

The Salt Lake Tribune

Op-ed: Utah legislators stood up for Fourth Amendment

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PUBLISHED: MARCH 15, 2014 01:01AM

UPDATED: MARCH 15, 2014 08:06AM

The Utah Legislature was divided this year when it came to issues such as air quality, same-sex marriage, Count My Vote, and education, but the Fourth Amendment to the U.S. Constitution is one place where legislators found common ground.

We live in an age when the principles this clause was intended to protect are under constant threat. For example, the many beneficial technological advances we enjoy often come at the expense of our privacy. Additionally, the trend of militarizing police officers means that tactics and weapons designed for overseas combat are being deployed in our communities.

Four key pieces of legislation, each rooted in the Fourth Amendment, worked their way through both the Utah House and Senate with relative ease. Both of our organizations were involved in the drafting and promoting of these bills, and we strongly believe that once signed into law by the governor, they will make Utah a better state.

Senate Bill 185 brings transparency to law enforcement work, specifically as it relates to SWAT team deployments and forcible entry home raids. The bill requires a report for each of these incidents, collecting 16 data points including whether a warrant was issued, the suspected crime, how many shots were fired, whether anyone was injured or killed, etc. The aggregate report will be presented annually to lawmakers, and available publicly, so we can all better understand the nature of such force being used in our communities.

House Bill 70, which changes how forcible entry warrants are authorized and executed, introduces additional caution into the process by requiring law enforcement officers to use “only that force which is reasonable and necessary” to arrest a suspect or search his or her property. It also raises the evidentiary standard for forcible entry in certain circumstances from reasonable suspicion to probable cause. The nationwide trend of increased home raids by militarized police officers should be neutralized in Utah, and this bill takes us in that direction.

House Bill 128 requires a search warrant to obtain the location, transmitted data, or stored data of an electronic device such as a mobile phone or laptop. The bill requires law enforcement to delete any data they collect that doesn’t pertain to the suspect named in the warrant. It also requires notification to the individual that the location or data was obtained, much like a person is served a copy of a traditional warrant when physical property is searched or seized.

Senate Bill 167 requires law enforcement officers to obtain a warrant before using drones. Like HB 128, it requires the deletion of data that does not pertain to a suspect. Importantly, given the emergence and adoption of this potentially invasive technology, this bill requires police agencies to report drone use to lawmakers, and the public at large, so we can all understand their prevalence and practical application.

All of these bills passed unanimously in committee and received either unanimous votes, or had very few dissenting votes, in both the House and the Senate.

Why so much support for these policies? Part of it may be credited to Edward Snowden. Whether you think him a hero or traitor, the recent revelations regarding the NSA’s surveillance activities shocked and angered people nationwide — including legislators in Utah, where there has been a heightened interest to “do something.”

In his first interview with The Guardian, Snowden said that his greatest fear was that, despite his efforts, “nothing will change.” Congress and the courts may be slow to respond, but we’re pleased to see the Utah Legislature enact substantive and important changes. The near-unanimous support for these four bills demonstrates the bipartisan nature of civil liberties. We applaud our state’s commitment to protecting the privacy and freedom of each individual.

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