

## Potpourri

By Judge Herbert B. Dixon Jr.

I have unfinished business with some of my previous *Judges' Journal* technology columns. There is additional information I would like to include in past columns and developments that have occurred subsequent to other columns that would make nice additions to the previous articles. Thus, the idea for this column called "Potpourri"—a miscellaneous assortment to supplement a few of my previous columns that were fun to write.

### I Never Meta Data I Didn't Like (Spring 2009)

This article discussed the existence of metadata in electronic documents that, without proper precautions, would allow recipients of the document to view previous versions of the document. Unfortunately, Transportation Security Administration personnel (yes, the TSA airport security people) did not heed the cautions of this article and ended up exposing highly sensitive security information on the Internet.

First, as a reminder, metadata is the DNA of the electronic world. It contains information about a document such as the time and date it was created, the computer and network on which it was created, the number of times the document was revised, previous revisions made (including deletions and additions), contributing authors, the electronic format of the document, hidden text, deleted comments, dates the document was accessed, and more.

In December 2009, the TSA posted on the Internet a copy of their security manual, "Screening Management SOP," as part of a contract bidding process. TSA redacted the document by placing electronic black boxes over selected information in the manual to keep sensitive information from the public. Unfortunately, TSA's redacting process was not sufficient. The metadata in this document

was not disturbed by merely blacking over the sensitive text. Savvy surfers merely selected the blackened areas in the online document, copied and pasted them into a word processing file in a program like MS Word, Notepad, or OpenOffice Writer, and recovered the highly sensitive information that was within those blackened areas.<sup>1</sup> Members of the Internet public that accessed the redacted manual were able to learn about various TSA security secrets such as:

- The limited percentage of bags that are checked through the TSA's explosives trace detection screening protocol;
- The categories of passengers who are to be exempted from closer scrutiny after initially being selected for extra screening;
- Images of credentials that allow certain law enforcement officers to get on a plane with weapons;
- Airline passengers who would be selected for extra screening if they carried passports issued by certain countries;
- Characteristics of suspect identification; and much more.

Not only did the TSA personnel miss my article, they also missed an earlier 2005 report by the National Security Agency issued as guidance to federal agencies that included detailed instructions on how to process a word processing document in such a way that any sensitive information would be eliminated from the final PDF document. The report, "Redacting with Confidence: How to Safely Publish Sanitized Reports Converted from Word to PDF,"<sup>2</sup> is also available to the public and could have been used by the TSA to avoid this embarrassing episode.

### I Recognize Your Walk (Spring 2008)

This article was inspired by the occasion when I first became aware of gait recognition technology—the ability of a computer to recognize a person by the way she walks. In addition to that technology, the article discussed numerous forms of biometric measurements used to identify individuals against a known database. One of the measurements discussed was face recognition technology, which, when added to gait recognition technology,

would allow “Big Brother” to set up video cameras of persons at a sports stadium, in a mall or airport, or in the parking lot of your favorite fast food facility and surreptitiously search for you among the crowd.

Well, it appears that a commercial “Big Brother,” Facebook, has started its own database of faces that may be larger than the database possessed by any government. Facebook membership, if it were a country, would be number three in the world, behind #1 China and #2 India. Yes, larger than the United States of America.

The face recognition technology employed by Facebook has a “tag” feature that results in an alert if someone uploads a photo that Facebook thinks contains your image.<sup>3</sup> Facebook’s facial recognition feature groups together multiple images of the same person. As a result, you type a friend’s name only once and the tag will apply to all photos of that person. If the person has been previously tagged in enough photos, Facebook will use its face recognition feature to suggest the person’s name.<sup>4</sup>

The Facebook face recognition technology is in its infancy and still hits and misses with its recognition capability. But, who knows? One day, because of Facebook, the moment a photo of you is uploaded to the Internet, it will be immediately tagged with your name, contact and other bio information for the rest of the world’s two billion Internet users.

