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Is it better to find out if a person has a 'sordid' past, or to base your knowledge on more traditional means? That is the question. A common concern among employers is that of the legality of using social media as a background check. Is it even ethical?

One thing is true, social media is not going away. It's only going to grow.

When conjuring up the concept of social media, most think of **Facebook** (300 million users and growing) or MySpace but there are a myriad of others. One of the largest social media sites, even larger than Facebook, is **Friendster** (over half a billion members worldwide), which while focused on the Asian community has global participation.

This does not account for the more 'professional' social media sites such as **LinkedIn** (75 million as of August 2010), **Plaxo** and others (See the sidebar for 27 of the most frequented general business social networking sites). Add to this number the social media sites set up by universities, colleges, professional organizations, etc., and you've got a universe of online communities. For example, the **inCircle** community or affinity groups that are professional in nature and have a fee to join may be the best source of communicating ideas and finding people you would like to recruit.

Indeed, the usage of social media as a place for recruitment and finding work has mushroomed. The more short-lived 'traditional' means of a 'job-board' has been surpassed and left behind.

As companies begin to go after new employees, they suddenly find themselves in the midst of the 'information age' generation. This is not defined by a decade of birth but by a way of life. As one person wrote on his blog: "As I write this, I'm having 2 conversations on Instant Messenger, I have 16 Internet windows open, and I've received two text messages on my smart phone. I like to tell people that Millennial are 'information consumers'."

An 'information age' person is anyone who favours electronic communication as a means of 'staying in touch'. Not just for teenagers any more, social networking is a means of connecting beyond physical boundaries and into regions of the world you have never travelled. As a result, it is a natural place to find potential future employees.

In this fast-paced world of immediate gratification, the use of social media as 'business media' makes perfect sense. For example, one search firm put it this way: "It is a rare case that I would be forced to actually advertise a position. Generally speaking, using my methods, I can have fully screened candidates for a client within two to three days. This is weeks faster than other agencies that use no social media and choose to advertise only."

But then come questions that have to be grappled with in order to ensure you are not just working the network for jobs or for new employees, but doing it in a way that is right.

### **Finding candidates without the person's knowledge**

One of the most effective means of finding potential candidates using social media or Web 2.0 technology is by setting up interest groups that ask questions on a topic particular to the job you are trying to fill. Participants in these groups will share their ideas for the solution to your problem and, with a little probing, also share their interests, memberships, specializations, backgrounds, and experiences.

This allows the recruiter to develop a relationship with the passive job seeker and then invite them to join a meeting, eventually seeing if they will be the right person to fit the organization. This method takes more time but ensures you have found people who go beyond the simple interest of basic knowledge. This approach is also more engaging and personal. Plus, by using direct contact with the members of the group, you can find potential employees with the profile you seek. This approach is the more sophisticated and longer-term investment.

### **Is using social media for recruitment the digital tipping point?**

The issues are many and the topic has hardly been explored. This column is not intended as legal advice, but to motivate you to seek advice from your legal council prior to getting in difficulty. Some of the issues range from discrimination to privacy to just simple alignment with your corporate values.

People are entitled to use social networks and to share personal information in a social context. But they must do so fully aware that someone outside their social network will use the information, out of context. The legal implications of this have yet to be fully considered. One case in the United States, *David Mullins v. Department of Commerce* (May 4, 2007), indicates that what you put on any social media site can be used because you willingly put it there. A survey indicated that 40 per cent of firms surveyed say they explore the background of a candidate using all social media they can access. For example, if through a web search the employer finds you have been involved in numerous accidents and your job requires driving you



might be a less desirable candidate.

In another case, a graduating student who was considered the best candidate for a job, was found by the potential employer drinking a gallon of vodka on Facebook, which resulted in her not being hired. Was that work related in any way? Was she doing anything that was not legal or socially acceptable? Was there evidence of her driving after drinking? None of the questions were answered but the firm passed on their primary candidate because of a picture posted by someone else in which she had been 'tagged'.

Social media is meant for people who are both networking privately with friends and publicly 'branding' themselves. Therein lies the risk. Another risk for employers is that not all social groups use social media equally. According to media analytics firm Quantcast, only 5 per cent of LinkedIn's members are African American (vs. 12.8 percent of the total population) and only 2 percent are Hispanic (vs. 15.4 percent of the total population). Further there are no statistics available on the usage by the First Nations or new immigrant populations. It is easy to argue that sourcing via social or business media will have an unequal impact; perhaps the grounds for a case of social discrimination.

