

SOCIAL MEDIA: **Cultural Catastrophe or** **Evidentiary Goldmine? A** **Prosecutor's Perspective**

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DISCLAIMER

WARNING:

- I AM A LAWYER, I AM NOT YOUR LAWYER!
- NOTHING TODAY IS LEGAL ADVICE.



OUTLINE FOR TODAY

WHAT THIS IS:

- An overview of the impact of social media as evidence and legal foundations for admissibility.

WHAT THIS IS NOT:

- Tutorial on how to use social media apps.

WHAT IS THE TAKEAWAY:

- The human brain prefers the visual image.
- Start looking for social media evidence by asking for it.

1

ATTENTION SPAN

ATTENTION SPAN

B. 1991

**D. HEY, LOOK—
SOMETHING
SHINY**



UNDERSTANDING YOUR JURORS

THE WALL STREET JOURNAL.

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A-RED

Ladies and Gentlemen of the Jury, Please Wake Up!

Lawyers and judges in complex trials are struggling with a rash of sleeping jurors



Death row inmate granted retrial after juror falls asleep

A death row inmate in the southern US state of Arkansas was granted a new trial after one juror during the original hearing was caught sending Twitter messages and another juror fell asleep.

“If you’re a criminal-defense lawyer,” says Joshua Dubin, a New York jury consultant and defense lawyer, “you pray the jurors fall asleep during the government’s case and wake up during the cross-examination.”



UNDERSTANDING YOUR JURORS

Sleepy Juror Gets Rude Awakening

By **Caitlin Liu**

Times Staff Writer

APRIL 20, 2005

Juror No. 2386 had been sitting in a downtown Los Angeles courtroom for two days, waiting to be grilled by lawyers, when he let out a loud yawn.

"You yawned rather audibly there. As a matter of fact, it was to the point that it was contemptuous," said Superior Court Judge Craig Veals, who was presiding over jury selection for an attempted murder trial.

"I'm sorry, but I'm really bored," the juror replied.

"I'm sorry?" the judge responded, and the juror repeated his statement.

The judge called his attitude "lousy."

"Your boredom just cost you \$1,000.... I'm finding you in contempt," Veals said, according to an April 1 court transcript. "Are you quite so bored now?"

HUMAN BRAINS PREFERENCES THE VISUAL IMAGE

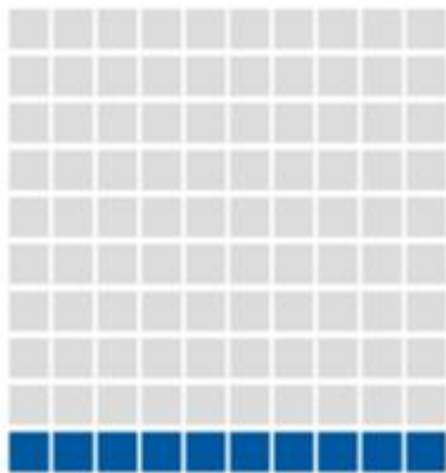
**The human brain processes
visual information 60,000
times faster than text**



Processing print isn't something the human brain was built for ... Mother Nature has built into our brain our ability to see the visual world and interpret it. *Marcel Just, Dir. Ctr. for Cognitive Brain Imaging at Carnegie Mellon Univ.*

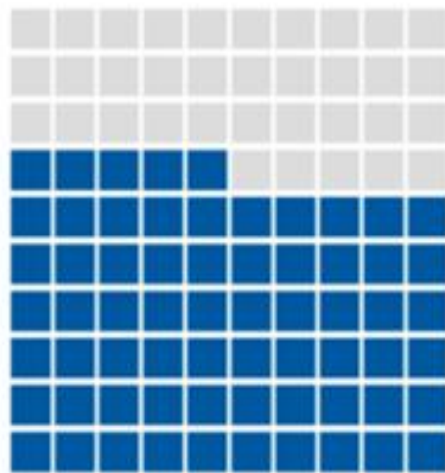
Picture Superiority Effect

Memory retention after 3 days



10%

Text or Audio Only



65%

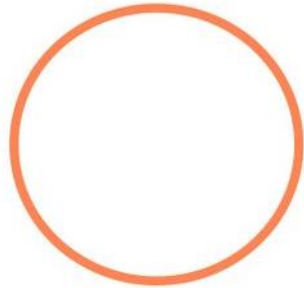
Text + Picture



PICTORIAL SUPERIORITY EFFECT

THE PICTURE SUPERIORITY EFFECT

CIRCLE



10%

RECALL 72 HOURS LATER

65%

RECALL 72 HOURS LATER

What will I remember three days from now?

