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## A Fly on the Wall

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# University of Dayton, Ohio (url: <http://www.udayton.edu/index.php>)



## A Fly on the Wall

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The lawyers representing baseball great Barry Bonds in his federal perjury case are consulting a University of Dayton jury expert and assistant law professor Thaddeus Hoffmeister's article "Google, Gadgets, and Guilt: The Digital Age's Effect on Jurors."

Hoffmeister, whom *The Wall Street Journal*, *Chicago Tribune* and *The Washington Post* have quoted in stories about juries, researches how social media and the Internet are affecting juries and the outcomes of cases. Within the past few years, Hoffmeister said, jurors have taken to the Internet to divulge details of cases and conduct their own investigations.

His article, which has garnered interest from law reviews, proposes jury instructions to deal with the impact of the Digital Age on jurors.

"Judges instruct jurors not to go to the crime scene or to the jail to see if someone is there, or talk about the case," Hoffmeister said. "But now jurors can go to Google Earth and see the crime scene. They can get on the county or city website to see who is incarcerated. And, since MTV's *Real World* has come out, you have a generation who wants to tell the world what they're doing at all times."

Such curiosity, according to Hoffmeister's article, can lead to misconduct and mistrials, which prove costly both financially and in the toll they take on those involved in the trial.

"Juror actions could cause a mistrial, cause the state and the parties involved to pay for a new trial, or cause the mother of the victim to have to testify again," Hoffmeister said.

In addition, such activity tarnishes the legal system and calls into question whether today's jurors can still function in their traditional role as neutral and impartial fact finders.

To help combat juror curiosity or confusion, Hoffmeister suggests allowing judges and lawyers to go above and beyond jury questioning to actually investigating jurors, improving juror instructions to make them clearer and allowing jurors to ask questions during the case. In some cases, Hoffmeister suggests, judges could levy penalties for juror misconduct.

If he were a judge, Hoffmeister said he'd tell jurors that it's natural to be curious.

"Just don't act on that curiosity," said Hoffmeister, who is a sports fan familiar with Bonds' legal issues. "I'm not asking you to give up the Internet for the rest of your life, just while you're on jury duty."

"I think potential jurors would rather have 'virtual sequestration' where they are temporarily offline, rather than 'physical sequestration' where they can't see their friends or family for the duration of the trial."

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