

# TECHNOLOGY UPDATE



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# Technology Update



# Technology Update



- Company works with more than a dozen school districts in New Jersey alone
- “Schools that aren’t checking for these devices are doing a disservice to students parents and staff . . . Schools should have **locker room and shower areas** checked on a fairly regular basis to ensure student safety.”

# Technology Update



- **Visitor management systems**
  - Federal or state ID scanned
  - Name and DOB checked against national database of sex offenders
  - Systems can be set to check other databases created by schools
  - Once cleared, badge is printed
  - If NOT cleared, systems send messages to SROs and/or administrators

# Technology Update



- “It is a delicate balance,” said Matt Simpson, policy strategist for the American Civil Liberties Union of Texas “The body cameras are good tools, but you don’t want to violate everyone’s privacy. In these cases involving juveniles, it is how (the video footage) is stored and who gets to see it. **Policies will be key to handling who sees the videos, who has access to the footage and how they are stored.**”

# Technology Update



*Cal*

# Technology Update



- August 30, 2016 letter from DOJ:
  - Your free, “publically” available online content is inaccessible to individuals who are deaf or hard of hearing
  - Complainants: 2 activists in Washington, D.C.
  - DoJ findings:
    - ✦ Some videos did not have captions
    - ✦ No alternative way to access visual images, i.e graphs
    - ✦ Some videos had poor color contrast
    - ✦ Content navigation difficult
    - ✦ Integrated websites were not fully accessible

# Technology Update



- **DoJ to Cal:**
  - Develop system to monitor compliance
  - Develop procedures to ensure that everyone can access all information
  - Develop mechanisms to solicit, receive and respond to feedback
  - Compensatory damages to complainants
- **Cal:**
  - Nah, we'll just take the content down

# Cell Phones



- **In re Rafael C.** (Cal. App., March 25, 2016)
  - Loaded gun on school grounds
  - 2 students questioned; 3<sup>rd</sup> acting suspiciously
  - Told to come into office; student ignored
  - Physically brought to office
  - “Fidgety”
  - Reached into pocket; struggle; phone removed

# Cell Phones



- ***In re Rafael C.***

- School protocol: search a student's phone "on reasonable suspicion of a communication that could put a student or staff at risk of harm."
- Phone was turned off; admins plugged it into a USB cable which "brought the phone back online"
- Test messages then "showed up"
- Principal took screenshots of pictures, printed them out

# Cell Phones



- ***In re Rafael C.***

- Court:

- ✦ Search was justified at its inception—“the gravity of the situation”
- ✦ No warrant required
  
- ✦ Does not really address scope of the search

# Cell Phones



- ***In re Rafael C.***

- Petition for rehearing denied
- Petition for review (to California Supreme Court) **granted**
  
- Unanswered questions
  - ✦ Other justifications?
  - ✦ What about locked phones?
  - ✦ How was the phone “brought online”???
  - ✦ Why not get a warrant?
  - ✦ What is the permissible scope?

# Cell Phones



- Compel student to give up fingerprint?
- To give up passcode?

# Cell Phones



- *Zanders v. State* (Ind. App., August 4, 2016)
  - Defendant “had a reasonable expectation of privacy in the historical location data generated by his cell phone but collected by [the cell provider].”
- *State v. Jenkins* (Neb., September 9, 2016)
  - “[W]e conclude Jenkins can claim no reasonable expectation of privacy in her service provider’s business records documenting the cell towers that routed her calls . . .”

# Copyright



# Copyright



- *Photographer sues Getty Images for \$1 billion after she's billed for her own photo.*
  - ✦ <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-getty-copyright-20160729-snap-story.html>

# Copyright – Do's and Don'ts



- **DO:**
  - Conduct in-services for staff and students on copyright issues
  - Conduct a copyright “audit”
    - ✦ Who has authority/ability to post on your district website?
  - Have in place a “work for hire” policy
  - Treat seriously allegations of infringement
  - Ask for/confirm permission before using a work
  - Bargain for rights, licenses, uses . . .

