TRANSPARENCY AND PRIVACY
CLASHING PARADIGMS IN A WEB 2.0 WORLD

A University of Utah Honors Think Tank 2012

U Honors College
THE UNIVERSITY OF UTAH

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THE CLASHING PARADIGMS OF TRANSPARENCY AND PRIVACY

by Randy L. Dryer

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 MAKE-OVER. 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.

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.

Technology has enabled government, businesses and individuals to collect and share vast amounts of data and information, often in surreptitious

ways. We are rapidly becoming a surveilled society. Video cameras, once only positioned in banks and government facilities, are now deployed on streets, in parks and at the corner bakery. Nannycams and Kindercams are available for parents to watch their children while away.

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

THE THINK TANK DECONSTRUCTED

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.

STUDENT PARTICIPANTS

Alex Boren
is an Honors student majoring in Philosophy but he has many other academic interests, including Sociology and English. He has been involved in music for most of his life and is a member of the Ute Drumline. With no occupational or academic plans yet after graduation, Alex is enjoying his time at the University of Utah and views learning as an end in itself. He is a sophomore. He was a member of the Transparent Team.

Marianne Carpenter
is an Honors student double-majoring in Accounting and Information Systems. She is a volunteer with the US Dream Academy, an after school, mentoring organization for children of incarcerated parents, is a member of the Honors College Social Justice Scholars, and various other associations. One day she aspires to work as an information-technology security professional. She was a member of the Transparency Team.

Isabelle Ghabash
is a pre-architecture major with aspirations to start her own firm. She is also currently an Honors College Early Assurance scholar, a member of Honors Student Advisory Council, and a high school mentor with the AVID (Advancement Via Individual Determination) program. In her free time she enjoys music and travel. She was a member of the Privacy Team.

Tanner Gould
is a sophomore Honors student studying mathematics and design. He has always had a passion for politics and is excited to help change them for the better, especially at the local level. He was a member of the Transparency Team.

Lindsai Gren
a sophomore and member of the Honors Early Assurance Program, is studying English and Communications. She hopes to work in Public Relations and travel the world. Her interests include reading, cooking, snowboarding, and running. She was a member of the Privacy Team.

Niki Harris
is a pre-law sophomore majoring in English and double minoring in Business Administration and Political Science. She is an Early Assurance Scholar and an intern at the Rocky Mountain Innocence Center. She works as a copy editor for The Daily Utah Chronicle, the university's student newspaper. In her spare time, she likes to write and travel. She was a member of the Privacy Team.

Theresa Krause
is a second year Honors student majoring in Computer Science. She loves technology and the exciting new opportunities it has created, which helped her choose her major. She is a member of the founding pledge class of Alpha Phi, a national sorority and the Computer Science Undergraduate Student Advisory Committee, and the Honors College here at the University. She was a member of the Transparency Team.

Candace Oman
is a sophomore Honors student studying History and English. She hopes to pursue a career in editing, and move to New York City or Chicago. A few of her current interests include voracious reading, jewelry making, and spending time with family and friends. She was a member of the Privacy Team.

Allie Tripp
is a sophomore Honors student majoring in History and studying Emergency Medicine with plans to continue in that field as a paramedic and eventually a physician's assistant. Allie has lived in Utah for many years but is originally from Maine. She loves New England and plans to return someday. She loves kids and the outdoors so her favorite place to be is working at summer camp. She was a member of the Privacy Team.

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Tianna Tu

is a sophomore Honors student majoring in Political Science and English. She aspires to obtain a dual degree in Law and either Public Administration or Business so that she can eventually work with the State Department in developing U.S. and East Asian relations. When not spending time on school work or extracurricular activities such as the Associated Students University of Utah, Tianna enjoys hiking Utah's mountains, reading, and painting. She was a member of the Transparency Team.

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.

FACULTY ADVISORS

Randy Dryer

is the University of Utah Presidential Honors Professor and teaches at both the Honors College and the S.J. Quinney College of Law. He was the principal faculty advisor for the Transparency Team.

Corper James

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 WEBPAGE: A THINK TANK IN A FISHBOWL

The Think Tank on Transparency and Privacy is the first University of Utah class to be completely transparent and accessible to the public via the course webpage, http://campusguides.lib.utah.edu/honors.

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 course webpage 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 also will be the subject of an article to be published in the Fall 2012 issues of Continuum Magazine. Both student projects, described below, generated extensive public attention in the news media and blogosphere. A compilation of links to various news stories and posts is included in Appendix "B."

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.

STUDENT PROJECTS

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 TRANSPARENCY PROJECT.

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."

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 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

THE TRANSPARENCY "BEST PRACTICES" DRAFTED BY THE THINK TANK REFLECT THE BEST AND MOST RECENT THINKING OF EXPERTS ON GOVERNMENT TRANSPARENCY.

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.

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.

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 Unlisted Team

THE PRIVACY PROJECT.

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 smart-phones, 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.
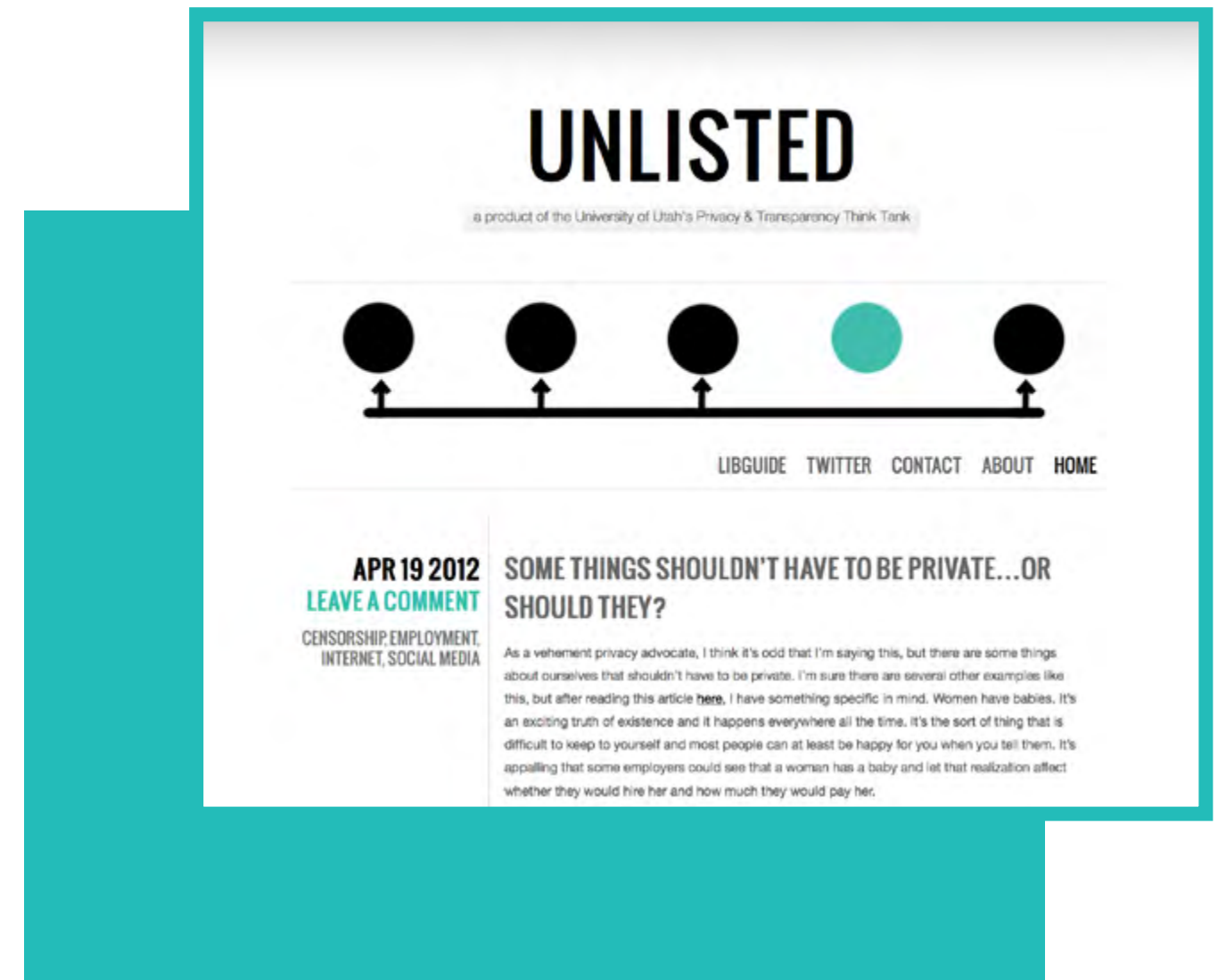
As part of the project, the Privacy Team decided to create short, clever vignettes that illustrate the new risks to privacy associated with popular social media method Facebook and on-line banking with a smart phone. **The original four vignettes** also deal with issues pertaining to workplace privacy, 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.

THE PRIVACY TEAM AT WORK PRODUCING THEIR VIDEOS

MOBILE ROBBERY
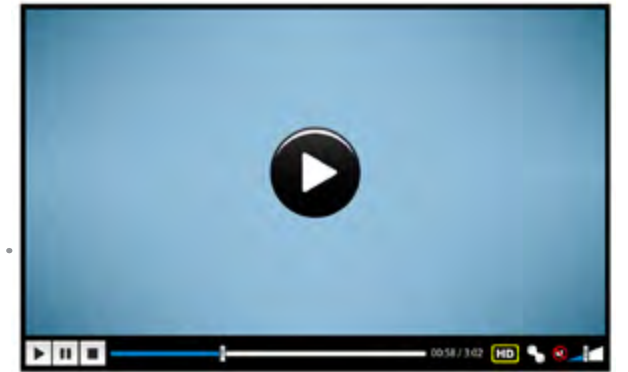
PRIVACY TODAY 101

THE ART OF SPYING ON EMPLOYEES

THE CASE OF THE MISSING HOUND

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:
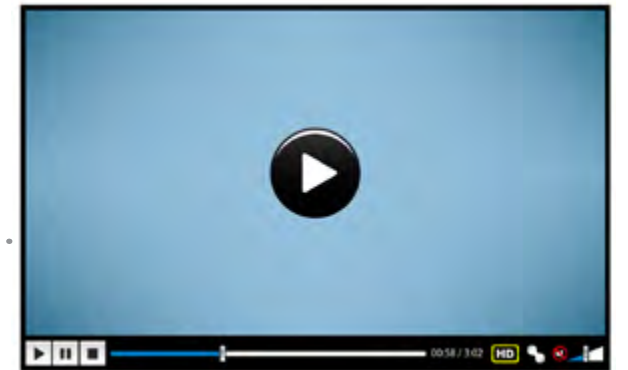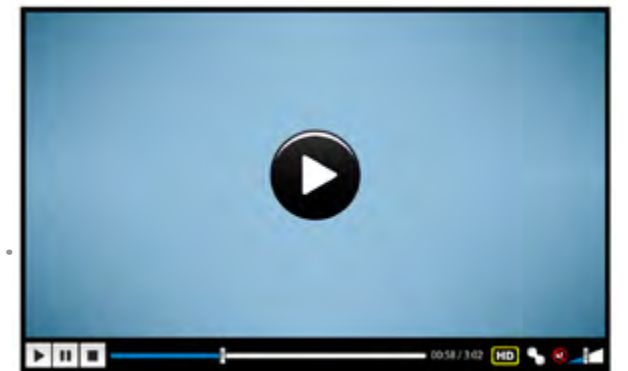
- The Internet never forgets.

- 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 private, personal 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 ////////////////////////////////

W e live in a world where a social networking site has more than 850+ million active users,[1] where Google gets approximately 1 billion unique visitors per month,[2] and where nearly 2.1 billion people use and have access to the Internet. [3] Data and information never have 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".[4] As John Adams wrote, "Liberty cannot be preserved without a general knowledge among the people...of the conduct of their rulers."[5] America's 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.[9.
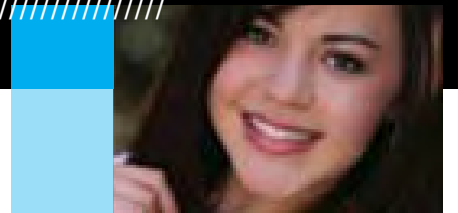
However, in most cases the positive influence of increased transparency compensates for the drawbacks. As a result of recent economic decline, the people's trust in government is failing. From a recent survey it was shown that 59% of the public is frustrated with the federal government.[6] This lack of trust could be caused by insufficient public knowledge of what the government is doing and a misrepresentation of the people's interests.

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 deserv[e] the information to craft informed opinions." The basic public right to know has persisted across the centuries.

