

Video Voyeurs and the Covert Videotaping of Unsuspecting Victims: Psychological and Legal Consequences

REFERENCE: Simon RI. Video voyeurs and the covert videotaping of unsuspecting victims: psychological and legal consequences. *J Forensic Sci* 1997;42(5):884-889.

ABSTRACT: Video voyeurs employ state of the art technology to gain access into the most private places where victims are covertly videotaped. Women are the usual victims of video voyeurs as they change their clothes, perform natural functions or engage in sexual activities. When the videotaping is discovered by the victim, serious psychological harm may result.

A civil suit is the most common legal remedy sought. Criminal sanctions, when available, are often insufficient compared to the seriousness of the crime. While unauthorized, covert audiotaping is forbidden by both federal and state codes, videotaping is often not specifically mentioned. It appears that legislators do not fully appreciate the burgeoning of covert videotaping, the technological advances that have greatly expanded the possibilities for voyeuristic viewing and the harm done to victims of video voyeurs. Appropriate criminal sanctions need to be included in privacy statutes for unauthorized, video surveillance with or without accompanying audio transcription.

KEYWORDS: forensic science, forensic psychology, video voyeur, covert videotaping, legal consequences, psychological injury

Increasingly, voyeurs are discovering and using state of the art video technology to extend their paraphilia into private places never before easily accessible to the naked eye. Unsuspecting victims, relying on the usual and customary ways of protecting their privacy, are totally oblivious to the peering eye of a covertly placed, miniaturized video camera.

Persons covertly videotaped usually include women in the act of changing their clothes, or performing natural functions or couples engaged in sexual activities. When victims discover the fact of their videotaping, serious psychological trauma may result. Civil litigation and criminal charges will likely be filed against the voyeur who is caught.

Voyeurs and the Video Tape

Voyeurism is a paraphilia that is defined as "the act of observing unsuspecting individuals, usually strangers, who are naked, in the process of disrobing or engaged in sexual activity. The act of looking ("peeping") is for the purpose of achieving sexual excitement, and generally no sexual activity with the observed person is sought. Orgasm, usually produced by masturbation, may occur during the voyeuristic activity or later in response to the memory

of what the person has witnessed. Often these individuals have the fantasy of having a sexual experience with the observed person, but in reality this rarely occurs (1)." In the author's experience, video voyeurs are males, usually under age 40, who operate alone and are acquaintances, friends, coworkers, or neighbors of their victims.

Miniaturized video technology now permits covert taping through extremely low-light sensitive black and white, color or infrared TV cameras smaller than a pack of cigarettes or a tube of lipstick. Some of the miniature TV cameras also have zoom capacity. Simple to install, videotaping can be remotely activated and transmitted over line-of-sight distances by the voyeur's flip of a switch. He does not run the risk of apprehension by having to be present on location in order to "peep." If the voyeur has access to the site of the videotaping, he can carefully hide a miniature camera almost anywhere, making it virtually impossible for the victim to detect. In more sophisticated operations, smoke detectors, wall clocks or mirrors with an imperceptible pin hole hide low light-sensitive, miniature video cameras.

The most common venues for videotaping are public dressing rooms, bathrooms, and private bedrooms. Video voyeurs are unrelenting in pursuit of their goal, driven by their compulsive desire to observe naked women and unlimited viewing opportunities. The video voyeur can view his desired objects in the comfort of his home and play back the videotape as many times as he pleases. He does not have to rely on the second hand memory of his "peeping." The theme of videotaping unsuspecting victims was successfully developed in the movie "Sliver." However, some voyeurs still prefer to peep the old fashioned way, experiencing the thrill of a "live" viewing while evading being caught.

Psychological Responses

The victim is horrified, humiliated, mortified, and extremely fearful when discovering that she has been covertly videotaped undressing, naked or engaged in an intimate act. The victim rarely discovers the video camera herself. Instead, she usually hears rumors or learns from a friend or acquaintance that an actual videotape of the victim exists. Voyeurs, at least those who get caught, usually brag to others that they have an intimate videotape of the victim or actually show the tape to a group of friends or acquaintances.

