

Mental Health & Social Media in the Legal Profession

An Ethical Discussion on the Benefits and Pitfalls of Today's Technologies

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Today's Topics

- Our Work Environment & Technology
- Ethical Implications of Technology
 - Rule 1.1: Competence
 - Rule 1.3: Diligence
 - Rule 1.4: Communication
 - Rule 1.6: Confidentiality of Information
 - Rule 5.1: Supervisory
- Technology & Mental Health
- Suggestions for Managing Your Tech

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Technology as a Set of Tools

Just as a hammer can be used to build or tear down a house, our current technologies can be used to build or tear down our society.

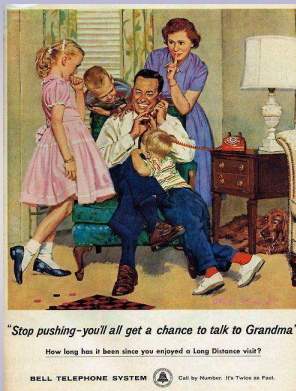
Technology itself is *amoral*, unconcerned with morality.

How people choose to use technology—including how it is designed—can be evaluated against legal, moral, and ethical standards.

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In the United States

- Nearly 1 in 12 (20.3 million) adults had a substance use disorder in the past year.
- Nearly 1 in 5 (43.8 million) adults had any mental illness in the past year; 10 million had serious mental illness.
- 7.7 million had both.

SAMHSA, National Survey on Drug Use and Health (NSDUH)

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Alcohol Use by American Attorneys



Source: ABA/Hazelden Betty Ford Foundation 2016 study. N=12,825

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Young Lawyers

The younger the lawyer, the greater the likelihood of:

- Substance Use Disorder
- Depression



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Other Substances & Behaviors

- Drugs
- Gambling
- **Internet Addiction**
- Sexual Compulsivity
- Eating Disorders
- Shoplifting Addiction
- Compulsive Shopping

i-Escapism

- Internet Gaming
- Online Pornography
- Social Media
- YouTube
- ... and whatever the next big thing turns out to be!

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Legal Profession and Mental Health

"In the last 12 months..."

- 28% met the criteria for depressive disorder
- 18% met the criteria for an anxiety disorder

In the course of their careers...

- 11.5% had considered suicide.

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Depression

- A loss of interest in normally pleasurable activities
- Impaired ability to concentrate, remember and decide
- It occurs in stages:
 1. Emptiness
 2. Hopelessness/helplessness
 3. Malaise
 4. Suicidal Ideation
- It's not just a blue mood that can be wished away
- Time element

In a colleague, look for *changes* in behavior.

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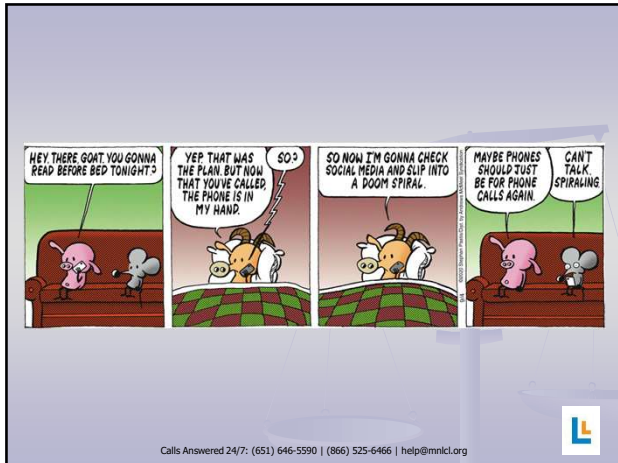
Other Mental Health Issues

- Anxiety Disorder
- Bipolar Disorder
- Obsessive Compulsive Disorder
- ADHD
- Unresolved Grief
- Post Traumatic Stress Disorder
- Cognitive Impairment

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What Does Computer Overuse Look Like in General?

Physical

- Dry eyes, bleary vision, sore hands
- Backaches
- Carpal tunnel syndrome
- Migraines
- **Skiping meals**
- **Neglecting hygiene**
- **Sleep disturbances**
- Listen to your body!

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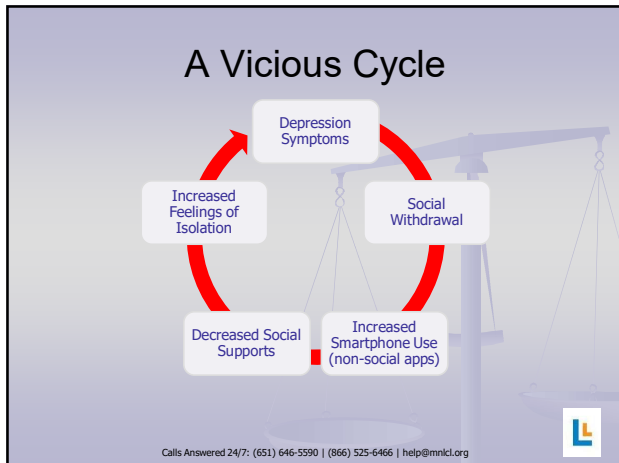
What Does Computer Overuse Look Like in General?

