TRANSPARENCY AND PRIVACY
CLASHING PARADIGMS IN A WEB 2.0 WORLD

A University of Utah Honors Think Tank 2012
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In many respects, transparency and privacy occupy opposite ends of a sliding scale. Generally, the more you have of one, the less you have of the other.

At the same time, both are distinctly American qualities—privacy to pursue one’s interests and happiness without interference from the government or any other institution; transparency to hold government and powerful institutions accountable.

Historically, privacy has been the norm, given the opaque nature of our lives and institutions. Institutional information, even that information classified as “public” under open-records laws, enjoyed a practical obscurity due to the inability of the masses to access the information in a convenient and low cost manner. Our personal lives were also generally private, transparent only to our close friends and family, unless we became the focus of a news report, a rare occurrence. Until recently, institutions and individuals could generally determine what information they would or would not share with others, and had control over where on the transparency-versus-privacy continuum they would fall.

All of this changed with the emergence of the information age, an era marked by the rapid growth in sophisticated technology and the ubiquity and universal dependence on, and acceptance of, the Internet. With the rise of the Internet came social media, and a new ethos of sharing.

What we consider “private” is also undergoing a makeover. We share our lives and thoughts not only with friends, but with total strangers via the Internet. In many ways, we have become a society of narcissists and voyeurs; addicted to, or at least preoccupied by, Facebook, YouTube and Twitter.

GPS locators on Smartphones allow us—and the government—to keep track of each other as we move about our daily lives.

Information on what we buy, what we eat, what books we read and with whom we associate is routinely collected, sold and utilized by government, businesses and our neighbors.

While calls for greater openness in government are nothing new, the
emergence of the information age has brought a new, unprecedented intensity. Recent disclosures of government corruption and abuses of power and scandals in the real estate and financial industries have spurred calls for greater transparency and accountability in our institutions. The transparency movement in the federal government was solidified by the election of President Barack Obama and his open government directive in December 2009. State and local governments also have embraced the concept of open government as a way of encouraging greater citizen engagement as the digitizing of information has become more common and easy internet access has become ubiquitous. Minutes of city council meetings, live-streaming audio of state legislative debates, and access to databases of court records all have become a click or two away online.

Another consequence of the movement to transparency is that we are now living in an era of Wikileaks, confidential news sources, anonymous web posters, and a seemingly insatiable public appetite for disclosure of information held by government. There is growing concern that individual and institutional privacy are dying realities and that too much transparency in the form of an unlimited “right to know” everything about each other and our institutions is a dangerous endgame that threatens national security, personal freedoms, our way of life and the orderly and efficient operation of a democratic society, at least as we now know it.

In the last decade, our ability to find and share information has increased exponentially. With it comes opportunity, but also a call for caution at what might be at risk. It was this seismic clash of two powerful paradigms—transparency and privacy, brought together by the forces of the internet—that was the subject of study of this Think Tank.
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Two students, Sam Totten and Mariah Lohse, participated in the first semester of the Think Tank but moved out of state just prior to the second semester and did not participate in the student projects.

Randy Dryer
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is a founding partner of the Salt Lake City law firm of Mabey, Wright & James and is an adjunct professor in the Honors College. He was the principal faculty advisor for the Privacy Team.

Valerie Craigle
is a librarian at the S.J. Quinney College of Law and supervised the course webpage.

COMMUNITY PARTICIPANTS

Love Communications provided layout and design services for this report and provided advice in developing the public campaign for the Transparency Project.

The Salt Lake Tribune provided editing assistance with the Think Tank report and financially underwrote the state-wide public opinion survey for the Transparency Project.

Johnson & Johnson of New York City conducted several working sessions with the Privacy Team and provided creative and production assistance in the creation of the Team’s YouTube videos.

Absolute Communications, a University of Utah student marketing class, assisted the Think Tank in the planning and execution of the public launch/kick-off event for the Transparency Project and in the marketing and distribution of the videos for the Privacy Team.

Brigham Young University students in a Journalism Research Methods class, under the direction of Professor Joel Campbell, conducted research into the current transparency practices of 16 Utah cities and counties.

COURSE OVERVIEW & OBJECTIVES

Government corruption and abuses of power, scandals in the real estate and financial industries, unpopular wars, skyrocketing costs of education and an increasingly complex and opaque healthcare system have spurred calls for greater transparency in our institutions and in society in general.

The unprecedented transparency in our society has been fueled and enabled by the new social media communications platforms of Facebook, YouTube, Twitter, Wikipedia and the like. At the same time, there is concomitant concern that individual and institutional privacy are dying realities.

The Think Tank on Transparency and Privacy took a critical look at these two often-conflicting paradigms. Eight course objectives were identified, all geared toward broadening the student’s substantive knowledge and engaging them in a collaborative, self-directed learning experience. Students studied the origins, underlying rationales and growth of the concepts of privacy and transparency as well as their legal and constitutional implications, both in general and in their application in specific areas such as the government, media, education system, financial industry, and the Internet.

During the first semester students heard from leading local and national experts in the areas of openness and privacy to gain a comprehensive understanding of the complexities, nuances and challenges of balancing and reconciling these two competing interests. During the second semester, students applied this information and knowledge by developing two practical projects (described below) which have an impact and life beyond the classroom. A copy of the course syllabus is reprinted in Appendix "A."
The course started with a commitment by all involved to be transparent about their respective pasts. Each student wrote a “Personal Portrait” which was posted on the course webpage. These personal discussions set the tone of transparency in the course by being more than just a resume or a biography, but a very personal background statement that goes beyond the norm in an academic setting.

Under the expert guidance of law school librarian Valeri Craigle, the webpage served as a digital repository of the latest scholarly and popular writings and videos on transparency and privacy issues. The coursework was the online hub of everything the students did and was the public’s window into the course. Each week’s classroom session was videotaped and posted on the webpage. Each student made an oral presentation to the class and wrote a paper on an assigned transparency or privacy topic, all of which were also posted, as well as weekly guest lectures by experts from around the country via video conference.

Throughout the first semester, students made daily posts to their required Twitter accounts and weekly posts to their blogs about the transparency and privacy issues being discussed.

Access to these feeds was available on the website as was a public comment feature where persons outside the class could comment on the student’s work product or any issue being discussed. This online content spurred a lot of conversation, and discussion forums were made available so that students could interact with interested members of the public. The webpage had thousands of page views and hundreds of posted comments.

The course was the subject of a live news story by KSL TV news and also featured in a story published by the Deseret News. The course was also made available to various news stories and posts is included in Appendix “B.”

The Transparency Team took as a starting point President Obama’s 2009 Memorandum on Transparency and Open Government, the federal government’s commitment to promote transparency as a means of improving efficiency, accountability, and general democracy. The Memorandum called for government to be more transparent, participatory, and collaborative with its citizens by providing them with public information that can encourage civic participation. Although the President’s initiative has come under criticism for not delivering on everything it promised, it focused the nation’s attention on government transparency and the Think Tank believed its underlying principles could form the basis for a similar initiative at the local government level. Consequently, the Utah Local Government Transparency Project (“Transparency Project”) was conceived. After extensive study and discussion, the Think Tank came to two preliminary conclusions: one, that Utah citizens valued and supported transparency in their government institutions and two, that local governments, with some exceptions, generally were not very transparent and were not harnessing the convenience and power of new technologies. Both of these preliminary conclusions were confirmed by the research described below.

Sixteen cities, towns and counties in Utah were selected for the purpose of analyzing how these local governments would fare if they were evaluated in terms of compliance with the proposed Transparency Best Practices. The research was done by a BYU Journalism Research Methods class under the guidance of Professor Joel Campbell. The results of the research are summarized in the section titled “Transparency in Utah Local Governments.” A one-page summary of the research for each local government is included in Appendix “C.”

The project also included a statewide poll of Utah residents to gauge their opinions on the value of a transparent, accessible government. Students drafted 10 survey questions and The Salt Lake Tribune agreed to include the questions in one of its regularly scheduled state-wide polls conducted by national pollster Mason-Dixon. A summary of the results of the survey are discussed below in the section of this report titled “Government Transparency: How It Affects Public Trust, Satisfaction & Citizen Engagement.” The survey responses are reprinted in full in Appendix “D.”

The Honors Think Tank class divided into two “teams” at the semester break to pursue separate projects that would have tangible, real-world implications on transparency and privacy in the Internet age.
The kickoff was attended by Salt Lake City Mayor Ralph Becker and Council Chair Soren Simonsen, both of whom spoke and personally endorsed the Utah Transparency Project and the Transparency Best Practices. The kickoff generated considerable media and blog attention. Links to the various news reports and blog postings may be found in Appendix “C,” the Transparency Team was cognizant of the fact that there is a financial cost to transparency and that government budgets are tight in today’s economic environment. Consequently, the Transparency Project calls for local governments to adopt the Best Practices in principle and commit to implementation as soon as practicable.

Because local governments interact with citizens most directly, the goal of the Transparency Project was to make these governmental entities more accessible to citizens by devising a common set of standard transparency “best practices” which recognize and leverage recent advances in digital and other technologies.

The Best Practices, which are reprinted in Appendix “E,” were distributed to all 273 local governments in Utah on April 11, 2012, in conjunction with a project kickoff/news event held on the University of Utah campus.

To engage citizens more intimately with the Transparency Project, the Transparency Team created a project Facebook page and Twitter account. Through these avenues of social media, the Think Tank promoted the Project and received continual feedback from all interested parties. This also served as a vehicle to encourage local citizens groups to lobby for adoption of the Transparency Best Practices in their respective cities and towns.

A website, www.utahtransparencyproject.org, served as a central repository for all information regarding The Project. This includes social media feeds, recommendations for ways citizens can get involved, support for local governments looking to make the change, and a record of individuals and organizations who have endorsed the Best Practices. A listing of those local governments and organizations which have endorsed the Best Practices as of the date of this report is included in Appendix “F.”
The Privacy Team project is intended to inform the public (primarily students) of the growing threats to privacy perpetuated by the continual evolution of technology. Technological advances in the form of smartphones, social networking sites, and data gathering techniques, while convenient, also gather user information for purposes often not apparent to the user.

The Privacy Project seeks to supply information to those users about how their personal data is being used, and how they can protect their privacy while still enjoying the technology that saturates today’s society.

Because technology is constantly developing and progressing, privacy policies rarely stay the same for long. To address the ever-changing relationship between privacy and technology, the Privacy Team has created a variety of tools to help citizens navigate the landscape even after this Honors Think Tank class is over.

The Privacy Team proposed the creation of an Honors Privacy and Technology Scholar’s Group at the University of Utah to continually learn about new information and policies, and then relay that information to technology users whose privacy may be impacted negatively by that technology. The team created a blog and a Twitter account @gounlisted, and a dedicated YouTube channel to routinely post developments about privacy and technology. These resources provide research, articles and links to information pertaining to the protection of personal privacy. Due to the speed with which technology advances, the blog and twitter feed will be consistently updated with information on the latest advancements and safeguards.
As part of the project, the Privacy Team decided to create short, clever vignettes that illustrate the new risks to privacy associated with popular social media method Facebook and on-line banking with a smart phone. The original four vignettes also deal with issues pertaining to workplace privacy, and the public’s general lack of understanding when it comes to the risks and definitions of using these technological forms. These vignettes were aided in part by Bryant Ison, an Executive at Johnson & Johnson in New York City and New Jersey. Mr. Ison assisted the Privacy team in vetting its ideas and working through the creative process and learning how to deliver its message. These short videos will available on the Privacy Team blog, and the 5 original founders of the Privacy Team are all committed to continue their involvement with scholars group/club into the future. The team would like to take these vignettes into schools and other forums to highlight for students the risks of sharing personal information without discretion.
LESSONS LEARNED

At the conclusion of the first semester, the students reflected as a group on what they had learned, and summarized the lessons as follows:

- The Internet never forgets.
- Facebook is the new information database for the CIA, law enforcement and lawyers. In other words, anything that you put on Facebook can be requested and seen by the government, or is discoverable and potentially relevant to a court case.
- When you connect to the world via the internet, it also connects to you. While you gain much information from the internet, it is similarly tracking you and everything you do and collecting that personal internet history.
- Data is more valuable when accompanied by a meaningful context. If one cannot understand data, it is worthless.
- Transparency and privacy are usually inversely proportional. If you become more transparent, you become less private and vice versa.
- Information doesn’t need to go viral to be valuable.
- Historically, when national security or personal safety is on the line, privacy is usually out the window.
- The collection of personal, private data isn’t inherently bad; it’s who has access to the information, how long it is maintained and in what form, and what is done with the information that matters.
- Institutional transparency is generally a good thing; personal transparency not so much.
- When people are watching you, your behavior and statements are unavoidably affected.
- Convenience in a web 2.0 world comes with a price, and the price is usually less privacy.
- On social networking sites you are, in reality, the product and not only the customer. If you’re not opting out, you’re opting in. You should scrutinize your privacy settings carefully and often.
- The digitization of information, coupled with the ubiquity of the Internet, has enabled government and institutional transparency like never before in our history.
- Transparency in government operations is the first and most critical step toward fostering greater trust and citizen engagement with our government.

PART ONE: GOVERNMENT TRANSPARENCY

The public’s trust and confidence in government suffers behind closed doors. As Thomas Jefferson famously observed “Information is the currency of Democracy.” Those words are as true today as they were in 1776. Transparency in government has been a favorite refrain of politicians in the past few years as the open government movement has spread to all levels of government. The digitization of information and the ubiquity of the internet has enabled this movement and has dramatically reduced the cost of transparency. But, many governmental entities have a long history and culture of secrecy and breaking down these barriers to openness is more easily said than done. A listing of selected documents and resources in the area of government transparency may be found in Appendix “G.”

The Think Tank studied the latest transparency developments in the legislative, executive and judicial branches and heard from open government advocates and government representatives alike on the often difficult challenge of balancing the public’s right to know with the government’s legitimate need for privacy or security. Each Transparency Team member wrote an essay on a selected transparency topic.

A DEFINITION OF GOVERNMENT TRANSPARENCY IN A DIGITAL AGE

by Theresa Krause

We live in a world where a social networking site has more than 850+ million active users, where Google gets approximately 1 billion unique visitors per month and where nearly 2.1 billion people use and have access to the Internet. Data and information have never been more accessible. Citizens are connected across the globe.

Whether it concerns a neighbor, a stranger from another country, a politician, a celebrity, a popular news story, or an obscure pop song reference—it is easier than ever to gather information. The Information Age is defined by almost-instant accessibility and availability. Our “Web 2.0 World” also has led to a revolution concerning government transparency.

The push for government transparency is not a recent movement, though it takes on new dimensions with recent technological advancements. Transparency has been an important component of democracy since the 18th century during the creation of a government “for the people and by the people.” As John Adams wrote, “Liberty cannot be preserved without a general knowledge among the people...of the conduct of their rulers.” Americas Founding Fathers wanted government to keep its constituents directly informed as well as a desire for the constituents to express their opinions. With the prospect of self-government came an expectation of a responsible citizenry and an open, responsive government.

The desire for information was then as it is now, only the means of access was much more difficult. Print and word of mouth were the only ways to get information to the public. Though the Postal Act of 1792 made it possible to widely distribute newspapers, the number of people reached was much smaller and at a much higher cost than the Internet provides today.

Why was it so important then, and why is it so crucial now, to ensure the public has access to government? Why has this issue persisted all the way from the 18th century to the Obama administration? Because the United States government was put in place for the people, and it is up to the people to hold it accountable—which would be impossible without the ability to see the whole picture.
Governmental transparency, at its most basic definition, is open and conveniently accessible information. It is understandable, reasonable, and quality information that can help the public make informed decisions, provide meaningful oversight, and provide valuable input to public officials.

The two key phrases are "understandable," meaning placed in context, and "quality" meaning complete, accurate, and timely. Without these qualities, the usefulness of information to the public is severely limited and access is greatly restricted. In fact, in light of new technology, government is not truly transparent or accessible unless this understandable and quality information is also posted and maintained in a digital form so that the public can access it from their personal devices.

Transparency has often been referred to as a movement, meaning that there is some dissension and disagreement over its usefulness. The majority of the backlash stems from questions over whether the information is "understandable" or possesses "quality." In some capacity this is due to the span of the Internet and the unreliability of sources as compared to the newspaper writers of earlier times.

However, in most cases the positive influence of increased transparency compensates for the drawbacks. As a result of recent economic decline, the people’s trust in government is failing. From a recent survey it was shown that 59% of the public is frustrated with the result of recent economic decline, and the government is not truly transparent or accessible. This lack of trust could be caused by insufficient public knowledge of what the government is doing and a misrepresentation of the people's interests.

Governmental transparency, at its most basic definition, is open and conveniently accessible information. It is understandable, reasonable, and quality information that can help the public make informed decisions, provide meaningful oversight, and provide valuable input to public officials.

Transparency that creates an informed citizenry could help restore trust in the governmental process, engage citizens to participate, and ensure that the public interest is accurately followed. It is a simple notion that drives the transparency movement, "ordinary people have an equal say in public life and deserve the information to craft informed opinions." The basic public right to know has persisted across the centuries.

Internet technology as a means to compensate for the drawbacks. As a result of recent economic decline, the people’s trust in government is failing. From a recent survey it was shown that 59% of the public is frustrated with the result of recent economic decline, and the government is not truly transparent or accessible. This lack of trust could be caused by insufficient public knowledge of what the government is doing and a misrepresentation of the people's interests.

American political culture is embedded with the democratic principle that citizens should be able to hold their government accountable for its actions. But in order to do so, the citizenry must be informed.

Today, information is everywhere. In the modern digital age of the Internet, social media, and portable electronic devices, people are constantly receiving and interpreting data. According to a 2010 Pew Research Center report, 59% of Americans get their news online and 99% of social media users are online news consumers.

As more and more Americans utilize the Internet and information technology to access news, traditional news outlets such as CNN, The New York Times, and the Wall Street Journal have embraced Internet technology as a means to inform more readers, and to do it faster. With the capabilities of rapid information distribution, widespread citizen access to large amounts of government information has become a reality. Average citizens can be knowledgeable enough to scrutinize government decision-making and hold government accountable.

Internet and information technologies provide a fast and cost effective medium for more open and transparent governance. As such, national and local Utah governments are embracing an eGovernment transparency movement, calling on governments to be more digitally "accessible" in an effort to promote civic participation in the American political process.

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American revolutionists founded the United States of America to establish a true democracy, a nation where the inalienable rights of citizens, “life, liberty, and the pursuit of happiness,” are secured by a government “instituted among men” and legitimized by the “consent of the governed.”[9] Through foundational intent, the American political system's governing authority is contingent upon the degree in which it represents the will of the people who inhabit it. Information, therefore, is the cornerstone of democracy. It provides citizens with the ability to hold government accountable.

The founding fathers believed a government “of the people, for the people, and by the people,” could only be maintained with an informed citizenry knowledgeable of the actions of their rulers. [10] "Transparent and open governance is vital to the American democratic process.”
As Judge Damon Keith of the U.S. Sixth Circuit Court of Appeals has stated, "Democracies die behind closed doors."[11] To maintain America’s democratic foundation, citizens must be engaged in the political process, for the American public plays an essential role in ensuring government accountability and fair, democratic representation. Although access to government information is a fundamental concept of democracy, openness in government meetings is the crucial first step to allowing citizens their right to participate in government. As such, citizen interaction with government agencies is a necessary role in modernizing decision-making processes and enhancing the American democratic process.

In 1953, the state of Utah enacted the Utah Code 52-4-101 Open and Public Meetings Act, which declares: That the state, its agencies and political subdivisions, exist to aid in the conduct of the people’s business... That the state, its agencies and political subdivisions (therefore, must) take their actions openly and conduct their deliberations openly.[12] Per state ordinance, the Open and Public Meetings Act provides citizens with the opportunity to interact with government, but not the right to examine government documents. Until 1966, public access to government records was only a conceptual right to know of the people that represented them. However, without legislative action statute permitting American citizens the right to know government records since the birth of America were only accessible on a “need to know” basis.[13] If citizens wanted access to government records, they had to establish a right to examine such records.

In 1966, the Freedom of Information Act (FOIA) was enacted, requiring the United States government to grant the American public access to government information. For the first time in American history, the public’s implied right to know “of the conduct of their rulers,” was explicitly stated in law.[14] FOIA legislation was a landmark effort to promote citizen rights in the role of democracy. In 1991, the state of Utah, realizing the significance of FOIA and its impact on citizens, created a similar piece of legislation, the Government Records Access and Management Act (GRAMA). According to the Utah Legislature’s Legislative Research and General Counsel, the legislative intent of GRAMA was to recognize “the public right of access to information… [and to] promote the public’s right of easy and reasonable access…” to government records.[15]

GRAMA became the first statutorily enforced state standard for maintaining and archiving government records. Like the 1966 Freedom of Information Act, in implementing GRAMA, the legislature effectively declared Utah as an “Open Record State,” and mandated by law that records concerning the conduct of state government are public unless otherwise specified.[16]

With citizen rights to access government information in place, private citizens can now request information from any federal government agency upon filing a FOIA request, and any Utah state agency with a GRAMA request. However, since such requests must travel through the American bureaucratic system, they are often costly and time consuming.

The 1990s emergence of the Digital Revolution provided a practical solution to expensive federal FOIA requests. As Internet and computer technologies emerged as American household necessities, the capability for widespread transfers of information without the use of paper was available. In the advent of the Digital Age, “the internet has [now] become a global platform of communication” where infinite pieces of information are continuously exchanged by people all over the world in an easily accessible space.[17] Realizing the possibility of digital governance, in 1996 President Clinton embraced the convenience and efficiency of the Information Age and signed the Electronic Freedom of Information Act (EFOIA), requiring government agencies to “distribute information on its own initiative… and to enhance public access through the use of electronic information systems.”[18] EFOIA “broadened the democratic principle of public access to information by placing more government documents and information online.”[19] In response to President Clinton’s call to-citizen” communication.[21] In addition to utah.gov, the Utah State Legislature website has also been recognized for providing easy access to legislative information. Since 1998, Utah’s legislative website has received numerous “Sunshine” awards for transparency and ease of access to government information.[22]

In 2005, the Utah Legislature website received the National Council of State Legislatures’ Online Democracy Award for having the best “democracy user-friendly” website in the nation. [23] The Utah Legislative staff also received accolades for making Utah one of the first states to post live audio broadcasts of legislative standing committees and floor debates, and for posting meeting agendas for convenient public viewing.

Utah is at the top of a nationally historic effort to promote civic political engagement. As the transparency movement continues and Internet technology progresses, early eGovernment decisions nationally and locally are hallmark, prerequisite events to an even more rapidly evolving government promotion of digital governance. President Obama echoed the Clinton Administration’s 1996 government transparency efforts in his 2009 Memorandum on Transparency and Open Government, which called for government to be more “transparent, participatory, and collaborative” with its citizens by providing them with public information that can “encourage civic participation,” ensure public trust, “strengthen democracy, and promote efficiency and effectiveness in government.”[24]

In the memorandum, President Obama states that, “technology, [as] a medium of endless knowledge,” is an important aspect of promoting citizen participation and government transparency in the digital age.[25] With the remarkable ability to reach millions of people in lighting speed at low costs, “the internet and information technology” can effectively “make
government] more transparent and accessible to all.”[26] President Obama’s memorandum marks the beginnings of a new eGovernment era, an era where general government information and documents are digitally accessible without the need for FOA or EFOA requests.

The eGovernment movement is drastically changing the way Americans interact with their government. To bridge the information gap between Americans and government, the Obama administration has utilized the eGovernment concept and implemented citizen accessible websites that provide timely federal information. Using websites like data.gov, where citizens can find statistics on anything from “U.S. oil refinery utilization” to military spending, or recovery.gov, where government usage of federal dollars is presented in an interactive, digital format, transparency is expanding through the Internet.

In 2008, Utah State Senator Wayne Niederhauser proposed Senate Bill 38 (SB 38), Transparency In Government. Like data.gov and recovery.gov, SB38 created the Utah Public Finance Website, finance.utah.gov, to provide the public with access to information, more citizens are engaging in the political process and enhancing American democratic participation.

The United States of America is an eGovernment pioneer, serving as an international example on how to promote democracy in a digitally evolving world.

Using digital governance, Utah has followed the federal government’s citizen accessibility transformation and has become a national leader in online government openness. In 2011, the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won 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State’s official website won the State’s official website won the State’s official website won the State’s official website won the State’s official website won the State's official website. Recognized in the same category as Hong Kong (HKSAR) and Australia, utah.gov is a prime example of the eGovernment and the international importance of maintaining strong citizen democracy in the modern world.[29]

As Thomas Jefferson once said, “Information is the currency of democracy.”[30] Transparency in the conduct of government is imperative to maintaining the legitimacy of the United States of America. For, as Sen. Patrick Leahy of Vermont stated, “The people know the facts, and the country will be safe.”[33]

Government Transparency: How It Affects Public Trust, Satisfaction and Citizen Engagement

With the growth of the Internet and other digital technologies, transparency is more practical and easily achieved than ever before. New ways in gaining government transparency have become increasingly important topics during the past decade.

