

TWITTER, JOURNALISM AND THE LAW

by

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INTRODUCTION

Twitter has paved a new avenue in the world of journalism for reporters to use in their coverage. Today, Twitter has become not only a medium for information but also a lifeline for news to grow and evolve. With this power, reporters, jurors and judges are now taking to the courtroom with their new tool. The questions remain how journalists and non-journalists alike will deal with Twitter and if Twitter itself is a positive addition to the judicial process. Twitter could be considered an extension of the freedom of press of the right guaranteed under First Amendment and as well creates a positive and more transparent means of reporting, especially in a courtroom setting. Yet, Twitter could also hinder one's right to a fair trial and be considered a distraction in the courtroom.

Twitter has been making moves since its creation in 2006. The micro-blogging website allows for information to be sent in tweets, which then can be favorited or retweeted by followers. Accounts can be set up as either private or public, and followers can be blocked (Boyd, Dannah, Golder, Lotan 2010). Part of the unique tools of Twitter is the user's ability to search public tweets via hashtags and respond. This can be done through a direct response to the tweet:

A: I love cheese.

B: @A I love cheese too!

Participation in the conversation can also be conducted through a retweet

A: I really love cheese.

B: RT A: I really love cheese.

It should be noted that there is no formal style for a retweet, as it can be accomplished through a variety of means (Boyd, et al 2010).

Due to Twitter's highly interactive nature, it becomes a research tool for people to gather news. With the development of Twitter, several news agencies such as the Associated Press created guidelines for the site and how to handle breaking news situations. However, with the evolving nature of Twitter there is yet to be a black and white set of rules to follow, and much is left up to editorial and personal judgment.

The use of Twitter in the courtroom is one area that creates particular difficulty to regulate. Standards vary from court to court and from judge to judge, as the codes used by the courts to determine whether or not Twitter can be used for reporting from courtrooms are vague. It is imperative that the American people participate in the judicial process, and courtrooms should be the most accessible place for the people to do so. Therefore, both reporters and judges should discuss the question of what tools reporters can use to effectively communicate judicial proceedings. The purpose of this study is to examine how journalists use Twitter in the courtroom and how they along with judges and lawyers believe Twitter should be used in the courtroom.

REVIEW OF LITERATURE

The use of Twitter in the courtroom is contentious. There is no rule yet in the courts on what is and what is not allowed for courtrooms in terms of Twitter. There are certain policies in place that position Twitter under the larger umbrella of broadcast, but there is not a specific Twitter or social media guideline when it comes to courtrooms.¹

For federal courts, Rule 53 details the rules of reporting to read as such: “[T]he court must not permit the taking of photographs in the courtroom during judicial proceedings or the broadcasting of judicial proceedings from the courtroom.”² The definition originally read radio instead of broadcast when it was written in 1946 but was amended in 2002 to better accommodate the quickly changing atmosphere of reporting. Still, this vague use of broadcasting creates a fall back for judges to use when deciding not to allow reporters to use Twitter.

¹ Cathy Packer, *Social Media Use in Courtrooms* (New York: York, 2013) 175-190

² Ibid

There has yet to be a Supreme Court decision on the place of Twitter in the courtroom. Instead, previous cases involving the media are used as guidelines for today, even if the cases are not necessarily similar. The Supreme Court ruled in *Nebraska Press Association v. Stuart* (1976) that reporters did not have the right to report every detail from the courtroom. Instead, the court ruled that judges could rule certain cases unacceptable for reporting in order to protect the defendant's right to a fair and public trial by an impartial jury, their Sixth amendment right.³ The decision actually broadened freedom of the press' ability to report on trials by strongly limiting what judges could do to limit gag orders. The Supreme Court has ruled in favor of journalists, too. In *Richmond Newspapers Inc. v. Virginia* the Supreme Court ruled the press had the right to report on the details of a murder trial. The justices said the right to attend the trial was implicit in the Constitution. Reporters also have the right to attend all levels of a trial, including preliminary hearings, according to *Press-Enterprise Co. v. Superior Ct.* (1986). This is important to note because the Supreme Court ruled that even preliminary hearings were important for the public to know about for the justice process to work properly.⁴

For state cases, the rules vary state-by-state and even judge-to-judge. For example, Chief U.S. District Court Judge David C. Norton signed an order in 2011 that banned all wireless communication devices in courtroom facilities.⁵ Other judges find Twitter just another avenue for reporters to get the information out to the

