

The Illinois Supreme Court Strikes Down Illinois Eavesdropping Law As Unconstitutional

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The Illinois Supreme Court struck down section 14-2 of the Criminal Code of 1961 (“The 1961 Illinois Eavesdropping Act”) in violation of the public’s first amendment and due process rights. The 1961 Illinois Eavesdropping Act (as amended in 1994) makes it illegal for a person to knowingly and intentionally record a public or private conversation unless all parties involved agreed to have the conversation recorded.

The Illinois Supreme Court considered two related audio recording cases and unanimously decided the Act was unconstitutional. The Court noted that currently, the Act is so broad it criminalizes recording a wide range of conversations that are clearly public such as “a loud argument on the street,” “the public interactions of police officers with citizens,” or “any conversation loud enough that the speakers should expect to be heard by others.” In *People v. Melongo*, the Court held, “[T]he recording provision of the eavesdropping statute, burdens substantially more speech than is necessary to serve a legitimate state interest in protecting conversational privacy.” However, in *People v. Clark*, the Court noted that truly private conversations should be protected from eavesdropping because “the fear of having private conversations exposed to the public may have a chilling effect on private speech.”

These decisions put pressure on the Illinois State legislature to overhaul the 1961 Illinois Eavesdropping Act and draft a statute that protects private conversations without criminalizing the recording of clearly public conversations.

For more information, please contact Conrad C. Nowak or your regular [Hinshaw attorney](#).

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