



## U.K. Juror Gets 8-Month Sentence for Facebook Use

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Eight months seems a harsh sentence for a juror who made some ill-considered Facebook posts. Harsh, that is, until you hear the facts. The proceeding against U.K. resident Joanne Fraill is one of the first contempt prosecutions ever against a juror for improper Internet use. And the punishment she received is a reminder that, when pushed, courts have both the power and the will to protect the integrity of the jury system and the rights of criminal defendants to a fair trial.

On June 16, 2011, Fraill was found in contempt of court for improper communications and Internet research she conducted while serving as a juror in a criminal trial. The case involved four defendants who had been charged with drug-related offenses, including Jamie Sewart and her boyfriend, Gary Knox.

The day after jurors acquitted Sewart, while the case was still pending against her three co-defendants, Fraill contacted Sewart on Facebook. Using the pseudonym "Jo Smilie," Fraill messaged, "You should know me, I've cried with you enough." Sewart replied and asked about a charge against one of her co-defendants. Fraill answered that "no one [on the jury was] budging." Fraill then asked Sewart not to disclose their communications because "they could call mmiss trial [sic] and I will get 4cked to0." Minutes later, Fraill told Sewart, "Dont worry about that chge no way it can stay hung for me lol." The chat log further disclosed that the two had been communicating in court with nods and blinks.

The following day, Sewart told her attorney about the incident. When confronted, Fraill admitted that she had contacted Sewart to discuss the case and that she had searched the Internet for information about a shooting that involved defendant Knox.

In previous blog posts, we have considered the extent to which jurors should be restricted from Internet use during trial. The proliferation of iPads and smartphones raises difficult questions about how best to protect a defendant's right to a fair trial while minimizing the burdens of jury service. But some cases are beyond the pale.

Fraill's conduct seems indefensible for several reasons. First, Fraill understood the judge's restrictions on case-related communications, and she took an oath promising not to research any aspect of the case on her own. Moreover, the chat log makes clear that she understood the potential consequences of juror misconduct. Indeed, Fraill knew that, if discovered, her conduct could result in a mistrial and that she could be punished for it. Nonetheless, Fraill blatantly disregarded the judge's instructions.



If Fraill's conduct were not bad enough on its own, other details seem to make it worse. The 10-week trial against Sewart and her codefendants was the third of four attempts by the prosecution to try the case. By the time Fraill was placed on the third jury, the case had already imposed considerable costs on Britain's taxpayers and court system. Ultimately, the case involved 10,000 pages of evidence, 500 witnesses, 14 lawyers, and five juries over 160 days in court. More costs will be imposed as defendants, like Knox, appeal their convictions based on Fraill's Facebook posts.

Given the context, Fraill's eight-month sentence does not seem patently outrageous. Fraill's extraordinary misconduct left the court little choice but to make an example of her.

*Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

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