A transparent government increases public trust and satisfaction.[34] Transparency leads to citizen engagement, a key ingredient in a democracy. Online tools broaden the spectrum of government accessibility.

Transparency can increase public trust by counteracting corruption. Throughout history, corruption has been a recurring problem in governments. When citizens perceive corruption in their government, public trust usually decreases. Just before the Watergate scandal, a Gallup poll found that more than 50 percent of Americans said they could trust the federal government “all or most of the time.” However, two years later, Gallup found discovered public trust in the government “all or most of the time” had dropped to 36 percent.[35]

Conversely, when citizens perceive little or no corruption, public trust is likely to be higher. Park and Blenkinsopp conducted a recent research study, published in the International Review of Administrative Sciences, that examined the links between government corruption, transparency, and public trust and satisfaction. The study concluded: “Transparency was found to serve as a significant moderator, increasing satisfaction while reducing corruption, through its role in the process by which corruption reduces satisfaction.”[36] Transparency can reduce corruption, which consequently increases public trust and satisfaction. By creating greater government exposure, transparency can deter politicians and administrators from corruption by making them more accountable. Moreover, citizens and activist groups can view government information and expose corruption.

Transparency positively affects public trust and satisfaction in general. The Pew Research Center and the Monitor Institute conducted a survey in 2011 on how the public perceives community information
systems. The study focused on local government in three different cities: Macon, Ga.; Philadelphia and San Jose, Calif. The results reveal that when local governments were more transparent, citizens were more likely to feel better about certain aspects of civic life, including:

The overall quality of their community; the ability of the entire information environment of their community to give them the information that matters; the overall performance of their local government; and the performance of all manner of civic and journalistic institutions ranging from the fire department to the libraries to local newspaper and TV stations.[37]

Local government transparency is linked to increased satisfaction. In agreement, Park and Blenkinsopp found that "transparency . . . significantly [increases] trust and satisfaction."[38] Therefore, governments can increase public trust and satisfaction by being more transparent.

Online transparency is the most effective way to increase public trust and satisfaction. First, when the government completes tasks more effectively, public satisfaction goes up. For example, the Internal Revenue Service (IRS) employed an electronic filing system in 1995. In the six years following, "there was a substantial increase in the number of electronic tax filings every year." In addition, the IRS "continued to improve its customer satisfaction [from 1999 to 2001] according to the American Customer Satisfaction Index."[39]

By utilizing online methods, government agencies can improve effectiveness and consequently increase citizen satisfaction. Second, governments can reach a larger audience by disseminating information online: Anyone with a computer and Internet connection can access government records instead of having to travel to a specific location, such as a city hall, to obtain physical records. By reaching a larger portion of the public, online transparency can be more effective.

Transparency can open the door to greater citizen engagement. For citizens to be informed, they need information about government policies, meeting times and contact information. A survey by RightNow found that 59 percent of government employees "believe that a desire to control information released is potentially holding organizations back from improving communication and interaction efforts with citizens."[40] By trying to control information or limit transparency, governments consequently limit the possible amount of citizen engagement. Therefore, transparency is the first step towards greater citizen engagement.

Government websites can provide information that is available in any location with an Internet connection and the Internet allows citizens to communicate with representatives more efficiently. For example, social media is a growing way to connect to the world and political leaders; citizens can use it effectively to engage with citizens. According to Tom Spengler, co-founder of Granicus, Inc., "government transparency should no longer be limited to publishing the results of government proceedings and decisions and posting them in a hallway somewhere. Technology makes it possible to observe government as it works, balances priorities, determines tradeoffs, and makes decisions."[41]

If citizens can observe the government as it works instead of after the results are published, citizens can more easily participate. Furthermore, once governments set up transparency websites, they can add on features that allow for citizen feedback and engagement. For example, government websites can create a feature that allows citizens to view public meetings at remote locations. Once the viewing feature is set up, governments can add additional features that promote citizen engagement, such as a real-time comments section. This is another way that online transparency encourages citizen engagement.

In conclusion, transparency has many benefits. By being transparent, the government can decrease corruption and simultaneously increase public trust and satisfaction. At the same time, transparency benefits citizens by allowing them to access information about their government. By being more informed, citizens can engage with their government more effectively. The Internet is a valuable tool that allows governments to be more efficient in their transparency and to encourage greater citizen engagement. All in all, governments should embrace transparency because of its positive effects on public trust, satisfaction and citizen engagement.

When discussing the pros and cons of greater government transparency, naysayers often cite cost. Taxpayer money is precious and should be spent on essential services. While transparency can be expensive, it is an essential investment for government to best serve its citizens.

Some leaders have not seen the value for constituents to have access to local, state, or federal government information. Montana Governor Brian Schweitzer vetoed a bill to create a transparent and searchable website on state spending in May 2011. Gov. Schweitzer reportedly said that "development of the website would...provide no return on the taxpayer investment." This is the most common mistake made by leaders. Spending money to create a website to enhance transparency may seem like a large expense, but it is indeed an investment to make the city more accessible, much like the building of a city center. Both require upfront expenditures, but the overall benefit is much larger than the cost. A city center and a website can provide citizens information, forms, and reports they need, but a website is dynamic, accessible from any location, and extremely cheap relative to building additional city centers.

One problem officials commonly mention when considering transparency is that there is no quantifiable return on investment. The Association of Government Accountants sponsored a survey of nearly 500 government financial executives and managers, comments included "ROI has never been part of the question. ... We consider timing, accuracy, usefulness of information, and provision of information required for stakeholders to make reasoned decisions."[42]

In government, it is important for the release and access of information so that citizens are able to make better informed decisions on elective government officials and be better able to participate and contribute to discussions regarding issues and developments in their government. Allowing constituents to become a part of the process and feel that their government really does represent the people, may not give a quantifiable ROI, but it does have a substantial return in satisfaction. A news article in Philanthropy News Digest mentions surveys conducted by the Monitor Institute and Pew Internet & American Life Project which found "that residents who say city hall does a good job of sharing information are more likely to be satisfied with their community overall."[43]

Indeed, it appears that governments that don’t put a premium on citizen access have larger and more burden-some costs on the taxpayer than the costs of implementing and maintaining a transparent site. According to Harry Phibbs of Conservative Home analysis of public service reports, “one blogger has cost Barnet Council nearly $63,400 for Freedom of Information requests over a six month period.” Currently, $40,000 is roughly equivalent to $63,400. Phibbs goes on to say that sometimes the information is already available to the public, but is not readily accessible, which causes taxpayers to pay a hefty price.[44]
In Texas, the state Comptroller of Public Accounts has been able to use their transparency website to save over $2.3 million. Some of the larger categories of savings were: $130,000 in printing charges by publishing documents online; $250,000 in printing charges by eliminating duplicated printing in multiple agencies; $457,000 on eliminated information technology contracts; $250,000 in printing charges by eliminating.$457,000 in printing charges by eliminating

...the calculation here prove that there are substantial monetary returns on investment as well. The Sutherland report later goes on to discuss cost savings in Utah's government agencies by eliminating the time that is spent processing specific requests. If all of the information is available to the citizen, government workers can merely direct the requester to the website where information is accessible.

Many critics of cost efficiency do not believe the average citizen will use the website and that the burden should be placed exclusively on those who request information. The John W. Pope Civitas Institute addresses this in the article "Dollars and Sense: Make Government More Transparent!"

The article reports in the Americans for Tax Reform October 2007 report that "In less than two months after the Missouri Accountability Portal went live, it registered over 1 million hits."[46] Similarly, once local governments make information available that the average citizen might not have known they could request, citizens will then access it.

Something that can be so helpful and give such a greater sense of democracy is worth the cost to citizens. And Schuman, policy counsel for the Sunlight Foundation watchdog group was quoted in the Federal Computer Week article "Are E-Gov Programs Worth the Cost" as saying, "Everyone talks about transparency and open government as being the means to democracy, efficiency and business goals. Restoring $34 million for the transparency accounts seems like a very small amount for something so significant."[47] He was referencing the cost to build and maintain current federal transparency websites, but for a local government, the cost is small in comparison to the benefits of federal government because there is far less data to aggregate and it would presumably all be located centrally regardless of on servers across the United States. Because of the likelihood of less traffic to the website, local government would face less need to increase its IT infrastructure much.

In reality, making a government site more transparent will not cost a significant amount of money. Richard Eckstrom, Comptroller General even stated in his article "Local Government Transparency Gaining Momentum" even stated that when his staff implemented a transparent website, he incurred no additional cost.

Most of the documents that are requested are created on a computer and would simply need to be linked to from the web. This would take very little time and no additional expertise. The Texas transparency website helps to point out that most of the documents to be posted are annual documents such as the budget and financial report. Of course, other documents such as council meeting agendas will need to be posted more often, but the additional effort to post these documents will be minimal.[49]

Because of the digitization of almost all documents, the cost factor that is most commonly the objection to the establishment of transparency in government nearly disappears. In most governments, there will be a minimal increase in cost, but that will be offset by the savings to taxpayers who have been submitting requests and the staff time spent processing those requests. What it comes down to is not really how much these transparency implementations cost, but how much they are worth.

While these numbers will be different for every organization, it is important to note that there are benefits to the citizens to provide access to government information. While the costs can’t all be quantified, the calculations here prove that there are substantial monetary returns on investment as well. The Sutherland report later goes on to discuss cost savings in Utah’s government agencies by eliminating the time that is spent processing specific requests. If all of the information is available to the citizen, government workers can merely direct the requester to the website where information is accessible.

Many critics of cost efficiency do not believe the average citizen will use the website and that the burden should be placed exclusively on those who request information. The John W. Pope Civitas Institute addresses this in the article "Dollars and Sense: Make Government More Transparent!"
Some governments showed substantial commitment to transparent ideals. According to one researcher, “Simply put, Salt Lake City is a model of what government websites should be,” and “The city’s website presents exactly what citizens need to know concerning their government.” The city video streams meetings online as well as providing a real-time forum for citizen engagement. The city maintains up-to-date Twitter and Facebook accounts, posts minutes within 72 hours of a meeting, discloses all budget information, and provides an excellent search function. According to the researcher, “Not only does the website give citizens access to phone numbers and emails of important government employees (even the mayor’s!), but the employees are quick to respond to any questions.”

Another shining example is West Valley City, which pledges to, “be more open that state GRAMA laws require,” and to provide access to all government salaries. Under the heading “Transparency,” elected officials’ public schedules, city budget, property valuation and tax, city lobbyists and stimulus funds are all included.

Yet even governments which researchers commended have room to improve. West Valley’s website buried access to some important information and some content was only available through the search function and not through headings and links. Beaver County, whose “Leaders have a committed attitude to being transparent to the best of their abilities,” according to a researcher, does not provide county financial audits, and does not have centralized information on taxes and fees. This clearly shows that transparency is not an stationary goal and there is always room for improvement.

A recent poll conducted by The Salt Lake Tribune in conjunction with the Utah Transparency Project (full results in Appendix “D”) showed just how important government disclosure and access is to the citizens of Utah. The poll consisted of ten questions to gauge participants opinions on the value of transparency. The results for every inquiry were, not surprisingly, overwhelmingly in favor of transparent practices with 97% favoring local government transparency.

More unexpected findings lie in specific questions and demographic breakdowns. 74% agreed. These results should signify to Utah’s local governments that, not only is transparency worth whatever investment is required, it will improve citizen engagement and cooperation with government.

Another question revealed that 85% of respondents found it important that local government records and information be accessible online. And yet another illuminated the fact that, of those who had attempted to access a government record online in the past two years (majority of respondents had), 60% found it "somewhat" or "very difficult." Obviously governing bodies around the state should take immediate action to rectify this situation. Also interesting to note is the fact that younger respondents (those <50 years of age) repeatedly expressed more interest in transparency, meaning Utah governments will need to reform their practices to remain relevant with younger voters.

In an ever increasing information age, governments, especially local governments, are falling behind the curve. Better transparency practices will need to be adopted to breed informed voters and engaged citizens. The demand for enhanced transparency is clearly substantial and the supply lacking. The Utah Transparency Project’s Best Practices are aimed at increasing the ease with which citizens can access government hence creating more cooperation and trust.

Poll | Voters back using tax dollars for access
---|---

Nearly two-thirds of likely Utah voters would either strongly support or somewhat support using tax dollars to improve access to local government records, a Salt Lake Tribune poll indicates.

<table>
<thead>
<tr>
<th>Strongly support</th>
<th>Somewhat support</th>
<th>Somewhat oppose</th>
<th>Strongly oppose</th>
</tr>
</thead>
<tbody>
<tr>
<td>44%</td>
<td>15%</td>
<td>21%</td>
<td>10%</td>
</tr>
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</table>

Tribune poll of 625 registered Utah voters was conducted April 9-11 by Mason-Dixon Polling & Research, Inc. The margin of error is +/- 4 percentage points.
Poll: Voters want improved online access to local government records

More than half of likely Utah voters have had difficulty accessing online government records and they overwhelmingly support improved access to them, a Salt Lake Tribune poll indicates.

In your opinion, how important is online access by citizens to local government records and information?

<table>
<thead>
<tr>
<th>Importance Level</th>
<th>Somewhat Important</th>
<th>Not Too Important</th>
<th>Not At All</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Important</td>
<td>50%</td>
<td>8%</td>
<td>6%</td>
</tr>
<tr>
<td>Very Important</td>
<td>35%</td>
<td>1%</td>
<td>Not sure</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>46%</td>
<td>12%</td>
<td>3%</td>
</tr>
<tr>
<td>Strongly Agree</td>
<td>38%</td>
<td>1%</td>
<td>Not sure</td>
</tr>
</tbody>
</table>

In the past two years, how many times have you attempted to access government information or records online?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Not at All</th>
<th>1 to 4 Times</th>
<th>5 to 10 Times</th>
<th>More Than 10 Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Easy</td>
<td>4%</td>
<td>36%</td>
<td>15%</td>
<td>10%</td>
</tr>
<tr>
<td>Easy</td>
<td>55%</td>
<td>5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>38%</td>
<td>36%</td>
<td>15%</td>
<td>10%</td>
</tr>
<tr>
<td>Difficult</td>
<td>39%</td>
<td>5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Difficult</td>
<td>38%</td>
<td>5%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

It is important that my local government operates in an open and transparent manner. Do you agree or disagree?

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Strongly Agree</th>
<th>Somewhat Agree</th>
<th>Somewhat Disagree</th>
<th>Strongly Disagree</th>
<th>Not Sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>83%</td>
<td>15%</td>
<td>1%</td>
<td>Not sure</td>
<td></td>
</tr>
</tbody>
</table>

When searching online for local government records or information, has it been:

<table>
<thead>
<tr>
<th>Difficulty</th>
<th>Very Easy</th>
<th>Easy</th>
<th>Moderate</th>
<th>Difficult</th>
<th>Very Difficult</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>73%</td>
<td>13%</td>
<td>13%</td>
<td>1%</td>
<td>Not sure</td>
</tr>
</tbody>
</table>

Increased transparency in how local government operates and spends tax dollars would strengthen your trust in local government. Do you agree or disagree?

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Strongly Agree</th>
<th>Somewhat Agree</th>
<th>Somewhat Disagree</th>
<th>Strongly Disagree</th>
<th>Not Sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>36%</td>
<td>6%</td>
<td>6%</td>
<td>2%</td>
<td>Not sure</td>
</tr>
</tbody>
</table>

I am more likely to be involved in local government if there were online access to meeting agendas, meeting times and contact information in advance of government meetings. Do you agree or disagree?

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Strongly Agree</th>
<th>Somewhat Agree</th>
<th>Somewhat Disagree</th>
<th>Strongly Disagree</th>
<th>Not Sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>38%</td>
<td>22%</td>
<td>22%</td>
<td>3%</td>
<td>Not sure</td>
</tr>
</tbody>
</table>

Which one of the following would be your preferred method of accessing local government records and information:

<table>
<thead>
<tr>
<th>Method</th>
<th>Online on a local government website</th>
<th>Over the phone</th>
<th>In person</th>
<th>Not sure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>73%</td>
<td>13%</td>
<td>13%</td>
<td>Not sure</td>
</tr>
</tbody>
</table>

The Transparency Team’s recommended government transparency “best practices” are set forth below:

FIVE TRANSPARENCY BEST PRACTICES FOR LOCAL GOVERNMENTS

[CITY/COUNTY] recognizes that transparency in government promotes public trust and confidence, aids accountability and efficiency and is a key element of achieving the goal of greater citizen engagement in our democratic process. CITY/COUNTY also recognizes that there is a financial cost to achieving government transparency, which requires planning and a commitment of appropriate resources. Accordingly, [CITY/COUNTY] hereby adopts in principle, and will work to implement at the earliest practicable date, the following best practices:

1. [CITY/COUNTY] will establish a single “Open Government” webpage which

   • complies with the attached 10 point Transparency checklist recommended by Sunshine Review and endorsed by the Sutherland Institute;
   • serves as a searchable, sortable and downloadable in bulk central repository for all public government information accessible in 3 links or less;
   • contains a searchable index or catalog of all government information;
   • publishes on at least an annual basis, if not more frequently, commonly requested data sets such as employee compensation, contracts with third-parties, police and fire requests for service, financial reports and audits;

   Best Practices for Utah Local Governments

   • publishes on at least an annual basis, if not more frequently, commonly requested data sets such as employee compensation, contracts with third-parties, police and fire requests for service, financial reports and audits;
contains an annual report (a) documenting the progress the city/county is making toward implementation of these Best Practices and (b) assessing and evaluating how the city/county is meeting its legal obligations under the Government Records Access Management Act, the Utah Open & Public Meeting Act, the Transparency in Government Act, the various statutes mandating the giving of public and legal notices and other applicable state or local transparency or disclosure laws or ordinances;

provides an interactive forum for citizens to suggest ideas to promote transparency and otherwise improve the city’s information collection, retention, aggregation, validation and dissemination practices;

provides access to all city ordinances, rules, codes, policies and procedures in a searchable format;

contains a privacy policy which includes, among other things, a notification of any cookie placement or other tracking or information collection method;

employs an authentication and date/time stamping mechanism disclosing how recent the information is and who is responsible for maintaining and updating the information and that person’s contact information; and

contain an organizational chart and description of the government’s departments, divisions and other administrative units together with contact information.

2. GOVERNMENT INFORMATION WILL BE COLLECTED, GENERATED AND MAINTAINED IN A DIGITAL FORM AND MADE AVAILABLE ON THE OPEN GOVERNMENT WEBPAGE

in a timely, complete and non-discriminating manner;

in appropriate open formats;

with authoritative sourcing;

in computer discoverable, searchable and readable forms;

without unnecessary administrative obstacles;

at no cost to the public;

with no licensing or terms of service conditions;

with the finest possible level of granularity;

at a stable internet location indefinitely.

3. EMAILS, INSTANT MESSAGES AND OTHER ELECTRONIC COMMUNICATIONS MADE WITH GOVERNMENT SUPPLIED EQUIPMENT WILL BE CONSIDERED PUBLIC RECORDS AS THAT TERM IS DEFINED IN U.C.A. §63-2-103 (21) & (22).

4. ELECTED OFFICIALS AND NON-ELECTED SENIOR ADMINISTRATORS WILL

• Post reasonably in advance their schedule of public events and meetings;

• maintain privacy settings as “open” or “public” on Facebook or other social networking sites where the official/administrator posts or discusses [city/county] related business;

• commit to developing a culture of transparency among employees and other officials which permeates all levels of government.

5. POLICY AND DELIBERATIVE BODIES WILL STRIVE TO MAKE ALL PUBLIC MEETINGS TRULY TRANSPARENT BY

• streaming their public meetings live on the internet either through a videocast or an audio podcast;

• recording their public meetings and posting video or audio online within 48 hours;

• allowing citizen comment/participation via a synchronous remote connection; and

• posting online all agenda materials reasonably anticipated to be discussed or distributed at a meeting at least 24 hours in advance.
PART TWO: PERSONAL PRIVACY

The threats to personal privacy stemming from the explosive growth of new technologies have been in the forefront of public discussion in recent years. This public focus has been accompanied by a flurry of activity in the legislative, regulatory and judicial arenas. The Think Tank delved into the hot button privacy issues of location tracking, facial recognition and biometrics, government and private surveillance, data mining, aggregation and retention, internet use tracking, medical records and personally identifiable information, among other topics. Major federal legislation to address the erosion of privacy has been filed in the past two sessions of Congress, the FTC and Obama administration weighed in on these issues in the last few months and the U.S. Supreme Court issued several landmark privacy decisions in early 2012. A summary of selected recent privacy developments in the legislative, regulatory and judicial arenas may be found in Appendix “H.”

The Think Tank studied and discussed these emerging privacy issues and each Privacy Team member wrote an essay on a selected topic, which are set forth below.

PERSONAL PRIVACY AS A FUNDAMENTAL RIGHT

By P. Corper James, JD

Whether the United States Constitution includes a general privacy right is among the most controversial issues in American law. In its simplest form, the debate begins and ends with the attempt to determine whether privacy qualifies as a ‘fundamental right.’ In general, fundamental rights are those explicitly granted by the Constitution.

Using that test, one can easily identify numerous rights explicitly granted by the Constitution, such as the right to keep and bear arms, freedom of speech, and the free exercise of religion. While pundits and scholars argue about the scope of these rights, they are undeniably set forth in constitutional text, and as a result are given greater deference when evaluating whether or not the government can restrict those rights. In other words, generally when a law is deemed ‘fundamental’ under this definition a greater degree of scrutiny is applied in determining whether a restriction is a legitimate use of the government power. To pass this test, a legislature or any other government actor must demonstrate a ‘compelling government interest’ that is furthered using that narrowly tailored restriction. The United States Supreme Court has made it clear that few restrictions can pass this test.

The result, historically, is that those rights which are fundamental are more protected, and more difficult to infringe than those that are not. In fact, in many instances, whether a law is fundamental will be the difference between its survival and its destruction as an unconstitutional overreach.

That brings us to privacy. The word “privacy” appears nowhere in the text of the Constitution. There are certainly numerous explicit rights that seem related to the concept of privacy, such as the right to associate, or not associate; the free exercise of religion and its sister provision, the Establishment Clause, preventing government entanglement with, or endorsement of, religion; the right under the Fourth Amendment to “be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” and so on. But nowhere in the entire text will you find the word “privacy.” And indeed, even the Fourth Amendment bars only “unreasonable searches.” This has turned out to be a very contentious issue as, despite its absence in the text, privacy has been deemed a “fundamental right” by the Supreme Court and its protection has been extended to personal decisions such as looking at pornographic images in the home, personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, sex and education.

PERSONAL PRIVACY IN MODERN LAW

To understand the modern concept of the right to privacy it is necessary to understand this tenuous foundation. It is fair to say that the elevation of Privacy to fundamental status as we understand it today occurred in 1965 with the Supreme Court’s decision in Griswold v. Connecticut, 381 U.S. 479 (1965). Griswold posed a challenge to a Connecticut law criminalizing contraception. The Court acknowledged that privacy is not explicit in the Constitution’s text. Writing for the majority, however, Justice William O. Douglas reasoned that the right was to be found in the “penumbras” and “emanations” of other constitutional protections. The Court ultimately determined that a married couple’s decision whether to bear children and thus outside government’s reach. Griswold borrowed from previous decisions the principle that even though a right is merely implied in the text, any right that is “implicit in the concept of ordered liberty” and “neither liberty nor justice would exist if the right were sacrificed” and “deeply rooted in this Nation’s history and tradition” should qualify for protection against government intrusion.

In a colloquial sense, those who disagreed with the Connecticut law tended to agree with the Court’s holding that privacy is implied in the Constitution’s text. Yet, even some who disagreed with the Connecticut law, such as Justice Black who dissented in Griswold, argued that creating a fundamental right virtually outside the reach of government regulation where there existed no such constitutional reference was a dangerous judicial overreach. And we’ve been arguing about it ever since.

Wisely or not, Griswold established that a general right to privacy is a fundamental and protected by the Constitution. Later decisions adopted Griswold’s reasoning, such as in Stanley v. Georgia, 394 U.S. 557 (1969), where the Court struck down a statute banning pornography. In Stanley, the Court articulated a difference between the viewing of pornography inside and outside the home, virtually granting the citizen a “zone of privacy” within the home. Stanley demonstrated that once the Court granted privacy its elevated status, it became much more difficult for any legislature to pass a law infringing upon it.

The Supreme Court expanded the scope of privacy even further in Roe v. Wade, 410 U.S. 113 (1973). In Roe, the court held that a woman’s decision whether to abort a pregnancy is within the zone of privacy established in Griswold and is thus protected by the Constitution. Under Roe, the abortion decision can be regulated with increasing restrictiveness as the pregnancy matures. As of today there have been numerous unsuccessful attempts to overturn Roe. The most common argument against Roe is that privacy is not a fundamental right explicit in the Constitution and that therefore any statutory attempt to outlaw abortion should receive a lower level of scrutiny. Some believe that Roe’s existence (and possibly the general privacy right) is as fragile as the next conservative Supreme Court nominee taking the bench and swinging the pendulum just enough to unwind privacy as a fundamental right and overturn Roe.

