



INSIG | SAOU | INSIGHT



LEGAL SERVICES | REGSDIENSTE

Tel: 012 436-0900 | Fax: 086 557 1017 | Email/Epos: regsdienste@saou.co.za

12 Junie 2017

LEGAL 2/2017

GBTV KAMERAS – HOU ALMAL VERANTWOORDBAAR

Geslote baan TV-kameras het hedendaags die norm geword in baie publieke areas. Ons aanvaar hierdie kameras as deel van ons daaglikse lewe vir doeleindes van sekuriteit en merk dit selde op.

Hierdie kameras dien 'n tweeledige funksie:

- Om bedreigings teenoor die burgerlike orde te identifiseer en te voorkom; en
- Om bewyse te voorsien indien die vroeë identifikasie en voorkoming van hierdie bedreigings misluk.

Die gebruik van kameras word toenemend as 'n addisionele veiligheidsmaatreël by skole ingespan. Kameras is uitstekende sekuriteitstoerusting vir almal in die skool, maar veral vir die onderwyser in die klaskamer. Hierdie beginsel geld egter slegs solank as wat die toerusting reg gebruik word.

Die SAOU ondervind ongelukkig gereeld ernstige probleme wanneer dit kom by die benutting van GBTV-kameras tydens dissiplinêre stappe wat teen onderwysers ingestel word. Die probleem is dat teen die tyd wat die onderwyser aangekla word van wangedrag in die klas (soms maande nadat die voorval plaasgevind het), is die GBTV beeldmateriaal wat die onderwyser kon verdedig, reeds uitgegee.

Dit wil voorkom of die gemiddelde stoortydperk van beeldmateriaal tussen 5 dae en 2 weke is, afhangend van die stelsel by die spesifieke skool. Die antwoord vir hierdie probleem is die effektiewe monitering en bestuur van die beeldmateriaal.

Wat hieronder volg is slegs 'n voorgestelde proses aangesien elke skool sorgvuldig sy eie posisie en moontlike proses sal moet oorweeg. Die skoolhoof en bestuur, in noue konsultasie met die beheerliggaam, moet 'n GBTV beleid formuleer wat die unieke situasie by hul skool aanspreek.

Neem kennis: Hierdie stuk handel nie direk met die aankoop van 'n GBTV -stelsel nie, maar dit is belangrik om te vermeld dat die skool se beheerliggaam finaal verantwoordelik is vir die besluit om 'n GBTV stelsel aan te koop en te installeer.

Daar is drie belangrike stappe in die gebruik van GBTV kameras:

Die eerste is die identifisering van moontlike bedreigings en/of voorvalle.

Hierdie aspek het twee dele:

- Reaksie op 'n moontlike bedreiging of insident voor of tydens die voorval; en
- Identifisering van 'n spesifieke insident nadat die voorval plaasgevind het met die oog op die insameling van bewyse.

Die belangrikste vraag wat hier ontstaan is wie, indien enigsins, moet die kameras monitor? Daar is ongelukkig nie 'n vaste reël nie en elke skool sal self moet kyk na hulle kapasiteit en bronne om hierdie vraag te beantwoord.

Dikwels kan die kameras nie deurlopend deur 'n persoon gemonitor word nie, en verskuif hul funksie dus meer na die reaktiewe identifisering van insidente vir die doeleindes van bewysversameling. Hier val die onus op die individue teenwoordig in die klas of op terreindiens om voorvalle te identifiseer en te rapporteer. Hierdie aspek is uiters belangrik; sou 'n insident (al blyk dit skadeloos te wees) nie gerapporteer word nie, kan die beeldmateriaal verlore gaan. Die voorgestelde reël kan dus wees: Bewaar liewer beeldmateriaal van elke insident vir 'n jaar as wat daar later snyt is dat die materiaal reeds uitgewis is.

'n Verdere voorstel kan wees dat almal in die skool ingelig word van hul reg om voorvalle te rapporteer (insluitende leerders). Hierdie benadering bevorder deursigtigheid en moontlik ook dissipline. Die waarheid is dat mense hulle gedrag aanpas sodra hul weet dat hul dopgehou word. Hierdie aspek moet egter versigtig bestuur word. Daar moet gewaak word teen die misbruik van die stelsel deur kwelsugtige rapportering. Net soos enige ander stelsel by die skool is die sleutel tot suksesvolle benutting van die GBTV - kamerastelsel die effektiewe bestuur van die proses.

Die tweede stap handel oor die aksies wat geneem moet word tydens en direk na die plaasvind van 'n insident.

