

## Video Camera Surveillance in Public School Settings: Emerging Technologies, Privacy, and the Role of the Fourth Amendment

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### Descriptive Context

#### Introduction

In the area of electronic security, video surveillance has become one of the fastest-growing industries with an estimated \$9.2 billion in sales in 2005 and projected sales of up to \$21 billion by 2010.<sup>1</sup> One of the more recent and controversial trends being used to safeguard school safety has been the installation of video camera surveillance systems throughout our nation's schools.<sup>2</sup> The origins of video camera use by school officials can be traced back to the late 1980's when school buses were equipped with video cameras as a means to improve student discipline, prevent vandalism, and avoid potential litigation with parents.<sup>3</sup> Recent evidence reveals that the installation of video camera surveillance in public schools has become noticeably more commonplace. In 2002, for instance, nearly 1,000 new public schools were opened and approximately three-fourths of them were equipped with some form of video camera surveillance.<sup>4</sup> In 2003, the Biloxi Public School District in Biloxi, Mississippi received national media attention by becoming the first public school district in the nation to install video surveillance cameras in every classroom.<sup>5</sup>

In a modern, technological society where surveillance technologies, including video cameras, can effectively monitor any individual's locations and movements, the basic legal question arises: Does the widespread use of surveillance technologies run counter to the unrestricted house-to-house searches and unfounded "fishing expeditions" that the Fourth Amendment was originally intended to prevent?<sup>6</sup> The Fourth Amendment does protect individuals against unreasonable searches and seizures as well as invasions of privacy.<sup>7</sup> In the public school environment, the Supreme Court in *New Jersey v. T.L.O.* held a search is deemed reasonable only if that search is justified both at its inception and reasonably related in scope to the circumstances that originally justified the search.<sup>8</sup> In the twenty-first century, legal scholars predict that many Fourth Amendment challenges will inevitably need to balance the use of

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<sup>1</sup> Jessica Bennett, *Tech: Surveillance Cameras Become Big Business*, *Newsweek On-Line* (March 15, 2006) <http://www.msnbc.msn.com/id/11832024/site/newsweek> [hereinafter referred to as Big Business].

<sup>2</sup> Crystal Garcia, *School Safety Technology in America: Current Use and Perceived Effectiveness*, *Criminal Justice Policy Review*, 14, (March 2003).

<sup>3</sup> Kevin P. Brady, *Video Surveillance in Public Schools: The Delicate Balance Between Security and Privacy*, *SCH BUS AFF*, November 2005.

<sup>4</sup> Sam Dillon, *Cameras watching students, especially in Biloxi*, September 24, 2003, *New York Times On-Line* <http://www.nytimes.com>.

<sup>5</sup> *Id.*

<sup>6</sup> See Marc Jonathan Blitz, *Video Surveillance and the Constitution of Public Space: Fitting the Fourth Amendment to a World that Tracks Image and Identity*, 82 TEX. L. REV. 1349 (2004).

<sup>7</sup> U.S. Constitution, Fourth Amendment.

<sup>8</sup> *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985).

evolving and constantly changing surveillance technologies with the issues of individual and workplace privacy and security.<sup>9</sup>

### **Recent and Differing Perspectives**

While some school officials and parents contend that the use of video camera surveillance systems significantly reduce incidents of school violence and improve overall school safety, there is no empirical evidence to date detailing the effectiveness of video cameras towards significantly decreasing levels of school violence.<sup>10</sup> During the 2005-06 school year, there were a total of 27 school-related deaths.<sup>11</sup> Since the beginning of this school year, August 2006, there have been a total of 15 reported, school-related violent deaths during 2006-07.<sup>12</sup> In 2005, when the Spotsylvania School Board, located in northern Virginia county, decided to install high-tech, video surveillance cameras throughout the county's 28 public schools, community opinion seemed to minimize potential concerns regarding violations of civil liberties; instead, many community residents viewed video cameras in schools as a way to make students and staff feel safer.<sup>13</sup> Despite the national media attention given to school-related deaths, shootings, and incidents of violence, research indicates the nation's schools are relatively safe places.<sup>14</sup> Nevertheless, the general public's overall perception of school violence, vandalism, and theft has significantly influenced many legislators and educators to make safer schools a national priority.<sup>15</sup> While statistics reveal that public schools, on the whole, are relatively safe havens for children, public perception paints a much darker picture of school safety. The public's perception of unsafe schools serves as a catalyst for surveillance trends, including the increased placement nationwide of video cameras in public schools.