The most recent case to expand the fundamental right to personal privacy is Lawrence v. Texas, 539 U.S. 558 (2003). Lawrence struck down a Texas statute criminalizing homosexual activity in the home. In referring to homosexual sex the Court applied a principal it had previously conferred to heterosexual sexual relationships: “These matters, involving the most intimate and personal choices central to personal dignity and autonomy, are central to the liberty protected by the 14th Amendment. At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.” Lawrence was not the first time the Court used the Fourteenth Amendment Equal Protection Clause or the general concept of liberty in extending privacy rights, and many argue this particular reasoning will have long-lasting implications in possibly extending privacy even farther — perhaps as far as gay marriage.

If we learn anything from the most important and recent cases on personal privacy, we learn that its reach has been mostly expanded rather than restricted, and with
every stretch it becomes more controversial. A primary reason for the controversy is that the Court took these issues out of the democratic debate. Arguably, debate is working in the issue of gay marriage, where eight states have now legalized those unions. For those who agree with the court decisions, privacy is a valid, fundamental, essential right worthy of vigorous protection. Any attempts to restrict it are met with aggressive opposition. For those who disagree, privacy’s elevation to fundamental status is a federal overreach and the result of “judicial activism” in which unelected judges decide issues best left to either constitutional amendment or democratic debate. Opponents have fought against privacy’s application in many of these cases even to the point of violence. In sum, privacy as applied in modern law remains controversial, and the issue is not likely to be resolved any time soon.

PERSONAL PRIVACY IN THE TWITTER AGE

It used to be that if an individual did not want to be contacted or found, he or she simply went “unlisted.” That meant that one could request not to be listed in the telephone book. These days, a person will post a phone number and address online, along with what they had for lunch, how they feel that day, or at that moment, and their current location. The explosion of social media and other technological formats has led to a voluntary erosion of personal privacy. People may generally believe to a voluntary erosion of personal privacy. This erosion is not completely voluntary because it may be impossible for an individual to effectively “opt-out.” Personal information may be available, whether posted online by the individual or by someone, or something, else. But every citizen is responsible for the proliferation of private information available online either by offering up the information or by failing to insist that the private information remain private.

Social media and the internet are not the only examples of either allowing or acquiescing to the erosion of the concept of personal privacy. The Patriot Act is an example of an intrusion into the personal life of citizens. While many argue that the Act is a worthwhile compromise in exchange for safety, it nevertheless constitutes a fairly significant government power to monitor and invade private homes and businesses — locations previously determined to be outside the reach of the government absent compelling circumstances. Likewise, airport scanners and surveillance cameras are two examples of many where citizens have allowed the government to further erode the boundaries of personal privacy.

The question then posed by the Think Tank is, will the erosion of personal privacy in terms of social media, the internet, the Patriot Act and other laws and allowances lead to the erosion of personal privacy as a legal concept? For a legal concept that is questioned by many, the cultural shift toward more personal and governmental transparency, with its corresponding increased access to personal and private information, will this shift lead to a change to privacy’s fundamental status in the law? Will personal privacy as a concept be less important to individuals, thereby allowing an erosion of the legal protections we enjoy today?”

CONTEXT AND CONSEQUENCE

With all of this as context for the fundamental right of personal privacy, the Think Tank on Transparency and Privacy has examined the consequence of this voluntary or allowed erosion of personal privacy. There are examples where societal change and acquiescence appeared to impact legal concepts. One such example is the evolution of societal views on race culminating in the Supreme Court decision in Loving v. Virginia, 388 U.S. 1 (1967). In that case the Supreme Court overturned a Virginia law criminalizing mixed-race marriage. At the time of its passage, a majority of states had already overturned similar statutes, so that the Loving decision was met with a rather muted response in most parts of the country. It is certainly not a stretch to imagine that had the Court made the same decision 30 years earlier it would have created a dramatic, possibly violent response in many parts of the country. However, by 1967 the country had evolved to the point that the decision was met with relatively little opposition. Because the text of the Constitution over the previous 30 years had not changed, it is hard to imagine that this cultural shift did not influence the decision. While this evolution is an example of a positive change brought on by social change, that has not always been the case.

The question then posed by the Think Tank is, will the erosion of personal privacy, people commonly hold strong opinions and values, and don’t hesitate to express them to whoever is willing to listen, especially if that person is willing to argue a different view. But how much do people really know about biometric data collected with and without their knowledge for the purpose of their own safety? Would their opinions be different if they knew the facts and the history? Speaking practically, privacy and security are often strict opposites. Increasing one means losing the other. Where should the line be drawn? Biometrics is defined as, “The use of unique physical characteristics to identify individuals, typically for the purposes of security. Also the physical characteristics that can be so used.”[50] The use of biometrics is commonplace in most of today’s developed countries. But what are these characteristics, and what do their collection, filing and use mean for the average person? What are the implications of the use of such data for personal security systems?

Physical biometrics are any personally identifiable characteristic that is related to the shape of the body. This includes fingerprinting/
the second most accurate methods. When fingerprinting became commonplace in the late 19th century, it had an accuracy rate of one in 64 trillion when analyzed correctly, and modern analysis methods have caused those odds to become even more favorable.[53]

Historically, the argument has been that behavioral biometrics are not as reliable as physical biometrics and should not be used to make identifications because people often exhibit similar behavior and are capable of altering their behavior when it suits their purposes. However, it has been proven that handwriting, a purely behavioral trait, is extremely accurate when used to make an identification. This occurs because muscle memory is extremely difficult to overcome. Like the reflex response, muscle memory occurs without conscious thought and then must be overcome after the reaction has already occurred. This makes behavior biometrics, which are all characteristics that are reliant on muscle memory, just as accurate as physical characteristics.

Although the use of biometrics in personal security is increasing every day, it is a choice people make with informed decisions. The most frightening implications potentially come from the collection of such data without our knowledge or consent, for the purpose of making an identification. The most common use of biometric identification is in forensic science. Law enforcement officers collect biometric evidence at crime scenes, most commonly fingerprints and DNA via saliva, hair follicles, blood and semen. These samples are then taken back to crime labs, analyzed, and compared against an ever-growing database that included 66 million criminal records and 10-print fingerprint sets as of the fall of 2011.[54]

New York City was the first city in the United States to launch a city-wide surveillance system aimed at identifying criminals from facial recognition, height, weight, and gait. Since the late 1990s, they have added more than 3,100 cameras, apprehended more than 800 criminals using the system and brought the crime rate in the city to a historic low of six felonies per day.[55]

Reaction to the New York City surveillance system was extreme. Privacy advocate groups rallied dozens of volunteers who canvassed the city for months and mapped out the location of each security camera, whether police sponsored or privately owned. The information was then posted online and the groups organized silent plays to be played in front of each NYPD camera. The people claimed that the placement of cameras was a violation of personal privacy and gave the police force too much knowledge of where people were at any given time.[56] The city responded by more than tripling the number of NYPD owned cameras to today’s high of 3,100. They claimed fair notice as well as there being no reasonable expectation of privacy on a public street. Signs warn citizens that they are being recorded on street corners and subway stations where the technology is installed.

There is no argument that biometric data is simply far more reliable than any other means of identifying criminals. For many years, courts relied heavily on witness statements and line-up identifications as the primary method to make convictions. In recent years however, hundreds of convictions are being overturned, sometimes 20 years after the initial conviction. Innocent men are being released on the basis of DNA collected during the initial investigation.[57] If DNA testing had been as common then as it is now, innocent men wouldn’t have been contributing to the strain on the prison system, not to mention tied up courts dealing with appeals to overturn these mistaken decisions.

In light of this knowledge, data collected over the last 15 years in New York City and the public’s knowledge that this data is being collected, the privacy costs seems like an acceptable price to pay for being safe. Of course, things could change over time, but it isn’t like the government has vast stores of biometric data; right now they collect it only on criminals. The cost may become too high as time goes on and the databases grow to include other statistics or other people, but for now, the collection of such data is not going to cause anyone but criminals very many problems, no matter what advocates of privacy say.

To anyone who obtained excessive frequent flyer miles before September 11, 2001, the airport security line has evolved from a minor inconvenience to a major hassle. In the months following the 9/11 attacks, aviation security was federalized and given a major facelift.

American Airlines Flight 11, which hit the North Tower, and United Airlines Flight 175, which hit the South Tower, both departed Boston Logan International Airport headed for the west coast of the United States. In early 2002, the newly formed Transportation Security Administration (TSA) took U.S. airports by storm. They started with Logan. It was common to wait at least three hours to make it through the security line, which required passengers to remove their jackets, shoes and belts, remove all electronic devices from their bags and take out their batteries. TSA reduced the carry-on bag limit to one per ticketed passenger. Parents of unaccompanied minors found themselves waiting in the baggage claim area for an airport employee to bring their child to them. A decade long war between passengers demanding more privacy and the Department of Homeland Security had begun.

Passengers today can expect a one- to two-hour wait depending on airport traffic. Passengers over 12 must take off their shoes and all passengers must remove their coats and belts. Adults, older teenagers and, in some cases, even unaccompanied minors must carry a government-issued photo ID.

Liquids are restricted to one quart-sized bag holding three once or less containers. Basic security includes a metal detector and, with increasing frequency, a full body scanner for the passenger, and an X-ray for your carry-on, with laptop separate. Passengers are selected at random or by exhibiting suspicious behavior in line for additional screenings, which can include bomb swabs, drug dogs, explosive puffers, pat-downs and strip searches.

Full body-scanners cause the biggest concerns relating to privacy. The newest scanners display a generalized body outline rather than actually showing the agent you sans clothing. The agent viewing the images sits in a private control room not overlooking the security checkpoint area, and images are not saved in the computer for longer than a minute unless a problem is detected. The scanners are perfectly safe, delivering a dose of radiation smaller than that received during the flight, which is above a large portion of protective atmosphere. Additionally, any passenger uncomfortable with the body-scanner can request a pat-down search as an alternative means of screening.[58] In an attempt to further protect the privacy of children, the TSA announced new standards for pat-down searches on children on September 14, 2011, that would be less invasive for the child.[59]

Privacy advocates tend to latch on to single events and run with them. Last year, a Californian man was singled out for additional screening while attempting to pass through security based on his suspicious behavior in line. Authorities believe that he was carrying a ceramic knife blade, which would not have set off metal detectors, but would have been found on a full-body scanner. The man refused to enter the scanner, asking for a pat-down instead. He reacted normally until the agent told the man he needed to inspect the groin area, which led to the man attempting to leave the airport and receiving a $10,000 fine for refusing to comply with posted airport signs and the instructions security personnel.[60]
Public outrage created National Opt-Out Day, where all passengers randomly selected for body scans were encouraged to refuse on the busiest travel day of the year, though the organization did encourage compliance with verbal instructions after the refusal of the scan. Privacy advocates often ask for reform, but refuse to recognize any reform that actually happens.

Security advocates usually have only one argument; that all procedures are designed to save lives. Those who value security over privacy claim that they have made the procedures as unintrusive as possible without compromising passenger safety. They argue that the failed attacks post-9/11 have shown serious holes in security. The fact that more terrorists attempts are stopped by lay passengers annually then by federal Air Marshals supports this fact.

TSA listens to the complaints of its passengers and invites them to be part of aviation security. Passengers are actually the last of 20 layers of defense in the TSA plan.

There’s no way around admitting that the creation of the TSA has made aviation security a much more invasive process. There’s also no way around admitting that TSA procedures make flying much safer. The old full-body scanners were extremely invasive, and allowed a TSA officer to see the naked body of a passenger standing just a few feet away. New precautions eliminate this risk. Everyday TSA adapts its procedures so that they are the best they can be for everyone involved. At the end of the day, not many people would be willing to allow a potential hijacker onto a plane with a weapon just to stay out of an X-ray body scanner.

What parts of our private lives are really visible for government inspection? The truth is that nearly every aspect of our lives are an open book. Our physical traits, our identifying behaviors, the blueprint of our entire bodies, even the shape that defines our face — all is available for collection to any law enforcement officer who happens to be collecting in the right place.

Our private communications can be recorded and kept on file without our knowledge on the basis of saying a few key words in the right combination and being declared a potential terrorist. In order to board a plane, we must be X-rayed, prove who we are, be shuffled shoeless through a line while being eyed with suspicion and occasionally subject to physical searches.

Is the government invading our privacy on a daily basis in new and more extensive ways every day? Yes. Are we safer because of it? Yes. Is it too much, have they gone too far? That’s for everyone to decide. Is your privacy worth your life or someone else’s?

Online use tracking is the gathering of personal information through a variety of means over the Internet. Bill Corry, an information security consultant at PayPal, and Andy Steingruebl, an Internet security consultant, describe tracking as “the collection and correlation of data about the Internet activities of a particular user, computer, or device, over time and across non-commonly branded websites, for any purpose other than fraud prevention or compliance with law enforcement requests.”

The data collected provides information about a web user. Often, this information shows what websites a user accesses, and helps to build a browser history for advertising companies, or other commercial entities. The way this information is collected is through “cookies.” Lawrence Lessig, a professor of law at Harvard Law School, said, “Before cookies, the Web was essentially private. After cookies, the Web becomes a space capable of extraordinary monitoring.”

SO HOW ARE COOKIES USED IN INTERNET USE TRACKING, AND HOW DO THEY AFFECT INTERNET USERS?

Cookies are small pieces of information in a text format that are downloaded to a computer as the user browses different web pages. Cookies can create a high privacy risk because they are linked with referer information. The referer field provides websites with the URL last visited by the user. The purpose of this field was to give information to websites about what other websites they were linked to, so that online connections could be strengthened across the Web. However, cookies also receive this information, and a user can easily be tracked through the websites they visit. By tracking which websites a user visits, cookies can gather a large amount of information about the user.

There are two different kinds of cookies used in Internet tracking. First-party cookies collect information that is necessary for recognition on many websites. For example, first-party cookies hold the information that allows a user to log in to their web-based email easily, such as remembering their username. These cookies make it easier to surf the web, without them, log-ins to any website are hindered as well as other functions. For example, if a user shops online at a particular website, the first-party cookies remember them as a visitor, and remember items in their shopping cart if they leave, and then return to the website. Without first-party cookies, the web would be in a state similar to a vending machine. When buying something at a vending machine, only one item can be purchased at a time, and the buyer’s personal information is not remembered. This makes commerce difficult over the web, so first-party cookies remedy this problem in order to make commerce easier. First-party cookies were actually the answer to creating a virtual shopping cart, helping to solve the issue of commerce over the web. These cookies are generally benign, and perform functions that are helpful to the user.

Third-party cookies collect information about a user, and then return that information to an advertisement. This data allows advertisers to build a browser history of the users who visit the websites that have ads on. Then, the advertisers can track the users, and place specific ads on websites that the user frequently visits. For example, if a user frequently visits a clothing website, the cookies for that website
store the information and return it to the advertiser. The retailer then can tailor advertisements on frequently visited web pages. These cookies can also be used for purposes that may not benefit the user. These cookies collect information that is valuable to advertisers, and the information can often display personal details about the user that otherwise would not be known.

The fact that cookies can gather personal information has prompted various ways to disable cookies, particularly third-party cookies. As knowledge about cookies, and their information-gathering capabilities increased, more people became concerned with their privacy on the Internet. This prompted the creation of settings that allow the user to be more in control of what information is gathered by cookies. Most computers have settings where cookies can be directly deleted from a history, or settings can be configured to block or disable cookies from certain websites.[68]

Many web browsers also have settings that allow you to disable cookies, or even browse without cookies taking note of which sites you visit. One example of this kind of browser is called Chrome Incognito, a function of the web browser Google Chrome. [6] Chrome, Firefox, Internet Explorer and Safari all offer a mode of browsing that is more private than general browsing, where the browser doesn’t record which web pages the user visits, or the list of files downloaded by the user.[69]

Many browsers also offer “Do Not Track” headers, a technology that enables users to opt out of website tracking.[70] The “Do Not Call” registry inspired these headers, and they offer users a single choice to opt out of third party tracking by cookies. In other words, these headers offer the users to block third-party cookies that return information to advertising companies, and still have access to the benefits provided by First-Party Cookies. While most web browsers offer these headers, many third-party websites have not agreed to follow the rules set by the headers. This presents a problem, since many websites can slip through the cracks in a “Do Not Track” header because they do not adhere to the requirements of the header.

At the moment, there is a huge disconnect about what information is protected by “Do Not Track” headers. There is little transparency about whether a user is protected from third-party data trackers such as advertising agencies, first-party data collection, or government data requests if a “Do Not Track” header is enabled in the user’s browser.[71] Because there is not a clear definition as to what third-party tracking is precisely, many websites claim that they do not need to adhere to the guidelines set by the “Do Not Track” headers. Another problem presented by a “Do Not Track” header is that a third-party has a “second-level domain” that is different from the domain seen by the user when they visit a website.[72] For example:

- fb.com and facebook.com are both operated by Facebook, but are used for different purposes.
- apple.com is operated by Apple Inc., but metrics.
- apple.com is operated by Adobe’s Omniture group.

These cases demonstrate that the domain name of a website may not in fact display the intent and purpose of a certain website, and makes it harder to define third-party, and which parties should be included in “Do Not Track” headers.[73] This shows how easy it is for websites to slip through the regulations of the header.

Andy Kahl and Colin O’Malley are employees at Evidon, a company that helps businesses use data gathered by cookies to improve their performance, and ensure that these businesses adhere to privacy policies outlined by the FTC and other entities. They argue that “Do Not Track” headers create a false sense of security for users because many headers leave out a large amount of commercial groups. [74] If the user is not aware that many groups are exempted, they may believe that they are not being tracked, when in actuality third-party cookies are still being placed in their browser. A single opt-out of tracking choice may appear to be simple and easy, but is not effective because many websites will still track the user. Kahl and O’Malley believe that users should be notified every time a website attempts to place a cookie in their browser in order to avoid this false sense of security created by the opt-out option.[75] Another issue brought up by Kahl and O’Malley is that users often do not understand exactly what opting-out means. They argue that, “users need a real-time understanding of the companies involved in data collection on a given site, their policies, and then the choice to opt-out, coupled with an explanation of what that means.”[76] They believe that if users are constantly aware of what websites are tracking them, a more transparent Internet will emerge. This more transparent Internet would help alleviate the privacy issues raised by cookies, and their tracking abilities. However, users must be notified of the presence of cookies, and constantly have the ability to opt-out of tracking, instead of relying on a single “Do Not Track” header.

Wendy Seltzer, a fellow at Berkman Center for Internet & Society at Harvard University and Princeton Center for Information Technology Policy, also bemoans the current “Do Not Track” headers, and the lack of transparency to Internet users. She describes how a header will react differently from site to site because not all sites adhere to the same guidelines regarding “Do Not Track” headers. For example, the Firefox 4 header option that states: “Tell websites I do not want to be tracked,” also says, “Checking this box will tell websites that you wish to opt-out of tracking by advertisers and other third-parties. Honoring this setting is voluntary – individual websites are not required to respect it.”[77] This shows that “Do Not Track” headers do not in fact block tracking from all websites. Only a few websites actually adhere to “Do Not Track” headers, and many will continue tracking users.

Because of the problems presented by “Do Not Track” headers, many states have begun to consider “Do Not Track” legislation to be a serious issue. California was the first state to introduce “Do Not Track” legislation into their senate meetings.[78] In May 2011, Congress announced that it would introduce two bills addressing privacy concerns raised through Internet tracking. The first bill, called the “Do Not Track Kids Act of 2011” would focus on protecting the youngest users from tailored marketing and from the risk of exposing personal information without parents’ consent.[79] Senator Jay Rockefeller, a Democrat from West Virginia and the chairman of the Commerce, Science and Transportation Committee said that he would introduce a bill protecting all Internet users, and making it illegal for websites and advertisers to track anyone who had opted out of data collection.[80] Although cookies were created of a security, believing that they have blocked all tracking cookies. In order to combat this issue, many states, and the Congress have begun to introduce “Do Not Track” legislation into meetings. This shows that Internet tracking via cookies has become a huge issue in society today.
Anonymity is Worth Fighting For

By Candace Oman

Anonymity has had an important place in American political society since the country’s conception. Citizens are far more supportive of anonymous speech than against it—as evidenced by the Supreme Court’s decision in McIntyre v. Ohio Elections Commission—a largely due to the First Amendment’s inclusion of the right to free speech.

It is a safeguarded avenue to share political speech in the safest type of speech, because its protection was the original intention of the First Amendment. Today, the definitions of libel and anonymous truth are still indistinct. More steps need to be taken to adequately protect both the rights of speakers and the rights of the discussed. People share things behind the shield of anonymity for a reason. They fear reprisal, even if what they are saying is true. Perhaps only defamation should require author identification?—but how would that be enforced? And how would the validity of statements be verified? Would it have to be an all-or-nothing decision: entirely anonymous speech, even with all of its issues, or no anonymity at all? Rather than think about the issue entirely in the abstract, some individual examples could be illuminating.

The positive aspect of anonymous free speech is the ability to share opinions with no fear of personal attacks—or at least no attacks that can be traced back to an individual.

Deciding what type of anonymous statements should be protected under the First Amendment is problematic. Political speech is the safest type of speech, because its protection was the original intention of the First Amendment. Today, the definitions of libel and anonymous truth are still indistinct. More steps need to be taken to adequately protect both the rights of speakers and the rights of the discussed. People share things behind the shield of anonymity for a reason. They fear reprisal, even if what they are saying is true. Perhaps only defamation should require author identification?—but how would that be enforced? And how would the validity of statements be verified? Would it have to be an all-or-nothing decision: entirely anonymous speech, even with all of its issues, or no anonymity at all? Rather than think about the issue entirely in the abstract, some individual examples could be illuminating.

Last year, there was an uproar from signers when it seemed that the signatures on a petition supporting a referendum to overturn support for gay and lesbian rights was going to be released, which was seen as a violation of the signers’ right to anonymity. [82] It was presumed that once the list of names was released, it would be published electronically, subjecting the individuals to various forms of censure for their opinions and actions by the Internet community. The petition didn’t qualify for the protection provided by McIntyre because signing the petition was not an anonymous act:

The signatures at issue, however, are not anonymous. First, the petitions are gathered in public, and there is no showing that the signature-gathering process is performed in a manner designed to protect the confidentiality of those who sign the petition. Second, each petition sheet contains spaces for 20 signatures, exposing each signature to view by up to 19 other signers and any number of potential signers, including anyone who knows, or should know, that the petition must be submitted to the state to determine whether the referendum qualifies for the ballot, and the state makes no promise of confidentiality, either statutory or otherwise. In fact, the [Public Records Act] provides to the contrary. Fourth, Washington law specifically provides that both proponents and opponents of a referendum petition have the right to observe the State’s signature verification and canvassing process. [82]

Given this evaluation, it is understandable why the court found the disclosure of the signatures unjustified. However, is it not also reasonable that the signers wanted their names to stay anonymous? Gay rights are one of the biggest civil issues in the United States today and the feelings on both sides are vehement. What guarantees should be given to authors, supporters and opponents of referendums? Or should there be any, since it is widely believed that any legislative actions of the government should be documented and published? Why would there be any anonymous protection of individuals who are not strictly legislators or government employees when such a thing is not afforded to those who are?

The positive aspect of anonymous free speech is the ability to share opinions with no fear of personal attacks—or at least no attacks that can be traced back to an individual. It is also understood that the ability is frequently abused to harass people, which is often called cyberbullying. If these potentially devastating comments are directed at an individual, it can ruin their personal and professional lives. Brittan Heller, for example, is mentioned in this, as a prospective law student, who was unceremoniously targeted on a message thread entitled, “Stupid Bitch to Attend Yale Law” on a website frequented by her peers, professors, and lawyers. The accusations posted included that she had bribed her way into law school and that she’d had a lesbian affair with an administrator of...
Many of these conditions are listed to give extra protection to minors, who are in a very vulnerable position. An example of adolescents trying to sue anonymously occurred about a year ago in Hawaii. In Doe v. Kamehameha, four white students attempted to file a civil rights suit anonymously, claiming that there was discrimination against Caucasian students in the school’s admissions policies. Comments about this case included a call for the plaintiffs to be sacrificed, that they would have to watch their backs for the rest of their lives and also a phone conversation to the children’s attorney that said that the children were going to get what they deserved, which included the question, “Why do you fucking haoles [whites] even come to Hawaii...?” [88] These statements make it easy to understand why the clients sought anonymity. Still, the court declined to rehear the case with a full bench until the plaintiffs openly disclosed their identities. [89]

When comments like these could be found online and said in a phone conversation to an attorney, how could any judge feel that the juveniles would not face serious threats following the release of their names? Would the defendant’s attempt to dispute the charges be inhibited by the anonymity of the plaintiffs? Since the plaintiffs are students, it shouldn’t matter who the specific individuals are as the school is endeavoring to prove their admissions processes are not racially discriminatory. The school’s concern with the individuals’ names does not look good.

A far more infamous example that involves an anonymous litigant is the case Roe v. Wade. The plaintiff’s real name was Norma L. McCorvey, not Jane Roe. [90] Her original wish to remain anonymous is quite apparent. As many pro-life supporters view abortion murder, it was not inconceivable that they would attempt to take action against the woman who brought the issue before the United States Supreme Court. She was in clear danger despite the fact that she was not a minor or any other specifically protected population.

