

Making the public's information less public

Last month the journalistic icon, *The New York Times*, lovingly known to many of us as the “Gray Lady,” showed us perhaps a bit of senility has crept in when she opined that “Home addresses should not be for sale without the knowledge of and the explicit, meaningful consent of those who live there.”

Perhaps this is simply a sign of how times have changed, but such a statement comes as a shock to media attorneys who have been around issues of privacy law for many years. And it raises the issue of when a person in today's electronic environment has a legitimate expectation of privacy?

Long ago, when land-line phones were still new enough to interest the public, telephone directories listed all numbers of all local residents, including addresses where they lived. Those directories were mined by operations such as Dun & Bradstreet, which followed with directories of all residents of a certain street block, by house number. Such information was publicly available and nobody considered their home address “private” information. Seriously! How private could your address be when you were readily seen from the street entering your abode at night and departing from it in the morning?

Courts who considered the issue acknowledged this fact, and only after “unlisted” telephone service became an option did a few courts begin to distinguish between persons who might have attempted to keep secret their addresses by arranging for their phone listings to not be publicly available.

This one factor alone didn't change the well-established principle that information which is publicly made available can hardly be considered “private information.” Citizens readily turn over to the government their home addresses in registering to vote, in registering cars and guns, and in a myriad of other instances. Records held by the government are generally considered public records and there is no expectation of privacy that attaches

to them because of state public record laws. Courts have focused on this principle numerous times in finding there is no expectation to privacy in your address.

But now the *New York Times* drops the bombshell that it believes publicly-available information should not be sold “without the knowledge of and the explicit meaningful consent” of the person whose information is being sold. It suggests that the public will feel “safer” and their privacy “more secure” if this public information which is on the Internet is less-publicly available. But it offers no suggestion how to accomplish this herculean task.

I realize that I am in the minority in saying the things I'm about to say here. It's very popular to rant about how we need more privacy and how there must be systems put in place to protect our private data.

Perhaps what we need to do is take control of our information. Don't post on Facebook information you would prefer not to circulate to the world. Assume that you can be found no matter where you live unless you refuse to give all government entities your home address. For sure don't frequent any public place or attend any public event, because you have no expectation of privacy when you appear in a public place, remember.

Spend all your free time searching all the dark corners of the Web to find and eradicate any mention of yourself, especially those tied to your home address. (At the same time, let me sug-

gest that you retire your own access to the Internet, because if you want nobody to have access to your home address online, then it's only fair that you not be searching for others' home addresses to send your holiday thank-you notes to because you failed to keep a record of their address in your personal address book.)

The arguments that arise here are much the same as the arguments that arise in the situation of accessing court records online or having cameras in the courtroom. It's good when only a few people can access the information. But once it becomes freely available to all, then access is bad and should be limited. And when someone determines there is a market for information, then all access is negative and should be shut down at all costs.

Perhaps, just perhaps, the world is getting smaller. Perhaps we are all “small town neighbors” like it used to be. Perhaps it's harder to be the anonymous critic who gets pleasure out of stirring up trouble and taking no responsibility for it. Perhaps when access to information causes you to be identifiable, some personal responsibility for your actions develops.

Perhaps that's not a bad thing ...

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