

Study Guide for Privacy/Civil Rights in Homeland Security

ADJ-243, Fall 2017

1. Achieving the proper balance between law enforcement efforts and individual privacy/civil rights is a constant and difficult problem in a democratic nation.
2. The U.S. Constitution, and particularly its Bill of Rights (the first ten amendments) set the ground rules for achieving this critical balance.
3. Given the stakes involved with Homeland Security (particularly, preventing terrorism) those responsible for Homeland Security efforts can be expected to take aggressive and wide ranging steps to protect the nation.
4. Some Homeland Security efforts are controversial - for example, CBP searches of electronic devices at the border; and, perhaps the most controversial, the NSA's mass surveillance programs (as first revealed by the Snowden leaks).
5. In recent years the rapid advancement of technology has given law enforcement and Homeland Security officials tools that implicate privacy/civil rights to a much greater extent than in past years.

[Note: Numbers 6 and 7 below are taken verbatim (except for the numbering) from Journalists Resource, "Do body cameras change the way police interact with the public?" July 1, 2016 (accessed Dec. 3, 2017).

<https://journalistsresource.org/studies/government/criminal-justice/body-cameras-police-interact-with-public>

6. "Police use of force has been heavily scrutinized for more than a year after fatal police encounters with unarmed black men in New York City, Ferguson, Mo., Baltimore and other parts of the U.S. The increased attention has renewed calls for law-enforcement officers to wear video cameras while on duty."

7. “Despite the national push, local law enforcement remains divided over the use of such technology, with some agencies blatantly resisting. Some of the agencies that have tried using them, however, are reporting decreased use of force and fewer complaints from residents.”

8. “A FOIA request by the Electronic Frontier Foundation unearthed the fact that Customs and Border Patrol lent drones to national and local agencies over 700 times between 2010 and 2012 for “domestic surveillance.”

[see: The National Review, “On Police Drones, Lawmakers are Behind the Times” (Nov. 9, 2017, accessed Dec. 3, 2017).

<http://www.nationalreview.com/article/453544/police-drones-law-falling-behind-technology>

9. Case law provides that aerial camera surveillance of items in open fields or on public roads, areas, etc., is not a search under the Fourth Amendment and thus police do not need probable cause or a search warrant to conduct such surveillance.

10. Some drones carry technology other than cameras: Thermal imaging, Cell Site Location identifiers, etc.

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