Even with court cooperation, some perpetrators are never identified — a disadvantage to anonymous speech. How can those wronged get the restitution they deserve if they can’t even call out the offender? People, behind the formidable shield of anonymity in the Internet, often underestimate the effects their comments or actions can have. They regard their comments as jokes, but don’t realize that type of conversation is typically only acceptable among friends or in person, not as a general communicating skill in internet posts.

Privacy is an important issue and its scope is rapidly diminishing. Despite popular conception, this is not entirely the government’s fault. Instead, people are compromising their own private information through social media, websites or through an abuse of anonymous speech online. The opacity of the Internet gives people far too much freedom to commit crimes that, in print, are considered atrocious but, online, are completely acceptable. The virtual and literal distance between Internet users also allows them to remove themselves from their actions. The ability to comment on political and social situations without fear of repercussions is an important one, but is right far too many abuse. There are serious impacts, even though it is not immediately apparent and may seem like a harmless prank to begin with. Anonymity is a protection for them, but for others too. They shouldn’t be using their shield to beat up their fellow citizens.

There is no questioning that measures to enforce consequences for cyberbullying and stalking are necessary. However, limitations as to how far those measures can go are also necessary. How was obtaining credit card information necessary for the police department to prosecute the YouTube user? The potential for misuse of that type of information is significant. Where was MrFuddlesticks’ right to anonymous speech? And can his videos be considered defamation given aspects of truth? Arent his contributions a type of political speech as a commentary on official corruption that is supposed to be specifically protected.

Anonymous litigation is another area where issues arise with namelessness. Anonymous litigation is when, rather than having their name released, a defendant or plaintiff is kept anonymous through the use of a pseudonym like John and Jane Doe. There are a variety of reasons to request anonymity for the course of a case. Specific circumstances include an attempt to avoid humiliation — an example being sexual charges, which could seriously hurt a person’s reputation if their assault became common knowledge — or because the accuser does not know who has wronged them; thus, they remain unidentified at the start of a case. The personal interest in remaining anonymous must be balanced with the public’s interest in disclosure. However, anonymity in a case must be petitioned for, and there are limited circumstances in which it will be granted. The following are items to be considered in order to fairly balance the two interests:

(a) whether the litigation involves matters that are highly personal or sensitive, or a plaintiff who is particularly vulnerable; (b) whether there is a risk of retaliation against the party filing suit or any innocent non-parties; (c) whether the identification presents other harms and the severity of those harms; (d) whether plaintiff is particularly vulnerable to possible harms of disclosure; (e) whether the suit is challenging actions of government or that of private parties; (f) whether defendant is prejudiced by allowing plaintiff to press claims anonymously; (g) whether plaintiff’s identity has thus far been kept confidential; (h) whether public’s interest in litigation is furthered by requiring plaintiff to disclose his identity; (i) whether because of the purely legal nature of issues presented or otherwise there is atypically weak public interest in knowing the litigants’ identities; and (j) whether there are any alternative mechanisms for protecting confidentiality of plaintiff. [86]

PHOTO BY RINEL CALL / DESERET NEWS

PROFESSOR ARNOY L. DVR

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Photo by Raivel Call / Deseret News

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Employer vs. Employee: Workplace Privacy

By Niki Harris

Workplace monitoring is becoming increasingly controversial, both in the workplace and in the courts. As social media grows in popularity, so does the looming potential for improper postings to reach the wrong eyes and for negative consequences to ensue. Employees are becoming aware of the different ways in which their employers monitor them, with or without permission, stated in the company’s policy book, it is not mandatory for employers to inform their employees if and when they are being monitored.

From an employer’s standpoint, there are many reasons to monitor employees: to certify that the work assigned to employees is being completed in a timely, efficient fashion equal to the employee’s pay; for the company’s own protection against lawsuits and other legal issues that may arise from problems in the workplace; to ensure that time in the workplace is being used for appropriate work-related activities. A common point by proponents of workplace monitoring is that monitoring tracks performance of employees, weed out those who used work time to shop online or other personal business and rewarding those who have gone the extra mile in their work. However, the fact is that employees who monitor Web traffic in the traditional manner create a picture window on their employees’ private lives,” says Lewis Malby, president of National WorkRights Institute. “They’re not hostile to privacy, but they’re indifferent to privacy. Indifference is all we need for privacy to disappear.”[93]

It is that indifference from employers that cause employees’ and workers’ protection agencies like the National WorkRights Institute to protest. Surveillance of Internet use is particularly troubling. People use the Internet for many personal problems that they would not be comfortable talking about in any other venue – telephone, email, or text – because of the degree of anonymity provided by the Internet. Therefore, it is possible for employers to intrude into their employees’ personal lives if their Internet use is monitored, which is a valid employee concern.

Employers want to ensure that their employees perform the tasks assigned to them – tasks that employers are paying for. Employees don’t want to feel as though they are being watched at every point during the workday. As monitoring technology has become more sophisticated, cheaper, and easier to install for employers, it has also grown in popularity. According to subsequent surveys in 1999, 2001, and 2003 conducted by the American Management Survey, in 1999 the percentage of employers who electronically monitor their workers was 67 percent. Just two years later, in 2001, the percentage had increased to 78 percent. By 2003, 92 percent of employers were conducting some form of workplace monitoring.[91]

The most popular methods of monitoring in the workplace are telephone and computer monitoring, electronic mail and voice mail checks, social media monitoring, and video recording including audio. [92] Motivated by validated fears of litigation and the increasing role that electronic evidence is beginning to play in lawsuits, a majority of employers monitor their employees at work using one or more of the aforementioned techniques. Because such monitoring is almost completely unregulated, unless specifically stated in the company’s policy book, it is not mandatory for employers to inform their employees if and when they are being monitored.

There are ways to still enforce electronic workplace monitoring policies for the sake of productivity, however. There is technology that can determine who an email is being sent from to an employee’s email account – personal or professional – without reading it.[94] There is also a way to block specific categories of web browsing without restricting allowed content during breaks – for example, blocking sites containing sexual or pornographic materials while still allowing browsing for travel, vacationing, and approved social media posting. A 2007 Electronic Monitoring & Surveillance Survey from American Management Association (AMA) and the ePolicy Institute found that 96 percent of employers who block access to the web are concerned about employees spending time on sites with sexual, romantic, or pornographic content.[95]

Other results from that survey indicate that two thirds of employers monitor employee web surfing and 65 percent of that two thirds employ tactics and software to prevent inappropriate use of time online. Of the 43 percent of companies that monitor email accounts to ensure that they are not being used excessively for personal reasons, nearly three-fourths of that number use technologies that automatically monitor email, and 28 percent have fired employees for misuse of email. Nearly half of employers track keystrokes of employees, a system which informs management of how many keystrokes per hour an employee is performing and informs employees if they are above or below the standard number of keystrokes expected by the company. Twelve percent of companies surveyed monitor what is being posted about the company on blogs and 10 percent monitor social media sites.[96]

Each monitoring technique utilizes different methods to improve employee performance and enhance productivity. Call monitoring forms (when an employer listens in on phone calls made by an employee or poses as a customer to test an employee’s knowledge) are an assessment instrument used to determine if an employee has mastered all the skills and knowledge required to deliver excellence on the phone. This can help the employer determine if coaching is needed to perfect an employee’s skills to help them better represent the company. Observations are kept on file so employers can chart improvement and analyze progress of individual employees and the employee base as a whole.

Video surveillance is used to detect employee misconduct and prevent workplace misconduct as well as monitor job performance by employees and effectively promote a safe and trustworthy workplace for employees. Computer monitoring is used to collect information about how employees are spending online time on the job. There is also a risk of infecting a computer with a virus; by preventing employees from accessing potentially harmful sites, companies can protect their own online security.[97]

Employers have the legal right to monitor their employees, but what does such monitoring mean from an employee standpoint? Employers can listen to phone calls at work made by employees, obtain phone records, view what is on employees’ computer terminals and screens; even text messages sent on company-provided cell phones and pagers are subject to scrutiny by employers unless otherwise specified in company policy handbooks.[98]

As an employee, is there anything that you can demand from your employer concerning your privacy in the workplace? The Electronic
Communications Privacy Act of 1986 (ECPA) is the only federal statute that currently offers employees protections in communications privacy. ECPA prohibits the intentional interception of electronic communication, but loopholes in the act allow for employers to monitor their employees. Employers may monitor networks of their employees for business purposes, which includes viewing employees’ email and listening in on employee calls; EPCA prevents employers from monitoring purely personal calls. However, before an employer can determine if a call is personal, he or she must listen to a portion of the conversation. An employer may intercept communications where there is actual or implied employee consent. This sort of consent does not have to be two way; it can be given when the employer merely gives notice of the monitoring to the employees, which can take place in monthly meetings, a message over the phone in which it is stated “this call may be monitored,” or in a company’s policy handbook.[99]

The Stored Communication Act (SCA) is a subsection of EPCA. This act protects “electronic data while it is in electronic storage” and makes unauthorized access to the electronic data illegal. In particular, this section has been used to protect electronic data illegal. In particular, “electronic data” is defined as: “any information that is stored in any medium. This includes, but is not limited to, textual information, digital images, sound recordings, and video recordings.” The SCA applies to electronic communication services, which are defined as: “any facility through which an electronic communication service is provided;” or “(2) intentionally exceeds an authorization to access that facility; and thereby obtains...[an] electronic communication while it is in electronic storage in such system.”[100]

The National Labor Relations Act (NLRA) protects specific types of employee expression in both real world and Internet contexts, such as social media conversations between employees. Under the NLRA, workers have a right to form unions, to discuss working conditions, and to discuss unionization. Employers cannot punish employees for this conduct. Online work-related criticism of an employer is, therefore, protected under the National Labor Relations Act.[101] Such criticisms are known as protected concerted activity. The extension of protected concerted activity in the workplace is a hotly debated topic between employers, employees, and the organizations that protect both; it is particularly relevant in the published case between the American Medical Response of Connecticut and the National Labor Relations Board (NLRB) in February 2011.

On October 27, 2010, the National Labor Relations Board filed a complaint against a Connecticut company, American Medical Response of Connecticut, Inc. (AMR), alleging that the ambulance service company violated federal labor law by terminating an employee who posted comments about her supervisor on her personal Facebook page. The case involves the illegal firing of Dawnmarie Souza, who was asked by her supervisor to prepare a response to a customer complaint about her work. Her supervisor declined to allow her union representative to assist Souza in preparing her response. From her home computer, Souza posted multiple vulgarities about a psychiatric patient. Other co-workers voiced supportive responses to Souza’s claims. The supervisor in question discovered the Facebook page, suspended Souza for abusing the company’s Internet policy on social media, and subsequently fired her.[104] The NLRB investigated the case and made a complaint against AMR, alleging that Souza’s comments constituted protected concerted activity and that the company’s blogging and Internet policies were unlawful. The NLRB’s complaint highlighted two issues:

1. First, whether unionized or not, all employees are protected against unfair labor practices through Section 7 of the National Labor Relations Act (NLRA). Specifically, Section 7 provides that employees may not be discriminated against for participating in concerted activities concerning their wages, hours and other terms and conditions of employment. In the case involving AMR, the NLRB is asserting that Ms. Souza and her co-workers were engaging in protected concerted activity when she posted criticisms of her supervisor on Facebook, sparking a dialogue with co-workers.

2. Second, the complaint sends a cautionary message to employers to not make their social media policies too restrictive. Employers should review their social media policies to ensure that they are not susceptible to claims that the policy deters employees from their right to discuss wages, hours and working conditions.[105]

AMR eventually entered into a settlement agreement with the NLRB in which AMR agreed that in the future it would not “maintain or enforce any rules that improperly restrict employees’ rights to engage in union activities or to discuss wages, hours and working conditions with fellow employees and others while not at work; or discharge or discipline employees because they discussed wages, hours and working conditions, either with fellow employees or others, while not at work.”[106] The settlement between AMR and the NLRB is a monumental case in the area of workplace privacy and what counts as protected concerted activity because it marks the first time that the NLRB has taken a stand on the role that social media plays in employee life – and have maintained that it may sometimes be termed protected under law. The scope on workplace privacy is changing. Social media, internet, email, and other forms of electronic communication are becoming increasingly important in our daily lives, and as such, policy and law must change with the developing forms of technology. In the workplace, employers and employees must accept that monitoring is also becoming increasingly important to prevent technology from being abused by either party. Workplace privacy is slowly disappearing. Emerging into the public eye are cases that deal with this very issue, like the NLRB complaint against AMR. The fact that settlement was reached before the case got taken to court proves that the courts – and thus, the law – are open to changing with the times. As the world of workplace privacy and its legal ramifications changes and develops, so must the attitude of every person in the workforce.

Under 18 U.S.C. § 2701, an offense is committed by anyone who: “(1) intentionally accesses without authorization a facility through which an electronic communication service is provided;” or “(2) intentionally exceeds an authorization to access that facility; and thereby obtains...[an] electronic communication while it is in electronic storage in such system.”[100]
A debate has arisen at every point in our country's history when the government perceives a threat. What is the appropriate balance between national security and civil liberties? Does the protection of a free society require the relinquishment of some freedom? Historically, the United States has responded to these questions with methods, that, in hindsight, were (at best) a hasty overreaction or (at worst) unconstitutional and driven by paranoia. These methods included surveillance of private citizens in the name of the nation's safety.

The Fourth Amendment regulates the gathering and use of information about citizens, but the legislation and civil liberties? Does the balance between national security and privacy is less obvious. An interesting, albeit expected, phenomenon repeatedly occurs during times of national crisis in the U.S. When the government perceives a threat from another nation and the ordinary American becomes worried as well (sometimes this worry is cultivated with propaganda), people in America from that nation become targets of suspicion and surveillance. While some surveillance may be understandable in light of foreign threats, it is also important to remember that country of origin alone in no way satisfies the "probable cause" required by the Fourth Amendment.

In 1798, an adolescent Congress passed four laws known collectively as the Alien and Sedition Acts in an effort to make our fledgling nation strong when national security is on the line. The Framers of the Constitution obviously wanted to prevent the invasive searches and blanket surveillance they were subject to as English colonists. However, whether the Framers envisioned an inviolable and general right to privacy is less obvious. The language of the Fourth Amendment becomes even less explicit as technology advances and property becomes less tangible. Do Internet search engine queries fit under the umbrella of "papers and effects?" Is an individual's cell phone as sacred as a house when it comes to protection from searches? Can we, as modern Americans, expect a supermarket, library, or e-commerce site to keep our information from the government when we have volunteered it to these groups? Is it even feasible anymore for the government to "particularly describe" who and what they search when information and people are increasingly connected? What qualifies as an "unreasonable search" when national security is on the line?

In the late 1800s, many Chinese came to California for the Gold Rush and the building of the transcontinental railroad; working-class Americans felt they had to compete for jobs with Chinese who would work for less compensation. The Chinese Exclusion Act (1882) halted Chinese labor immigration for a few years because Chinese immigrants "endangered the good order of certain localities."[110] The few who were allowed into the U.S. were subject to intensive interrogations—"registration, identification and routine surveillance"[111]—not required of other Americans.

In the 20th century, "foreign threats" changed to mean people in the United States with ties to foreign ideologies. While immigrant groups (notably Germans, Japanese, and Italians) were tracked and harassed during this period, the government also turned its attention to individuals and groups who were more "American" but had "un-American values." National security was threatened from within by Communists, civil rights leaders, and student anti-war protestors. With new technology, surveillance became less noticeable; civil liberties were violated.

In 1938 the House Un-American Activities Committee was started to track and investigate the activities of individuals and organizations that the government deemed subversive. [112] The Committee’s most noted investigations centered on the leadership of the Works Progress Administration, the American Communist Party, and the Hollywood film-making industry. [113]

Working closely with the Committee was Senator Joseph McCarthy. The leading figure of the 1950s “Red Scare” McCarthy led several fervent, although ultimately inconclusive, investigations of members of the United States government and armed forces he believed to be Communists. McCarthy’s smear tactics and aggressive approach caused his critics to liken his policies to the Salem witch hunts and trials. McCarthy was ultimately discredited and censured by the Senate because his investigations yielded no substantial evidence against the accused.

In 1956, the Counterintelligence Program (COINTELPRO) was started by the FBI to counter perceived, but ultimately disproved, “domestic threats like the NAACP, groups against the Vietnam War, socialist and communist organizations, and the women’s rights movement. In these programs, the Bureau went beyond the collection of intelligence to secret action defined to “disrupt” and “neutralize” target groups and individuals...the Bureau conducted a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect national security... The unexpressed major premise of the programs was that a law enforcement agency has the duty to do whatever is necessary to combat perceived threats to the existing social and political order.[114] For the next 50 years, the nation would continue to grapple with balancing safety and privacy, but September 11th would suddenly bring the issue to the forefront of American politics.

After the figural and literal dust of 9/11 settled, it became obvious to many Americans that the U.S.A. PATRIOT Act (short for “Uniting and Strengthening America by Providing...
Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("PATRIOT Act") [115], signed into law about a month after the attacks, was a hasty and over-zealous response to the national security threats facing our nation. While it was argued that a trade-off between security and civil liberties exists, and while the threat posed by terrorists was unquestionably real, the PATRIOT Act posed its own danger: the restriction of Fourth Amendment freedoms.

The PATRIOT Act violates practically every clause of the Fourth Amendment, which begins: "The right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." [116] By this definition, several provisions in the PATRIOT Act are unconstitutional. Section 215 allows the government to obtain to the government). xi Section 214 doesn't specify that probable cause is necessary to allow a suspect's phone to be tapped. [119]

While many sections, such as 215, deny the necessity for warrants during searches, 216 requires a warrant in order for the government to monitor a suspect's Internet use, but the judges on the secret court given jurisdiction over foreign intelligence investigations -- the Federal Intelligence Surveillance Court, cannot reject warrant applications. [120]

The PATRIOT Act also violates the closing line, the "particularity" clause, of the Fourth Amendment, which says, "and particularly describing the place to be searched, and the person or things to be seized." Section 206 allows roving wiretaps, which monitor every phone and computer a terror suspect might use, even if this includes a public library. [121] Every Internet search on that computer, even those not typed by the suspect, is collected. With a roving wiretap, there is no way to "particularly describe" who or what is being searched or what information is "seized."

Because of Supreme Court judicial interpretation, an idea traditionally associated with the Fourth Amendment, though not explicitly stated in it, is the exclusionary rule, which prevents evidence gained through unreasonable searches or seizures without a warrant from entering a court hearing. However, Section 218 of the PATRIOT Act makes it possible for prosecutors to use intelligence gained through secret searches in court. [122]

The right to privacy from unnecessary government intrusion is inherent in the Fourth Amendment. The PATRIOT Act allows federal investigative agencies too much discretion. Agencies such as the Federal Bureau of Investigation and the Department of Justice aren't subject to sufficient judicial oversight when it comes to showing probable cause and obtaining warrants.

To improve the PATRIOT Act, it must be clarified what constitutes probable cause for search and seizure. All searches should require a warrant, describing what is to be searched, granted by a judge who decides the search is relevant to a terror investigation. This allows for judicial oversight, prevents unreasonable and wasteful blanket searches, and limits investigations to only likely terror suspects. Finally, there should be an outlined procedure for challenging National Security Letters in court, as well as a way to notify (even if this notification is delayed) an individual that their records have been seized. The PATRIOT Act can be a useful avenue to gather the intelligence needed for national security, but its policies need to be reeled in to better respect the rights guaranteed the average private citizen by the Bill of Rights.

The opening words of the Constitution are:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. [123]

The government is charged with keeping us safe from enemies, but the Bill of Rights keeps us safe from the government. There are risks and instability that comes with the exercise of our civil liberties, but it is important to consider, especially at a time when technology has made it easier to gather, store, and interpret information about individuals, that the government can pose a danger just as real as a foreign threat.
PART THREE: PERSONAL STUDENT REFLECTIONS

The transparent nature of this course was by design. The pedagogy was uncomfortable for many, knowing that every word spoken in class, every written assignment turned in, and every blog post and tweet sent was posted on the public course webpage and subject to scrutiny, comment and criticism not only from classmates but from members of the general public. The comfort level of always being on stage was greater for some than others. But, all felt the weight of accountability in what they said and did. The Transparency Team had the added exposure of appearing in public to promote their government transparency best practices and all Think Tank participants experienced the effect of being in the public spotlight. What follows are the students personal reflections about the year they spent as a participant in a Think Tank in a fishbowl.

By Theresa Krause

“The Think Tank in a fishbowl!” I will admit that when I first heard this catch phrase describing our class, I was a little apprehensive. I didn’t want to be in the public eye, in fact I wasn’t even sure why the public would care about a topic concerning transparency and privacy. I was very wrong. It was in the public eye that I learned the most, and it was discovering why transparency and privacy is important on my own that I learned why the public absolutely must care about the topic.

As I was involved with the Transparency Team, I have come to hold a huge appreciation for openness in government. The three questions that still stand out in my mind are: what does transparency involve, why is transparency important, and what is the relationship between transparency and technology. The first question we addressed in depth follows are the students personal reflections about the year they spent as a participant in a Think Tank in a fishbowl.

As a teenager my understanding of privacy really had to do with being able to keep things from my parents, things I didn’t want others to know them to know. The steps are very cheap, easy to implement, and even easier to maintain. But why is it important to do these things? In the classroom it is easy to say that governments should definitely do these things, that democracy is not truly democracy without our Best Practices. The exciting thing about this Think Tank is that we got real answers and opinions from real people, not just a group of college sophomores deciding what government should do. The public commented on our posts, responded to our poll, and supported us in our endeavor. And the public agrees that technology is something government should embrace as a vehicle for transparency.

I said that it was in the public eye that I learned the most, and I will stand by that statement. It was not during the first semester that I truly came to appreciate the importance of transparency, the process of gaining support, the inner workings of public organizations (leagues, coalitions, media, blogs, mayors...etc.), and the hard work involved in planning a press conference. It has been this semester that I learned what it truly takes to make a lasting impact on society. I learned that a group of college sophomores do have what it takes to make a difference.

By Isabelle Ghabash

Many comments we got on the Unlisted blog and on press articles about the Think Tank went something like this: “This is the 21st century. Privacy is dead. Unless you want to move to Antarctica and live off the grid, you should just give up.” Well, I’ll concede that they’re right about the first part; this is indeed the 21st century. Very astute. The other two points I’d like to argue.

Privacy is not dead. However, it also can no longer be defined in the way the Founding Fathers, generations past, or even our parents knew. Privacy, for most of this country’s history, applied to someone’s physical property, their “houses, papers, and effects” in constitutional terms. No longer. Privacy in the 21st century still includes physical property, but also virtual and self-identifying information. No one can argue that privacy has remained unchanged through the Information Age, but it still exists, even if its definition has changed and expanded. This metamorphosis is for the better as we need a definition of privacy that is up-to-date and responsive to the various threats technology and social media pose to it.

Now, for this “we should just roll over and die” sentiment: If something is important to you, you fight to protect it, even if you think there is only a shred left. You don’t say to yourself, “Well, robbers can pick a lock, so I might as well leave my front door unlocked while my family sleeps.” That’s absurd, but many people seem to have that attitude about modern day privacy. This philosophy is unduly defeatist and, quite frankly, asking for trouble. There are definitely some losing battles being fought in this arena, but there are many ways we can still protect ourselves, which starts with becoming aware of how your privacy is threatened and educating yourself on your options to protect it.

By Candace Oman

As a teenager my understanding of privacy really had to do with being able to keep things from my parents, things I didn’t think they needed to know.

When I first enrolled in this Think Tank, I figured that’s what privacy was. But I learned that privacy has much larger implications than that, because of the internet and all that we rely on it to do for us. Privacy starts on a small scale, but the breaches of it are typically on a larger plane. Like all important lessons it wasn’t always pleasant, but sometimes we gain comprehension through experience. Only by knowingly undertaking an invasion of privacy could I really understand its implications.

Although there is no way to totally protect privacy, I learned that there’s a balance to be maintained. I am the only one who can open the door to my personal information and I am responsible for what I let out. This class taught me about my privacy but it also taught me about myself, because what I share with others is entirely up to me. Privacy really comes down to a simple fact: if you don’t want others to know it, don’t tell them.

The exciting thing about this Think Tank is that we got real answers and opinions from real people, not just a group of college sophomores deciding what government should do. The public commented on our posts, responded to our poll, and supported us in our endeavor. And the public agrees that technology is something government should embrace as a vehicle for transparency.
**By Niki Harris**

A Simple Seven-Step Guide to a Yearlong Experiment in Transparency, Privacy and Social Media

Step 1: Trust no one. Trust is to be earned, not freely given. If that applies in the real world, it applies online. And no one online deserves any information from you at all because they haven’t earned it. So don’t share something if you’re not OK with your mother’s hairdresser’s best friend’s ex-girlfriend’s dog-sitter’s aunt seeing it. You’d be surprised how fast these things are transmitted online. Just look at viral videos. Especially ones about cats.

