The Hunt for Privacy Under the Big Sky

University of Montana–Missoula. School of Journalism

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You know that life in Montana is extraordinary, varied and endlessly fascinating.

You should expect the same from your local newspaper.
DEAR READERS,

You are being watched.
Edward Snowden told the world exactly that in June of 2013, as he sat in front of The Guardian’s camera.

Just four days after shattering the one-way mirror that concealed the modern surveillance state, the former National Security Agency (NSA) contractor explained the secret, vast, and unwarranted spying of the U.S. government.

“Even if you’re not doing anything wrong, you’re being watched and recorded,” Snowden said.

As the year progressed, news organizations around the world ran stories that supported his claims.

Le Monde reported the United States monitored telephone communications of more than 70 million French citizens in one month. Der Spiegel reported the United States tapped German Chancellor Angela Merkel’s cellphone for more than a decade. The Guardian ran NSA-related stories on a near-daily basis.

Here in America, after the Department of Justice seized Associated Press phone records, frustrated journalists found hope in a remote part of the nation: Montana.

In April of 2013, the Montana Legislature passed a bill that forces state and local law enforcement to obtain search warrants before receiving cellphone records. Several weeks later, Snowden exposed the NSA, and Montana emerged as a presumptive leader in the global fight for privacy.

Montana’s law received applause after coverage in The Washington Post and The New York Times. The Atlantic Wire even ran a headline that read “If You Don’t Want the Government to Spy on You, Move to Montana.”

But as our staff writer Brett Berntsen found while reporting the cover story, geography holds no real power in the information age.

If you carry a smartphone like 56 percent of American adults, you are essentially a walking information leak. No matter where you are, your location, interests, social contacts, and daily habits are tracked and stored by Facebook, Amazon, Yahoo, Google, Pandora, YouTube, Instagram, Twitter, Snapchat, iTunes, and plenty of lesser-known entities.

As citizens, we’ve made it easy on those who want our secret information, be they government agencies, corporations, or hackers.

Oscar Wilde once said fox hunting is “the unspeakable in full pursuit of the uneatable.” Now, it is the unseeable in full pursuit of the unfleeable.

We’ve taken the work out of the hunt and reap no rewards for serving ourselves on a platter. The ones who benefit are those who exploit citizen data for their own purposes — the government, corporations, and black-hat hackers. Our only hope is journalists will learn to exploit the data for the benefit of the people.

With that in mind, we welcome you to Montana Journalism Review 2014.

We hope you enjoy yourselves.

Now smile for the camera.

AUSTIN GREEN, MANAGING EDITOR

HENRIETTE LOWISCH, EDITOR-IN-CHIEF

Illustration and cover art by b.jean.s.
MEET THE ILLUSTRATORS

b.jean.s. studied fine art at Indiana’s Ball State University. Her first love is drawing, but she also enjoys painting and graphic arts. Having lived in many different regions across the United States, she incorporates different artistic styles and media in her art. She currently works as a graphic artist and participates in the Missoula-based art collective Von Common.

James A. Rolph is probably some sort of cartoonist. He might also be a political scientist ... or a journalist. This has all become unclear. But he definitely likes drawing cartoons. He is currently the graphic designer for UM Productions, and a cartoonist and page designer for the Montana Kaimin.
# WATCHDOG

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About MJR

Led by journalism students at the University of Montana, the nation’s first journalism review is back to analyze the work of the state’s media and inform its readers about the issues that matter most to Montanans.

Featuring Watchdog, Made in Montana, and The Year Ahead sections, the Montana Journalism Review (MJR) combines quality student production with thoughtful media analysis. The magazine also delves into non-media oriented news and trends to showcase journalism taught and practiced in the Treasure State.

While last year’s issue focused on closeness in all its dimensions, this year’s edition is dedicated to secrets.

Founded in 1958, MJR covers all areas of the state, from the mountains to the prairie. Since 2012, journalism professor Henriette Lowisch has mentored students through MJR’s production. We’re grateful to Matt Gibson for his ongoing sponsorship of our print edition.

MJR also produces online content in an effort to be transparent and broaden perspectives. The magazine is available as an e-book and engages readers on Facebook, Twitter, and Tumblr. For a free subscription, please go to our website mjr.jour.umt.edu.

Both the print and web editions are exclusively conceived, edited, designed, and produced by journalism students at the University of Montana. All rights remain with the authors of the works published herein.

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“I HURRIED DOWN” the hill, which was about 200 feet high and difficult of access, to gaze on this sublimely grand spectacle … the grandest sight I ever beheld.”

Meriwether Lewis wrote this in his journal after viewing the Great Falls of the Missouri on June 13, 1805. It is arguably the first instance of an acclaimed outdoor writer “hot spotting” a favored location in Montana. It’s since become a time-honored tradition, but those last best places for which our state is so renowned aren’t always what readers want rhapsodized in print.

In June 2013, Missoulian reporter Rob Chaney ran headlong into this hornet’s nest after writing about the wonders of floating the Dearborn River on the Rocky Mountain Front for the newspaper’s Outdoors section. In it, he quoted floater Greg Daly: “It’s still off the grid, but it’s getting more crowded.”

But Chaney’s eloquent and appetizing write-up put this stream that much further “on the grid.” And readers immediately lobbed verbal grenades.

One called and told Chaney, “You never should have written that story about the Dearborn River. Now everyone will know about it and it’ll be ruined.” He recounted the conversation a month later in another landscape profile for the Missoulian about Glacier’s Kintla Lake.

“Sitting on the shore of Glacier National Park’s most remote frontcountry campground,” Chaney wrote, “I sympathized with my reader fuming over the phone. The lake I used to think was lonely enough to haunt now needs reservations to visit.”

Even so, Chaney says he doesn’t regret writing about the Dearborn.

“It’s on the map,” Chaney says. “There were 20 rigs in the fishing access site that we put in at. Obviously somebody had figured it out.”

Chaney feels that publicly accessible locations, which appear on maps, signs, or other forms of legal documentation, are fair game. But he limits himself when it comes to undocumented personal hideaways.

“If it’s somebody’s personal spot that doesn’t have a landmark, that doesn’t have some kind of major public access or opportunity, I think in my writing I owe it to that person not to give away No Name Lake or Hidden Valley,” he says. “I’m perfectly comfortable respecting that.”


As most Montanans can attest, fishing and hunting honey-holes are among the most closely guarded of all outdoor hot spots. Schweber knew he needed to ply his spotlight carefully. He developed a three-pronged strategy.

First, he wrote only about places that had already been written about in other guidebooks, trying to look at them from new angles. Second, he tried to stay as broad as possible, profiling large stretches, like the entire Gibbon River and Lamar Valley, rather than specific fishing holes. And last, when he had to narrow his focus, he looked for backcountry spots limited by difficult approach.

“One example is the Yellowstone River downstream of the Grand Canyon of the Yellowstone but upstream from the Black Canyon. The fishing there is kickass and pretty much everybody knows it. But that does not change the fact that it’s hard to get at, with many miles and many hours of hiking down 1,500 feet and then back up 1,500 feet to get there.”

Schweber interviewed many people for his book. The person who told him of the backcountry stretch between the canyons had fished it for 40 years and, having witnessed it decline in popularity, hoped to actually see more people there thanks to the book’s attention.

“He saw sharing with me how good that spot is (would) encourage or even goad people into getting out into some of these far-flung spots, so they’d know what an incredible one-of-a-kind place it is and be vigilant about standing up for it.”

Therein lies the balancing act for outdoor journalists, especially here in the Montana. Aldo Leopold shed light on the paradox in his conservation masterpiece, Since Lewis and Clark, outdoor writers’ praise has turned nature’s purest places into crowded vestiges of their former beauty. Should writers stop the whistleblowing?
“A Sand County Almanac,” writing that “to cherish, we must see and fondle, and when enough have seen and fondled, there is no wilderness left to cherish.”

Is the written word more likely to destroy a place or help protect it? Lewis’ exaltations about the Great Falls of the Missouri helped place them on Montana’s state seal in 1893 and inspired the city that now bears their name. But in the long run, it did little to stop the construction of dams that have largely erased four of the five cascades to produce hydropower.

Yet Lewis’ words remain the best peek into the grandeur that once existed — and illustrate what can be lost despite such praise. Clearly there is power in reporting the natural wonders of our state, but it is up to the writer to find the delicate line between telling too little and telling too much.

Paul Queneau is a 2002 graduate of the University of Montana’s School of Journalism. For 10 years he has worked as an editor for Bugle magazine at the Rocky Mountain Elk Foundation in Missoula. He is also a freelance writer and photographer with credits in Outdoor Life, Montana Quarterly, and other publications.
Making the Cut

Lee Enterprises, including the Missoulian, Billings Gazette, and Helena Independent Record.

Months later, the Great Falls Tribune laid off six full-time employees as part of a larger plan by the paper’s parent company, Gannett Co., to eliminate 10 percent of its workforce.

Jim Strauss, publisher and editor of the Great Falls Tribune, said the paper avoided mass layoffs partially because it has retained a large portion of its print circulation. But the paper has still cut nine staffers since 2007.

Like Orme, Strauss dealt with questions from the newsroom while the paper carried out cuts imposed by its parent company. In an interview, he avoided commenting on specific events, but said the whole building was curious about the restructuring process. “I’m as honest as I can be,” he said. “If layoffs are necessary, then we really analyze how we need to be structured going forward to serve the needs of our readers.”

Those needs are analyzed behind closed doors, and in an industry that still hasn’t found its foothold, a newsroom can never know when the next desk will be emptied.

WHEN WORD COMES down the line that one-fifth of a newsroom has to be cut, keeping a poker face in front of more than 100 journalists can prove a challenge for even a veteran of the industry.

In late August 2013, a small group of managers in Utah had to discuss changing the lives of 19 co-workers. Terry Orme, the editor and publisher of The Salt Lake Tribune, was part of that group.

“From a newsroom management standpoint, it’s the hardest thing I’ve ever done because you’re dealing with people’s lives,” Orme said. “So every decision was agonizing because bottom line, you were cutting very good people.”

Orme was a managing editor during three rounds of layoffs. It started with nine jobs in mid-2012, then another four in July 2013. One month later, news hit that the Tribune would have to reduce its staff by nearly 20 percent.

“We knew there were some hazards in our industry and the landscape was a little rocky out there, but it was a surprise to us when we were asked to cut as much as we did,” Orme said.

Their strategy was to deliberate and carry out the cuts as quickly as possible to avoid a prolonged crisis. In September 2013, the paper let go of 17 full-time employees and two part-timers. The call came from the top of the business chain. Digital First Media, the New York-based firm that owns the Tribune’s parent company, set the bottom line. Then the Tribune’s managers had to determine how to meet that line.

Orme and three other editors spent several days deliberating where to cut, a painstaking process.

In the newsroom, people began asking questions. Orme wanted to be honest, but he couldn’t be specific, and he only revealed they were having budget cuts.

“That might seem like you’re keeping information from people, and I guess you are, but the reason you do it that way is because you’re trying to minimize the upset that you’re about to cause,” he said.

The news hit hard, even with other metro news outlets. A writer for an alt-weekly in Salt Lake, City Weekly, offered drinks to laid-off Tribune workers the day of the announcement.

So far in Montana, newspapers have managed to avoid large-scale cutbacks that plague bigger markets. But the state’s newspapers were hit hard during the recent recession.

In 2008, 30 full-time positions were cut across regional newspapers owned by Lee Enterprises, including the Missoulian, Billings Gazette, and Helena Independent Record.

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CAPTURING THE MOMENT

Whether he’s tracking a wildfire up a mountain or walking the streets of his hometown, Kurt Wilson takes shots that amaze. While most of us are still blinking, the veteran photo editor of the Missoulian has already captured the moment with his camera. MJR photo editor Hunter D’Antuono asked Wilson for his secrets. Read the answers, in Wilson’s own words.

A NARRATIVE ACCOUNT BY
KURT WILSON

WE WERE SITTING in the driveway of a house up Lolo Creek, watching this forest fire coming down the hillside. Nobody was home. We didn’t have cell service, so we’d stopped there, looking for a landline to call the newsroom.

There was a sticker on the door that alerted any emergency responders to “save our pets” and we could see two dogs inside the home.