# Copyright – Do's and Don'ts



- **DO NOT**

- Assume something is free or in the public domain simply because it can be copied/pasted from the internet
- Proceed as though an act of infringement is too small
- Assume you/the district won't get caught
- Assume use is “fair use”
- Allow your district to be victimized

# Copyright



- The Netflix service, and any content viewed through our service, **are for your personal and non-commercial use only**. During your Netflix membership, we grant you **a limited, non-exclusive, non-transferable, license . . .** Except for the foregoing limited license, no right, title or interest shall be transferred to you. **You agree not to use the service for public performances.**

# Copyright



- According to the United States Court of Appeals for the Ninth Circuit, a user cannot circumvent a computer system's security measures by "going through the back door and accessing the computer through a third party," per the Computer Fraud and Abuse Act
- Defendant David Nosal allegedly used his colleague's credentials to access propriety information owned by his former employer, Korn/Ferry, after he left to start a competing recruitment firm

# Copyright



- Growing up in a world in which so much information is readily available “for free” and where ignorance (or defiance) of copyright law is pervasive, **[students] often understand the free availability of content—including copyrighted content—as the norm**
- This understanding **suggests that a generation of young people is growing up committing illegal behaviors that are perceived as acceptable.**
  - <http://dash.harvard.edu/handle/1/3128762>

# Drones



# Drones



- Whose is it?
- Who's flying it?
- For what purpose?
- Policy?
- Insurance?

# Drones



UNL

Business & Finance

Policies

Unmanned Aircraft Systems Policy



POLICIES

FACILITIES

FINANCIAL SERVICES

HUMAN RESOURCES

UNIVERSITY

## Unmanned Aircraft Systems Policy

Last Revised: June 13, 2016

Executive Memorandum No. 31

<http://bf.unl.edu/policies/unmanned-aircraft-systems-policy>

# Drones



Applies to UNL **owned and non-owned** UAS when operated by:

- UNL employees, students, and other individuals as part of UNL activities at any location (**UNL User**)
- Individuals performing contracted services for UNL under FAA civil and governmental use at any location and (**Commercial Civil UAS User**)
- **Hobbyists** for recreation on or above UNL property

# Drones



## **Educational Use of UAS Model Aircraft Exception**

[http://www.faa.gov/uas/resources/uas\\_regulations\\_policy/media/interpretation-educational-use-of-uas.pdf](http://www.faa.gov/uas/resources/uas_regulations_policy/media/interpretation-educational-use-of-uas.pdf)

# Drones



- September 2, 2016
- ALICAP does not exclude liability for claims caused by **Model Aircraft**. The definition in the policy states:
  - **Model Aircraft** means a non-manned aircraft capable of sustained flight in the atmosphere whether under its own power or not; however, Model Aircraft does not include any non-manned aircraft that utilizes rocket or missile propulsion or power to achieve or maintain flight.

# Searches



- **Ziegler v. Martin Cnty. Sch. Dist.** (11<sup>th</sup> Cir., July 28, 2016)
  - Students on a party bus before prom
  - “Zero tolerance forms”—students notified of potential breathalyzer test
  - Bus arrived late, school officials searched the bus and found an empty champagne bottle
  - School administered breathalyzer test to all 40 students on the bus

# Searches



- **Ziegler v. Martin Cnty. Sch. Dist.** (11<sup>th</sup> Cir., July 28, 2016)
  - Even students who passed were not allowed into prom—had to wait until entire group tested
  - Even those who, after test, just wanted to go home, were told they could not leave
  - By time testing was done, prom was over
  - Every student registered a 0.0 BAC

# Searches



- **Ziegler v. Martin Cnty. Sch. Dist.** (11<sup>th</sup> Cir., July 28, 2016)
  - Use of breathalyzer tests upheld
  - But, “continued detention” of all students until all tested was unreasonable
  - Once exonerated, student must be free to go

# Searches



- Apple laptop “spycam”
  - School monitored students by remotely activating built-in cameras
  - Student—Blake Robbins—accused of dealing drugs
  - HUNDREDS of photos of this student
    - ✦ School in possession of 66,000(!) webcam shots
  - School denied “active spying”
    - ✦ Security software activated for laptops suspected of being stolen
  - School transmitted the snapshots to servers at the school, where authorities reviewed them and shared the images with others . . .

# Video Surveillance



- Surveillance and FERPA
  - Who has access to surveillance footage?
    - 1. General Surveillance
    - 2. A student is the focus of the video
    - 3. Two or more students are the focus of the video

# Video Surveillance



- Two or more students:
  - Is an education record of both, but
    - ✦ Parents **may not view** unless:
      - Other students' images are redacted; or
      - Other parents of students in the video give written consent.
      - May “inform” the parents of what their child is shown doing in the video
- OR
  - ✦ Parents **may view** it, but may not be given a copy unless:
    - Other fighting student's image is redacted
    - Parent of fighting student gives written consent

# Video Surveillance



- *Bryner v. Canyons School District*, 2015 UT App 131
  - Bryner, whose child was involved in a fight outside of a classroom, requested from the school “all digital video” relating to the incident
  - District: because the video contained personally identifiable information of students other than Bryner’s child, the school would only release the video to him if it received written consent from parents of all students depicted in the video
  - The court concluded that, absent consent from the parents of all other students depicted in the video, Bryner had no right to inspect and review any portion of the video in which other students were identifiable.

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