Step 2: Use a pseudonym. Write in code just because you can. Online anonymity reaches far and wide while affecting everything in its path. Accountability, however, is also key – make sure that you would stand up for what you say online. It could be traced back to you. If you want to comment online on the Salt Lake Tribune’s opinion editorials, go for it. Just know that they could eventually find out who desnewsucks!@#%23 is. Not saying that there are legal ramifications for having an opinion, but just to be safe... keep it civil.

Step 3: Be honest. Yes, businesses and government officials, I’m talking to you too. Especially when it comes to budgets. We all like to see where our money goes, who uses it and how it’s being used. Because after all, it is taxpayer dollars that contribute to government spending, and I want my money to pay for something that I can use. Honesty can be dangerous online, however, because if you’re honest then you expect the same courtesy from other users... but they don’t all operate that way. See Step 1.

Step 4: Protect your social media. Privacy settings... they change. All the time. Every six months or so on some social media sites, whether it be Pinterest, Twitter or Facebook. Be aware of who can see what you post, tweet or blog. Maybe that’s why you’re getting all those friend requests from strange men from foreign countries. Keep your photos and personal information private. As an addendum, don’t use Facebook as a social diary. It’s not only annoying but dangerous as well. People are always watching.

Step 5: Keep up to date with technology. It moves faster than you know. By the time you’ve adjusted to Google+, a new beta will be available. It goes hand-in-hand with privacy settings, because they both change too quickly for all users to comprehend and adjust. Take a look at the news and at cases that the Supreme Court rules on – you’d be surprised how much a workplace privacy dispute could affect you at your new office in Toronto when the boss starts controlling your texting privileges.

Step 6: Turn off location tracking on any device you own. You don’t want to be tracked. Regardless of who can see it... someone can. Someone might take advantage. You might not like someone’s actions. If you turn off location tracking, someone couldn’t find you by using technology. Then you could get your grocery shopping done in peace without constantly looking over your shoulder trying to shake the feeling that someone is following you because you checked in your location on Facebook or let Google Maps guide you to the grocery store with the lowest price on Brie cheese.

Step 7: Be aware. Because if you’re not aware, you can’t protect yourself. Stay informed. Stay up to date. And stay connected. Technology might be the future, but if you know nothing about how your technology works for and against you as a user, you won’t be able to properly understand it or flex and bend with the changes. Welcome to the future.

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**By Lindsai Gren**

Before this year, I had never considered myself to be either a particularly transparent person, or a private person. I was just a college kid with a Facebook account.

If I have learned one thing from this class, it would have to be that it is better to be safe than sorry. I would be lying if I said that I wasn’t paranoid after this class. I honestly did not like living in a fishbowl for the first semester.

I was uncomfortable with my life being broadcast over the Internet, via film, Facebook, Twitter and blogs. There are things about my life that should be private; this class taught me the value of that privacy, and the lengths that should be taken to protect it.

The idea that “The Internet never forgets” is, in my opinion, quite true. And there are things that the Internet should never have the chance to know.

---

**By Allison Tripp**

I didn’t think much of anything would come as a big surprise to me when I first enrolled in this class. I’ve always been pretty good about keeping myself private, always been conscious of the need be careful online, be careful with my phone. As a high school debater, I was pretty well versed in government transparency (and the lack there of). Some things surprised me, and I learned a bit, but what I learned most in the class is that no one agrees on anything relating to politics.

It does bother me that other people can hack into my phone rather easily, but not so much that with it the police can track where I am and who I’m talking to. It probably won’t come as a surprise to anyone in the think tank, but I’ll say it again - I don’t care, because if I haven’t done anything wrong, then I don’t have anything to hide. And as far as government transparency goes, I still don’t care to much. I know that I’m more or less alone, but I don’t believe the government can survive when its every move is scrutinized. Some transparency is good - no question. Too much transparency is a hindrance. It’s what I believed when I started this class, and it’s what I still believe today.

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**By Tanner Gould**

At the beginning of this course, I believed privacy and transparency to be cut and dried, common sense issues. Individuals should be afforded complete privacy, and governments should be required to be as transparent as possible. I learned quickly that these issues are much more complicated. Our first semester of class was very eye opening. Our expert presenters and my own research taught me that there are a variety of peripheral issues and ethical quandaries to consider.

When we got into the meat of our project, I realized that there is a cognitive disconnect among those in the political arena which is prevalent in all levels of government. Everyone claims (and most legitimately believe) that they advocate transparency but, when the rubber hits the road, it becomes a rather sparse club. The citizenry needs to be informed and proactive to keep government honest and transparent. The responsibility falls to all of us. Be aware of the issues, get involved, and educate others. If we all do this, we can vastly improve the quality of our governments. Many thanks to Randy, Corper, Valeri, and Lance for making this a great learning experience.

---

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By Alex Boren

When I enrolled in the Think Tank, I was excited to learn about the issues surrounding privacy and transparency. Although I usually think about these issues philosophically, the Think Tank covered the issues from more of a legal perspective. While at first I wished the class got into the more philosophical implications of privacy and transparency, its legal focus provided me with another important perspective on the issue. In fact, the large amount of information I learned during the first semester has helped me better understand privacy and transparency in philosophical terms. When I entered the first class session, the video camera did not phase me too much. However, I plan on deleting the facebook, twitter, and Google blogger accounts that I created for the class—I enjoy my privacy and I am not much of a social media enthusiast.

During the second semester, I was part of the Transparency Team. We created the Utah Transparency Project, the goal of which is to increase the transparency of Utah local governments; I hope that our work in the Think Tank will positively affect communities throughout Utah. During the creation and planning of the Utah Transparency Project, we would meet important community figures, both at the Honors Center and sometimes in downtown Salt Lake City. Since I spend most of my time on campus, leaving during the day to go downtown felt different, but I am glad that we went out into the community: Going to class and learning is fun, but venturing out into the community and using the knowledge gained on campus to positively affect communities is great. Overall, my involvement in the Think Tank was a great experience that I would recommend to other students.

By Tianna Tu

Technology has changed the way we interact with each other, with the world, and ultimately, how we function as a society in general. With technology, the possibilities for innovation are unflowerable, the capabilities for humanity, endless. Before participating in this Think Tank on Transparency and Privacy in a Web 2.0 World, my understanding of just how revolutionary the technology advancement of my generation is was naive. Prior to our comprehensive study on the issues surrounding transparency and privacy, I did not fully realize how much technology innovation affects my life. As we heard from experts from all over the country and began to analyze the effects of technology on society, I slowly began to comprehend just how paramount this small moment of technology development will be years from now. Technology has changed, and will change, the world.

As a citizen in America and an aspiring government official, this Think Tank on Transparency and Privacy in a Web 2.0 World has been one of the most valuable experiences I have had in college thus far. Many current citizens and public servants are not cognizant of the practical applications and possible repercussions of technology. Through this course, my classmates and I were able to discover these applications and repercussions first hand, and brainstorm groundbreaking strategies to apply our knowledge to improve our surrounding community. And thus, our Utah Transparency Project was conceived. Transparency and accessibility in government is imperative to maintaining a healthy democracy. Through our advanced research and in-depth analysis of the clashing paradigms of individual privacy and government transparency in the modern era, we were able to develop a practical method to help local governments take advantage of the Internet as a vehicle for promoting public trust. We were able to instigate positive change for the betterment of society; a unique experience not many college undergraduates are privileged to.

The knowledge I have gained as a part of this Think Tank is very applicable to my future career endeavors. From first-hand experience, I now understand how important it is to be transparent and accessible when acting on behalf of a constituency: Desperately searching for some semblance of data, I scan through an infinite Internet of state legislative databases. I am a new intern at the Utah State Legislature and need to quickly and accurately find legislation records from a bill introduced to the Hawaii State Legislature in the 1990s. My task is time-sensitive. The information I seek, vital. Yet, to my dismay, the Hawaii legislative website is not maneuverable. The most basic information of a bill, its short and long titles, sponsors, committee hearings, and votes cannot be found. Public information so important to the legislative process was inaccessible. How did Hawaii’s citizens hold their legislators accountable when their actions were nowhere to be traced? At that moment, when I was being depended on as a professional in aiding my Representative’s constituents, I realized the importance of having a truly transparent and accessible government website. A forum where information pertaining to the public business can be found and analyzed – not just for the benefit of private citizens, but for legislators as well, is intrinsic to democracy. I will never take access to government information, access so conveniently provided to Utahns by the le.utah.gov website, for granted ever again.

By Marianne Carpenter

One year ago I was finishing my first year at the University of Utah, with only a vague idea of where my life would take me. Nine months ago I wasn’t entirely sure about what a think tank was or how it would play into my life. Now, I am grateful for the focus and experience the think tank had given me. Unlike many of the students, I had the opportunity to study about privacy before the think tank. I am double majoring in accounting and information systems, the latter of which I shall be pursuing. In the curricula for information systems, we learn a lot about protecting data and the importance of this security at a corporate level. There is much talk of data mining, cookies, biometric authentication, surveillance, etc. With this background, it was fun to talk to professionals from all over the country in the first semester. What I knew less about was the importance of government transparency.

Reflecting back upon the year, it seems that most of the guests we had spoke to primarily about government transparency, which helped me to learn a good deal about how the government and citizen groups view this then abstract concept. Gratefully, I was selected as a part of the transparency team and so I had the opportunity to learn even more.

I thoroughly enjoyed working with the different groups such as the Salt Lake Tribune and Love Communications, because it helped make the classroom come alive. I was no longer sitting in a classroom listening to people talk for hours about their views, but I had created my own views and then had the opportunity to get out and talk with people all over the state of Utah about them. I feel passionately about our project of spreading transparency through Utah’s local governments and hope to see the initiative continue.

Now, at the end of the Spring 2012 semester, I can look back and see how much I have learn and grown. I will continually look and work towards a transparent government and will forever endorse personal privacy and corporate security in my future career.
ENDNOTES


[21] Ibid.


[23] Ibid.


[25] Ibid.


[65]Id.


[71] Supra, note 63

[72] Id.

[73] Id.


[75] Id.

[76] Id.


[80] Id.


[88] Id.

[89] Id.


[91] There are no sources in the current document.

[92] There are no sources in the current document.

[93] There are no sources in the current document.

[94] There are no sources in the current document.

[95] Privacy Rights Clearinghouse.

[96] Id.

[97] There are no sources in the current document.

[98] Privacy Rights Clearinghouse.
A SPECIAL THANKS

TO OUR COMMUNITY COLLABORATORS...

... AND TO OUR NUMEROUS GUEST PRESENTERS WHO ARE LISTED IN THE COURSE SYLLABUS (APPENDIX “A”)

For a gallery of Think Tank photos go to the course website at http://campusguides.lib.utah.edu/Honors and click on the tab “Photo Gallery”.
Appendix A

Honors Think Tank 2011
Honors 3700-004
Honors Center, Room 150
Thursdays 4:10-7:05

TRANSparency and PRIVacy:
CLASHING PARADIGMS IN A WEB 2.0 WORLD

INSTRUCTORS:

Betsy Byce, J.D.
President, Honors Professor
Professor of Law (Lecturer)

Corpee James, J.D.
Mehay Weight & James, PLLC

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LINGUIST/RESEARCH LIBRARIAN

Valerie Craigie, M.L.S.
Assistant Director
S.J. Quinney College of Law
332 S. 1400 E., Rm. 101
Salt Lake City, Utah 84112
(801) 585-2475
valerie.craigie@law.utah.edu

COURSE OBJECTIVES:

1. Obtain an in-depth and thorough understanding of the policies, values and
   rationales underlying the concepts of transparency and privacy.
2. Learn the historical origins of privacy and transparency and how the legal and
   constitutional standards governing the concepts are evolving.
3. Explore how society has weighed and balanced privacy vis-à-vis transparency in
   specific areas such as national security, anonymous speech, government surveillance, internet
   use tracking, facial recognition, collection of personally identifiable information, access to
   government records and data, location tracking, etc.
4. Explore how social media and other new Web 2.0 technologies, with their
   emphasis on transparency and inter-communicate, simultaneously foster both personal and institutional
   transparency and undermine the concept of privacy.
5. Expose students to the thinking of the leading commentators and advocates of the
   transparency and privacy movements.
6. Develop a personal philosophy and analytical approach to how one can balance
   the interests of privacy and transparency when confronted with real life situations in the future.
7. Establish a collaborative, self-directed, group-oriented learning experience in a
   transparent environment.
8. Develop a work product addressing some contemporary topics of privacy and/or
   transparency which will have educational value and/or social utility beyond the course.

COURSE OVERVIEW:

Government corruption and abuses of power, scandals in the real estate and financial
industries, unpopular wars, skyrocketing costs of education and an increasingly complex and
opaque healthcare system have spawned calls for greater transparency in our institutions,
particularly in government and in society in general. The "transparency movement" was
launched by the election of President Barack Obama and his Open Government Directive in
December 2009. Since that time, governments have embraced the concept of open
government as the sharing of information becomes more common and easy internet access has
become ubiquitous. This unprecedented institutional transparency has been accompanied by
greater individual transparency and a concomitant loss of privacy, all of which has been fueled
and enabled by the new social media communications platforms of Facebook, YouTube, Twitter,
Wikipedia and the like.

As a consequence, we are now living in an era of Wikileaks, confidential news sources,
anonymous web posters, data aggregators and a seemingly insatiable public appetite for
disclosure of private and personal information. At the same time, there is growing concern that
individual and institutional privacy are eroding rapidly and that too much transparency in the form
of an unfettered "right to know" everything about each other and our institutions is a dangerous
andro-genie that threatens our way of life and the orderly and efficient operation of a democratic
society.

The Think Tank on Transparency and Privacy will take a critical look at these two
sometimes clashing paradigms. Students will study the origins, underlying rationales and growth
of these concepts as well as their legal and constitutional implications, both in general and in
their application in specific areas such as the government, the media, the education system, the
military and the Internet. During the first semester, students will be exposed to the thinking of the
leading experts in the areas of openness and privacy and will gain a comprehensive
understanding of the complexities, nuances and challenges of balancing and reconciling these
two competing interests. During the second semester, students will apply this information and
knowledge to develop new approaches and strategies as to how best to accommodate these
interests for the betterment of our institutions and society as a whole.
COURSE STRUCTURE AND FORMAT

In keeping with the subject of the Think Tank, students will participate and contribute to the class in both private and transparent environments. The private environment will be the Course Facebook page where only class members will be participants and have access rights. It is in this setting where an open and frank sharing of personal opinions, values and beliefs are encouraged in a confidential setting. The transparent environment will be in the form of the course “LibGuide” where each student will post a Personal Portrait, weekly blog entries, daily tweets, class notes and all student work products. The LibGuide will be publicly accessible and is available at [link to LibGuide]. Each class will also be video-taped and posted on the LibGuide.

At the beginning of the semester, students will be divided into one of two teams. Team One will focus on institutional transparency and privacy and Team Two will focus on individual transparency and privacy. Students will also be assigned a Vanderbilt student, and will be responsible for preparing a 5-7 page research paper and making a 20-30 minute oral presentation to the class on the topic. The papers will be posted on the Course LibGuide and the presentations will be video-taped and also posted. Initial team assignments and topic assignments will be made on the first day of class. Students will choose which topics to study during the week.

Students are encouraged to use graphics, slides, audio, video, and other communication technologies in their presentations. (The University’s Student Presentation Guidelines will apply. In addition, students may have up to 3 students in each discussion.).

One student is designated each week to act as the “class scribe” and post on the LibGuide notes summarizing the week’s classroom lectures and presentations. The notes should be detailed enough to give an outsider a good sense of the topics addressed and the class discussion of the topics, although specific opinions, views or statements should not be attributed to an identified person. Class notes are due on the Monday following.

TEXTS/REPRESENTATIONS

All assigned readings and class presentations are posted on the course LibGuide and are subject to change. Students should regularly check the syllabus on the LibGuide.

OFFICE HOURS

Professors Driver and James have virtual office hours accessible through the LibGuide or on the times outlined below. Face-to-face meetings may be scheduled via telephone or through the LibGuide and instructions are also available for phone consultations at other times.

Driver: (615) 322-7422

James: (615) 322-7422

STUDENT REQUIREMENTS

1. Complete all required readings/viewings BEFORE each weekly class and actively contribute to class discussion.

2. Write and post on the course web page a Personal Portrait.

3. Write and post on the course web page a weekly blog entry about the class or any privacy/transparency topic. (Students are exempted during the week of the oral presentation)

4. Daily “tweet” about the class or any privacy/transparency topic. (Students are exempted during the week of their oral presentation)

5. Recruit 3 friends, who will periodically post comments or other information on the course web page.

6. Serve as a “class scribe,” take notes and post on the course website.

7. Prepare a 10-12 page paper and 25-30 minute oral presentation to the class on an assigned privacy/transparency topic

8. Work within a team to produce the end of the year a high-quality work product, addressing some aspect of privacy and/or transparency which will have educational value or social utility beyond the course and participate in a 60-minute presentation of the project

KEY DATES

August 19, 2011 Student survey completed

August 25, 2011 Personal bio posted on LibGuide; Twitter accounts established

August 26, 2011 Selection/assignment of student presentation topics

January 9, 2012 Identification of team project

February 8, 2012 Final draft of team project

April 4, 2012 Team One presentation of final team project to class

April 12, 2012 Team Two presentation of final team project to class

Librarian Colorad is available on an as-needed basis by email at al@vanderbilt.edu or by telephone at (801) 582-5475.

4015 615-322-7422
GRADING

A student's grade is primarily formulated based on the objective completion of the aforementioned student requirements. Given the transparent nature of the course and the fact that everyone is an Honors student, a high-quality work product is assumed. The instructor's retain, however, the discretion to reduce a student's grade in the event a student fails to timely complete all of the above-identified student requirements. In disruptive in class or their learning group, fails to adequately contribute to the final work product or exhibits a lack of adequate preparation in completing the student requirements.

MISCELLANEOUS

All students are expected to maintain professional behavior in the classroom setting, according to the Student Code, spelled out in the Student Handbook. Students have specific rights in the classroom as detailed in Article IV of the Code. The Code also specifies proscribed conduct (Article XI) that involves cheating on tests, plagiarism, and/or collusion, as well as fraud, theft, etc. Students should read the Code carefully and how they are responsible for the content. According to Faculty Rules and Regulations, it is the faculty responsibility to enforce responsible classroom behaviors, beginning with verbal warnings and progressing to dismissal from class and a failing grade. Students have the right to appeal such actions to the Student Behavior Committee.

ADA Statement: The University of Utah seeks to provide equal access to its programs, services and activities for people with disabilities. If you will need accommodations in the class, reasonable prior notice needs to be given to the Center for Disability Services, 162 Union Building, 581-5023 (V/TTY). CDS will work with you and the instructor to make arrangements for accommodations.

WEEKLY SCHEDULE:

WEEK ONE: August 25, 2011 Course Introduction; Individual Privacy & Transparency: Overview

Topics:
- Discussion of syllabus, class structure, and course objectives
- Review of course LibGuide
- Historical origins and evolution of privacy and transparency applied to individuals
- The Constitutional and statutory development of the right of privacy
- Current trends and future issues

Readings/Viewings:
- Course description and syllabus
- Review LibGuide website
- Selected opinions of the U.S. Supreme Court
- Wikipedia articles on "Privacy" and "Privacy Laws in the United States"
- Engineering Privacy in an Age of Information Abundance, Betsy Massey and Alon Witten (2011)

Presenters:
- Randy Dreier, Casey James, Yalen Craig

Student Presenter(s):
- (Not Applicable)

Student Scribe:
- Alex Boren
WEEK TWO: September 1, 2011
Institutional Privacy & Transparency: Overview

Topics:
- Historical origins and evolution of privacy and transparency as in government and other institutions
- Constitutional, legal issues and legislative approaches
- The “Open Government” movement
- The Obama Administration Open Government Directive & Initiative

Readings/Viewings:
- "Transparency," a Grimmens white paper
- The Open Government Directive (December, 2009)

Presenters:
- Randy Dryer, Valori Cagle

Student Presenter(s):
- (Not Applicable)

Student Scribe:
- Sam Iotton

WEEK THREE: September 8, 2011
Individual Privacy & Transparency: Involuntary Transparency

Topics:
- Facial recognition/biometric technology
- Airport body scans

Readings/Viewings:
- FTC Complaint in the matter of Facebook, Inc. and the Facial Identification of Users (June 10, 2011)
- Review Biometrics Research Group website at https://biometrics.rg
- Channel 10 (Detroit) News video on "MSU," "Face Finder Project,"
- Opening brief of petitioner in The Electronic Privacy Information Center, et al. v. Janet Napolitano, et al., Case No. 10-1157 (U.S. Court of Appeals, D.C. Circuit)
- Brief of Respondents in The Electronic Privacy Information Center, et al. v. Janet Napolitano, et al., Case No. 10-1157 (U.S. Court of Appeals, D.C. Circuit)

Guest Presenters:
- Robert Ellis Smith, Attorney, Journalist and publisher of Privacy Journal, Providence, Rhode Island

Student Presenter(s):
- Allison Trippe

Student Scribe:
- Christiana Tu
WEEK FOUR: September 15, 2011
Individual Privacy & Transparencies
Voluntary Privacy

Topics:

- Anonymous speech
- Anonymous litigants

Readings/Viewings:

- "A Case for Pseudonymity," by Jillian York, Freelance journalist and blogger
- "Who is harmed by a ‘Real Names’ policy?" at Geek Feminism wiki
- Review Tor website on anonymity online
- Listen to "Anonymous Speech and the Internet," Holland and Knight webinar by attorney Chuck Tobin (2011)
- Anonymous bloggers & the First Amendment: When & How Your Company Can Identify as John Doe Defendants, Michelle Sherman, Esq., (July 25, 2011)
- The defense of Online Anonymity: The Google + Policy is Wrong, Sarah Jacobson Pirevad (July 26, 2011)
- John Doe v. Microsoft, et al., Case No. 10-3110, United States Court of Appeals for the Third Circuit (August 1, 2011)

Guest Presenters:

- Charles D. Tobin, Esq., Holland & Knight

Student Presenter(s):

- Candise Ostrom

Student Scribe:

- Tanner Gould

WEEK FIVE: September 22, 2011
Institutional Privacy & Transparency:
The Executive Branch (Access)

Topics:

- Open/closed Executive Branch proceedings
- Online access to government

Readings/Viewings:

- Quantifying the impact of transparency, Larry Freed (February 22, 2011)
- Review the "Projects" tab at the Sunlight Foundation website available at http://sunlightfoundation.com/projects/
- Opinion of Colorado Court of Appeals in Henderson v. City of Fort Morgan, Appeal No. 10CA1409 (August 4, 2011)
- The Obama Administration's Commitment to Open Government: A Status Report

Guest Presenters:

- Rich Olson, General Manager, Utah Interactive
  e-government provider

Student Presenter(s):

- Tanner Gould

Student Scribe:

- Nicole Harris
WEEK SIX: September 20, 2011 Institutional Privacy & Transparency: The Executive Branch (Records)

Topics:
- online access to records and information
- Wikileaks
- access to government expenditures and use of funds
- national security and public safety issues
- Freedom of Information Act
- Utah GRAMA statute

Readings/Viewings:
- Freedom of Information Act (FOIA): Background & Policy Options for the 112th Congress, Congressional Research Service (July 26, 2011)
- Review the website at uspending.gov.
- Review the website at utahinteractive.org.
- Review the website at data.gov.
- Classified Information Policy & Executive Order 13526, Congressional Research Service Report (December 10, 2010)
- Drastic Measures Required: Congress Needs to Overhaul U.S. Security Laws and Increase Oversight of the Secret Security Establishment, Report by Mike German and Jay Stanley (July 2011)

Guest Speaker(s):
- Daniel Schuman, The Sunlight Foundation, Washington, DC
October 6, 2011  Individual Privacy & Transparency: Location Tracking & Privacy

Topics:

- GPS tracking
- Four square, Facebook places, Gwalla, etc.
- Google Street Views
- Google maps
- Video surveillance

Readings/Viewings:

- No Place to Hide: First Amendment Protection for Location Privacy, Judd Chaple (June 2, 2011)
- Should the Government Need a Search Warrant to Track Your Car with GPS? Adam Cohen (July 5, 2011)
- Letter to Steve Jobs, Apple CEO from Congressman Edward Markey dated June 24, 2010 and Apple reply
- Letter to Steve Jobs, Apple CEO, from Congressman Edward Markey dated April 21, 2011 and Apple reply
- Summary of Location Privacy Protection Act of 2011, Venable law firm, dated June 29, 2011
- The Geolocation Privacy and Surveillance (GPS) Act and “Frequently Asked Questions” on the Act posted by Senate sponsor Ron Wyden
- Lilly Coney Testimony before Congress at http://eric.org/privacy/surveillance/bonneytest060705.pdf

Guest Presenters:

- Lilly Coney, Associate Director
  Electronic Privacy Information Center
  Washington, D.C.
**WEEK EIGHT:**
October 20, 2011
**Individual Privacy & Transparency: Personally Identifiable Information**

Topics:
- Medical records
- Criminal records
- Sex offenders registries
- National Identity Cards
- Mandatory DNA samples: Genetic information