And this woman drove up in a truck. I wouldn’t say she was panicking, but she was in a very determined state of mind. She was there to warn residents to get out. She pulled up and opened the door of the truck, and while she was waving her arms and telling us it was an emergency, I was photographing her. Rob Chaney, the reporter I was there with, took her name and, between the two of them, they saved the homeowner’s dogs.
I like it when things are happening and I’m not trying to set something up. I’m working situations that are real and are going on, just as they would if I weren’t there. Worst case is if I get to a place and people are saying, “What do you want us to do? Where do you want us to stand?” When I start trying to arrange things, it generally gets worse, not better. I would rather things arrange themselves and let me work around them.

My secret to photography? Here’s what I feel I’m able to do, and I don’t know if it always works: I watch things. I’m patient and I’m able to anticipate what might happen next to make a good photograph.

1. With flames from the Lolo Creek Complex fire marching into the valley, Lyra Kester arrives at a neighbor’s home to warn residents. After finding no one home but two dogs inside, Kester broke out a screen and rescued them.

2. Marine Lance Cpl. Thomas Parker of Ronan moves from his hospital bed at Maryland’s National Naval Medical Center into a wheelchair on his way to physical therapy. Parker lost both his legs and most of his left hand on December 11, 2010, when he stepped on an improvised explosive device while returning to camp in Afghanistan.

3. Conrad and Melanie Beachy, members of the St. Ignatius Amish community, stand under a willow tree moments before their father calls them back to the house for dinner.

4. With his cape flying in the wind, Declan Crawford, 3, works to catch up with his grandmother on a walk along South Higgins Avenue in Missoula.

5. University of Montana quarterback Jordan Johnson gets caught by the foot by Sam Houston State cornerback Bookie Sneed at the FCS semifinal in Huntsville, Texas, on December 16, 2011.
Kurt Wilson grew up in Missoula and graduated from the University of Montana's School of Journalism. He studied zoology and conservation before he found his calling as a photojournalist. In 1982, his first full-time newspaper job took him to the Daily News in Longview, Washington. Three years later, he joined the staff of the Missoulian and became the photo editor in 1986. From sports and features to documentary, his work has won multiple awards, among them four awards in the Pictures of the Year contest.

In Montana, we don’t get the big, crazy stuff going on. We don’t cover war and conflict. But I could live my whole life in a community that doesn’t have a school shooting to cover. I’ll be really happy to not have to do that.

When I first interned at the Missoulian, it was under Carl Davaz, who came from The Topeka Capital-Journal. He brought to the newspaper the idea of how photographers should act. He wanted photographers treated like journalists and to have a voice in the newsroom equal to writers. I still think the Missoulian is one of the best picture-newspapers in the country, and it has always offered me the opportunity to accomplish most everything I’ve wanted to do.

As for starting out these days, it feels like on the one hand it is harder, as there’s a lot less opportunity in newspaper photography. On the other hand, people are maybe more visual than ever. If you are the kind of person who has an idea of your own at least every other day, I think you’ll get opportunities that come your way, because you’ll recognize them. If you’re a good photographer, who can make a nice picture out of any assignment but doesn’t really have any ideas, that’s going to be harder.

When I edit sports, I look for peak moments and the juxtaposition of players; how they fit together into a nice composition. But most of all, it’s about anticipating something just before it actually happens.

In some cases, that’s not even all that hard to do. One day, we heard on the scanner there was a bear in a tree, pretty close to downtown Missoula. Fish, Wildlife & Parks were going to dart the bear, and all these guys from NorthWestern Energy were holding the edges of this net to catch the bear so it wouldn’t just hit the ground if it fell from the tree. I’ve seen bears darted before, and I figured it would fall, so it was just about finding the spot where I would have a good view of it.

The whole thing was like a rescue scene, with somebody jumping out of a flaming hotel window and the firemen down below. The way his legs are positioned, the bear almost looks like a human. And those guys with the net are really just taking care of another living thing, which is something we can all appreciate. That’s what I’ve always loved about that picture.

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CUTS AND DOWNSIZING make serving as the daily record more than enough work for many small-town papers. The resources needed for long investigations are perks or sacrifices, seldom a budget entry. But the secrets are still there, and Montana journalists are adapting to uncover them.

Chuck Johnson of Lee Newspapers’ State Bureau in Helena knows the struggle of in-depth coverage firsthand. Covering Montana’s state government is a busy task for his crew of only two. A few years ago, there were three.

“I don’t know of any newspapers or television stations in Montana that have a team that works on nothing but major investigations,” Johnson said. “But we try to dig into things. Sometimes they’re not stories you have the luxury of working for two weeks on. You may have to start working on it on Monday and have it out by the weekend.”

For Johnson, the “60 Minutes” style of story isn’t feasible, but solid reporting is. Rather than one huge exclusive, his small team often strives to expand upon their topics in incremental articles, each building on the last. In 2012, Johnson wrote extensively about Montana’s pension system debate, publishing dozens of articles.

“In a broader sense, what we do would fall into explanatory or in-depth,” he said. “I’m not sure if you’d call that investigative or not.”

For those living by the deadline, diligent reporting from the trenches is their investigation. There just isn’t much time for anything else.

What classic investigative reporting really needs is a breath of fresh air, and it’s finding an ally in an unlikely source: the Internet.

More data is available online than ever before, and with it come more sources for investigations. Nonprofit news sources like ProPublica or the Center for Investigative Reporting have blossomed in recent years.

“Right now has kind of been the re-invention of journalism,” Jeremy Knop, founder of the Montana Center for Investigative Reporting (MTCIR), said. “There are so many places to get your news. You’re basically having to find new ways to fund revenue streams.”

Knop, whose day job is with a Montana television station, founded the MTCIR in February 2012, to address what he sees as a scarcity of investigative journalism in Montana. The MTCIR lives entirely online — there is no press, which means low overhead, but no subscription revenue either. The MTCIR’s small group of contributing journalists writes all the stories, often choosing to cover subjects that are either of state-wide importance or pieces that are underreported outside Montana.

“For me, what’s most important is it sparks a conversation about what really matters in our communities,” Knop said. “It’s the kind of journalism for which the
“IT’S THE KIND OF JOURNALISM FOR WHICH THE FIRST AMENDMENT EXISTS IN THE FIRST PLACE.”

Jeremy Knop, founder of the Montana Center for Investigative Reporting

First Amendment exists in the first place.”

But the MTCIR is still seeking the stable footing that all new nonprofits do: funding, exposure, and the resources to achieve both. It took months to attain Internal Revenue Service 501(c)(3) nonprofit status, which most grants are dependent upon. It’s hard, uncertain work. With obstacles on all fronts, how are nonprofit news sources supposed to get a foot in the door?

One answer is through sites like the Investigative News Network (INN), of which the MTCIR is a member. In the four years since its inception, the INN has grown from 27 to over 80 members in North America and will soon be launching worldwide. The INN is a journalist’s network, providing resources that would be difficult to acquire independently: website hosting, fresh avenues for publishing and republishing work, and collaboration among reporters. Members can access thousands of databases without having to file time-consuming Freedom of Information Act requests on their own and are able to access grants from foundations and negotiate payment from third-party publishers. Once a member publishes a story, it becomes part of the network, available for other reporters to use.

University of Montana journalism professor and former Bozeman Chronicle managing editor Dennis Swibold said he feels investigative reporting is the best type of journalism. The months or years of tedious research needed for deep investigative journalism don’t always deliver a shocking exposé and rarely lead to a fat paycheck. But investigative journalism provides the society-changing stories daily reporting can leave out: corruption at city hall, white-collar crime, and underreported issues. In an era of Internet opinion, “the demand for good journalism is higher than ever,” Swibold said.

In the last three decades, the news game has changed. Newspaper subscriptions are down. Internet news, often free, is thriving. Yet, secrets never sleep, so neither will investigative journalism.

Lena Viall is a freelance writer and University of Montana Creative Writing Program alumna. Her work has been featured in Bugle Magazine, The Oval, and on Montana Public Radio. She lives in Missoula.

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I WONDER IF we exaggerated the whole thing.

Looking back, we wrote close to 200 stories related to a multi-layered scandal at the University of Montana (UM) that began with sexual assault allegations against football players and ended with a drop in enrollment and substantial budget cuts. In the end, I was an expert on navigating the frustrating and confusing world of higher education politics, communications, and brand protection.

About a month after the not guilty verdict was handed down to Griz quarterback Jordan Johnson in March 2013, I sat on a journalism conference panel in Spokane, Washington, with UM’s newly appointed vice president of integrated communications, Peggy Kuhr. We were discussing how to cover sexual assault at universities. I kept referring to what had happened at UM as the “scandal,” and at one point, Kuhr corrected me, saying she wouldn’t use that word to describe the last two years.

A scandal is defined as “an action or event regarded as morally or legally wrong and causing general public outrage.” If a university being federally investigated for how it handled multiple women’s claims of sexual assault and the ensuing outcry doesn’t meet that definition, I’m not sure what does.

It wasn’t the first time a staff member of the Montana Kaimin, UM’s independent student newspaper, and an administrator disagreed about facts, terms, or definitions surrounding a story. The relationship between college media and college administrators tends to be contentious: a hall of mirrors full of euphemisms and blurred terms, message shaping, and brand protection.

During the acceleration stage of this particular scandal, UM’s strategy to deal with the media was shaped by a chief spokesman that refused to return phone calls. As we headed into the conclusion, he was replaced with the person whose role had previously been to encourage journalism students to chase tough stories. As interim spokeswoman of the university, Peggy Kuhr, former journalism dean, became the gatekeeper for the information we needed to cover the scandal and its fallout.

When Kuhr first accepted the position, we hoped she would initiate a more constructive relationship. And, sure, she always responded to our interview requests and was altogether more pleasant to work with. But she also called my cellphone when she didn’t think we had phrased details correctly, like when we lumped the NCAA’s investigation into UM with those conducted by the departments of Justice and Education.

From a journalistic perspective, we had simply put events into context. Kuhr, however, insisted that the NCAA never expressly and publicly specified why it was investigating, though the timing was certainly suspect.

With this tactic and other brand-shaping techniques, the administration worked hard to repatch UM’s image. The more we tried to report on the mess, the further they stuffed it under the bed. When enrollment dropped at UM in the spring of 2013, we found ourselves in a maze of runaround phone calls, closed doors, and tight lips.

I remember crouching in the back row of a meeting at the College of Arts and Sciences, as department chairs debated if they should go to the media with their complaints about cuts. They decided against it, based on the argument that broadcasting the problem would cause even fewer students to attend.

Some people might call it normal that a university would try to protect its image. But as student journalists, we feel entitled to full and unfettered information, given that we pay the tuition that ends up in administrators’ paychecks. Commercial media covering the local university ran the risk of losing revenue, but we ran a much more personal risk, living in the world we reported on.

Kuhr’s ability to deny that the past two years had been a scandal left me with the impression UM was still ready to sweep incidents that reflected poorly on it under the rug — and that students were still not going to be protected by their administrators. That can’t be exaggerated.

Billie Loewen, a Hearst award winner, was MJR’s managing editor in 2012 and 2013. She worked on the Montana Kaimin staff from 2009 to 2013, serving as its editor-in-chief her senior year.
CONCEALED WEAPONS, SECRET IDENTITIES

MONTANANS WHO HAVE obtained a concealed weapons permit can do more than hide a handgun in their jackets — they can keep it a secret from the press.

In response to Associated Press statehouse reporter Matt Gouras’ request for records identifying concealed weapons permit (CWP) holders, Montana Attorney General Tim Fox said the right of individual privacy outweighed the merits of public disclosure. His memo in July 2013 to Gouras was written months before a new law protecting the privacy of those legally carrying concealed weapons took effect.

“CWP holders have a reasonable expectation the State will not disclose publicly what they choose to hide from those they have reason to believe may harm them,” the memo said.

AP reporters received vicious online threats after Aaron Flint, a broadcaster with the Northern Broadcasting Network, broke the story on his website. Many anonymous commenters demanded that the personal information of reporters be released to the public, with one suggesting a violent response.

Three months after its request was denied, the AP had yet to indicate if it would take legal action regarding CWP records. Bureau Chief Jim Clarke refused to comment on the matter, declaring that, “everything that needs to be said has been said.”

The attorney general’s decision has raised the hackles of First Amendment advocates in Montana.

“It’s very concerning to me that the attorney general refused to release that information when the law had not yet taken effect,” Jan Anderson, editor and publisher for the Boulder Monitor, said.