³ *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976)

⁴ *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1(1986)

⁵ Ahnalese Rushmann "Courtroom coverage in 140 characters" *The News Media & The Law*, 28 (Spring 2009) (<http://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-spring-2009/courtroom-coverage-140-char>) Accessed Jan. 13, 2013

public. U.S. District Judge J. Thomas Marten allowed a Wichita, Kansas, reporter to use twitter to cover the trial of six gang members in 2009.⁶ Also in 2009, a Sioux City, Iowa, judge, U.S. District Judge Mark Bennett, allowed the use of Twitter in his courtroom for a tax fraud case.⁷ Bennett is known for embracing Twitter. When the reporter for the case asked to use a laptop to cover the case by providing live updates and Twitter coverage, Bennett agreed saying the public's right to know was greater than any potential prejudice against the defendant.

In terms of lawyers and Twitter, some states have specific rules in place. For example, in New York, a lawyer can research the other party's Twitter but is not allowed to follow, tweet at, or direct message the other party.⁸ This is to not overstep the legal bounds, a major concern for the use of Twitter in the courtroom.

⁶ Debra Cassens Weiss "Capital murder trial chronicled via Twitter" ABA Journal. Entry posted May 15, 2008.

http://www.abajournal.com/news/article/reporter_covers_murder_trial_on_twitter/ (Accessed Feb. 26, 2013)

⁷ Debra Cassens Weiss "Judge Explains Why He Allowed Reporter to Live Blog Federal Criminal Trial" ABA Journal. Entry Posted Jan. 16, 2009.

http://www.abajournal.com/news/article/bloggers_cover_us_trials_of_accused_terrorists_cheney_aide_and_iowa_landlor. Entry accessed Feb. 26, 2013.

⁸ New York State Unified Court System. *Rules of Professional Conduct*, 20. (April 1, 2009) <http://www.nysba.org/Content/NavigationMenu/ForAttorneys/ProfessionalStandardsforAttorneys/NYRulesofProfessionalConduct4109.pdf> Accessed Mar. 16, 2013.

Part of the beauty and problem with Twitter is its accessibility. That is, unless one has a private account, tweets are public and accessible to anyone. They can be tracked with a hashtag or just by entering search terms. That also means jurors could easily have access to what outside sources are saying about the case they are deliberating. This could taint the case and cause a mistrial. Part of the issue may stem from jurors not understanding what the rules of the court are when it comes to Twitter.⁹ Still, sometimes the line gets blurred between what is acceptable and what is not. In the March 2009 case of former Sen. Vincent Furmo, one juror posted about the case on his Facebook wall, causing the case to be questioned because it was seen as inviting in others to comment on the case. While the judge never reprimanded the juror, it does bring into question where the line lies.¹⁰ In California and Michigan the law does not allow jurors to Tweet, text or use their phones from the juror box. This does not necessarily cover all areas of jury duty though. Some jurors use Twitter on their breaks, which could potentially be questioned for seeking outside information on a case. For reporters, Twitter allows a substantial amount of coverage. When a trial is covered via Twitter, at the end reporters have almost an entire article written from their tweets when the trial concludes.

⁹ Rushman, 28.

¹⁰ Emily Lounsberry "Fumo lawyer targets juror, deliberations" The Inquirer. Entry posted March 16, 2009.

http://www.philly.com/philly/news/special_packages/inquirer/fumo/20090315_Fumo_lawyers_target_juror_deliberations.html (Entry accessed April 4, 2013)

Reporters do not always handle Twitter in the best manner, though. In April 2012, one reporter from *Topeka-Capital Journal* was live-tweeting a trial about an alleged shooter. The reporter tweeted multiple pictures from the courtroom, including one of a profile of a jury member. The court had a rule in place that does not allow pictures of the jury unless unavoidable, but in this case the picture was avoidable. The case had to be rescheduled, but the reporter did not take the photo down off her Twitter account.¹¹

Reporting from the courtroom also brings into question the partiality or impartiality of Twitter. In some cases, reporters are free with their opinions and even offer commentary on what is going on in the case. Maria Elena Fernandez, formerly of *The Daily Beast*, offers a variety of insight on the high-profile cases she covers. In the Jodi Arias trial, she live tweeted from @writerchica a variety of comments. If a reporter aims to be objective, these Tweets definitely do not adhere to that standard. However, some media organizations, such as *The Daily Beast*, go for an edgier outlook. So, this would be acceptable for their readers, but is it acceptable in a courtroom?

