

What is Intrusion?

When we think of a breach of our privacy we are generally thinking of intrusion. In that sense, intrusion is the most obvious form of a breach of privacy. An intrusion arises when someone is in a location where he or she has a reasonable expectation of privacy but another person invades that privacy by physical or electronic means.

Physical invasion of privacy generally involves a trespass onto private property or hounding a person by "getting in their face" with a camera. Electronic invasion of privacy is subtler but often more invasive. The person whose privacy rights are being invaded is generally unaware of the invasion because it is accomplished by using a hidden camera, microphone, or telephoto lens from a great distance. Think sneaky.

In upcoming posts, I'll discuss three court decisions that dealt with intrusion but today I'll talk about two cases that have recently been in the news.

The first case involves two Rutgers students, Dharun Ravi and Tyler Clementi. Ravi used a webcam to spy on his gay roommate, Tyler Clementi and Clementi's date while they had sex. After Clementi found out about the spying he killed himself by jumping off the George Washington Bridge. Ravi was not charged with causing his roommate's death but he was charged with, and convicted of, invasion of privacy. Using a webcam to spy on your roommate is an unequivocal no-no.

The second intrusion case involved topless photos of Jennifer Aniston. Aniston filed a lawsuit against a photographer who used a telephoto lens to photograph her sunbathing topless in her back yard. The photographer was on a public road 300 yards away. Aniston filed another lawsuit against a photographer who scaled her fence to take photos of her sunbathing topless. Aniston argued (as well she should) that she had a reasonable expectation of privacy in her own backyard. The photographers paid hundreds of thousands of dollars to settle the lawsuits.

The lesson? Just because you can record or photograph someone doesn't mean that you should or that it's legal.