Journalists can use the information to provide more accurate reporting on shootings. Members of the public can also use the information when a threat is made against them. Now that the law’s taken effect, reporters and the public will only be able to access the information through a lawsuit.

Mike Meloy, an attorney with the Montana Freedom of Information Hotline Inc., disagrees with the attorney general’s decision to reject the AP’s request before the law went into effect.

Meloy believes the new law, known as SB 145, violates Montana’s constitution. Concealed weapons permit applicants may want privacy in regards to why they have a CWP, he said, but they cannot reasonably expect that their names remain private.

Under Montana’s constitution, a document is presumed to be open and may only be withheld from public inspection if the demands of individual privacy clearly exceed the merits of public disclosure.

Dennis Swibold, a journalism professor at the University of Montana, believes the AP is being cautious about what they should do.

If the AP were to challenge the law and lose, it would set a bad precedent in the state, making it more difficult to obtain information from the government, Swibold said.

It is the responsibility of the press to push back against the government if officials won’t release information that should be public, Swibold believes. It’s up to the press to make the government prove that privacy outweighs the public’s right to know.

Media organizations in Montana have taken legal action about a dozen times in the past 10 years to gain access to records. In the majority of cases, state courts sided with the media, and the documents were made available for public inspection.
Barred from access to concealed weapons records, Montana media prove to be gun shy


Anderson believes Montana’s legislators were fearful of the media in Montana emulating The Journal News. That fear helped push the bill through the legislature. She said only herself and a lawyer with the Montana Newspaper Association attended the legislative hearings on the bill. They fought an uphill battle against the bill’s supporters.

The newspaper association hasn’t discussed challenging the law in court and most likely won’t, until a situation arises where information is denied or a member newspaper presses the issue, Anderson said.

Still, Anderson finds it troublesome that CWP record information is now confidential. She’s concerned about potential implications for journalists to effectively report stories and the public to get vital information that might protect citizens.

For now, the information will remain out of everyone’s hands until the law is successfully challenged.
THE BIRTHDAY LOOPHOLE

Ten years after a statewide freedom of information compliance check, MJR discovers a gray area in Montana’s public access rules.
PLENTY OF SEX, drugs, and rock and roll came out of the 1960s, but so did one of the most important laws for journalists.

The Freedom of Information Act, enacted on Independence Day of 1966, has become an essential tool for citizens arming themselves with knowledge, and journalists getting their facts straight. With the federal law in mind, states have followed suit, passing their own freedom of information laws. Montana Code Annotated provides access to documents and records ranging from property tax information to jail rosters.

Ten years ago, a statewide compliance check conducted by Montana news organizations found discrepancies and confusions when auditors asked for state or county records, particularly in cases involving law enforcement.

To see if things had improved, the Montana Journalism Review (MJR) sent two staff members to Mineral County to seek documents guaranteed by the law as public. Designer Eben Wragge-Keller and photographer Tommy Martino followed the instructions used in the 2003 audit to a tee: They introduced themselves as members of the public rather than as journalists, to check if county employees would ask for their names and the reasons for their request. Montana law does not require citizens to provide that information.

This time around, a Mineral County official was ready to release the jail roster, with one catch: She withheld the birth dates of the incarcerated, making it harder to verify the identity of suspects with very common names.

When our team contacted the Freedom of Information (FOI) Hotline about the omission, it discovered a gray area that’s frequently overlooked: Though a Montana Supreme Court rule has been revoked that considered birth dates to be confidential, some agencies still withhold or redact that information, FOI Hotline lawyer Mike Meloy said, adding that a case could be made for the confidentiality of that data.

The spot check in Superior had another lesson in store for the MJR team: Not all counties in the state provide their public records on the Web. A website that claimed access to jail rosters across Montana turned out to be a scam.

Watch the compliance check video at mjr.jour.umt.edu.

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Supreme Court decision on same-sex marriage blurs the lines of equality in Montana

THE FACT THAT gay couples can now file federal taxes jointly is not enough to get Ray Davis and Jason Templin to tie the knot.

“I don’t want to seem ungrateful for all the progress that’s been made, but it’s heartbreaking to come so close and still be left as a second-class citizen,” Davis said about the recent decision of the U.S. Supreme Court regarding the Defense of Marriage Act (DOMA).

When the Supreme Court shot down parts of the law, it said the federal government had to recognize same-sex marriages legally performed at the state level, thus accepting jointly filed tax returns. But states with bans on same-sex marriages are still not required to recognize them.

Montana is one such state.

John Blake, 27, who lives in Montana, describes his home state as “behind the times” despite national progress. “There are still a lot of gaps legally and socially for LGBT Montanans,” John says. “The Hate Crimes Act doesn’t protect Montanans because LGBT people are not recognized in our human rights statute.”

Davis and Templin have been partners for four years. They are not secretive about their relationship, but they’ve shied away from making it official on principle.

“We are very unsettled in our opinions about marriage,” Davis said. “I’m very political in my decision and Jason is more reserved in his opinion.”

For the couple, one of the problems is that even same-sex spouses legally married in a state like Washington or California can’t jointly file for state taxes when they move to Montana.

Based on the DOMA decision, couples who choose to take advantage of the tax benefits of marriage should know that they will receive all the same benefits as heterosexual couples when it comes to federal taxes. There are more than 200 provisions in federal tax code for married couples, and those married since 2010 can go back and refile for the years they’ve been married to catch up on any tax benefits they missed out on.

But in 2004, the Montana State Constitution was modified to explicitly define marriage as between one man and one woman. Now, with the option for legally married gay Montanans to file federal taxes jointly, but not state taxes, local same-sex couples are left in a gray area of partial equality.

In July 2013, American Civil Liberties Union Montana moved forward with a lawsuit that would secure the same domestic protections for same-sex couples as legally married couples. The organization filed the complaint against the state on behalf of seven couples, seeking recognition of domestic partnerships, so partners can visit each other in the hospital and make end-of-life decisions.

Should the complaint succeed, it would mark an improvement but wouldn’t secure marriage rights, which isn’t enough for some.

“Same-sex marriage is still banned in Montana, and as DOMA stands now, that won’t change,” Blake said.

Davis and Templin, meanwhile, are waiting to have the luxury of deciding whether they want to get hitched in Montana.

“We’ve talked about it,” Davis said. “And I’ve dreamt about it since I caught the bouquet at my best friend’s wedding, over a year ago.”

Dustin Nelson is a senior in the University of Montana’s School of Journalism. He is passionate about reporting on social issues, arts, and entertainment.
A Google Earth screenshot reveals a satellite view of Emily Thomsen’s house and neighborhood.
As the great data hunt unfolds, Montana is less remote than national headlines suggest
Through a dead-bolted door, in an office space charged with humming wires and heated plastic, a team of techies gathers. Their hair lies unkempt, their faces shine greasy, and their eyes pulse with fatigue.

Between them rests a cork board banded in paper. “The Fox,” a sheet near the top reads, “Gender: female. Age: unknown.” A web of lines spreads from the description, branching off sideways onto pages titled “Occupation” and “Residence.”

“Tonight, we have a challenge,” says Jonathan Santy, known to his compatriots by the moniker Saint. “Our goal is to find out as much about the target as possible.”

The team filters toward their respective stations, fingers poised for a night of keyboard pounding. Stacks of dismantled computers and circuit boards fill the room. In the corner, a surveillance image of the outside hallway flickers across a screen.

“Humanity just doesn’t have the instinct yet to guard the cave door in the digital age,” Saint mutters, swiping a lock of hair away from his wire-rimmed glasses.

The hunt begins.
More than 100 miles away, the Fox relaxes at her home in Missoula. Emily Thomsen calls herself an average Internet and social media user, who takes the usual precautions toward online security. A new mom who gave birth to a daughter in January 2013, Thomsen mostly surfs the Web on her iPhone, checking the news and shopping for baby products. She doesn’t use Twitter and only adds people on Facebook she actually knows. Yet she still encounters the Internet’s uncanny ability to learn the details of her life, such as when ads for baby products showed up on a news website, clearly targeting her specifically.

Unsettling as it may be for the attorney turned stay-at-home mom, Thomsen accepts that certain personal tidbits inevitably float about in cyberspace. She doesn’t dwell on the reality much in her daily life.

“I don’t even know how to maintain privacy,” she says. “Other than canceling my Facebook account, I wouldn’t know where to begin.”

It’s a dilemma that fosters unique consequences in Montana – a state with a strong reputation as a safe harbor for civil liberties.

In the midst of the firestorm unleashed when former National Security Agency contractor Edward Snowden leaked documents revealing the government’s extensive domestic surveillance operations, Montana made headlines for passing the first digital privacy bill in the nation two months before the scandal broke.

The measure requires state law enforcement agencies acquire warrants before obtaining cell phone GPS locations. Privacy advocates hailed the effort as an archetype for the rest of the country and another layer of protection for Montanans, who already enjoy an explicit privacy right right built into the Montana Constitution. ▶
Unlike the federal Constitution, Montana’s governing document guarantees a textual right to privacy, added during its redrafting in 1972.

“(The drafters) were very concerned about the ability of government snooping through technology,” says retired Montana Supreme Court Justice Jim Nelson.

Since its implementation, courts have interpreted the precedent to cover a broad range of issues, from law enforcement’s use of thermal imaging technology to abortion care. But considering current national trends, a state constitution only stretches so far.

“If the CIA wants to hack into my email surreptitiously, there’s not a whole lot that Montana courts can do about it,” Nelson says.

Additionally, the Internet operates outside any jurisdictions and technology races forward at breakneck speeds, sparing no region.

To demonstrate the extent of personal data availability in privacy’s so-called “last best place,” Thomsen agreed to act as a test subject.

Doxing, in the business, refers to computer hackers gathering information online, revealing practically every facet of a person’s life. Malicious “black hat” hackers use the method to embarrass victims.

The “white hats” of the Helena-based Montana Ethical Hackers (MEH) computer club are on Thomsen’s trail. Led by Saint, the club’s president and founder, the team began knowing only the Fox’s name and that she lives in Montana. For the cyber bloodhounds, the rudimentary clues provide enough of a scent to begin the hunt.

Doxing, as its name suggests, relies predominantly on documents, taking advantage of the accessibility provided by electronic file storage.

Like most states, Montana uses centrally located databases to manage its vast stores of information, from tax forms to hunting licenses.

“I can’t think of a working group that uses paper files anymore,” says Sheryl Olson, chief program and information officer at the Montana Department of Administration.

Digitalizing the bureaucratic dossiers makes information cheaper and easier to access for government and the public.

But within these benefits lies the downfall.
“It’s way easier to get an electronic file out of a network than it is to go in and pilfer a record out of a file cabinet,” says Robin Jackson, a computer security consultant and a former IT bureau chief at Montana’s Department of Labor and Industry.

“If a hacker gets into the system,” Jackson says, “they can steal hundreds and thousands of records at a time. And they can do it from anywhere.”

It’s not just Uncle Sam storing data on potentially vulnerable systems. Private companies are doing the same. Sites like Spokeo and Intelius draw data from a menagerie of public sources, from magazine subscriptions to voting records to tax forms, then sell them through online search services.

Many of these services hand over basic information, such as names and addresses, for free, and charge for more comprehensive profiles including details such as warrants, arrests, and bankruptcy filings.

During the initial steps on Thomsen’s trail, the MEH team turned to free data-mining websites like PeopleFinder and WhitePages.

“Most sites give you enough information to go off of in order to start your search,” says Bill Genzoli, who, operating under the pseudonym Hook, led the reconnaissance team.

Running a profile for Emily Thomsen in Montana revealed her current address in Missoula. Then, with a more pinpointed...
THE FOX HUNT //

The Jester Marks every attack with a calling card tweet: TANGO DOWN. It announced his takedown of the Taliban’s website. It leered after he laid siege on WikiLeaks.

The catchphrase torments the Twitterverse as a trademark of one of the wild, wild web’s most infamous outlaws. It was once linked to a Helena computer security expert and Baptist church pastor named Robin Jackson.

Under the pseudonym The Jester, or in hacker lingo th3j35t3r, a cyber-vigilante has roamed the electronic frontier for the past three years, launching patriotic offensives against groups he considers a threat to U.S. national security. On December 10, 2010, after a strike against WikiLeaks in response to the website’s release of sensitive government documents, the hacktivist group Anonymous vowed to expose the mysterious online warrior, once and for all.

