
July 22, 2019

BLOG

**SHOULD A LOCAL GOVERNMENT BE LIABLE FOR AN ASSAULT
CAPTURED BY ITS CCTV ON A PUBLIC OVERPASS**

The Alberta Court of Appeal says yes.

In [McAlister v Calgary \(City\), 2019 ABCA 214](#), the plaintiff McAlister and a woman were walking across an overpass attached to the City-run C-train system when they encountered the woman's ex-boyfriend. McAlister was violently assaulted, eventually falling to the ground six minutes into the encounter and suffering severe injuries from kicking from multiple assailants lasting about 20 minutes.

The trial judge [found](#) that the City was an occupier of the overpass and that McAlister was a visitor, and concluded that the City of Calgary owed him a duty of care. At the time of the assault, on New Year's Eve, there were two employees watching 42 monitors which cycled through 337 cameras, 25 of which were near the station where the assault occurred. The trial judge held this was insufficient and held that the assault should have been detected within the first minute, and that help should have been dispatched. Had that been done, the court found, McAlister's injuries would have been less severe and the City was liable for those damages.

The Court of Appeal narrowed the trial decision, but still held that the City was in breach of its duty for failing "to have in place reasonable systems for detecting and responding to the assault on the respondent. As such the City is liable for the incremental damages suffered by the respondent, after the reasonable response time of ten minutes."

Both the trial decision and the appeal have far-reaching implications for local governments that already have or are considering implementing CCTV cameras in public areas. No application for leave to the Supreme Court of Canada has been filed yet, but the City has indicated through its counsel their intention to seek leave. Stay tuned for more updates, we will be following this closely should leave be granted.

For questions related to this post or general inquiries in the field of Privacy and Freedom of Information, contact Ethan Plato at plato@younganderson.ca.

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