**Readings/Viewings:**
- Summary of the Commercial Privacy Bill of Rights Act of 2011, Venable law firm (April 12, 2011)
- Privacy Protections for Personal Information Online, Congressional Research Service Report (April 6, 2011)
- Opinion in The People v. Bulanda, S., Case No. 1106153, in the Court of Appeals of the State of California, Fifth Appellate District (July 21, 2011)
- Gun Advocacy Group Continues Illinois Litigation (Chronicle, Aug. 24, 2011)

**Guest Presenters:**
- Alice Stempelkamp
  RATH, Washington, D.C.

**Student Presenters:**
- Sam Zetten

**Student Scribe:**
- Tanner Gould

**WEEK NINE:**
October 27, 2011
**Individual Privacy & Transparency: Privacy in the Workplace**

Topics:
- B-verify
- HIPAA
- ADA - confidentiality issues
- Drug testing
- Internet/email monitoring
- Cell phone/texting

**Readings/Viewings:**
- http://eric.org/privacy/workplace/
- PHS Newhouse: Supreme Court: Weights on Corporate Privacy, Employment Discrimination
- Utah Businesses Are Ignoring B-Verify Law, Salt Lake Tribune (July 13, 2010)
- Employee Medical Confidentiality - A Guide for Employees
- Drug Testing: Encyclopedia of Everyday Law

**Guest Presenters:**
- David Symes, Esq.
  Ogletree, Deakins, Nash, Smoak & Stewart
  Portland, Oregon

- Utah Senator Wayne Niederhauser
  Salt Lake City, Utah

**Student Presenter:**
- Nicole Harris

Topics:
- Openly paced judicial proceedings
- Cameras in courtroom; internet streaming of proceedings; live blogging and tweeting
- Foreign Intelligence Surveillance Court

Readings/Viewings:
- "Portable Electronic Devices in the Courtroom," Steven Zunz and Jason Fraser (2011)
- Review “Open Court” website at http://opencourt.us
- United States Foreign Intelligence Surveillance Court Wikipedia entry available at http://en.wikipedia.org
- Amendments to the Foreign Intelligence Surveillance Act (FISA) Set to Expire May 27, 2011, Congressional Research Service Report (March 1, 2011)

Guest Presenter(s):
- Tim Shea, Utah Administrative Office of the Courts

Student Presenter(s):
- Christians Tu

Student Scribe:
- Isabella Ghabrial
WEEK ELEVEN: November 11, 2011
Institutional Privacy & Transparency: The Judicial Branch (Records)

Topics:
- Access to judicial records
- Juvenile court records
- Online access to court records (PACER)

Readings/Viewings:
- Review: “Court Records” on access.gov
- Public Access to Court Records, American Bar Association (March 17, 2011)
- Sunshine in Litigation Act of 2011, Report of Senate Judiciary Committee (August 2, 2011)

Guest Presenters:
- Tim Clarke, Vice President for Research & Technology, National Center for State Courts, Washington, D.C.
- Lisa Peterson, Utah Foundation for Open Government

Student Presenters(s):
- Mariah Lulue

Student Society:
- Sam Totten

WEEK TWELVE: November 17, 2011
Individual Privacy & Transparency: Internet Use Tracking

Topics:
- Behavioral and targeted advertising
- Social networking privacy
- “DO NOT TRACK” proposals

Readings/Viewings:
- State Legislators Reject Law Regulating Social Networks, Manila Phillips & Phillips, LLP (June 22, 2011)
- “Where Is the Comprehensive Online Privacy Framework?” Bill Cory and Andy Steinman (April 2011)
- “Facebook’s position paper on ‘Do Not Track’ for W3C Workshop on Web Tracking and User Privacy” (April 2011)
- “Trackers Don’t Track People, People Track Trackers or What We Really Mean When We Say ‘Do Not Track’,” Andy Kuhl and Colin O’Malley (April, 2011)
- “Tracking Transparency,” Wendy Selmer (March 31, 2011)
- Summary of the “Do-Not-Track Online Act of 2011,” Venables Law Firm (May 9, 2011)

Guest Presenters(s):
- (None)

Student Presenters(s):
- Lindsay Green
WEEK THIRTEEN: December 1, 2011  Individual Privacy & Transparency: Data Mining and Use

Topics:
- Data collection
- Data retention and storage

Readings/Viewings:

Guest Presenters:
- Allison Pepper, Sr. Director, Public Policy
  Interactive Advertising Bureau
  New York, New York

Student Presenters:
- Theresa Krause

Student Scribe:
- Lindsay Green
SECOND SEMESTER

The second semester will be devoted to designing and implementing the Team Projects. Accordingly, how each class period is utilized in the second semester will be flexible and depend, in part, on what project is selected. The Teams likely will be meeting independently of each other during sections of the second semester. Assistant Director will be the advisor/facilitator to Team One and Professor James will be the advisor/facilitator to Team Two. Librarian Cogdill will be a resource, on an as requested basis, to both teams. This part of the course is student driven and considerable latitude and responsibility will be on the students and not the professors. Professors are resources, but not decision makers.

Team projects must be identified no later than January 6, 2012. A detailed description, outline and plan of action on each project must be posted on the LibGuide no later than February 6, 2012 and both projects will be the subject of critique and feedback in the February 9, 2012 class period where both Teams will meet together. Team One will make its formal presentation of its project on April 3, 2012. Team Two will make its formal presentation of its project on April 12, 2012. The respective Team presentations will be videotaped, posted on the LibGuide and should involve all Team members in the presentation. Teams are encouraged to be creative in their presentations and utilize appropriate visual and audio aids such as video, charts, music, graphs, handouts, etc. The presentation should be no longer than 60 minutes in length and organized and presented in a self-contained format such that the project can be viewed and understood later by persons interested in the project. Depending on the project chosen, it is possible that final implementation of the project will occur after the second semester concludes. An initial list of possible projects is listed in the LibGuide under the tab “Student Projects.”
APPENDIX “B”

Links to news stories, videos and blog postings on the 2012 Honors Think Tank on Transparency & Privacy


New Honors Think Tank Provides Students with Window into Privacy and Transparency Issues in Web 2.0 World

New Honors Think Tank Provides Students with Window into Privacy and Transparency Issues in Web 2.0 World

February 4, 2011

The New Honors Think Tank, an innovative team led by Professor Doug Hoover Jr., has designed a unique program that brings students into the world of Web 2.0 to explore issues of privacy and transparency. The program involves a series of discussions and workshops that aim to educate students about the implications of new technologies and social media on privacy and security. The goal is to create a more informed and engaged generation that can understand and navigate the complex world of digital communication.

One of the key features of the Think Tank is the integration of technology and education. Students are encouraged to use social media platforms such as Facebook and Twitter to share their experiences and insights. This approach not only enhances learning but also provides a real-world context for the discussions.

The program is led by Professor Doug Hoover Jr., an expert in the field of information security and privacy. His expertise and passion for the subject have made him a valuable resource for the students.

In addition to the regular meetings, the Think Tank also organizes guest lectures and workshops with industry experts, providing students with a broader perspective on the challenges and opportunities in the field.

Overall, the New Honors Think Tank is an innovative program that offers students a unique opportunity to engage with complex issues in the digital age.

SALT LAKE CITY -- Today's technology quickly changes the way we live our lives.

Social networking sites allow us to stay in touch with friends and family. Cell phones can keep us in contact nearly anywhere and anytime.

But some also believe site members of the world view of what we share with others on Facebook, or through that new app track you share our destinations with each of the world.

Government hearings are prepared live to public and news and online access to government documents also allowed for more transparency and public participation. But now following law was enacted to protect sensitive concerns concerning privacy and protection of personal information.

What used to be considered embarrassing information can now be considered accessible.

"Those things that were private at times, these days and kind of gone. Someone has a cell phone and can take a photo of it, video or even YouTube," said a professor in the dance. Studies have shown that about 60 percent of human resource managers check Google and social networking sites before hiring a person.

In order to navigate this complex new world of technology, Dreyfus that, "I think it's made all of us really paranoid, actually," is one of the roles in the use of the University of Utah. This dimension of transparency and privacy interactions, attorney Cooper Jones and St. George College of Law, estimate of Deloitte, who says that Google's privacy and security platforms without any further participation.

The New Honors College has a strong track record of think tanks on digital technologies. Dreyfus adds, "I came up with this idea because of the

"We have a new thinking about the development of Facebook and other social networking platforms."

Dreyfus calls it a "an idea on a stick."

"In the spirit of transparency, this idea is kept transparent. Other the video recordable, student assignments are posted online. Students are required to log in at least twice a week and post their daily log. This is transparent. The website can be accessed by anyone and even includes a section where the police can leave comments for the class.

Some students say the spending almost a semester doing case studies, they have learned their minds towards these new ways.

"It's not about making all of us really paranoid, actually," said a professor in the dance. But Dreyfus adds a strong voice about the qualities of the work. And business professors Dreyfus will be coming in to become members of the public well.
Deseret News

Watching the watchers: University of Utah course looks at transparency and privacy in the digital age

Tia said she has learned to keep in mind that the internet never forgets. "Every piece of information can come back to haunt you because of something posted online years ago.

"This class has really opened my eyes," she said. "The idea is to have a sense of how to use the internet responsibly. It's not just about being careful when posting things online, but also understanding how others might interpret your actions.

"Social networks have allowed people to stay connected more than ever before, but it's important to be aware of how your online presence can affect your reputation and privacy. It's not just about what you post, but also how others interact with your posts and what they can infer from your interactions.

"I think the course is very relevant in today's digital age. It's important to be aware of the implications of our digital footprint and how it can impact our privacy and reputation. The course provides a good foundation for understanding the ethical and legal considerations of using the internet and social media.

"Students are learning how to navigate the online world responsibly and understand the impact of their actions online. It's not just about what you do, but also how others perceive you. The course provides practical skills and knowledge that will help students in their personal and professional lives.

Dr. Morris said the course is designed to help students think critically about the role of social media in their lives and make informed decisions about how to use these tools. It's not just about being aware of the potential risks, but also understanding the benefits and limitations of social media.

"I think the course is very relevant in today's digital age. It's important to be aware of the implications of our digital footprint and how it can impact our privacy and reputation. The course provides a good foundation for understanding the ethical and legal considerations of using the internet and social media.

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"I think the course is very relevant in today's digital age. It's important to be aware of the implications of our digital footprint and how it can impact our privacy and reputation. The course provides a good foundation for understanding the ethical and legal considerations of using the internet and social media.
"I think it's mostly all our personal passwords, actually. I have a weak password," the professor said. "Even writing a paper for the class, you feel like you're just using their quality of life tools—will you be reading it, but because members of the public will also have access to the paper, you feel like you're using their tools.

There is a split between keeping in mind that "the future is now,"" Connor, ever cautious, cut the manuscript down because of impending deadlines and the requirements of the course.

"I think that generally, people tend to rely on technology more than they really do, and for that reason, I think people are starting to realize that they don't really have as many personal rights as they thought they had," Connor said.

In particular, he said, "I am concerned about every student, not just the ones in my class. They are not being constrained in what they can do online, but I think they're starting to realize that they don't have as many personal rights as they thought they had, and it's just starting to dawn on them.

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"I think that generally, people tend to rely on technology more than they really do, and for that reason, I think people are starting to realize that they don't really have as many personal rights as they thought they had," Connor said.
University Students launch Local Government Transparency Initiative

Gretta Hopper
April 5, 2012, 2:54 p.m.

It's always refreshing to see students interested in opening up their government. Showcasing a students' government project as Utah's first state-wide public initiative which is successful, will forever change how Utah citizens interact with their local governments. The initiative, called the Utah Local Government Transparency Project, (the "Transparency Project") is the result of eight months of study by the students at an American University. The project examined the ethics of competing paradigms of privacy and transparency and found a clear trend: The Think Tank on Transparency and Privacy.

On April 11, 2012 ten University of Utah students will launch a state-wide public initiative which is successful, will forever change how Utah citizens interact with their local governments. The initiative, called the Utah Local Government Transparency Project, (the "Transparency Project") is the result of eight months of study by the students at an American University. The project examined the ethics of competing paradigms of privacy and transparency and found a clear trend: The Think Tank on Transparency and Privacy.

The Think Tank on Transparency & Privacy was the first University of Utah course to be completely transparent and accessible not only to the University community, but to the public at large via a public course website. Each week three hour class sessions were videotaped and posted on the course website, along with all student written work, multiple lectures and weekly student oral presentations on selected transparency and privacy topics. Throughout the course, students made daily posts to their required Twitter accounts and weekly posts to their blogs about the transparency and privacy issues being discussed. These posts were linked to the course website page as we had a public course feature where persons outside the class could comment on the student's work product as long as any issues being discussed. The course public content assumed a lot of conversation among students and members of the outside community. The website had thousands of page views and hundreds of posted comments. The course was acclaimed a "think tank in an hashtag".

The novel approach to instruction was featured in a story by a local Utah newspaper in Salt Lake. At the end of the first semester, the students were divided into a transparency team and a privacy team and each team was set about to develop a project that would talk about what they had learned in the classroom and apply it in a practical way that would have a life and impact outside the classroom.

The Utah Local Government Transparency Project

In creating a practical transparency project, the students took to heart Thomas Jefferson's admonition that "information is the oxygen of democracy." The students designed an initiative which will make local governments truly open and accessible to citizens and lay the foundation for greater citizen engagement with government. The centerpiece of the Project is a set of five transparency "best practices," which influence the best
and most current thinking of experts on open government. These five best practices recognize and leverage recent advances in digital and other new technologies. The best practices build on the prior work of the Sunlight Foundation (recommended guidelines for transparency in government web sites) and expand the concept of transparency beyond traditional public access to records.

The best practices set forth five broad recommendations and include specific steps an organization should take to implement the five recommendations. The recommendations include:

1. Establishing a single "open government" web page through which a citizen may access all information and services of the governmental entity in three or fewer "clicks”.

2. Digitizing all information that is collected, generated or maintained by government so that it may be remotely accessed by citizens free of charge.

3. Treating emails, text messages, instant messages and other electronic communications made with government-supplied equipment as publicly accessible records regardless of how much records are classified under state law.

4. Encouraging all elected and non-elected senior administrators to commit to developing a culture of transparency within the government and its employees that permeates all levels of the governmental entity.

5. Making meetings of all policy-making bodies truly open by streaming meetings live on the Internet, recording meetings and posting the video and audio on the web page and allowing citizen participation in public meetings via real-time remote connection.

A complete listing of the five best practices may be found on the project website at OpenTransparencyProject.

The Sunlight Project has the support and endorsement of several Utah news organizations, NGOs and foundations, including the Utah Press Association, the Utah League of Women Voters, the Utah Broadcasters Association, the Utah Foundation for Open Government, the Utah Common Cause, the Utah Media Coalition, and the Sutherland Institute.

The Transparency Project Public Kickoff

On April 11, 2012 the Project will be officially launched at a press conference where a formal request to consider and adopt the best practices will be sent to 273 local governments in Utah. The Mayor of Salt Lake City, and the Chair of the Salt Lake City Council have personally endorsed the Transparency Project and are committed to adopting the best practices in the state’s capital city. The progress of the effort may be followed on the Project’s web page and Facebook page.

Tags:
- Open Government
- Utah
- Salt Lake City
- Transparency
- University of Utah
- Sunlight Foundation
- OpenTransparency

Share:
- Reddit

5 Best Practices for Open Local Government

BY: West Ketchel | April 11, 2012

Utah continues to win accolades for its online presence, ranking number two last month for its Utah Connect Portal, which features Utah-related eGovernment services from all levels of government. The American Council for Technology and Industry Advisors (ACTI) recently recognized Utah Connect for excellent state social media with an Excellence Award.

But students at the University of Utah want to make sure these high standards are upheld by local governments in Utah too. Focusing specifically on open government practices, the Lincoln College Think Tank on Transparency and Privacy recently evaluated 15 local governments, discovering a wide variety of policies now in use.

As a result of their study, the students are embarking on a statewide initiative to encourage local governments to operate more openly. Drawing on their own findings, as well as expertise from well-known open government advocates, including the Sunlight Foundation, the students will officially launch the Utah Transparency Project at a press conference Wednesday, April 11.

With support from prominent Utah elected officials and community organizations, students will formally ask all 273 local governments in Utah to adopt the following five best practices in support of local government openness.

1. Local governments should establish a dedicated open government webpage, providing a searchable repository for all public information, accessible in three clicks of a link.

2. Online information needs to be collected, generated and maintained in a digital form and made available on the open government webpage in a timely way.

3. All electronic communications made with government-supplied equipment, including emails and instant messages, should be considered public records.

4. Elected officials and senior administrators should post their schedules publicly, maintain open seating on social networking sites and commit to a culture of transparency.

5. Governmental bodies should make all public meetings open as possible by posting agendas and meeting materials in advance, streaming live meetings, or video, posting recordings within 48 hours and allowing remote participation.

The complete list of the five transparency best practices for local governments from the Utah Transparency Project is available here.

University of Utah Professor Randy Ogle summarized the effort in a recent blog post, “The students designed an initial plan which will make local governments truly open and accessible to citizens and lay the foundation for greater citizen engagement with government.”
Editor's column: Government transparency vs. privacy — U. students have some ideas

By Tony Gouveia
The Salt Lake Tribune
Published April 10, 2013 11:55AM

In this line of work, we constantly butt heads with public officials to get information.

We want investigation documents on high-profile crimes. We are curious about taxpayer money going to salaries and benefits for high-end state employees. We ask questions about how an agency picked a contractor for a billion-dollar public works project.

We investigate determinations of disability not special treatment from a municipal planning department.

We want to know these things because citizens want to know, and have a right to know, it's our job to tell them. We create a website—-nightwatch.com—-that contains hundreds of thousands, maybe millions, of government records all in searchable databases, to inform the public.

But last November when we learned that a University of Utah history class was studying the effect of transparency on good government, and on the public's trust in government, we were impressed.

In addition to studying the issue, they were planning ways to have an impact on government.

For the past seven months, 22 students — under the best and brightest students at the U. — have read and heard from experts about the importance of transparent government.

They've also talked to Governor Gary Herbert and U. President David Pershing. The class is one of the best and brightest students at the U. — have read and heard from experts about the importance of transparent government.

They've also talked to Governor Gary Herbert and U. President David Pershing. The class is one of the best and brightest students at the U. — have read and heard from experts about the importance of transparent government.
U. students to local governments: Be more open

Transparency: Honors class wants cities, counties to adopt five guiding principles.

by Mike Daniel
The Salt Lake Tribune
Published: April 2, 2012 06:57PM
Updated: April 2, 2012 11:45PM

What's so unusual about college students wanting to make a difference in the world?

How about having a well-researched plan to pull it off.

During a year of intensively studying information in the Internet age, a class of University of Utah honors students has developed a set of five guiding principles to help local governments throughout the state become more transparent.

"Information is the currency of democracy. It is the key to citizen engagement," said Theresa Kinney, one of the honors "Think Tank" students who will unveil those guiding principles on Wednesday. "The Internet has made data more accessible and changed the way we think about transparency and access to government."

Salt Lake City Mayor Ralph Becker and Council Chairman Scott Finlayson are expected to express their support for the Transparency Project during its formal introduction at the U's Mackay Institute of Politics.

The project's goal is "to persuade all 300-plus cities and counties in Utah to adopt the principles."

"If fully implemented, it could have a profound effect on local government," said Sandy Dyer, longtime Salt Lake City attorney and former U. trustee who put his legal background in tax and constitutional issues to use last fall when he became a full-time professor overseeing the Think Tank.

"The Think Tank gives students an opportunity to study a topical issue in depth, learning from community experts and other students of the classroom and then to take that information and develop a project that will have some utility and impact outside of the university," he said. "Hopefully, it will have a great legacy."

Actually, the Think Tank's students came up with two projects that address the Internet age in which they grow up.

While half the 30-student class developed the Transparency Project, the other half focused on privacy issues, coming to realize that "Google knows forever. Once something is on the Internet," Dyer said, "it's there permanently."
These students are creating a series of YouTube videos designed to educate students about ways they can protect themselves from advanced Internet scams. Scheduled for release this summer or early fall, the videos emphasize that unless you take some affirmative steps, the erosion of your personal privacy will continue," Dyer said.

(The Salt Lake Tribune) See a community partner in the Think Tank data: A managing editor provides a reading list for the class to read in public forums. The newspaper also paid for a trip to the Washington D.C. to interview a congressman about online access to government information.

To illustrate their findings in the fullness of a 30-minute full-color, Dyer and fellow instructors Ginger James and Valerie Creamcraft made the class as transparent as possible.

Party, tea, and even a full-color presentation, too. Students usually open their daily activities on Facebook pages, Twitter accounts and blogs. Anyone who wanted could see what the Think Tank and its individual members were up to — and some students developed notable followings.

"We called it "Think Tank in a Field Bowl,"" Dyer said. "In a semester, they were living an exposed life." But despite the exposure, "All those kids are in place and some students developed substantial followings."

Timmy Tu didn't have many problems with the openness. "After a couple of hours, she said, "you got used to the camera and it was second nature to accept your opinions."

Tu was one of five students who formulated the Transparency Project, whose five guiding principles are: governments be transparent, government websites be user-friendly, government websites be easy to use, government websites be accessible, and government websites be secure.

And because transparency means this information must be accessible in a readily available, Tu said that it's important to make sure that the information is easily accessible to the public.

Suhaq and Dyer also note that Utah's state government is somewhat transparent, and the students in their class.

Citing a Salt Lake Tribune analysis of online access to government information in Utah, Suhaq noted that Utah's transparency score is low in the nation.

"We really like to bring that up," she said, recognizing that some smaller countries are struggling with how to access and personal information and to keep their websites updated continuously.

The project's focus was not to create a new government, but to "suggest things they can do to achieve transparency," Suhaq said. "But in the end, Salt Lake City needed the most transparent system, posting an Annual, while Salt Lake County earned a B."

As the students wrapped up their development of the guiding principles, they began planning out the organization for support. Knowing that government procurements can be slow and that their class ends in May, Dyer said, the students hope these findings will help push for long-term implementation of these principles.

Just last week, the students gained an earful from the Utah League of Women Voters. They also received considerable support from the Salt Lake County Library, Utah Charities, the Salt Lake Chamber, Utah Media Coalition, Utah Broadcasters Association, the Utah Media Coalition, and the Tribune.

The students' work will be "open records advocate" Claire Beeler.

"It's something we need really needs to change," she said. "On the other hand, it's not like they've been to the next level. People really believe that in government because it is difficult to figure out the system. Anything we can do to make it easier, we need to be transparent."
University of Utah students launch open government campaign

Transparency - honors project to be shared with cities and counties statewide.

By Kristy Wasson
Salt Lake Tribune
Published: April 11, 2012 6:03PM
Updated: April 11, 2012 6:54PM

University of Utah honors students admitted an agenda: They want government to be more open about its decisions.

In fact, they want the state's 200-plus cities and counties to become transparent about all their policies and practices.

So, on Wednesday, the U.'s Honors College Think Tank unveiled a set of 'transparency best practices' that will be sent to local governments statewide.

"We believe through simple and cost-effective ways our local governments can easily improve their transparency," project advisee Anthony Fratantoni said. "These practices could have a profound effect if adopted. We urge Utah's local governments to take these to heart and try to make Utah a better place to live."

The students recommend that governments have an online database of all public information including public contracts, employee compensation and financial reports. Public officials also should consider all electronic communications made with government equipment. In public records, the think tank would like to see increased public meetings online and providing opportunities for citizens to comment on them online.

"Some of the reasons why we have focused on local government," Fratantoni said, "is they are closer to the community and can have the greatest impact."

The Salt Lake Tribune is a partner in the Think Tank. Admiring editor provided editing assistance for the paper to produce the newspaper. The newspaper also has a set of questions written by student architects that discuss questions about online access to government information.

Salt Lake City Mayor Ralph Becker and City Council Chairman Scott Finicum spoke at Wednesday's launch party for the students.

"Mayor Becker said he is proud of the program, but he said it has led to some issues, including some that are not in progress."

To answer, Becker said he is encouraged that students are paying attention to how governments can improve the public's business.

"I think it is important that local governments, city governments particularly, are going to be more transparent and look for ways to improve," Becker said. "It's not going to hurt all to have people pressing them and holding them to account, and making specific suggestions."

cwasson@saltlake.com

- "Best Practices" for local government transparency

Students in the University of Utah's Honors Think Tank on Transparency and Privacy are urging local governments to do the following:

- Establish a single "open government" Web page that serves as a "searchable, sortable and downloadable" repository for all public information, including third-party contracts, employee compensation, financial reports and requests for police and fire agency.

- Collect, generate and maintain government information in digital form and make it available on the open-government Web page.

- Consider email, instant message and other electronic communications made with government-supplied equipment to be public records.

- Require elected officials and appointed senior administrators to post advance schedules of public meetings online and to ensure that "a culture of transparency." 

- Make all public meetings truly transparent through live streaming on the Internet (with opportunities for online commentary online) or posting of proceedings on the website within 24 hours of the meeting.

To learn more about the project, go to www.utahtransparencyproject.org.