“Set your lasers,” the group wrote on its website. “Target: th3j35t3r.”

Scopes centered on Jackson, a 52-year-old tech consultant who at the time ran the Montana Department of Labor and Industry’s IT division. Conspirators based their allegations on a few commonalities. Jackson was a Russian linguist formerly in military intelligence, as well as an accomplished hacker in his own right. The Jester communicated with a Russian Hotmail account and had admitted in multiple interviews he was a military veteran. Moreover, both figures had explicitly stated online that WikiLeaks was detrimental to U.S. national security and put American soldiers at risk.

Netizens jumped to conclusions. Through the online tech-culture messageboard 4chan, hackers targeted Jackson in a process called doxing, publishing his name, address and phone number for the world to see.

“Fire!” Anonymous’ website read. “Fire!”

Ultimately, the onslaught resulted in little more than awkward phone calls. Both Jackson and The Jester denied being one and the same, taunting their accusers for a failed outing.

“We know each other in the cyber realm,” Jackson said. “But I’m not him and never have been him.”

Jackson said he respects The Jester’s actions but can only laugh at the thought of maintaining a secret life as a cyber-vigilante.

“I’m too busy to do that,” Jackson said. “I do my own thing and Jester does his.”

Since the 2010 incident, allegations associating Jackson with The Jester have faded into cyberspace.

“I don’t think they are the same person,” says Jonathan Santy, founder and president of the Helena-based Montana Ethical Hackers computer club. “But they do share some similarities.”

Jackson continues to be a presence in the worldwide hacker community, and still speaks out against groups like WikiLeaks and Anonymous. But rather than operating under a cryptic codename, he uses the more candid handle, rjacksix.

“It’s not very sexy,” he said. “But that’s me.”

To this day, the trail leading to The Jester’s identity remains cold, a fitting situation considering the renegade’s signature tagline, “Stay Frosty.”

Google search, the squad found Thomsen’s name on a web page inviting members of the Stanford Alumni Association to convene in Missoula and watch their alma mater’s football team play its rival. The post listed the contact person as Emily Thomsen. In the comments section was an RSVP from someone named Ian Robinson Thomsen. The pieces began to fit together.

Guessing the two were a couple, Hook Googled various combinations of the names.

“Logical deduction is all it is,” says Hook, a core member of the hacker club.

This simple method got Hook his big break, a gold mine of information from articles published in Ian Thomsen’s hometown newspaper.

He uncovered graduation announcements, marriage notices, and a bulletin about the birth of the Thomsens’ daughter. Articles included photos, names of relatives, even material on the family’s hobbies and aspirations.

From there, the resources became endless. Hook double-checked everything against government websites, using tax records, census information, and marriage and birth records to prove he had the right targets. He searched university archives, social media sites — everything in cyberspace that gathers information.

Hook’s final report portrays an eerily complete account of Thomsen’s life.


Below the introduction, Hook includes a picture of the couple, Ian wearing a Hawaiian shirt and Emily a black dress and gold earrings. They smile carelessly, unaware the photo would be available for the world to see.

The report lists the names, addresses, and phone numbers of both Emily’s and her husband’s parents. It shows ages, dates of birth, where Ian and Emily attended high school, and that they graduated in 1999.

The report states the couple met at Stanford University, where they both earned bachelor’s degrees. It shows Ian spent a summer hiking in Europe with his mom and brother after graduating, that Emily went to law school in Colorado and became a member of the bar, that she’s a licensed attorney in multiple states but currently inactive.

The report states the couple moved to Missoula, where Ian attends graduate school at the University of Montana. It says...
If the CIA wants to hack into my email surreptitiously, there's not a whole lot that Montana courts can do about it.
TO THIS DAY, the only physical trace reporter Matthew Frank has of his whistleblower is a white envelope he found sitting on his desk one afternoon. Containing classified documents, the envelope sent Frank on a two-year investigation uncovering allegations against police officers in Lake County, Montana.

Nowadays, with leaks more often occurring online than by snail mail, journalists’ hard drives conceal a plethora of sensitive documents and transcriptions. Although whistleblowers tend to look over their shoulders when releasing incriminating documents, they’re not the only ones being monitored.

In the past year, federal investigators obtained cell phone records of two Associated Press reporters, exposing an anonymous whistleblower whose identity the reporters were trying to protect.

While Montana hasn’t seen such a scandal yet, Frank and other local journalists are watching the horizon.

Kella Szpaller, a reporter for the Missoulian, a Montana daily, is leery of the effects data gathering and surveillance might have on reporters as well as sources. “People, at the very least, will be more cautious,” Szpaller said, “and at worst, refuse to share information in fear of retribution.”

Szpaller, who covers city hall, has witnessed sources shred information in front of her and taken their calls from various phone numbers so they could avoid being linked to leaks. Szpaller tries to meet her sources halfway.

“When I have had sources express caution, I met them in person,” she said, “I have gone so far as to meet someone at my private residence.”

Although Szpaller has yet to have any of her files hacked, she worries the possibility will make sources reluctant to share information and create further obstacles for journalists protecting sources.

While the public adapts to ubiquitous data gathering on multiple fronts, reporters still need to uphold their creed to accurately inform the public and diligently research leads, whether the information comes in an email, a phone call, or a white envelope.

Baylea O’Brien is a University of Montana senior. Her passion for traveling and international issues has taken her from the Middle East to New York City, where she interned for Seventeen magazine.
they enjoy skiing, hiking, and camping. It comprehensively lists Thomsen’s former addresses, from her dorm rooms and P.O. boxes at Stanford to her current home in Missoula. A street-view snapshot shows the residence. A green Subaru sits parked outside.

The report shows Thomsen gave birth to a baby girl in January 2013, named Elsie after her mother-in-law’s middle name. For a grand finale, Hook includes a picture of the child, lying in her crib, wearing a pink, cat-print onesie.


As significant as the breadth of information uncovered in the effort is its ease of access. Hook says most of the data was gathered in about one hour. The team stayed within completely legal bounds during their search, using only publicly available documents and system-manipulating savvy.

“We tried to use over-the-counter methods to point out you don’t have to be an uber-hacker to get this,” he says. “I stopped it at the point where it would become illegal.”

This reflects the state of privacy boundaries in the digital age: blurred beyond recognition. Although many tout the benefits of access to the information superhighway, people in the computer security industry cry foul.

“I think it’s a straight-up invasion of privacy that all this is out there as it is,” says Hook.

Legally, there’s little regulation of unwanted dissemination of personal data across the Internet.

In the past, lawyers used the analogy of a fenced backyard to describe privacy: If someone sunbathes nude, in the open, he or she gives up any right to privacy. If that person builds a fence and a Peeping Tom looks through the cracks, that’s invasion.

The Web arguably works the same way, only the fences are few and shoddy at best.

Anthony Johnstone, an assistant professor at the University of Montana Law School, says that in court, privacy hinges on reasonable expectation. It’s considered common knowledge that anybody can access the Web, so there’s no reasonable expectation of privacy.

The concept changes dynamically over time.

“What we’re trying to do is translate these older values of privacy to a new world,” Johnstone says. “It’s possible that younger generations might be more comfortable with sharing information online.”

But assuaging concerns about this trend proves a tough task when presenting someone with a detailed, web-gathered run-down of her life.

At home in Missoula, cradling her daughter in one arm, Thomsen scans the results. Working down the list, her eyes widen reading the personal details, such as her husband’s post-graduation trip to Europe and the description of their lifestyle in Missoula.

“I didn’t know all this was totally public,” she says.

She racks her brain to fathom where the data came from. Then it dawns on her.

“Every time there’s a big life event, Ian’s mom writes to the paper about it,” she says. “I didn’t think about that, honestly. I forgot that those articles were out there.”

While the fox hunters found a break with the articles, many of their other discoveries weren’t so obvious. Thomsen says she’s most disturbed by the exhaustive list of her former addresses, especially her P.O. box and dorm room at Stanford.

Still, ominous as it may be, the report didn’t contain any bombshells or skeletons in Thomsen’s closet.

“It’s not like I’m embarrassed or ashamed about any of this stuff,” she says. “I guess it’s okay.”

But Thomsen doesn’t sound convinced, and for good reason.

A cyber criminal with Hook’s report would have a solid basis from which to wreak havoc, including identity theft, blackmail, and bribery.

With the information at hand, Hook explains, one could create a fake identity using real statistics from Thomsen’s life, and then establish addresses, bank accounts, loans and otherwise re-route her finances. Through a painstaking process, the crook could crack her social security number. The first three digits of the numbers are based on place of birth. Idaho, where Thomsen was born, has only two possibilities. The ▶
MOST RECORDS ARE available to the public in Montana, but they come at a cost. Prices range from 25 cents a page for an emailed copy of a court document to $50 for an annual tax report. Below are the prices for some commonly requested documents:

- **Certified birth and death certificate:** $12 for first copy, $5 for additional copies
- **Marriage licenses:** $5
- **Divorce decrees:** $10
- **Search of county court records:** $2 per name for past seven years, $1 per name for each additional year
- **Hard copies of court records:** $1 per page for first 10 pages, 50 cents per page after that
- **Dept. of Administration records:** 10 cents per page, $5 to burn to a CD
- **Electronic court records:** 25 cents per page by email
- **Certified court records with seal:** $2 per document
- **Dept. of Motor Vehicle records:** $7.25 for search of database
- **Driving records:** $4
- **Vehicle Registration:** $2
- **Tax Records:** $2 each, $50 for an annual report

Bill Genzoli, a core member of the Montana Ethical Hackers (MEH) computer club, led the fox hunt for Emily Thomsen. A senior systems analyst, he oversees Montana’s Medicaid and Medicare information systems. Genzoli supports groups like MEH to educate the general public on technology and information security. (Photo by Robert Whited)
This is at least one positive development concerning confidentiality. Federal regulations passed during the last two decades have reined in companies storing sensitive documents.

“In my experience, our financial records and our health records have gotten more secure and harder to access,” says Mark Fullerton, a licensed private investigator operating in Missoula.

Other developments in privacy policy stem from heightened attention to national security.


Otis says he can’t access phone records like he used to, a paradoxical dilemma considering government agencies have unprecedented access to this data.

Saint, who hacked his first computer at age 10, created Montana Ethical Hackers as an arena for techies to scratch their hacking itch without crossing into illegal waters. The club’s lab provides “victim” machines to hack and a nurturing environment to develop skills for good.

“People ask me, ‘How do I know you’re not a black hat?’” says Saint, gesturing to the piles of antiquated electronics in the hackerspace. “I tell them, ‘If I was evil, don’t you think I’d be richer?’”

All nefarious semblances aside, crucial pieces of Thomsen’s information were unattainable by the fox hunters’ ethical means.

Hook says Thomsen’s financial information wasn’t as readily available as he expected. He couldn’t uncover tax forms listing her assets, a principal piece of data for any fraud or bribery plot.

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HOSPITALS MAY VIEW their primary role as helping those injured or sick, but regulations aimed at protecting patient privacy also create significant challenges for reporters when important news occurs inside a health care facility.

Passed by Congress in 1996, the Health Insurance Portability and Accountability Act (HIPAA) makes confidential the vast majority of patient information. While it allows for the release of patient names and general conditions, some health care officials use it as a shield to deny access that media should have, says the Reporters Committee for Freedom of the Press, a nonprofit organization that provides legal assistance to journalists.

Michael Albans, a former staff photographer for the New York Daily News and adjunct professor at the University of Montana, has some tips on how to work with (or around) hospital bureaucracy.

Files leaked by Snowden confirmed the secret Foreign Intelligence Surveillance Court allowed government agencies to demand records from the telecom giant Verizon.

Outcry over this revelation has sparked some efforts to combat the trend. Montana's aforementioned law requiring state law enforcement to obtain warrants before receiving cell phone locations touches on the issue. But the act has been deemed "privacy light" due to its limited jurisdiction and minimal effects. The information only provides the location of the last communication tower a device connected to. In Big Sky Country, this could encompass a 20-mile radius, assuming the phone is in an area that has reception at all.

Previously obscure issues are taking center stage in the privacy realm.

Companies that collect "metadata" have drawn attention, shedding light on how minuscule tidbits of material can be gathered and put to use. Websites track browsing habits from the moment a person accesses the Internet, making valuable material for marketers and others. Thomsen experienced this when she was bombarded with ads for baby products.

