

Specter pushes in Pa. for electronic privacy laws (Update)

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Sen. Arlen Specter, D-Pa., leads a Senate field hearing, in Philadelphia, Monday, March 29, 2010. Experts invited to speak debated whether secret video recordings should fall under the federal wiretap statute. (AP Photo/Matt Rourke)

(AP) -- Sen. Arlen Specter of Pennsylvania is pushing for new federal laws on electronic privacy as a school district back home struggles with a lawsuit over attempts to locate missing laptops by turning on webcams - something that could have enabled it to film students at home.

Specter, a Democrat, said at a field hearing of a Senate subcommittee that he believes existing wiretap and video-voyeurism statutes do not adequately address concerns in an era marked by the widespread use of cell-phone, laptop and surveillance cameras.

"My family and I recognize that in today's society, almost every place we

go outside of our home we are photographed and recorded by traffic cameras, ATM cameras, and store surveillance cameras," Blake Robbins, the Harrington High School student who sued, wrote in a statement read into the record at the hearing of the crime and justice subcommittee of the Senate Judiciary Committee.

"This makes it all the more important that we vigilantly safeguard our homes, the only refuge we have from this eyes everywhere onslaught," he wrote.

Robbins accuses the Lower Merion School District of spying by secretly activating webcams on the school-issued laptops; officials admit they did so but said they were trying only to locate 42 lost or stolen computers.

Neither Robbins nor his parents attended the session, which did not specifically focus on the Lower Merion case - the subject of ongoing county and FBI investigations. Instead, five experts debated how best to strike a balance between privacy and security concerns.

Lawyer Kevin Bankston of the Electronic Frontier Foundation argued that wiretap laws, which now cover audio recordings, should be broadened to include videotaped surveillance. But others disagreed, arguing that wiretap charges should not apply, lest they entangle innocent people using software tracking programs to try to find their own stolen phones or laptops.

"If it does fall under (the Wiretap Act) in the new legislation, we hope there will be an exception for stolen devices," said John Livingston, chairman of Absolute Software Corp., the Vancouver, British Columbia-based company that acquired the LANrev TheftTrack software program deployed by Lower Merion.

The panel debated whether any new law should focus on the intent of the

person using the camera; whether the subject's location affords them an expectation of privacy, such as a home or locker room; or the full context of the situation.

Only one person from the Lower Merion district testified, a parent opposed to the Robbins family's lawsuit who urged a middle ground between security and privacy concerns.

Bob Wegbreit said a warning might suffice to let families know the district might activate webcams without a student's knowledge. Students could then choose to keep the computers in other parts of the house, instead of their bedrooms, said Wegbreit, whose group fears the lawsuit will damage the upscale district's finances and reputation.

Federal legislation might help clarify what school districts, employers or others can and cannot do, he said.

"There's no question that I believe the federal government should be legislating in this area," said Fred H. Cate, an Indiana University law school professor who specializes in cybersecurity issues. "We've seen a proliferation of video cameras in every aspect of our lives."

Specter, the only senator in attendance Monday, agreed to lead the effort, noting that at least one federal judge voiced concerns a quarter century ago that privacy laws were not keeping up with emerging technology.

"My sense is my colleagues will be responsive," Specter said. "If there is a gap, it ought to be closed ... after 25 years."

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