### **Snapshots of Legal Research and Court Decisions**

#### **The Supreme Court's Analysis of Surveillance Technologies**

Based on the following Supreme Court decisions: *Katz v. United States*, *Kyllo v. United States*, and *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls*, three distinct legal tests have been developed for analyzing emerging surveillance technologies under the Fourth Amendment.<sup>16</sup> Unfortunately, however, the applicability of these three legal standards to the constantly changing nature of surveillance technologies is questionable.<sup>17</sup> Yet, however, one common theme among these three legal tests is that they attempt to analyze the reasonableness of new emerging surveillance technologies under the

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<sup>9</sup> Andrew Taslitz, *The Fourth Amendment In the Twenty-First Century: Technology, Privacy, and Human Emotions*. *LAW & CONTEMP. PROBS.*, 125 (Spring 2002), at 133.

<sup>10</sup> Tod Schneider, *Newer Technologies for School Security*. ERIC Digest, 145. Eugene: OR. Available at <http://eric.oregon.edu/publications/digests/digest145.html>.

<sup>11</sup> This data is reported annually by the National School Safety and Security Services, Inc. based in Cleveland, Ohio. This organization collects information on school-related deaths, school shootings and school crisis incidents reported through print and electronic news sources, professional contacts, and other nationwide sources.

<sup>12</sup> The 2006-07 school year runs from August 1, 2006 through July 31, 2007.

<sup>13</sup> Big Business, *supra* note 1.

<sup>14</sup> Margaret Small & Kellie Dressler Terrick, *School Violence: An Overview*, 8(1) *Juvenile Justice* (June 2001).

<sup>15</sup> Crystal Garcia, *School Safety Technology in America: Current Use and Perceived Effectiveness*, *Criminal Justice Policy Review*, 14, (March 2003).

<sup>16</sup> The three legal tests are drawn from the following U.S. Supreme Court cases: *Katz v. United States*, 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967); *Kyllo v. United States*, 533 U.S. 27, 121 S.Ct. 2038, 150 L.Ed.2d 94 (2001); and *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls*, 515 U.S. 646, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995).

<sup>17</sup> For a more detailed account of the need for clearer guidance on Fourth Amendment treatment of new surveillance technologies and the legal boundaries of individual privacy interests, see Orin S. Kerr, *The Fourth Amendment and New Technologies: Constitutional Myths and the Case for Caution*, 102 MICH. L. REV. 801 (March, 2004).

Fourth Amendment, which is exceedingly difficult in a post-9/11 world. It is important to note that the vast majority of legal cases involving video and electronic surveillance have occurred outside public school settings.

### The “Reasonable Expectation of Privacy” Test

The first legal standard for analyzing the legality of surveillance technologies was drawn from the 1967 landmark case, *Katz v. United States*, where the Supreme Court held that the Fourth Amendment requires a warrant when “a person exhibited an actual expectation of privacy and, second, that the expectation be one that society is prepared to recognize as reasonable.”<sup>18</sup> The *Katz* case involved an investigation into an illegal betting scheme. The FBI taped a microphone to the roof of a public phone booth used by the defendant, Charles Katz.<sup>19</sup> When Katz used the public phone booth, the FBI turned on the microphone and recorded Katz’s conversations. The government used these recordings as evidence that Katz placed illegal bets at his trial.<sup>20</sup> The *Katz* ruling emphasized that “what a person knowingly exposes to the public is not a subject of Fourth Amendment protection.”<sup>21</sup> Writing for the majority, Justice Potter Stewart stated, “One who occupies [a telephone booth], shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world.”<sup>22</sup> In essence, the *Katz* ruling expanded the overall scope of protection under the Fourth Amendment because it protects an individual’s “reasonable expectation of privacy” in any location where circumstances give rise to such an expectation.<sup>23</sup> Unfortunately, a major shortcoming of the *Katz* “reasonable expectation of privacy test” is that it provides little guidance concerning whether the Fourth Amendment directly applies to investigative techniques employed by video camera surveillance.<sup>24</sup>