¹¹ Rachel Bunn "Reporter's tweeted photo of juror leads judge to declare mistrial in murder prosecution" Reporters Committee for Freedom of the Press. Entry posted April 16, 2012. <http://www.rcfp.org/browse-media-law-resources/news/reporters-tweeted-photo-juror-leads-judge-declare-mistrial-murder-pr> Entry accessed (Feb. 26, 2013).

There is also the question of how reporters should use their hardware Twitter. Some use their smart phones to access Twitter, while others use their computers in the back of the courtroom. ¹² Bennett had the reporters in his courtroom go to the back so they would not disturb the rest of the room. Others make their reporters step out into the hallway before they can use Twitter, or only use Twitter during the breaks.

With the relatively new nature of Twitter and the lack of definite rules surrounding the presence of Twitter in the courtroom, questions remain about its use in the coverage of trials. To what extent should journalists use Twitter from the courtroom to cover trials? To answer this, the author conducted nine interviews with judges, lawyers and journalists who have used Twitter in the courtroom in an effort to find common themes and best practices.

¹² Weiss,1

METHODOLOGY

For this thesis, a series of nine in-depth semi-structured interviews were completed with the following people: Billie Loewen, editor of the *Montana Kaiman*; Maria Elena Fernandez, a former reporter for *The Daily Beast*, Ron Sylvester, former reporter with the *Wichita Eagle*, Kimball Perry, reporter with *The Cincinnati Enquirer*; Judge Mark Bennett, Federal judge of the Northern District of Iowa, John G. Browning, a media lawyer in Dallas; Judge Roy Sparkman, a former federal and district judge for Texas; Debra Weiss, a reporter with the *ABA Journal*, Justice Don Willett, a Supreme Court Justice for Texas.

This method was chosen because it allowed for a more personal feel of how Twitter works for reporters in the courtroom.¹³ The interview format allowed for more of a conversation about the topic. It also allowed for adaptation throughout the interview. New avenues could be discussed while interviewing the subject to bring more context into how Twitter should or should not be used and why.¹⁴

I did complete one interview via email. This was the interview with Justice Don Willett. This was the only way the justice would agree to an interview. The responses Willett gave were similar to those found in a phone interview. Follow up questions were allowed.

¹³ Robert Sommer, Barbara Summer *A Practical Guide to Behavioral Research: Tools and Techniques* New York: Oxford University Press 2002, 117

¹⁴ Arthur Asa Berger *Media Research Techniques* California: SAGE Publications, Inc. 1998, 57

RESULTS

After the interviews were conducted, transcripts from each were typed and reviewed. Through this review, four themes had emerged: Twitter started as an experiment, the standard for tweeting is flexible, there is debate on which cases should be tweeted, and there are Sixth Amendment implications for the use of Twitter in the courtroom. Each is discussed in this section.

1. Twitter courtroom coverage started as an experiment

In 2008, Ron Sylvester was the court reporter for the *Wichita Eagle*. He had previously tried different live blogging experiments. At the time, he was writing blog posts from the courtroom and then coordinating their posting to his paper's website through email to an editor. This led to several different issues with live-blogging because sometimes there would be missed timing or a post would be waiting to be edited if an editor was in a meeting. At that point, Twitter was still new to the journalism world, and Sylvester was mainly following other journalists or a few people in the community. Twitter had been used for some political discourse or natural disasters, but journalists were still considering how Twitter was going to help them disseminate news, he said.

When the case capital murder trial of the man accused of killing his pregnant 14-year-old girlfriend came up in 2008, Sylvester decided to try live tweeting. He and his editors decided that Twitter could be a way to help with where the live-blogging was not fulfilling their attempt at a semi-live feel from the courtroom. He started with the jury selection. Normally, he would have covered the jury selection for a case such as this one for a general watchdog effect, he said. He decided that if

he was going to attempt to live-tweet the entire trial, he should do a test run.

The jury selection acted like just that.

“If we were going to fail, we were going to do it pretty quietly,” Sylvester said.