Videotaping of an unsuspecting victim strikes at her core sense of safety and privacy. The world would be an intolerable place if people felt that their bodies, extremely personal biological functions or sexual activities were on display for everyone to see. Once covert videotaping occurs, the victim usually worries that additional copies of the tape are in existence and distributed to

¹Clinical professor of Psychiatry, Director, Program in Psychiatry and Law, Georgetown University School of Medicine, Washington, DC.

Received 8 Oct. 1996; and in revised form 23 Jan. 1997; accepted 24 Jan. 1997.

large audiences. The basic life assumptions that most people rely upon for a sense of security are shattered. These assumptions are that the world is a predictable and rational place, that bad things do not happen to good people, that persons (particularly one's friends, coworkers, acquaintances, or employers) will act responsibly and that our bodies and personal life are private and under our control (2).

Psychological Response Factors

A number of factors affect a victim's psychological response to covert videotaping (see Table 1).

Psychological injury is likely to be greater if the type of activity videotaped is more intimate such as performing a natural biological function or a sexual act. When an individual is videotaped as part of a group, the psychological response can be greater if members of the group act in ways that exacerbate each other's injuries rather than work together in a supportive manner. When the victim is videotaped as part of a group, there may be less psychological injury because she does not feel singled out.

Pre-existing psychological problems or disorders generally make the person more vulnerable to the psychic trauma caused by covert videotaping. Prior psychiatric disorders will likely be reawakened or exacerbated. Persons who have been physically or sexually abused will likely view their covert videotaping as another abusive experience and a revictimization. Florid psychological reactions may occur.

A person's body image is under direct assault when covertly videotaped. Few people feel that they possess a beautiful body. Most persons have bodily defects or deficiencies, real or perceived, that they carefully conceal from the world. The mortification from exposure of their bodies or body parts can become a major source of psychological distress. Males who are videotaped during sexual acts may experience shame and humiliation, particularly if they perceive their performance or endowment as deficient. Other prominent feelings are "being made a fool of" and loss of control. Women are more likely to respond with outrage over invasion of their privacy. Also, feelings of embarrassment and threats to one's personal safety are quite common.

Adolescent girls are particularly vulnerable to psychological injury from covert videotaping. Young women, especially adolescent girls, may be very sensitive about their breast development. They can become very upset if their breasts are prominently displayed on the videotape. Their body image and sexual identity is in transition from that of a girl to that of a woman. Secondary sexual characteristics such as breast development and pubic hair are emerging. Covert videotaping may cause profound shame and humiliation, since the adolescent girl may not herself have psychologically adjusted to these changes. Regression or precocity in her

psychological development toward womanhood and sexuality may occur as a result of the trauma (3).

Generally, voyeurs rarely show any interest in covertly videotaping naked children unless they are also pedophiles. Young children who have been covertly videotaped probably should not be informed. This may be one of those rare instances in which a child can remain totally unaware of his or her sexual abuse without harm. Courts are usually very sensitive to this issue and will attempt to protect the child during civil or criminal proceedings.

In the following clinical vignettes, the identities of the victims are concealed and the circumstances altered.

Case Vignette 1:—A 16 year girl was videotaped by a male classmate using a miniature color TV camera mounted above a small hole in the ceiling tile of a high school dressing area. School officials discovered the videotaping from following-up rumors. One videotape was found showing her undressing and completely naked. She was quite self-conscious about her body. Almost 6 ft tall, she was very thin with large breasts. Her psychological response was to withdraw from friends, dress in masculine, baggy clothes, refuse to go to school, become very depressed and lose 10 lb to try to reduce the size of her breasts. She dropped out of school for one year, received psychiatric treatment and spent much time at home with her animals. Her parents decided not to bring a lawsuit to spare their daughter further emotional anguish. The offending student was expelled from school and charged as a juvenile.

The video voyeur usually has some type of relationship with the victim. When videotaping is done by an individual unknown to the victim, painful feelings of personal betrayal are usually absent. If the taping is done by a trusted friend, coworker, or colleague, the psychological distress is great. Sexual acts have been covertly taped by male partners and shown to friends, acquaintances or even strangers. The expectation that a trusted person will act responsibly is dashed, calling into serious question one's basic trust in people and oneself.

