

Potentially Relevant Current NC Laws

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Overview

- ▶ **Criminal Penalties**
 - Secret Peeping G.S. 14-202
 - Interception of oral transmissions G.S. 15A-287
- ▶ **Law Enforcement**
 - Electronic Surveillance Article 16, Chapter 15A
 - Searches and Other Surveillance
- ▶ **Civil Liability**
 - Secret Peeping G.S. 14-202(k)
 - Electronic Surveillance G.S. 15A-296
 - Tort of Invasion of Privacy

Criminal Penalties



- ▶ Secret Peeping – G.S. 14–202
 - Peep into a room occupied by another person – Class 1 Misdemeanor
 - Peep while in possession of device capable of taking photo or video – Class A1 Misdemeanor
 - Peeping & taking a photo underneath or through clothing to view body or undergarments – Class I Felony
 - Possession of a photo so taken – Class I Felony
 - Dissemination of a photo so taken – Class H Felony
 - Second/subsequent offense – one class higher
 - Possible registry as a sex offender

Criminal Penalties

- ▶ Interception and disclosure of oral communications prohibited – G.S. 15A-287
 - Class H Felony if: without the consent of at least one party to the communication:
 - Willfully intercepts, endeavors to intercept, or procures someone else to intercept oral communication – Class H Felony
 - Willfully discloses, or endeavors to disclose, or willfully uses, or endeavors to use, contents of communication intercepted in violation of this statute.



Law Enforcement

- ▶ Electronic Surveillance – Art. 16, Chapter 15A
 - G.S. 15A–290 – Orders authorizing or approving interception of oral communication may be granted when interception:
 - May provide or has provided evidence of commission of, or conspiracy to commit:
 - A drug trafficking violation
 - A continuing enterprise in violation of drug laws
 - May expedite the apprehension of persons indicted for commission of or conspiracy to commit one of the above offenses.

Law Enforcement

- ▶ Searching areas outside home/building
 - If expectation of privacy, Fourth Amendment applies
 - Curtilage has an expectation of privacy. 4 part test to determine curtilage:
 1. Proximity to home
 2. Whether within an enclosure surrounding home
 3. Nature and use of area
 4. Effort made to protect area from observation
 - Open fields and woods outside curtilage have no expectation of privacy even if surrounded by fence or posted.

Law Enforcement

▶ Surveillance

- Aircraft – generally permitted over open fields and curtilage to view with unaided vision, however use of zooming lenses or other equipment to improve vision into curtilage may require a search warrant.
- Silent video surveillance, with no interception of oral communication is o.k., so long as person has no expectation of privacy in location, otherwise need a search warrant.

Civil Liability

- ▶ Secret Peeping – G.S. 14–202(k) provides civil cause of action for any victim whose image is captured and/or disseminated
- ▶ Electronic surveillance – G.S. 15A–296 provides civil cause of action for any victim of interception, disclosure or use of communication.

Civil Liability

- ▶ Tort of Invasion of Privacy has been recognized by the NC Court of Appeals as “the intentional intrusion, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, where the intrusion would be highly offensive to a reasonable person.”

Includes:

- Physically invading home or other private place
- Eavesdropping
- Peering through windows
- Persistent telephoning
- Unauthorized prying into bank account
- Opening personal mail of another



Questions?

