

Public Abstract

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Graduation Term:SP 2008

Department:Journalism

Degree:MA

Title:UNDER THE AUSPICES OF PRIVACY . . . OR NOT: SURVEYING THE STATE JUDICIAL TREATMENT OF ACCESS TO GOVERNMENT RECORDS

While privacy is paramount to the liberty interest of an individual, it is not absolute in all circumstances. Government agencies, for purposes of openness and accountability, are required by public records statutes to release various types of information. However, some of the government records may contain identifying information, which if disclosed, would constitute an unwarranted invasion of personal privacy. Courts are often called upon to resolve the clash between protecting the privacy of individuals and promoting the public interest in disclosure.

This study, through an examination of case opinions issued by the supreme courts of the fifty states, aims to determine how state courts across the nation address personal privacy exemptions in public records disputes. This thesis intends to find out if state courts are following the federal categorical approach to FOI exemptions. The purpose of this thesis is to draw inferences regarding an overall trend in the state judicial treatment of privacy and information disclosure concerns.

The results indicate that states do not follow the strict categorical approach to statutory exemptions and that each FOI dispute is generally evaluated on a case-by-case basis because the facts of every lawsuit differ. In the interests of democracy and accountability, citizens should be aware of the approaches their state courts use in deciding whether or not certain private information in government records is disclosable under state public records laws.