

**The Bill Blackwood  
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**The Silent Witness:  
CCTV in the Special Needs Classroom**

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**A Leadership White Paper  
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## **ABSTRACT**

Parents should not be fearful of sending their children to school, particularly the parents of children with special needs who require specialized supervision or care. Neither should the teachers or workers be fearful of false accusations from their students or their rightfully protective parents. Schools should be a safe place for all who walk through its doors, but the protection of a public place disappears once the students or school employees go into the classroom behind a closed door. To help circumvent any false claims and to provide more security and protection for all concerned, security cameras should be placed in all public school special needs classrooms.

Not only are special needs students vulnerable to possible abuse by the teachers or workers, but teachers and workers are subject to the outbursts or acting out from their students. These outburst can involve assaults or property damage and occur behind closed doors, out of view of any existing cameras. Any ensuing investigation depends on possible unreliable testimony of juvenile witnesses or students who lack normal communication skills. Without reliable testimony, parents are left to a possibly skewed perception of the events which could lead to civil or legal action against the school district. By placing security cameras in the special needs classrooms, a safer environment can be created for all concerned and increase the capabilities of law enforcement to discover the truth. Video testimony would be difficult to dispute and could also aid in any false claims against the school district. More importantly, security cameras would provide a voice for the special needs students.

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## INTRODUCTION

School districts strive to provide quality education and services in a safe learning environment for every child enrolled. To help maintain this safe learning environment, protective measures have been placed in the majority of schools to help keep the schools safe. These measures can include controlling access to the building, the wearing of identification badges, locked doors, alarm systems, and the use of security cameras. These physical security measures are there to help protect both the staff and the students but are mainly focused around the access points of the school. One of the main physical security measures utilized within the schools outer perimeter is the closed circuit television cameras (CCTV). These CCTV's typically only monitor the common areas such as hallways, stairwells, cafeterias, and gymnasiums, areas that are not always under the direct supervision of school staff. A limitation of the CCTV is that it only records activity that takes place within view of the camera lens, so camera placement becomes very important. If an incident occurs within the confines of a classroom without CCTV, there is no visual record captured.

Among the student population of each school are students that require a specialized learning environment, separate from the regular classes, with staff trained to deal with their various special needs and disabilities. *Merriam-Webster's* dictionary defines a student with special needs as "the individual requirements (as for education) of a person with a disadvantaged background or a mental, emotional, or physical disability or a high risk of developing one" (Special needs, n.d.). According to the Texas Education Agency (TEA) there are 445,327 students categorized as special needs and 2,283,490 students categorized as being at risk of needing special education

("Collaborating with Texas public schools," n.d.). These special needs students can bring behaviors with them that can range from withdrawing into themselves to violent outbursts, which can put themselves and the educational aides in the classroom at risk of assault or injury. At times, these behavioral outbursts can get to a point that they may need to be restrained to prevent harm to themselves, to others, or even cause property damage. This type of behavior can trigger a call to the police to provide additional assistance in safely handling the situation. When a teacher, student, or police officer makes physical contact with anyone, a question can always be raised as to whether it was necessary or justified and whether the appropriate amount of force was used. A simple way to provide additional facts that can either confirm or refute these written or verbal explanations is through recorded video. Video recordings made through security cameras in the special needs classrooms do not provide the complete story, however, they can help confirm or identify inconsistencies in the statements of those involved.

School districts, like the Spring Branch ISD, in Houston, Texas have been using security cameras since 1998 (C. Brawner, personal communication, June 6, 2015). According to the statistics for the 2013-2014 school year, 75% of public schools used security cameras (Gray & Lewis, 2015), which is up from the 64% in the 2011 school year (Robers, Zhang, & Truman, 2012). This 11% increase demonstrates that more schools recognize the need for increased security around their campuses and the added benefits that CCTV's can provide. As beneficial as cameras can be, cameras have been left out of many classroom because of legal issues (Family Education Rights and Privacy Act, 1995), rejections from teachers unions and the sheer cost. A single camera can cost anywhere from one to three thousand dollars (C. Brawner, personal

communication, June 6, 2015). Cameras require specialized computer programs, wiring, and computer servers which have storage limitations. Even the placement of cameras are determined by the distance from the server as data can be lost through the coaxial cables. The control and management of the cameras is extremely important as this issue can dictate whether any video recordings are considered student records or law enforcement records. This is outlined in Family Educational Rights and Privacy Act (FERPA) which set the requirements for video cameras in the schools and who has control of them (1995).