### “The General-Public Use” Test

In the 2001 decision, *Kyllo v. United States*, the Court developed a second test, the “general-public use test” for analyzing surveillance technologies under the Fourth Amendment.<sup>25</sup> The *Kyllo* case involved the use of a thermal imaging device to observe large heat lamps used in a private home to grow marijuana.<sup>26</sup> In *Kyllo*, the Court held that when surveillance technology used is “not in general public use, the surveillance is a search and is presumptively unreasonable without a warrant.”<sup>27</sup> However, a major limitation of the *Kyllo* ruling is that the test applies exclusively to searches conducted in the home.<sup>28</sup> So far, courts have steadfastly refused to apply the *Kyllo* “general-public use test” outside of the private home environment.<sup>29</sup> Clearly, this restriction has limited the influence of the *Kyllo* ruling involving surveillance technologies outside the personal home environment.

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<sup>18</sup> 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967).

<sup>19</sup> *Id.* at 354.

<sup>20</sup> *Id.* at 350.

<sup>21</sup> *Id.* at 351.

<sup>22</sup> *Id.* at 352.

<sup>23</sup> See Edmund W. Kitch, *Katz v. United States: The Limits of the Fourth Amendment*, SUP. CT. REV. 133 (1968).

<sup>24</sup> 389 U.S. at 351.

<sup>25</sup> 533 U.S. 27, 121 S.Ct. 2038, 150 L.Ed.2d 94 (2001).

<sup>26</sup> *Id.* at 29.

<sup>27</sup> *Id.* at 30.

<sup>28</sup> *Id.* at 34.

<sup>29</sup> See Nelson B. Lasson, *The History and Development of the Fourth Amendment in the United States Constitution*, (De Capo Press 1970).

## The “Legitimate Governmental Interests Test”

The third test, or “legitimate governmental interests test,” was formulated in the Supreme Court’s *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls* decision.<sup>30</sup> The *Earls* standard balances “the nature of the intrusion on the individual’s privacy against the promotion of legitimate governmental interests beyond the normal need for law enforcement.”<sup>31</sup> The *Earls* case has already been applied to numerous drug-testing and roadblock searches.<sup>32</sup> It is important to note that the *Earls* decision involved a public school setting and followed two significant Fourth Amendment cases involving public schools; *Vernonia School District 47J v. Acton*<sup>33</sup> and *New Jersey v. T.L.O.*,<sup>34</sup> where the Court defined the public school environment as a special place for Fourth Amendment analysis purposes. The *Earls* legal standard balances “the nature of the intrusion on the individual’s privacy against the promotion of legitimate governmental interests” beyond the “normal need for law enforcement.”<sup>35</sup>

Basically, the *Earl’s* “legitimate governmental interests test” provides an exception to the usual Fourth Amendment warrant requirement for searches when they are conducted, not for law enforcement purposes, but for other, special governmental reasons. According to the “legitimate governmental interests test,” these searches do not need to be supported by a warrant, probable cause, or even reasonable suspicion, but can be completely suspicionless. Three modern-day examples of search and seizure cases that reflect the “legitimate governmental interests test” are random drug testing, checkpoints on public highways, and searches of closely regulated spaces.<sup>36</sup>

In another Supreme Court case, *O’Conner v. Ortega*, the Court held that public employees do have an expectation of privacy in their personal work space areas, including their desk and file cabinets.<sup>37</sup> However, this determination needs to be made on a case-by-case basis. More recently, in *Cramer v. Consolidated Freightways*, the Ninth Circuit held employees do have the right to be free of surreptitious electronic surveillance.<sup>38</sup>

## Video Surveillance in Public School Settings: A Review of Relevant Case Law

The initial justification for installing video camera surveillance in public schools was to significantly reduce school violence, vandalism, and theft. Increasingly, however, an examination of the limited court cases involving video surveillance in public school settings reveal that video cameras are routinely used in school environments to assist in evaluating teacher and school staff job performance. In *Roberts v. Houston Independent School District*, for example, a Texas court of appeals held that a terminated teacher’s reasonable expectation of privacy was not violated by the videotaping of her classroom teaching performance.<sup>39</sup> In this particular case, the school district set up an assessment team that evaluated teaching performance by both written assessment and videotaping a teacher’s classroom performance.<sup>40</sup> The significance of the *Roberts* decision is that the video surveillance of teaching in a public school classroom is an

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<sup>30</sup> 536 U.S. 822, 122 S.Ct. 2559, 153 L.Ed.2d 735 (2002).

