How Jurors Use Technology in 2016

by Christopher B. Hopkins

In 2011 and 2014, I wrote in this column about how jurors were using technology. Viewpoints have shifted since then. Five years ago, the concern was all about social media: how were jurors using Facebook? Could we keep them off the site during trial? But the discussion has broadened. Now lawyers need to know how jurors feel about other technologies which pervade our lives. Jurors have passionately strong fears and contrasting hopes about technology. Trial lawyers cannot just ask whether a juror uses technology – we have to explore the person's attitudes about technology's application, impact on privacy, and reliability.

Five years ago, only 42% of jurors were on Facebook and a slightly higher percent checked their email before going to bed. Unquestionably, those figures are higher now. Seems quaint, doesn't it? Florida Bar members were equally nascent in their tech-ways. As of 2014, one-third of Florida lawyers were computing… with Windows Vista. That's not quaint, that's *antiquated*. Even now, nearly a quarter of us are still mired in Windows XP and Vista. Yet, and perhaps aptly so, nearly half of Florida lawyers agree that technology CLEs should be mandatory. If lawyers are not using technology properly, we cannot possibly grasp how potential jurors feel about new devices and trends.

We need to explore society's relationship – *meaning your jurors' relationship* – with technology. That relationship has deepened because we are surrounded by Dropcams in our homes, Bluetooth in our appliances, and devices poised to respond to our voice. It's a confusing stage in our courtship with tech. We are fearful of hackers getting our "PII" yet we remain haphazard in defining privacy and distracted in our commitment to secure passwords. We have achieved a comfort level where we give names to our devices (admittedly, odd ones) like Siri, Alexa, or Cortana. Yet we are confused about whether these devices listen and speak with us as tools, friends, or aggregators of our habits. In some aspects, the tech-savvy and the tech-scared share both a wonderment and a paranoia of the connected world which is hard for a lawyer to detect through generic *voir dire* questions. Select, or *de-select*, your jurors carefully.

We Want to Shop By Drone – 66% of shoppers expect to receive purchases delivered via drone within the next five years and 80% would pay drone delivery charges (*Walker Sands*).

But We're Afraid of Drones – 30% of Americans agree with private ownership of drones while 42% are opposed to anyone but experts or government operating drones. 73% of people think there should be regulations (*Reuters*). The FAA, meanwhile, has missed several deadlines to set those standards.

We Text and Drive – 70% of us admit to using cell phones while driving: 40% use social media, 30% search the web, and 10% video chat (*AT&T/Braun*). Cell phone use is now a factor in 27% of car crashes (*Natl Safety Council*). That said, in late 2015, the first driver-less Google car was pulled over by police.

We Post a Lot of Kid Pictures – Parents of children under 5 years old post an average 195 photos online every year (typically on Facebook). But parents are careless about security – less than 20% of parents check their privacy settings (*knowthenet*).

We Delete Apps – 36% of all apps are deleted within a month after downloading. Half are deleted because they take up too much storage. Excessive ads (41%), errors (34%), privacy (30%), and difficulty using (27%) are other top reasons. Strangely, less than 4% of apps get deleted due to lack of use.

Snowden Disclosures Made Us More Careful – 34% of Americans have taken at least one step to shield their information on the internet. But, less than half of us actually use non-tracking search engines, email encryption, Tor, or privacy-enhancing plug-ins (*Pew*).

But Snowden Hasn't Scared Us About the NSA – People who think favorably of the NSA: under 30 years old (61%), 30-49 years old (55%), and 65+ (40%)(*Pew*).

Being Anonymous on the Internet Isn't That Popular – 43% of people do not believe that anyone should be able to use the internet anonymously (or don't know). But nearly 25% of us have given fake or misleading names, email addresses, and information – or have avoided sites which require verification (*Pew*).

Few People Use the Dumbest Password – While "123456" was the most frequently used password in 2014, that represented less than 1% of all passwords (*SplashData/Ars Technica*).

But We Don't Care About Security At Work – 64% of workers would stay quiet about a security breach if they noticed it (*Daisy Group*).

Cash on Hand – 60% of us have less than $20 cash on us right now (*Walker Sands*).

Millennials vs. Banks – Less than half of all millennials use a credit card and 33% think they will not need a local bank in five years (*Bitcoin Foundation*).

What's a Bitcoin? – 65% of people are "not at all familiar" with bitcoin (*CoinCenter*).

Conspiracy? 69% of us believe the simplest explanation is usually the most accurate yet 65% believe advertisements have hidden messages; 24% believe an alternative explanation to 9/11; and 14% believe the moon landing was fake (still?). Barely 30% believe Kennedy was killed by Oswald yet this is the most popular explanation (*Vanity Fair*).

Religion Declining – Percentage of reported Christians is down to 71%. One in three millennials have no religious affiliation (*Pew*).

Cleaning House vs. Watching TV – Women average nearly 50 minutes a day preparing food/cleaning up whereas men spend less than 20 minutes/day. Both sexes admit to 2.5 - 3 hours of television per day (*Bureau Labor Statistics*).

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