WORD

Innsbruck



10%

PICTURE



35%

WORD + PICTURE



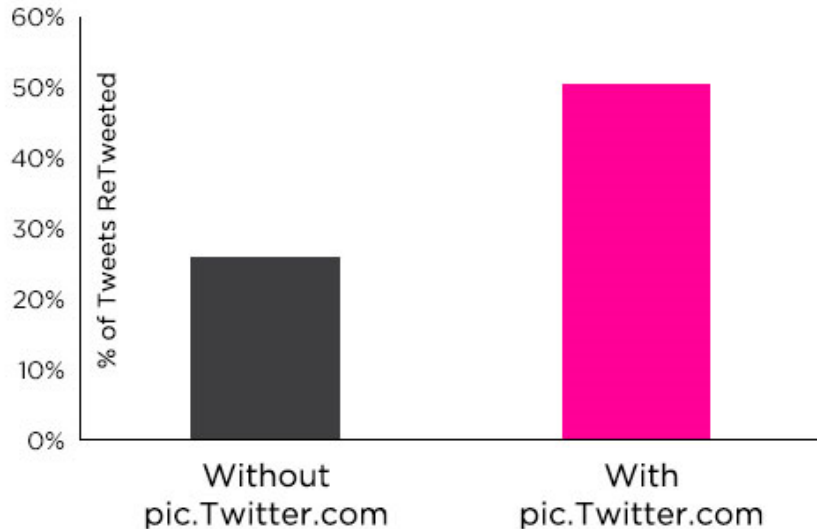
65%

It is called **PSE = Pictorial Superiority Effect**



ATTENTION SPAN – SOCIAL MEDIA

Tweets Using Pic.Twitter.com are
94% More Likely to be ReTweeted





INATTENTIVE ATTORNEYS

Judges Reject Appeal in 'Sleeping Attorney' Case

COSBY TRIAL | APR. 26, 2018

By **HENRY WEINSTEIN**
TIMES LEGAL AFFAIRS WRITER

OCTOBER 28, 2000

Bill Cosby's Lawyer Fell Asleep in Court

By Natalie Hope McDonald

Mistrial declared in brothers' murder trial after lawyer falls asleep in court



By **MINYVONNE BURKE** | NEW YORK DAILY NEWS | NOV 28, 2017 | 10:49 AM





INATTENTIVE JUDGES

Wake Up! The Proper Error Analysis for the Case of a Sleeping Judge [State v. Johnson, 391 P.3d 711 (Kan. App. 2017), cert. granted Sept. 29, 2017.]

Morgan E. Hammes | April 3, 2018 | [PDF Version](#) (76 KB)

[T]he role of the judge and the jury are different. You are the trier of facts. I decide what evidence you will hear and what instructions you will receive. I don't believe during the course of this trial yesterday afternoon there were any objections raised that I had to make rulings on that would have been affected by my nodding off. I acknowledge myself, ladies and gentlemen, that I did nod off some. I doubt that I'm the first judge in America that's ever done that.[\[12\]](#)



WITNESSES, VICTIMS, DEFENDANTS

The average page visit lasts less than a minute and users often leave web pages in just

10-20 SECONDS



On the average web page, users will read at most

28%

of the words during an average visit; 20% is more likely.



LIVING

Americans check their phones 80 times a day: study

By SWNS

November 8, 2017 | 4:08pm

The average person struggles to go more than **10 minutes** without checking their phone

2,617

That's how many times average US smartphone users touch their phones every day—including tapping, typing, swiping and



SOCIAL MEDIA DEMOGRAPHICS

Social Media Statistics

January 2018



2.167
billion
active
users



1.5
billion
active
users



800
million
active
users



330
million
active
users

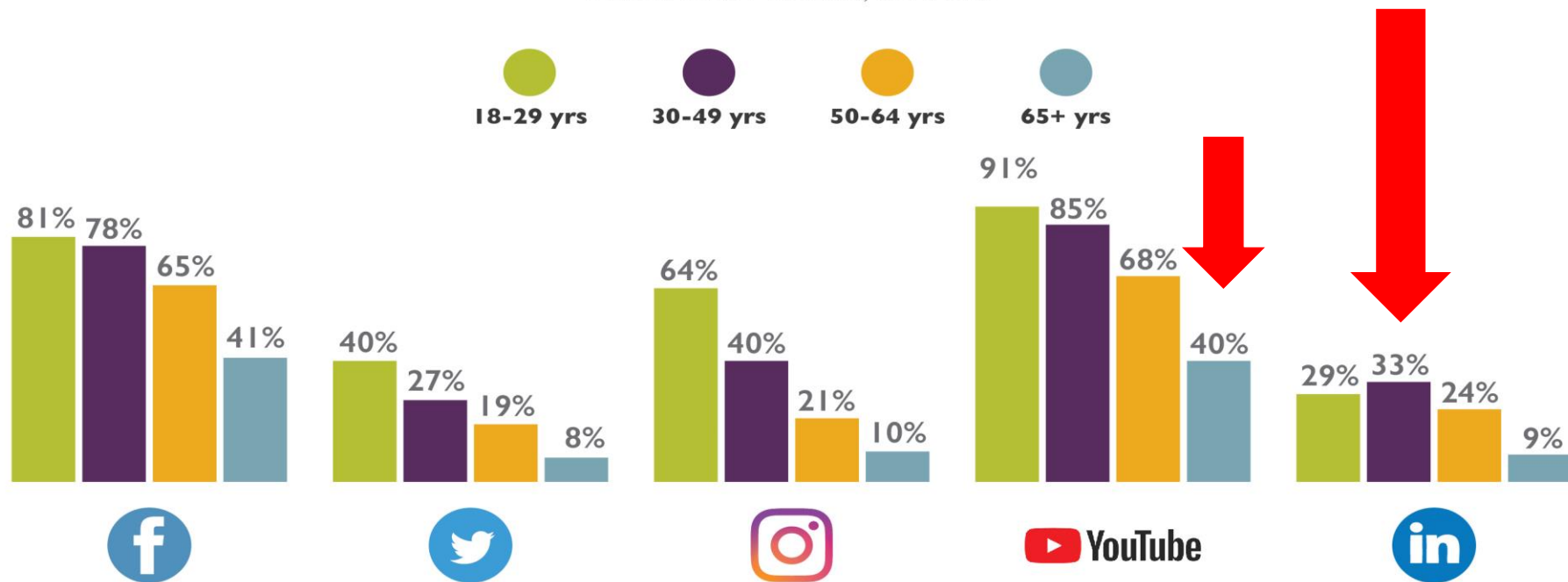


260
million
active
users

ONLINE SOCIAL NETWORKING







PLATFORM USERS, BY AGE

18-29 yrs 30-49 yrs 50-64 yrs 65+ yrs



Social Media Platforms

PLATFORM USE BY GENDER

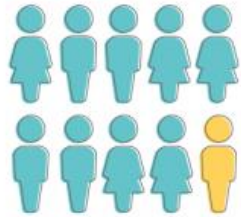
	<u>U.S. Adults</u>	<u>Men</u>	<u>Women</u>
 FACEBOOK	68%	62%	74%
 TWITTER	24%	23%	24%
 LINKEDIN	25%	25%	25%
 PINTEREST	29%	16%	41%
 SNAPCHAT	27%	23%	31%
 INSTAGRAM	35%	30%	39%



SOCIAL MEDIA PSYCHOLOGY

Are Digital Devices Altering Our Brains?

