

PBPA Podcast Transcript
Video Cameras at Nonprofit Facilities
(12:42 minutes)



Sireesha ([00:00](#)):

You know, security cameras are everywhere these days, from the front porches of homes to inside shopping centers and outside of schools. While they may be commonplace, there are still a variety of legal considerations for those nonprofits that use security or other video cameras on site. Have you considered your obligations to safeguard the privacy of individuals captured on camera and ensure the proper management of these recordings? In this episode of the PBPA podcast, Sara Guercio explores legal requirements and practical tips to help your nonprofit navigate this complex landscape. Tune in to learn how to balance security and privacy effectively while maintaining compliance and trust.

Sireesha ([00:53](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at pbpatl.org. Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([02:02](#)):

Sarah Guercio is an associate with Alston & Bird here in Atlanta, where she advises clients on matters of technology and privacy. She has a diverse professional background, including nursing and healthcare law. Thanks so much for being here to share your insight and expertise, Sarah.

Sara ([02:20](#)):

Thank you so much for having me. I'm always happy to help.

Sireesha ([02:23](#)):

You're going to talk to us about a few different topics today. To start with, let's talk about privacy. What should Georgia Nonprofits know?

Sara ([02:33](#)):

So in general, at a high level, there are four things that I want to hit and highlight, and we'll dig into this more throughout our conversation. But as a roadmap, first, put the camera in plain sight, don't hide it. Second, install them only in public areas. Third, disclose that you're recording via signage. And fourth, try to avoid audio recording unless you have a really good reason. Now, after saying that, keep in mind that so much of privacy depends on the context, and that's where I recommend all organizations start, and you need to get clear on the details. So what type of nonprofit organization are we talking about? Special facilities, like medical facilities, obviously have special rules. And then what's the purpose? You know, security, obviously, and if that's the case, it might be worthwhile to think through who's security. So for example, is it the organization itself or its money? Are we afraid of getting robbed or is this

organization more focused on securing the safety or privacy of the clients or customers of the organization? Could be both. And then the third thing I would think about is who are you recording? Are we recording customers only? Clients? Only employees? Both. It can be reasonable to record employees under Georgia law, but the recording must serve a legitimate business interest unless their employee has a reasonable expectation of privacy.

Sireesha ([04:01](#)):

So does Georgia have a specific law that applies here?

Sara ([04:06](#)):

Uh, again, at a high level, Georgia has a law which we can refer to as an eavesdropping law, which basically prohibits recordings of audio and video in certain circumstances. And that's mostly when people expect interactions to be private. However, keep in mind the eavesdropping law is a criminal law, and so that means a violation could result in a felony conviction and jail time.

Sireesha ([04:29](#)):

Oh, wow. Okay. <laugh>. So most of the cameras that I think most facilities use just capture video, but you mentioned earlier that there is a difference between recording audio and video. From a privacy perspective, why does it matter if the camera captures just video versus a camera that captures both audio and video?

Sara ([04:52](#)):

Yeah, that's a great question. And, and audio and video are treated slightly differently. So for video, mainly it can be recorded in a public place for security purposes or other purposes. In some cases. You'll remember, like in law school for example, we talk about, you know, you were in public and so anybody can see you there. Audio is slightly different, um, particularly if you're in a private place. And, um, several states have these laws, but Georgia is what we call a one party consent state, which means if you're involved in a conversation, you can record it, you can do that surreptitiously as well. But, um, as long as you're a party to the conversation. Now where it gets fuzzy is a security camera or recording device is not involved necessarily in a, in a conversation that is occurring in a, you know, in a private place. So now this doesn't mean you can't record the audio, like I said, you can, but it just makes it a little fuzzier.

Sireesha ([05:49](#)):

Now let's talk about the location of the camera. Um, you made reference to this earlier. Uh, does it matter where the camera is located?

Sara ([05:59](#)):

Yeah, so places where customers or clients don't have a reasonable expectation of privacy. So in, you know, in line at a drive-through for example, one would have a reasonable expectation of privacy in the bathroom of a public place, but maybe not when you're waiting in line at Publix. Uh, also it shouldn't be hidden from view because that doesn't necessarily serve the security purpose, which is deterring someone from committing a crime if they don't know the camera is there or they can't see it.

Sireesha ([06:30](#)):

Okay. So having it kind of in a programming space where it is obvious and can be visible to the program participants is okay. Whereas if they were to put a camera in kind of a dressing room or something, that would not be okay.