THERESA KRAUSE AT THE TRANSPARENCY PROJECT KICK-OFF.
PHOTO BY STEVE GRIFFIN OF THE SALT LAKE TRIBUNE
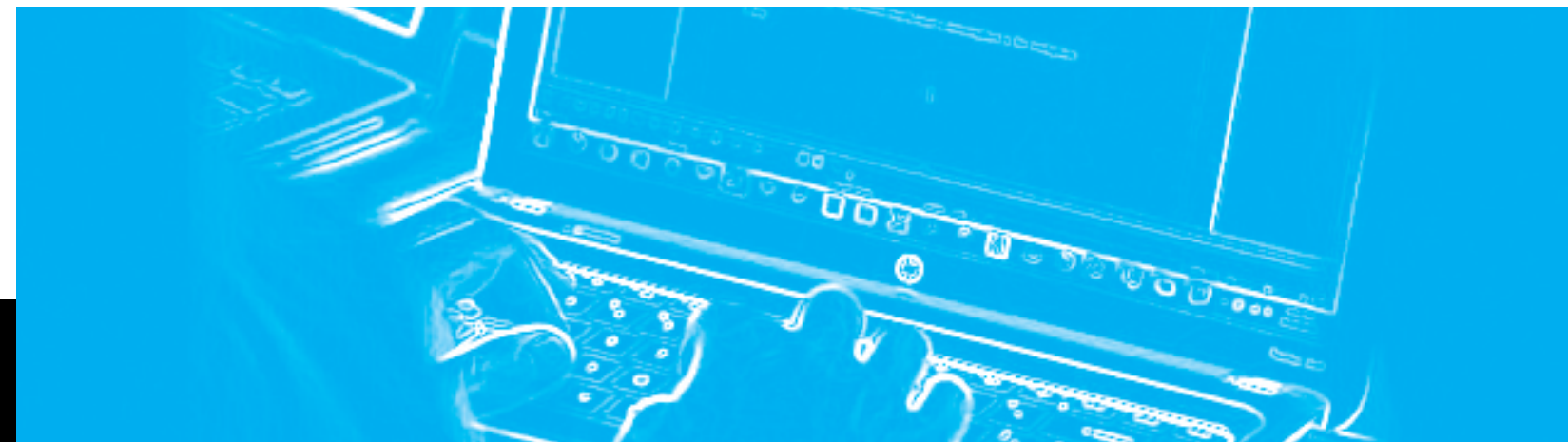
THE TRANSPARENCY MOVEMENT: NATIONALLY AND IN UTAH

By Tianna Tu   ///

America's 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.[7]

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.[8]

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. Though 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 representatives throughout policymaking decisions enhances 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... The state, its agencies, and its political subdivisions [therefore, must] take their actions openly and conduct their deliberations openly.[12]

Per state ordinance, the Open and Public Meetings Act requires that all government bodies, with very limited exceptions, provide notice to the public of the time, meeting location, and proposed meeting agendas of any government meetings where public policy is conducted. In requiring state

government entities to deliberate issues pertaining to the public in an open and transparent manner, citizens are guaranteed the right and opportunity to participate in government.

Though the concept of open governance is a foundational democratic principle, the United States Constitution does not mandate the public's right to know. Utah's Open and Public Meetings Act provided citizens with the opportunity to interact with government, but not the right to examine government documents. Until 1966, public access to government records and information was only a conceptual governing ideology championed by the Founding Fathers.

By virtue of being a representative democracy, it was implied that the United States public indisputably had a right to know the actions of the people that represented them. However, without legislative action statutorily permitting American citizens the right to know information, 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

"upon all federal departments and agencies to renew their commitment to FOIA . . . [and] its underlying principles of government openness," the State of Utah launched one of the first state government websites, utah.gov.[20] Mirrored after the Clinton administration's introduction of the whitehouse.gov, where information pertinent to national governance can be found, utah.gov serves as a digital hub for state of Utah data and information.

The Center for Digital Government has repeatedly recognized utah.gov as "the leading State eGovernment Solution," citing its easy-to-use links to other state websites and understandable format as creating an atmosphere of "government-

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 Legislature's 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

DIGITAL GOVERNMENT IS THE FUTURE OF DEMOCRATIC GOVERNANCE.

government[s] 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 FOIA or EFOIA 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, government 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 easily accessible state agency financial information.[27] SB38 also created the Utah Transparency Advisory Board, a taskforce of 10 members knowledgeable about public finance or providing access to public financial information. Supported by the Sutherland Institute, a conservative Utah public policy think, Senator Niederhauser's Utah Public Finance

Website legislation enhances eGovernment initiatives and promotes transparent governance.[28]

From conservative and liberal leaders alike, from Sen. Niederhauser to President Obama, digital government transparency is transforming what it means to have a publicly accountable government.

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,

> **FROM CONSERVATIVE AND LIBERAL LEADERS ALIKE, FROM SEN. NIEDERHAUSER TO PRESIDENT OBAMA, DIGITAL GOVERNMENT TRANSPARENCY IS TRANSFORMING WHAT IT MEANS TO HAVE A PUBLICLY ACCOUNTABLE GOVERNMENT.**

the State's official website won the international Best in Class Interactive Media Award from the Interactive Media Council. Recognized in the same category as Hong Kong (HKSAR) and Australia, utah.gov is a prime example of the prominence of 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,

"Access to public information in a timely and effective manner is a vital piece of our democratic system of checks and balances that promotes accountability and imbues trust."[31] With more citizen access to information, more citizens are engaging in the political process and enhancing American democratic principles.

Digital government is the future of democratic governance. As citizens of a globalizing community, everyone must adapt to the innovative technology of the present. The governments of the United States and Utah serve as the forerunners of a global, digital, transparent government movement.

The governments that affect citizens the closest are the governments closest to the people. As the 19th century writer Georg Buchner once stated, "Government must be a transparent garment which tightly clings to the people's body."[32] Local Utah municipalities are government entities closest to the people, and as such, must embrace the eGovernment trend and promote government accessibility and transparency. The key to engaging citizens in government is to involve them in the local governing process first. In so doing, American foundational principal of citizen democracy will be enhanced and the legitimacy of the United States will live forever. For, as President Abraham Lincoln stated, "Let the people know the facts, and the country will be safe."[33]

GOVERNMENT TRANSPARENCY:
HOW IT AFFECTS PUBLIC TRUST, SATISFACTION AND CITIZEN ENGAGEMENT

By Alex Boren //

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 accessible 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 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 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.

THE FINANCIAL COSTS OF TRANSPARENCY

// **by Marianne Carpenter**

Whenever 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 a good investment is that there is no quantifiable return on investment (ROI). When 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 electing government officials and be better able to participate and contribute to discussions regarding issues and developments in their government. Allowing constitu-

ents 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 burdensome 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 £40,000 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]

Byron Schlomach of the Goldwater Institute further validates Phibbs' argument through a study that the University of Arizona conducted in an audit of open records compliance, where they found that, once an information request was fulfilled, the requester had to cover the costs of copying the information. These printing costs can quickly add up as the state of Texas found when they implemented their transparency website. The Sutherland Institute reports:[45]

"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; $100,000 on microfilm no longer needed; and $73,000 from combining printer and toner contracts."

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."

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. Daniel 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 high costs of federal government because there is far less data to aggregate and it would presumably all be located centrally

instead 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. [48] 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.

IN REALITY, MAKING A GOVERNMENT SITE MORE TRANSPARENT WILL NOT COST A SIGNIFICANT AMOUNT OF MONEY.

TRANSPARENCY IN UTAH LOCAL GOVERNMENTS

By Tanner Gould ////////////////////////////////////

To better understand the state of transparency in Utah's local government, the Project enlisted the help of a journalism research class at Brigham Young University under the instruction of Professor Joel Campbell. The 32 students spent several weeks aggregating information about the transparency practices of 16 different local Utah governments. The sample of 16 local governments, from among the 270+ in Utah, represented cities and counties from all areas and sizes. The researchers examined and collected data on 53 different aspects of each of the chosen governments, ranging from the entities' Twitter feed and Facbook page, to the accessibility of GRAMA request forms, with many focusing online accessibility. All the Project's best practices were also included as points for research. After aggregating the data, the students composed short summaries of each examined government, highlighting their findings relating to transparent practices. These findings, which are provided in Appendix "C," proved quite revealing.

Because of the multifaceted nature of the sampling, it was expected that the degree to which transparent practices had been adopted would be quite varied. What was not expected was the extent of the variation and that the more proactive entities were not always the largest or best funded. For example Moab, a city of just under 5,000 people, fared well when judged on the research criteria. "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 facilitate access and communication," said the researcher who examined the city. Some of the city's dedication to transparent practices may be attributed to it's crucial tourism industry which requires information to be available to travelers remotely. Yet, some other small governments who's areas do not attract vast numbers of tourists seemed to understand the necessity of accessible government as well. Though, among the researched entities, for every positive transparent practice there are multiple glaring shortcomings.

Some of the most commonly overlooked and easily remedied practices were; web pages for taxes and fees, accessible budgets, databases of contracts awarded to private businesses, forums for citizen interaction and collaboration, neglected or missing Facebook pages or Twitter accounts, and others. In their summaries, researchers often commented that government officials cited lack of time, funding, and citizen interest for the absence of transparent practices. When questioned why his city had stopped posting minutes of city meetings, one representative stated that citizens were not interested in accessing, and that they are not missed now that they are gone. Yet, many of the shortfalls require little manpower or capital investment, but may take time to gain widespread usage. One of the most commonly neglected point was online video streaming of public meetings. This can be accomplished with a standard computer, an inexpensive web cam, and a stable internet connection. Online viewing capabilities are provided free by several private and public websites. This could be especially effective in rural communities when some citizens may live long distances from where meetings are held, yet only two researched entities had enacted such a practice.

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.

Even though local governments routinely cite budgetary constraints and citizen apathy when refusing to govern openly, the citizens of Utah disagree with that reasoning. When asked, "Would you support or oppose using tax dollars to make local government records and information more accessible online?"

65% of respondents replied that they would, while 25% dissented with 10% undecided. Also when asked if they agreed or disagreed with the statement, "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,"

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.
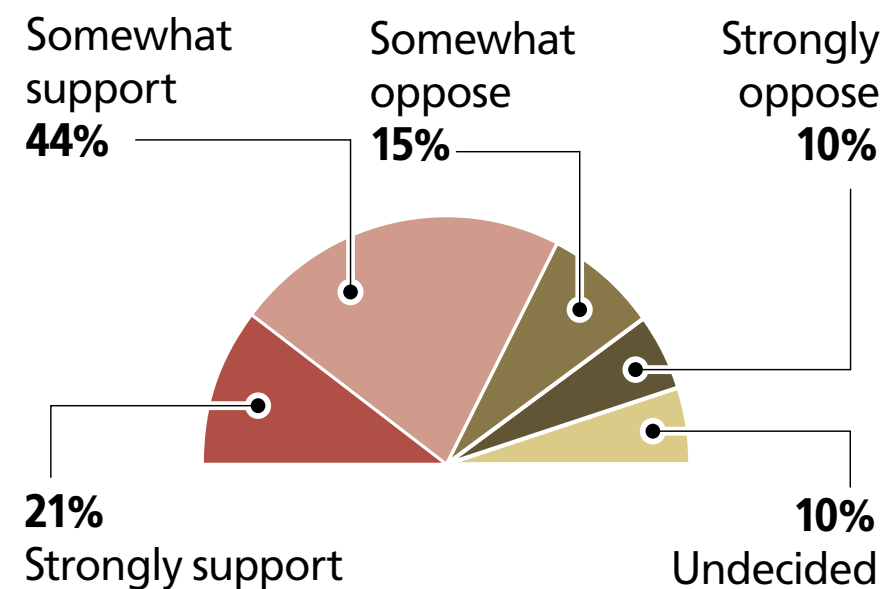
Another question revealed that 85% of respondents found it important that local government records and information be accessible online. And yet another illuminated the fact that, of those who had attempted to access a government record online in the past two years (majority of respondents had), 60% 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.

Somewhat support **44%**

Somewhat oppose **15%**

Strongly oppose **10%**

21% Strongly support
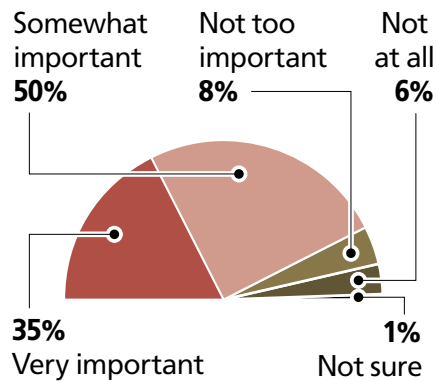
10% Undecided

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 difficuly 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?

Somewhat important **50%**
Not too important **8%**
Not at all **6%**
35% Very important
1% Not sure

How important is it to you that online local government records and information are in a searchable, sortable and down-loadable format?

Somewhat important **46%**
Not too important **12%**
Not at all **3%**
38% Very important
1% Not sure

How important is it to you that your local government pledges to provide citizens with greater access to government records and information online?

Somewhat important **47%**
Not too important **11%**
Not at all **3%**
39% Very important
1% Not sure

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

Not at all **44%**
1 to 4 times **31%**
5 to 10 times **15%**
More than 10 **10%**

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

Somewhat easy **36%**
Somewhat difficult **55%**
Very difficult **5%**
Very easy **4%**

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

Online on a local govt. website **73%**
Over the phone **13%**
In person **13%**
Not sure **1%**

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

Strongly agree **83%**
Somewhat agree **15%**
Somewhat disagree **1%**
1% Not sure

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

Somewhat agree **26%**
Somewhat disagree **6%**
Strongly disagree **2%**
65% Strongly agree
1% Not sure

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?