Some say our gadgets and computers can help improve intelligence. Others say they make us stupid and violent. Which is it?



9 out of 10
children aged
8–12 are on
Social Media

Psychology Today

Find a Therapist ▾

Get Help ▾

Magazine ▾

Today ▾

🔍 Find a Therapist (City or Zip)



Liraz Margalit Ph.D.
Behind Online Behavior

What Screen Time Can Really Do to Kids' Brains

Too much at the worst possible age can have lifetime consequences.

Posted Apr 17, 2016

2

CURRENT TRENDS

WHAT'S POPULAR - HOUSEPARTY

Join the party with
your friends.



You never know which
friends will drop in...



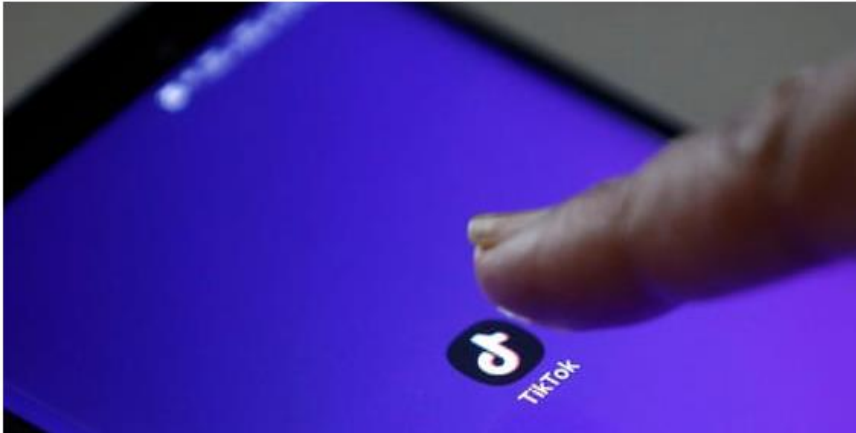
Leave a Facemail when
your friends can't join.



WHAT'S POPULAR – TIKTOK and YELLOW

Tiktok: India bans video sharing app

Activist group launched case against Chinese-owned app which it said encouraged paedophiles and pornography



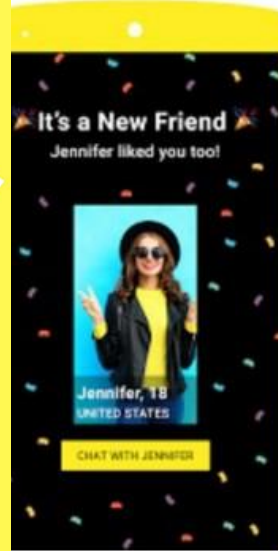
Yellow app

re-branded as

Yubo

New Friend

If it's a mutual like



DISAPPEARING MESSENGING APPS



Signal



Wickr



Telegram

Facebook Messenger, What's App, Snapchat

CRYPTO



Exchanges

Wallets

facebook

10 YEAR ROADMAP





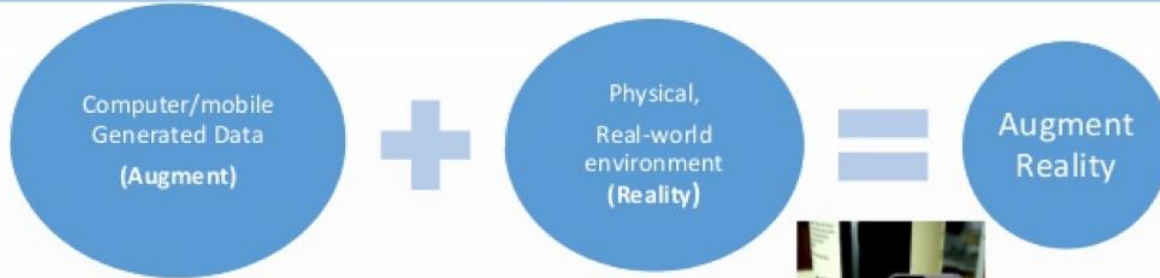
AUGMENTED REALITY - when you add digital information into/on top of the real world (AR)





AUGMENTED REALITY - when you add digital information into/on top of the real world (AR)

What is Augmented Reality ?