Die meeste skole het aksieplanne vir verskeie situasies soos brande, bom dreigemente en gewapende roof. 'n Soortgelyke benadering kan gevolg word by meer gelokaliseerde insidente in die klaskamer waar oortredings deur beide leerders of onderwysers gepleeg word. Deur gebruik te maak van inklusiewe konsultasie en gesprekvoering kan 'n skool 'n onderhandelde proses ontwikkel wat gevolg moet word deur individue in 'n klas wanneer 'n voorval plaasvind; maar ook gevolg moet word deur die persoon wat die kameras monitor. Hierdie procedures kan ondersteun word deur basiese noodhulp-en konflikhantering opleiding.

Sommige van die faktore wat 'n skool in gedagte moet hou by die ontwikkeling van 'n aksieplan:

- Die aksieplan moet nooit die situasie vererger nie.
- Mediese noodgevalle kry voorrang bo die plaas van skuld op 'n individu.
- Die verskeie departementele prosesse wat gevolg moet word rakende die rapportering van insidente; en
- Die hoofogmerk moet wees om die proses van onderwys en onderrig so spoedig as moontlik te herstel.

Die laaste stap het te doen met die opvolgaksies na 'n incident.

Die meeste GBTV- stelsels is relatief gebruikersvriendelik. Dus is dit nie moeilik om videogrepe te isolateer en te stoor vir latere gebruik nie. Die vraag wat wel gevra moet word is wie het toegang tot die beeldmateriaal? En wie is verantwoordelik vir die berging van hierdie beeldmateriaal?

Soos gestel hierbo, is daar geen wetgewing wat hierdie aspekte direk reguleer nie, maar dit bly belangrik om die algemene beginsels in gedagte te hou soos (maar nie beperk tot) die reg op privaatheid van die individu, die beskerming van die beste belang van die kind en die arbeidsregte van die onderwyser.

'n Voorgestelde proses kan dus die volgende wees:

- Die hoof is in beheer by 'n skool en is verantwoordelik vir die veiligheid van almal wat die skoolgronde in goedertrou betree.
- Wanneer 'n incident plaasvind kan 'n individu wat betrokke is by die voorval die hoof of sy gedelegeerde nader om na die beeldmateriaal te kyk. Sodanige individu behoort dan die hoof te kan versoek om die tersaaklike beeldmateriaal te stoor vir latere gebruik. 'n Getekende dokument kan dan aan die individu verskaf word as bewys van sy/haar versoek. (In Praktiese metode kan ook bv. wees waar die persoon toegelaat word om die beeldmateriaal op hul selfoon op te neem, wat dit maklik maak om veilig te bewaar.)
- Dit kan ook aangewese wees om 'n register te hou van materiaal wat geberg word om te help verseker dat die materiaal in die beheer van die skool bly.

Gevolgtrekking

Die SAOU kan nie die noodsaaklikheid van die korrekte benutting van hulpmiddelle tot die beskikking van skole genoeg beklemtoon nie, veral in die onstuimige onderwysomgewing waarin baie van ons lede hulself bevind.

GBTV- kameras is daar vir almal se beskerming – gebruik die volle potensiaal op 'n korrekte en redelike wyse!

Addisionele notas:

- MOENIE KAMERAS IN BADKAMERS PLAAS NIE! ('n kamera wat die ingang van 'n badkamer dophou behoort voldoende te wees.)
- Die installering van GBTV -kameras in klaskamers maak nie inbreuk op die onderwyser se reg tot privaatheid nie aangesien die klaskamer niks anders is as 'n werkplek nie. Die werkgewer het 'n reg tot toesighouding, of dit nou deur klasbesoeke van die hoof is of deur GBTV -kameras.
- Stel ouers en leerders in kennis dat daar kameras is wat die openbare areas van die skool moniteer. Hierdie is veral belangrik waar dit kom by nuwe ouers wat hulle kinders by die skool inskryf.
- Die plaas van kennisgewings by al die ingange en op strategiese plekke op die skool terrein, tesame met die normale wyses van kommunikasie, word sterk aanbeveel.
- Moenie ongemagtigde persone vrye toegang tot die GBTV- stelsel gee nie. Toegang tot die stelsel moet ten alle tye streng beheer word.



Tel: 012 436-0900 | Fax: 086 557 1017 | Email/Epos: regsdienste@saou.co.za

12 June 2017

LEGAL 2/2017

CCTV CAMERAS – KEEPING EVERYONE HONEST

In this day and age, Closed Circuit Television (CCTV) cameras have become the norm in many public spaces. We accept these cameras as a part of life for security purposes and take little note of them.

These cameras serve a dual function:

- To detect and help prevent threats to civil order; and
- To serve as evidence should the early detection and prevention fail.

The use of these cameras are increasingly becoming a further security mechanism in schools as well. Cameras are amazing security tools to everyone in the school, especially for teachers in the classroom. That is... if they are utilised correctly.