While jury selection may be a slow, tedious thing, the live tweeting caught on almost immediately, Sylvester said. People around the community saw what Sylvester was doing and started following his coverage. Sylvester made sure to get permission from the judge before he began his coverage of the trial. At the time there was not a Twitter app, and Sylvester was posting to Twitter via text message from his phone and a Bluetooth keyboard. He showed the judge what Twitter was and how he would use it to cover the trial. He said his cell phone and small keyboard set up helped persuade the judge that his coverage would be less invasive than a laptop and he was minimizing the chance he could be distracting. He had covered the courts before and the judge knew Sylvester’s style, he said.

By the end of the first day of coverage, Sylvester had been contacted by the *American Bar Association Journal* and a United Kingdom website about his Twitter coverage. He did an interview with both publications and an article appeared on the abajournal.com website about his coverage the next day.¹⁵ He said this helped his credibility with the lawyers and the judge because both lawyers and judges respect the ABA.

¹⁵ Debra Cassens Weiss “Capital murder trial chronicled via Twitter” ABA Journal. Entry posted May 15, 2008. http://www.abajournal.com/news/article/reporter_covers_murder_trial_on_twitter/ (Accessed Feb. 26, 2013)

“The next day the judge and lawyers were like, ‘what are you doing back there?’” Sylvester said. “I told the judge you gave me permission. It gave me instant credibility because if *ABA Journal* thinks it’s good you must be doing something right. It opened the door for me to do that and gave me instant credibility.”

Other reporters had similar, somewhat spur-of-the-moment experiences when it came to starting their use of Twitter. Kimball Perry had been the court reporter for the *Cincinnati Enquirer* and has been for several years. When he was sent to cover the trial of Anthony Kirkland, a man who was accused of being a serial who had already served time for a previous murder. When Perry showed up to the courthouse, there were four television stations and a couple of radio stations present, he said.

“I wasn’t going to get my ass kicked by all these people so I’m going to tweet,” Perry said. “They sure can’t beat anything live, this is my beat. They come here for sensational murder trials. I just had my laptop, so I started tweeting.”

Perry did not ask for permission when he started to tweet; instead he just did it. He said he started with between 100 and 150 followers and tripled that number by the time the two-week trial was over. Perry received positive feedback from his editors.

“There was not a lot of guidance,” he said. “They were happy to not get their butt kicked all the time.”

When it came to covering the 2013 trial of a University of Montana quarterback accused of rape, it made sense for the *Montana Kaiman*, the student newspaper, to tweet, said Billie Loewen, the newspaper’s editor. The newspaper

knew that people were following the trial and decided to they were going to cover what was happening via Twitter, like other news outlets in the area. They set down and had multiple meetings lasting several hours to determine how they were going to Tweet. The student newspaper did not receive any kind of formal guidance though. When the newspaper first tweeted about the case though they used the hashtag #umrape. They quickly changed the hashtag and sent two apology tweets. Their coverage throughout the trial has been graphic, describing the different sex positions both parties said they used.

“I follow a lot of people I really respect who use Twitter a lot, so I got comfortable with Twitter by watching how they did that,” Loewen said. “We just kind of went blind. Some of our reporters had done tweeting, and some of them this was the first time they had ever tweeted anything. That’s really kind of the joy of a student paper. Some days were definitely a learning experience.”

Maria Elena Fernandez was a reporter with *The Daily Beast* when she covered both the Desperate Housewife’s trial and the Britney Spears trial. Both cases involved civil lawsuits with multiple parties involved. Both cases also involved multiple celebrities. Fernandez tweeted both cases, though in a slightly different ways. For the Desperate Housewife’s trial, Fernandez and the other reporters were allowed to live-tweet the court hearings but were not allowed to live-tweet the proceedings. For the Britney Spears trial, she was allowed to live-tweet from the courtroom during the proceedings.

“No one asked me to live-tweet,” Fernandez said. “Twitter has become a very important part of what journalists do. It’s kind of like our own little brand.”

2. The standard for what gets tweeted is flexible

Most reporters saw an increase in their followers from the very start of their live-tweeting experiences.

For example, Sylvester decided before he started tweeting that his standard was going to be the same as if he was writing a news story: He was going to write in complete sentences and use Associated Press style.

Sylvester would also offer small details that may never make it into a news story, a common practice for live tweeting from a courtroom, according to other sources interviewed.

For example, one-day a juror's cell phone went off during the trial with the ringtone of "Carry on my Wayward Son" by Kansas. Sylvester fired off the tweet.

Commenting should be used for facts though, not opinions, Sylvester said.

"Sometimes it brings in fun details," Sylvester said. "Some people try to read jurors' reactions and comment on that and I found that from talking to jurors over the years, I don't know what people are thinking and I should not try to tell what they're thinking."