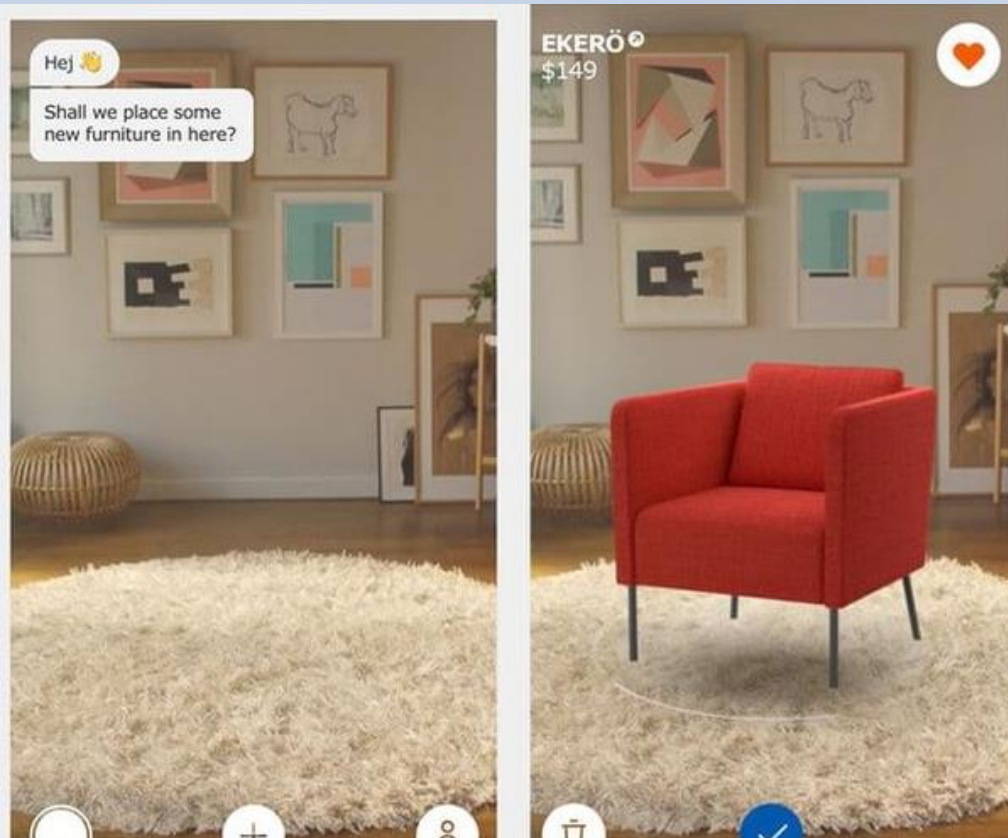


How does it work?





AUGMENTED REALITY - when you add digital information into/on top of the real world (AR)





AUGMENTED REALITY - when you add digital information into/on top of the real world (AR)





VIRTUAL REALITY - is when you are immersed in the digital world (headsets) (VR)



Cybershoes®
3D.RUN
Walk and run in virtual reality



MIXED REALITY- when you have digital objects in the real world and you can interact with (MR)





VR vs. AR vs. MR





MESSAGING BOTS / CHAT BOTS

What is a CHATBOT?

- A *chat robot*, a computer program that simulates human conversation, or chat, through artificial intelligence.
- It is a service, powered by rules and artificial intelligence, that you interact with via a chat interface.
- The service could be any number of things, ranging from functional to fun, and it could live in any major chat product (Facebook Messenger, Slack, Telegram, Text Messages, etc).



MESSAGING BOTS / CHAT BOTS

Email Reply Time



Chatbot Reply Time



"Chatbots are the new apps"

Microsoft CEO Satya Nadella



MESSAGING BOTS / CHAT BOTS



HARVEST ACCESS

HOME · SUBSCRIPTIONS · RESEARCHSTORE · SERVICES · HARVEST · CONSULTANTS

Home > Press > Press releases > Bank Cost Savings via Chatbots to Reach \$7.3 Billion by 2023, as Automated Customer Experience Evolves

BANK COST SAVINGS VIA CHATBOTS TO REACH \$7.3 BILLION BY 2023, AS AUTOMATED CUSTOMER EXPERIENCE EVOLVES

Representing a Growth in Operational Savings of 3,400% from 2019

By 2020,
the customer will manage

85%

of its relationship with an
enterprise without interacting
with a human.

Source: Gartner



MESSAGING BOTS / CHAT BOTS

11:59 AM

I'm going to Chicago next week. I'm looking for a great burger. Where should I go?

People rave about Command Burger.



Command Burger
Downtown Chicago
commandburger.com



Do you want me to make you a reservation?

Yeah, that would be awesome!



MESSAGING BOTS / CHAT BOTS

Tinder safe dating spam uses safety to scam users out of money

Scammers drive users to fake verification site that signs them up to adult webcam and erotic video websites.

By: Satnam Narang  SYMANTEC EMPLOYEE

Created 21 Jul 2016 · 0 Comments · 簡體中文, 日本語



In recent weeks, we have noticed spam activity on Tinder claiming to promote safety in online dating in messages to users. This is used as a lure to funnel affiliate money into the scammers' pockets.

It's the latest spam trend to hit the mobile dating app. Since 2013, we have published a [few blogs](#) detailing the rise of spam bots on the popular mobile dating application, Tinder. While Tinder has changed its service recently with the introduction of a premium offering, the app remains a popular destination for scammers.





GAMING CHATS



DISCORD



MUMBLE



teamspeak



VENTRILO





GAMING CHATS

ZDARZDAROVA: mate
ZDARZDAROVA: you need to update
ZDARZDAROVA: cuz
ZDARZDAROVA: i don't hear you
ZDARZDAROVA: :((
ZDARZDAROVA: sec
ZDARZDAROVA: <http://mumblesoftware.net>
ZDARZDAROVA: we are using that
ZDARZDAROVA: mate
ZDARZDAROVA: join pls
ZDARZDAROVA: press then room 5 estonia
Ziggy Stardust: what is the mumble info?



DEEPFAKES

Deepfakes may ruin the world. And they can come for you, too

PRIVACY: TECHNOLOGY

Deep Fakes: A Looming Crisis for National Security, Democracy and Privacy?





LIVESTREAMING

DEEPFAKES TUTORIAL



DEEPPFAKES



MR DEEPPFAKES FORUMS

Celebrity to Pornstar Matches

Discuss which celebrities and pornstars you think match well. Ask the community for recommendations on look-alikes or matches for your next deepfake.

Threads: 21

Posts: 77

Celebrity DeepFakes

All celebrity porn deepfakes can be shared here. Users may share their creations, or videos from other sources.