"It's really similar to the idea of tailing someone in the real world," says Michael Schuh, a senior member of Montana State University's Data Mining Lab. "It's just the digital age and so much easier."

These collections store trillions of bytes of data and don't discriminate based on region. Robin Jackson, the computer security expert, says people who live in rural areas and do more shopping online may build up a larger record.

"There's a kind of naiveté of people that are rural," says Jackson. "But the great equalizer is that the Internet is the same whether you're living in Montana or New York City."

Companies that track online activities have no restrictions on the amount of data they collect or how they use it.

Jim Heckel, a board member of the Montana chapter of the American Civil Liberties Union, says this is especially worrisome considering recent big data bills in Congress, which have attempted to merge government databases with those compiled by Internet companies.

"Because there are no restrictions," he says, "what Amazon or Facebook or phone companies collect about you is potentially
Montana's 1972 Constitution uniquely provides the state's citizens with the right to be left alone, says retired State Supreme Court Justice James C. Nelson.

The framers considered the right of individual privacy to be "essential to the well-being of a free society;" a right "not to be infringed without the showing of a compelling state interest."

This right, written into the Montana Constitution as Article II, Section 10, provides Montanans with more protection of individual privacy than does the federal constitution. This right secures against government infringement, the privacy of our personal information, documents and data, our intimate relationships, and our autonomy and personal choices. It is our right to be "let alone" — a guarantee sufficiently narrow to guard against specific instances of abuse, yet sufficiently broad to encompass the ever-evolving manner in which government thrusts itself into our private lives.

There is a holy trinity of constitutional rights, which give meaning to our subsistence as individual human beings living in a highly organized and complex society. These are natural rights that we are all born with. These are the inviolable rights to human dignity; the right to the equal protection of the law and the right of individual privacy.

Dignity defines our individuality as human beings; privacy demands that we be let alone to live our individual lives; and, standing between each of us and excess governmental interference with those rights is the guarantee that each of us will be treated equally under the law.
he advantages and drawbacks of the situation ultimately lie in the eye of the beholder.

During a rare quiet moment in her day, Thomsen reflects on the information gathered in the fox hunt while her daughter sleeps soundly in the next room.

“When I think about it, I’m not that surprised,” she says. “But I am kind of amazed that you can find out so easily.”

Despite the exposure, Thomsen says she can’t help but feel sentimental about the newspaper articles her mother-in-law published.

Like the fox hunters inferred, the Thomsens met in college, but lost touch after graduation. Later, Thomsen Googled Ian’s name and found the graduation notice with his plans to work at a geology firm in Nevada. She called the company and the rest, she says, is history.

“It was because of this article that we are married,” she says. “So, that’s an upside to public information.”

Thomsen struggles to find comfort in the rest of the data.

Curious to understand how the fox hunters discovered her college dorm addresses, she grabs her laptop and pulls up her profile on Stanford’s webpage. Sure enough, after hitting a few links she sees her information listed. For the first time, she notices the security setting tab at the top of the page, “Show to everyone.”

“I didn’t even know there were privacy settings here,” she says. “I had no idea you could go on here and find out that information about me.”

She changes it to private, and seems comforted.

The baby starts to wake. Thomsen picks the girl up and hands over her iPhone in a plastic, bunny-ear case, the child’s favorite toy.

“Do you realize all your information is public now?” Thomsen asks her daughter.

“People know how much you weighed when you were born.”

The child giggles, contently playing with the phone, leaving the freshest tracks along Thomsen’s growing digital trail.
Privacy Betrayed

COLUMN BY
ALBERT BORGmann

THERE WAS A time when privacy promoted prosperity. Then, prosperity promoted privacy. Now privacy struggles with prosperity and is losing.

The Constitution’s Fourth Amendment was designed to protect households from intrusions of government. But when it was created in the late 18th century, there was little social privacy. Communities knew the comings and goings, the habits and conditions of their households. Privacy within households was just as limited. Work and entertainment and food and information were inevitably shared, and living and sleeping quarters were often the same.

Rather than social privacy, what the founders sought to protect was the security of personal possessions, which was crucial for confident and vigorous work and thus formed the basis of prosperity. Consider China, where the blessings of free speech and association, our First Amendment, are largely missing. But when the Chinese government provided for the benefits of our Fourth Amendment, prosperity began to rise.

In the United States, prosperity has increasingly augmented physical privacy with social privacy. In time, there was one bedroom for the parents and another for the children. Today, children expect to each have their own. It isn’t just that children have been taught to be more self-centered. Separate rooms ease the burdens of parenting — divide children, and you’ll conquer fighting.

And here is the emerging shape of hypertrophic social privacy. It’s the marriage of availability and disburdenment. The availability of convenience food liberates individuals from the burdens of cooking and from the prison of dinnertime and the dinner table. The availability of iPads and iPods dissolves agreements on what to watch and what to listen to.

Individual electronic devices exemplify today’s version of prosperity: the availability of unencumbered commodities that come with the promise of the purest of pleasures. iPads and iPods also instantiate the underside of these hyperfine commodities, an unobtrusive and immensely powerful machinery.

Between seductive commodities and invisible machineries, social privacy suffers. Discrete machineries prompt indolence. Hard-to-resist commodities invite self-indulgence. Indolence allows for the innumerable traces we leave in cyberspace, traces assiduously gathered and used and abused by government and business. Self-indulgence makes us consumers and then also producers of alluring revelations. Privacy, once the sacred precinct of intimacy, love, and friendship, is exploited and betrayed for the sake of a dubious kind of prosperity.

Now what? Privacy advocates battle the abuses of government and business, novelists and essayists pillory the self-absorption of the citizenry, and journalists are bringing the perils of privacy to public attention. Philosophers for the most part, are engaged in analytic exercises and oblivious to the ravages and the new beginnings of the surrounding culture.

Albert Borgmann, a philosopher and Regents Professor at the University of Montana, specializes in issues at the intersection of technology and contemporary life.
Rachel Serba inserts small needles into Sharon DiBrito’s back at Florence Therapy and Wellness. Sherba suggested dry needling to DiBrito as a way to alleviate her chronic pain. Photo by Tommy Martino
UNDER THE NEEDLE

With a new technique of pain relief, physical therapists tread on acupuncture’s terrain

ROGER DIBRITO SUFFERS from pain in his neck and shoulders and a severe fear of needles. He and his wife, Sharon, regularly receive massage therapy to treat chronic pain.

Recently, Sharon tried something new. She let physical therapist Rachel Sherba insert small, thin needles into tender points on her body. It relieved Sharon’s pain, but Roger had two concerns about trying it. The first: needles. The second: it seemed an awful lot like acupuncture, and Sherba is not an acupuncturist.

The technique, called trigger-point dry needling, uses acupuncture needles and is offered in Helena, Bozeman, Missoula, and many smaller communities across Montana. Current state law allows physical therapists to use it at their discretion, with no required training. And that has some acupuncturists up in arms. They contend that it is a form of acupuncture, and should require the same education and licensing.

But Western medicine practitioners argue that what goes on beneath the skin isn’t a secret that requires years of training. When dry needling is done successfully, the needle used to penetrate clenched muscle tissue triggers a twitch response, releasing tension in the muscle and providing relief.

According to Eastern medicine, the twitch response is the arrival of energy, which flows through the body on paths called meridians. Brenda Kaser, president of the Montana Association of Acupuncture and Oriental Medicine, said Eastern medicine seeks to prevent illness by keeping energy flows in balance. This approach can be used for a variety of ailments, but Kaser said, “Pain is the gold standard.”

In contrast, Kaser called Western Medicine “heroic.” “It sneaks in at the last minute and — ‘Here I come to save the day!’” she said. To her, the issue with letting physical therapists practice dry needling is that they are not trained in Eastern concepts.

The first problem this leads to is a professional contention with education and licensing. It is the source of controversy that has kept needles out of the hands of therapists in some states.

The second problem is existential, having to do with our understanding of the body itself. It prompts a question for Western practitioners: If unseen meridians traverse the body, carrying the power to promote good health, why does the body keep them secret?

Sherba suggested dry needling to the DiBritos after completing three days of strictly Western training in the technique. “The only similarity between acupuncture and dry needling is the needles we use,” she said. She offers dry needling at separate practices in Florence and Missoula to treat a variety of conditions, including tendonitis, runner’s knee, lower-back issues, and headaches.

The DiBritos acknowledged they do not know what defines acupuncture, but they believe it is different from dry needling.

Kaser said while the patient may not know it, “The difference is that the acupuncturist has over 2,500 hours of education behind that needle.”

Sherba believes the education she received in the process of becoming a physical therapist, along with her dry needling training, qualifies her as a practitioner. ▶
Both acupuncturists and physical therapists must complete at least a three-year master’s level course to be licensed in Montana. Two different boards within the Department of Labor and Industry license the professions. In late 2011, they formed a subcommittee to evaluate concerns about dry needling. The subcommittee determined that both professions could practice their therapies, but also resolved to define dry needling and provide rules for physical therapists. The rules drafted throughout 2012 and 2013 are pending legal review.

Kaser said this remains a concern, but the association does not have any current plans to push for changes.

In the meantime, Roger decided to try dry needling. It worked. For patients, wrangling over who better understands the body’s secrets is probably not a major concern — as long as they get results. Asked what finally convinced him to give it a try, Roger said, “Pain, probably.”

He never once looked at the needles.

Kevin Dupzyk is a graduate student in the University of Montana’s School of Journalism, where he reports on environmental issues. He is not afraid of needles.
In the spring of 2013, news that the Internal Revenue Service (IRS) scrutinized Tea Party groups seeking tax-exempt status sparked nationwide protests, with conservatives complaining about unfair treatment. Later, it was revealed that the IRS also targeted liberal organizations for additional screening.
IF THERE’S E. COLI in your hamburger, there are feces in your meat, plain and simple, which is about all Miles City butcher John Munsell and federal inspectors could agree on.

After finding E. coli in Munsell’s hamburger back in 2002, the U.S. Department of Agriculture’s Food Safety and Inspection Service (USDA) moved to shut him down. But Munsell insisted the product he ground came from a much larger meatpacker and that a larger health crisis was imminent if USDA didn’t trace the contamination upstream. His shop didn’t butcher the meat off the carcass, meaning there was no way it could be the source of contamination. He had the packaging labels to prove where the meat came from, but the USDA wouldn’t follow the trail.

As his battle to redirect the USDA’s investigation failed, Munsell moved his packaging labels to a safety deposit box for safe keeping and braced for the worst.

“They did not allow me to use my grinder for four months,” Munsell said. “After four months, my supplier, ConAgra, announced a 19-million-pound recall.”

The food poisoning at ConAgra sickened 46 people in 23 states and killed one person. The USDA wound up shutting down the ConAgra plant in Greeley, Colorado, because of repeated incidents of beef carcasses entering the food supply contaminated with feces.

The USDA’s handling of the case sparked a federal investigation. Laws exempted large meatpackers like ConAgra from USDA tests. The USDA did not believe it had the authority to review E. coli testing by the company, according to an audit by the Office of the Inspector General. Records of where the meat was shipped were so poor, only 3 million of the 18.6 million pounds recalled were ever found. Though repeatedly contacted for this story, the USDA declined to comment.

More than 2,000 people in the United States were hospitalized in 2011 because of E. coli poisoning, according to the Centers for Disease Control. Meat and dairy products are common sources of E. coli, but any food exposed to feces is a problem.

Driven out of the meat business, Munsell became a whistleblower. He spent the next 10 years telling anyone willing to listen about meat inspection policies that endangered public health.

One person willing to listen to Munsell was Seattle attorney Bill Marler. Marler made a name for himself representing victims in a 1993 E. coli outbreak linked to Jack in the Box hamburgers. The outbreak killed four and sickened 623 people. In the incident’s aftermath, the federal government for the first time declared E. coli an illegal substance when found in food.

Marler had devoted his practice to food safety by the time Munsell called in 2002, worried the USDA’s refusal to trace his
contaminated meat back to its source would result in a widespread food poisoning.

“The USDA is after me when they should be paying attention to ConAgra before something happens,” Marler remembered Munsell saying. The ConAgra recall was still months away. The two men had never met and the attorney did little with the butcher’s information, which Marler said he regrets to this day and has apologized to Munsell about.