Perry also adds small details about what is going on in the courtroom.

"My goal was to make them feel like they were sitting right next to me in the courtroom," Perry said.

For the students at the *Montana Kaiman*, they made sure to write in a normal journalistic style and avoid shorthand. This helped them create a name for themselves because other news stations in the area would abbreviate words like you to "u" which the public found it comical, Loewen said. The *Kaiman* also had to

decide before the case which details they were going to disseminate, especially because the case was sexually explicit in nature.

“While we were writing the story we were a lot more careful,” Loewen said.

The paper would avoid using words like “ejaculation” or other “fingering,” but were more open with the terminology in their tweets, she said.

“So many people following that way that if it wasn’t put the way the prosecution had said it, people were going to talk about it anyway,” Loewen said.

“We tried to attribute everything.”

The paper attributed the terminology so that people would not think the paper was trying to be inflammatory, Loewen said.

Other writers put more personality in their tweets. Fernandez would include witty or clever remarks in her tweets of both the Desperate Housewife’s trial and the Britney Spears trial, she said.

“It’s more of like people want to connect on an emotional level,” she said. She made sure to never cross the line into harassment but felt her audience enjoyed her remarks. On one of the early days of the Desperate Housewife’s trial, Fernandez had one of the lawyers come up to her and ask her who she was. She said when she told him, he said, “You’re the tweeter. You’re funny.”

Fernandez said that particular lawyer still follows her on Twitter and comments on her coverage he finds comical.

Some judges themselves are proactive in their approach to Twitter. Texas Supreme Justice Don Willet can be found on Twitter @JusticeWillet. Willet answers questions from reporters in the 140-character limit. He also has a distinct voice to

his tweets that creates a lively and humorous atmosphere. Willet uses Twitter to keep up with voters but does not offer legal advice on Twitter. Instead, he tweets links to articles but does not comment.

3. There is debate on if Twitter should be used in every case

Journalists and lawyers alike differed on whether or not Twitter was the best medium for every case. Some, like Loewen, thought that Twitter would be better suited for high-profile cases. Others like Debra Weiss of the *ABA Journal* thought that Twitter would not hurt being used in any courtroom.

The arguments typically came down to whether or not there was a public interest in the case or not.

“Twitter was a good way to get in touch with some of the conversations that were going on,” Loewen said.

Sylvester said he did not tweet every single trial he covered.

“I did the ones I thought were most important to the community,” he said.

“Some things can still be summarized at the end of the day with a story. I would kind of pick and choose.”

Multiple sources cited the city council meeting example. By that, the sources explained they would not tweet a case in which not a lot of people would be interested in, like a city council meeting. However, other sources said that that is the beauty of twitter; a journalist can build a niche. This would mean they could tweet the city council meeting. Just because the journalist would not necessarily have a huge following on a particular case does not mean it was not worth tweeting. For example, Fernandez said she wished she would have Twitter when she covered a

case involving women fighting over chicken gizzards when she covered courts in Atlanta, before the invention of Twitter. While not necessarily a public safety or high-profile case, the case would have probably been picked up because of the absurdity of the issue.

Another worry is that the 140-character limit of Twitter will hinder the reporter's ability to report accurately.

"Sometimes when you're in a procession with something being taken out of context with too little information or there is a concern you're not getting the full flavor with a 140 characters or less, or it may be a simple that in conjunction with another platform would be better," said John G. Browning, a media lawyer based out of Dallas who has written on how lawyers should use social media.¹⁶

Twitter allows a greater access to what is going on in a courtroom and should be used is possible, Weiss said.

"Anything can be misused," Weiss said. "Any reporter can get things on or mislead if they're having a bad day or misinterpret something. I think the greater access the better."

Federal Judge Mark Bennett of Iowa thought that if people were interested, Twitter would be an easy way to access the information.

¹⁶ John G. Browning *The Lawyer's Guide to Social Networking* United States: Thomas Reuters, 2010

“Well, I think for people who want to follow court cases closely doing it in virtual real time is a better way to cover a case,” Bennett said. “If I was interested in covering a case that’s how I would want it covered. Rather than have the reporters send in a report or a column, posted later that time. We’re in the age of instant information.”

