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Privacy No More

Privacy has become front and center in our national discourse. It is estimated that Americans are on some form of video camera an average of 100 times a day. Sometimes we are aware of it, in the case of posted signs or obvious cameras, and sometimes we are not. Because the cost of video or some other form of digitized surveillance is so low, most businesses have cameras posted on the premises, inside and out. An evening newscast seldom ends without a video of a target individual. It's no wonder some privacy experts are proclaiming that our privacy rights are gone. Or, at least, not what we thought they were before the ubiquity of video.

A recent case of *Quon vs. City of Ontario* gives us the latest expression of the U.S. Supreme Court on the subject of cell phone/pager privacy in the workplace. In that case the City of Ontario, California, a supervisor requested and received the content of city issued pager messages of one of its officers. The supervisor saw that the pager was being used overwhelmingly for personal use, in some cases very personal, and the officer was fired. The Supreme Court upheld the firing despite a circuit court decision otherwise.

Although the *Quon* case may have limited application to most of us, it is an expression of the Court's inclination to allow the production of private messages in the interest of personal safety or other governmental interests, such as cost control.

It is also not widely known that a video taken for otherwise legal purposes can be used in evidence for any other legal purpose. For instance, if a business uses video for security, the video can be used in evidence against those who may be wandering by as evidence against them in a civil or criminal case not connected to the store.

With privacy as a very topical issue, it is certain we will be seeing more decisions by our courts. We will advise you when more decisions are issued.