Case Vignette 2:—Sexual intercourse with a co-ed was covertly videotaped by her then boyfriend using a miniature black and white TV camera mounted in a smoke detector at a fraternity house. The videotape was shown over and over to fraternity brothers, creating a sensation on campus. The sexual encounter was surreptitiously transformed into a porno flick to the horror of the victim, when she later discovered the existence of the videotape. The victim became severely depressed and suicidal, requiring psychiatric hospitalization. She dropped out of college and refused to return to other colleges. Prior to the videotaping, her grades had been excellent and the likelihood of her being accepted into medical school was very high. A two million dollar lawsuit was filed against the perpetrator, the fraternity and the university. Criminal charges were also brought against the video voyeur.

Covert videotaping of a couple during sex may cause distress in an already troubled relationship. In other instances, the psychological trauma of the covert videotaping may be mitigated when the partners are mutually supportive.

Case Vignette 3:—A neighbor was entrusted with a house key whenever a married couple left home for any period of time. While the couple was away, he installed a low-light sensitive, miniature color TV camera with transmitter concealed within a ceiling light fixture. He regularly recorded their sexual activities for over a year. Even though the couple had sex under low light conditions,

TABLE 1—*Psychological response factors to covert videotaping.*

Type of activity videotaped
Individual or group videotaping
Pre-existing psychological problems
Prior abuse
Body image concerns
Age
Relationship to perpetrator
Number of viewers
Support
Venue

the TV camera recorded the couple's intimate activities with good clarity and color definition. The video camera was discovered accidentally when the light fixture required repair. Police were called, the neighbor's house was searched and videotapes of the couple having sex were found and impounded. The neighbor was known to the police because of prior arrests for "peeping Tom" activities.

The couple was mortified and outraged. The incident was reported in the local newspaper, causing further shame and humiliation. Some members of the community were sympathetic while others made the couple the butt of jokes. Because the couple enjoyed a loving, supportive relationship, their marriage was not impaired nor did they experience lasting psychological distress symptoms. The neighbor was arrested and charged under the state's "peeping Tom" statute. A suit was also brought against the neighbor for the intentional infliction of emotional distress.

Victims always worry that others have seen the tape. If the victim discovers that a number of individuals have viewed the covert taping, the psychological distress is often great. Because victims usually find out about the existence of the taping from others who have viewed it, the fact of multiple viewings is well established. Often, only a few tapes are recovered after the police arrive. However, numerous tapes were usually recorded. Perpetrators almost always allege that the other tapes were destroyed or lost. This is of no comfort to the victim who has every reason to distrust the perpetrator's story. The more times the tape has been played and the more people who have watched it, the greater the psychological trauma to the victim. Victims often fear being stalked, raped, or killed by a viewer. To prevent further harm, the court usually maintains the videotapes under seal. The tapes are only available to the attorneys for the parties.

The presence or absence of supportive relationships is critical in the response to trauma. In the author's experience with a number of these cases, victims who have solid, supportive relationships have a more favorable prognosis. Individuals who are solitary or who have troubled relationships are more vulnerable to the trauma of covert videotaping because it confirms to them that no one can be trusted. Moreover, the psychological insult from covert videotaping tends to reinforce the perception that bad things happen because the individual is bad.

The venue where covert videotaping takes place has a high correlation with the intensity of a victim's psychological response. If it occurs in the victim's home or apartment, then the individual will feel extremely violated and unsafe. Home is supposed to be a person's castle, free from the peering eye of a television camera. When the videotaping takes place in a private area outside the home, the world outside the home is seen as a dangerous place where people in authority cannot be trusted to provide safety. Covert videotaping that takes place in a dressing area or bathroom at work usually causes permanent damage to the employee-employer relationship. The victim is distrustful and angry at management and security personnel.

Psychological Consequences

In the author's evaluation and consultation experience with a number of covert videotaping victims, the intensity of psychological responses vary from expectable outrage and emotional upset to the development of severe psychiatric disorders. Much depends upon the psychological makeup of the individual, combined with the response risk factors discussed above. Four major overlapping

areas of psychological damages include the development of psychological symptoms and disorders, distrust in relationships, fear for personal safety, and shame and humiliation (narcissistic injury).

