

Is Anything I Say, Send, or Save at Work Private?!

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"It is the journey, not the destination, that matters . . ."



The Journey

- Legal Landscape
 - Fourth Amendment
 - NC Public Records Act
 - Attorney ethics
- University Policies
- Scenarios



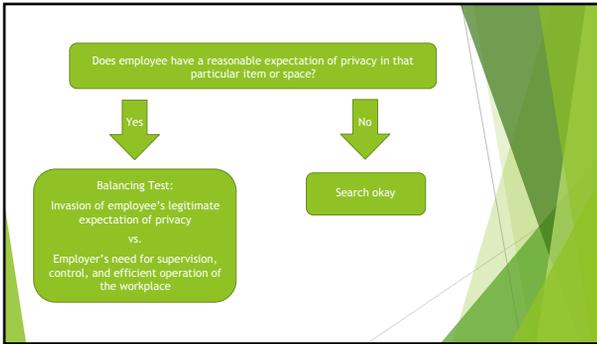
Legal Landscape

Legal Landscape: Fourth Amendment

- ▶ UNC Charlotte wears two hats:
 - ▶ The government
 - ▶ An employer
- ▶ As the government, the Constitution provides parameters as to what UNC Charlotte can and cannot do.
 - ▶ Fourth Amendment = "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated"
- ▶ But as an employer (as opposed to police), warrants are not required if search is work-related.

Reasonable expectation of privacy?

- ▶ Bleachers in the football stadium
 - ▶ Student Union rotunda
 - ▶ Department conference room
 - ▶ Your cubicle
 - ▶ Your closed-in office (but others have keys)
 - ▶ Belk Gym locker room
 - ▶ Bathroom counter
 - ▶ Bathroom stall
-
- ▶ Your university email
 - ▶ Files on your university computer/university network drives



Fourth Amendment "Search"

- ▶ Work-related searches generally satisfy the Fourth Amendment
- ▶ Search has to be reasonable . . .
 - ▶ at its inception and
 - ▶ in its scope

Legal Landscape: NC Public Records Act

- ▶ "Public record" =
 - ▶ ALL documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics,
 - ▶ made or received . . . in connection with the transaction of public business
 - ▶ by any agency of North Carolina government or its subdivisions
- ▶ Public records "are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law."

Legal Landscape: NC Public Records Act

- ▶ Exceptions:
 - ▶ Trade secrets
 - ▶ Law enforcement records
 - ▶ Emergency response plans
 - ▶ Social Security Numbers and certain financial information
 - ▶ Certain personnel information
 - ▶ Student information
 - ▶ Unpublished research data
 - ▶ Attorney-client communications (sort of)

Legal Landscape: NC Public Records Act

- ▶ Attorney-client communications =
 - ▶ Written
 - ▶ From attorney to client
 - ▶ For purpose of legal advice

* (could actually be more narrow than that)
- ▶ Trial preparation materials
 - ▶ Also limited
 - ▶ Most university attorney work is not litigation-related

Legal Landscape: Attorney ethical standards



Legal Landscape: Attorney ethical standards

- ▶ **RULE 1.6 CONFIDENTIALITY OF INFORMATION**
 - ▶ “(a) A lawyer shall not reveal information acquired during the professional relationship with a client unless the client gives informed consent”
- ▶ **RULE 1.13 ORGANIZATION AS CLIENT**
 - ▶ “(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.”

University Policies

The screenshot shows a web browser window displaying the "ELECTRONIC COMMUNICATION SYSTEMS" policy page. The page title is "UNIVERSITY POLICY: 304". It includes an "EXECUTIVE SUMMARY" and a "POLICY DESCRIPTION" section. The "POLICY DESCRIPTION" states: "University electronic communication accounts are provided and supported by the State of North Carolina to support the missions of the University. The purpose of this Policy is to ensure the appropriate use of the university's electronic communication systems (ECS) by its students, faculty, and staff. ECS accounts provided by the university to complement traditional methods of communication and to improve education and administrative efficiency. Users have the responsibility to use these resources in an efficient, effective, ethical, and lawful manner. Use of the university's electronic communication systems evidences the user's agreement to be bound by this Policy. Violators of this Policy may result in revocation of access to the university email system and/or other appropriate disciplinary action." The "PERSONAL USE OF ECS" section states: "While personal use of University ECS accounts is not prohibited by law, and while the University does not routinely monitor any user's ECS content, privacy of personal ECS content residing on or transmitted through ECS capabilities are subject to the requirements of North Carolina Public Records Law, which generally require that any person may have access to those records. Courts may order the production of University records, including ECS records, in connection with litigation. Appropriate law enforcement and other officials may, consistent with law, have access to documents for purposes of investigating, prosecuting or otherwise enforcing University policy. Given such considerations, but subject to the requirements of the North Carolina Public Records Act, no University faculty member, staff member, or student should use a University ECS account with the expectation that any particular ECS content, whether personal or business-related, will be private." At the bottom, there is a link: "ECS_POLICY@UNC-CH.EDU".

SECURITY CAMERAS

UNIVERSITY POLICY: 716
EXECUTIVE SUMMARY:
This policy provides guidance for the authorization and use of security cameras on UNL Charlotte property.

OBJECTS

In accordance with University product, installation, maintenance, and support standards.

- The Security Camera Coordinator will oversee the installation of all security cameras in coordination with Facilities Management and the Office of Information and Technology Services. Camera views will be limited to public areas and may not include bathrooms, changing rooms, individual residence hall rooms or other areas where there is a reasonable expectation of privacy.
- All costs associated with the purchase, installation, and maintenance of the security cameras will be the responsibility of the requesting unit.
- The use of false/misleading signage or dummy/placebo cameras is prohibited.

V. RECORDED VIDEO STORAGE AND ACCESS

- Recorded security camera video will be stored in the CVRRC, a secure data storage system that can be accessed only by personnel authorized by the Chief of Police.

***** NOTICE *****

Use of the University's computing and electronic communication resources is conditioned on compliance with the University's Information Technology (IT) policies (University Policies 302, 303, 304, 307, 311, and 601.14). Pursuant to those policies, the University will take any steps necessary to safeguard the integrity of the University's computing and electronic communication resources and to minimize the risk to both those resources and the end users of those resources. Such safeguarding includes monitoring data traffic to detect anomalous network activity, as well as accessing, retrieving, reading, and/or disclosing data communications when there is reasonable cause to suspect a violation of applicable University policy or criminal law, or when monitoring is otherwise required or permitted by law.

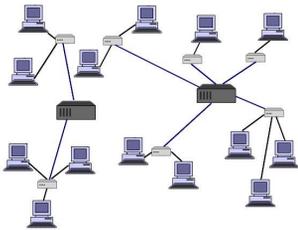
The Destination

Is anything you say, send, or save at work private?

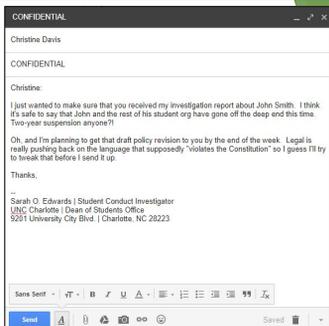
Scenario 1



Scenario 2



Scenario 3



Scenario 4A



Scenario 4B



Questions?
