

Security Cameras

Conduct in plain view of the public is not within any reasonable expectation of privacy under the Fourth Amendment. Government officials, including school officials, can place security cameras in public areas to promote public safety, security, and to record evidence of misconduct. Cameras should not, however, be placed in areas in which there may be a legitimate expectation of privacy such as restrooms, showering and changing areas, etc. Other more private and appropriate means of supervision and security may be used in these areas.

In addition to the use of security cameras in school entrances, hallways, cafeterias, and other common areas, security cameras are increasingly being used on school buses. Uses on buses include supervision and discipline of students on the bus, and also cameras aimed at vehicles near the bus. Bus cameras aimed at surrounding traffic are used to document evidence of dangerous illegal passing of the school bus while stopped and children are crossing the road, and to generally deter unsafe driving that endangers students. Public streets are public areas, and there is generally no reasonable expectation of privacy concerning conduct in public areas.

Electronic Privacy

Personal electronic devices have become commonplace tools in daily life for adults and children, often replacing traditional paper versions of written letters, notes, pictures, calendars, etc. Although unknown to the Founders, it is fair to say that the contents stored in individuals' personal electronic devices are the modern electronic equivalents of the "papers, and effects" they envisioned as protected under the Fourth Amendment. Therefore these electronic files receive the same constitutional protections accorded to hard copies of private documents. There is generally a legitimate expectation of privacy in the contents of personal electronic devices.

While the contents of electronic devices may be protected, consistent with state law and local policy school officials may lawfully prohibit students from having or using cell phones or other electronic devices in school. If a cell phone or other device is lawfully confiscated during school hours, however, that does not grant school officials a legal license to go on a "fishing expedition" through the student's private electronic device.

School officials may only search the contents of students' personal electronic devices if there is sufficient justification to do so under the guidelines established in *T.L.O.* The scope of the search cannot exceed the parameters of the justification for the search. If there is only reasonable suspicion for searching recent text messages, for example, older saved messages or stored photos should not be searched. If there is no valid cause to search the electronic device, the device should be secured and returned to the student or parent consistent with school policy.

Materials that students or teachers post on-line, however, are not protected by the Fourth Amendment. To legitimately claim any reasonable expectation of privacy, the individual's actions must be consistent with the maintenance of privacy. By posting materials on-line and available to the general public, any reasonable expectation of privacy is waived, and school officials may search these materials without violating the Fourth Amendment. Further, any reasonable expectation of privacy is limited to private electronic devices. There is no reasonable expectation of privacy when using public school computers, school e-mail, or other school owned and controlled electronic devices.