Another problem is linguistic. When posting on a social media site the habit is to use initials and abbreviations understood by a particular generation as their code of conversation. Does this mean that when hiring a person for a position some candidates will be disqualified because they do not demonstrate proper language when communicating?

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## 11 Tips When Using Social Networks for Background Checks

Social networking sites are the future for background checks, as such; companies will need to ensure they have in place a policy to make certain they do not have different people even in the same location doing their own thing. As such employers should do the following:

1. Establish a corporate policy for all employees, at all levels and locations.
2. Ensure that whoever and however the data is mined that the issues pertaining to human rights such as national origin, race, religion, sexual orientation, are deleted from any information that might come up with during the search.
3. Approve the usage of social network, job boards, etc., by the organization. For example, some organizations do not approve of information taken from [MySpace](#), Facebook, Friendster, campus-based sites or similar sites because the firm believes that they are not job-related or might reveal that which the company does not need to know because it is not a site used for professional purposes.
4. Set criteria that can be collected and which source of data on the individual can be recorded. For example Current and Past Job Titles were found on [Ryze](#), or if the person fits a designated category found on [Ecademy](#).
5. Make clear which criteria are not allowed such as; age, race, sexual orientation and the like.
6. Ensure that your recruiting officers are trained in equal opportunities.
7. Keep a paper trail and archive print-outs that you have used when assessing a candidate. One case in Chicago found the lack of a paper trail to be the sign of a prejudicial hire.
8. Review your policies and make it clear that only HR is allowed to consult online profiles.
9. Ensure that the usage of social media and the data extracted are consistent with the values of the organization.
10. Ensure the policy is consistent for everyone in the organization, and with current policies on sourcing candidates.
11. Start with a pilot program.

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### The screening of candidates using social media

Perhaps the most common usage of Web 2.0 is for screening potential candidates. In an effort to find more about what the candidate believes, what motivates and demotivates them, what they value and what they react to, more employers have taken to following Tweets. One NBA star recently found his contract was not renewed because of a tweet he posted about the team for which he played, costing him millions in salary potential.

The problem with social media is simple. Some information, accessible by the employer, will not be job-relevant. This includes gender, age, pregnancy, race, disability, sexual orientation, national origin, marital and health status – none of which would normally be obtained through a resume or job application. They could cause a potential employer, consciously or unconsciously, to reject the person applying for the position.

There is nothing wrong with rejecting a job candidate with job-specific personal attributes and behaviours that will result in poor and/or unsafe job performance. Doing so is logically part of the screening process. But gaining other knowledge that influences the decision might be harder to defend. This is an area yet to be tested in the courts, but it cannot be avoided when using social media to seek background checks of candidate prior to inviting them in for an interview.

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### **Network mining**

So there is an answer to this dilemma – network mining software. Such applications exist to ensure compliance with the laws pertaining to what can and can't be shared about a potential candidate. They allow recruiters to tap into the power of social networks while tracking the parameters considered relevant by the government regulations and corporate policy. These include the capability to set what will and will not be collected from the mining of data to be shared with the recruiter.

Yes, social networks can give recruiters a competitive edge in locating and engaging the best candidates available, but adding these new sourcing options also brings potential legal pitfalls of which executives, managers and recruiters need be aware.

My concern is that using Web 2.0 may bring the judging and discrimination of a potential candidate into play too early in the recruitment process. This will invariably become a major issue for employers and recruiters.

Social media's general use and acceptance has also led to the blurring of the lines between private/public and personal/work; whether an individual is posting about the latest government initiative or sharing details of a night out with friends. Every week, the stories of employees waxing lyrical (and not in a good way) about their employers are growing. Employers are googling prospective employees and gathering information on them via their social media profiles.

In Australia, the courts are now allowing the service of court process documents via Facebook. Recently, in Australia, the "Facebook Six" won their case against the New South Wales department of Corrective Services that tried to terminate their employment as a result of comments they had posted on Facebook. Conversely, in New Jersey, a restaurant was awarded \$17,000 for a comment made by an employee on a password-protected, private, blog. Simply put, the courts have made different decisions in different locations, causing multi-national firms to face new issues and for the heightened need for implementation of a single policy on the usage of social media for background checks, recruitment, and checking on current and past employees.