Crimes do not typically occur in the classrooms but in common areas where there is no teacher or administrative supervision (C. Brawner, personal communication, June 6, 2015). Students who choose to misbehave go to areas that they think are not being watched or take their behavior off the campus (“Research on school security,” 2013). Regular classrooms are seen as not needing cameras as the students are in a controlled setting with active supervision by the teacher. Students who wish to disrupt the class or act out in class are dealt with through the school administration, who utilize an established and approved set of rules and guidelines for disciplinary actions. In the special education classrooms, the special needs student who acts out or has behavioral issues potentially places all parties involved at risk of injury, property damage, or potential legal actions, either criminal or civil.

Cameras placed in special needs classrooms can provide transparency for the school district and any investigations resulting from possible criminal activity by students or school employees. It shows both the good and bad but, more importantly, it can show the truth. There are always angles and actions that cameras do not see. When an

incident occurs, the information is pieced together through interviews and by using all the other evidence, but recorded video gives the police an excellent starting point for their investigation. Due to the increased likelihood of having to physically restrain or handle special needs students, these actions can then come into question by parents, the media, and the community. When allegations are made, the police are called in to investigate and have to perform their duties under a microscope as all parties will be watching and waiting to make accusations of cover ups or misinterpretation of the facts. Any ensuing investigation depends on possible unreliable testimony of juvenile witnesses or students who lack normal communication skills. Security cameras can provide a voice for special needs students and protection for the teachers against unjustified claims. With the addition of security cameras in the schools, a safer environment can be created and increase the capabilities of law enforcement. School cameras would increase the overall security coverage and the video record provided would be difficult to dispute. This is why every special needs classrooms should be equipped with security cameras.

The cost of a few additional cameras far outweighs the costs of any possible lawsuits. The school district police officers are charged with the protection of not only the students but the school district as a whole. Any allegations of wrong doing by a teacher or a student is left to the police to investigate and determine if any criminal charges need to be filed. The more evidence that is quickly available, the quicker action can be taken to resolve the issue. This evidence can be provided by recorded video from security cameras placed in special needs classrooms. The regular objections to

having cameras in classrooms will be discussed and the research will show these fears are not substantiated and that having them will actually add a level of protection.

## **POSITION**

Even with the length of time that they have been utilized, there is no evidence to support that surveillance cameras are effective in preventing crime (“Research on school security,” 2013). They have, however, proven to be an effective tool by police for investigative purposes and are extremely beneficial in the identification of suspects and the ensuing court case (Fredericks, 2004). There is a variety of behavior that special needs students can display, and it is this behavior that could place the staff and the students at risk from both criminal and civil legal proceedings. Parents reasonably assume that the teachers charged with the instruction and safety of their special needs children are well trained and have been taught how to handle the differing behavior. Once the police have been notified and the behavior has returned to an acceptable level, there may be requests by those involved to press charges. There is then a determination made utilizing the evidence at hand whether there was an actual crime committed or possible misconduct by a school district employee. When a CCTV is present and the lens has observed the events in question, then it will depict a true and accurate account of the incident, and these can be preserved on a digital recording.

Having a recorded account of events within a classroom where the risk is higher for a behavioral outburst can provide an oversight protection for the school district (Kelly, 2012). Every school year, school staff members who specifically work with the special needs students experience the various, sometimes violent, behavior caused by the student’s disabilities. This behavior has occasionally resulted in injuries, sometimes



serious, to the staff members. The Michigan Education Association Council reported “that some of their members have sustained injuries to include broken teeth, scratched corneas, dislocated jaws, disabling spinal injuries, bites, scratches, and bruises” (Michigan Education Association, 2008, p. 1). They have also stated that the teachers could be liable for gross negligence if special needs students injure each other. If legal action, either civil or criminal, is pursued, then cameras in special needs classrooms provide valuable evidence in any type of legal actions.

Within school districts, for the recording to be considered a police record, the police department must manage and control the CCTV systems (C. Brawner, personal communication, June 6, 2015). The type of system used is selected by the police department to ensure that the digital recordings cannot be tampered with; this is one reason why CCTV’s are so expensive (C. Brawner, personal communication, June 6, 2015). The distinction between a student record and a police record is outlined in the FERPA (1995). Having cameras in the special education classrooms, under the control of the police department, provides additional evidence and sometimes the only evidence. Police departments have to follow a rigid rule of evidence collection and preservation to affirm the authenticity of any video evidence. These rules require the video to be a true and accurate reflection of events to insure the admissibility at any ensuing trial (Dwyer, 2011).