Symptoms and Disorders

Not everyone who is a victim of covert videotaping develops psychological symptoms or a psychiatric disorder. Nevertheless, basic life assumptions are threatened. Every victim suffers expectable mental anguish, harm to their trust in people, fears for their personal safety and personal humiliation. The development of new psychiatric disorders or the exacerbation of preexisting conditions may occur. The most common psychiatric conditions that follow covert videotaping include adjustment, anxiety, and depressive disorders. Anxiety and depressive symptoms may be present that do not meet the criteria for a diagnosable psychiatric disorder. Post-traumatic Stress Disorder (PTSD) is rare following the discovery of covert videotaping unless it is associated with an imminent threat to the person's safety. Persons with prior histories of PTSD following earlier victimizations may experience a recrudescence of their original PTSD or PTSD from any other traumatic source. Psychotic disorders rarely develop unless previously present and currently worsened by the covert videotaping. However, brief, transient psychotic-like reactions are more common, primarily manifested by paranoid or persecutory symptomatology. Personality disorders, particularly avoidant, borderline, narcissistic, and paranoid personality disorders may be exacerbated.

Trust

An inevitable consequence of covert videotaping is loss of trust in other persons and institutions. The victim's relationships can be adversely affected, particularly where the perpetrator was a friend, co-worker, or intimate. Sexual inhibition may occur when not previously present. The ability to function effectively with co-workers may be severely impaired if covert videotaping occurred in the workplace. Bitterness and distrust of management may lead to the loss of the victim's job. More commonly, victims of videotaping experience subtle trust problems such as the difficulty in feeling close to others and questioning the motives of others.

Personal Safety

Because the victim of covert videotaping has experienced a gross violation of personal boundaries and privacy, safety concerns are heightened. Disrobing in a dressing room or going to the bathroom usually requires a prior search by the victim for peep holes or hidden video cameras. Because the state of the art in covert videotaping has progressed so rapidly, victims are very fearful that they cannot detect a hidden video camera. If the videotaping occurred at home or during an intimate act, it is difficult for victims to shake the fear that they are under constant surveillance. Sexual activities may be possible only with the lights totally out and never during the day. Also, the natural biological functions of daily living become incumbered by the fear that one is being videotaped.

Other safety fears include the worry that the victim will be harmed by someone who has seen the video of the victim naked or in a sexual act. Fear of commercial distribution of the videotape may stay with victims over a lifetime, markedly diminishing the quality of their lives. Security measures are always heightened at home or the victim may move if videotaping occurred at home.

Away from home, some victims find themselves frequently "looking over their shoulder."

Shame and Humiliation

It is obvious that having one's nude body or intimate acts displayed to the world via a videotape will produce intense feelings of shame, humiliation, and embarrassment. Since victims are never sure who has seen the tape, they are embarrassed when meeting people who they think may have seen the video. This is particularly the case when female victims feel that men are watching them. Prior concerns about their bodies are greatly intensified after being videotaped. Victims with tendencies toward body dysmorphic disorder (preoccupation with defect in appearance) will likely experience a worsening of their condition. Body image concerns about weight, body disproportions, or individual body parts are also likely to be heightened.

Videotape victims can be retraumatized if they pursue litigation. The legal discovery process may be perceived as "peeping" into the victim's life, particularly when inquiry is made about previous sexual experiences. Videotaped depositions can cause considerable anguish for obvious reasons.

In assessing damages for the purpose of litigation, the central issue is the individual's functional impairment in work, relationships, and activities of daily living. Psychiatric diagnosis, while important, may not necessarily correlate directly with the degree of functional impairment. Victims with symptoms of distress that do not rise to the level of a diagnosable psychiatric disorder nevertheless may be quite impaired. Standard methods for assessing the presence or absence of functional impairment should be used (4).

Invasion of Privacy: Legal Parameters of Covert Videotaping

The videotaping of unsuspecting victims by voyeurs constitutes merely an extension, through technology, of the age-old "peeping Tom" problem. Conducting or actively preparing such activity is a civil wrong, fully covered by common-law tort principles. Whether or not a camera or other device is discovered, whether or not the voyeur is physically present in the victim's private space, and whether or not the intrusion involved a trespass (entering, without permission, upon the property of another), the deliberate creation of a means to paraphilia will almost always give rise to a compensable civil claim against the voyeur.

