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Undercurrents

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The Governing Body Foundation recently received a query concerning the installation of surveillance cameras in our schools. Seeking the answers provoked one of the liveliest debates we have had, with the pros, the cons and representatives of every shade of opinion in between holding strong views on the matter. We finally came up with a response acceptable to all, but not necessarily loved by any. Here it is.

MONITORING OF DIFFERENT PARTS OF THE SCHOOL BY MEANS OF SURVEILLANCE CAMERAS

The questions

This is what we were asked:

"It has recently been established that quite a number of schools have put cameras into classrooms and other areas in the school for monitoring and safety purposes. This raises several questions and we would appreciate a response from the Governing Body Foundation to the following questions:

- ◆ *Does a teacher (or a teachers' union) have any legal grounds for refusing the recording of proceedings in class? If so on what grounds?*
- ◆ *Can a parent object to the filming of his minor child?*
- ◆ *Should an incident occur in a class, can the video footage be used in a disciplinary hearing against either a child or a teacher?*
- ◆ *Can you provide any other advice on why it is/is not a good idea to go this route and any other general advice on the subject (e.g. can we do it selectively, only over time moving to a situation where every class is monitored)?"*

The Governing Body Foundation response

At the outset, the GBF wishes to sound a cautionary note raised by one of those involved in drafting this response. We then proceed to some general principles, and only thereafter answer the questions directly.

General principles

Cautionary note

The right to privacy is, like many others enshrined in our constitution, a hard-fought right not to be easily discarded. Though our teachers and learners are in "public" schools, in reality, our rights to privacy and the dictates of "public-ness" sometimes intermingle. Schools need to be very vigilant about rights, and not allow them to be ignored or lines to be blurred merely because of some vague, perceived, possible threat. While the arguments put forward below are sound and legally unassailable, schools should not willy-nilly embark on something like this without really sound reasons for doing so. *Of course schools need to be preserved as safe spaces*, but not at the expense of learning, including social learning; learning to set one's own boundaries; developing self-discipline; not only knuckling down in the face of **imposed** discipline; etc. Further, throughout this piece the underlying assumption is that the surveillance cameras are **not hidden** or installed in such a place or manner as to **impinge on the dignity** of people. **Provided lines are not blurred or rights relegated to a secondary position**, then, we advise as follows:

- ◆ Our understanding of the situation is that in all matters to do with schools, schooling and education – as well as elsewhere, of course – the best interests of the child are paramount. If there are **reasonable fears for the safety of children**, a verifiable history of violence, bullying or other unacceptable acts, petty pilfering and the like, or reasonable grounds to believe that the best interests of the child would be better served by having camera surveillance on the

school premises and in the grounds, a strong case can be made for the **general principle of electronic surveillance in schools**. It would take a particularly strong counter case from those opposed to surveillance if they wished to overturn or preclude the installation of surveillance devices where (as it is understood to be in this case) the surveillance is in the form of camera/video **images only and not sound recordings**.

- ◆ There are certainly a number of schools which already monitor the public parts of the building – the entrance gates, parking area, reception area, parts of the playground, the school hall, the tuckshop, the corridors, and areas where pupil belongings are stored, such as locker areas or kit rooms. We know of no instances where this has been challenged, and cannot think of any reasonable grounds on which the challenge is likely to be successful, were one to be launched.
- ◆ By contrast, we believe that there are areas of the school where camera monitoring would be quite **inappropriate and unacceptable**. Such areas would include the change rooms, ablution facilities and toilets. **Camera monitoring in such areas would almost certainly be seen as an unacceptable invasion of the privacy and dignity of individuals**.

Classrooms fall between these two extremes.

- ◆ We do not believe that there are valid grounds for the legal exclusion of cameras from classroom monitoring in situations as outlined in the first paragraph of this section, and any history of violent activity or other threats to the safety of children or teachers in the classroom would be a strong argument in support of electronic classroom surveillance.
- ◆ Such violence or violation of interests/rights (whether physical or of some other nature) could be teacher-on-child, child-on-child or child-on-teacher, not to mention outsider-on-learner or outsider-on-teacher violations, and even theft or interference with the right of others to learn. Camera surveillance could assist in all these instances, either as a preventative or an investigative tool.
- ◆ The above notwithstanding, even in cases where the school is able to make out a strong case in favour of surveillance, we believe that it would almost certainly prove to be a sensitive issue, especially among staff members, and that many educators would see it as impinging on their professional dignity and integrity to have surveillance cameras in their classrooms. Schools wishing to go down the route of installing surveillance cameras in classrooms should therefore explain, discuss and motivate the matter carefully, sensitively and openly with learners, parents and staff before taking any decisions or implementing any actions.
- ◆ It would be much more difficult to justify such surveillance to staff members if there was any suggestion that recorded footage may be used for the appraisal of staff. It is suggested that it be agreed that stored footage of classroom activity will not be trawled for information to be used in any evaluation process, except that any action (or inaction) which emerges or is reported in the normal course of events, may be corroborated or disputed by means of reference to such stored footage, and that this footage may be **used by either party** as evidence in support or negation of an accusation.
- ◆ In summary, any challenges to the installation of electronic surveillance, or any defence of it, would have to be based **heavily on the reasons for wishing to go that route in the first place, and evidence provided to validate any perceived need or threat**.