Threads: 123

Posts: 316

SUB FORUMS:

Recent celebrity deepfake porn videos

Requests

All adult deepfake requests can be made here. Found a celebrity with no deepfakes yet? Request them here and maybe you'll get lucky!

Threads: 368

Posts: 1,142

SUB FORUMS:

PAID Requests



Emilia Clarke 9156 Faceset

@dpfks

Replies: 0

Views: 260

Facebook wants to own your face. Here's why that's a privacy disaster



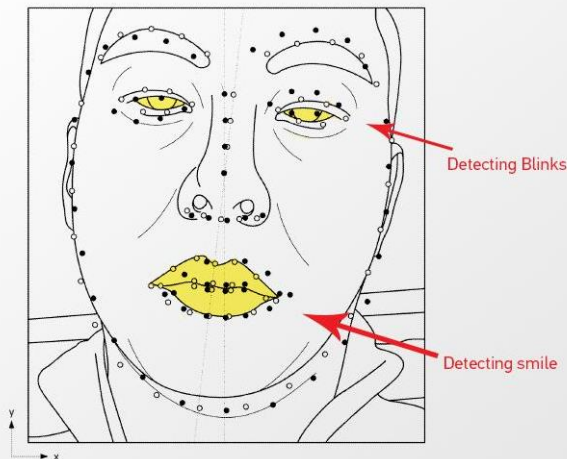
A Facebook patent would use your family photos to target ads

28

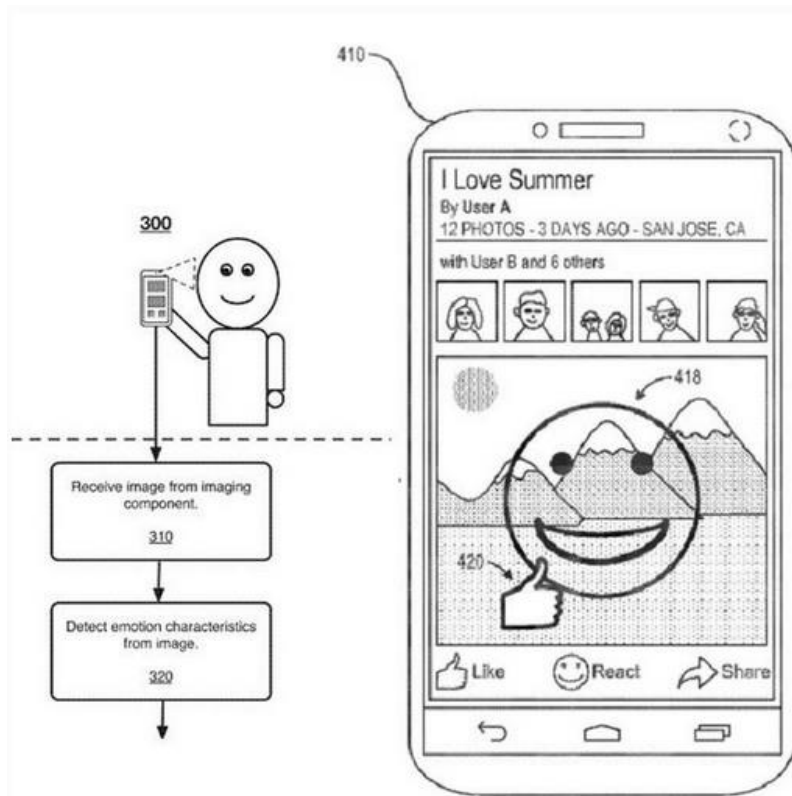
But it can already figure out a lot of details without them

By [Adi Robertson](#) | [@thedextriarchy](#) | Nov 15, 2018, 12:24pm EST

Face liveness detection



US20180349682





LIVESTREAMING

FACEBOOK ASSAULT ARRESTS



JORDAN
HILL



TESFAYE
COOPER



BRITTANY
COVINGTON








TANISHIA
COVINGTON

Aggravated Kidnapping; Hate Crime;
Aggravated Unlawful Restraint; Aggravated
Battery Deadly Weapon



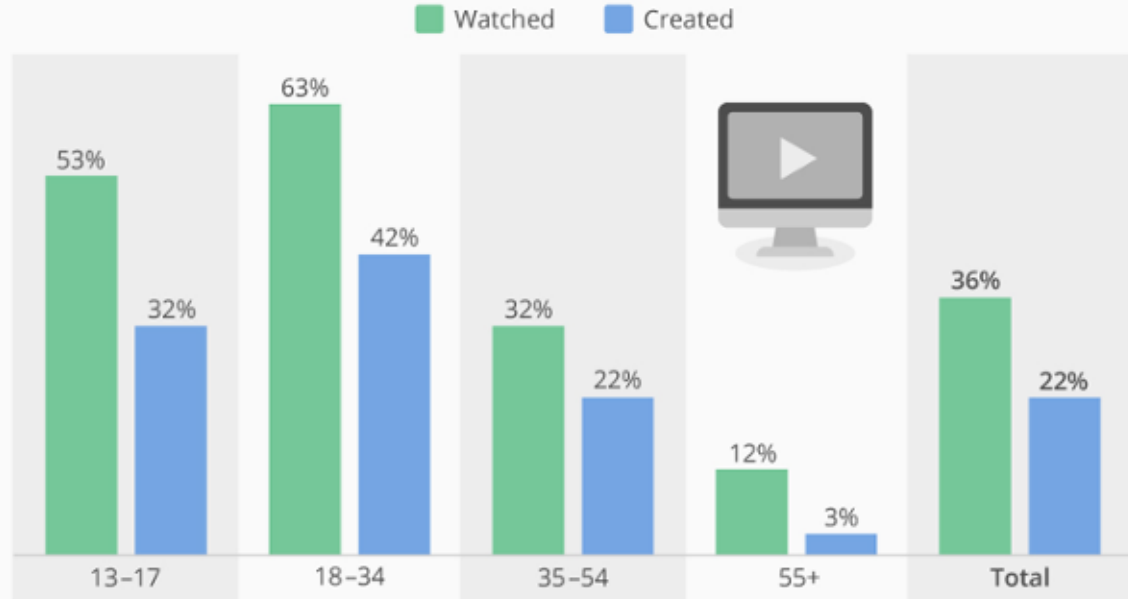


LIVESTREAMING

- Facebook Live 
- Periscope 
- Youtube Live 
- Meerkat 
- Twitch 

Who's Watching & Creating Live Streaming Video in the U.S.