Psychological

- Inability to stop
- Craving more time
- Euphoria and guilt
- Financial problems
- Neglect work, family & friends
- Problems in important life areas
- Escaping/Withdrawing to the computer
- Empty, depressed, cranky when not computing
- Not a source of work productivity, but rather a source of conflict

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Trending Risks

- Confidential Information Stored Remotely
- Inadvertent Disclosure of Confidential Information
- Network Security
 - Spyware
 - Ransomware
- BYOD Security
 - App permissions
 - Public & Home Wi-Fi
- Laptops & Devices being Stolen

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Technological Innovation Changes the Legal Landscape

- Website, Social Media & Marketing
- Online vs. Print Resources
- Email vs. Faxes vs. Courier Service vs. US Mail
- Listservs
- Legal Research, Law Libraries, Legal Databases
- Software for Conflict Checks, Billing, Taxes, etc.
- E-filing
- Artificial Intelligence

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The Washington Post
Democracy Dies in Darkness

Amazon is about to share your Internet connection with neighbors. Here's how to turn it off.

You have no control over what sort of data flows over Amazon's new Sidewalk wireless network, which has been lying dormant in Echo smart speakers and Ring cameras ... until now

 **Listen to article** 8 min

By Geoffrey A. Fowler
Technology columnist

June 7, 2021 at 7:00 a.m. CDT

<https://www.washingtonpost.com/technology/2021/06/07/amazon-sidewalk-network/>



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Updated April 21, 2021

The secret life of your data: What you need to know

For all the good we get from technology, it can also take a lot from us. The Post's tech columnist Geoffrey A. Fowler examines the personal information streaming out of devices and services we take for granted.

Alexa: By default, Amazon keeps a copy of everything Echo smart speakers record.

Browser extensions: Add-ons and plug-ins can see and share everything you do on the Web.

Cars: Automakers use hundreds of sensors and an always-on Internet connection to record where you go and how you drive.

Credit cards: A half-dozen kinds of companies can grab data about purchases, from your bank to the store where you're shopping.

Don't sell my data: The California Consumer Privacy Act (CCPA) can help even residents of other states see and delete their data — and tell companies to stop selling it.


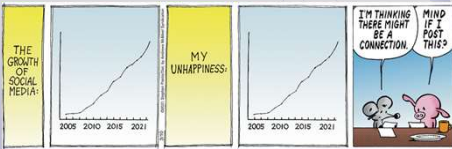
iPhones and Android phones: Hidden trackers in apps share personal information — even while you and your phone are asleep.

TVs: Once every few minutes, smart TVs beam out a snapshot of what's on your screen.

Web browsers: Google's Chrome loaded more than 11,000 tracker cookies into our browser — in a single week.

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And the landscape of our personal lives


THE GROWTH OF SOCIAL MEDIA

MY UNHAPPINESS

I'M THINKING THERE MIGHT BE A CONNECTION

MIND IF I POST THIS?

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Television

- Americans between 25 and 34 watch 26.5 hours per week of television, those 35-49 watch 36.5 hours per week (Koblin, 2016).
- Americans are watching more than 7 hours, 50 minutes per day of television per household (Madrigal, 2018).

Internet Use

- A recent study showed that people are averaging 24 hours per week on the internet (Hymas, 2018).

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Smart Phones

- A 2018 study found that people aged 15 to 24 are averaging 4 hours per day on smartphones and all adults were averaging 2 hours and 49 minutes per day (Hymas, 2018).
- Nokia conducted a study that found that the average person looks at their smart phone 150 times per day (Ahonen, 2011).
- In 2016, Americans sent about 94 text messages per person per day (Burke, 2016).