Marler has since made room in his online publication, Food Safety News, for Munsell’s multipart dissertation of how the USDA’s failure to properly source E. coli endangered the public.

What Munsell needed in 2002 was a congressperson willing to sponsor a law forcing the USDA to trace contaminated meat to its source. Ultimately, it took another butcher, U.S. Sen. Jon Tester, D-Montana, to get the bill passed.

“I think the issue is getting USDA inspectors to focus on where the problems really are,” Tester said.

Like Munsell, Tester had inherited a small-town, family butcher business started in the 1950s. Tester ran his shop for 20 years before closing to focus on farming. He knew the community pressure Munsell would be under if his meat sickened anyone, which it didn’t. Munsell pulled 237 pounds of hamburger before anyone became sick. However, the stigma of being forced to stop grinding hamburger for four months ultimately prompted Munsell to sell.

Tester succeeded in helping to change the USDA’s trace-back laws in late 2011. The USDA began tracing E. coli back to the source in July 2012, though food safety advocates say there’s more to be done. As recently as fall 2013, even broader trace-back rules were being proposed in the U.S. Senate.

Munsell could have gone along with the USDA’s conclusions about where his E. coli originated and stayed in business. Instead, he’s now a sales representative for Redneck Brand Smoked Meats. He said he has no regrets, despite being driven from a business in need of processors willing to speak out about food poisoning.

“At the time, the No. 1 USDA guy in Montana, a guy named Grady Skaggs, told me, ‘John, if you had done what they told you, you would have been up and running,’” Munsell said. “Oh no, if I’d known then what I know now, I would have documented everything even better and really gone after them, and gone to the media directly.”

Tom Lutey, of the Billings Gazette, is Montana’s foremost ag reporter. He is a 1995 graduate of the University of Montana’s School of Journalism.
 WHEN THEY WERE kids, Shasta and Shawna, now 23, had that secret, made-up twin language we all secretly wished we had with someone when we were younger. “We had secret code for telling each other when we had boogers on our face even,” Shasta said. They have three other sisters, “but we aren’t just sisters. We’re closer than that,” Shawna said. “We’ve been close since conception.”

Missoula photographer Ashley McKee has developed a unique way of telling people’s stories through photos and reported captions. She met the twins in 2013, while on a quest to take one picture every day for a year and post it online. Her subjects often tell her their secrets without prompting — things you wouldn’t expect to tell a stranger who just asked to take your picture.

“I think I have a way with people,” the University of Montana photojournalism graduate said, “but at the same time, I don’t want to reveal everything.”

The Missoula Rabble project started as a challenge: A friend had recognized that McKee let her artistic flow run dry while overcoming an alcohol addiction and battling personal demons. He suggested a long term documentary. McKee signed a hand-written contract with him on a pad of legal paper on May 29, 2013, and started shooting portraits. The project has helped her live her own life better, she says. She hopes to publish the Rabble as a book once it’s completed. You can follow the Missoula Rabble on Facebook and through her blog, 365 Days.
SPYING ON WILDLIFE

WILDLIFE CAMERA STORY BY ALISON PERKINS

Cameras challenge the concept of fair chase

WHILE CIVIL RIGHTS advocates fight government spying in Washington, D.C., Montana is cracking down on snooping that occurs on our public lands.

Placed along game trails or at wildlife crossings, motion-activated cameras can be used by anyone to spy on unsuspecting wildlife. They document how wildlife crosses highways, help wildlife managers identify problem bears, and provide a glimpse of the animals in our own backyards. They help conservation groups understand barriers to game movements, but they can’t be used to help hunters.

Ryan Chapin, board member of Hellgate Hunters & Anglers, is an avid wildlife camera user and hunter. During most of the year, his wildlife cameras are another way for him and his family to connect with nature. “Setting out cameras is fun to do, to see what’s out there. It’s like opening a Christmas package,” he said.

During commissioned hunting seasons, however, technology has the potential to change concepts about fair chase.

Montana’s Hunter Safety Education Course states “fair chase means balancing the skills and equipment of the hunter with the abilities of the animal to escape.”

Montana has some of the strictest laws in the country when it comes to using technology during the hunt. Developed in the late 1990s, then clarified with even stronger language in 2010, the rules prevent the use of any electronic devices to scout or take game, including radios, cellphones, and wildlife cameras.

“Figuring out if elk are in an area or not, that’s the challenge of elk hunting,” Chapin said.

A camera that automatically alerts a hunter to the presence of game via a smartphone app gives an unfair advantage to the hunter.

Mike Korn, assistant chief of enforcement for Montana Fish, Wildlife & Parks, maintains that defining fair chase is an important question to ask.

“Where does the sport of hunting end and technology take over? Where does the reliance on the person that is hunting end, and it just becomes a whiz-bang video game?”

In 2005, a ranch owner in Texas developed the concept of Internet hunting — remotely controlled hunting using online webcams. Originally offered to provide opportunities for disabled hunters, Internet hunting would allow shooters to take game animals without leaving their couch. (This form of hunting was not well received by the public, however, and has quietly faded away.)

As technology marches on, the Montana Fish and Wildlife Commission has become more and more concerned about both hunter ethics and devices that could overwhelm the sport. In 2014, it may consider new language that makes the use of unmanned aerial vehicles (drones) unlawful for hunting. In this evolutionary arms race, the advantage may go to the spies.

Alison Perkins is an adjunct professor at the University of Montana’s School of Journalism. She serves as principle investigator for Science Source, a grant from the National Science Foundation to provide environmental science news to local audiences.
THE SECRET TO YOUTUBE SUCCESS

Hank Green shares his path to Internet stardom

Before YouTube paid his bills, before he planned internationally attended conferences — before he had fans — Hank Green was a web developer and journalist. Then on January 1, 2007, vlogbrothers was born. It began as a simple online conversation between Hank and his budding novelist brother, John. Five hundred million views across 10 channels later, the video series has a dedicated following of “nerdfighters.” Today, John lives and writes in Indianapolis, and his New York Times-bestselling books have been adapted into movies. Hank lives in Missoula, where he runs his business and continues to make videos in his downtown office.

So here’s secret No. 1: Wanting to be famous is a terrible way to get famous. When I started on YouTube, there was no money, no strategy, no goal, and no angle. But it was interesting, and its cultural importance was rising. So, unbeknownst to me, it was a perfect place to be.

Success is easiest to come by in places where there is no predetermined path.

Your heroes didn’t become stars by walking the paths blazed by someone else. They found new trails through the mountains, new resources to carry them to where no one had ever been. If you want to become your idol, you will fail. A safer and more rewarding goal is to become, for someone else, what your idol was for you.

But this isn’t what people mean when they ask for secrets to success. The secrets are the tools, the tricks, and the shortcuts.

Well, here’s a secret about secrets: If they’re mass-produced, pre-packaged, and available over the counter, they’re ancient, used up, and useless. You’ll have to make your own

MY CANON ELURA 100 cost $99. I had no idea how to use it and my brother was even more clueless. I was at a holiday party on Lake Tahoe and my friends were wondering why I’d spent so much time on the computer instead of skiing, sledding, or just getting completely wasted. Honestly, I was wondering the same thing.

I’d agreed to making video blogs every other weekday for a year — a public conversation between two fairly estranged brothers. It was John’s idea. He’s my big brother. I said yes without really thinking about it. That first video was terrible.

Seven years later, I’ve produced a show that won an Emmy, my album hit No. 8 on the Billboard Comedy Charts, my non-profit has raised $800,000 for charity, and I have 25 employees.

How the hell did I do that? The honest answer is that I have no goddamn idea. But that doesn’t mean I don’t have some secrets. You might not believe them, or like the sound of them, but I’ll tell them to you anyway. That’s the trick of keeping a secret: Make it unbelievable, complicated, and not particularly useful. That way, no one cares to spread it around.
tools out of hard work, understanding, relationships, trickery, and skill. Sometimes they'll be so devious you'll choose not to use them, and you'll bristle at others who don't have your scruples. Sometimes they'll be ingenious and, as soon as you use them, they'll be copied by a thousand other wannabes without a single word of credit to you. Other times, you'll be the thief. Occasionally, you'll think you've found the one tool that will carry you through forever — the trick up your sleeve that makes success both certain and permanent. You'll be wrong. You will need a new tool, a new strategy, and new relationships to keep you moving forever.

Eventually, if you're lucky like I was, you'll get there, right? What was it for me? Was it the first time I was recognized by a fan in public? Or was it when YouTube started paying my bills in 2009? Or maybe it was when we hit 100,000 subscribers? Or was it 1 million? Which day was the day when I got to have success and put it on the shelf forever? Which was the day when I became perpetually satisfied and never unhappy again?

Right, it was none of those days. If you're smart enough, diligent enough, powerful enough; if you have enough self-control, and sacrifice enough, here's what you'll find out about success: It's made up. It doesn't exist. The whole everything of it sits not in the individual achievement, but in the process. It's the accomplishment of crafting a beautiful, ingenious tool that rests within your morality and your goals. And the use of that tool to do something interesting, something beautiful, and something good for the world.

Real success is when you realize that your tools exist for everyone. Because each of us is nothing, but all of us together are the most wonderful, peculiar, and beautiful thing the earth has yet done.
In August, the Associated Press revealed the addresses of one in eight offenders were unknown. That figure can vary daily, DOJ Deputy Communications Director Anastasia Burton said, noting that the number had dipped to one in 10.

Hoping to keep that number down, the department added two investigators tasked with finding non-compliant offenders. As law enforcement continues to track sex offenders around the state, journalists will certainly be out there keeping the public aware of the situation.

As of November 11, 2013, there were 1,064 sexual or violent offenders in Billings. Of those, 251 were either noncompliant, had address verification overdue, or were transient.
As I grew into adulthood, secrets became a crucial part of my sense of identity, a way of separating myself from the other kids.

Native Americans — particularly our elders — are masters at keeping secrets without keeping secrets. Our elders have lived the longest and possess the most wisdom, but they are also the most quiet. They understand that the proper passing of secrets is often done in silence.

Today, Native Americans have forgotten how to sit silently and observe when receiving secrets.

Many contemporary Natives believe the only way to learn traditional skills, like speaking their Native language, is in a classroom setting. We have been so assimilated into the student-teacher paradigm of learning that we now expect our elders to merely tell us how to speak our own languages.

We have forgotten to learn in the traditional way of observing and emulating. We've forgotten how to keep secrets without keeping secrets.

This shift in learning has become a threat to the continuation of Native languages and, consequently, to Native American culture as a whole.

According to the National Geographic Society and the Living Tongues Institute for Endangered Languages, “Every two weeks the last fluent speaker of a language passes on, and with him or her goes literally hundreds of generations of traditional knowledge encoded in these ancestral tongues.”

Our traditional ways of life cannot be learned through the English language. Once we lose our Native languages, we will cease to be Native American. Our secrets will die off and we will be left with no culture, no sense of identity.

Native American secrets are the strongest kind of power we hold as a people. And unfortunately, that power is dying with every elder that passes and with every child that doesn’t speak in his or her Native tongue. New generations of Native American children need to be reminded of their untapped power.

Elders are willing to pass down their wisdom, but only in the right way, the traditional way. We must remember that secrets are what keep us Native American — they are what separate us from the other kids.

Santee Ross is a sophomore at the University of Montana studying journalism and resource conservation. She is a member of the Lakota and Hopi tribes.
“My secret Montana fantasy is to steal the late Evel Knievel’s X-2 Skycycle and jump it over the Berkeley Pit.”

Jamie Ford
Montana author
known for his 2009
debut novel, “Hotel on the Corner of Bitter and Sweet.”

“My real secret fantasy is to be the starting quarterback for the Montana Grizzlies.”

Jim Messina
Former White House deputy chief of staff, 2012 campaign manager for President Barack Obama, and 1993 graduate of the University of Montana.

“I have been to all seven continents, and often compare what we have in Montana to the places I visit. There are very, very few places on Earth that can match our ‘Last Best Place.’ That is not just a marketing slogan. My secret fantasy would be a weeklong backcountry horse-pack trip with interesting people. I have never done a big trip.”

Steve Running
Nobel Peace Prize recipient for his work with the 2007 Intergovernmental Panel on Climate Change. Regents Professor at the University of Montana.

“To retire and own a piece of land where I can’t see or hear any of my neighbors.”

