

PRIVACY IN THE WORKPLACE

We all have heard about our rights to privacy and that those rights are seemingly eroding, primarily due to advances in technology. But we should not assume that this privacy right extends into our places of employment. In fact, the best rule of thumb to follow is that you only have privacy in very limited circumstances while you are working.

Remember, your work computer, your office, your desk, and your work telephone are all the property of the City of Los Angeles. As the owner, the City is well within its rights to monitor the use of its equipment. In addition, members of the public can obtain copies of almost any and all writing, including electronic writings (emails), through requests for information under the appropriate public disclosure acts. This does not apply in the same way to the private sector, but as public employees, we are subject to the scrutiny of the taxpayers, who pay our salaries and expect our services in return.

There are some areas where you may expect privacy, but you do not have a right to that privacy, a big difference legally. We would normally expect privacy in a locked drawer or cabinet only if that locked drawer or cabinet has a personally provided lock. If the City provided the lock, the assumption is that the lock is to protect the contents from those outside of the City, not from supervision or management. While we might think our automobiles are safe and private places, the City can, and in some departments, including trunks, are subject to inspection for security reasons. Your personal items, such as briefcases and purses, are not subject to inspection except as part of an overall security inspection of all persons entering a building. These types of inspections have become much more common since the heightened security after 2001.

If this all seems Orwellian, remember that there is no right to privacy guaranteed in the United States Constitution, but only the right to unlawful search and seizure by the Government. The courts have substantially broadened the coverage of this right over the years so that it seems we have a right to privacy. Most privacy legislation and litigation is concerned with acts of the Government (at any level) against citizens and not with acts of employers against employees.

In some ways, this entire subject goes back to the basics of your MOU, a contract in which both sides give and take. In this case, the City gives you a livelihood and you give up your expectations of privacy. In handling workplace issues, we have heard, “Oh, my comment was not meant for the boss” or “I only went to questionable websites during lunchtime.” These are tough arguments to win when utilizing the City’s property. To avoid negative repercussions, you should say, write, and do nothing while at work that you would not want publicized at all.