Somewhat agree **36%**
Somewhat disagree **22%**
Strongly disagree **3%**
38% Strongly agree
1% Not sure

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.
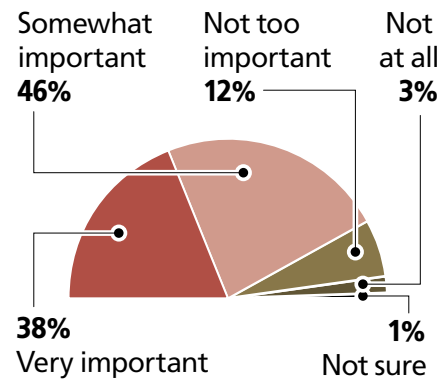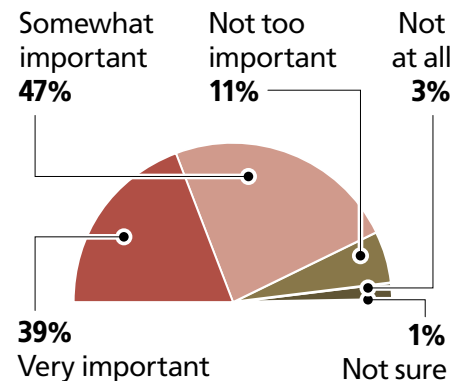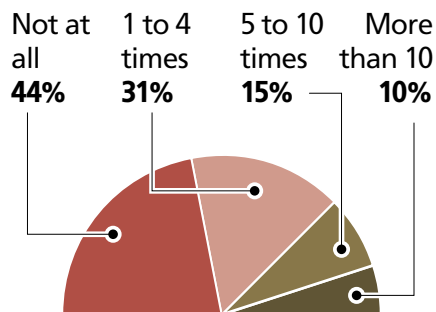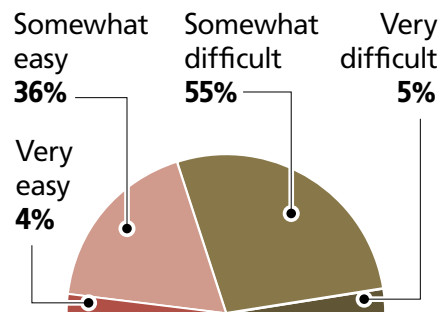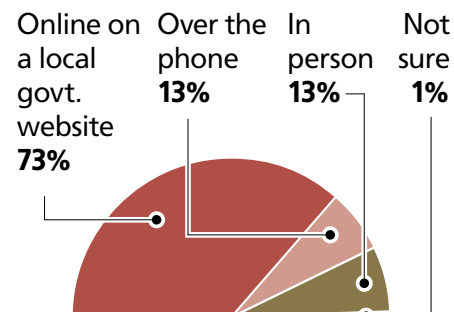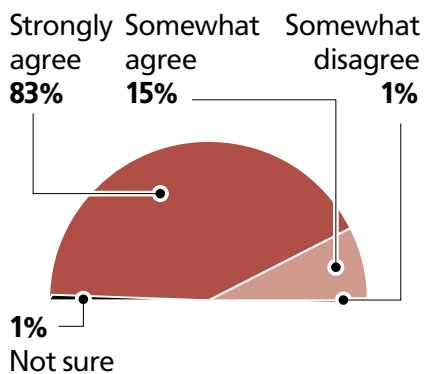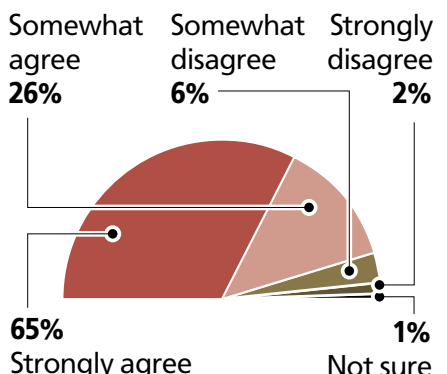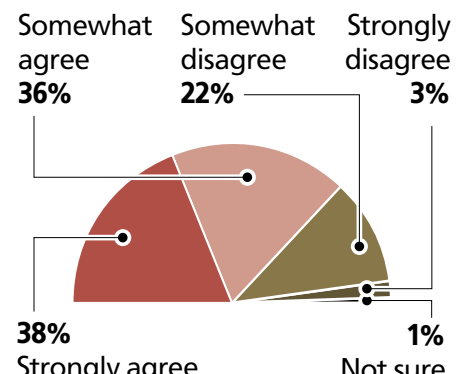
RECOMMENDED TRANSPARENCY PRINCIPLES/ BEST PRACTICES FOR UTAH LOCAL GOVERNMENTS

The Transparency Teams 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 EFFICIENY AND IS A KEY ELEMENT OF ACHIEVING THE GOAL OF GREATER CITIZEN ENGAGMENT 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;

- 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-G-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 was private 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 they enjoy a right to personal privacy, but in increasingly large numbers they are perfectly willing to waive that right when it comes to social

media. Any government agency, private party, neighbor, or ne'er-do-well now has nearly unlimited access to personal information. Any individual can be "googled," and one's private life and history may be instantly available.

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.

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 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?

LIFE AND DEATH: A MATTER OF PRIVACY?

By Allison Trip ////////////////////////////////
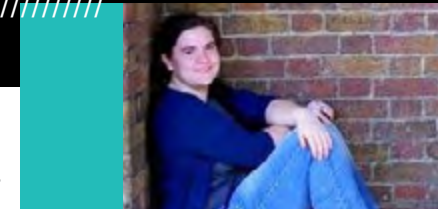
When it comes to issues of privacy, people commonly hold strong opinions and values, and don't hesitate to express them to whoever is willing to listen, especially if that person is willing to argue a different view. But how much do people really know about biometric data collected with and without their 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/

palm printing, iris recognition, facial recognition, scent, hand geometry, lip-printing and DNA. Behavior biometrics are identifying behaviors that are difficult or impossible to consciously alter for any significant amount of time. They include typing rhythm, gait, handwriting and voice recognition. Although it is sometimes debated, voice recognition is placed under behavior because the technology used to analyze the data focuses more on speech patterns, in which a person unconsciously chooses to speak with certain inflections at certain times, than on the physical structure of the vocal chords, which are capable of producing a certain range of pitches and tones for each person.

How accurate are identifications made using biometric data? DNA testing is the most accurate way to make an identification, with only a one in three trillion chance of a false positive, provided the lab technician makes no mistakes in the preparation of the sample being analyzed. [51] Fingerprinting and, perhaps surprisingly, handwriting[52] are

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 station 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.

24 HR VIDEO SURVEILLANCE

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, drug/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.[61] 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.[62]

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?

INTERNET COOKIES: NOT AS INNOCENT AS THEIR CHOCOLATE-CHIP COUNTERPARTS

By Lindsai Gren ///////////////////////////////////////

Online use tracking is the gathering of personal information through a variety of means over the Internet. Bil 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."[63]

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."[64]

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 referrer information. The referrer 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.[65]

There are two different kinds of cookies used in Internet tracking. First-party cookies collect information that is necessary for recognition on many websites.[66] 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 advertiser.[67] This data allows advertisers to build a browser history of the users who visit the websites that they 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.

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

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

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 than 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

over a decade ago, they create an ever-present issue in society today. Today's technology-based society provides a fertile feeding ground for Internet tracking and data collection by cookies, which may have adverse effects for Internet users. While the privacy risks have prompted the creation of systems such as "Do Not Track" headers, designed specifically to combat cookies, the lack of transparency and collaboration between these systems, the websites responsible for placing cookies, and Internet users means that often these efforts are in vain. Many websites do not adhere to the guidelines created by "Do Not Track" headers, and cookies from those websites slip through the header and continue to track the user. Meanwhile, the user feels a false sense

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.

TRUE OR FALSE:
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 — largely due to the First Amendment's inclusion of the right to free speech. It is a safeguarded avenue to share opinions that many would otherwise keep to themselves. The danger is when the right to anonymous speech is misused and diverges from perilous truth to malicious lies. At what point does anonymity become more trouble than it is worth? A similar delicate balance must be struck with anonymous litigation. Anonymity is granted to protect the individual, but where does it have an unacceptably adverse affect on the rights of others? These indistinct boundaries have created issues in and out of the court.

In general, the phrase "voluntary privacy" describes the process by which information is considered private information, by what mechanisms that sort of information can be shared, and with whom it can or should be conveyed. "Voluntary" simply refers to the fact that individuals need to willingly disperse their information by whatever means they feel safe using, rather than having the choice taken away from them. Examples of information that is typically considered private includes names, addresses, phone numbers, social security numbers, monetary information, locations, photographs, relations, friends, age, sexual orientation, along with religious and political affiliations. There are several instances where sharing or withholding this data is the subject of privacy disputes because of how it may negatively impact others. Equilibrium of the rights of both must be established, but how? The specific types of situations that will be further discussed include anonymous speech, anonymous litigants and the use of social media websites.

For many, the right to anonymous speech may seem unequivocal. However, there are many who feel that the protection gives too much license with what can be said. Perhaps the most significant court case dealing with the issue is McIntyre v. Ohio Elections Commission, which reached the United States Supreme Court. The case began when Ms. McIntyre distributed anonymous political leaflets urging constituents to vote a specific way on an issue; it was signed only "Concerned Parents and Tax Payers". She was prosecuted and fined; she fought the ruling and it was eventually taken to the United States Supreme Court.1 Noting the country's substantial support for anonymous speech, the Supreme Court's final determination was that the law in question was not specific enough to prevent only libel, it also hindered truthful anonymous statements.1 The ruling did not support anonymous speech without reservations, however. It pointed out that there were elements that affected whether required disclosure could be constitutional; those specifically mentioned include whether individuals are acting independently with their own resources, if it is a ballot issue, and time parameters.1 Other factors were left to states to interpret, which they did. Virginia has a statue that limits the scope of anonymous speech with regard to even potential nominees or candidates; New Jersey put a $500 limit on anonymity — spend any more than that and a name and address must be provided; and Connecticut determined that whether an individual acts alone or with a candidate affects the acceptable allowance of anonymity.[81]

Last year, there was an uproar from signees 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 signees' 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

> 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.

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. Third, any reasonable signer 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 statutorily 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 justified. 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 offered 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 was an example of 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

the school. These comments caused Heller to lose her summer job and led to a hospitalization.[83]

An example of the current state of cyberstalking laws can be clearly seen in a case from Renton, Washington. An anonymous YouTube user known as "MrFuddlesticks" was prosecuted by the local police department for uploading videos that made fun of their recent scandals.4 In Washington, cyberstalking is defined as using an electronic medium to embarrass another person. The videos uploaded by MrFuddlesticks ridiculed the departments' missteps without mentioning any individual by name; however, the Renton police convinced a judge to issue a warrant demanding Google to release MrFuddlesticks' account details, which included his credit card information and even his gmail messages contents.4 When the judge's warrant was challenged on First Amendment grounds, he issued a stay on the matter, and in the days following, the Renton police department decided to pursue a case of "harassment and discrimination" instead.[84] Chief Administrative Officer Jay Covington denies that the cartoons are protected by free speech saying, "This does not have anything to do with violating First Amendment rights."[85]

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? Aren't 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]

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.[87] 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 joking, 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 a right that 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 that is afforded for a reason; however, individuals need to remember that it isn't just a protection for them, but for others too. They shouldn't be using their shield to beat up their fellow citizens.

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 contract or not.

The National Labor Relations Board has taken action in a pivotal case in Connecticut involving how far workplace privacy extends – and appeared on the side of the employee, defending privacy rights. As the decisions in courts receive more attention, the working world begins to be increasingly structured in a manner that follows the direction provided by those courts. Staying aware of the ways you are being watched in and outside of the workplace is vital to understanding what rights you have and what claims you can make regarding your personal privacy.

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.

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, weeding 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 "employers who monitor Web traffic in the traditional manner create a picture window on their employees' private lives," says Lewis Maltby, 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.

TWO THIRDS EMPLOY TACTICS AND SOFTWARE TO PREVENT INAPPROPRIATE USE OF TIME ONLINE.

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 company 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 concerted employee networking, like information found on blogs, Twitter, MySpace, Facebook, and other social media networking sites. Congress passed the SCA to prohibit a provider of an electronic communication service "from knowingly divulging the contents of any communication while in electronic storage by that service to any person other than the addressee or intended recipient."

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]

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 publicized 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

NLRB also alleged that AMR had overbroad policies in its employee handbook regarding blogging, posting on social media sites, and electronic communications between employees. [102] The case is groundbreaking because it demonstrates that criticism on social media websites may be

classified as protected concerted activity; it is also the first time that the NLRB has stepped in on an employee's behalf to argue that employer criticisms by employees on social media sites are protected by federal law.[103]

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 her supervisor on her own personal Facebook wall, including one that read "love how the company allows a 17 to become a supervisor;" "17" was AMR's lingo for 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.

GOVERNMENT INTRUSIONS ON PERSONAL PRIVACY

By Isabelle Ghabash ////////////////////////////////
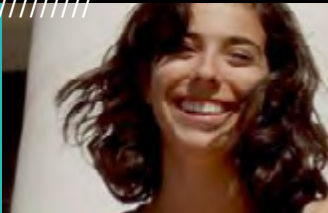
A debate has arisen at every point in our country's history when the government perceives a threat: What is the appropriate balance between national security and civil liberties? Does the protection of a free society require the relinquishment of some freedom? Historically, the United States has responded 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 activities of the government have often overstepped the Constitution's bounds.

Much of the controversy surrounding government surveillance centers on the Fourth Amendment, which reads:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[107]

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?

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 enough to withstand foreign threats.[108] The President was allowed to deport any person who was deemed dangerous to the nation or who was from a country at war with the U.S. These laws also made the publication of material critical of the government or one of its officials a punishable misdemeanor.[109]

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 the 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 and members 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 discredited, 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 figurative 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")[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 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).xiii 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

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 discretionary freedom. 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.

THE PATRIOT ACT ALSO VIOLATES THE CLOSING LINE, THE "PARTICULARITY" CLAUSE, OF THE

a terror suspect's business, medical, library, and other records without their consent or knowledge[117], and Section 213 allows secret "Sneak and Peek" searches — done with no prior or delayed notice — of a person's property, including their home.[118] The Fourth Amendment continues, "…and no warrants shall issue, but upon probable cause, supported by oath or affirmation…", yet Section 505 of the PATRIOT Act greatly lessened the standards of probable cause needed to issue a National Security Letter (an order for an institution to hand over detailed records of a person

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,

THINK TANK STUDENTS HARD AT WORK IN CLASS

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 when drafting our Best Practices. I did not realize the easy steps that can be taken to make government more accessible to its citizens. Even just making sure that public meeting times are posted in advance on a website, or even simpler, just creating a website for local government.

> 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 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

> 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.

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, as 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.

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 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.

KEEP UP TO DATE WITH TECHNOLOGY. IT MOVES FASTER THAN YOU KNOW.

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 desnewssuckshardcore752 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'd turned 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.

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.

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,

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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.

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.

> 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.

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 unfathomable, 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.

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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

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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.

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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".

A SPECIAL THANKS

TO OUR COMMUNITY COLLABORATORS...