Legal Elements

Victims of voyeurs have a cause of action grounded in the common-law tort of invasion of privacy. Such victims can recover monetary damages from the voyeur if they can prove the voyeur engaged in behavior that the courts have targeted. The legal principle is variously stated: intrusion into the privacy of another "consists solely of an intentional interference with the plaintiff's interest in solitude or seclusion . . . of a kind that would be highly offensive to a reasonable [person.]" (5). Another formulation defines the tort as a "wrongful intrusion into one's private activities in such a manner as to cause outrage, mental suffering, shame, or humiliation to a person of ordinary sensibilities" (6). Maryland case-law states that "the gravamen of the tort is the intrusion into a private place or the invasion of a private seclusion that the plaintiff has thrown about his person or affairs," (7) and that "this tort . . . is directed to protecting the integrity and sanctity of physical areas a person would naturally consider private and off limits to uninvited,

unwelcome, prying persons" (8). These principles would clearly encompass a remote video or a hidden recording device, if they were placed so as to pierce such "private seclusion."

From the above formulations, a victim/plaintiff must apparently prove three elements for successful recovery: 1) some personal, private aspect of her life must have been targeted for intrusion, 2) the intrusion must have been deliberate on the defendant's part, and 3) the intrusion was an offensive or objectionable one, as determined by the sensibilities of a reasonable person. The amount of an award, of course, will depend on a jury's assessment as to actual damages (counseling bills, lost work, emotional distress, etc.) and appropriate punitive damages, given the seriousness of the intrusion; the intrusion must have been deliberate on the defendant's part; and the intrusion was done in an offensive or objectionable manner, as determined by the sensibilities of a reasonable person.

Application

Thus, simply having adequate proof that an identifiable defendant-voyeur had deliberately created the *means* for such viewing, even in the absence of proof that anyone had actually done so, has been held to constitute sufficient grounds for a tort action. In a 1983 Michigan case, the Court of Appeals held that when a roller-rink owner installed see-through panels above the stalls in a women's restroom, the two patrons who sued had a valid cause of action even though no camera was discovered and indeed could produce no proof that the defendant had actually viewed them (9).

In Maryland, the Court of Special Appeals (Maryland's intermediate appellate court) arrived at a similar conclusion. In a 1987 case, a woman discovered that her bathroom mirror had been deliberately scratched from the back, likely by workmen from an adjoining vacant apartment which was being renovated. She went to the apartment and saw that the common wall had been opened and that her bathroom was plainly visible through the scratches in her mirror (7). At trial it was shown that the woman "experienced nausea, diarrhea, and an inability to sleep for several weeks following the discovery of the probable invasion of the privacy of her bathroom. She eventually was required to undergo psychiatric counseling" (7). The woman then successfully sued both the owner and managers of the apartment complex, who appealed the judgment. The appellate court clearly acknowledged that the woman had been the victim of a criminal act and had indisputably suffered a compensable harm as well (7). However, the court overturned the award only because of lack of proof as to identification. It held that the woman had failed to show that the defendants were the parties responsible for the scratches. "There was no proof that the invasion of [the woman's] privacy was committed by any agent, servant or employee of either of the [defendants]." The opinion is silent as to why the contractors who actually did the renovation were not a party to the suit. Occasionally, a plaintiff will settle with one party and pursue the one that has presumably deeper pockets.

The discovery of a hidden camera or knowledge of a surreptitious videotape would constitute additional proof for a successful lawsuit, but are not required. Tracing such items would present a stronger link between an intrusion and a defendant than might have been possible in the past. Thus, while miniature video cameras do provide increased opportunities for paraphilia, voyeurs are, if anything, more vulnerable to civil actions when they use electronic equipment than when they do not. A mere hole in a wall can have numerous explanations. A camera, secreted in a wall, that is

traceable to an individual would be prima facie proof of wrongdoing. Depending on how and where a camera was placed, and whether it recorded an audio track as well, criminal penalties may also be brought to bear on the video voyeur.

"Peeping-Tom" Statutes

Because video transmission or recording devices simply extend the reach and possibilities for voyeurs rather than constituting a new, unaddressed threat, existing "peeping Tom" statutes, which criminalize such behavior under certain conditions, can be used as well. Many states have such statutes, in various forms (10). Formulation comes from a Maryland statute:

Any person who shall enter upon the land or premises of another for the purpose of invading the privacy of the occupants of any building or enclosure located thereon, by looking into any window, door or other aperture of such building or enclosure, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars or imprisoned for not more than thirty days, or both fined and imprisoned (11).

