



Admissibility of Electronic Writings: Emails, Text Messages, and Social Networking Posts

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It is conference season again at the School of Government, which means that we are doing a lot of presentations for a lot of different groups in the court system. It also means that to get ready we have to learn about new areas of law or at least areas of law we had not closely considered before, which is one of the great pleasures of working here. I was asked by public defenders and private assigned counsel to look at the admissibility in criminal cases of electronic writings such as emails, text messages, and web postings. You can read the handout I prepared on the subject [here](#), which addresses the principal issues I saw. For example, how does the proponent of an email message authenticate that the message came from the person who purportedly sent it? Does the proponent have to produce the original of the email message and, if so, what constitutes an "original"? New forms of communication have thrown the courts (as well as this writer) a few curves, but ultimately the answers involve the application of traditional evidence principles.

If you would like to read more about searches of electronic devices, you can see Jeff's recent postings [here](#) (searches without a warrant) and [here](#) (searches with a warrant).