The Salt Lake Tribune

Nancy Conway • Terry Orme

Johnson & Johnson

Bryant Ison

absolute
COMMUNICATION
THE UNIVERSITY OF UTAH

Prof. Kevin Bischoff • Students

BYU
JOURNALISM CLASS

Prof. Joel Campbell • Students

LOVE
COMMUNICATIONS

Tom Love • John Youngren • Bret Ivory

... AND TO OUR NUMEROUS GUEST PRESENTERS WHO ARE LISTETED IN THE COURSE SYLLABUS (APPENDIX "A")

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

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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 spurred calls for greater transparency in our institutions, particularly in government and in society in general. The "transparency movement" was solidified by the election of President Barack Obama and his Open Government Directive in December, 2009. State and local governments have also embraced the concept of open government as the digitizing 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 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 end-game 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 often-times 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 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 weighted and balanced privacy vs. 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 sharing and inter-connectivity, unavoidably fosters both personal and institutional transparency and undermines 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 as 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 aspect of privacy and/or transparency which will have educational value and/or social utility beyond the course.

COURSE STRUCTURE AND FORMAT

In keeping with the subject of the Think Tank, students will participate in 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 product. The LibGuide will be publicly accessible and is available at http://campusguides.utah.edu/Honors. Each class will also be videotaped 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/volunteer for a specific substantive subtopic for which they will become the class resident expert and will be responsible for preparing a 10-12 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 videotaped and also posted. Initial team assignments and topic assignments will be made on the first day of class. Students will have 24 hours in which to swap assignments with another student if they so desire.

Students are encouraged to use graphics, slides, audio, videotape and other communications technologies in their presentations (see presentation tips under the tab "Student Presentation") and include hyperlinks to available resources in their papers (see paper tips under tab "Student Papers").

One student is designated each week to act as the "class scribe" and post on the LibGuide notes summarizing the week's classroom lecture 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 / GUEST PRESENTATIONS

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

OFFICE HOURS

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

Randy Dryer (801) 403-5207 9:00 a.m. - 11:00 a.m. M-F
Corper James (801) 359-3663 9:00 a.m.- 12:00 p.m. Friday

Librarian Craigle is available on an as needed basis by email at valeri.craigle@law.utah.edu or by telephone at (801) 585-5475.

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 their 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 2-3 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 research paper and 20-30 minute oral presentation to the class on an assigned privacy/transparency topic.

8. Work within a team to produce at the end of the year a high-quality work product, addressing some aspect of privacy and/or transparency, which will have education 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 bios 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	Draft detailed description of team project
April 5, 2012	Team One presentation of final project to class
April 12, 2012	Team Two presentation of final project to class

GRADING

A student's grade is primarily formulaic 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 students requirements, is disruptive in class or their working 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 III 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 action 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, 581-5020 (V/TDD). 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 structures and format 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 Masiello and Alma Whitten (2011)

Presenters:

- Randy Dryer, Corper James, Valeri Craigle

Student Presenter(s)

- (Not Applicable)

Student Scribe

- Alex Boren

WEEK TWO: September 1, 2011 Institutional Privacy & Transparency: Overview

<u>Topics:</u>

- 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

<u>Readings/Viewings:</u>

- "Transparency," a Gramicus white paper
- Against Transparency; The Perils of Openness in Government, Lawrence Lessig (Oct. 9, 2009).
- The Open Government Directive (December, 2009).

<u>Presenters:</u>

- Randy Dryer, Valeri Craigle

Student Presenter(s)

- (Not Applicable)

Student Scribe

- Sam Totten

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

<u>Topics:</u>

- Facial recognition/biometric technology
- Airport body scans

<u>Readings/Viewings:</u>

- FTC Complaint in the matter of Facebook, Inc. and the Facial Identification of Users (June 10, 2011)
- Review Biometrics Research Group website at http://biometrics.cse,msu
- How a New Police Tool for Face Recognition Works, Wall Street Journal (July 13, 2011)
- Channel 10 (Detroit) News video on "MSU," "Face Finder Project,"
- Opening brief of petitioner in <u>The Electronic Privacy Information Center, et al. v. Janet Napolitano, et al.</u>. Case No. 10-1157 (U.S. Court of Appeals, D.C. Circuit)
- Brief of Respondents in <u>The Electronic Privacy Information Center, et al. v. Janet Napolitano, et al,</u>. Case No. 10-1157 (U.S. Court of Appeals, D.C. Circuit)
- Reply Brief of Petitioner in <u>The Electronic Privacy Information Center, et al. v. Janet Napolitano, et al.</u>. Case No. 10-1157 (U.S. Court of Appeals, D.C. Circuit)

<u>Guest Presenter(s):</u>

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

<u>Student Presenter(s)</u>

- Allison Tripp

<u>Student Scribe</u>

- Christiana Tu

WEEK FOUR: September 15, 2011 Individual Privacy & Transparency:
                                        Voluntary Privacy

Topics:

- Anonymous speech

- Anonymous litigants

Readings/Viewings:

- "A Case for Pseudonyms," 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 webcast by attorney Chuck Tobin (2011

- Anonymous bloggers & the First Amendment: When & How Your Company Can Identify its John Doe Defendants, Michelle Sherman , Esq. (July 25, 2011)

- The defense of Online Anonymity: The Google + Policy is Wrong, Sarah Jacobsen Purewal (July 26, 2011)

- John Doe v. Megless, et al., Case No. 10-4110, United States Court of Appeals for the Third Circuit (August 1, 2011)

Guest Presenters:

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

Student Presenter(s)

- Candace Oman

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/

- The Obama Administration's Open Government Directive: Issues for Congress, Congressional Research Service Report (January 28, 2011)

- 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 Presenter(s):

- Rich Olsen, General Manager, Utah Interactive NIC e-government provider

Student Presenter(s)

- Tanner Gould

Student Scribe

- Nicole Harris

WEEK SIX: September 29, 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 usaspending.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. Secrecy Laws and Increase Oversight of the Secret Security Establishment. Report by Mike German and Jay Stanley (July 2011)

- http://sunlightfoundation.com/policy/documents/testimony-ellen-miller-house-oversight-and-governm/

- http://sunlightfoundation.com/policy/documents/ten-open-data-principles/

Guest Presenter(s):

- Daniel Schuman, The Sunlight Foundation, Washington, DC

Student Presenter(s)

- Marianne Carpenter

Student Scribe

- Candace Oman

WEEK SEVEN: October 6, 2011   Individual Privacy & Transparency: Location
                                  Tracking & Privacy

Topics:

- GPS tracking

- Four square, Facebook places, Gowalla, etc.

- Google Street Views

- Google maps

- Video surveillance

Readings/Viewings:

- No Place to Hide: First Amendment Protection for Location Privacy, Ted
  Claypole (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 30, 2011

- The Geolocation Privacy and Surveillance (GPS) Act and "Frequently
  Asked Questions" on the Act posted by Senate sponsor Ron Wyden

- Law Enforcement Use of Global Positioning (GPS) Devices to Monitor
  Motor Vehicles: Fourth Amendment Considerations, Congressional
  Research Service Report (February 28, 2011)

- Lillie Coney Testimony before Congress at
  http://epic.org/privacy/surveillance/coneytest060706.pdf

Guest Presenters:

- Lillie Coney, Associate Director
  Electronic Privacy Information Center
  Washington, D.C.

- Justin Brookman
  Center for Democracy & Technology
  Washington, D.C.

Student Presenter(s)

- Alex Boren

Student Scribe

- Allison Tripp

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. Rolando S., Case No. FO61153, in the Court of Appeals of the State of California, Fifth Appellate District (July 21, 2011)

- Gun Advocacy Group Continues Illinois Litigation (Chron.com , Aug. 24, 2011)

Guest Presenters:

- Alice Siempelkamp
  RATB, Washington, D.C.

Student Presenter(s)

- Sam Totten

Student Scribe

- Tanner Gould

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

Topics:

- E-verify

- HIPPA

- ADA – confidentiality issues

- Drug testing

- Internet/email monitoring

- Cell phone/texting

Readings/Viewings:

- http://epic.org/privacy/workplace/

- PBS Newhour: Supreme Court Weighs In on Corporate Privacy, Employment Discrimination

- Utah Businesses Are Ignoring E-Verify Law, Salt Lake Tribune (July 13, 2010)

- Employee Medical Confidentiality – A Guide for Employers

- Everify: Wikipedia

- Drug Testing: Encyclopedia of Everday Law

Guest Presenter(s):

- David Symes, Esq.
  Ogletree, Deakins, Nash, Smoak & Stewart
  Portland, Oregon

- Utah Senator Wayne Niederhauser
  Salt Lake City, Utah

Student Presenter(s)

- Nicole Harris

- Marianne Carpenter

WEEK TEN: November 3, 2011   **Institutional Privacy & Transparency: The Judicial Branch (Access)**

Topics:

- Open/closed 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," Steve Zansberg and Janna Fischer (2011

- "How Blogging Affects Legal Proceedings," New York Law Journal, May 13, 2009

- 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)

- Christiana Tu

Student Scribe

- Isabella Ghabash

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 uscourts.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:

- Tom Clarke, Vice President for Research &Technology
  National Center for State Courts
  Washington, D.C.
- Linda Peterson, Utah Foundation for Open Government

Student Presenter(s)

- Mariah Lohse

Student Scribe

- 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, Manatt Phelps & Phillips, LLP (June 23, 2011)
- "Where is the Comprehensive Online Privacy Framework?" Bil Corry and Andy Steingruebl (April, 2011)
- "Facebook's position paper on 'Do Not Track' for W3C Workshop on Web Tracking and User Privacy" (April, 2011)
- "Empowering Users to Express a 'Do Not Track" Rule: A step Toward Conveying User Privacy Preferences," John Morris and Alissa Cooper, (April 28, 2011)
- "Trackers Don't Track People, People Track People or What We Really mean When We Say 'Do Not Track'," Andy Kahl and Colin O'Malley (April, 2011)
- "Tracking Transparency," Wendy Seltzer (March 31, 2011)
- Summary of The "Do-Not-Track Online Act of 2011," Venable law firm (May 9, 2011)
- Reputation.com CEO: Your Personal Information is the New Oil, Huffington Post Tech (May 6, 2011) available at http://www.huffingtonpost.com/2011/05/06/reputation-ceo-personal-information_n_858485.html

Guest Presenter(s):

- (None)

Student Presenter(s)

- Lindsai Gren

WEEK THIRTEEN: December 1, 2011   Individual Privacy & Transparency: Data Mining and Use

Topics:

- Data collection

- Data retention and storage

Readings/Viewings:

- Interactive Advertising Bureau Data Usage & Controls Primer- Best Practices & Definitions (May 2010)

Guest Presenters:

- Alison Pepper, Sr. Director, Public Policy
  Interactive Advertising Bureau
  New York, New York

Student Presenter(s)

- Theresa Krause

Student Scribe

- Lindsai Gren

WEEK FOURTEEN: December 8, 2011   Individual Privacy & Transparency:
                                   Government Surveillance

Topics:

- Wiretaps

- USA Patriot Act

- Department of Homeland Security

Readings/Viewings:

- Pulling Plug on Privacy, Alex Kozinski & Stephanie Grace (June 22, 2011)

- USA Patriot Act article on Wikipedia.org

- Review "Surveillance Self-Defense" on Electronic Frontier Foundation website available at https//ssd.eff.org/

- "Court Case Tests Right to Withhold Passwords." Informationweek.com (July 14, 2011)

- Selected Pleadings & Orders filed in United States of America v. Ramona Camelia Fricosu, Criminal Case No. 10-cr-00509-REB-2, United States District Court for the District of Colorado

- Privacy: An Abridged Overview of the Electronic Communications Privacy Act, Congressional Research Service Report (March 30, 2011)

Guest Presenter(s):

- Ryan Radia
  Competitive Enterprise Institute
  Washington, D.C.

Student Presenter(s)

- Sam Totten

Student Scribe

- Alex Boren

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 portions of the second semester. Professor Dryer will be the advisor/facilitator to Team One and Professor James will be the advisor/facilitator to Team Two. Librarian Craigle 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 5, 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,*" ULaw Today, October 3, 2011, http://today.law.utah.edu/2011/10/new-honors-think-tank-provides-students-with-window-into-privacy-and-transparency-issues-in-web-2-0-world/

Geoffrey Fattah, "*Watching the watchers: Course looks at transparency and privacy in digital age,*" KSL News, October 27, 2011, http://www.ksl.com/?nid=960&sid=17852524

Geoffrey Fattah, "*Watching the watchers: University of Utah course looks at transparency and privacy in the digital age,*" Deseret News, October 27, 2011, http://www.deseretnews.com/article/705393283/Watching-the-watchers-University-of-Utah-course-looks-at-transparency-and-privacy-in-the-digital.html?pg=1

"*University Students launch Local Government Transparency Initiative,*" Sunlight Foundation, April 5, 2012, http://sunlightfoundation.com/blog/2012/04/05/university-students-launch-local-government-transparency-initiative/

Noelle Knell, "*5 Best Practices for Open Local Government,*" Government Technology, April 6, 2012, http://www.govtech.com/policy-management/5-Best-Practices-Open-Local-Government.html

Terry Orme, "*Editor's column: Government transparency vs. privacy - U. students have some ideas,*" The Salt Lake Tribune, April 7, 2012, http://www.sltrib.com/sltrib/news/53869607-78/government-utah-tribune-bill.html.csp

Mike Gorrell, "*U. students to local governments: Be more open,*" The Salt Lake Tribune, April 08 2012, http://www.sltrib.com/sltrib/politics/53841234-90/government-students-transparency-public.html.csp

Rosemary Winters, "*University of Utah students launch open government campaign,*" The Salt Lake Tribune, April 11, 2012, http://www.sltrib.com/sltrib/politics/53895804-90/government-public-governments-students.html.csp

Peg McEntee, "*U students reveal the dark side of smartphones,*" The Salt Lake Tribune, April 11, 2012, http://www.sltrib.com/sltrib/news/53896202-78/students-mcentee-privacy-data.html.csp