<sup>31</sup> *Id.* at 825.

<sup>32</sup> *Id.* at 824.

<sup>33</sup> 515 U.S. 646, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995).

<sup>34</sup> 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985).

<sup>35</sup> 536 U.S. at 829.

<sup>36</sup> In the public school environment, the Court has initially upheld the random drug testing of student participants in extracurricular sports in *Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995); In *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls*, 536 U.S. 822 (2002), the Court further expanded the legality of randomized drug testing to include not only student athletes but all student participants in extracurricular activities.

<sup>37</sup> 480 U.S. 709, 107 S.Ct. 1492, 94 L.Ed.2d 714 (1987).

<sup>38</sup> 255 F.3d 683 (9<sup>th</sup> Cir. 2001), *cert. denied*, 122 S.Ct. 806 (2002).

<sup>39</sup> 788 S.W.2d 107 (Tex. Ct. App. 1990).

<sup>40</sup> *Id.* at 109.

activity that is legally permissible because teaching is an activity that does not fall within a protected “zone of privacy.”<sup>41</sup>

In another case involving the video surveillance of school employees, *Crist v. Alpine Union School District*, a California court of appeals held that there was no invasion of school employee privacy when a school district placed hidden video cameras in a shared office space shared by three employees in an effort to gain evidence to support that one of the employees was suspected of unauthorized computer access after-school hours.<sup>42</sup> The employees argued that they suffered severe emotional distress after they discovered the school district secretly videotaped them. The court held that the school district had a legitimate reason for engaging in the video camera surveillance that outweighed the invasion into the employees’ privacy rights. The court reasoned that the videotaping was confined to after-school hours when the employees were not scheduled to be working.

In *Brannen v. Kings Local School District Board of Education*, an Ohio court of appeals held that a school district’s installation of a hidden video camera in an employee break room did not violate the employees’ right to be free from unlawful searches guaranteed by both the Fourth and Fourteenth Amendments and that the employees did not have a reasonable expectation of privacy in the staff break room.<sup>43</sup> A school custodian supervisor suspected that a group of custodians were not working during a majority of their assigned shift. The custodian supervisor received permission from the school superintendent to secretly install a video camera in the custodian break room for a one week period.

### **Location, Location, Location!: The Placement of Video Cameras in Public School Settings**

At Livingston Middle School (LMS) in Overton County, Tennessee, local school board members and the school principal decided to install video cameras in multiple locations throughout the school. One of the video camera locations included the doorway of the gym’s locker rooms. Originally, the intent of this specific video camera location was to capture evidence of students sneaking out of gym classes. Unfortunately, however, the wide-angle lens of the camera also filmed students in various stages of undress adjacent to the gym’s locker rooms. According to court records, between July 2002 and January 2003, male and female students, aged 10 to 14 years old, were recorded undressing in the Livingston Middle School dressing room. Additionally, video evidence shows images of naked students were assessed over the Internet 98 times from June 2002 through January 2003. In addition to placing a camera in a very inappropriate location, the school district’s lack of computer security protections failed to restrict access to the images of the children on the school’s website. Both the inappropriate camera location and lack of computer security protections were cited as violations of the children’s privacy rights. The United States District Court for the Middle District of Tennessee recently ruled against the Overton County Public School District and awarded the students’ parents more than \$4 million in damages based on the children’s loss of privacy.<sup>44</sup>

### **Video Surveillance with Audio Capabilities: Legal Implications**

Public school officials interested in equipping their video cameras with video as well as audio capabilities information need to exercise extreme caution. Generally, collecting audio data is prohibited under Title I of the Electronic Communications Privacy Act of 1986.<sup>45</sup> Under Title I, for instance, law enforcement officials must obtain warrants prior to intercepting oral

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<sup>41</sup> *Id.* at 108.

<sup>42</sup> Cal.Rptr.3d, 2005 WL 2362729 (Cal.App. 4 Dist.).