"Best" policies

9 Students in the University of Utah's Honors Think Tank on Transparency and Privacy suggest ways for
McEntee: U. students reveal the dark side of smartphones

By peg mcatee

Updated April 11, 2012 02:03 PM
Published April 11, 2012 01:59 PM

All of a sudden I'm afraid, very afraid, of my cellphones.

I was introduced to that fear by Neil Harris, a student in the University of Utah's Honors Think Tank class. She and her fellow students have split into two arguments over local government transparency, the other on the issue of privacy in cellphones and social media.

For me, my location can be tracked via GPS on my iPhone's weather app. If I look up by cellphone, the phone company can see that information. In the worst case, an unscrupulous phone company employee could get into my bank accounts and wipe the account.

Consider, for this bald fact: if you lose a cellphone, and your account owner's cellphone is also lost, or if you lose your cellphone, you lose your account.

And consider, though, how can help-noodle media actually track your personal data, which might interfere with your ability to keep, say, your health insurance, or even your health.

"The government may tell," says Carpenter-Heimer, an attorney and adjunct professor who leads the privacy team, "You can pay a cellphone bill, but tell me how much you paid.

Facebook can track you when you post images of your friends. One searches can automatically comment what cellphone address book, but other personal information.

As Harris put it, when she started this class last fall, "I was like, oh, Facebook, no big deal. I took the class;
McIntosh: U. students reveal the dark side of smartphones; The Salt Lake Tribune

Recovery Blog

Students Take On Transparency

Recovery Blog

Students Take On Transparency

Recovery Blog

Students Take On Transparency

Recovery Blog

Students Take On Transparency

If you're wondering whether the concept of transparency in government has been lost, consider a 2013 Washington, D.C., study that found that 72 percent of respondents had serious concerns about their online privacy and the collection and use of their personal data, according to the Electronic Privacy Information Center (EPIC).

Sixty-five percent of smartphone owners were very concerned that apps could access their photos, contacts and location data without their permission. And 54 percent worried that data about their online activities and purchases could be used to deny employment or loans.

Recently, the Wall Street Journal reported that the Federal Trade Commission "issued a strong call for commercial data collectors to adopt better privacy practices and call for Congress to pass comprehensive privacy legislation."

So if I'm more than a little skeptical about my iPhone, I'm not alone. The data blog will be at the top of my reading list for quite some time.

Fog McElroy is a news columnist. Reach her at fogmc@gmail.com, twitter.com/fogmc and Twitter: /Fog McElroy.

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New project pushes for more open government in Utah

Posted on 3:15 pm, April 11, 2012, by Salt Lake Tribune | Updated: Monday 2:00 pm, April 16, 2012

SALT LAKE CITY — A student group at the University of Utah's Hinckley Institute of Politics is pushing local and county governments to do more to be open and transparent to the public.

The Utah Transparency Project was launched on Wednesday, with students urging local governments to adopt best practices for 270 local and county governments. On hand to lend support to the cause was Salt Lake City Mayor Ralph Becker and Council Chairman Ben Breier.

The Utah Transparency Project is encouraging local governments to adopt five “best practices,” including:

- Creating a single website for public information that is easily searchable and contains data such as audited financial reports and other reports at least once a year.
- Making government information available in digital and for-free formats, such as PDFs.
- Making active indexes that list government meetings held in the past year.
- Keeping track of西藏 government meeting minutes and other public records.

We cannot believe it has taken so long or such a long time for it to happen, said student Tanner Cook.

The need for more open government comes at a time when there was considerable lack of public information in Utah. The state legislative project bill 477, which restricted access to public documents, was later reversed after public protests at the Capitol and around the state.

Mayor Breier said he believes cities across Utah would be open if it were easier. Simonsen said the Salt Lake City Council would consider the initiative soon.

I think the way the students have pushed us to be more open is something that can easily be adopted by governments regardless of how big they are, or small they are, what their resources are, Cook said.

The Utah Transparency Project has been endorsed by a wide variety of groups including the Salt Lake Institute, Utah Council on Civic, the Utah Press Association, the Utah League of Women Voters, the Utah Center for Open Government, the Utah Broadcasting Association and the Utah chapter of the Society of Professional Journalists.

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Transparency test

Student project a good lesson

Published: April 12, 2012 01:01 AM
Updated: April 12, 2012 03:01 AM

Transparency in government is like riding a bicycle, or playing the piano. It can be difficult at first. But with enough practice and a little help from a good teacher, it can become routine, even effortless.

And transparency in government should be as effortless as possible, both for those who manage the more than 500 local governments in Utah, and for their citizens.

That’s the approach taken by the new Utah Transparency Project, a study website and set of best practices thoughtfully designed and led by a few students at the University of Utah honors Public Policy program.

The project is a push to encourage those who run all those local governments to use full advantage of new Internet, social media and streaming video technologies to make the inner workings of those governments as open to public review as possible. And it invites research done by those students to show how local government leaders can accomplish that goal.

After all, why should each county, city, and town in the state have to go through the independent, time-consuming and possibly expensive work of figuring out just what they want to be fully transparent, when there are a handful of enterprising college students who are more than willing to do the homework for them?

The project, formally launched Wednesday, comes with a simple list of best practices that local governments should aspire to. Basically, the idea is to post as much information as possible— from contracts to meeting minutes—and make it all as easy to find that it makes the citizens as smart as the person with the most information.

The point is that such practices should be considered fully positive, both by government officials and by those whose lives are affected by their actions. If posting the information is a strain, and making it a chore, then neither side in the transaction benefits. Everyone is one side. People who may not really disagree about important issues pre-impressions or revisions and another’s position.

The Transparency Project was inspired by the Substance Institute and supported by the Utah League of Women Voters, Government Utah. The Salt Lake Tribune and statewide media groups wish to avoid that, local government should sign up. As allies, including the League of Cities and Towns, the Association of Counties, even the Utah Legislature, could contribute funds and expertise to help make it self-sustaining.

Because, as the student creators of the Transparency Project will tell you, yes, it will be on the test.
Campbell: Students show the way to a more transparent Utah

Class project - Open government works for the big and the small.

By Joe Campbell
Salt Lake Tribune
Published April 15, 2013 03:59PM
Updated April 16, 2013 14:56PM

This week, an ambitious group of University of Utah honors students unveiled the results of their semester-long project to help promote transparency in county, city and town government. Understandable take notes.

In a Wednesday news conference on the U campus, Salt Lake Mayor Ralph Becker and City Councilman Sean Simmons signed the students’ Utah Transparency Project Book. Students hope that more local government officials will sign the book, and soon more importantly, commit to adopting recommended practices. They should also ask elected and appointed officials to learn more about the process and sign.

As Becker said at the news conference, the goal of government transparency is “continuous.” UT students in the School of Journalism have worked on the project as part of a Faculty of Social Sciences project to look at open government initiatives in local and state government.

The students conducted the study and advised the board of the project. Students also conducted interviews with officials about availability of information. A final report is due in May, and students will be invited to present the findings to state officials.

Without any standards, standards is not surprising how widely the quality of information varies on local websites.
Poll: Utahns across the board want government records online

Poll - Government transparency trumps political, gender, religious differences.

By Christopher Skrent
The Salt Lake Tribune
Published April 19, 2012 06:30AM
Updated Apr 19 2012 07:44AM

Perversion of Republican, Women, Men, Mormon, Utah, or BYU.

Yes, Utahns often find themselves split along political, gender and religious lines. They even battle over who has the better football team. But at least one issue seems to cut across the divide: government transparency.

A vast majority of Utahns, a new Salt Lake Tribune poll shows, agree that their government should be open and that public records should be accessible. In fact, most are willing to spend tax dollars to ensure that happens.

The poll, part of the Transparency Project, the initiative of the University of Utah’s Hamon Center students who are pushing to improve open-government policies across the state by persuading local governments to adopt five “best practices” guidelines.

The survey, paid for by The Tribune and conducted by Masse-McCormick Polling & Research, reveals that 65 percent of Utah voters either strongly or somewhat support tapping tax dollars to make local government records and information more accessible online.

Nearly three-quarters of men (74 percent) and 65 percent of women back the idea. That support extends across party lines as well, with 68 percent of Republicans, 64 percent of Democrats and 73 percent of independents favoring it.

About two-thirds of Latter-day Saints (65 percent) and 66 percent of non-Mormons also favor finding information online.

That access apparently isn’t what Utahns would like to be. Most still respond to a (no name) who have tried to...
The Tribune was a community partner in the Utah Tax class. Managing editor provided editing assistance for the first report that class will produce.

Another factors to note, Joel Rees, social change executive, is more resistant to being transparent. But the lack of an early warning system to task residents about how to order

We need you to help us in our work. We welcome your input and support for our initiatives.

"Utah's goal is to bring the national transparency movement down to the local level," he said. "We launched this project to make local government more accessible than it is."

And Utahans overwhelmingly backed the same goal.

correct@sltrib.com

Best Practices for local government transparency

Establishing a single page on government Web page that serves as a "searchable, portable, and downloadable" repository for all public information, including those reports, employee compensation, financial reports and reports for police and fire service.

Collecting, generating and maintaining government information in digital format and making it available on the open-government Web page.

Considering, adapting, implementing and other electronic communications with government-supplied equipment to be public records.

Requiring elected officials and appointed top administrative officers to post their calendars of public meetings online and to commit to developing a culture of transparency:

Making all public meetings truly transparent, through live streaming on the Internet or posting of proceedings on the website within 48 hours of the meeting.

Source: Joel Rees, "The Tribune"

Online: The Tribune's database of public information.

Other government services, home prices, and home economic news.

The Tribune
Appendix C

Summary of local government transparency survey

The following research was conducted in March 2012 by students in the Communication 308 (Journalism Research Methods) at Brigham Young University taught by Prof. Joel Campbell. Based on best practices identified through the transparency project, students were asked to review town, city and county websites for information and then conduct a follow-up interview with a city employee or official. Entities representing diversity in population, geography and government structure were selected for the review. An online review of the survey can be viewed online at https://bit.ly/4H3Q9n

Reviewers:
Christine Asay
Katie Bater
Charles Beacham
Ben Carter
Scott Hansen
Alex Huff
Tamara Keesley
Jocelyn Langford
Jason Ludlow
Clint Martens
Adison Moore
Jamie Morris
Harley Orndorff
Robin Rogers
Olivie Sando
Blake Tillotson

Cities and Towns reviewed
Blanding
Fruita
Richfield
Richmond
Roy
Salt Lake City
LaVeta
West Valley City

Counties reviewed
Beaver County
Duchesne County
Salt Lake County
Sanpete
Summit County
Washington County
Blanding

The website for the city of Blanding is found at http://www.blanding.ut.gov/index.php. They also have a city Facebook page which is open to the public and can be found at http://www.facebook.com/pages/Blanding-City/122851037946664, but they do not have a Twitter account. Their census profile can be found at http://quickfacts.census.gov/cgi-bin/qfd/states.jsf?st=UT&query=POPulation
data.

According to the 2010 Census, the city of Blanding had a population of 3,573 people. Their annual budget, according to city’s website, is $1,589,976. Their website lists 21 government employees but no hired director. The city administrator is Chris Webb, his number is (435) 678-2791, ext. 302. The Blanding City website does not have one open government page or a page for information on city taxes or other fees. However, the website does list the names and contact information for elected city officials as well as unappointed administrators. They also have an organizational chart and description of the government’s departments, divisions, and other administrative units together with contact information.

The website does not list any financial audits or a database of contracts that the city has awarded to private businesses. The city does not lobbying organizations.

There are no instructions on the site for how to obtain public documents or how or where to file a CRAGA request nor is there any information about how to get building permits. Webb explained that the city is very small and if people want something, they just come into the city offices to get it. There is no search box, or way to search any of the information on the site. To find information, you just have to click around until you find what you are looking for. Some of the pages are not labeled so one has to click around to find information. There is a new report assessing and evaluating how the city-commission is meeting its legal obligations under the Government Records Access Management Act and the Utah Open and Public Meeting Act, the various statutes mandating the giving of public and legal notices and other applicable state or local, transparency or disclosure laws.

There isn’t a forum for citizens to talk online, or a privacy policy listed on the site. The website does link to building codes at http://www.templategovernment.com/codebook/index.php?book_id=440, but there is no way to search any of the ordinance. There is a date and timestamp on all of the things added to the site, so you can see how recent everything is. However, there seems to be some gaps in the time in which things were published on the site, suggesting the posts are not up to date. All the information is available in approximately formats and includes authoritative sources.

Any of the information on the website is available without going through an administrator, however there is information listed in the search questions that is not available on the website, and therefore must be retrieved by talking to someone at the city offices. The information is free and there is no licensing or terms of service conditions. However as mentioned before, the information is not entirely granular but it does appear to be in a stable, static internal location.

The city posts a schedule of events and meeting in a reasonable amount of time. There is no mention in developing a culture of transparency among employees and other officials which permits all levels of government found on the site. Some city meeting minutes are available on the site but not up to date. Webb said that this was because many people did not appear to be accessing them on the site and are not missing them now that they’re not there. The city does recent its meetings but they don’t post them online. They are not available to screen, and people cannot participate from remote locations. There are agendas posted online for the meetings but they are not up to date and they are difficult to find on the site.
The website for the city of Moab is very neat, simple and easy to follow when looking for information related to the government, business, residents, and visitors. Meetings are well advertised and chronicled by their minutes (both from this year and years past) and city departments, councils, and positions are well defined while including contact information to promote facility access and communication.

Nevertheless, improvements can be made to improve transparency. There is no listing or link to any type of transparency statement or definition in the city of Moab’s website. There is no access to annual reports releasing and evaluating how the city is meeting its legal obligations, nor an authentication and database dumping mechanism. And finally, there is no online public forum that would allow the citizens and visitors to engage in open discussion with the government and leaders. Such could be promoted either by adding a forum and comment function on the Website or by better using social network options such as Twitter or Facebook.

Government information is easily located and readily available through the Website as schedules, locations, notes, and minutes from meetings are located on the main page as well as an organized list of government departments, positions, and means of contact. After, city and government forms such as permits, permits, permits, etc., are readily available in digital format. The city manager confirmed that electronic government messages meet all records laws and guidelines.

The schedules for public events and meetings are easily found through the Website, and their minutes are well documented and available for the present year as well as in the past. Social media sites such as Facebook and Twitter are not used as well as they could to promote awareness, communication, and relationships with the public as well as to increase transparency.

Transparency for public meetings are well promoted through the schedules and minutes recording and broadcasts of such meetings.

Panguitch

According to a researcher, Panguitch appears behind the times in an evermore technological world. The city does have a website but it’s clear they struggle with design and updates. The city Facebook page is basically the same story, but different medium. When contacted, a city council member announced a Panguitch Twitter account will be coming soon, but it would have been interesting to know how many of their 1,600 residents have an active account. Either way, updating Facebook and Twitter shouldn’t be that difficult as it would definitely be worthwhile. As far as posting the rest of the background information, a researcher wasn’t able to learn about the “annual budget general fund,” “water fund,” or “wastewater fund” until the city council was contacted. They also failed to list the city administrator’s contact information.

A city representative tried to answer all the possible questions but often was unsure or unable to answer because she didn’t understand some of the definitions in the survey. A new pattern emerged related to costs. The availability of audits, fees, and city budgets were all answered with “no.” On the other side, questions that involve governmental departments, city officers, and organizations were all answered with a “yes” pattern. The representative also answered yes to “access to all city ordinances, codes, policies and procedures” with the following link: www.panguitchk-series/data/LPanguitch

If Panguitch had the capabilities, the city would probably allow all government information to be collected, generated, and maintained in a digital form. The city council representative feels they are complete on the majority of the digital requirements, however, a researcher found it extremely difficult to find information without unnecessary administrative obstacles.

Panguitch tries to post electronic communication to the public on both its Facebook and website. Once again, the researcher said that the city could be a lot more transparent if they had the technological skills available to them, but for the time being, they are trying. Even though there is room for improvement, the city representative said she honestly feels that they are committed to developing a culture of transparency among employees and other officials, which permeates all levels of government.

The city does more important than posting all ongoing agenda materials reasonably anticipated to be discussed or distributed at a meeting at least 24 hours in advance” to post the results, decisions, and conclusions of these meetings. Panguitch is completing with the first part of that sentence but lacking in the latter.
Richfield

With a population of 7,551, Richfield City is working to be transparent and provide its citizens with local information. The city has a website and a Facebook page but the Facebook page hadn’t been touched or updated in a while. The website had a lot of the information but the transparency that was hard to find, but they also provided a lot of information on the website that was important for the public to know.

The city is working to improve the website and there were a number of positives. There were many basics that were available on the website and easy to find. The number and contact information of most of the government employees were easy to find. The website also featured every city council meeting with agendas prior to the meeting and minutes after the meeting. They did have information on building permits and information relating to city ordinances, codes, policies, and procedures. The financial audits were not available on the website, but the city administrator did say that the audits were available on the city’s transparency website.

On the flip side, there were a lot of areas of transparency that were not evident on the website. The annual budget was not available and did not include any copies or links to copies of the city or county budgets. The website doesn’t have a blog or a page where the public can post articles or share ideas. There was nothing to do with any database of contracts or any instructions to obtain a GRAMA request. The public is not able to find information to receive a GRAMA request and would have to go through the records office, which wasn’t explained on the website. The search box on the website wasn’t very helpful and pretty much only worked through the names of city council members and agenda items. There was also no form available for citizens to suggest improvements.

There was no collection or maintenance of data and the information on the website did not have any sources that the researcher could see. A lot of the information not available on the website would definitely have to be found through a city administration. The website did seem transparent, the researcher said. The public meetings and minutes were posted but the meetings aren’t recorded and the public does not have any video access. There was no availability for comments in participation in these meetings.

As a result, the city administrator did warn that some of the information that was there was outdated and that the city was working on improving the website. They have a lot of employees and they updated the website daily. They also said there are a number of employees and not all of the employees are full-time with a small staff. There were working to improve the website in an efficient way. They also do not have an information technology director. All in all, the city officials are trying really hard to keep their website updated on public happenings but the basics are available on the website.

Richmond

Richmond is a surprisingly transparent town given its size. With a population size of 2,470 people (2010 Census), they keep a relatively user-friendly website. There is a Facebook page listed, however it is not operated by the Richmond City council or administrators. The city administration seems to strive for transparency in government, but they still have room for improvement.

Some of their strengths are a clear and easy to find list of government officials and their contact information, an up-to-date archive of council meeting minutes and an archive of council meeting agendas which are posted several days in advance. They keep their citizens informed with monthly newsletters that report on city events as well as give reports from the city. Their website also provides detailed information about permits, city ordinances and information about city water, sewage, garbage and recycling and so forth. The city ordinances are a work in progress. While some are already available online, city administrators are still working to scan in the documentation outlining each code and ordinance.

This office is working on the goal of making all information readily available online and a transition from paper to electronic documentation. Any documents can be requested through the office in Richmond. For simple requests, only a GRAMA form is needed. They will provide the form for you at the office, or it is not available online. For requests that include numerous pages (10-15 pages was the example given by City Manager Mardie Adams) they will charge the price of the paper which is about 10 cents a page. For things that require extensive research, you will be charged a larger fee for labor which depends on the amount of time spent by the employee locating the files.

Some aspects of transparency are not as easily obtained on Richmond’s website, particularly when it comes to budget information. The city administration is making plans to provide a link to the Office of the Utah State Auditor’s website. This website has information for every county and city in Utah. It was difficult to navigate though simply because of the number of documents it holds. There is no search box on the Richmond City website, so for site visitors to find what they’re looking for does take some time. However, most information can be found within three links. There is also no way to make comments or suggestions on the website. For those who make their voice heard, they are encouraged to call the office directly and send emails to council members.

The small size of Richmond seems to be both an advantage and a disadvantage. The small size, according to the city manager, means that the administration is very close to the community and is able to provide services to the residents when it comes to freedom of information. However, because of the small size, the town seems to still work on the system of encouraging residents to come out to meetings and doing things in person instead of having ways to communicate online.
Ray

Ray City has a website and the city keeps it up to date. That is a good start. Information provided on the site is mostly about city events, and things that the city wants to make sure citizens are aware of. Access to public information is not the strong point of the site.

- **Background Information**
  Ray City has a website located at raycity.org. The city has a population of just over 30,000 and a city budget for the 2011 fiscal year of $14 million. A list of all 509 government employees in the city of Ray, with salaries, can be found at websites.org (not a public website). Public information requests go through the City Administrator’s office and can be contacted at admin@raycity.org and 861-774-1020.

- **Basic Government Information available**
  Ray’s site provides the home information of public notices and city council agendas. There are easily found and posted on the main page. It also is easy to find contact information for people in various city offices, whether it is the town administrator, mayor, council member, or the police department. However, instead of taking another step to transparency and providing searchable public information, or at least providing suggestions, the site is best used for paying utility bills and traffic fines.

- **Collection and maintenance of data**
  Finding information on the site is not easily done in three clicks. There is a search box and by putting in a keyword and then scrolling down the page of results, what you are looking for can usually be found, but not always. Most public records do not appear to be available online.

- **Public access to information**
  To make an official request for information from Ray, requests must go to the city officials in person and fill out a form for what is wanted. This may inconvenience and almost impede transparency. City officials are working on making an online GRAMA request form to ease this process.

Policy and deliberative bodies

While public meetings are announced well advanced with agendas, and the minutes are provided afterward, an audio or video record of the event is hard to obtain. The meetings are recorded on video, but can only be seen by calling and setting for a copy. It seems that it would be easier to just post the video online and could save money by not making copies for people, and taking the time to do so.

Tooele

The city of Tooele is pretty transparent according to its website. Tooele has both a Facebook page and a Twitter account, however, both are not updated on a regular basis. The most recent Census profile is easy to access from the website. It shows that the city is at 31,491 citizens (2010 Census). The annual budget is also openly available: it is $12,201,716 for 2012. The website does not say how many government workers Tooele employs. The information technology director’s name and contact information is unavailable from the website. However, the mayor’s name and contact information is easily available.

The city of Tooele does not have a single Open Government page. The website does not have a central page for information on city council committee and task force meetings. It is not updated on a regular basis. The website does include a copy of the city’s annual, or at least the one for the year 2012. It is not as up-to-date as the website for Tooele. The website does have a chart of council members and contact information for elected city officials, but not for elected administrators. The website does contain a chart that links to different pages containing contact information of government departments and other administrative units. However, it does not have a single page with all the information. There is also a “how-to” information page for obtaining building permits. The unfortunate thing about the website is that it is not easily searchable. Visitors can only search according to a predetermined drop down list that has no search options. One must chose from these options.

The data is updated, but not always available immediately afterward. For example, the minutes of city council meetings are not posted for weeks at a time.

Tooele’s website does include information about city and county financial audits. However, it does not have a database of contractors for the city has awarded to private businesses. The website does have a list of lobbyists organizations of which the city is a member. However, instructions for obtaining public information from the city are included, with links to a GRAMA ordinance.

There is notice given for public meetings. However, there is no streaming of the meeting, either via video or podcast.
Salt Lake City

Simply put, Salt Lake City is a model of what government websites should be. Recently awarded the 2012 Sunny Award for its government transparency, the city's website presents exactly what citizens need to know concerning their government.

The website, slcgov.org, isn't the only form of communication and news; the city also maintains both a Twitter and Facebook account, with the purpose of updating citizens on breaking news.

There are no flashy dashboards or maps or audits, as well. None simply types "budget" into the search bar on the homepage, options such as "Budget," "Mayor's Recommended Budget 2011-2012," and "Salt Lake City Budget Workshop" will pop up. It's very obvious that Salt Lake City's government does its best to keep citizens in the know, and secrecy out of the picture.

Not only does the website give citizens access to phone numbers and emails of important government employees (even the mayor's), but the employees are quick to respond to any questions.

Salt Lake City also stays up-to-date on information concerning any council meetings. If a citizen misses the live broadcast of a city council meeting on www.slcgov.com, minutes are posted within 72 hours of the meeting.

Overall, Salt Lake City deserves the Sunny Award (something they also received in 2011). Their website is a fair example of an open-book government.

West Valley City

West Valley City makes it clear that transparency is an objective of their website and government. The homepage has links to some of the things they deem are most important, including the "Transparency" page. This page lists seven political officials who pledge to fulfill this duty, but not limited to "being more open than state ORM/tra laws require," open access to government salaries, Mayor and Council's schedule of events and "open" Facebook pages for all city officials. They also mention that they are one of the first cities in Utah to receive an A+ rating from the Sunlight Foundation. The "Transparency" page also links to an in-depth description of the Sunlight score which is based on the Sunshine Score 10-point checklist. This page includes the 10 items chosen to increase transparency (city budget, information on taxes and fees, etc.) and links to those items for West Valley. Other links on the "Transparency" page include elected officials public schedules, city budget, property valuation and tax, city lobbyists and stimulus funds.

The city also uses interaction between citizens and government through social media, including Facebook and Twitter. Citizens are encouraged to take advantage of these easy and instantaneous forms of communication, as well as things like emails and phone calls. Personal emails and cell numbers are listed for several government officials, including the Mayor Mike Winder. Citizens can find a direct line to those they'd like to speak to since numbers are listed for all elected city leaders and selected city administrators. It is clear the city is striving to create a website and government that is transparent as possible and helps citizens get the information they need in an easy way.