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Social Media

facebook

twitter

- Instagram users average 15 minutes per visit
- Twitter users average 2.7 minutes per user per day
- Pinterest users average 14.2 minutes per visit
- LinkedIn users average 17 minutes per user per day (Bagadiyat, 2019)

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Weekly Screen Time

Weekly Average Screen Time (Range): 71 – 89.5 hours
 # Hours / Week 168
 % Screen to Total Hours (Range): 42.2% – 53.3%

Daily Average Screen Time (Range): 10 – 13 hours

These data are pre-pandemic

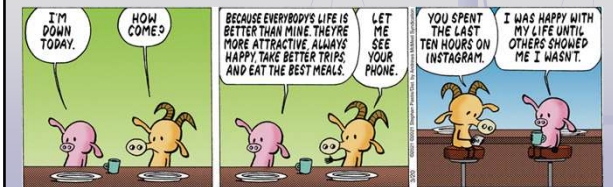
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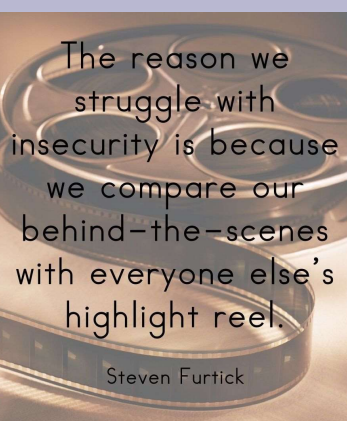
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Social Media Mental Health Impact

- In 2018, Facebook users averaged 24 minutes per day (Clearvoice.com, 2018).
- A clear link between Facebook use and depression involving social comparison and envy or disappointment in one's status (Cheever, 2014).
- Unfriending on Facebook was associated with strong negative emotional responses (Bevan, Pfyfe, & Barclay, 2012).
- Increased loneliness was shown among more intense Facebook users (Lou, Yan, Nickerson, & McMorris, 2012)



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Mobile and (Always) Accessible



- Prompt client communications
- E-filing
- Web/Video conferencing
- Can work from anywhere
- Endless resources available at your fingertips



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Chronic Stress

"exposure to trauma or chronic stress conditions has been shown to lead to long-term, sometimes irreversible, changes in brain structure and function as well as physiological changes to the body...Research suggests that as far as the brain is concerned, **there is no difference between how the body responds to acute traumatic events and chronic exposure to varying levels of stress.**"

Megan Zwisohn, et al., *Vicarious Trauma in Public Service Lawyering: How Chronic Exposure to Trauma Affects the Brain and Body*, 22 Rich. Pub. Int. L. Rev. 269 (2019) (emphasis added).

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Stress

- Stress is a series of physiological responses and adaptations to a real or imagined threat or demand
- Can be good or bad, healthy or unhealthy
 - Eustress "the good stress"
 - Distress "the bad stress"

"for there is nothing either good or bad but thinking makes it so."

Hamlet, Act 2, Scene 2

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Managing a Stressful Situation

- What is causing stress?
- What is the worst that could happen?
- What *must* you do to cause or allow the worst thing to happen?
- What is the best that could happen?
- What *can* you do to increase the likelihood of the best possibility happening?

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Ethical Considerations of Technology and Chronic Stress

Rule 1.1: Competence

"A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, **thoroughness**, and **preparation** reasonably necessary for the representation."
(emphasis added)

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Ethical Considerations of Technology and Chronic Stress

Rule 1.3: Diligence

"A lawyer shall act with reasonable diligence and promptness in representing a client."

Comment 2: "A lawyer's workload must be controlled so that each matter can be handled competently."

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Ethical Considerations of Technology and Chronic Stress

Rule 1.4: Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent ... is required by these rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the rules of Professional Conduct or other law.

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Ethical Considerations of Technology and Chronic Stress

Rule 5.1: Supervisory

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer's conduct conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

- (1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
- (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

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Ethical Considerations of Data and Network Security

Rule 1.6: Confidentiality of Information

(c) "A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."

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What Is Your Technology Doing For You?

	Effectiveness	Efficiency
Meaning	Effectiveness is about doing the right task, completing activities and achieving goals.	Efficiency is about doing things in an optimal way, for example doing it the fastest or in the least expensive way. It could be the wrong thing, but it was done optimally.
Effort oriented	No	Yes
Process Oriented	No	Yes
Goal oriented	Yes	Yes
Time oriented	No	Yes

Or perhaps it's just entertainment.

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What Is Your Technology Doing For You?

- Generally, technology tends to address improved efficiency & productivity
- Efficient vs Effective lawyers
- Efficient vs Effective interpersonal communication
- Trade-offs

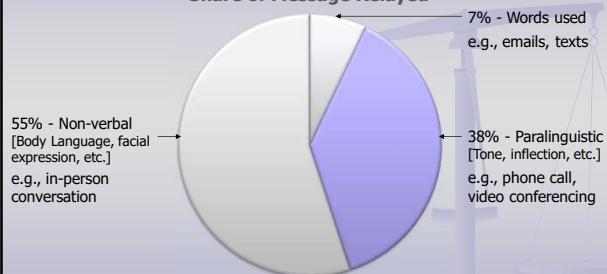
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Mehrabian's Communication Theory

Share of Message Relayed



Mehrabian, A. (1981) *Silent messages: Implicit communication of emotions and attitudes*.