Alice Siempelkamp, "*Students Take On Transparency,*" Recovery.gov Blog, April 11, 2012, http://blog.recovery.gov/

Ben Winslow, "*New project pushes for more open government in Utah,*" Fox 13 News, April 11, 2012, http://fox13now.com/2012/04/11/new-project-pushes-for-more-open-government-in-utah/

Don Hudson, "*Students to share government transparency project with 270 agencies,*" ABC 4 News (www.abc4.com), April 4, 2012, http://www.abc4.com/content/news/state/story/transparency-project-university-of-utah/pPV42Fm8OkmSAZAYsKkQkQ.cspx

"*Transparency test,*" The Salt Lake Tribune, April 12 2012, http://www.sltrib.com/sltrib/opinion/53887636-82/utah-http-transparency-www.html.csp

The Sutherland Institute video "*U of U Students Announce Utah Transparency Project,*" April 12, 2012, http://www.youtube.com/watch?v=RVvkP42FrkE

Kelly Jones "Becker: Government, public should seek transparency," The Daily Utah Chronicle, April 12, 2012, http://www.dailychronicle.com/?p=2570712

Joel Campbell, "*Campbell: Students show the way to a more transparent Utah,*" The Salt Lake Tribune, April 13, 2012, http://www.sltrib.com/sltrib/news/53910989-78/government-transparency-students-information.html.csp

Christopher Smart, "*Poll: Utahns Across the Board Want Government Records, Online,*" The Salt Lake Tribune, April 20, 2012, http://www.sltrib.com/sltrib/politics/53932367-90/government-poll-records-online.html.csp

FACULTY FEATURED

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

October 3, 2011

In a world increasingly characterized by the near-instantaneous transfer of information and a new study evolving concept of what is personal and what is public information, the launch of the University of Utah's new Honors Think Tank on Transparency and Privacy in a Web 2.0 World could not have come at a better time. A collaboration between the U's Honors College, the College of Law, and the Marriott Library, the course allows students in the U's Honors College to take a critical look at the rapidly evolving and often clashing paradigms of privacy and transparency, particularly as they impact government and individuals.

"This think tank is a wonderful example of the power of cross-college collaboration which can benefit students in unique ways," says Randy Dryer, Presidential Honors Professor at the U, who co-teaches the course with Salt Lake City attorney Cerper James. "Those Honors students, many of whom are headed to law school, are benefiting from the creative genius of the law school library staff and the vast technology expertise of the IT department. The transparent structure of the course — essentially a think tank in a fishbowl — is obviously well suited for the topic of the course, but may be a viable model for other courses, as it utilizes social media and other emerging communications platforms as an integral learning tool."

Valeri Craigle, MLS, an assistant librarian at the law library, developed and continues to oversee the course website, a resource she has dubbed the "Libguide." "The Libguide provides pertinent information resources, multimedia, and social networking tools that broadcast a constant stream of creative dialogue between students, faculty, and public participants," Craigle explains. "Twitter feeds, Facebook wall posts, student blogs, and class video provide an unprecedented level of transparency in course activities, giving observers a rare glimpse into a community debate over some of the most provocative topics in modern society. Students complete the yearlong course with a project that will contribute to the ongoing policy discourse on these important societal issues and have a utility beyond the life of the course."

Adds Dryer: "The LibGuide, which is being utilized in a novel way, is marshaling a vast data base of substantive information which will remain accessible in perpetuity and is essentially documenting the class as a living history being written by the participants in real time."

For more information on the Think Tank, or to visit the Libguide, click here.

The Deseret News recently profiled the Think Tank. Click here to read that story.

CLICK HERE to print this page

ksl.com

Watching the watchers: Course looks at transparency and privacy in digital age
October 27, 2011

SALT LAKE CITY --- Today's technology has profoundly changed the way we lead our lives.

Social networking has allowed us to stay instantaneously close to friends and family. Cell phones can keep us in contact nearly anywhere at any time.

But those same tools can also give much of the world a view of what we shared with others on Facebook, or through that phone app track you to share our thoughts with much of the world.

Government hearings are streamed live to public audiences and online access to government documents has allowed for more transparency and public participation. But new technology has also raised serious questions concerning privacy and protection of personal information.

What used to be potentially embarrassing moments can now be circulated across the globe.

"Those things that were funny at the time. Those days are kind of gone. Everyone has a cell phone and can take a photo of it, or video, and post it on YouTube," said law professor Randy Dryer. Studies have shown that about 80 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, Dryer has created an honors course at the University of Utah that explores issues of transparency and privacy. Co-instructors, attorney Cerper James and SJ Quinney College of Law librarian Valeri Craigle, help maintain the class website and develop the class curriculum.

> "I think it's made all of us really paranoid, actually."

"The Honors College has had a whole series of think tanks on different topics," Dryer said. "I came up with this topic because it's the hot topic right now with the development of Facebook and other social networking platforms."

Dryer calls it a "think tank in a fish bowl." In the spirit of transparency, the class itself is kept transparent: classes are video recorded, student assignments are posted online, students are required to blog once a week and post Tweets daily about their thoughts on transparency. The class website can be accessed by anyone, and even includes a section where the public can leave comments for the class.

Some students say after spending almost a semester studying these issues, they have altered their online habits in what they say and what pictures they post.

"I think it's made all of us really paranoid, actually," said student Tanner Gould. Even in writing a paper for the class, Gould said he is more strict about the quality of his work — not because professor Dryer will be reading it, but because members of the public will also.

Tianna Tu said she has learned to keep in mind that "the Internet never forgets." Careers, even elections, can come crashing down because of something posted online years ago.

"This class has really opened my eyes to the way that technology has changed transparency and privacy," Tu said.

In particular, Tu said she is concerned about younger students, 13 and 14, and their online habits. "They're not being censored and so that might affect them when they make career choices, because, like I said, the Internet doesn't forget."

Dryer agrees that young people are learning the consequences of sharing with the world "what they're doing, who they're doing it with and when they're doing it."

"It's a blessing and a curse, and the curse is that while transparency is good for institutions, it's not always good for people," he said.

While   "This class has really opened my eyes to the way that technology has changed transparency and privacy."
many
privacy experts have expressed concern about "Big Brother government" invading privacy, Dryer said little attention has been paid to "Big Brother corporation" collecting information on people.

Students in the class will study these topics for two semesters. Dryer said in the second semester, this spring, students will develop and work on a transparency project. That project is still being developed.

Student Theresa Krause said she remains optimistic that new technologies will further open government to the public, but she is also interested in how the law has reacted to privacy issues in social media.

"After this class, I try to be really careful about what I post online. I think probably the most personal thing I have posted online is probably my personal profile for this class," Krause said.

Email: gfattah@desnews.com

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

By Geoffrey Fattah, Deseret News

Published: Thursday, Oct. 27 2011 7:00 a.m. MDT

SALT LAKE CITY — Today's technology has profoundly changed the way we lead our lives.

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Law
professor Randy Dryer talks about civil liberties in cell phones. He has created an honors course that explores issues of transparency and privacy in our lives and in government. The class is also transparent in that students' papers are posted on a class website, classes are video recorded, and students are required to Tweet and blog their thoughts. Thursday, Oct. 20, 2011. (Ravell Call, Deseret News)

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Law
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A
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University Students launch Local Government Transparency Initiative

Guest Blogger
April 5, 2012, 4:54 p.m.

It's always refreshing to see students interested in opening up their government. Showcasing a student-run

government ....transparency project in Utah, is guest blogger Randy Dryer. Randy is the Presidential Honors Professor at the University of Utah and one of two faculty members teaching the Honors Think Tank on Transparency and Privacy this academic year. You can read more of his work on utahtransparencyproject.org or follow him @medialawguy

On April 11, 2012 ten University of Utah Honors students will launch a state-wide public initiative which, if 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 end result of eight months of study by the students in an Honors College Think Tank on Transparency and Privacy. The Think Tank explored the often competing paradigms of privacy and transparency and heard from leading local and national experts in the area of open government and privacy (including Daniel Schuman of the Sunlight Foundation) to gain a comprehensive understanding of the complexities, nuances and challenges of balancing and reconciling these two competing interests. We learned many things, including the fact that local governments in Utah, with some notable exceptions, lagged behind many of their counterparts around the nation in terms of transparency. A study of 16 selected Utah local governments conducted as part of the Project demonstrated a wide disparity in government transparency practices and identified many transparency

deficiencies. From this in-depth study the Transparency Project was born. As explained in greater detail below, the centerpiece of the Project is five transparency "best practices" for local governments to adopt.

The Think Tank on Transparency and PrivacyThe 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 web page. Each weekly three hour class session was videotaped and posted on the course web page, as was all student written work product, guest presentations 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 web page as was a public comment feature where persons outside the class could comment on the student's work product or on any issue being discussed. This online public content spurred a lot of conversation among students and members of the outside community. The web page had thousands of page views and hundreds of posted comments. The course was nicknamed a "Think Tank in a Fishbowl." Its novel approach to instruction was featured in a story by a local daily 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 set about to develop a project that would take 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 currency 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 reflect 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 messaging and other electronic communications made with government supplied equipment as publicly accessible records regardless of how such 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; and
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 a real time remote connection.

A complete listing of the five best practices may be found on the project web site at Utah Transparency Project.

The transparency project has the support and endorsement of several Utah news organizations, NGO's and foundations, including the Utah Press Association, the Utah League of Women Voters, the Utah Broadcasters Association, the Utah Foundation for Open Government, 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 news conference where a formal request to consider and adopt the best practices will be sent to all 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 capitol city. The progress of the effort may be followed on the Project's web page and Facebook page.

Tags:

- Guest Blog
- Open Government
- students
- Transparency
- University of Utah
- utah
- Utah transparency project

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5 Best Practices for Open Local Government

BY: Noelle Knell : April 6, 2012

Utah continues to win accolades for its online presence, adding honors late last month for its Utah Connect Portal, which unites Utah-related social media feeds from all levels of government. The American Council for Technology-Industry Advisory Council recognized Utah Connect for excellence in social media with an Excellence.gov award.

But students at the University of Utah want to make sure those high standards are upheld by local governments in Utah too. Focusing specifically on open government practices, the Honors College Think Tank on Transparency and Privacy recently evaluated 16 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 or less.

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 settings on social networking sites and commit to a culture of transparency.

5.   Governmental bodies should make all public meetings as open as possible by posting agendas and meeting materials in advance, streaming live meeting audio 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 Dryer summarized the effort in a recent blog post: "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 Salt Lake Tribune

Editor's column: Government transparency vs. privacy — U. students have some ideas

Editor's column • U. class delves into government issues.

By Terry Orme

The Salt Lake Tribune

Published: April 6, 2012 05:59PM
Updated: April 17, 2012 11:59PM

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

We want investigative 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 lucrative public works project. We investigate to determine if a developer got 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 created a website — utahsright.com — that contains hundreds of thousands, maybe millions, of government records, all in searchable databases, to inform the public.

So it was a most welcome surprise last December when we learned that a University of Utah honors class was studying the effects transparency has on good government, and on the public's trust in government. We were impressed that, in addition to studying the issues, they were planning ways to have an impact on openness.

For the past seven months, 10 students — among the best and brightest undergraduates at the U. — have read and heard from experts about the importance of transparent government. They've dissected Utah's Government Records Access and

Terry Orme

Management and Open and Public Meetings laws. They have scrutinized the effect of President Barack Obama's 2009 open-government directive.

They have considered how the information revolution and digital age have created unprecedented opportunity for government to be accessible, from the Utah Legislature live-streaming action on the floors of the House and Senate, to Sandy City posting its city council agenda online, to a court docket being a few mouse clicks away.

At the same time, the Honors Think Tank, as the class is known, explored the other side of the information revolution: the threat to personal privacy. The digital age has made it possible for the government and employers to look in on the habits, preferences and thoughts of citizens and employees. Facebook, Google+ and other social media have fostered a culture of sharing personal information that can come back to haunt you. In the past, you could be "unlisted" and anonymous. Now, Internet users leave a traceable digital history.

Interesting and relevant — the sort of class that makes you wish you were back in college. But even better is the fact that these students are taking academia to a new level.

On Wednesday, the students focusing on government transparency will hold a news conference where they will unveil a list of best practices for municipal governments to adopt in order to take utmost advantage of digital tools in dispensing information and engaging citizens. They will ask city governments throughout Utah to adopt these practices.

The students focusing on privacy, meanwhile, are producing videos to be uploaded to YouTube that will offer another list of best practices: How to keep your personal information private while using the Internet.

The Tribune was asked to be a private-sector partner in the Think Tank. And we jumped right in, offering our services in editing the class final report, and in underwriting a poll to assess citizens' experience and interest in engaging with their local governments online.

In these students, I see a desire to make government better, more responsive — to more fully realize the potential of democracy. Not only have they studied hard and thought deeply, they've come up with practical, difference-making ideas.

They see the benefits to society of a transparent government, and they see ways to make government more so. As a journalist, you have to love that.

Terry Orme is managing editor at The Tribune. Reach him at orme@sltrib.com or on Twitter: @terryorme.

Tribune wins prestigious First Amendment award

Investigative Reporters and Editors announced last week that The Salt Lake Tribune will receive a special recognition award, "Service to the First Amendment," at its Boston convention in June. IRE singled out The Tribune for its coverage of House Bill 477, the legislation that passed and was then recalled, that would have altered Utah's Government Records Access and Management Act.

In announcing the award, the judges wrote: "The paper waged and won a battle over the Utah legislature's attempt to eviscerate Utah's open records law and citizens' right to know. Lawmakers introduced and passed a bill late in the legislative session without much notice. But the paper fought back in two months of coverage on the content and impact of the bill. It offered its content to other newspapers around the state, and in a rare and unusual move ran strong editorials on the front page. Despite the governor's initial signing of the bill, the paper's efforts and public

outcry forced him to reverse his position and call the legislature back into session. For extraordinary effort by newspaper managers and staff, IRE offers it congratulations and awards special recognition."