Unfortunately the SAOU often encounters a serious problem with the utilisation of CCTV cameras when disciplinary procedures have been implemented against teachers. The problem is that by the time the teacher is charged with alleged misconduct in the class room (sometimes months after the incident in question), the CCTV footage that could have cleared the teacher, has already been deleted.

It seems as if the average storage time of footage is between 5 days and 2 weeks, depending on the system at the particular school. The answer to this problem is the effective monitoring and management of footage.

What follows is merely a suggested procedure as every school will have to carefully consider its own position and possible process. The school principal, in close consultation with the SGB should formulate a CCTV policy tailored to the unique situation at their school.

Take note: This piece does not deal directly with the procurement of a CCTV system, but it is worth mentioning that the governing body of a school is ultimately responsible for the decision to install a CCTV system and the procurement process that follows.

It can be said that there are three steps in the use of CCTV cameras.

The first is identifying possible threats and/or incidents.

This aspect has two parts:

- Reacting to a possible threat or incident before or during its occurrence; and
- Identifying a specific incident after it occurred with the primary purpose of proactively securing evidence.

The main question that arises here is who, if anyone, should be monitoring the cameras? There is unfortunately no hard rule on this and every school will have to determine their own solution based on their capacity and available resources. Sometimes these cameras cannot be monitored constantly and therefore their role is more aligned with the reactive identification of incidents for the purpose of evidence. Here the onus falls on the individuals present in class or on terrain duty to identify and report incidents. This aspect is very important, because if incidents (even if it seems insignificant) are not reported, the footage will be lost. The suggested rule could be: Rather preserve every incident's footage for a year than rue the fact that you do not have the footage at a later stage.

An additional suggested approach could be that everyone in the school is informed of their right to report incidents (including the learners). This promotes transparency and possibly discipline. The truth is that people tend to curtail their behaviour when they know they are being watched. This aspect needs to be managed carefully though. The possibility that individuals may abuse the system to resort to vexatious reporting is ever present. Just like any system at a school, effective management is key to ensure that the CCTV system will fulfil its designed purpose.

The second step deals with the actions taken during and directly after an incident.

Most schools have action plans for various crisis situations such as building fires, bomb threats and armed robberies. One can similarly apply the same approach for more localized classroom incidents committed by learners or teachers alike. Through consultation and inclusive conversation, the school can establish agreed upon procedures that need to be followed by the individuals in the class where an incident occurred as well as what steps a person observing an incident on CCTV footage should take. These processes could be supported by basic first aid training and conflict management courses.

Here are just some aspects that the school needs to be mindful of during the development of an action plan:

- The action plan should not exacerbate/aggravate the situation;
- Medical emergencies take precedents over the allocation of blame;
- Take cognisance of the various departmental procedures regarding incident reporting; and
- Restoring the normal process of teaching and learning as quickly as –reasonably- possible should be the primary goal.

The last step deals with follow-up actions after an incident.

Most CCTV systems are relatively user friendly and isolating clips of footage for later use should not be a problem. The question that does arise is who has access to this footage? And who is responsible for its storage of such footage.

As stated above, there is no legislation regulating this directly, but one should always keep important principles in mind such as (but not limited to) the right to privacy of individuals, the protection of the best interest of the child and the labour rights of educators.

A suggested process could be the following:

- The Principal is in charge at a school and is responsible for safeguarding all persons who enter the school premises in good faith.
- When an incident is reported, the individual associated with such incident may approach the principal or his delegate to view the relevant footage. Said individual (teacher or learner) should then be able to request that the footage be stored for later use, whereupon a signed document is then handed to the individual as proof of their request. [a practical method is for instance for the educator to "re-record" the CCTV images via a cellphone video – making it easier to keep /secure]
- A register of archived footage is advised to ensure the footage remains in the possession of the school and is safeguarded for later use should the need arise.

Conclusion

The SAOU cannot emphasise the importance of the correct utilisation of the aids at the disposal of the school enough, especially in the sometimes volatile teaching environments many of our members find themselves.

CCTV cameras are there for everyone's protection – utilise its full potential in the correct and responsible manner!

Additional notes:

- DO NOT PLACE CAMERAS IN BATHROOMS! (A camera surveying the entrance of a bathroom should be sufficient.)
- The installation of CCTV cameras in classes does not infringe upon the privacy of an educator as the classroom is nothing other than a workplace where an employer has full right to supervision, be that through class visits by the principal (as representative of the employer and manager of the school) or CCTV camera.
- Inform parents and learners that there are cameras surveying the public spaces of the school. This applies especially to new parents wishing to enrol their children. (The placing of notices at all entrances and strategic points throughout the school, informing individuals of the presence of cameras in addition to normal modes of communication with parents, is also advised.)
- Do not give unauthorized people unsupervised access to the CCTV system. Access to the system should be strictly controlled at all times.