### Tips and Tricks for the Over 40 Crowd (Fall 2007)

This article discussed computer tips for older folks that might help make our use of a computer more efficient, help solve a recurring computer problem, or help our computer run faster. I’d like to add one more tip, namely, “Restore Point.” If you have ever messed up your computer’s operation because of a program that you installed or accidentally deleted an important computer file and found yourself wishing you had not done that, there might be a chance to miraculously undo what you have done. With the current and recent Windows operating systems, you can go back in time to restore your computer to

the way it was before the program was installed or file was deleted using System Restore. Without becoming overly technical, a feature in the Windows operating systems periodically saves information about your computer’s system files, settings, and previous version of files that you have modified and allows you to go back to the past to restore your computer operation to a previous time, just before you committed that gross error of installing a bad program or deleting a critical computer file.

It works this way. Touch the Windows Start key, point to Programs, then System Tools, and finally System Restore. At this point a screen will appear that directs you to a choice of several System Restore Points. Feel free to choose the most recent Restore Point because, in the event your computer is not restored to your liking, you can try the process again to undo the last restoration or select older Restore Points.

Keep in mind that in the Windows operating systems, there are multiple ways to accomplish the same task. For instance, in Vista and Windows 7 you can access the System Restore feature by touching the Windows Start key, and then typing in the text box “system restore” and pressing enter. Next, under the System Protection tab, click System Restore and then follow the menu choices. If you successfully restore your computer to its previous state of operations of your liking, you will be elated that you did not have to call the computer geek to fix this problem.

I have one more bit of information. If you are presently very happy with your computer’s operation, instead of restoring your computer to a previous time, you can set a Restore Point for access in the future. You will even have the option of giving a custom name to the Restore Point such as, “installing new hard drive” or “installing voice recognition software” or “today is my birthday and the computer runs perfectly.” If your computer is malfunctioning on a future occasion, you can select that time in the past to which you would like to restore your computer. Be aware, however, the further back you go to an old Restore Point, you will lose any program that was installed since that time.

### Developing an Addiction to Your BlackBerry in 13 Easy Steps (Spring 2010)

As is obvious from its title, this article gave helpful tips for use of the BlackBerry. There is another valuable tip that everyone should learn. By merely typing just a few letters, the auto text feature will substitute those letters with a word, a sentence, or a paragraph that are predetermined. For me, this feature has opened up a whole new world for efficient use of the BlackBerry. First, some background.

You may already have noticed that when you type “im+space” on your BlackBerry, “I’m” will automatically appear—the same occurs when you type “mo+space,” in which place “month” will appear. Or if you type “cant,” “can’t” will appear, “beleive” and “believe” will appear, and so on. The BlackBerry (including most other smart phones) has a predefined dictionary of auto text entries. You can review the current auto text entries on your BlackBerry by going to Options, and then to AutoText. At this point scroll down to see all the predefined auto text entries. Or, type any letter of the alphabet and you will be taken to the auto text entries that start with that letter.

With auto text, you can insert words, sentences, and paragraphs by just typing a few letters. For example, I have predefined a closing for e-mails that go to family and other loved ones. Additionally, with just three letters and a space (I use “sig”



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for signature), I can add my on-the-job signature (including name, title, court, address, telephone, fax, e-mail, and a little design above and below that information). Another example concerns instances where I want to subtly apologize for any problems with my hastily prepared e-mail. In those cases, merely typing a few letters (I use “bbnote”) results in automatic insertion of a closing sentence that reads: “Please forgive the brevity and formatting of this message. I am responding from my BlackBerry.” Think about it. The possibilities for boilerplate e-mail are endless!

To add your own predefined auto text entries, go to Options, then to AutoText. Next, click Menu, and then New. At this point type the shorthand for the phrase you want to add (as in my example “bbnote”) immediately after Replace. Next, immediately after With, type in the phrase you want inserted. Choose SmartCase if you want your device to automatically determine the capitalization, or Specified Case if you want the phrase inserted exactly as you have defined it. Now touch the escape key and choose Save. From this point, use the escape key to work your way back to the home screen and your e-mail (or memo) to try out your newly defined auto text entry. Caution, choose shorthand carefully for your predefined phrase, and be careful not to choose a word or set of letters you might commonly use. For example, a bad choice for shorthand choice would be the word “the” because every time you type that word plus a space, your predefined phrase will appear. This error can be easily corrected, but who needs the hassle. Remember, always choose an easy to remember set of letters for your shorthand that also is not a typical combination of letters for you to use in an e-mail or memo.