The Salt Lake Tribune

U. students to local governments: Be more open

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

By Mike Gorrel

The Salt Lake Tribune

Published April 9, 2012 02:57PM
Updated: April 9, 2012 11:46PM

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 Krause, one of the honors "Think Tank" students who will unveil those guiding principles on Wednesday. "The Internet has made data available and changed the way we think about transparency and access to government."

Salt Lake City Mayor Ralph Becker and Council Chairman Soren Simonsen are expected to be present to express their support for the Transparency Project during its formal introduction at the U.'s Hinckley Institute of Politics.

The project's goal is to persuade all 270-plus county and city governments in Utah to adopt the principles.

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

"The Think Tank gave students an opportunity to study a topical issue in depth, learning from community experts and others outside 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 students came up with two projects that address the divergent issues arising from the Internet age in which they grew up.

While half the 10-member class developed the Transparency Project, the other half focused on privacy issues, having come to realize that "Google never forgets. Once something is on the Internet," Dryer 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 unwanted Internet exposure. 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," Dryer said.

(The Salt Lake Tribune was a community partner in the Think Tank class. A managing editor provided editing assistance for the final report the class will produce. The newspaper also paid for a poll of questions written by students exploring citizen opinions about online access to government information.)

To immerse their students in the meaning of full disclosure, Dryer and fellow instructors Corper James and Valeri Craigle made the class as transparent as possible.

Every lecture was videotaped; every class presentation, too. Students had to comment daily 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 fish bowl.' For a semester, they were living an exposed life," Dryer said. "Some adapted pretty quickly to it and [the exposure] wasn't a concern. But others didn't like it, and it created some anxiety for them."

Tianna 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 express your opinions."

Tu was one of five students who formulated the Transparency Project, whose five guiding principles encourage local governments -- those closest to the people -- to develop "open government" websites that give people online access to meetings, contact information for elected officials and staff, background materials, emails and other forms of electronic communication, financial records and, basically, everything produced by those governments.

And because transparency means this information must be accessible in a usable way, Tu said desired videos or documents should be reached within "three clicks" on a computer.

Most of Utah's local governments don't come close to meeting the principles outlined by the students in their proposal.

Citing a Sutherland Institute analysis of online records' availability in Utah's 29 counties during last year's legislative debate over the Government Records Access and Management Act (GRAMA), Krause noted that the average grade was a D.

"We'd really like to bring that up," she said, recognizing that many smaller counties are strapped for resources and personnel to keep their websites updated continuously.

The project's intent was not to be critical of those governments, Tu added, but to "suggest things they can do to achieve transparency." Right now, she said, Salt Lake City boasts the most transparent system, reaping an A minus, while Salt Lake County earned a B.

As the students wrapped up their development of the guiding principles, they began reaching out to organizations for support. Knowing that government processes move slowly and that their class ends in May, Dryer said, the students hope these backers will help push for long-term implementation of these principles.

Just last week, the students gained an endorsement from the Utah League of Women Voters. They also have received considerable support from the Sutherland Institute, Common Cause, Utah Media Coalition, Utah Broadcasters Association, Society of Professional Journalists and The Tribune.

The students' work thrills open-records advocate Claire Geddes.

"It's something the state really, really needs," she said. "It would help people become more involved. People really have lost faith in government because it is difficult to figure out the system. Anything we can do to make government accessible to the public is good for everyone, including lawmakers."

Salt Lake County Mayor Peter Corroon welcomed the chance for Think Tank students to have their recommendations placed before the County Council for consideration.

"The students' focus on transparency is warranted," he said. "Transparency is one of the basic tenets of good government and a democratic government. Without accessibility and transparency, citizens lose a great deal of power over how their community is governed."

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'Best Practices' for local government transparency

Students in the University of Utah's Honors Think Tank on Transparency and Privacy drafted a proposal for local governments that would make their operations more open to the public. It calls for:

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

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

• Considering emails, instant messages and other electronic communications made with government-supplied equipment to be public records.

• Requiring elected officials and appointed senior administrators to post advance schedules 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 (with opportunities for citizen commentary online) or posting of proceedings on the website within 48 hours of the meeting.

The Salt Lake Tribune

University of Utah students launch open government campaign

Transparency • Honors project to be shared with cities and counties statewide.

By Rosemary Winters

The Salt Lake Tribune

Published: April 11, 2012 05:00PM
Updated: April 11, 2012 08:54PM

University of Utah honors students admittedly have an agenda: They want government to be more open about its agendas.

In fact, they want the state's 270-plus cities and counties to be more 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 vastly improve their transparency," sophomore Tanner Goold said. "These processes 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 third-party contracts, employee compensation and financial reports. Public officials also should consider all electronic communications made with government equipment to be public records, the think tank said. Other recommendations include streaming public meetings online and providing opportunities for citizen comments on the Web.

Alex Boren, another Think Tank student, said adopting such practices would increase public trust, satisfaction and civic engagement.
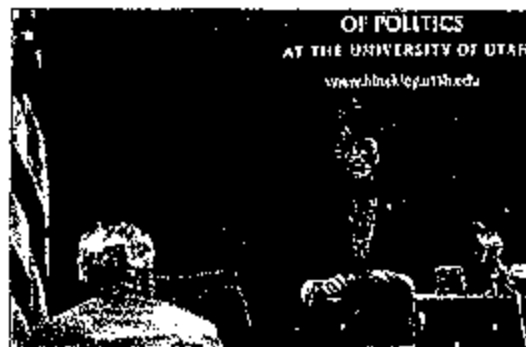
Steve Griffin/The Salt Lake Tribune University of Utah student Theresa Krause introduces Salt Lake City Mayor Ralph Becker as students unveil their Utah Transparency Project at the Hinckley Institute of Politics in Salt Lake City, Utah. April 11, 2012

"One of the reasons why we have focused on local government," the 20-year-old sophomore said, "is they are closest to the community and can have the greatest impact."

The Salt Lake Tribune was a community partner in the Think Tank class. A managing editor provided editing assistance for the final report the class will produce. The newspaper also paid for a poll of questions written by students exploring citizen opinions about online access to government information.

Salt Lake City Mayor Ralph Becker and City Council Chairman Soren Simonsen spoke at Wednesday's launch and praised the students' work.

Simonsen said he's excited about the progress the city has made under its own transparency initiative, but added that the effort remains "a work in progress."

In an interview, Becker said he's encouraged that students are paying attention to how governments conduct the public's business.

"My sense is that local governments, city governments particularly, are going to be very responsive and look for ways to improve," Becker said. "It's not going to hurt at all to have people pressing them and looking at what they're doing and making specific suggestions."

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'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 government information, including third-party contracts, employee compensation, financial reports and requests for police and fire service.

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

» Consider emails, instant messages 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 commit to developing a culture of transparency.

» Make all public meetings truly transparent, through live streaming on the Internet (with opportunities for citizen commentary online) or posting of proceedings on the website within 48 hours of the meeting.

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

'Best' policies

O Students in the University of Utah's Honors Think Tank on Transparency and Privacy suggest ways for

open government. › sltrib.com

The Salt Lake Tribune

McEntee: U. students reveal the dark side of smartphones

By peg mcentee

Tribune Columnist

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

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

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

Peg McEntee

Cookies, or little bits of data that note who comes to a website, remember who you are online, take you back to the site and send you advertisements that might pique your interest. Government might take an interest in you, too.

Bad cookies, though, can help social media outlets track your personal data, which might interfere with your ability to keep, say, your health insurance, says student Lindsai Gren.

"There's so many crazy tools," says Cooper James, an attorney and adjunct professor who leads the privacy team. "You can pay an online business to check somebody out."

Facebook can track you when you post images of your face. Online services can nab not only someone else's cellphone address book, but other personal information.

As Harris put it, when she started the class last fall, "I was like, oh, Facebook, no big deal. I took the class:

it's a huge deal."

But you also can actively opt out, and the students are working on vignettes on how to do just that. They'll be posted on the class' blog, gounlisted.wordpress.com. Students also are working on videos that, through Youtube.com, would help teach elementary and middle school students how to protect themselves. They want to do a freshman orientation at the U. and form a club to help students there.

In the classroom, transparency and privacy merge in a way that might seem counterintuitive: everything the students do is available for public scrutiny. Classes, papers, oral presentations, tweets, blogs and personal portraits can be found on the blog.

The think tank, which got under way in fall semester, has seized on issues that have generated considerable angst.

A national survey by Consumer Reports found that 71 percent of respondents had serious concerns about their online privacy and the collection and use of the 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 53 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 spooked about my iPhone, I'm not alone. The class' blog will be at the top of my reading list for quite some time.

Peg McEntee is a news columnist. Reach her at pegmcentee@sltrib.com, facebook.com/pegmcentee and Twitter: @Peg McEntee.

Recovery Blog

Students Take On Transparency

Posted in Transparency by Recovery.gov on Apr 17, 2012

If you're wondering whether the concept of transparency in government has taken hold outside Washington, D.C., you have only to look at the Utah Transparency Project, the brainchild of twelve students in the Honors Think Tank on Transparency and Privacy at the University of Utah. This initiative to improve government transparency across the entire state is the result of their recent study of the rapidly evolving and often clashing paradigms of privacy and transparency, particularly as they impact government and people.

The students have developed Five Transparency Best Practices for Local Governments that will be distributed to all local governments with a request that officials adopt the Best Practices in principle and that they implement as soon as possible the practices they deem immediately feasible, governments should work toward implementing the remaining practices. The students will also be reviewing existing transparency practices in 16 Utah cities and counties.

Additionally, the Think Tank students are also conducting an independent, statewide survey to assess whether Utahans are interested in transparency in government. One group definitely is: The Utah League of Women Voters has officially endorsed the Best Practices. The students also plan on expanding the Transparency Project to local student groups in Utah.

— Alice Siempelkamp, Assistant Director, Content, Recovery.gov

Tagged with: Government, Transparency, University of Utah, Utah, Utah Transparency Project

Leave a comment

The Board's Mr. Go-To

Posted in Recovery Board by Recovery.gov on Apr 4, 2012

In its three years of existence, the Recovery Board has won many accolades for its commitment to transparency and accountability. The praise often has centered on the development of our websites, FederalReporting.gov and Recovery.gov, the principal vehicles we use to collect and display spending data from recipients of Recovery Act contracts, grants and loans.

The big winner, of course, is the public. If you are looking for what happened to a contract or grant award — where the money went, how many jobs were funded — all you have to do is visit Recovery.gov and you'll get what you need.

The Board fortunately has an excellent staff working behind the scenes. The other day, we lost one of our best, James Warren, a technology wizard who was on loan to the Board from the Department of Interior since the Recovery program began in February 2009. Like many creative people, James believed his job was done and it was time to move on to the next challenge. He decided to go back to the Office of the Chief Information Officer at Interior.
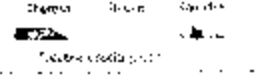
New project pushes for more open government in Utah

Posted on: 3.45 pm, April 11, 2012, by Ben Winslow (http://fox13now.com/author/kstjoenwinslow), updated on: 05.57pm, April 11, 2012

SALT LAKE CITY — A student project 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 unveiled on Wednesday, with students vowing to communicate their ideas for best practices to all 273 local and county governments. On hand to lend support to the idea was Salt Lake City Mayor Ralph Becker and Council Chairman Soren Simonsen.

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 publishes data such as audits, financial reports contracts and other records at least once a year
- Making government information available in digital form and for free.
- Making e-mails, instant messages and other electronic communications on government equipment a matter of public record.
- Creating a "culture of transparency" within local government.
- Ensuring that meetings are public and online.

"We don't believe it has to be complicated, time intensive, arduous or capital intensive," said student Tanner Could. "In drafting our best practices, we kept in mind the constraints felt by local governments."

The push for more open government comes in the aftermath of what was considered a dramatic rollback of public records in Utah. The state legislature passed HB 477, which restricted access to public documents. It was later repealed after public protests at the Capitol and around the state.

Becker said he believes cities across Utah would approve it. Simonsen said the Salt Lake City Council would consider the initiative soon.

"I think the way the students have put this together to be sensitive to what limits there are, in terms of financial limits to local governments, that it's something that can easily be adopted by governments regardless of how big they are, how small they are, what their resources are," Becker said.

The Utah Transparency Project has been endorsed by a wide variety of groups including the Sutherland Institute, Utah Common Cause, the Utah Press Association, the Utah Media Coalition, the Utah League of Women Voters, the Utah Foundation for Open Government, the Utah Broadcasters Association and the Utah chapter of the Society of Professional Journalists.

Students to share government transparency project with 270 agencies

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Updated: 8:31 pm | Published: 5:45 pm
Reported by: Don Hudson

SALT LAKE CITY (ABC 4 News) - Some college students are trying to make a big change in the Beehive State.

As part of a year long Honors Think Tank at the University of Utah, ten students developed the Utah Transparency Project. They believe if it's implemented it will shine a positive light on local governments. And that light is going across the state. In fact, team member Theresa Krause says they sent their plan to "273 cities and counties in Utah."

Fellow student Tanner Gould says, "We believe that through simple and easy and cost effective ways our governments can vastly improve their transparency policies." The students came up with five point plan of openness, communication and public access. And they believe every local government could adopt the plan. Fellow student Tanner Gould says, "We believe that through simple and easy and cost effective ways, our governments can vastly improve their transparency policies."

The students at the transparency project kick off event at the Hinckley Institute in Salt Lake also cited research that says doing these types of things leads to more public trust and more public input. Alex Boren says, "When citizens are not informed, they cannot be effectively engaged. "

Salt Lake City Mayor Ralph Becker has seen the project - and believes every agency could follow it. "It is something that can be easily adopted. I think governments - regardless of how big they are, how small they are, what their resources are."

And he adds, far too many local government agencies fall short when it comes to transparency. He thinks when they receive the student's project - they should consider it.