4. There are Sixth Amendment implications for the use of Twitter

The use of Twitter in the courtroom is supposed to help with creating an open courtroom experience, similar to what Perry mentioned. Readers should feel like they are in the courtroom when they are really behind their screen, be it on a tablet, mobile device or computer. But there are Sixth Amendment the right to fair trial implications that Twitter users must be careful to not over step.

There are local rules in place by every court, but a judge has the ultimate decision on what goes on in his/her courtroom, Judge Roy Sparkman, a former Texas District judge and federal judge said. This leads to a highly individualistic situation for every courtroom.

This leads to many different questions for reporters who want to use Twitter as a way to cover a trial from the courtroom.

There have been mistrials that have come about because of Twitter. For example, in a Kansas case, a member of the press tweeted a picture of a juror.¹⁷This is explicitly forbidden and the judge had to declare a mistrial, Browning said.

¹⁷ Rachel Bunn “Reporter's tweeted photo of juror leads judge to declare mistrial in murder prosecution” Reporters Committee for Freedom of the Press. Entry posted April 16, 2012. <http://www.rcfp.org/browse-media-law-resources/news/reporters-tweeted-photo-juror-leads-judge-declare-mistrial-murder-pr> Entry accessed (Feb. 26, 2013).

Jurors can be impacted by the use of Twitter in the courtroom, Sparkman said. For example, if the jury listens to an hour of testimony and the reporter does not seem to take notes or move, and then all of a sudden perks up and starts scribbling furiously, the jurors are going to take notice. The jurors could perceive it, as that piece of information was more important than the other hour of testimony that was given.

Judges also worry that the jurors will look up outside information on a case and use Twitter to find out what the media is saying about the case, Sparkman said. While this might fall under the jurors responsibility to follow the rules of the court to not seek outside information, Twitter still could be too much of a temptation.

This all contributes to the possible “circus atmosphere” judges and lawyers want to avoid, Sparkman said. One of the arguments against Twitter is that it is distracting with the noise of constant clicking, Browning said. Some judges are starting to understand, though, that there are possible silent scenarios similar to that of texting.

Another part of the “circus atmosphere” is that when lawyers know a reporter is in a courtroom they are more likely to grandstand, Sparkman noted. For example, Sparkman said his courtroom had a window in the back of it that news stations were allowed to put their camera up to and get video from the trial without actually being in the courtroom itself. When lawyers saw the camera, they would act differently, he said. This could be the same with Twitter.

Texas Supreme Court Justice Don Willett said that he believed most judges are fine with live-tweeting court proceedings because of the unique nature of Twitter and so many people use the medium.

“Any prohibition is probably not aimed specifically at Twitter, but at the presence of devices themselves, because, for example, some courts forbid video recording and wouldn't want reporters using their iPhones as news cameras,” Willett wrote in an email. “My court allows computers and devices in the courtroom, but then again, we've been live webcasting our arguments for several years now.”

Ultimately, judges do not want their ruling overturned, Sparkman said. The use of Twitter in the courtroom could lead to a defendant appealing on the grounds of a mistrial because of the coverage, Sparkman said.

CRITICAL REVIEW

While discussing the use of Twitter in the courtroom with the interviewees, a few guidelines began to develop. Through these conversations, the author came up with the following best practices on how Twitter should be used in a courtroom.

1. Ask for permission

Asking permission to Tweet or use smart phones was a common theme raised by the sources for this study. Reporters have a clear Constitutional right to attend trials, but they do not have similar rights to use Twitter in the courtroom to report. Citizens have the right to attend a trial but it is ultimately up to the judge on whether or not electronic devices can be brought into the courtroom or used.

Several of the interview subjects suggested the reporter know the rules of the court before they even approach the judge, and other reporters should follow this practice. Find whoever is in charge of making sure the court rules are followed and talk with them first. They will know the individual judge's preferences and how to go about approaching the judge. Make sure to check and see what the local rules say, too.

When approaching a judge for permission to use Twitter make sure you can demonstrate how the medium can be used effectively. Bring examples of other reporters that used Twitter. Be willing to show the judges how Twitter works if they are unfamiliar and be patient. Some judges may want to confer with the prosecution and the defense to make sure they are comfortable with the use of Twitter in the courtroom. This is probably to avoid an appeal based on Twitter coverage of the trial.

Be inconspicuous. Have your setup established before you go to see the judges. Show them how you can cover the proceedings without being a distraction, be it through noise or a large setup.

