



2017 Practical Advice Series, Part II: The Tongue is an Evil Serpent and Email and Tweets are Even Worse

Insights

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Even a fool who keeps silent is considered wise; when he closes his lips, he is deemed intelligent.

Proverbs 17:28

I've commenced this series because employers and employees seem to make many of the same mistakes over and over again, and technology has created new ways for one to screw up. On some level, most of us are aware that we sometimes say something that we should not have said. An individual may harm a relationship or even worse, one may create evidence of real or perceived unlawful acts.

Given our tumultuous 2016, one has to start by using Tweets as an example of ways to get oneself in trouble. My readers may not have noticed, but our President-elect uses Tweets as his main communication tool, which concerns even many of his most ardent supporters. Maybe Mr. Trump is in fact cunningly employing Tweets to create the atmosphere he desires for *"deal making,"* which is one possibility as discussed in a January 2, 2017 Wall Street Journal piece, *The Method in Trump's Maddening Communications Habits*, but the impression is often one of undisciplined communications. What lessons do we more plebian Tweeters learn?

- Electronic communications are tone deaf. Even when one carefully proofs and considers the tone of an email or Tweet, the reader may misconceive your message or your tone ... and think that you are angry, cold or an inconsiderate jerk.

So ask yourself, *"should this communication be made in person or by telephone?"* Convenience is NOT a legitimate reason to text or email a message which requires a human touch.

And some people expect more courtesy and politeness than others, even if you are not trying to be brusque, but are matter of fact or *"just stating the rules."* THINK ABOUT YOUR AUDIENCE!

- Which of course requires you to actually think about the message before typing it.

And based on my own painful experience, even if you are correct and your anger is *"righteous,"* you will often later regret using your temper, even if it was an intentional use of a tool.

I saw a brief post by a Christian based consultant on anger and his suggestions were sound. Anger is bad when:

- (1) it is excited without any sufficient cause.
 - (2) it transcends the cause, if any cause really exists.
 - (3) it is against "the person" rather than the "offence."
 - (4) it is attended with the desire of "revenge." That is always wrong.
 - (5) it is cherished and heightened by reflection.
 - (6) there is a determination to exact the utmost satisfaction for the injury which has been done.
- And does the electronic communication method allow you to respond to complex questions requiring nuance?

One of the chief concerns about the Presidential Tweets is whether any domestic or international issue can be treated within 140 characters.

And as an author, I've learned that many readers, sometimes including myself, don't read beyond the first few paragraphs of an article and email. Trust me, even when we're trying to be practical and not verbose, it's often tough for attorneys to cover all of the angles in lawyerly communications. Especially in the Alice in Wonderland of government regulation, many things are not simple and make little sense. If you really want to struggle with making every word count and predicting and avoiding every misinterpretation of your words, try writing legislation or regulations! Ughh.

Oh ... you know that rule that if you have to explain that joke, it was a lousy joke? Add a caveat that ANY joke in electronic form is a risk and may be misinterpreted or deemed insensitive to someone somewhere in some group.

The rule about sleeping on a controversial or angry email, or one you typed late at night while tired or imbibing, should be applied to many communications. The title of a December 28 Wall Street Journal article is instructive:

How to Tweet if You're in Government and Not Donald Trump: Write, Edit, [Maybe] Send.

The article is highly entertaining. The CIA's first Tweet concluded with: *"We can neither confirm nor deny that this is our first Tweet."* One cannot make this stuff up!

- *Diamonds are Forever*, to quote the classic James Bond song by Shirley Bassey, and so are electronic communications ... as Secretary Clinton learned to her chagrin.

I'm as hacked off (pun not intended) as anyone about a foreign power hacking into the DNC and other groups' email accounts, BUT I have no pity for Ms. Clinton's bad judgment or for those other individuals who said or did dumb or morally wrong things or "put them in writing." Remember also North Korea's apparent hack of Sony's emails and the near catastrophic (and costly) repercussions? Rule one – don't do bad things. Rule two – don't put them in writing. Rule three – I was serious about Rule one – this article is not a primer on *"how not to get caught."*

Fortunately, most commercial removal tools leave some fingerprints, and destruction of evidence can be a felony, such as *"obstruction"* or at least a basis for costly spoliation claims. Read the December 21 WSJ piece, [U.K. Executive Jailed for Destruction of Evidence in Bribery Case](#).

- Further analyzing Ms. Clinton errors, if it's going to look suspect and above the rules, don't do it if, or as trendy folks say, *"Be aware of the optics."*

And don't do what some folks continue to do ... don't have your assistant (or in Ms. Clinton's situation, your maid) print them if they are unduly sensitive. Go back to my earlier admonition about thinking before you act.

As to the "Expert" level stuff ... write simply, straightforward, in active tense and please, by all that is holy, minimize the use of jargon. Read [19 Banished Words for 2016](#) for an entertaining but accurate attack on overused or misused words in 2016.

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