Dan Carpenter
Helena native and NFL kicker for the Buffalo Bills.

“To live a long life, with virtually every day spent here in Montana.”

Pat Williams
Former United States Congressman and University of Montana alumnus.

“Because I travel so much, while I appreciate being able to see the world, the thing I miss the most is Montana. My fantasy is to be able to spend more time here. I rush around so much, the nicest thing about Montana is being able to see life unfold and time unwind. To have a few uninterrupted weeks here would be fantastic.”

M. A. Sanjayan
Lead scientist for The Nature Conservancy, science and environmental contributor for CBS News. He resides in Missoula.
For people to put aside their anger and divisiveness and come together in peace and harmony through knowledge, wisdom, and understanding. For them to then restore, nurture, and maintain the delicate relationship and balance between people, civilization, and the natural world.”

“My secret Montana fantasy was to run all the available Montana rivers in my kayak! I did that!”

“Well, I’d like to see it the way it was when it was 1803, before Lewis and Clark got here.”

James Lee Burke
Bestselling author of crime novels set in Louisiana and Montana and a longtime resident of Lolo.

Monte Dolack
Graphic artist famous for depicting ducks in bathrooms and fish in living rooms. Studied art at Montana State University and the University of Montana and owns a gallery in downtown Missoula.

Barbara Wright
Biologist, professor emerita, and world-class kayaker. First American to break into the top 10 at the 1967 International Canoe Federation World Championships and the first woman to run the Grand Canyon.
Rob Towner commutes more than three hours each week from his Hamilton home to his mine site about 35 miles away from Bannack. In 1986, Towner purchased land near Bannack that included Henry Plummer’s patch claim and began a lifelong search for the crooked sheriff’s cache of stolen gold. Three separate times, Towner and his crew attempted to excavate a graveyard near the claim in hopes of finding Plummer’s “weight in gold,” but each time they were sabotaged by unexplained mechanical failure.
A miner’s search for a legendary Montana treasure

STORY BY ALLISON MILLS PHOTOES BY AUSTIN SMITH

ROCKS AND DIRT crash down the wash plant’s spinning metal tube, blasted by streams of water. A muddy wave tumbles down the sluice boxes. Screens catch dark mud and sand. A pile of it sits in a dingy plastic tub filled with orange water.

“If you don’t think I’m looking for treasure right now, I am,” Rob Towner says.

An old-school miner, Towner scoops up some muck and swirls it in a sea-foam green pan.

“And I’ve found it.”

Gold flecks wink against the black sediment.

Towner’s smile is brighter than the ginger-blond streaks defying the rest of his gray hair. The Montana native collects ounces of the flecks and dust, making a living as a miner and explorer. Crowned with a well-worn baseball cap, Towner wears a heavy khaki jacket and boots caked in mud. He has sifted and sorted across the world, from Venezuela to Ghana to India.

“I’ve always been a treasure hunter,” Towner says. “I just got a knack for finding stuff.”

Towner’s current mine site is about 35 miles away from Bannack where Henry Plummer hanged in 1864. The crooked sheriff may have been involved in the murders of more than 100 miners in the mid-1800s, and legend has it he cached more than his weight in gold.

Historian Zoe Ann Stoltz is not won over by the allure of gold and bandits. “It’s not romantic,” she says. “It was a horrific time.”

She followed up with a recommendation to read Frederick Allen’s “A Decent
Orderly Lynching.” Allen’s vision of the Wild West doesn’t match the legends most Montana schoolchildren grew up with. Most of the stories told around schoolyard playgrounds and campfires err on the side of indecency and chaos.

The true beauty of history is that it’s lost. Plummer’s secrets — money and thoughts alike — haven’t weathered the winters as well as Bannack’s faded, falling buildings.

But Towner thinks he put some of the puzzle pieces together and found Plummer’s gold.

“Well, how do you know,” Towner says. “You don’t. It’s an impossible task to try and get your head wrapped around what it would have been like back in those times.”

He tried anyway. Towner started panning for gold around Bannack with a family friend when he was 16 years old and the locals told him all about Plummer’s secret stash. In 1986, Towner bought 360 acres near Bannack — the land just happened to include Plummer’s patch claim.

During that time, Towner befriended then-Bannack State Park curator Dale Tash. Based on the gold Towner was extracting from the site, which was “just hotter than a bastard” during Plummer’s time, the two calculated that historical gold records were pretty accurate. They were convinced some of it was still around.

“If we were Plummer, where the hell would we hide this gold?” Towner asked, saying he and Tash tried “to get into the mind of this guy” by stuffing 100 ounces of gold under some rocks atop a nearby hill. The experiment lasted just four days.

“Judas Priest, we went here and we’d try to dig a hole and we try to bury it and pretty soon, you’re worrying it to death,” Towner says. “If someone walks within 100 feet of it, you’ve got to go dig the gold back up and hide it again.”

After “bunking around with all this gold,” Towner and Tash figured the hiding spot needed to be somewhere no one would dig and would be easy for Plummer to keep tabs on.

The answer: A graveyard.

“Plummer hanged a couple people,” Towner says, pointing out that the Bannack miners wouldn’t touch a cemetery. “And this graveyard on my property was a place where you could see from his cabin and you could see where his patch claim was.”

Towner, Tash, and the crew decided to dig it up. They would call it “rehab,” put the bones back afterward and “set the stones up nice,” all while looking for gold-stuffed pouches and whiskey bottles.

But they weren’t the first people there. While scouting the site, Towner came across a series of tunnels, which he thinks were built in the 1860s or ’70s. Some poked straight upward into the graves.

Even more convinced, Towner made plans to take his excavators, washers, and equipment up to the graveyard under the cover of darkness. They left one late summer night, got halfway up the hill, and the final drive went out on the excavator. A $9,000 fix, but “just part of the mining game.”

Fixed and ready, they went back up a week or so later. They made it another few feet — and the final drive on the other excavator went out. Towner started worrying,
thinking, “I’m running out of money, we gotta get some gold.”

Another week, about $30,000 in debt, the crew went back for one last try. They got most of the way up the hill — and a central bearing busted.

“We’re like 10 feet from the graveyard to dig,” Towner says. “That was the end of hunting for gold in that graveyard.”

The setbacks didn’t stop Towner from treasure hunting; they only encouraged him to continue and write a book about his adventures. Besides, since then he has accumulated his own secret stash.

“I’ve got a lot of gold hidden right now,” he whispered. “If I died tomorrow, there’s a pretty good pile of it, enough to create a national stir.”

With a chuckle, he begins telling the story of discovering a B-52 bomber crash, leaving his golden secrets buried.

Allison Mills is a journalism graduate student working on a radio documentary about mine remediation in Montana. Austin Smith is a senior studying photojournalism at the University of Montana.
Professing secrets online can provide relief — until you’reouted

THE INTERNET HAS never been known as the best way to keep a secret, but it sure holds some mysteries. Take one counterintuitive online fad that has random people anonymously submit their secrets to local Facebook “confession” pages, which then broadcast the news to followers of the feed.

Katie Wyckoff, an occasional contributor to U of M Confessions, decided to share the following tidbit, one day after class: “I go shopping for my next boyfriend at Target.”

It was a joke referencing her accidental habit of dating men who worked at the retail chain. At the time, it fit with the tone of the page: anonymous users sharing thoughts about their crushes, their relationships, and occasionally their drug use or other sophomoric behavior.

Wyckoff, a senior at the University of Montana, thought her confession would go largely unnoticed. The page published upward of 10 posts a day.

“I kind of expected to post it and have it disappear into the deluge,” she said.

But when she logged on to Facebook days later, a notification brought her back to the post. A friend had tagged her name in a comment. She had been outed.

Wyckoff said it wasn’t a huge embarrassment. She’d posted the confession to entertain the thousands of people who followed the page. But now she knew her friends were watching too.

“It started to feel kind of dirty,” she said.

Luke Conway, a social psychologist and professor at the University of Montana, compares online confessions to the powerful but short-lived gratification provided by hard drugs.

“Letting go of your secrets is actually a great way “to gain healing, forgiveness, and a chance to start over,” Conway said. But using a website like U of M Confessions might short-circuit that natural process, “in the same way heroin short-circuits the intended and natural pleasure process.”

Not all followers of these burgeoning pages use them as confessionals. Some, like Matthew Wyant, are there for entertainment.

“I never took it seriously,” Wyant said. “It was always something I did for fun.”

Wyant, a Bozeman native, began following MSU’s confession page in May 2013. He quickly started commenting on the posts he read.

“It can seem like I’m being harsh sometimes,” Wyant said. “But I don’t feel like I’m being mean or bullying people.”

Wyant’s main justification for his online behavior is that the people who made the confession might not even see his response. They will not be notified that their confession has been posted or that anyone is commenting on it. He says his jokes are really for the entertainment of other readers.

But it’s not that simple to Wyckoff. For her, the fun isn’t worth all the other hassle anymore.

“When you’re talking to someone who you don’t know, it’s easy to get mean,” she said.
1. **A Growing Concern**
How is climate change affecting agriculture, a $2.8 billion industry in Montana?

2. **Kids Won’t Be Kids**
Does Montana’s lack of social events for young people cause them to grow up quicker?

3. **Go Home, Canadians (Kidding, Kidding)**
After all the time and money spent on the 2012 ballot initiative requiring proof of citizenship for some social services, what effect, if any, is the law having on illegal immigration in the state?

4. **Fueling the Fire and the Fury**
Is anyone remembering to be concerned about coal trains bumping up pollution as they pass through Big Sky Country carrying fuel bound for Asia?

5. **When the House Wins, Who Loses at Home?**
What are the economic and social effects of gambling addiction, a big problem that largely flies under the radar?

6. **Sticking to the Script**
Native organizations are doing some positive work on Montana’s seven Indian reservations. When are we going to hear about some of the good happening in those parts of the state?

7. **Finding Equal Footing on Hard Rock**
Why is the oil-and-gas industry still a man’s world?

8. **Raising Sheep in Coal Country**
Do Montana’s coal and mining industries exert undue influence on the educational institutions they fund?

9. **If Three’s a Crowd...**
What draws polygamists to Pinesdale, Montana?

10. **When the Badge Comes Off**
“Is PTSD affecting Montana’s law enforcement officers?”
of the University of Montana’s journalism school, Arthur L. Stone, borrowed tents from Fort Missoula and pitched them on the Oval to hold classes. It was the fall of 1914, and 16 students took Stone’s offer to brave the elements in return for learning the newspaper trade.

Beginning in September 2014, the journalism school will celebrate a century of practical education that has prepared journalists to work in the professional world. The centennial-themed lectures, reunions, projects, and celebrations will span the entire school year.

Interim Dean Denise Dowling said the Montana Broadcasters Association is sponsoring student video productions, and students will produce a print publication as well.

In addition to the work produced by current students, the Homecoming alumni party promises to be a highlight.

“We want everyone to come,” said Lee Banville, who is spearheading the event planning with his wife and fellow journalism professor Jule Banville.

“What’s daunting is creating an event that everyone will want to go back to.”

As alumni come pouring back to the school, Dowling hopes some will contribute to scholarships and student projects like Native News. These projects embody the hands-on learning that Stone envisioned for the school.

“We are not aiming to graduate young men and women who will enter newspaper offices with the idea that they will upset traditions and shatter precedents,” Stone wrote to a colleague, “but to send to these offices workers who will know what to do and how to do it, when they are given an assignment.”

But over the years, some graduates have exceeded Stone’s modest expectations and achieved a level of prestige beyond what any school could teach.

**J-SCHOOL GRADUATES: SECRETS TO SUCCESS**

**SHANE BISHOP** (1986) is an award-winning producer for NBC’s “Dateline” and will soon mark his 20th year with the program.

“Listen. Ditch your ego. Ask stupid questions. Nothing else matters if you mess up the facts. Write, then rewrite. And rewrite again. Take advice. If anyone — even the janitor — comes up with an idea that makes your work better, use it. Give voice to victims. Acknowledge what others have endured. Be nice, even when you’re in a hurry. And as my dad, a small-town editor, always said, ‘Keep at it. Keep at it. Keep at it.’”

**KAY ELLERHOFF** (1967) spent 20 years as the associate editor for Montana Outdoors magazine and 10 years as executive editor for W.O.W (Wild Outdoor World). She currently works as a freelance editor.

