

GOVERNMENT TECHNOLOGY

Government Technology

Privacy Concerns

By Merrill Douglas
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At first, it sounds obvious: If citizens can read public records in the county courthouse, surely those citizens are entitled to read the same information on the Web.

But as more governments put public records online, protests from certain quarters prompt public-sector officials to think long and hard about how to balance open government and the right to privacy.

For those who need some of the information contained in transactions such as tax payments and real-estate sales, it's much easier to tap an e-government site than appear in person and leaf through paper files. But the thought that people who may want to harm others can, in a few clicks, locate home addresses and Social Security numbers of potential victims turns the stomachs of some public-sector leaders.

Among those who feel most alarmed are some government officials who fear that putting their personal details online makes them easy targets for criminals.

In the Public Eye

In May 2005, Dan Onorato, chief executive of Allegheny County, Pa., agreed to take the names of about 100 federal, state and local judges off a county real-estate Web site.

According to news reports, he did this at the behest of a federal judge, who expressed safety concerns after the husband and mother of U.S. District Judge Joan Lefkow were murdered in Lefkow's Chicago home in February 2005.

In testimony before the U.S. Senate Judiciary Committee in May, Lefkow asked for a law that would prohibit the posting of personal information about judges and other public officials on the Internet without their written consent.

In July, the county refused a request that it also remove police officers' names. Then, County Council member Bill Robinson introduced legislation to suppress the names of all property owners, not just public officials. It required that any member of the public seeking the name of a property owner make a formal request via letter or e-mail.

In September, the county started testing a version of the real-estate Web site on which a person searching property records by address would not see the owner's name, and a person searching by name would not see the address. Allegheny County officials did not know when or if the site would go public, and did not respond to requests for an interview.

Missouri Makes a List

In Missouri, concern about government officials' privacy also sparked a controversy over government Web sites.

The state passed a law in 2005 prohibiting courts and state and local agencies from posting the home address, Social Security number or telephone number of any elected or appointed public official on the Internet without that person's written consent.

The law listed 13 categories of officials to be protected, including state legislators, judges, county commissioners, mayors and city council members, police chiefs, sheriffs, and peace officers, among others.

Four Missouri counties -- Boone, Cass, Jackson and Platte -- sued the state over the law. The counties said it would force them to shut down databases of public information on their Web sites, since gaining permission from every relevant public official would be absurdly difficult and expensive.

The four counties developed e-government services because that's what citizens asked for, said Ken Evans, director of e-government and public relations for Jackson County.

"This law, because of the unfortunate way it was worded, put that whole initiative in jeopardy," Evans said.

The law would have affected two databases providing tax records and information on real-estate sales on Jackson County's Web site. Following the outcry from the counties, the state Legislature repealed the law, replacing it with a law containing language that covers both private citizens and government officials.

The new law makes it illegal for anyone to post personal information about any person on the Internet "with the intent of doing harm," Evans said, which is a critical change because it allows Jackson County officials to feel confident in continuing with e-government efforts.

"Jackson County would have no problem proving that what we're doing is with the intent of serving citizens," he explained.

Ever since it first put its tax and real-estate databases online, Jackson County has fielded occasional complaints from public officials and private citizens who fear that easy access to their personal information could aid assassins or stalkers, Evans said. In response, the county points out that this information is already available to anyone motivated to search it out.

"If you really have a safety issue, you don't solve it just by taking the data offline," he said. "If it's still in the public record, [a person] can just come to the courthouse, request it and get it."

One change Jackson County officials *would* like to make is to keep Social Security numbers out of not just electronic records, but all public records, to protect citizens from identify theft. It's illegal, however, under Missouri law for a county deed recorder to "cleanse" Social Security numbers from real-estate documents before making them part of the official government record.

"I think we can fix that," Evans said. "I just don't think the amount of attention necessary has been given to it yet."

Practical Obscurity

Though Jackson County officials -- and many others -- maintain that posting a public record online is the same as providing it on paper, not everyone agrees.

"There's a difference in 'practical obscurity,'" said Daniel Solove, associate professor at the George Washington University Law School in Washington, D.C., and author of *The Digital Person: Technology and Privacy in the Information Age*.

"Practical obscurity" refers to the privacy an individual enjoys when personal information contained in public records is relatively hard to obtain. If a would-be harasser must travel some distance, wait in line and deal face-to-face with clerks to obtain a victim's home address and phone number, he or she might think twice about taking action.

"When you put it on the Internet, I can get information about anyone at any time, at the click of a mouse," Solove said, meaning that one can quickly and anonymously assemble a dossier on a person with information from different sources in different states, or even assemble databases of information about individuals.

Laws about personal information on the Internet vary from state to state, and governments that put public records on the Web often act without understanding the legal ramifications, Solove said.

"We're in an area where the law is not entirely clear," he continued. "I think some government officials said, 'Let's just put it up there. Let's make it all public.'"

But that's not always allowable, he said.

Although the controversies in Pennsylvania and Missouri both started with requests from public officials, in each case the argument broadened to address privacy for all citizens. It's only fair, said Evans, and Jackson County Executive Katheryn Shields has stressed that point.

"She believes that to the extent that her information is out there, too," Evans explained. "It's all or nothing with e-government."

Though Evans said government should be careful about posting personal information on the Web, Solove agreed that government officials should not receive special treatment.

"It's true that they do need privacy," he said, adding a caveat. "I don't think it's fair that they just protect their own and leave everyone else out to dry."

Merrill Douglas

Contributing Writer

Merrill Douglas is a writer based in upstate New York. She specializes in applications of information technology.