



Questions about the legalities of installing covert video arise often. The safe and easy answer is: *contact an attorney*. The expedient and practical answer is...

Avoid legal problems in the first place.

- Research the latest laws.
 - Follow these guidelines.
 - Combine all this with common sense.
 - And, err on the conservative side.
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- Title III, the federal law regarding interception of wire and oral communications, does not address the covert video surveillance issue. Courts, however, do have the authority to make rules about video surveillance. These past decisions are important guideposts to follow.
 - Congress has made several attempts over the past few years to regulate video surveillance. It is likely that a video surveillance bill will be passed – in some form – in the near future. Remember, what is legal today may not be legal tomorrow.
 - Some **states** have laws regarding video surveillance. Keep up to date on all the current laws, federal and state. The books *Wiretapping and Eavesdropping*, by Clifford S. Fishman and/or *The Law of Electronic Surveillance*, by James G. Carr are good references. Both offer yearly supplemental updates. Both are available from Clark Boardman Callaghan Publishing at 800-232-1336.

General Guidelines...

- Covert video surveillance **is illegal** when...
 - the subject has a reasonable expectation of privacy (Fourth Amendment rights);
 - the subject is engaged in sexual activity (even if one of the partners consents);
 - if audio eavesdropping is also taking place;
 - prohibited by a state or local law.
- Covert video surveillance **may be illegal** when...
 - the person with authority over the premises has not consented;
 - the reason for the video surveillance fosters an illegal purpose;
 - if under Sixth Amendment principles the subject has the right to counsel;
- Covert video surveillance **should be avoided** when...
 - a less intrusive, legal investigative method is equally available;
 - whenever *you* feel uncertain about the legality or ethics of the installation.