The specific questions we were asked, together with our responses

Q Does a teacher (or a teachers' union) have any legal grounds for refusing the recording of proceedings in class?

A We believe not, and this is in accord with the thoughts of a lawyer linked to one of our largest teacher unions.

Q Can parents object to the surveillance cameras in the classroom?

A(i) We do not believe that parents have any legal right to object to the filming of a **general classroom scene**, any more than they could object to the filming of a tuckshop queue or a school assembly.

A(ii) Obviously, if the camera were to be **specifically focused on a particular child** rather than on the class as a whole, this could be questioned and would probably be difficult to defend, though not impossible, provided there was a history to underpin the decision and if the previous behaviour of the child warranted such invasive control measures. Nobody could surely in all seriousness suggest that there is any state of privacy in a class of 30 plus learners. How can filming in the classroom then be claimed to be invading privacy?

A(iii) Furthermore, we would not condone the **public viewing or showing of the tapes or images**, but can see no valid prohibition on the surveillance if it is done as outlined in this document, and viewed only under controlled conditions by those authorized thereto – who would surely be designated staff members, or a serious investigator into an allegation of some or other impropriety.

A(iv) We suggest also that the footage be automatically stored (as in all systems we have seen), automatically deleted after a period (in practice, after 2 weeks, we have found), that there is no continuous human monitoring of screens, and that footage is not trawled, looking for trouble, but rather used when corroborating or negating evidence is required.

- Q *Should an incident occur in a class, may the surveillance records be used in a disciplinary hearing against either a child or a teacher?*
- A(i) It is our understanding that, where it **is generally known that there is surveillance in place**, (i.e. the cameras are not hidden) there would be no reason to exclude surveillance evidence from disciplinary processes.
- A(ii) There are certainly cases, for example, where cellphone footage taken in a classroom has been admitted in disciplinary action, and even in courts of law. We cannot imagine that footage of an incident would be excluded just because the apparatus was fixed rather than handheld.
- Q *Can we implement the monitoring selectively over time?*
- A We believe there can be no valid objections to the implementation of surveillance in a piecemeal fashion, starting with the most obvious, dangerous, exposed or vulnerable areas, and building up to total coverage over the course of time – but also no reason why it cannot be done all at once.
- Q *Is there any other advice on why this is/is not a good idea?*
- A Advantages include the following:
- ◇ Anecdotal evidence suggests that such surveillance can have a marked positive effect on general behaviour, petty pilfering and overall demeanour.
 - ◇ We can see no reasonable legal challenges to general monitoring and we are supportive of the idea of schools being free to make their own choices on the issue, dependent on their particular circumstances.
- A Possible negatives:
- ◇ It is certainly true that children and others learn very quickly where the cameras are and take measures to either avoid misdemeanours in those areas, or take steps to see that they cannot be recognised should they be caught on camera – for example, the wearing of balaclavas, covering the camera lens, pulling a jacket, towel, hood or some other object over the head, and misbehaving under the cover of darkness (where the cameras do not have infra-red capacity) are avoidance actions of which we have first-hand experience.
 - ◇ Electronic surveillance is **not cheap**, and the higher the quality and quantity of surveillance that takes place, and the greater the number of cameras, the more difficult it is to eventually find supporting evidence of any misdemeanour, given **the huge amount of stored footage** to be trawled in order to find a particular incident.
 - ◇ Our legal advisors are therefore **less positive about blanket classroom monitoring**, though we do not believe it to be illegal where there are **valid grounds for moving in that direction**.
 - ◇ **Unless there are strong local reasons why classroom surveillance should be part of the scheme**, we believe that the negative reactions of many people (especially staff, rather than parents, incidentally), to the filming of every lesson in every classroom probably outweigh the positives. (In researching these responses, a different view to the one suggested in this paragraph [i.e. taking some cognisance of the sensitivities of teachers] was quite strongly espoused by one of those consulted: this person suggested that the time has come for teachers to move into the modern era and embrace, or at least accept, that the world of today is a very different place from what it was 30 years ago, and that the old concept of the classroom as the private and sacrosanct empire of the educator no longer holds and cannot be defended.)

Recommendations/suggestions

- ◆ Your motives and reasons for implementing surveillance technology must be pure, reasonable and supported by evidence/history of a malady that could reasonably be expected to be solved, resolved or diminished by introducing surveillance.
- ◆ Avoid surveillance in inappropriate areas.
- ◆ Negotiate/discuss the matter with staff and inform parents in advance.
- ◆ All those in the school should know that there are surveillance technologies in use.
- ◆ Reassure the staff on non-usage for appraisal purposes, except to corroborate or negate already known or reliably reported/suspected facts.

Tailpiece

Just after this piece was penned, Sunday Newspaper **RAPPORT** surveyed its readers on a very similar matter. They asked whether parents approved of closed circuit TV cameras in classrooms.

Despite the somewhat leading nature of the options offered, the responses were interesting and insightful.

Of those who responded:

- ◆ 14% were anti, believing it would “adversely affect the children’s learning”; while
- ◆ 86% were in favour, believing it would “protect learners against misdemeanours by teachers and bullies”.

Ouch—that is something of an indictment on what happens in our classrooms!