

15. All Eyes On You

Agustín, 15, is a tenth-grader attending a public school in Charlotte, North Carolina.¹ One Saturday evening, he posts a photo on Instagram of himself and a group of his friends (most of whom are also tenth-grade boys) with the caption “Me and The Crew.” The boys in the photo display a variety of hand gestures—peace signs, thumbs-up signs, and other signs whose meanings are unclear. Agustín’s school, which makes use of a third-party social media scanning program, is alerted by the company, whose algorithms have defined the photo as “suspicious.”

Monday morning, his school’s Principal, Mr. Raines, asks the school resource officer (SRO) to question Agustín about the post. Unsatisfied with the explanation that the photo just shows him and his friends enjoying each other’s company, the officer follows Agustín through the halls during class changes. The SRO also reviews footage of Agustín from school security cameras, and Mr. Raines alerts Agustín’s teachers that he is suspected of possible gang involvement. Later that day, Agustín’s smartphone is confiscated by his Biology teacher because he was caught text messaging during class. On Monday evening, while doing homework on his school-issued Chromebook, Agustín confides in a friend via email that he is feeling depressed and anxious about the SRO, and angry at a mutual friend of theirs, Manuel. Within the hour, a different police officer knocks on the door of his home, telling Agustín’s parents that he is there to conduct a “wellness check” based on concerns raised by his email.

The ability of schools to keep tabs on their students is on the rise, particularly in the wake of accelerating technology adoptions brought on by widespread school violence across the U.S., as well as the COVID-19 pandemic. Digital learning platforms like Canvas and Moodle not only streamline students’ assignments and grades, but provide extensive data profiles on millions of students to private corporations each year. Web, email and social media “listening” platforms like Varsity Monitor, Gaggle, and Bark allow administrators to track student communications, web usage, and search histories, in school and out. District-level purchasing of these platforms saw a tenfold increase between 2013 and 2018.² Cameras and facial recognition technology are now essential parts of schools’ security strategies, with the number of schools conducting video monitoring having risen from 19% in 2000 to 83% in 2018.³

Administrators and district officials often argue that these strategies are common sense measures to keep students safe from harassment, bullying, and gun violence. Critics argue that students’ privacy rights are being violated with invasive technologies whose effectiveness is thus far unproven. Furthermore, for students of color, who often face disproportionate disciplinary measures in schools, new kinds of surveillance may be especially harmful.⁴

DISCUSSION QUESTIONS

1. Is the fact that Agustín was outside school when he sent the email morally relevant?
2. How, if at all, do the privacy rights of minor students differ from those of their adult counterparts? What about those rights associated with freedom of speech?
3. How should schools balance the objectives of student safety with student privacy? What is the relative importance of these goals?
4. When, if ever, are schools justified in disciplinary interventions based on students’ personal communications?

¹ This story is adapted from an illustrative compilation of student experiences by Barbara Fedders, “The Constant and Expanding Classroom: Surveillance in K-12 Public Schools,” *North Carolina Law Review* 1673 (2019).

² <https://www.brennancenter.org/our-work/research-reports/school-surveillance-zone>

³ <https://nces.ed.gov/fastfacts/display.asp?id=334>

⁴ <https://www.theatlantic.com/education/archive/2016/09/when-school-feels-like-prison/499556/>