Internet users who watched or created live streaming video on social media



3

CA CODE SECTIONS

“Data doesn’t sit in our minds as much as stories do. Even more important, stories have emotion that data doesn’t.”

Dan Ariely, Behavioral Economist



EC 140 – REAL EVIDENCE

Evidence means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.



AUTHENTICATION OF WRITINGS



- Is the evidence relevant?
- Can it be authenticated
- Can you overcome any valid objection/exclusion?

EC 250 – Defines Writings

“Writing means a handwriting, typewriting, photostating, photographing, photocopying, transmitting by electronic mail or fax, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Digital Photographs and Videos (Social Media Evidence)

***P vs. Goldsmith* (2014) 59 Cal.4th 258 = SOCIAL MEDIA**



EC 1440 – AUTHENTICATION

- EC 1400(a) – Any evidence sufficient to sustain a finding that the writing *is what the proponent claims it to be* (through a witness), or
- EC 1400(b) – the establishment of such facts by *any other means* provided by law. (*circumstantial evidence, content, location, stipulation, presumption*)

NV CODE SECTIONS

- NRS 52.015(1) – authentication is satisfied by evidence or other showing sufficient to support a finding that the matter is what the proponent claims – similar to EC 1400(a)
- NRS 52.015(2) – examples (personal knowledge) are illustrative and not restrictive – Similar to EC 1400(b)
- NRS 52.015(3) – every authentication is rebuttable – similar to *P vs. Goldsmith and P vs. Retke ... but presumptions are rebuttable*

NV CODE SECTIONS

When opposing party objects (NRS 47.040(1)(a)):

- The Proponent must explain the purpose for which the evidence (text) is being offered.
 - Provide sufficient direct and circumstantial corroborating evidence of authorship in order to authenticate the evidence (text)
- *Once admitted, the opponent may rebut authentication and it is for the jury to decide whether the proponent sufficiently proved his or her claims regarding the text message.



EC 1552 – PRESUMPTIONS

- 1552(a) – A printed representation of computer information or computer program is presumed to be an accurate representation of the computer information or program it purports to represent
- 1553(a) – A printed representation of images stored on a video or digital medium is presumed to be an accurate representation of the images it purports to represent.
- *NOTE: *P vs. Retke* (2015) 232 Cal.App. 4th 1237, *the presumption can be rebutted.*



EC 403 – PRELIMINARY FACT

EC 403(A)(3) – The trial court determines authentication as a preliminary fact . “The proper standard is that of preponderance of the evidence. The court must determine whether the evidence is sufficient to permit the jury to find a preliminary fact to be true by a preponderance of the evidence... *even if the court would personally disagree.*” *P vs. Marshall*, 13 Cal.4th 799 (1996)



OBJECTIONS

- EC 1200 – Hearsay – most common objection
- EC 1271 – Business Records – most common exception
- What if you don't have an expert/custodian of records?

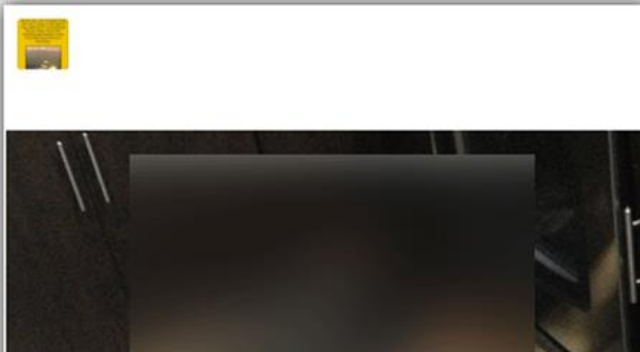


HEARSAY EXCEPTIONS: Admission



5 hours ago via mobile

Im going to prison or death sentence for killing my wife love you guys miss you guys takecare Facebook people you will see me in the news" my wife was punching me and I am not going to stand anymore with the abuse so I did what I did I hope u understand me "



NRS 51.035(3)(a)
Admission



HEARSAY EXCEPTIONS: Adoptive Admission



Nrs 51.035(3)(b) – Adoptive Admission -

Statement offered
against a party and is
a statement of which
the party has
manifested adoption or
belief in its truth



HEARSAY EXCEPTIONS: Excited Utterance

NRS 51.095 – Excited

utterance – “A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition





HEARSAY EXCEPTIONS: EC 1241



getting an iPhone 6, so happy 😊

NRS 51.085 – present sense impression – “A statement made describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.”



AUTHENTICATION OF WRITINGS



- Is the evidence relevant?
- Can it be authenticated
- Can you overcome any valid objection/exclusion?