“1. Attend or tune in to conferences, seminars, or webinars where you can discuss your notes, successes, or difficulties.
2. Never stop improving your skills. No matter how long you’ve been wielding a red pencil and in whatever form, your skills can always be updated and improved.
3. Read articles from publications carefully and conscientiously edited by wise, careful, and conscientious editors.”

**DANNY DAVIS** (2007) is a native of Billings. After graduating, he moved to Austin, Texas, and now writes for the Austin-American Statesman as a sports reporter covering high school athletics and occasional University of Texas sporting events.

“You have to be willing to do anything, and you have to find ways to make yourself stand out in the newsroom. I was producing a daily blog and working on social media sites and that helped me stand out. Don’t get frustrated going in. Be patient and be flexible.”

**KEVIN VAN VALKENBURG** (2000) worked as a beat reporter for The Baltimore Sun before becoming a feature writer. He currently writes for ESPN the Magazine and ESPN.com.

“1. Read constantly.
2. Understand the difference between confidence and arrogance.
3. Seek out mentors. You don’t know who is going to open a door for you down the road.
4. Have a word document or a notebook you’re constantly trying to fill with ideas.
5. Be willing to sacrifice, willing to take risks, and willing to give up certain things to chase your dream.”
HOLLY PICKETT (2002) worked as a staff photographer at The Spokesman-Review newspaper in Spokane, Washington, from 2002-2007, before moving to Cairo, Egypt, to pursue freelance photojournalism. She has worked all over the Middle East, Africa, and Central Asia and her work has appeared in various publications such as The New York Times, The New Yorker, Time, and many more.

“Never stop learning. You have to keep your curiosity about the world around you and keep growing, both as a person and as a journalist. And you have to believe that what we do matters. It will help you through the rough patches in this — at times chaotic — life’s calling. To help me along the way, I learned (and continue to learn) a tremendous amount from my colleagues. I’ve been lucky to find a network of mentors, collaborators, and friends without whom I wouldn’t be where I am.”

MEG OLIVER BASINGER (1993) currently works for ABC News. Prior to that, she worked for three years as the anchor for the CBS newscast “Up to the Minute.” She also worked as a reporter and anchor for various TV stations throughout the country.

“Be geographically flexible; go anywhere for that first job, from Alaska to Alabama. Explore and enjoy the adventure before you settle down. I lived in nine states before landing at the network and every stop opened my eyes to a different part of the country. It made me a better reporter and anchor, especially on election night. Be a team player. You can’t get on TV without the masterminds behind the screen — translation: Don’t be a diva. And finally, if you want to stand out, separate yourself from the pack. Don’t settle for the soundbite everyone has. Keep digging until you find something new and fresh.”

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FOR EIGHT YEARS Missoula politicos closely followed city Councilman Bob Jaffe's much anticipated weekly digest of council and committee meetings. But 2014 heralds the citizen-journalist’s retirement, and whoever takes over his Listserv will have big shoes to fill.

The Missoulian’s city beat reporter, Keila Szpaller, says the general newspaper audience just isn’t interested in the sausage making of local politics. That’s where Jaffe came in.

“He provides depth and detail,” Szpaller said. “It really fills a niche in the community.”

The Monday night meetings that Szpaller covers are really just a formality, Jaffe said, “The meat of the discussion happens at the Wednesday meeting, and that is what people really need to know.”

About 1,000 people subscribed to the Listserv in which Jaffe says he gave a candid opinion of what takes place in the meetings without being offensive. But his passive-aggressive sense of humor bled through the politics.

“Next thing you know, we have folks chanting the mantra that the city is ‘business unfriendly,’” Jaffe wrote in a committee update from October 2, 2013, during which the council modified sign regulations to include an entrepreneur’s desire to install little TVs for ads on top of gas pumps. “How dare we consider making rules that could impact someone who has created a job? Never mind that the rule we are considering completely takes into account his needs.”

It’s the way Jaffe wrote the articles that made the Listserv so popular, fellow city council member Caitlin Copple said.

With a background in journalism, Copple might do just as much justice to the issues, and she’s willing to take over as long as Jaffe will let the Listserv out of Ward 3’s hands.

But Copple said the meeting summaries can be time consuming, and writing about every little detail can quickly become more work than it’s worth. Luckily, she’s not the only interested candidate.

Fellow council member Jason Wiener said he isn’t willing to let the Listserv die either. “If there is a void, I’d be hard pressed not to fill it.”

Jaffe said he’s okay with either Copple or Wiener taking over, as long as someone grows into the role and keeps the Listserv alive.

McHugh Pierre is a former television news anchor and reporter. He has a passion for journalism and how communities share critical information.

MC Hughes Pierre

CONGRESSIONAL STALEMATES HAVE held up legislation for years that could create the first new wilderness designations Montana has seen in a generation. But there’s hope that the Wilderness Act’s 50th anniversary in 2014 will provide the thrust needed to turn these significant bills into law.

Montana is home to 16 wilderness areas, totaling 3.5 million acres. They sustain thousands of species of flora and fauna, including threatened and endangered species. The Bob Marshall Wilderness in northwest Montana, at more than a million acres, is one of the largest and most ecologically complete wilderness areas in the nation. Not to mention one of the first, created in 1964 as part of the initial legislation. In 2014, the Bob Marshall may see an expansion that would be the first designation of wilderness in Montana in 30 years.

Two bills in Congress that started from grassroots movements in Montana, the Forest Jobs and Recreation Act and the Rocky Mountain Front Heritage Act, would create a combined total of 767,000 acres of new wilderness across Montana.

“There would be no better way to celebrate the 50th anniversary of the wilderness act,” said Zack Porter, NexGen wilderness leaders program director for the Montana Wilderness Association.

Both bills have been in Congress for several years but haven’t been passed because of the dysfunction in Washington, D.C., during recent years, when only large crucial bills have been signed into law. Porter said both bills have the support of Montana’s senators, the Forest Service, and a huge spectrum of business leaders and residents in the state. All they need is a final push. The Wilderness Association hopes the 50th anniversary of the Wilderness Act will provide that momentum.

“It’s something that defines us, we are all about living near and getting out in these amazing wild places,” Porter said. “It’s part of who we are here in Montana.”

Dave Stalling of Missoula is a writer, activist, past president of the Montana Wildlife Federation, and recipient of the 2000 Montana Conservationist of the Year Award. He earned degrees in wildlife and journalism from the University of Montana in 1989.
Politically minded Montanans should be excited for 2014 — especially if they prefer not to know the donors behind the impending flood of campaign ads.

When the race to replace longtime Democratic Sen. Max Baucus heats up in 2014, the voices of anonymous donors, conservative and liberal, will again share the airwaves with candidates and their political action committees. And it won’t be pretty, said Ed Bender, executive director of the Helena-based National Institute on Money in State Politics.

“There was so much crap out there last cycle,” Bender said. “I know people that turned off their TV after getting sick of watching the same thing. The quality went out the window.”

In 2012, Democratic Sen. Jon Tester won re-election over Republican challenger Denny Rehberg, but not before American Tradition Partnership, Montana Hunters and Anglers Action, Crossroads GPS, and Americans for Prosperity had their say.

Exactly who was paying for those political media campaigns was impossible to know. The groups were formed as 501(c)(4) nonprofits — social welfare issue-advocacy organizations that aren’t required to turn over data on donors.

It was the first presidential election following the U.S. Supreme Court’s Citizens United ruling, and newly formed SuperPACs, now able to accept and spend an unlimited amount of money as long as they don’t coordinate with candidates, were eager to test the waters.

In the Tester vs. Rehberg race alone, an estimated $12 million of dark money was spent.

“Independent spending has long been a factor in elections. What’s new is the secrecy,” said Sheila Krumholz, executive director of the Center for Responsive Politics, the Washington D.C.-based nonprofit that runs the campaign finance site opensecrets.org.

She predicts the influence of dark money will diversify and grow.

“But it will be fine-tuned as groups and donors look for a better return on their investments,” she said.

Bender expects dark money to come into play as quickly as in the 2012 election.

“I think you’re going to see independent spending ramp up early,” he said.

The only major Montana-wide races in 2014 are for the House and Senate, so money directed toward in-state contenders won’t see the outside push it had in 2012, with the attorney general and state Supreme Court races. Then again, Krumholz expects the Baucus race to become a bonanza for spenders.

“As all Montanans know, this is an open seat in a tight senate at a contentious time.”

Brooks Johnson graduated from the University of Montana’s School of Journalism in 2013. A former Dow Jones News Fund intern, he works as a copy editor at the Idaho Falls Post Register and is the online editor for Montana Headwall.
Q+A
THE ROAD TO RIO
INTERVIEW BY RORY GUILFOY

The Great Falls Tribune hired Michael Beall as a cops and courts reporter before he even graduated. One year later, the 24-year-old decided it was Rio de Janeiro or bust. In an industry full of job uncertainty, he walked out of his full-time position to chase stories and soccer. Beall saw the World Cup’s return to Brazil as his way to trade in beat reporting for his dream of freelancing as a jack-of-all-trades. In October of 2013, he was planning his trip.

MJR: Journalism is a competitive business. What made you quit a guaranteed salary in your field, one year after graduating from the University of Montana’s School of Journalism?
Beall: When I started thinking about what I wanted my journalism career to become, I couldn’t see myself as a daily journalist or even working at a weekly or a magazine. When I graduated, I had thoughts of traveling to the big event. I want to be in the action rather than be sent to the action. The World Cup is that event. It has sports, it has politics, economics, social issues, and it’s incredibly newsworthy and timely.

MJR: What’s your main goal for this trip?
Beall: The idea is to make a documentary focusing on the U.S. and how we’re catching on to soccer here. It’s nowhere near what it means to different places and how it contrasts with the kid in Mexico who doesn’t get to take high school off to travel to Europe and try out for the club teams. It will be about high school kids who have that dream to be a professional player and the obstacles they face to succeed.

MJR: What challenges are you facing?
Beall: One is money. As a cop reporter, you don’t really make that much money. I’m thinking of doing Kickstarter. I’m reaching out to a couple publications and editors that will hopefully pick up my story.

MJR: I’d read it. What’s your secret to getting started and funding this adventure?
Beall: I plan to stop at hostels in different countries and tag along on eco-tourism trips that tourists take while on vacation. They take them to see wildlife, so I want to go along with those groups, take pictures for them and get paid. The road to the World Cup will be travel, pitching stories that are soccer-related and not soccer-related, while reporting my documentary and doing odd jobs.

MJR: Where do you see your trip ending?
Beall: The World Cup is the end goal. I think the stories are going to come from the people around the World Cup, not necessarily the tournament itself. There were protests across Brazil during the Confederations Cup, so I’d like to spend way more time with the real people of Brazil, rather than the crazed soccer fans.

MJR: You’ll be traveling through countries where you might encounter some violent situations. Are you trained or able to defend yourself?
Beall: If you see me, you’ll see that I have no fighting ability whatsoever. I’ll rely on playing tourist and my sprinting speed. I’m also going off the belief that others have gone to Latin America to travel and were able to avoid trouble. My plan isn’t to go looking for stories at night in the cities. But you bring up a good point, and one my parents — Mom especially — bring up every time I talk about this project.

MJR: Do you have a worst-case scenario exit plan?
Beall: My birthday and Christmas present is a flight home from my parents and when I say it’s time to retreat, I have that fallback plan. But if I get kidnapped by some drug cartel and come out alive, then I have two stories.

You can follow Beall’s adventures in South America on www.meanderingbeaz.com.
GUATEMALA: Work on a story idea with a group that builds homes for homeless.

NICARAGUA: Short stop. Soccer’s not big here.

COSTA RICA

PANAMA: Ferry from here to Colombia.

HONDURAS: Skipping over — way too scary.

COLOMBIA

BRAZIL: Would like to be settled for a few weeks before the festivities begin.

RIO DE JANEIRO, BRAZIL: The World Cup.
Put your equine friends up in style at the new Horse Motel, while you enjoy a night at the rustic yet comfortable riverside cabins. Let us show you what old-fashioned Western hospitality is all about!

**Lodging**
- Horse Motel
- Riverside Cabins
- Wilderness Lodge

**Activities**
- Rafting
- Fishing
- Horseback Riding

Among your options for family fun are whitewater rafting trips through the rapids of the famed Alberton Gorge, or horseback ranch and trail rides on friendly horses calm enough for anyone in the group!

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