

REASONING:

1. The test is: (a) Did Cowles harbor an actual (subjective) expectation of privacy; and, if so, (b) is that expectation one that society is prepared to recognize as reasonable?

2. Cowles' desk could be seen by members of the public and co-workers. Activities that are open to public observation are not generally protected by the Fourth Amendment.

3. Because Cowles' theft could have been seen from a vantage point generally used by the public, Cowles had no reasonable expectation of privacy from surveillance directed at detecting her malfeasance.

4. Video surveillance is commonly conducted in stores and commercial offices where money is exchanged, such as areas in banks where the tellers work.

NOTES:

Cowles appealed this case to the United States Supreme Court. The Court declined to hear the case.

Police may generally record "what they normally may view with a naked eye." However, there are some areas, such as public restrooms, where a person has an expectation of privacy.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section L, "Participant Monitoring," of your Contents and Text. File Legal Bulletin No. 256 numerically under Section R of the manual.