4

CA CASE LAW



WHAT IS SOCIAL MEDIA

- Digital photos and videos are writings (EC 250) *P vs. Goldsmith* (2014) 59 Cal.4th 258

Cases to rely upon:

- *P vs. Goldsmith* (2014) 59 Cal.4th 258
- *P vs. Valdez*, (2011) 201 Cal.App 4th 1429
- *In RE KB* (2015) 238 Cal.App.4th 989
- *Kinda vs. Carpenter* (2016) 247 Cal.App.4th 1268



P vs. Goldsmith (2014) 59 Cal.4th 258

1. The **purpose** of the evidence will determine what must be shown for authentication.
2. Proponent must show sufficient evidence for the trier of fact to find that the writing (photo/video) is what it purports to be, genuine for the purpose offered.
3. A photograph or video recording is typically authenticated by showing it is a **fair and accurate** representation of the scene depicted.
4. This foundation may, but need not be, supplied by the person taking the photo or by a person who witnessed the event being recorded...circumstantial evidence, content or location or any other means provided by law, such as stipulation or presumption.



P vs. Goldsmith (2014) 59 Cal.4th 258

5. “The fact that conflicting inferences can be drawn regarding authenticity goes to the documents *weight as evidence, not its admissibility.*” (*Id.* at 267.)
6. It is then up to the jury to decide whether they believe the digital evidence is what it purports to be, *whether the jury believes it is authentic.*

Opposing Party View of Social Media

“Anyone can put anything on the Internet...hackers can adulterate the content of any web-site from any location at any time.”

- *P vs. Beckley* (2010) 185 Cal.App.4th 509, at 515, quoting *St. Clair vs. Jonny's Oyster & Shrimp, Inc* (S.D. Tex. 1999) 76 F. Supp.2d 773, 775).

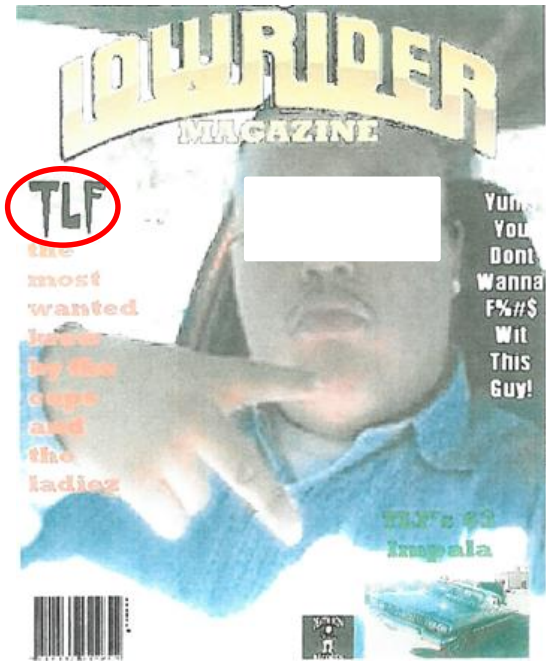


P vs. VALDEZ, 201 Cal.App.4th 1429



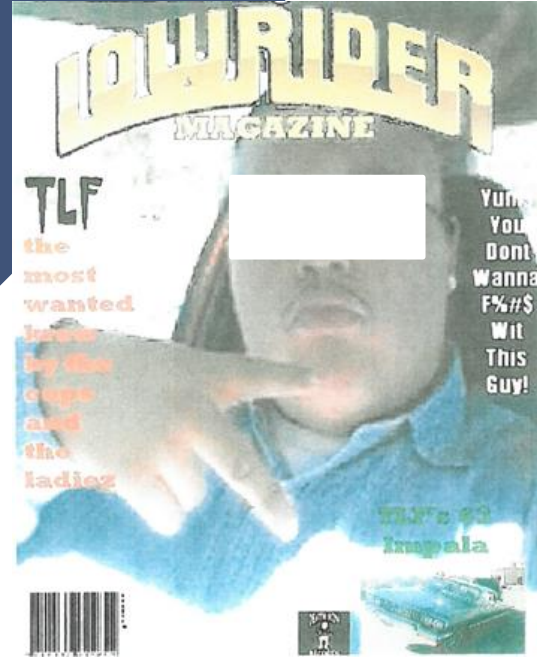
- Facts: TLF gang member, aka “Yums” on trial for attempted murder. DA introduced pages of Def’s Myspace account.
- Issue: Lack of authentication, hearsay, 352
- Held: Social media properly authenticated, distinguishes *Beckley*.

*“The contents of a document may authenticate it... the writings on the page and the photograph corroborated each other by showing a pervading interest in gang matters...this **consistent, mutually reinforcing content on the page** helped authenticate the photographs and writings.”*



P vs. VALDEZ, 201 Cal.App.4th 1429

“hacking may occur ... on the Internet ... **But the Proponents threshold for authentication is not to establish validity or negate falsity in a categorical fashion, but rather to make a showing on the which the trier of fact reasonably could conclude the proffered writing is authentic.**”





IN RE KB, 238 CAL.APP.4TH 989



- **Facts:** SFPD sees a post of Def holding a firearm in an apt with camo curtains Posted on Instagram. Officers find firearms and Instagram photos.

- **Held:** Social media properly authenticated, distinguishes *Beckley*.

“To the extent Beckley’s language can be read as
Requiring a conventional evidentiary foundation to show
the authenticity of photographic images appearing online,
i.e., testimony of the person who actually created and
uploaded the image, or testimony from an expert witness
that the image has not been altered,

we cannot endorse it.”





KINDA vs. CARPENTER 247 CAL.APP.4TH 1268

Facts: Tenant sues landlord for posting anonymous negative Yelp reviews days after TRO issued against landlord. IP addresses come back to landlord's residence and place of work. Trial court required tenant to prove Def made the postings to establish authentication. Appellate court reversed.