This language leaves open at least two scenarios. The first occurs when the voyeur views his victim(s) without ever entering their premises, by use of a telescope or other non-invasive device (even night vision goggles, which enable reasonably clear viewing in very little light, could be used to spy on persons who imagine themselves safe and invisible in their backyards at night). If the voyeur remains off the property, law-enforcement would lack jurisdiction and an aggrieved plaintiff will not likely win a tort action. A standard privacy principle is that "the camera can go where the naked eye can go." Thus, persons who, for example, live in the canyons of a large city, with high-rise apartments looming over one another, learn to keep their bedroom blinds closed as a matter of course. Indeed, those who do not may raise the antipodal paraphilia of exhibitionism.

The second scenario involves covert videotaping away from the victim's property. When the surreptitious spying or videotaping takes place in the perpetrator's residence, however, defendants tend to lose anyway. Recently in Georgia, a lawyer constructed a hiding place in his home, from where he could observe persons using the bathroom. On one occasion, he fabricated an excuse to ask his secretary to the house. When she needed to use the facility, he videotaped her. Although his case did not involve a "peeping-Tom" statute, Georgia makes unlawful invasion of privacy a felony. The lawyer pleaded guilty. The Georgia Supreme Court, against a bitter dissent from one justice, turned down the state bar association's demand that the lawyer be disbarred, suspending his license for three years instead (12).

Videotaping: Other Statutory Protections

Surreptitious videotaping is not, standing alone, a crime. As with the Georgia lawyer, there must be a legally-cognizable invasion of privacy. On the other hand, surreptitious audiotaping *is* forbidden, in both federal and state codes. Federal law (13) prohibits unauthorized interception, use, or disclosure of "oral communication" ("communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation . . .") (14), subject to fines and/or imprisonment (15). The statute does not mention videotaping, however, and federal courts have agreed that, in the case of

a video-without-audio tape surveillance, it does not apply (16). Interesting state laws often track the federal statute. Again using Maryland as an example, the statute criminalizes intercepting, disclosing, or using oral communications (17), as well as unlawful entry in order to "place, adjust or remove wiretapping or electronic surveillance equipment . . ." (18). State case-law agrees that no-sound videotaping is not within the ambit of the statute (19). It appears that the law has not yet caught up with the technological advances that permit easy, covert videotaping of unsuspecting victims. From a psychological harm perspective, videotaping with or without sound is likely to be far more harmful than audiotaping alone.

Language is everything, however. In California, an appellate court was asked to decide whether a statute that criminalized nonconsensual recording of a "confidential communication" (as opposed to "oral communication," in most formulations) could be applied to a defendant who had secretly videotaped his sexual liaisons, in his own home, with several different women (20). The court held that the legislative purpose of the statute was protection of privacy generally, and that "communication" could encompass "conduct" as well (20). The court brushed aside lack-of-fair-notice arguments from the dissent, holding that the statute could be applied in such a situation even though it had never been done so before (20).

These laws are rarely used in the private sector, however. They were promulgated mainly to establish parameters for law enforcement agencies. Police armed with a warrant or court order may do all of this and more. Whether they may run silent video surveillance without a warrant depends on Fourth Amendment issues outside of the scope of this article.

Defenses

The uncertainties of the criminal justice system, and in particular the likelihood that relatively mild charges like voyeurism will either be dropped or reduced (like any offense, of course, if the defendant is a repeat offender [which is common for this type of activity] he is more likely to be fully prosecuted), mean that a "peeping-Tom" victim will most likely get satisfaction, if at all, through the civil system. Nothing is ever certain in the law, however. In some cases, the defendant will be "judgment-proof" (broke) or, in rare cases, other defenses may be available.

A man sued the manager of a Zayre department store after learning that he had been observed in a bathroom stall, by store personnel, through an opening in the ceiling tiles (21). As clear an invasion of privacy as this appeared to be, the plaintiff lost. Store security personnel had received customer complaints of possible homosexual activity in the restroom, and "went to a location in a storage area above the restroom, where a crack in the ceiling provided a vantage point. Based on their observations, the plaintiff was arrested and charged with sodomy" (21). In affirming summary judgment for Zayre, the court held that "[u]nder the[se] circumstances, [plaintiff's] interest in privacy was subordinate to Zayre's interest in providing crime-free restrooms for its customers" and thus the intrusion was reasonable (21).

