



Written by [Joe Wolverton, II, J.D.](#) on May 21, 2014

Proposed Amendment Will Stymie Surveillance in Missouri

Despite failing to pass a bill nullifying the federal government's gun grab, the Missouri state legislature has approved a measure protecting electronic communications and data from the prying eyes of the National Security Agency (NSA) and other federal surveillance squads.

Fortunately, the bill calls for an amendment to the Missouri Constitution to this effect and will skirt the governor's desk and go directly to the people of the Show Me State for their approval or rejection this fall.



To its credit, rather than wrangle over what is or is not included in the constitutional definition of the "persons, houses, papers, or effects" protected from unreasonable searches and seizures by the Fourth Amendment, the bill passed by the Missouri legislature explicitly places "electronic data and communication" within the Fourth Amendment's safeguards.

The bill, sponsored by state Senator Rob Schaaf, was passed by the state Senate on April 3 and by the state House on May 16.

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In a deft move, the bill replaces the "privacy rights" provisions of the state constitution with language specifically surrounding electronic communications within the sphere of Fourth Amendment protection:

That the people shall be secure in their persons, papers, homes [and], effects, and electronic communications and data, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, or access electronic data or communication, shall issue without describing the place to be searched, or the person or thing to be seized, or the data or communication to be accessed, as nearly as may be; nor without probable cause, supported by written oath or affirmation.

By specifically outlawing the wholesale, warrantless collection of electronic communication and data, the Missouri amendment, should voters sanction it, would make great strides toward thwarting the Obama administration's ever-extending reach of surveillance aimed at making every citizen a suspect and revealing the full catalog of a person's electronic and digital life to the prying eyes of the rulers of the incipient federal police state and its state allies and agents.

Shane Trejo, spokesman for the OffNow coalition, recognized the importance of the bill's aim.

"While Missouri might not be able to physically stop the NSA and other federal agencies from collecting our data without a warrant, legislation such as this can significantly reduce the practical effect of what they are trying to do with it. Compliance with the NSA's illegal spying program would be illegal in Missouri if this is passed, and that is no small feat," he said.

It is important to remember that there are several state law-enforcement agencies benefiting from Big Brother's data collection. In fact, Reuters reported last year that the secretive Special Operations



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Division (SOD) is “funneling information from intelligence intercepts, wiretaps, informants and a massive database of telephone records to authorities across the nation to help them launch criminal investigations of Americans.”

The information cited by Reuters points to the fact that these cases “rarely involve national security issues,” and that local law enforcement is directed by SOD to “conceal how such investigations truly begin.”

This point was borne out by [a report published in *The New American*](#) in March.

The headline of a story out of Wisconsin is evidence of the unholy alliance between state and federal law enforcement: “State cops can track residents’ cellphones.” The story under that headline, from the *Fond du Lac Reporter*, demonstrates the immense capacity of law enforcement to violate the Fourth Amendment.

“Police in Wisconsin have at least two devices that secretly track cellphone locations in real time to target suspects or missing persons — technology that simultaneously mines data from hundreds or thousands of unsuspecting people nearby,” the article noted. Such sophisticated surveillance equipment doesn’t come cheap. The *Reporter* wrote:

The suitcase-sized Stingray masquerades as a cell tower to trick cellphones into connecting to it. It can show police phones within a mile or more, depending on terrain. Records show the DOJ Stingray cost more than \$150,000, and the DOJ and Milwaukee police both purchased upgrade packages that topped \$100,000.

In fairness, it’s not only Wisconsin law enforcement using this technology to track citizens. As noted by the *Reporter*, “An investigation by USA TODAY and Gannett media around the country found at least 25 police departments outside Wisconsin own a Stingray. More than 30 other agencies refused to say whether they own one.”

St. Louis citizens will soon be subject to surveillance by local police equipped with DHS-provided facial recognition software. A story in KMOV quotes a local official justifying the acceptance of the federally funded technology.

“If someone robs a bank and cameras capture that face we then take that picture, put it into a computer system through a scanning system and that goes through the existing mug shot data basis [sic] looking for known criminals that would match that picture,” the official said. “It’s no different than a detective or a victim going through binders of pictures looking for a match of that individual.”

In fact, it is significantly different. Mug shot binders are full of photos taken by police after a person has been arrested. Cameras equipped with facial recognition software will record the faces of everyone who comes within the scope of their lenses without regard to warrants or reasonable suspicion of criminal activity.

Unlike mugshots, the pictures of the faces of people living in or visiting St. Louis will be recorded just in case they are ever needed. This is a search and seizure made in violation of the Fourth Amendment, and it should concern the nearly 3,000,000 residents of the metropolitan area, as well as the millions of tourists who visit the city annually.

All the foregoing is evidence that Americans are witnessing (often mutely) the rapid establishment of a federal police force built upon the foundation of formerly free local law enforcement and equipped with technology, tactics, and weapons of immense power.



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Put another way, the federal government is not being stingy with the electronic data it vacuums up, but is entering into “sharing agreements” with state and local counterparts who may ostensibly use the information as they see fit.

The Missouri legislature’s proposed constitutional amendment will not derail the train of total surveillance, but it will, if citizens approve its inclusion in their constitution, slow the speed within the sovereign borders of the state of Missouri.

Voters will decide the fate of SJR 27 when they go to the polls on November 4.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels nationwide speaking on nullification, the Second Amendment, the surveillance state, and other constitutional issues. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com.



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