

Privacy: a balancing act

Personal privacy expectations vs. the ability to monitor government is at center of debate

In the next month or so, Missouri newspapers are going to see ads come in addressing the proposed internet security amendment to the state Constitution.

The amendment on the August ballot would write into our Constitution the right to be free from unwarranted searches and seizures of our electronic communication. It would supposedly protect your emails, phone texts, online social media postings and even your call log from your cell phone.

I am watching this whole process with real interest. How will that impact reporters? Does this protect journalists from surreptitious investigations into their cell phone records or emails? The language in the proposed amendment states that searches will not be permitted "without probable cause, supported by written oath or affirmation."

I assume this still means the government could go to court and get a court order justifying disclosure of this information, without any notice being required to be given to the party whose information was being disclosed, if justifiable "probable cause" was demonstrated to the court.

However, it does seem to offer a small nougat of hope that, if this passes, journalists may have gained one small step toward protections of the news-gathering process.

Rep. Paul Curtman was recently quoted in the *Missouri Times*, as saying "If government can't go through our mail or homes without a warrant, they shouldn't be able to snoop through our digital communications without one either."

Meanwhile, in that same article, Sen. Rob Schaaf admitted that this Missouri Constitutional mandate might not protect us against federal agencies acting on the federal lev-



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Recently, I read an article about how private-sector concerns about data protection are morphing into governmental concerns about data protection.

The International Association of Privacy Professionals today has 14,000 members in 83 countries, but a "fair number" of those are governmental employees, its officials note.

"More and more state agencies are recognizing the need to better manage privacy, to examine how they handle data within their organization, and to embrace the idea that someone needs to lead this responsibility," said Trevor Hughes, CEO of the organization.

Quotes like that are like a brick to my head. Missouri Press Association has advocated for a Public Record Counsel for citizens in the State of Missouri, to help ensure that public bodies are following the Sunshine Law, while the trend nationally is for states to hire folks to keep data private. Instead of moving forward, I fear we may be moving backward.

The concern becomes how this focus on managing risks and protecting the expectation the public has regarding the privacy of its data balances with the principle that information held by our government needs to be available to the public in order to monitor how government is working.

Shareholders demand information from business in order to assess how the business is operat-

ing. We are the shareholders of government and we need a clear understanding about how our government is operating. One way this is accomplished is by public access to government records.

At the same time that this push for privacy has begun, a parallel phenomenon has developed where business is taking note of how the information held by government can be used to make life easier for all of us.

Are you looking for price data for your real property? There's a company that can compile that and provide it to you in a format which you can easily manipulate, for a small price.

Do you want to market a product to a select group of potential buyers? A company can help you do that, based on the data you provide to your county or state for certain benefits you seek to receive, such as federal farm subsidies or tax reductions.

In the past, you went outside and knew your neighbors could see what you were doing. If you wanted to keep something secret, it happened inside your house with the blinds drawn. You did not go out to pick up your morning newspaper if you didn't want

folks to see your pajamas. It just depended on how badly you wanted that paper with your morning coffee.

Nothing's changed. How badly do you want that information you are seeking? Are you willing to allow some disclosure of some personal information to get it?

We are the shareholders of government and we need a clear understanding about how our government is operating.