<sup>43</sup> 761 N.E.2d 84 (Ohio 2001).

<sup>44</sup> Claudette Riley, Overton County schools sued over locker room filming, July 1, 2003, *Tennessean On-Line*: <http://www.tennessean.com/education/archives/03/07/35281568.html>; *Brannum, et al. v. Overton County School Board*, No. 2:03-0065, (Tenn. 2006).

<sup>45</sup> 18 U.S.C. §§ 2510-2521 (1988).

communications. In contrast, so-called “silent video surveillance,” which does not record sounds, does not need to comply with Title I regulations because the Act is solely concerned with devices that record audio signals. Given technological advances, it can be reasonably argued that the zoom function of most modern video cameras can be used as a substitute to audio communications since an observer can more readily determine what is being communicated by analyzing close-up shots, slow motion, and replay features of the video.

### **Is Video Surveillance Data An Educational Record? Implications from the Family Educational Rights and Privacy Act (FERPA)**

The primary purpose of the Family Educational Rights and Privacy Act (FERPA) is for parents to have the legal right to “inspect and review the educational records of their children.”<sup>46</sup> FERPA defines an educational record as “those records, files, documents, and other material which contain information directly related to a student; and are maintained by an educational agency or institution or person acting for such agency or institution.”<sup>47</sup> For instance, student information based on disciplinary actions may be viewed as appropriate data in an educational record if a student poses “a significant risk to the safety or well-being of that student, other students, or other members of the school community.”<sup>48</sup> Based on FERPA’s definition of an educational record, parents are usually legally entitled access to videotapes of their children taken in a school setting.<sup>49</sup> FERPA, however, identifies five exceptions to the definition of educational records. These five exceptions include:

- (1.) records maintained by supervisory personnel;
- (2.) records maintained by administrative personnel;
- (3.) records maintained by instructional personnel;
- (4.) records maintained by a physician, psychiatrist, psychologist, or other recognized professionals;
- (5.) records maintained by law enforcement officers, including community police officers assigned to schools if videotaping was conducted exclusively for law enforcement purposes.

Therefore, when collecting, viewing, or retaining any video or audio data of student behavior, local public school officials need to consider whether “educational records” were created.<sup>50</sup> If educational records were created, FERPA regulations directly apply.

### **CEPI SUMMARY**

Public opinion polls taken since September 11, 2001, suggest that the American public is strongly divided on the issue of individual and group monitoring through video surveillance technologies.<sup>51</sup> In this era of constantly evolving, high-tech surveillance technologies, what legal standard constitutes as a “reasonable expectation of privacy” under the Fourth Amendment is

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<sup>46</sup> 20 U.S.C. § 1232g.

<sup>47</sup> 20 U.S.C. § 1232g (a)(1)(D)(4)(A).

<sup>48</sup> 20 U.S.C. § 1232g (b)(6)(C)(h).

<sup>49</sup> Kevin P. Brady, *Video Surveillance in Public Schools: The Delicate Balance between Security and Privacy*, School Business Affairs (November 2005).

<sup>50</sup> For an excellent discussion of FERPA implications associated with video surveillance in public schools, see Sheila D. Conway’s conference paper, *Video Surveillance in Public Schools: Safety vs. Student Privacy and Workplace Privacy* presented at the Third Virginia Commonwealth Education Law Conference, April 28-30, 2005, Norfolk, Virginia.

<sup>51</sup> See Homeland Security: American Public Continues to Endorse a Broad Range of Proposals for Stronger Surveillance Powers, but Support Has Declined Somewhat, The Harris Poll #14, March 10, 2003 (available at [www.harrisinteractive.com/harris\\_poll/index.asp?PID=362](http://www.harrisinteractive.com/harris_poll/index.asp?PID=362)). In particular, this Harris Poll reveals that approximately 60% of the American public supports expanded secret video surveillance by the government, about 55% of the American public favor more law enforcement monitoring of Internet chat rooms, and about 45% of the American public favor increased governmental monitoring of cell phones and e-mail.