The Individuals with Disabilities Education Act (IDEA) provides federal protection for the special needs student, protecting their rights, with the goal of giving them the best educational results possible. The IDEA works in conjunction with both the state and local school systems to help meet the needs of the disabled student (Aud, Fox, &

KewalRamani, 2010). Within this group of special needs children are those who are not fully capable of expressing themselves. These students do not always react to normal stimulus and may struggle with social and behavior skills. Some special needs students have problems greeting or communicating with others or have trouble using facial expression and gestures (Gilchrist, n.d.). These communication barriers can hinder an investigation to retrieve detailed information from those who are questioned. With no CCTV's within these classrooms, any resulting legal procedures would rely only on physical evidence and possible witness statements. Even with intensive interviews, the complete story may not come to light, especially when witnesses do not have the capability to effectively communicate. It would be difficult to obtain a competent statement from some of the special needs students. CCTV's can provide these students with a voice, cameras can provide visual testimony for students who are not mentally capable of speaking for themselves. The submission of video evidence has risen and is referred to as the "silent witness theory". This theory or rule in the law of evidence says that photographic and video evidence "produced by a process whose reliability is established may be admitted as substantive evidence of what it depicts without the need for an eyewitness to verify the accuracy of its depiction" (Silent Witness Theory, n.d.). By placing CCTV in the special needs classroom, this additional video witness can provide valuable evidence or protection in any subsequent legal actions. This silent witness can be an integral part of any investigation. It cannot be asked any questions, challenged, and does not change its story.

In a 2008 report from the Michigan Education Association, it states that "injuries, both physical and psychological, to staff and students by special education students

must not be tolerated” (Michigan Education Association, 2008, p. 7). The CCTV can help fight against denial for any actions or injuries resulting from special education students. It displays the extent of the behavior and can help determine possible course of action to try and prevent others from being injured. It can highlight the need for special programs and the need for resources for the special needs student.

### **COUNTER POSITION**

Cameras in the classroom could be considered an invasion of privacy and a classroom distraction. The National Association of School Psychologists (NASP) stated that the adoption of rigid security measures in schools diminishes the rights of students (“Research on school security,” 2013). Other advocates claim that cameras in the classroom would be an invasion of privacy and a classroom distraction. The American Civil Liberty Union (ACLU) called cameras in schools “big brother” and said that cameras are “ineffective and a violation of students privacy rights”. They also called cameras “prison style security” (“ACLU Protests Cameras,” 2001). It has been said that cameras in the schools tell the students that they are not trustworthy and are there just to put more students in jail (Rapp, n.d.). The National Association of School Psychologists states that the students believe their schools to be a safe place, and there is no need for any security measures (“Research on school security,” 2013). There are also parents who believe that capturing an image of a student is an unreasonable seizure of their image (Steketee, 2012). The Fourth Amendment of the United States Constitution does provide protection for people against unreasonable searches and seizures. It does not stop or prevent all searches and seizures, just those

that are considered unreasonable. When deciding if something is unreasonable, public safety would become a factor (“What,” n.d.).

This constitutional right has been a protection for all citizens and has been one of the main building blocks of the United States. Often, this same protection is believed to be transferred to the work place, and any CCTV’s installed would be a violation of this right. A school is a government entity and also has to adhere to the Fourth Amendment; however, courts have ruled that when people are in plain view of the public, then the protection that the Fourth Amendment offers does not apply. A video cannot search a person, it just records their image in a public setting (Steketee, 2012). One of the main cases that challenged a person’s right to privacy in public was *Katz v United States* (1967), where an audio recording device was placed on the outside of a public telephone booth in order to record illegal activity. Justice Stewart, for the court, wrote that the words spoken may be constitutionally protected (Julie, 2000). This is why any CCTV’s placed in the classrooms do not have audio recordings with the video recordings. The end result of *Katz v United States* (1967) was that the Fourth Amendment protected people and not places (Julie, 2000). In another case, *Plock v Bd. Of Ed.* (2009), a public school special education teacher sued the school district because CCTV’s were installed in the classroom. The resulting court ruling stated that since the entire classroom was not reserved for the teachers’ exclusive private use there was no infringement of the Fourth Amendment rights (Hickman, 2013). Schools have the legal right to place CCTV’s in classrooms without infringing on anyone’s rights, they just have to follow the rules outlined in FERPA. Once placed in the classrooms, the

students do not pay attention to them and their behavior has not been impacted by the cameras (C. Brawner, personal communication, June 6, 2015).