The screenshot shows the Yelp profile for "Artisan Fine Rug Care Studio". The header is red with the Yelp logo, a search bar containing "Find tacos, cheap dinner, Max's", and a location filter set to "Near Dana Point, CA, US". Navigation links include Restaurants, Delivery, Reservations, Write a Review, Events, and Talk. The business name "Artisan Fine Rug Care Studio" is prominently displayed, along with a "Claimed" status. It shows a 5-star rating from 19 reviews and a "Write a Review" button. Below the rating, the business is categorized as "\$\$ - Carpeting, Carpet Cleaning, Rugs". A map on the left shows the location in the San Francisco Bay Area, near San Jose. To the right of the map are three photos of various patterned rugs.



KINDA vs. CARPENTER 247 CAL.APP.4TH 1268

- COURT:** “[B]efore it comes into evidence, you have to give me some connection that you can prove he posted them. If you can’t do that, I’m not going to let it into evidence and we don’t even have to have this discussion.
- PLAINTIFFS ATTORNEY:** “Well, it’s an issue of fact, Your Honor, and I think I can show that there’s sufficient connect the dots—I mean what are the odds that somebody decided to drive over to his house, park in front of his house, and as the expert testified—
- THE COURT:** Yeah, you’re going to have to. You need to understand that I am concerned about the authenticity of this, if that’s the correct word. You have to tie it back to him. And unless somebody persuades me that there is sufficient evidence that ties it back to him, then it’s not going to come in.”



Find tacos, cheap dinner, Max's

Near Dana Point, CA, US



Sign Up

🍴 Restaurants

🚚 Delivery

📅 Reservations

✍️ Write a Review

📅 Events

💬 Talk

Log In

4

NV CASE LAW

Rodriguez vs. State of Nevada (2012) 273 P.3d 845

Facts: Victim robbed of cell phone and sexually assaulted. Victim's boyfriend got messages from suspects after attack. 12 Text messages introduced to prove Def's guilt. Video showed Def with other suspect on bus when 2 msgs sent.

Issue: Was authentication of text messages proper?

Holding: Yes, but only 2 out of 12. Bus video showed Def was next to other suspect and present when drafted during time 2 messages sent. Messages were not hearsay, they were statements of the Def (NRS 51.035(3)(b)) "The content of messages can be circumstantial evidence to ID the sender when the content references facts unique to the parties involved," (NRS 52.015(1)&(2))

Court's analysis was similar to that in *People vs. Goldmith*:

1. Evidence must be relevant (NRS 48.025(2)).
2. Authentication is satisfied by evidence or other showing sufficient to support a finding that the matter is what its proponent claims (NRS 52.015(1)).
3. The proponent can control what will be required to satisfy the authentication requirement by deciding what he offers to prove.
4. Corroborating evidence is critical authenticating text messages.

When opposing party objects (NRS 47.040(1)(a):

- The Proponent must explain the purpose for which the evidence (text) is being offered.
- Provide sufficient direct and circumstantial corroborating evidence of authorship in order to authenticate the evidence (text)

*Once admitted, the opponent may rebut authentication and it is for the jury to decide whether the proponent sufficiently proved his or her claims regarding the text message

*In Matter of MC vs. State of Nevada (2015) 2015
WL 865320, No. 64839 (unpublished)*

Facts: Def posts threat of “killing spree” on Facebook. Officers were monitoring Def’s facebook by creating fake account and friending Def.

Issue: 1) Did police violate 4th Amend with fake facebook page; 2) Officer lacked personal knowledge to testify about Def’s facebook page; 3) Officer’s testimony about other info on the facebook page was inadmissible hearsay.

Holding: 1) Def has no reasonable expectation of privacy in information he turns over to third parties; 2) sufficient direct and circumstantial evidence authenticated the Def’s facebook post;

- Def admitted making threatening post
- Later posts referred back to the threat
- No indication facebook account accessed by anyone else

3) Officer testifying about Def’s ref to gang moniker and gang affiliation posted on facebook was a party admission.

***Stewart vs. State* (2017) 2017 WL 3708988, No. 70976 (unpublished)**

Facts: Def shot girlfriend and sent threatening messages over Facebook and text.

Issue: Were the messages properly authenticated?

Holding: Yes. “Evidence or other showing sufficient to support a finding that the matter in question is what it’s proponent claims.” **NRS 52.015(1).** Girlfriend testified she knew the messages were from the Def because he used his first name and one message referenced a court date only Def would know about.

Jones vs. Jones (2016) 2016 WL 796969, No. 69088
(unpublished)

Facts: Husband files for divorce in Washoe. Wife request change of venue to Douglas. Husband claims Wife has no ties to Douglas and most of her belongings are in still in marital home in Douglas. Husband doesn't provide any evidence.

Issue: Did Husband carry his burden?

Holding: No. Plaintiff has burden to prove proper venue. Wife submitted as evidence Husband's Instagram: *"Man...pretty heavy day today coming home to see moving trucks. You know it's gonna happen, but it's impossible for something like that not to affect you."* **Thus, there was evidence that wife indeed moved out and likely took her personal belongings."**



AUTHENTICATION OF WRITINGS



- Is the evidence relevant? [EC 140, 210, 350, 351]
- Can it be authenticated [EC 1400, 403(a)]
- Can you overcome any valid objection/exclusion? [EC 1200, 352]

“Data doesn’t sit in our minds as much as stories do. Even more important, *stories have emotion that data doesn’t.*”

Dan Ariely, Behavioral Economist



**IF YOU DON'T REMEMBER ANYTHING FROM
TODAY EXCEPT FOR THIS...**

WHAT IS THE TAKEAWAY:

- The human brain prefers the visual image.**
- Start looking for social media evidence just by asking about it.**



SOCIAL MEDIA: **Cultural Catastrophe or** **Evidentiary Goldmine? A** **Prosecutor's Perspective**

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- **Session 6A- Social Media: Cultural Catastrophe or Evidentiary Goldmine? A Prosecutor's Perspective**

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