Sara ([06:46](#)):

Absolutely. Absolutely. And, and again, we, it's best practice to place a sign that notifies people that they're being recorded. You see these on big box stores when you go in the doors, you know, recording in progress just to make everyone aware that this is happening and that will help with the disclosure.

Sireesha ([07:04](#)):

And now I'm going to shift from those considerations around privacy to considerations around the captured recordings, who should be allowed access to the footage?

Sara ([07:18](#)):

So I would say people who have a reason to access the footage should have access. And I know that that's a dancey lawyerly answer. But that's really how we, that's really the norm in privacy, is if we, if you need a need, a reason to access the information for business purposes, then you should have access. But if you don't, then you shouldn't. So in practice, normally this is higher level management and not lower level management, but for example, people who are involved in the building security team probably also need access.

Sireesha ([07:50](#)):

Okay. So these files probably shouldn't just be shared on the general, um, cloud that anyone in the organization has access to.

Sara ([07:58](#)):

Correct.

Sireesha ([07:59](#)):

And what should a nonprofit do if a third party requests copies of the video recordings? So

Sara ([08:06](#)):

This is an interesting question, and it kind of gets to the policies and then, um, of the organization itself. And normally we would think of this as being some kind of law enforcement agency or judicial body. And if you're concerned about providing the footage, I always get in touch with an attorney to discuss it. And, but that said, what is the organization's policy? Does the organization have a privacy policy they can point to that discloses certain that certain aspects of individual's personal information in this case, like video footage, can be turned over to police to aid in investigation or, uh, in the event of a court orders or issues a subpoena. So in general, nonprofits aren't required to offer privacy policies to the public, but it's a good practice and it's an opportunity to think through situations like this.

Sireesha ([08:54](#)):

What if it's not the police or law enforcement, but what if it's another participant in the program? What if it's say a, a parent who has a child who takes an afterschool class at the nonprofit facility,

Sara ([09:05](#)):

If it was a different third party other than law enforcement? Mm-Hmm, <affirmative>, I would still say go back to the privacy policy and, and how have you dealt with this in the past? And I, I think the important part here is consistency, right? Do the same thing for everybody. Don't just pick and choose.

Sireesha ([09:21](#)):

And now how long can a nonprofit or should a nonprofit hold onto the video footage?

Sara ([09:28](#)):

So go back to your retention policy if you have one. If not, consider, uh, creating a record retention policy. It's one of the three that the IRS, uh, the IRS requests or asks about. And if, if you have a written policy, you obviously can't keep the footage forever. That's impractical as a benchmark, Georgia universities have to keep recordings for at least 30 days. I, I think I encourage the organization to confirm whether there are any specific laws that apply, but if not, I, somewhere between 30 to 90 days is probably a safe bet.

Sireesha ([10:02](#)):

Okay, that's good to know because also that retention takes up space, data space, so, which can cost money. So that's good to know to have that as a guideline for how long a nonprofit should consider keep holding onto that footage.

Sara ([10:17](#)):

And we don't want the liability either.

Sireesha ([10:19](#)):

Exactly. And what else should a responsible nonprofit consider and do in connection with their capacity to record video footage?

Sara ([10:28](#)):

So if organization has facilities in other states or serves a bunch of out-of-state clients or customers regularly, or as part of their mission, there may be different laws they wanna consider. For example, Illinois has a biometric privacy law that likely implicates video footage. And, uh, California has the CCPA/CPRA. So if you have, if you dig in and you have questions, this is a complicated area of law. So reach out to a privacy attorney if you think you fall into this category, and I'm sure someone would be willing and able to help you.

Sireesha ([11:01](#)):

Yeah, this is all such helpful background. Is there anything else you would like to share with our nonprofit listeners?

Sara ([11:09](#)):

So we covered a lot in this talk. And before we wrap up, I just want to reiterate the four pieces of advice from the beginning of the conversation. Remember, first, put the camera in plain sight, don't put it in the bathroom. Or somewhere where an individual has a reasonable expectation of privacy, install 'em in

public areas, same idea there. Disclose that you're recording via some signage and try to avoid audio recording unless the organization has a really good reason.

Sireesha ([11:38](#)):

Sarah, this has been such great information. I so appreciate you sharing your time and expertise, <laugh> and patience with us today as we capture this, uh, very helpful information.

Sara ([11:53](#)):

Thank you so much for having me. I'm always happy to help and always happy to help such a fantastic organization.

Sireesha ([12:00](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.