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Mehrabian's Communication Theory: Major Caveat

As to messages pertaining to **feelings and attitudes**

- 7% of message is in the **words** that are spoken
- 38% of message is paralinguistic (the **way** that the words are said; e.g., tone of voice, vocal inflection, etc.)
- 55% of message is in **facial expression** or **other body language**

Does not apply to other messages (facts, etc.).

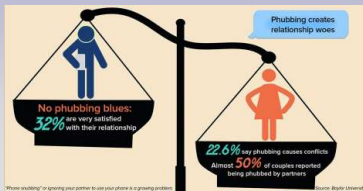
Mehrabian, A. (1981) *Silent messages: Implicit communication of emotions and attitudes*.

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Phone + Snubbing = Phubbing



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When Seeing Clients (and Other Important People)

- Log off computer
- "Do not disturb" your desk phone
- Cell phone silent & out of sight
- Reduce any other distractions
- Turn off monitor



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Best Practices

- Consider establishing set hours during which you attend to your email:
 - First thing in the morning
 - Either before or after lunch
 - End of day
- Communicate your email schedule to all concerned:
 - Clients
 - Staff
- Stick to it!

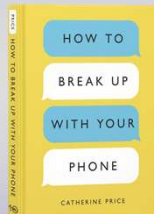


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Do You Want A Healthier Relationship With Your Phone?



Take the "7-Day Phone Breakup Challenge"

www.phonebreakup.com

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Deactivate Notifications






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Manage the Apps




- Delete Facebook, Twitter, Instagram from your phone.
- Install wellness, mindfulness, and other healthy apps.

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Disconnect

- Do not charge your phone in your bedroom
- Do not keep phone with you during meals, exercise, or social activities.
- Consider a two-smartphone system
- Read a book or magazine rather than your phone or tablet.
- Get away from your PC to do some work, take healthy breaks from the screen
- Don't take the laptop with you on weekends or vacations.

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Set Meaningful Limits

- Limit Social Media to 10 minutes per platform per day. Use a timer (Hunt et. al, 2018)
- Monitor your use (use monitoring apps, check Screen Time on iPhone, etc.)
- Use Do Not Disturb

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Unfollow the Unhealthy

- Unfollow friends on Facebook and other Social Media that are hateful, hurtful, or distressing
- Stop checking what is trending
- Do follow uplifting people and resources, we are what we read

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Technology and Vacations

- Unplug to recharge!
- Looking at 1 work e-mail can open the floodgates to stress and feeling overwhelmed
- Arrange for coverage
- Set expectations about availability
- Create your own gadget rules & FOLLOW THEM!



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Schedule Self-Care Time.

- 4% of your life is 1 hour per day, strive to make that the minimum for self-care.
- If 1 hour per day is out of reach right now, start with .1 hour. Six minutes. Build up from there.
- Use your calendar and other technology to remind you to unplug.
- By scheduling events that are away from screens, it can free you from technology.

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Practice Gratitude.



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GRATITUDE PRACTICES

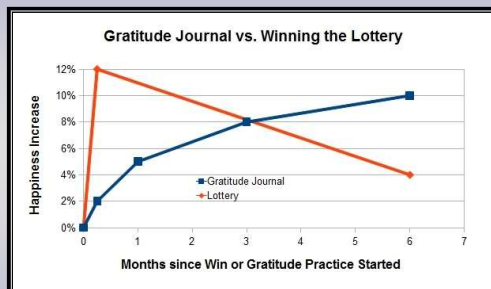
- Start your day with a thought of gratitude
- Share positive experiences
- Think of gratitude as something you can contribute
- Consider a journal
- End your day with a thought or expression of gratitude

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Thanksgiving isn't just a day in November



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Helping Others

"Pro bono service hours, which embody the intrinsic value of altruistic service, also predicted increased well-being."

Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 Geo. Wash. L. Rev., 554-627, 615 (2015).

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- What we help with –
 - Substance use and mental health, cognitive, stress, burnout
- Communications are **confidential**
- Services or Referrals –
 - Licensed professionals
 - Group support
- Peer support
- Education and public awareness



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- Resource website
 - www.sandcreekeap.com
 - Click on "Member Portal & App"
 - When registering use the Company Code "lawyers"
- Contact Sand Creek directly at
651-430-3383 or toll-free: **1-888-243-5744**



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HOPE**




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