

Everyone has heard of the tragic case of Caylee Anthony, the Florida child that died under mysterious circumstances, and her mother Casey Anthony, who was tried and acquitted of complicity in her daughter's death.

What we did not know until now was that this case would be a lesson in the limitations of keyword searching and how the propensity to perform company forensics on one's own may have lost the case for the prosecution.

When examining the computer for evidence of crime, two mistakes were recently discovered to have been made: 1. the prosecution relied exclusively on keyword searches to locate evidence of the crime and 2. the hard drive analysis was performed by an amateur unfamiliar with the nuances of computer detective work.

Going back to the weeks of trial, most will remember how Casey's mom was questioned on the stand about certain searches that had been conducted on the home computer. The prosecution used the existence of searches for the word "chloroform" to show that someone was seeking information regarding various ways to incapacitate and possibly kill someone. Cindy Anthony's response was that "chloroform" was the auto fill response to her search for the word "chlorophyll", which she meant to type in to locate antidotes for her dog's misadventure with a plant that it ate.

What the prosecution did not locate as a result of its analysis of the hard drive was that someone had researched suffocation – "fool-proof" suffocation. Unfortunately, they spelled it "suffication". In addition, immediately after this search, the same person reviewed Casey Anthony's MySpace page. No one else in the household used MySpace except Casey. In addition, all of this activity occurred using the Mozilla Firefox browser, which was said to be preferred by Casey.

None of this data was uncovered because keyword searches will only recover terms as they are entered and the sheriff's investigator was an amateur.

During a November 25 interview, Orange County Sheriff's Captain Angelo Nieves said that the office's computer investigator missed the June 16, 2008, search. He admitted that his office did not consult with the FBI or the Florida Department of Law Enforcement for help searching the computer in the Anthony case.

The limitation of relying exclusively on Keyword searches was best described by Magistrate Judge Andrew J. Peck in his *Da Silva Moore v. Publicis Groupe* opinion:

"In too many cases ... the way lawyers choose keywords is the equivalent of the child's game of 'Go Fish' [K]eyword searches usually are not very effective."

US District Court Judge Shira Scheindlin similarly outlined in her opinion in *National Day Laborer Organizing Network v. United States Immigration and Customs Enforcement Agency*:

"Simple keyword searching is often not enough...(B)eyond the use of keyword search, parties can (and frequently should) rely on latent semantic indexing, statistical probability models, and machine learning tools to find responsive documents."

Compound this reliance on a system which clearly demonstrated its flaws with the use of an in-house techie versus a certified professional and you have in this case a prosecutorial disaster. Capt. Nieves said that the failure to employ an outside computer specialist was a mistake.

This may or may not have been the type of case that would have benefited from a Technology Assisted Review, but it certainly ached for a forensic specialist.