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MISSOURI VIEW

Nixon must practice what he preached on public records

St. Louis Post Dispatch

In the controversy over open records and e-mail retention policies during Gov. Matt Blunt's administration, no state official was more vocal about complying with state laws than Jay Nixon.

As attorney general in 2007, Mr. Nixon, a Democrat, appointed a special team to investigate allegations that the Republican governor and his staff had violated the state Sunshine Law.

"Openness goes to the core of public trust in government and therefore these reports must be investigated," Mr. Nixon said. "Our objective is to see that the rule of law and the public's trust is upheld."

Now that Mr. Nixon is governor, it seemed fair to ask what his policies are about e-mail

retention and the use of private e-mail accounts to transact state business. He won't tell us.

We had questions about the appointment process that led to the takeover last month of the St. Louis Police Board by Mr. Nixon's appointees.

We asked for copies of all official communications about the process, including those made through private e-mail accounts.

And we asked how Mr. Nixon's office preserves such records as public records. These questions were at the heart of the controversy during Mr. Blunt's administration, when it was learned that each state office establishes its own records-retention policy.

We asked for the governor's stand on preserving and disclosing communication from employees' private e-mail accounts.

We pointed out that Missouri Auditor Susan Montee had found fault with the Blunt administration's policies on e-mail retention, saying that it provided "little assurance all necessary records will be properly retained."

In short, we wanted to know what Mr. Nixon's office policy was on the use, management and retention of e-mail records, including those sent or received through e-mail accounts not

maintained by the state. ...

Each state office is responsible for developing its own policies for complying with state record-retention rules. Missouri Secretary of State Robin Carnahan requires that public business be transacted only through the state e-mail system.

Missouri Attorney General Chris Koster does not prohibit the use of private e-mail accounts, but he requires that "all records created or retained using non-office resources" be "retained by the Missouri Attorney General's Office." That means public records in a private e-mail must be forwarded to the state e-mail system.

Mr. Nixon has not provided us with any documentation of how it works in his office. Christine Bertelson, the governor's communications director and a former editor of this page, has assured us that the governor's office "follows the Sunshine Law." What that means is not clear.

This falls short of Mr. Nixon's own standards — "to see that the rule of law and the public's trust is upheld." ...

State and local officeholders should welcome the guidance. The alternative is more controversy — and angry taxpayers left to pick up the tab.