Teachers and teachers unions claim that cameras are only placed in classrooms for the administration to watch the teachers and any captured video will be used for disciplinary action. Teachers and school administrators may also suggest that having the cameras in special needs classroom could provide incriminating evidence against the school district. The cameras may capture wrong doings of district employees. District employees would include police officers there to protect and serve the students. They should not be doing anything wrong to start with and any wrong doing or illegal activities need to be brought to light and acted upon. There is nothing to worry about if there is no wrong doing. The response to this is any incriminating evidence caught by the cameras should be used to correct any issues or problems in order to provide the best and safest environment for the special needs students. The guidelines for video surveillance in the schools is outlined in FERPA. Under Chapter 34, it says that if the school administration is the manager and controls the cameras, then everything that is recorded is considered a student record. The video could be used to monitor the classes and the teachers. When the CCTV's are under the management and control of the police, then everything recorded would be a police record (FERPA, 1995). The CCTV systems are set up to only allow the managers to make a digital recording of any events, which for the police, would become evidence in an ensuing case, with the proper documentation to show a chain of custody of the evidence (C. Brawner, personal communication, June 6, 2015).

Another concern about CCTV's in the special needs classrooms is that the cameras can provide incriminating evidence against the school district, police, or the teachers involved. The NASP says that if there are cameras in the school, they should provide the students with reasonable expectation of safety and if an assault were to take place in view of the camera lens and no one came to stop the assault, then that would place the schools in a position that they could be sued ("Research on school security," 2013). With multiple cameras on any school campus and school districts with multiple campuses, the total number of cameras are too numerous to monitor continually. They are primarily a tool to use after the fact, for an investigation. There are systems in existence that link the CCTV's to the school alarm system which would display a camera corresponding to a door or motion sensor alarm activation. At that point, the cameras could be used as a real time tool to aid the responding police officers (C. Brawner, personal communication, June 6, 2015). If a school staff member, employee, or even a police officer violates the law and a CCTV captures the wrong doing, then good, the video recording did its job.

## **RECOMMENDATION**

Cameras are becoming more prominent in society, with the majority of the current smart phones being equipped with a video camera. The results of citizens with cell phones are often seen in news reports or posted on the internet. Even the students in school carry cell phone cameras and are very quick to start recording any event that they see. Both public and school area surveillance technology is now a fact of life (Goold, 2002). By placing a camera in the special needs classroom, a police record can be created of the incident in question. This video record can help speed up the

investigation. Persons involved can be identified and their actions can be viewed. By placing a camera in the special needs classroom, a police record can be created of the incident in question. Video testimony is difficult to dispute and has become a desirable tool in court cases. When an incident occurs and the police are called in to investigate, the result can be that there was no crime committed and therefore no charges will be filed. This still leaves the possibility of a civil action against the school district when a special needs child is involved. Any activity recorded by the classroom cameras provide a voice for those special needs students who are unable to effectively express themselves and tell others about possible abuse in the classroom. CCTV's in the special needs classrooms do not invade any person's privacy and should be there to protect everyone concerned. School districts and police departments should be transparent. Being transparent does not mean using cameras to evaluate the teachers or trying to catch some wrong doing.

Each school only has one to two designated special needs classrooms. The additional cost of one CCTV in each special needs classroom is very inexpensive when compared to the amount of protection that they would provide. One strategically placed camera, in plain view, provides the silent witness police investigators need to effectively and efficiently gain enough evidence that is difficult to dispute and has become a desirable tool in court cases. With the amount of technology available today, law enforcement will be second guessed on everything they do, always analyzed, and no matter what they do they will be put into a bad light. The video recording taken in a special needs classroom is a police record and not always subject to an open records request when it involves juveniles. In a recent case at Spring Branch ISD, a teacher was

accused of abusing a special needs child who was unable to communicate. The recorded video was instrumental in showing that no criminal activity occurred and thus protected the teacher and the district from a possible law suit (C. Brawner, personal communication, June 6, 2015). CCTV's in special needs classrooms provide security and protection and should be placed in all of the classrooms.



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