However, there are a few ways the website could more clearly communicate. It took more than three clicks to understand the layout of the website and where related links were as one clicks throughout different pages. There are also where things that the researcher only found through the website search engine, which is an effective tool in itself and did help navigate the website.

With a clearer layout and easily identifiable locations for information, the website would truly serve the community to an extremely high standard.
Counties

Barnett County

This research found the Barnett County website to be moderately accessible. The county is fairly small, but still did a good job of making information accessible. Their website is less than a year old so revisions are still being made and the County Commissioner Chairman Marc Whitney is very active in the process. Whitney said he is serious about being transparent and is open about the process and excited about the website and how it is progressing. The website was organized so that a site visitor can find information within a few clicks. Everything is organized in easy-to-use dropdown bars and there is a general search bar for other questions. If the information is not posted on the government website, it is listed with multiple ways to contact them to get the needed information. They do not have a hired IT employee but still are doing very well with the new website. They are working on getting a Twitter and already have a Facebook.

Basic government information is easily found under a few well-organized tabs. All government employees have labeled titles and adequate contact information. There is information missing about bonds and budget information.

All meeting times were posted well in advance. Documents and notes of meetings were also posted online for anyone to look up. There was also an option to submit items to be brought up in future meetings as well. Everything seems to be readily shown and accessible for government documents. They do not, however, have any links to ORAMA or the transparency website. By searching ORAMA request they have very detailed information request data that would allow citizens to request information at any time.

Almost 100 percent of the information is accessible to the public at any time. From the contact with the project researcher, leaders have a goal of making their government information public.

In sum, the research found the website and county to be very open. Leaders have a committed attitude to being transparent to the best of their abilities. They are also working to improve their website so that it will be much more transparent in the future.

Duchesne County

Duchesne County's website looks as if officials there have tried hard to put everything that can online and within easy access of the public, keeping residents informed and up to date on everything that is happening in the county. However, improvements can be made.

The county has some strong points of having people to gain access to most of the information online and within easy grasp. All of the minutes for the meetings that have taken place are put within easy access on their government website, along with upcoming events and meetings. They also do well in putting their budgets and audits in PDF formats and linking them into the website. In this way, Duchesne County has done very well in providing easy access to anything that might concern the public in the area.

In addition, the website has several tabs that are easy to navigate and clear to follow that allows everyone to see how to file ORAMA requests, get building permits and similar functions. All of the county employees are listed on a website, with salaries and their job titles listed, but all of the elected officials, with the exception of the sheriff, do not have any contact information.

As it stands, Duchesne County could improve in their transparency to the public. Their Facebook page and Twitter account seem to be the only way that no one has to look to have touched either one in at least a couple of months. Neither one seems to be very transparent to anyone other than whatever set up the accounts.

The big problem seems to be the fact that there is no contact information available on anyone that works in the county, again with the exception of the sheriff, who has everything from an email address to a telephone number.

It appears that Duchesne County has attempted to display basic information to the public, and provide minutes with updated events and minutes of all their meetings, and the list of all of it. However, the site falls short when providing contact information. There is also no video or audio of any of the meetings, restricting the access to just the PDF formats of each of these, and the names and titles of the employees.
Salt Lake County

The Salt Lake County website offered the majority of basic information in easily reachable places. Obviously, most patrons of the site are not part of a task force trying to scavenge transparency, unlike and a researcher said she therefore is finding addressing more generally expected needs. Right above a sliding banner with information about events in the community, are the four largest links on the site: Jobs, Directory, Calendar and Public Meetings. To the left is a sidebar that begins with a hyperlink to the mayor’s link and contact information and below that are links labeled Council, Other Elected Officials and Tax Information. Finally, the site offers more options below that will link to pages in a detailed index and an option for links to other Departments and Agencies.” Overall, the researcher found all of these links placed appropriately for the average citizen.

Beyond the front page links and locations became less clear. The researcher said she felt as she searched for more detailed issues, such as the audit reports, that I had very little direction to go on, like reading a recipe where the terms for the average person are unfamiliar. In order to find the audit and, for example, the GRAYA application page, I nearly always ended up just using the cursor and search box to locate them. As the researcher worked with county employee Lance Brown, she realized it was only his intimate understanding of what is in each department that enabled him to find those topics not usually found on the well-organized path. In fact, he was nearly always just exploring right along with the researcher, though granted with that said knowledge.

There appears no distinct effort for transparency. Again, the website is well built for those looking for local events and jobs or even tax information. In fact, however, local efforts for even transparency. Budget totals and number of government employees are plied deep under pages of PDF downloads and in some cases it was neither clear to me nor known whether certain information – like the IT director – was on the site at all. As far as Brown and the researcher could tell, there is no way of knowing whether the site downloads a trekker onto one’s computer while visiting the site.

There is difficulty reaching individuals. Locating the numbers for the right people sometimes posed a challenge, especially when non-working numbers were listed. A number of individuals had installed voicemail’s saying that their number had changed – something that was not reflected in the site. Even for the working numbers, voicemails were nearly all the researcher received and in one case, a man who declined to help due to other engagements couldn’t think of anyone to pass the researcher onto. – leaving the researcher at square one.

Salt Lake County

Salt Lake County's website is saltlake.gov. The county’s website has a Facebook page, but they do not post updates, and it's not entirely clear what the site's purpose is. According to the 2010 Census, the population of Salt Lake County is 2,500,000. I could find information on their annual budget. Their administrative contact information didn't include any names. Just an address: PO Box 157, 160 North Main, Salt Lake City, UT 84103. There was a phone number (801-328-6100) and a fax number (801-328-6108). There was a link to send an email, but nothing came up when I clicked on it. The site's government information was available on their website. There's no single page to find all of this information, but there is a drop down menu on their main website for their government information. The county's website links don't have a page for information on taxes or fees, but it did link to the tax website [tax.saltlake.gov](http://tax.saltlake.gov) for information on taxes or fees. The researcher couldn't find the budget in any of this information.

The website did include names and contact info for elected county leader, but not un-elected administrators. It did provide a chart for the government departments and administrative units, etc.

There were no city or county financial audits included in the website, no database of contracts with private businesses, and no list of lobbying organizations that the county is a member of. The county did, however, provide instructions for how to request GRAYA forms and other information about the county. There was also a place explaining how to apply for building permits. There was also a place listing all city ordinances, codes, policies and procedures.

The information on Salt Lake County's website was available at no cost and with no apparent obstacles by the county or licensing, or terms of service conditions, but it didn't seem as if they were going out of their way to give out public information. The researcher said it was hard to find and it seemed outdated.
The Washington County is in the southwest area of Utah. The county has its own account in the main social websites, like Facebook and Twitter, where they post content, for example, the current meeting information and location. Its own website, westwashingtonco.gov, is easy to access and it provides important information that anyone can access with a few clicks. The website has an information search, department information, etc.

It took the researcher longer than three clicks to find more specific information. (And he simply hasn't been posted on their website.) The researcher called Dean Cox, the county’s public information officer. Cox was willing to help and provided all the information that the researcher asked for. He explained how to get to the page where the annual budget of the county is available. He also provided the information that was not on the website. Take for example the number of the county’s employees, which is 450. The county’s annual budget is more than $20 million and the website lists how this budget has been spent. On their treasurer’s office page, they have a useful link that guides the visitor straight to the treasurer’s office information.

To find information such as the salaries of the county’s employees, I had to go to a different website (http://www.washco.com). Washington County doesn't stream their public meetings live on the internet through a video chat or an audio podcast. The website also doesn't have a search bar, that would help visitors to find information quickly.

Overall, Washington County’s website provides information about the basic things that visitors usually look for. They could make it easier to find their financial data by simply adding a search bar.

### Appendix D

**SALT LAKE TRIBUNE POLL OF 635 REGISTERED UTAH VOTERS CONDUCTED APRIL 9-13**

**BY MASON-DIXON POLLING & RESEARCH, INC. MARGIN OF ERROR +/- 4%**

**QUESTION:** Would you support or oppose using tax dollars to make local government records and information more accessible online? Is that strongly support/oppose or somewhat support/oppose?

<table>
<thead>
<tr>
<th>STATE</th>
<th>SEX</th>
<th>PARTY ID</th>
<th>RELIGION</th>
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<tbody>
<tr>
<td>Men</td>
<td>Women</td>
<td>M</td>
<td>F</td>
<td>LDS</td>
</tr>
<tr>
<td>ST SUPPORT</td>
<td>24%</td>
<td>24%</td>
<td>18%</td>
<td>13%</td>
</tr>
<tr>
<td>EM SUPPORT</td>
<td>44%</td>
<td>47%</td>
<td>43%</td>
<td>44%</td>
</tr>
<tr>
<td>EM OPPOSE</td>
<td>15%</td>
<td>12%</td>
<td>17%</td>
<td>15%</td>
</tr>
<tr>
<td>EM OPPOSE</td>
<td>10%</td>
<td>10%</td>
<td>14%</td>
<td>11%</td>
</tr>
<tr>
<td>UNDECIDED</td>
<td>19%</td>
<td>7%</td>
<td>12%</td>
<td>15%</td>
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</tbody>
</table>

**QUESTION:** In your opinion, how important is online access to local government records and information? Is it very important, somewhat important, not too important or not important at all?

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<tr>
<td>Men</td>
<td>Women</td>
<td>M</td>
<td>F</td>
<td>LDS</td>
</tr>
<tr>
<td>VERY IMP</td>
<td>54%</td>
<td>42%</td>
<td>25%</td>
<td>17%</td>
</tr>
<tr>
<td>EM IMP</td>
<td>50%</td>
<td>49%</td>
<td>51%</td>
<td>53%</td>
</tr>
<tr>
<td>NOT TOO IMP</td>
<td>25%</td>
<td>30%</td>
<td>14%</td>
<td>22%</td>
</tr>
<tr>
<td>NOT IMP</td>
<td>63%</td>
<td>47%</td>
<td>7%</td>
<td>7%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>18%</td>
<td>2%</td>
<td>0%</td>
<td>2%</td>
</tr>
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</table>

**QUESTION:** How important is it to you that online local government records and information are in a searchable, sortable and downloadable format? Is it very important, somewhat important, not too important or not important at all?

<table>
<thead>
<tr>
<th>STATE</th>
<th>SEX</th>
<th>PARTY ID</th>
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<tbody>
<tr>
<td>Men</td>
<td>Women</td>
<td>M</td>
<td>F</td>
<td>LDS</td>
</tr>
<tr>
<td>VERY IMP</td>
<td>38%</td>
<td>41%</td>
<td>35%</td>
<td>37%</td>
</tr>
<tr>
<td>EM IMP</td>
<td>40%</td>
<td>43%</td>
<td>34%</td>
<td>50%</td>
</tr>
<tr>
<td>NOT TOO IMP</td>
<td>23%</td>
<td>26%</td>
<td>12%</td>
<td>0%</td>
</tr>
<tr>
<td>NOT IMP</td>
<td>6%</td>
<td>3%</td>
<td>1%</td>
<td>4%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>16%</td>
<td>18%</td>
<td>-</td>
<td>-</td>
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</tbody>
</table>
QUESTION: How important is it to you that your local government pledges to provide citizens with greater access to government records and information online? Is it very important, somewhat important, not too important or not important at all?

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<tr>
<th>SEX</th>
<th>PARTY ID</th>
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<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>VERY IMP</td>
<td>33%</td>
<td>31%</td>
<td>35%</td>
</tr>
<tr>
<td>SW IMP</td>
<td>47%</td>
<td>46%</td>
<td>45%</td>
</tr>
<tr>
<td>NOT TOO IMP</td>
<td>11%</td>
<td>10%</td>
<td>11%</td>
</tr>
<tr>
<td>NOT IMP</td>
<td>3%</td>
<td>2%</td>
<td>4%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
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QUESTION: In the past two years, how many times have you attempted to access government information or records online?

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<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>NOT AT ALL</td>
<td>44%</td>
<td>36%</td>
<td>51%</td>
</tr>
<tr>
<td>1-4 TIMES</td>
<td>31%</td>
<td>34%</td>
<td>28%</td>
</tr>
<tr>
<td>5-10 TIMES</td>
<td>12%</td>
<td>11%</td>
<td>11%</td>
</tr>
<tr>
<td>&gt;10 TIMES</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
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(IF THEY ATTEMPTED TO ACCESS n=343) QUESTION: When searching online for local government records or information, has it been:

<table>
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<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>VERY EASY</td>
<td>4%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SOMEWHAT EASY</td>
<td>56%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SOMEWHAT DIFFICULT</td>
<td>32%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VERY DIFFICULT</td>
<td>9%</td>
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</table>

QUESTION: Which one of the following would be your preferred method of accessing local government records and information? (ORDER ROTATED)

<table>
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<tr>
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<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>ONLINE ON A LOCAL GOVERNMENT WEBSITE</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
</tr>
<tr>
<td>OVER THE PHONE</td>
<td>35%</td>
<td>35%</td>
<td>34%</td>
</tr>
<tr>
<td>IN PERSON</td>
<td>15%</td>
<td>15%</td>
<td>16%</td>
</tr>
<tr>
<td>NOT SURE (NOT READ)</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
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</tbody>
</table>

STATEMENT: It is important that my local government operates in an open and transparent manner. Do you agree or disagree?

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</thead>
<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>STRONGLY AGREE</td>
<td>63%</td>
<td>68%</td>
<td>67%</td>
</tr>
<tr>
<td>SOMEWHAT AGREE</td>
<td>25%</td>
<td>22%</td>
<td>32%</td>
</tr>
<tr>
<td>STRONGLY DISAGREE</td>
<td>5%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>SOMEWHAT DISAGREE</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>4%</td>
<td>4%</td>
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</tbody>
</table>

STATEMENT: Increased transparency in how local government operates and spends tax dollars would strengthen your trust in local government. Do you agree or disagree?

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<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>STRONGLY AGREE</td>
<td>63%</td>
<td>68%</td>
<td>67%</td>
</tr>
<tr>
<td>SOMEWHAT AGREE</td>
<td>25%</td>
<td>22%</td>
<td>32%</td>
</tr>
<tr>
<td>STRONGLY DISAGREE</td>
<td>5%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>SOMEWHAT DISAGREE</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>4%</td>
<td>4%</td>
<td>-</td>
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STATEMENT: It is more likely that I am more likely to be involved in local government if there were online access to meeting agendas, meeting times and contact information in advance of government meetings. Do you agree or disagree?

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<tbody>
<tr>
<td>STATE</td>
<td>MEN</td>
<td>WOMEN</td>
<td>DEN</td>
</tr>
<tr>
<td>STRONGLY AGREE</td>
<td>30%</td>
<td>34%</td>
<td>29%</td>
</tr>
<tr>
<td>SOMEWHAT AGREE</td>
<td>35%</td>
<td>35%</td>
<td>37%</td>
</tr>
<tr>
<td>STRONGLY DISAGREE</td>
<td>22%</td>
<td>18%</td>
<td>25%</td>
</tr>
<tr>
<td>SOMEWHAT DISAGREE</td>
<td>13%</td>
<td>13%</td>
<td>13%</td>
</tr>
<tr>
<td>NOT SURE</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
</tbody>
</table>
FIVE TRANSPARENCY BEST PRACTICES
FOR LOCAL GOVERNMENTS

[CITY/COUNTY] RECOGNIZES THAT TRANSPARENCY IN GOVERNMENT PROMOTES PUBLIC TRUST AND CONFIDENCE, AIDS ACCOUNTABILITY AND EFFICIENCY AND IS A KEY ELEMENT OF ACHIEVING THE GOAL OF GREATER CITIZEN ENGAGEMENT IN OUR DEMOCRATIC PROCESS. CITY/COUNTY ALSO RECOGNIZES THAT THERE IS A FINANCIAL COST TO ACHIEVING GOVERNMENT TRANSPARENCY, WHICH REQUIRES PLANNING AND A COMMITMENT OF APPROPRIATE RESOURCES. ACCORDINGLY, CITY/COUNTY HEREBYadopts in principle, and will work to implement at the earliest practicable date, the following best practices:

1. [CITY/COUNTY] WILL ESTABLISH A SINGLE "OPEN GOVERNMENT" WEBPAGE WHICH
   - complies with the standard 10-point Transparency checklist recommended by Sunshine Review and endorsed by the Sunlight Institute;
   - serves as a searchable, sortable and downloadable in bulk central repository for all public government information accessible in 3 links or less;
   - contains a searchable index or catalog of all government information;
   - publishes on at least an annual basis, if not more frequently, commonly requested data sets such as employee compensation, contracts with third-parties, police and fire requests for service, financial reports and audits;
   - contains an annual report (a) documenting the progress the city/county is making toward implementation of these Best Practices and (b) assessing and evaluating how the city/county is meeting its legal obligations under the Government Records Access Management Act, the Utah Open & Public Meeting Act, the Transparency in Governance Act, the various statutes mandating the giving of public and legal notices and other applicable state or local transparency or disclosure laws or ordinances;
   - provides an interactive forum for citizens to suggest ideas to promote transparency and otherwise improve the city’s information collection, retention, aggregation, validation and dissemination practices;
   - provides access to all city ordinances, rules, codes, policies and procedures in a searchable format;
   - contains a privacy policy which includes, among other things, a notification of any cookie placement or other tracking or information collection method;
   - employs an authentication and date-time stamping mechanism disclosing how recent the information is and who is responsible for maintaining and updating the information and the person’s contact information; and
   - contains an organizational chart and description of the government’s departments, divisions and other administrative units together with contact information.

2. GOVERNMENT INFORMATION WILL BE COLLECTED, GENERATED AND MAINTAINED IN A DIGITAL FORM AND MADE AVAILABLE ON THE OPEN GOVERNMENT WEBPAGE
   - in a timely, complete and non-discriminating manner;
   - in appropriate open formats;
   - with authoritative sourcing;
   - in computer discoverable, searchable and readable forms;
   - without unnecessary administrative obstacles;
   - at no cost to the public;
   - with no licensing or terms of service conditions;
   - with the finest possible level of granularity;
   - at a stable internet location indefinitely.

3. EMAILS, INSTANT MESSAGES AND OTHER ELECTRONIC COMMUNICATIONS MADE WITH GOVERNMENT SUPPLIED EQUIPMENT WILL BE CONSIDERED PUBLIC RECORDS AS THAT TERM IS DEFINED IN U.C.A. §§63-4-5-103(21) & (22).

4. ELECTED OFFICIALS AND NON-ELECTED SENIOR ADMINISTRATORS WILL
   - Post reasonably in advance their schedule of public events and meetings;
• maintain privacy settings as “open” or “public” on Facebook or other social networking sites where the official administers posts or discusses city/county related business;
• commit to developing a culture of transparency among employees and other officials which permeates all levels of government.

5. **POLICY AND DELIBERATIVE BODIES WILL STRIVE TO MAKE ALL PUBLIC MEETINGS TRULY TRANSPARENT**

- streaming their public meetings live on the internet either through a videocast or on an audio podcast;
- recording their public meetings and posting video or audio online within 48 hours;
- allowing citizens comment participation via a synchronous remote connection;
- posting online all agenda materials reasonably anticipated to be discussed or distributed at a meeting at least 24 hours in advance.

**Appendix “F”**

**UTAH ORGANIZATIONS WHICH ENDORSE THE TRANSPARENCY PROJECT AND “BEST PRACTICES”**

- Society of Professional Journalists, Utah Chapter  http://spjutah.com/
- The Sutherland Institute http://sutherlandinstitute.org/
- Utah Common Cause http://www.utahcommoncause.org/
- Utah Broadcasters Association http://www.utahbroadcasters.com/
- Utah Foundation for Open Government http://www.utog.org/
- Utah League of Women Voters http://www.lynvutah.org/
- Utah Press Association http://www.utahpress.com/

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**Appendix “G”**

**Selected Government Transparency Documents and Resources**

**Federal**


**Office of Government Information Services**  [https://ogis.archives.gov/](https://ogis.archives.gov/)


**Recovery.gov**  [http://www.recovery.gov/Pages/default.aspx](http://www.recovery.gov/Pages/default.aspx)

**State and local**


**4094 12/14**
Non-governmental Organizations

Utah Foundation for Open Government http://www.utgo.gov/
The Sunlight Foundation http://sunlightfoundation.com/
The Sutherland Institute http://sutherlandinstitute.org/
Global Integrity.org http://www.globalintegrity.org/
Open Government Partnership http://www.opengovpartnership.org/
Open Government Data Camp http://ogdcamp.org/
Sunshine Standard http://sunshinestandard.org/
Transparency Camp 2012 http://transparencycamp.org/
Participatory Politics Foundation http://www.participatorypolitics.org/about/

Appendix “II”
Selected Recent Privacy Developments

Obama Administration

In February of 2012, the Obama administration issued a consumer online “bill of rights” and called on Congress and federal agencies to implement the recommended protections. The report, titled “Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy,” sets forth basic tenets for protection of consumer data and echoes generally accepted privacy principles. The Bill of Rights consists of seven core rights:

- Individual control: Consumers have a right to exercise control over what personal data companies collect from them and how they use it.
- Transparency: Consumers have a right to easily understandable and accessible information about privacy and security practices.
- Respect for context: Consumers have a right to expect that companies will collect, use, and disclose personal data in ways that are consistent with the context in which consumers provide the data.
- Security: Consumers have a right to secure and responsible handling of personal data.
- Access and accuracy: Consumers have a right to access and correct personal data in usable formats, in a manner that is appropriate to the sensitivity of the data and the risk of adverse consequences to consumers if the data is inaccurate.
- Focused collection: Consumers have a right to reasonable limits on the personal data that companies collect and retain.
- Accountability: Consumers have a right to have personal data handled by companies with appropriate measures in place to ensure they adhere to the Consumer Privacy Bill of Rights.

An analysis of the report by the Locke Lord law firm may be found at http://www.lockelord.com/library/detail.aspx?y=60e35610-79a3-4ee3-bb00-e5c8e871202
Federal Trade Commission

On March 28, 2012 the Federal Trade Commission released its much anticipated final report titled “Protecting Consumer Privacy in an Era of Rapid Change.” The Report, which follows the Commission staff privacy report initially done in 2010, sets forth legislative recommendations for policymakers concerning privacy and data security and best practices for business for addressing online and offline privacy concerns. While not intended to serve as a template for law enforcement actions or a proxy for agency regulation, the FTC’s framework will impact the privacy debate and business practices in the coming years. An analysis of the report by the law firm of Davis Wright Tremaine may be found at http://www.sut.com/FTC-Adopts-Final-Privacy-Report-Reviews-Push-ForestrNat-Trace-and-Regulation-of-D ata-Problems-93.37-2011/

Legislation

Privacy legislation, at least in terms of the number of bills introduced in the last 2-3 years at both a state and national level, has been a hot topic. Dozens of bills have been introduced at the federal level. Two bills garnering significant public attention are S. 759 The Commercial Privacy Bill of Rights Act of 2011 by Senators Kerry & McCain and HR 1528, The Consumer Privacy Protection Act of 2011 by Representatives shearson & Matheson. A companion of these two bills done by the law firm of Sidley Austin LLP may be found at http://www.lexology.com/library/results.aspx?c=privacy&l=tag&t=op&k=wr&l=fr=2158

2012 U.S. Supreme Court privacy decisions

Court Upholds Strip Search of those Arrested for Minor Offenses. Florence v. Board of Chosen Freeholders (April 2, 2012)

In a 5-4 opinion by Justice Kennedy, the Supreme Court held that the suspicion less strip search of a prison detainee does not violate the Fourth Amendment. The case involved a wrongful arrest based on an invalid warrant. Justices Roberts and Alito filed concurring opinions noting potential exceptions to the Court’s general rule, such as when a detainee will be kept separate from the general prison population. Justice Breyer’s dissenting opinion argued that strip searches are an “affront to human dignity and to individual privacy,” and questioned whether they are necessary given other, less intrusive, screening methods available.


The Supreme Court unanimously held that the warrantless use of a GPS tracking device by the police violated the Fourth Amendment. The Court said that a warrant is required “unless, as here, the government obtains information by physically intruding on a constitutionally protected area.” Like a car. Concurring opinions by Justices Sotomayor and Alito urged the court to focus on the reasonableness of the suspect’s expectation of privacy because physical intrusion is unnecessary to surveillance in the digital age.

Court Holds Corporations Have No Right of Privacy. FCC v. AT&T (March 1, 2012).

In a unanimous opinion, the Court held that corporations do not have a right of personal privacy for purposes of Exemption 7(C) of the Freedom of Information Act, which protects from disclosure law enforcement records whose disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Non-governmental organizations

There are numerous NGO’s which monitor legal and legislative developments in the privacy area and advocate on behalf of consumers or internet users. Some of the more active NGO’s in this area include:

Center for Democracy and Technology  https://www.cdf.org/diaspora/amp-privacy

Electronic Frontier Foundation  https://www.eff.org/issa/privacy

Electronic Privacy Information Center  http://epic.org/privacy/

Privacy Rights Clearinghouse  http://www.privacyrights.org/

The Privacy Coalition  http://privacymonitors.org/