### **Guarding against the Dreaded Cyberspace Mistrial . . . (Winter 2010)**

This article discussed numerous occasions during which jurors violated their instructions not to discuss the case outside of their jury deliberations or attempt to investigate the case or do any independent research. The article also dis-

cussed the extent to which courts were addressing the issue from (1) banning cell phones, computers, and PDAs from the courthouse to (2) instructing the jurors early and often not to use Internet maps, Google Earth, or any other program or device to search for or view any place discussed during the case, and (3) instructing jurors not to have any discussions about the case, or make any entry on Facebook, MySpace, LinkedIn, or other Internet social media sites—including all other forms of oral, written, and electronic communications such as Twitter, e-mail, blogging, and texting. I still characterize the banning of devices from the courthouse solution as a draconian remedy and support the practice of instructing the jury early and often, starting during *voir dire*.

Sometimes, however, a juror is so intent to violate the instruction, there may be very little a court can do to avoid the problem of juror misconduct. I have two examples.

#### **Juror’s Text Messaging Misconduct Results in \$1,000 Fine**

Daniel Matz was a juror selected to serve on a rape trial in Queens, New York. In violation of specific instructions, Matz sent text messages during deliberations, one of which stated, “5 Doubting Thomases don’t know for certain, And were this not a rape case I’d pull the rug from under the prosecution and vote to acquit.” Matz further stated in one of his texts that he was sending it from “a 12x20 jury room.” He noted that the WiFi in the jury room was “excellent” and ended his message by stating, “Juror #5 reporting to you live.”

A recipient of the text messages was an assistant district attorney in the Bronx, who promptly informed the court of the texts. After an inquiry into the facts surrounding Matz’s text messages, the judge declared a mistrial, convicted Matz of contempt, and fined him \$1,000.<sup>5</sup>

#### **Juror Guilty of Facebook Misconduct Sentenced to Eight Months in Jail**

Joanne Fraill was a juror in the United Kingdom selected to serve on a co-defendant, £6 million (\$10 million) drug case.

During the jury’s deliberations, Fraill made Internet searches about the case and made Facebook contact with Jamie Sewart, one of the defendants the jury had acquitted earlier in deliberations. Fraill sent a message to Sewart saying: “You should know me—I’ve cried with you enough.” In later online conversations, the two continued to talk about the case and used expressions such as “lol” and other Internet abbreviations. Sewart’s boyfriend, Gary Knox, was a co-defendant in the case. At some point, Sewart asked Fraill about the outstanding charge against the boyfriend. Fraill responded, “cant get anywaone to go either no one budging pleeeeeeese dont say anyhting cause jamie they could call mmiss trial and i will get 4cked to0.”<sup>6</sup>

Fraill’s conduct was discovered and resulted in the declaration of a mistrial. Subsequently, Fraill was convicted of contempt and sentenced to eight months in jail. Sewart, the defendant acquitted in the drug trial with whom Fraill spoke online, was also convicted of contempt. She received a suspended sentence.

### **Conclusion**

Occasionally, to refresh my memory about a technological solution, or the solution to a problem caused by technology, I will go back and review a previous column on the topic. Since we are all human and cannot instantly remember everything all the time, I urge you to do the same. Thank you, *Judges’ Journal* readers, for allowing me to update a few of the previous technology columns that I remember fondly. ■

*Editor’s note: Judge Dixon’s previous columns are available online at [http://www.americanbar.org/publications/jjudges\\_journal\\_home/tech\\_column.html](http://www.americanbar.org/publications/jjudges_journal_home/tech_column.html).*

### **Endnotes**

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