



Lyle's Law of Discoverability

Some years ago, I was on the board of directors of an organization that was experiencing a bit of internal strife. Since there was some possibility that this kerfuffle could result in legal proceedings, our corporate counsel gave the board a briefing on how we should comport ourselves. Among the things I learned in that session was a new word—discoverable. In legal parlance, something is discoverable if it can be subpoenaed or otherwise brought to light of day and then used as evidence in a court proceeding. In particular, counsel warned us that anything we write—letters, emails, journals, or just plain personal notes—is discoverable. Well! The soft sounds of pens going into pockets filled the room.

There are various historical examples where damning letters or emails or tape recordings have brought the mighty low, but the potential liabilities of a personal written record had not really occurred to me before. After learning the legal meaning of discovery and reflecting a bit on the examples of recorded evidence that have resulted in considerable embarrassment—or worse—I am led to posit Lyle's Law of Discoverability: Don't record anything you don't want the whole world to see.

I know. I know. It was not so long ago that I presented Lyle's Law of Records—Write it down. At first blush, these laws seem to be in direct conflict. Not so. The difference is in the nature of the material recorded. The test is, would it embarrass you to have it widely circulated? Certainly you don't want proprietary laboratory notes to be seen by everyone, but it would not embarrass you if they were. But not every written—or photographed—thing will pass that test.

Which brings me to the phenomenon—I can't think what else to call it—that first brought this law to mind. Over the years, we have been treated to examples of love letters and compromising photographs surfacing at inconvenient times and in inconvenient circumstances, but their distribution has been somewhat limited in time and space. Today, technology has removed most such temporal and spatial limits. Social networking sites on the internet make it possible for people whose technical capabilities

exceed their social sophistication to post messages and photographs “just for their friends.” But, of course, it doesn't work out that way. The whole world is their stage, and they may find they have “friends” numbering in the millions.

Some people may differ (my grandchildren, perhaps?), but I don't consider myself a technological troglodyte.

I was using email back in the early days when you would call someone on the telephone to tell them you were sending them a message and then call them later to see if it had been received. And while I am not a fervid user of social networking sites, I am listed on one and have been able to use it to keep track of friends and colleagues. I have not, however, posted any nude pictures of myself (much to the relief of any potential viewers) or sent any compromising messages or even recorded my innermost thoughts. My reticence is not due to my technical limitations, although I do have more than a few. I simply believe that whatever is out

there is OUT THERE. Everywhere.

But the point of the Law of Discoverability is that everything is, or at least can be, everywhere once it is committed to writing or especially once it is recorded in ones and zeroes. It is discoverable either by intention or by happenstance. Columbus didn't set out to discover America.

Everyone occasionally becomes very irritated with someone else. When that happens, I have always advised the “irritatee” to write a long letter, memo, or email denouncing the irritator and telling them where they are wrong. Make it just as strong and nasty as you like—but don't send it. Let it lie on your desk or in your computer files for a couple of days and then discard it. Or at least revise it to soften and sweeten your words—since you may have to eat them—and then still delay a day or two before sending. That is no longer my advice. If you write the letter by hand and are careful to shred or burn it when you are finished, there is a reasonably good chance that it will not be discoverable. If it is committed to any kind of memory media, you should assume that it will never go away.

Don't record anything you don't want the whole world to see.
—L.D.F.

I am concerned that the Law of Discoverability could be interpreted as cynical advice to hide your peccadilloes. That is not the intent. The underlying message is that



privacy is not what it used to be and that you don't have to be involved in legal proceedings to have your writings and photographs become public. And there is more.

The most important principle embodied in the Law of Discoverability is this: if you would be publicly embarrassed by these writings or photographs or drawings, perhaps you should be privately embarrassed by them. Perhaps they should make

you uncomfortable even if you could guarantee that no one else would ever see them. If you don't want the whole world to see a picture or read an account of you doing something stupid, why take the picture or write the account? Or even more to the point, why do that stupid something in the first place? Perhaps this incessant display of our innermost thoughts and our outermost bodies (some more outermost than others) will turn out to be a blessing. The fear of getting caught—while effective—is not a very noble motivation for not doing wrong. But if it makes us ask why getting caught matters, it will have served a noble purpose.

—Lyle D. Feisel, Ph.D., P.E., Iowa Alpha '61

125TH ANNIVERSARY CLUB

2010 celebrates the 125th anniversary of the founding of Tau Beta Pi. To commemorate this historic occasion, a one-time recognition club has been established for donors



contributing \$125 or more in 2010. (Members of existing clubs will still be listed in those clubs.) Donors of \$125 or more will receive a striking memento acknowledging their special support during the Quasiquintennial celebration. This limited-edition item features the Association's

125th anniversary logo etched onto a polished 3" x 3" black marble paperweight. For more information, contact Patricia McDaniel—pat@tbp.org, 865/546-4578.



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BRAIN TICKLERS (Continued from page 51.)

Double Bonus. Given the lengths of the N sides of an irregular polygon, how should the sides be arranged to maximize the enclosed area? Prove your answer.

—Puzzle Corner by Allan Gottlieb in *Technology Review*

Send your answers to any or all of the Summer Brain Ticklers to Jim Froula, Tau Beta Pi, P.O. Box 2697, Knoxville, TN 37901-2697 or email to: BrainTicklers@tbp.org only as plain text. The cutoff date for entries to the Summer column is the appearance of the Fall BENT. The method of solution is not necessary. We welcome any interesting problems that might be suitable for the column. The Double Bonus is not graded. Jim will forward your entries to the judges who are **H. G. McIlvried III**, PA Γ '53; **J.L. Bradshaw**, PA A '82; **D. A. Dechman**, TX A '57. and the columnist for this issue,

F. J. Tydeman, CA Δ '73

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