

Court to review employer access to worker messages

December 15 2009

(AP) -- The Supreme Court said Monday it will decide how much privacy workers have when they send text messages from on their employers' accounts.

The justices intervened in a case from Ontario, Calif., where three police officers and another employee complained that the department improperly snooped on their electronic exchanges, including many that were said to be sexually explicit.

While the case involves government workers, the decision could have broader privacy implications. Many employers tell workers there is no guarantee of privacy in anything sent over their company- or government-provided computers, cell phones or pagers.

Ontario has a similar policy, but a police official also informally told officers that no one would audit their [text message](#) use if the officers personally paid for charges above a monthly allowance.

The 9th U.S. Circuit Court of Appeals in San Francisco said the informal policy was enough to give the officers a "reasonable expectation of [privacy](#)" in their text messages and establish that their constitutional rights had been violated.

But Judge Kim Wardlaw acknowledged in her opinion that there is little to guide judges in this area. "The extent to which the Fourth Amendment provides protection for the contents of electronic

communications in the Internet Age is an open question," Wardlaw said.

The appeals court also faulted the text-messaging service for turning over transcripts of the messages without the officers' consent. Both the city and USA Mobility Wireless, Inc., which bought the text-messaging service involved in the case, appealed the 9th Circuit ruling.

The justices turned down the company's appeal, but said they would hear arguments in the spring in the city's case.

The appeals court ruling came in a lawsuit filed by Ontario police Sgt. Jeff Quon and three others after Arch Wireless gave their department transcripts of Quon's text messages in 2002. Police officials read the messages to determine whether department-issued pagers were being used solely for work purposes.

The city said it discovered that Quon sent and received hundreds of personal messages, including many that were sexually explicit.

The case is City of Ontario v. Quon, 08-1332.

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