinions.”

“Facebook can reveal level of maturity, sense of humor of prospective employee.”

“[Facebook] gives you a window into the applicant’s life and connections.”