"I think for some of us in government we strive to open up what we do and engage the community as much as possible. For others it takes the pressure of the media," Mayor Becker says, "That is not right. We should be able to know what is going on. We should able to have input into decisions."

To see more of the Transparency Project visit:
http://www.utahtransparencyproject.org/

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4 Things No Woman Should Ever Forgave (MyDailyMoment)

Kissing Angelina Jolie Was 'Awkward, Sweaty, And Not Very Nice' (StyleBistro)

The Salt Lake Tribune

Transparency test

Student project a good lesson

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 270 local government units 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 thought up and fleshed out by a few students in the University of Utah honors Think Tank program.

The project is a push to encourage those who run all those local governments to take full advantage of current Internet, social media and streaming video technologies to make the inner workings of those governments as open to public review as possible. And it is some research done by those students to show those local government leaders the way to 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 must do 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 routinely post as much information as possible — from contracts to meeting schedules — and make it all so easy to find that it takes the citizen no more than three mouse clicks to complete a search.

The point is that such practices should be considered fully routine, both by government officials and by those whose lives are affected by their actions. If posting the information is a strain, and reading it is a chore, then neither side in the transaction benefits. Everyone is confused. People who may not really disagree about important issues get into arguments or question one another's motives.

The Transparency Project — aided by the Sutherland Institute and supported by the Utah League of Women Voters, Common Cause, The Salt Lake Tribune and statewide media groups — seeks to avoid that. Local governments should sign on. And others, including the League of Cities and Towns the Association of Counties, even the Utah Legislature, should contribute funds and expertise to help make it all a reality.

Because, as the student creators of the Transparency Project will tell you, yes, it will be on the test.

Becker: Government, public should seek transparency

The Salt Lake Tribune

Campbell: Students show the way to a more transparent Utah

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

By Joel Campbell

Special to The Tribune

Published: April 13, 2012 05:30PM
Updated: April 13, 2012 11:50PM

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 governments. Utahns should take notice.

In a Wednesday news conference on the U. campus, Salt Lake Mayor Ralph Becker and City Councilman Soren Simonsen signed the students' Utah Transparency Project book. Students hope many more local government officials will sign the book, and even more importantly, commit to adopting recommended practices. Utahns should ask their elected and appointed officials to learn about the project and sign on.

As Becker said at the news conference, the goal of government transparency is "aspirational." It's something that government of any size can start working toward even if it can't afford to take on the transparency initiatives large cities like Salt Lake City or West Valley City have. Citizens should demand basic standards now and a pledge for officials to adopt more sophisticated transparency practices in the future.

The U. students enlisted the help of a BYU journalism research course, and students in that class reviewed websites of nine Utah cities and towns and six counties. Students also conducted interviews with officials about availability of information. A final report is due out in May, and leaders will be invited to accept the transparency challenge.

Without any statewide standards, it's not surprising how widely the quality of information varies on local websites.

Joel Campbell

Here are some overall themes and examples drawn from this review:

• Most local governments post basic information about government bodies, agendas, government employees and contact information. Even then, in some corners of the state it was hard to find even contact information of elected officials. For example, on Duchesne County's website it's hard to tell who to contact in county government except the sheriff. Many other entities still have no specific instructions about how to file a records request or local ordinances spelling out request rules.

• Not enough local governments post budget information. It was difficult for reviewers to find basic government budget information on most of the sites reviewed. This should be a bedrock standard for transparency. Even if a small city, town or county doesn't have the staff to post detailed budget information, there is an easy solution. Cities and counties should link to the statewide transparency website ,where budgets are posted.

• Even smaller entities can do a good job. For example, a reviewer praised Moab's website as an excellent example of publicizing public meetings, posting agendas and inviting public involvement.

Although for many local governments, improving a local website may be a goal, a couple of entities can give a glimpse of what transparency and technology can mean in the future. Salt Lake City uses technology and other means to get more people involved in decision making. The next horizon for government is to find more ways for people to submit opinions on policy and law. Other cities are using streaming video for board and council meetings.

State lawmakers and local elected leaders should examine the benefits of transparency in building confidence, trust and participation in government. These University of Utah students have set the stage. Everyday Utahns and politicians alike now need to take the challenge and help change Utah's governmental culture through policy direction.

Joel Campbell is an associate journalism professor in the BYU department of communications. He writes about the First Amendment and open government for the Tribune. His opinions are his own and do not represent BYU. He is the instructor of Communications 308 students who participated in the Utah Transparency Project research.

The Salt Lake Tribune

Poll: Utahns across the board want government records online

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

By Christopher Smart
The Salt Lake Tribune
Published: April 20, 2012 08:02AM
Updated: April 20, 2012 07:44AM

Democrat or Republican. Women or men. Mormon or non-Mormon. Utah or BYU.

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

Steve Griffin/The Salt Lake Tribune University of Utah student Therese Krause introduces Salt Lake City Mayor Ralph Becker as students unveil their Utah Transparency Project at the Hinckley Institute of Politics in Salt Lake City, Utah, April 11, 2012.

The poll is part of the Transparency Project, the brainchild of University of Utah Honors College students who are pushing to improve openness in cities and counties across the state by persuading local governments to adopt five "Best Practices" guidelines.

The survey, paid for by The Tribune and conducted by Mason-Dixon 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 (71 percent) and 60 percent of women back the idea. That support stretches across party lines as well, with 62 percent of Republicans, 61 percent of Democrats and 73 percent of independents on board.

Almost two-thirds of Latter-day Saints (64 percent) and 65 percent of non-Mormons also favor funneling taxpayer funds toward increasing record availability on the Internet.

That access apparently isn't what Utahns would like it to be. Most poll respondents (60 percent) who have tried to
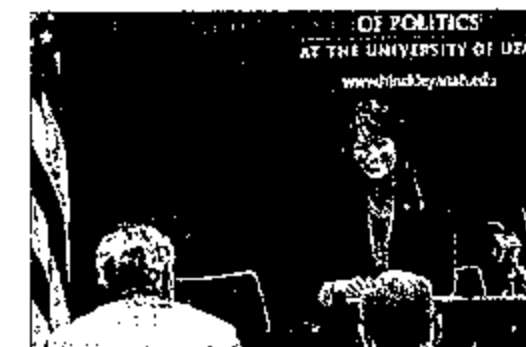
get government records or information online in the past two years had a somewhat or very difficult time doing so.

"If I want to find out something, I would like to go to the computer and find out without a bunch of spin about what's going on," said poll participant Beverly Person of Riverton. "There's too much they keep hidden."

Lehi resident Rinda Christensen said she would like officials to be more aware of what residents want and need from the governments closest to them — cities and counties.

"Our lives are so affected by what is happening in government, so we need to know that things aren't being done in secret," she said. "It's our government."

The survey of 625 registered voters, conducted April 9-11, has an error margin of plus or minus 4 percentage points.

The poll also revealed strong support (84 percent) for local government making records easily accessible online in "searchable, sortable and downloadable" formats. Almost three-quarters of respondents (74 percent) said they would be more likely to be involved in local government if agendas, meeting times and contact information were readily available online in advance of meetings. And 91 percent said increased government transparency would bring increased government trust.

"It goes to the heart of what a democracy is. You can't govern from a black box," said Salt Lake City poll respondent Jim Ferguson. "The more openness and transparency, the better. It's what this country stands for."

Salt Lake City lawyer and U. professor Randy Dryer, who oversees the honors students "Think Tank" that launched the project, was surprised at the overwhelming support for accessible government.

Even older respondents wanted more and better access online to government records. It is sometimes assumed, Dryer explained, that these citizens would prefer information over the phone or in person.

But 83 percent of respondents age 50 or older said it was very or somewhat important to have online access to local government records and information. Of those under 50, 87 percent favored such Web availability.

Easy access to government records cuts to the heart of the project, Dryer said. Among other things, it would drastically reduce citizen records requests under Utah's Government Records Access and Management Act (GRAMA) because the information already would be online.

Not only would that be better for residents, but it would save local governments the time and money spent answering GRAMA requests.

This poll isn't the only evidence that a wide range of Utahns favors transparent and accessible government, said Mary Bishop, chairwoman of the Salt Lake County Democratic Party.

During the 2011 Utah Legislature, lawmakers attempted to further restrict access to government records. Legislators eventually repealed that measure, HB477, after a popular uprising of Utahns from all walks of life.

"The people," Bishop said, "spoke loud and clear."

Honors student Tianna Tu, who helped write the poll questions, hopes local officials take note of the poll results and adopt the "Best Practices" guidelines for transparency.

"Some local government officials may believe that citizens don't care about transparency in government," she said. "But our poll results show citizens do care. We hope this will help get the ball rolling to more accessible government."

The Tribune was a community partner in the Think Tank's class. A managing editor provided editing assistance for the final report the class will produce.

Another honors student, Alex Boren, said local governments may not necessarily be against transparency, but the lack of an easily searchable website may lead residents to believe otherwise.

He noted some local governments are more transparent than others, but added that all can do better.

"It's our goal 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 Utahns overwhelmingly back the same goal.

csmart@sltrib.com

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'Best Practices' for local government transparency

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

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

Considering emails, instant messages and other electronic communications made with government-supplied equipment to be public records.

Requiring elected officials and appointed senior administrators to post advance schedules 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: U. Honors Think Tank

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Online • The Trib's database of public information

O See government salaries, home prices, nursing home reports and a range of public records online. > utahsright.com

————————————————

Appendix C

Summary of local government transparency survey

The following research was conducted in March 2012 by students in the Communications 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   http://bit.ly/HjZC9u

Reviewers:

Christine	Assily
Katie	Baker
Charles	Beacham
Ben	Carter
Scott	Hansen
Alex	Hoeft
Tamarra	Kemsley
Jocelyn	Langford
Jason	Ludlow
Clint	Martinson
Alison	Moore
Jamie	Morris
Emily	Ojuka
Robin	Rodgers
Otavio	Souza
Blake	Tillotson

Cities and Towns reviewed
Blanding
Moab
Panguitch
Richfield
Richmond
Roy
Salt Lake City
Tooele
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-Utah/123051037819694, but they do not have a Twitter account. Their census profile can be found at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&prodType=table.

According to the 2010 Census, the city of Blanding had a population of 3,375 people. Their annual budget, according to city's website, is $1,589,876. Their website lists 21 government employees but no IT 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 unelected 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 doesn't list lobbying organizations.

There are no instructions on the site for how to obtain public documents or how or where to file a GRAMA 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 well so one has to click around to find information. There is no annual report assessing and evaluating how the city/county 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.sterlingcodifiers.com/codebook/index.php?book_id=440, but there is no way to search any of the ordinances. There is a date and time stamp on all of the things added to the site so you can see how recent everything is. However, there does seem 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 appropriate formats and includes authoritative sourcing.

Any of the information on the website is available without going through an administrator, however there is information (listed in the research 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 internet location.

The city posts a schedule of events and meeting in a reasonable amount of time. There is no commitment to developing a culture of transparency among employees and other officials which permeates all levels of government found on the site. Some city meeting minutes are archived 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 record its meetings but they don't post them online. They are not available to stream, 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.

Moah

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 facilitate 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 as the city of Moab would define it. There is no access to annual reports assessing and evaluating how the city/county is meeting its legal obligations, nor an authentication and date/time stamping 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 Web site or by better using social network options such as Twitter or Facebook.

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

The schedules for public events and meetings are easily found through the Web site, 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 recordings 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 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 be 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 so it would definitely be worthwhile. As far as posting and updating the rest of the background information, a researcher wasn't able to learn about the "annual budget general fund", "water fund", or "sewer fund" until the city council was contacted. They also failed to list their administrator's contact information.

A city representative tried to answer all the possible questions but often she was unsure or unable to answer because she didn't understand some of the definitions in the survey. A "no" pattern emerged related towards finances. The availability of audits, taxes, fees, and city budget were all answered with "no." On the other side, questions that involved 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.municode.com/library/UT/Panguitch.

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 only thing more important than posting "all online agenda materials reasonably anticipated to be discussed or distributed at a meeting at least 24 hours in advance" is to post the results, decisions, and conclusions of those meeting. 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 had 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 vital to 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 names and contact information of most of the government employees were easy to find. The website also posted every city council meeting with agendas prior to the meeting and minutes after the meeting. They did have information on obtaining 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 Utah transparency website.

On the flip side, there were a lot of areas of transparency that were non-existent on the website. The annual budget was not available and did not include any copies or links to copies of the city or county budget. The website doesn't allude to using transparency.utah.gov at all. There was nothing to do with any database of contracts or any instructions to obtain a GRAMA ordinance. The public is able to find information to receive a GRAMA request but would have to go through the records office, which wasn't explained on the website. The search box on the website wasn't too helpful and pretty much only sorted through the minutes of city council minutes and agendas. There was also no a forum 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 information not available on the website would definitely have to be found through a city administrator. The website did not scream transparency, the researcher said. The public meetings and minutes were online but the meetings aren't recorded and the public does not have any video access. There was no availability for comment or participation in these meetings.

As a caveat, the city administrator the city was doing the best they could with their website and transparency. They've cut back a lot on employees and update information when they are able to do so. He also said there are a number of volunteer employees and not all of the employees are full-time so with a small staff, they are working to manage 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 town updated on public happenings and 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 this 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 sheriff. 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 effort shows their 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, as it is not available online. For requests that include numerous pages (10-15 pages was the example given by City Manager Marlowe Adkins) 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 wages and time spent by the employee locating the files.

Some aspects of transparency are not so easily obtained on Richmond's website, particularly when it comes to budget and finance information. Any time a reference to budget information was made online, a link was provided 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 through simply because of the number of documents it held. There is no search box on the Richmond City website, so for site visitors to find exactly 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 citizens to make their voice and opinion 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 easy to work with especially 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.