### **Conclusion**

For the recruiter and the person doing the background check, there is a wealth of data gained through Web 2.0: status updates, blog posts, comments, groups, images, friends and so forth. The level of security set by the owner of the web page can determine the ease of access by an 'outsider'. But knowingly or unknowingly, users create a situation where data is public and fair game for decision-making by a potential employer. Yet telling a high school or university student that they should be careful of what they post is like talking to the wall.

Employers should keep in mind that not all profiles are factual. False statements can easily be made in a profile or one might 'brag' to impress someone else, which could affect or twist the truth that a researcher might wrongly depend on.

This means that even though the network profiles that a person provides online can be viewed publicly – they don't necessarily guarantee strict privacy security; the option of showing this still depends upon the owner of the profile.

Yet, the research might find that, for example, the résumé the person submitted includes different jobs and even different employers than posted online on a professional site. The likelihood of this happening is high since one survey of recruiters indicated they believe the over 55 per cent of all applications contain either blatantly incorrect information or some small exaggeration of the truth.

It is the obligation of the employer to use every legal means to get all the relevant and job-related information on a prospective candidate. Employers should consider the following:

1. Keep in mind that not all profiles are factual. False statements can easily be made in a profile, which could affect or twist the truth that a researcher might wrongly depend on.
2. The applicant retains the right to bring the issue to the court with grounds concerning privacy intrusion. However, it can be hard proving that an employer actually wrongly used the networking site for their advantage.
3. Another compelling reason to do the background check is the time and money spent will be less than using an internal resource or hiring an agency to do the same.

However, remember that the most proven method of hiring quality employees by far is still human contact and referral by a current employee.

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## 27 Social Networking Sites for Business Professionals

1. **ASEzone** – A professional community where you can find potential clients and business partners.
2. **Biznik** – A community of entrepreneurs and small businesses dedicated to helping each other succeed.
3. **Black Businesswomen Online** - A social network for black business women and women entrepreneurs.
4. **Blellow** is a community with a focus on productivity. It's a place for freelancers and professionals to collaborate, find work, and solve problems.
5. **cmypitch.com** – A business website for UK entrepreneurs to get quotes, advice and more.
6. **Cofoundr** – A community for entrepreneurs, programmers, designers, investors, and other individuals involved with starting new ventures.
7. **E.Factor** – An online community and virtual marketplace designed for entrepreneurs, by entrepreneurs.
8. **Ecademy** –A business network for creating contacts and sharing knowledge.
9. **Entrepreneur Connect** – A community by Entrepreneur.com where professionals can network, communicate, and collaborate with others.
10. **Fast Pitch** – A business network where professionals can market their business and make connections
11. **Focus** – A community focused on helping business decision makers and IT professionals make decisions.
12. **Jigsaw** - offers an online business card networking directory. Easily establish contacts with each other.
13. **Konnects** - a social media platform that is embedded on the site of an online newspaper or publication to bring engagement to the organization's site.
14. **LinkedIn** – A professional network that allows you to be introduced to and collaborate with other professionals.
15. **Meet The Boss** – a business networking tool for business executives around the world, across all vertical industries. Content is all in English.
16. **Networking for Professionals** – A business network that combines online business networking and real-life events
17. **PartnerUp** – A community connecting small business owners and entrepreneurs.
18. **PerfectBusiness** – A network of entrepreneurs, investors and business experts that encourages entrepreneurship and mutual success.
19. **Plaxo** – An enhanced address book tool for networking and staying in contact.
20. **Ryze** – is a free social networking website designed to link business professionals, particularly new entrepreneurs.
21. **StartupNation** – A community focused on the exchange of ideas between entrepreneurs and aspiring business owners.
22. **Talkbiznow** - a comprehensive interactive business networking site for business professionals.
23. **Unstructure.org** - an open discussion platform for business professionals, bloggers and contemporary thought leaders to discuss and debate action ideas that would aid the evolution of business. Unstructure consists of an online discussion forum (where you are currently), an annual physical event and a book of insight and action ideas for businesses of the future.
24. **Upspring** – A social networking site for promotion and social networking.
25. **XING** – A European business network with more than 7 million members.
26. **Young Entrepreneur.com** – A forum-based site for entrepreneurs and small business owners who are passionate about promoting business for themselves and others.
27. **Ziggs** – A professional connection portal founded on the principles of professionalism and respect.

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