Records, retention of electronic communications

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Subject:
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The Honorable Kurt Browning
Secretary of State
Department of State
500 S. Bronough Street
Tallahassee. FL 32399-0250

Dear Secretary Browning:

Following a controversy at the Public Services Commission (PSC) involving Blackberry PIN messages, I formed a Sunshine Technology Team to explore and understand technology in government communications and their implications on Florida's open government laws. This fact-finding group held three meetings attended by open government advocates, agency Chief Information Officers, state and local government representatives, and members of the media. The group received presentations and engaged in discussion on Blackberry communications, Microsoft communication platforms, and social networking such as Facebook and Twitter.

One goal of the Sunshine Technology Team was to "bust the myth" of how these types of communications are handled from an information technology perspective and how they can be captured, retained and disclosed under Florida's Sunshine and public records laws. Just as the myth that Blackberry PINs cannot be stored and accessed was busted with the Attorney General's office policy announcement in September, the same is true with other electronic communications. Indeed the Sunshine Technology Team identified that all electronic communication on government devices passes through the agency's servers, and as a result, those messages are able to be retained with the flip of a switch.

The Department of State currently maintains administrative rules defining the retention schedule for government agency email. There are no required retention guidelines, however, for other types of electronic communication because the administrative rules describe them as transitory. This is no longer accurate in today's world where business is conducted on a variety of communication platforms. The same rules that apply to email should be considered for electronic communication including Blackberry PINs, SMS communications (text messaging), MMS communications (multimedia content), and instant messaging conducted by government agencies.

Accordingly, I respectfully urge the Department of State to consider initiating a rulemaking process updating the retention schedule for electronic communication. Should you wish, I am sure that participants in the Sunshine Technology Team would be happy to offer their input and my office is willing to assist you in any way.

I encourage new technologies to make agencies more efficient and productive, as well as to give our citizens more access to their government. I look forward to your response so that we may ensure that Florida's open records laws keep pace with the speed of technology.

Bill McCollum