Roy

Roy 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**
  Roy City has a website located at royutah.org. The city has a population of just more than 36,000 and a city budget for the 2011 fiscal year of $14 million. A list of all 600 government employees in the city of Roy, with salaries, can be found at utahsright.com (not a public website) Public information requests go through the City Administrator's office and can be contacted at admin@royutah.org and 801-774-1030.

- **Basic Government information available**
  Roy's site provides the basic information of public notices and city council agendas. These 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, a council member, or the police department. However, instead of taking another step to transparency and providing searchable public information or a forum for 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 GRAMA request for information from Roy, requestors must go to the city offices in person and fill out a form for what is wanted. This may inconvenience and almost impeding transparency. City officials are working on making an online GRAMA request form to ease the 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 asking 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 31,605 citizens (2010 Census). The annual budget is also openly available: it is $15,231,736 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 readily 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 or county taxes and fees, but it does have a page with links to the different fees: http://tooelecity.org/citydepartments/finance.asp. The website does include a copy of the city budget, but as far as the researcher could tell, there is no link to transparency.utah.gov. The website has a chart with names and contact information for elected city leaders, but not for unelected administrators. The website contains 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 pre-determined drop down list that has no search options. One must chose from those options.

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

Tooele city's website does include information about city and county financial audits. However, it does not have a database of contracts that the city has awarded to private businesses. The website does not have a list of lobbying 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 videocast or podcast.

Salt Lake City

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

The website, www.slc.org, isn't the only form of communication and news; the city also runs both a Twitter and Facebook account, with the purposes of updating citizens on big news.

There's no hush-hush over budgets or taxes or audits, as well. If one simply types "budget" into the search bar on the home page, 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 it's 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 conceived at any council meetings. If a citizen misses the live broadcast of a city council meeting on www.slctv.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 lists links to some of what they deem are most helpful pages, including the "Transparency" page. This page lists seven points governmental officials pledge to fulfill including, but not limited to, "being more open than state GRAMA 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 were one of the first cities in Utah to receive an A+ rating from the Sutherland Institute. The "Transparency" page also links to an in-depth description of their Sutherland score which is based on the Sunshine Reviews 10-point checklist. This page includes the 10 items chosen to increase transparency (city budget, information on taxes and fees, etc.) and links to these 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 unelected 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 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 readily identifiable locations for information, the website would truly serve the community to an extremely high standard.

Counties

Beaver County

The research found the Beaver 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 Commission Chairman Mark 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 government officials are 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 was easily found under a few well organized tabs. All government employees had labeled titles and adequate contact information. There is information missing about taxes 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 subjects 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 GRAMA or the transparency website. By searching GRAMA request they have a very detail information request sheet 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 more transparent in the future.

Duchesne County

Duchesne County's website looks as if officials there have tried hard to put everything they 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 allowing 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 onto 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 GRAMA requests, get building permits and similar functions. All of the county employees are listed on a different 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 dusty in the sense that no one looks to have touched either one in at least a couple of months. Neither one seems to be very transparent to anyone other than whoever 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 residents with updated events and minutes of all their meetings, and the gist 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 those, 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 to rate government transparency online and a researcher said the site therefore is fair in addressing more generally expected needs. Right above a sliding banner with information about events in the community, are the four largest tabs on the site: Jobs, Directory, Calendar and Public Meetings. To the left is a sidebar that begins with a hyperlink to the mayor's bio and contact information and below that are tabs labeled Council, Other Elected Officials, and Tax information. Finally, the site offers more options below that that will link a person to a detailed index and an option for links to other "Departments and Agencies." Overall, the research found all of these links placed appropriately for the average citizen

Beyond the front page links and locations become 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 audits and, for example, the GRAMA application page, I nearly always ended up just using the index and search box to locate them. As the researcher worked with county employee Lance Brown she realized it was only his intimate understand of what is in each department that enabled him to find those topics not usually found on the well-beaten path. In fact, he was nearly always just exploring right along with with the researcher, though granted with that added 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. It does not, however, lend itself to overt transparency. Budget totals and number of government employees are piled deep under pages of PDF downloads and in some cases it was neither clear to me nor Brown 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 tracker 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 voicemails 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.

Sanpete County

Sanpete County's website is sanpete.com. The county doesn't have a Facebook page, but they do have a Twitter account, but it's just updates on the activities happening in the county. According to the 2010 Census the population of Sanpete County is 27822. I couldn't find information on their annual budget. Their administrative contact information didn't include any names, just an address (PO Box 157, 160 North Main, Manti, UT 84642), a phone number (435-835-6381) and a fax number (435-835-6383). There was a link to send an email, but nothing came up when I clicked on it. Their basic government information was available on their website. There's not a 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 website itself doesn't have a page for information on taxes or fees, but it did link to the Utah tax website http://tax.utah.gov/esu/information for that information. The researcher couldn't find the budget in any of this information.

The website did include names and contact info for elected county leaders, but not unelected 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 GRAMA 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 Sanpete County's website was available at no cost and with no apparent obstructions 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 at times seemed outdated.

Washington County

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 had posted, for example, the caucus meeting information and location. Its official website, www.washco.utah.gov, is easy to access and it provides important information that anyone can access with two or three clicks, such as: meetings, tax information, records search, department information, etc.

It took the research longer than three clicks to find more specific information. (And/or 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 provide all the data that the researcher asked for. He explained how to get in the page where the annual budget of the county is available. He also provided me information that was not on the website. Take for example the number of county's employees, which is 430. The county's annual budget is more than $26 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.utahsright.com). Washington County doesn't stream their public meetings live on the internet through a videocast or an audio podcast. The website also doesn't have a search bar; that would help visitor 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.

SALT LAKE TRIBUNE POLL OF 625 REGISTERED UTAH VOTERS CONDUCTED APRIL 9-11
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?

	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
ST SUPPORT	21%	24%	19%	13%	24%	23%	19%	27%	21%	22%
SW SUPPORT	44%	47%	41%	48%	38%	50%	45%	39%	51%	37%
SW OPPOSE	15%	12%	17%	12%	18%	11%	16%	12%	14%	16%
ST OPPOSE	10%	10%	11%	11%	10%	11%	10%	12%	8%	12%
UNDECIDED	10%	7%	12%	16%	10%	5%	10%	10%	5%	13%

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

	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
VERY IMP	35%	42%	29%	31%	34%	40%	32%	44%	34%	36%
SW IMP	50%	49%	51%	53%	52%	45%	54%	41%	53%	47%
NOT TOO IMP	8%	5%	11%	8%	9%	6%	8%	6%	9%	7%
NOT IMP	6%	4%	7%	5%	4%	9%	5%	8%	4%	8%
NOT SURE	1%	-	2%	3%	1%	-	1%	1%	-	2%

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

	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
VERY IMP	38%	41%	35%	37%	36%	43%	33%	50%	38%	38%
SW IMP	46%	43%	49%	50%	46%	44%	51%	36%	50%	43%
NOT TOO IMP	12%	13%	12%	9%	16%	9%	13%	11%	10%	14%
NOT IMP	3%	3%	3%	4%	2%	3%	2%	4%	2%	4%
NOT SURE	1%	-	1%	-	-	1%	1%	-	-	1%

4833-5775-6940

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?

| | | SEX | | PARTY ID | | | RELIGION | | AGE | |
	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
VERY IMP	39%	41%	37%	35%	32%	51%	32%	55%	37%	40%
SW IMP	47%	46%	47%	46%	52%	40%	52%	36%	50%	44%
NOT TOO IMP	11%	10%	11%	16%	13%	5%	13%	5%	9%	13%
NOT IMP	3%	2%	4%	2%	2%	4%	2%	4%	4%	2%
NOT SURE	1%	1%	1%	1%	1%	-	1%	-	-	1%

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

| | | SEX | | PARTY ID | | | RELIGION | | AGE | |
	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
NOT AT ALL	44%	36%	51%	44%	48%	39%	46%	39%	38%	49%
1-4 TIMES	31%	34%	29%	36%	28%	33%	32%	29%	35%	28%
5-10 TIMES	15%	14%	15%	13%	14%	16%	13%	19%	15%	14%
>10 TIMES	10%	16%	5%	7%	10%	12%	9%	13%	12%	9%

(IF THEY ATTEMPTED TO ACCESS n=349) QUESTION: When searching online for local government records or information, has it been:

VERY EASY	4%
SOMEWHAT EASY	36%
SOMEWHAT DIFFICULT	55%
VERY DIFFICULT	5%

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

| | | SEX | | AGE | |
	STATE	MEN	WOMEN	<50	50+
ONLINE ON A LOCAL GOVERNMENT WEBSITE	73%	80%	67%	82%	65%
OVER THE PHONE	13%	10%	16%	9%	17%
IN PERSON	13%	10%	16%	9%	17%
NOT SURE (NOT READ)	1%	-	1%	-	1%

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

Is that strongly agree/disagree or somewhat agree/disagree?

| | | SEX | | PARTY ID | | | RELIGION | | AGE | |
	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
ST AGREE	83%	87%	80%	76%	82%	89%	84%	81%	82%	84%
SW AGREE	15%	12%	18%	22%	16%	10%	14%	18%	17%	14%
SW DISAGREE	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
ST DISAGREE	-	-	-	-	-	-	-	-	-	-
NOT SURE	1%	-	1%	1%	1%	-	1%	-	-	1%

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

Is that strongly agree/disagree or somewhat agree/disagree?

| | | SEX | | PARTY ID | | | RELIGION | | AGE | |
	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
ST AGREE	65%	69%	62%	52%	63%	77%	63%	71%	62%	68%
SW AGREE	26%	23%	30%	32%	30%	17%	28%	22%	30%	23%
SW DISAGREE	6%	6%	6%	11%	6%	4%	6%	7%	7%	6%
ST DISAGREE	2%	2%	1%	2%	1%	1%	2%	xx%	1%	2%
NOT SURE	1%	-	1%	3%	-	1%	1%	-	-	1%

STATEMENT: 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?

Is that strongly agree/disagree or somewhat agree/disagree?

| | | SEX | | PARTY ID | | | RELIGION | | AGE | |
	STATE	MEN	WOMEN	DEM	REP	IND	LDS	NON-LDS	<50	50+
ST AGREE	38%	43%	34%	32%	36%	46%	35%	47%	41%	36%
SW AGREE	36%	35%	37%	43%	37%	29%	38%	31%	38%	34%
SW DISAGREE	22%	18%	25%	21%	22%	21%	23%	19%	20%	23%
ST DISAGREE	3%	3%	3%	3%	3%	2%	3%	1%	1%	4%
NOT SURE	1%	1%	1%	1%	2%	2%	1%	2%	-	3%

Appendix E

FIVE TRANSPARENCY BEST PRACTICES
FOR LOCAL GOVERNMENTS

[CITY/COUNTY] RECOGNIZES THAT TRANSPARENCY IN GOVERNMENT PROMOTES PUBLIC TRUST AND CONFIDENCE, AIDS ACCOUNTABILITY AND EFFICIENY AND IS A KEY ELEMENT OF ACHIEVING THE GOAL OF GREATER CITIZEN ENGAGMENT 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;

    - 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-G-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.

Appendix "F"

UTAH ORGANIZATIONS WHICH ENDORSE THE TRANSPARENCY PROJECT AND "BEST PRACTICES"

Society of Professional Journalists, Utah Chapter http://utahspj.com/

The Sutherland Institute http://sutherlandinstitute.org/

Utah Common Cause http://www.commoncause.org/

Utah Broadcasters Association http://www.utahbroadcasters.com/

Utah Foundation for Open Government http://www.ufog.net/

Utah League of Women Voters http://www.lwvutah.org/

Utah Press Association http://www.utahpress.com/

Appendix "G"

Selected Government Transparency Documents and Resources

Federal

The Freedom of Information Act http://www.foia.gov/

The Obama Open Government Directive
http://www.whitehouse.gov/open/documents/open-government-directive

Obama Memorandum for the Heads of Executive Departments and Agencies on Transparency and Open Government
http://www.whitehouse.gov/the_press_office/Transparency_and_Open_Government/

Office of Government Information Services https://ogis.archives.gov/

Data.gov http://www.data.gov/

Revcovery gov http://www.recovery.gov/Pages/default.aspx

State and local

Utah Open & Public Meetings Act http://www.le.state.ut.us/~code/TITLE52/52_04.htm

Utah Government Records Access & Management Act
http://le.utah.gov/~code/TITLE63G/63G02.htm

Transparentutah.gov http://www.utah.gov/transparency/index.html

Salt Lake City Open Government Initiative
http://www.transparencyslcgov.com/Home/tabid/36/Default.aspx

Non-governmental Organizations

Utah Foundation For Open Government http://www.ufog.net/

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/

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.lexology.com/library/detail.aspx?g=60e35510-73a3-4aeb-8c66-ef6c7a87f202

Federal Trade Commission

On March 26, 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.dwt.com/FTC-Adopts-Final-Privacy-Report-Renews-Push-For-Do-Not-Track-and-Regulation-of-Data-Brokers-03-27 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. 799 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 Stearns & Matheson. A comparison 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+legislation&j=&w=&f=2168

2012 U.S. Supreme Court privacy decisions

Court Limits Privacy Act Remedies, FAA v. Cooper, (March 28, 2012)

In a 5-3 opinion, the Supreme Court held that the Privacy Act does not allow recovery of mental and emotional damages suffered as a result of the Government's "willful and intentional violation" of the Act. Justice Alito, writing for the Court said that the key term "actual damages" was ambiguous, and should be narrowly construed to limit Government liability. In a dissenting opinion, joined by two other Justices, Justice Sotomayor argued that the purpose of the Privacy Act is unambiguous: to protect individuals from "substantial harm, embarrassment, inconvenience, or unfairness" that result from Government privacy violations.

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.

Court Upholds Fourth Amendment in GPS Tracking Case, U.S. v. Jones, (January 23, 2012)

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 "[w]here, 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.cdt.org/issue/consumer-privacy

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

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

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

The Privacy Coalition http://privacycoalition.org/