Conclusion

Video voyeurs employ state of the art technology to gain access into the most private places where victims are covertly videotaped. Women are the usual victims of video voyeurs as they change

their clothes, perform natural functions, or engage in sexual activities. When the videotaping is discovered by the victim, serious psychological harm may result.

A civil suit is the most common legal remedy sought. Criminal actions tend to be more cumbersome (as the accused avails himself of all his constitutional rights) and penalties, when actually applied, often fall short of matching the seriousness of the offense, from the victim's viewpoint. While unauthorized, covert audiotaping is forbidden by both federal and state codes, videotaping is often not specifically mentioned. It appears that legislators do not fully appreciate the burgeoning of covert videotaping, the technological advances that have greatly expanded the possibilities for voyeuristic viewing and the harm done to victims of video voyeurs. Appropriate criminal sanctions need to be included in privacy statutes for unauthorized, video surveillance with or without accompanying audio transcription.

Acknowledgement

I want to thank Robert Battey, Esq. for his excellent assistance in providing the legal research for this paper.

References

1. Diagnostic and statistical manual of mental disorders, 4th edition. Washington, DC: American Psychiatric Press, 1994:390-1.
2. Simon RI. Toward the development of guidelines in the forensic psychiatric examination of Posttraumatic Stress Disorder claimants. In: Simon RI, Editor. Posttraumatic stress disorder in litigation: guidelines for forensic assessment. Washington, DC: American Psychiatric Press, 1995:53.
3. Schowalter JE. Normal adolescent development. In: Kaplan HI, Saddock BJ, editors. Comprehensive textbook of psychiatry, volume 6. Baltimore: Williams & Wilkins, 1995:2161-7.
4. Simon RI. The law in psychiatry. In: Hales RE, Yudofsky SC, editors. American Psychiatric Press textbook of psychiatry, second edition. Washington DC: American Psychiatric Press, 1994:1330-1.
5. Restatement (Second) of Torts, §652B, comment a. (1977).
6. 77 CJS, Right of Privacy, §2 (1994).
7. New Summit v. Nistle, 533 A.2d 1350 (1987).
8. Id., quoting Cummings v. Walsh Construction Co., 561 F. Supp. 872, 884 (S.D.Ga. 1983).
9. Harkey v. Abate, 356 N.W.2d 74 (1983).
10. For example Georgia Code Annotated, Sec. 26-3002; Louisiana Revised Statutes, 14:284; Maine Revised Statutes, 17-A Sec. 511; Massachusetts General Laws Annotated, ch. 214, sec. 1B; Utah Code 76-4-8.
11. Md. Code, Art. 27, sec. 580 (1982 Repl. Vol.).
12. In: Halloway Re. 469 S.E.2d 167 (1996).
13. Title III of the Omnibus Crime Control And Safe Streets Act of 1968, 18 U.S.C. Sec. 2510-2520 (1968), (amended by the Electronic Communications Privacy Act of 1986, 18 U.S.C. Sec. 2410-2520 (1986)).
14. 18 U.S.C. Sec. 2510(2).
15. 18 U.S.C. Sec. 2511(4).
16. United States v. Biasucci, 786 F.2d 504, 508-09 (2d Cir.), cert. denied, 107 S.Ct. 104 (1986); United States v. Torres, 751 F.2d 875, 880-81 (7th Cir.), cert. denied, 470 U.S. 1087 (1985).
17. Md. Courts & Judicial Proceedings, Sec. 10-402(a).
18. Id., Sec. 10-412.
19. Ricks v. State, 537 A.2d 612, 616 (1988).
20. People v. Gibbons, 215 Cal. App.3d 1204; 263 Cal. Rptr. 905 (1989).
21. Elmore v. Atlantic Zayre, Inc., 341 S.E.2d 905, 905 (1986).

Additional information and reprint requests:

Robert I. Simon, M.D.
 Clinical Professor of Psychiatry
 Director, Program in Psychiatry and Law
 Georgetown University School of Medicine
 7921 Glenbrook Rd.
 Bethesda, Maryland 20814