Some journalists said they did not ask permission for their tweets. While bold, this move may result in the loss of the right to tweet at all, ever. It could also lose the right for other journalists. Do not be that person.

2. Know your goal

A reporter's goal for covering the case via Twitter should be established before he/she approaches the judge. Still, communication about how you will cover the case between a reporter and their editor is always a positive.

If the case is particularly graphic, be it violent or sexually explicit, make sure you know how you will go about certain jargon. Reporters should decide on what audience they want their Twitter coverage to cater toward. Reporters should make sure they are still being fair in their coverage so that a judge cannot ping them later for their Twitter use but some commentary is fine. The beauty of Twitter is it allows a reporter to have 1,000 words out on a case before they go to write a story. Not every piece of information in those tweets will make it into a reporter's final story. Reporters should be careful as to what language they are using. Certain explicit content could attract a crowd with less than moral ideals, especially in a sexually explicit case. Also, reporters should make sure to use fair hashtags. Something like #umrape is accusatory, like the *Montana Kaiman* and other news outlets originally posted on their websites.

If a reporter's goal is to provide minimal detail on a complex case, then they should make sure their tweets are worthwhile and link back to their site if they are providing context. This will continue to drive discussion and viewers back to the final product. Reporters should keep in mind the number of tweets they are sending. Spamming someone's newsfeed who is only minimally interested could lose them followers. Reporters should not send tweets just to send tweets. Reporting is about building an audience and a following. Branding tweets with a hashtag will help to keep the conversation flowing.

3. If reporters can't tweet inside, it's ok

Not every judge will allow tweeting inside the courtroom. This is ok. Fernandez was not allowed to tweet inside the Desperate Housewife's trial and did not find it a negative to her coverage. Instead, she had to pay close attention so that she knew which 15-20 tweets she would send over breaks. This made her tweets more worthwhile. She also said it helped her keep in mind what the most important elements of the case were so when she went to write her story, she had the major points in mind instead of the entire case.

Tweeting from the hallway does not have to hurt coverage. Tweets will act less as notes and more as an outline. Reporters should be respectful and understand that quality coverage, even from the hallway, will earn you a reputation of a serious reporter.

4. Do it, and do it well

Some people argued that Twitter should only be used for important cases that are getting a lot of coverage, but most sources for this project disagreed. Any

time decisions are being made that impact people's lives; I believe the news should cover it. Be it a courtroom or a city council meeting, people have the right to know what is going on around them and it is our job as journalists to cover that. No, not everyone will want to hear about every case but part of knowing the goal or reporting understands the audience. Building a niche market is important.

I have stated to not tweet just to tweet and that is true. Tweet what is important. Tweet accurately. The same rules apply to Twitter for coverage that applies to writing a story. Do not let the medium dictate the quality of a reporter's coverage. It is more important to practice the basic skills of journalism to disseminate a story than to be clever and cute. Commentary is fine. It adds detail. But reporters need to make sure the commentary is for the benefit of the reader rather than the cuteness of the comment.

Twitter is the medium of today, it may not be the medium for forever but for now, Twitter is one of, if not the quickest way to let people know what is happening. We are living in an age of instant information. Twitter allows the people to know what is going on around them, and it should be used in a courtroom situation. As long as coverage is accurate, bring on the tweets.

APPENDIX

Example of Research Questions

Have you used Twitter in the courtroom? What was your experience like?

How did you decide to use or not use Twitter?

What was the process you went through to be able to use Twitter?

What were you surprised about when you used Twitter?

Would you use Twitter again in the courtroom?

Should Twitter be used in every circumstance?

What advice would you give to someone tweeting from the courtroom for the first time?

What is the attitude of lawyers toward Twitter?

What is the attitude of judges toward Twitter?

What are the fair trial implications of using Twitter?

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ABSTRACT

With the increase in the use of Twitter by journalists, some journalists have started to use Twitter to cover court cases live from the courtroom. This increase in a technological presence in the courtroom could and has lead to trial complications. How then should Twitter be used in a courtroom to cover cases? By conducting nine in-depth semi-structured interviews the way and reason Twitter should be used in the courtroom was discussed and analyzed. This method was chosen to allow for a further discussion of the implications of Twitter and how it could be best used. Through this research it was determined that: Twitter courtroom coverage started as an experiment; the standard for what gets tweeted varies, Twitter may not be used in every situation; and Twitter can have Sixth Amendment implications. A guide was then compiled for the best way to use Twitter in the courtroom.