currently quite nebulous. Thus far, courts have been extremely reluctant to expand the legal boundaries of the Fourth Amendment, especially as applied to surveillance technologies in public locations. Some legal scholars even suggest that legislatures are better suited than the courts to protect privacy issues in the area of emerging surveillance technologies.<sup>52</sup> As George Washington University law professor, Orin Kerr stated, "...traditional cases with stable technologies tend to be regulated by the Fourth Amendment, but cases with developing technologies tend to be regulated by statute."<sup>53</sup>

Due to the special nature of the public school environment, however, schools are not public places in the traditional sense. Instead, the majority of individuals being monitored using video surveillance in public schools are children, whose safety is entrusted to teacher and administrative staff. While the privacy interests of students and staff exist in the public school environment, they are limited, even compared to other traditional public places, such as the workplace. Undoubtedly, these legal limitations in the privacy interests of teachers, students, and staff explain the legal permissibility, in most instances, of video camera surveillance in the public school environment.

In public school settings, the use of video camera surveillance without audio capability in public places generally does not violate any constitutional principles or laws since there are no federal regulations, state statutes, or labor laws that expressly prohibit it. Nevertheless, the public school setting constitutes a special and unique environment when it comes to video surveillance purposes.

The following six guidelines are critical for public school officials to consider when implementing a legally compliant video camera surveillance system. When seriously considering the implementation of a video surveillance system, local school officials, at a minimum, need to adhere to the following six legal guidelines.

These six guidelines include:

**1. Determine the reasons, costs and limitations of a video camera surveillance system at your specific school.**

At a minimum, school officials need to justify the implementation of a video surveillance system based on school-level data demonstrating high levels of violence, thefts, and vandalism.

**2. Video cameras must be placed in "public places" in the school environment.**

Video surveillance cameras may not be used in areas of the school where there is a "reasonable expectation of privacy." In public schools, video surveillance cameras may not be placed in school bathrooms, gym locker rooms, student or staff lockers, or private offices (unless express consent is given by the occupant). Video surveillance cameras may be placed in "common areas" of the school, including school hallways, front offices, school parking lots, gymnasiums, cafeterias, and libraries.

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<sup>52</sup> Orin S. Kerr, *The Fourth Amendment and New Technologies: Constitutional Myths and the Case for Caution*, 102 MICH. L. REV. 801 (March, 2004).

<sup>53</sup> *Id.* at 805.

**3. If you use video camera surveillance, strongly consider not recording audio conversations.**

Given the prevailing legal climate and current laws, school officials should strongly consider forgoing recording audio conversations in conjunction with video camera surveillance due to the increased possibility of violating an individual's Fourth Amendment right to privacy as well as existing federal laws.

**4. Comply with FERPA (Family Educational Rights and Privacy Act)**

School officials need to be aware of FERPA and the implications of this federal law in relation to video camera surveillance. Under FERPA, an education record is defined to include any document, photograph, data, or image-processed document maintained by an educational agency or individual acting on behalf of the educational agency or institution. Parents are usually legally entitled access to videotapes of their children unless withholding these videotapes is necessary to protect the health and safety of a particular student or others in the school community.

**5. Explicitly notify students and staff through prominent signage of the location(s) of video cameras as well as the fact that they are being videotaped.**

School officials need to notify the general public of video cameras, located in the schools. This can be easily accomplished through clearly legible and prominent signs placed near the video cameras

**6. If a school district does decide to implement a video camera surveillance system, you must develop a detailed, video surveillance privacy policy for the district.**

The creation of a formal written policy detailing your school district's video surveillance policy is necessary. In Virginia, for example, the Richmond Public Schools has adopted the following language for their video surveillance policy in the pupil search and seizure section of their bylaws. The policy states:

Surveillance cameras are in use in school facilities and on school buses to promote safety and to encourage reasonable orderliness in school, on school property, at school functions, and on school buses. Any person entering a school facility, on school property, at a school function, or riding a school bus is subject to being videotaped.<sup>54</sup>

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U.S. Constitution, Fourth Amendment

Electronic Communications Privacy Act of 1986, 18 U.S.C. §§ 2510-2521 (1988)

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<sup>54</sup> Richmond Public School Pupil Policies (available at <http://www.richmond.k12.va.us/schoolbaordnew/Bylaws/Section8.pdf>). The legal guidelines for student searches conducted in the Commonwealth of Virginia are the Code of Virginia, Section 22.1-277.01:2.

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