Chapter 7.5
Ethics of Workplace Surveillance Games

Peter Danielson
University of British Columbia, Canada

ABSTRACT

Many problems in the ethics of technology arise because our ethical conventions take time to adapt to our technology. Workplace surveillance is a good example. This chapter develops some of the ethical issues raised by surveillance technology in the workplace, using a framework of informal game theory. One leading approach to workplace surveillance, following Foucault's Panopticon metaphor, emphasizes the power of employers over employees; another looks at unexpected consequences from a managerial perspective. Our analysis shows that both of these approaches have more structure than is often noticed, yielding new alternatives for ethical policy recommendation. On the one hand, even those under surveillance by the more powerful have options, and the equilibrium includes outcomes not preferred by the more powerful player. On the other, most surveillance systems have at least two equilibria. Here, ethics has an important role in helping agents choose and maintain socially better equilibria. A number of policy recommendations follow from
this approach. This chapter deploys a framework of informal game theory to elucidate some of the ethical issues raised by surveillance technology in the workplace. We do not use "games" in our title to diminish the importance of the issues we discuss, but rather to highlight their interactive, strategic, and dynamic aspects. This chapter focuses on how alternatives are structured by new electronic workplace surveillance technologies, yielding new opportunities for ethics. This chapter extends the approach of Danielson (2002b) to support recommendations for policy in the workplace.

BACKGROUND

This chapter's focus on electronic monitoring in the workplace directs our attention in two ways. First, the workplace is the main locus for monitoring and surveillance in modern societies.

In 2003, more than half of U.S. companies engage in some form of e-mail monitoring of employees

and enforce e-mail policies with discipline or other methods. Twenty-two percent of companies have terminated an employee for e-mail infractions. (American Management Association, 2003, p.1)

The working relation of employer and employee unifies and simplifies these cases. Contrast surveillance in public spaces, where diverse publics may be unaware of the practice, or surveillance in prisons, where there are fewer shared organizational goals. Second, electronic monitoring identifies an important phenomenon, namely where cheap new technology makes surveillance of most employees so easy that it quickly becomes a real organizational option. Other kinds of monitoring, such as urine testing for illegal drugs, are costly and involve professional personnel. (However, we can imagine that this could change with the introduction of automatic routine testing equipment. This reinforces the point that electronic monitoring is a class of surveillance worth distinguishing.)

There are two leading approaches to workplace surveillance in the literature. The first emphasizes the power of employers over employees (Botan, 1996). The second takes a managerial perspective and tries to identify and mitigate unexpected consequences of surveillance to the organization (Coombs, 2003). Each of these perspectives has much to teach us and informs our game theoretic analysis. Nonetheless, our account will show that the first perspective gives way to and forms part of the second, which is, in any case, the more general and supportive of an ethical approach to this issue.

STRATEGIC INTERACTION

Our approach employs game theory, the analysis of strategic interaction. Surveillance technologies directly change the ways people interact; they are, in this sense, interpersonal technologies. (Contrast technologies that change the environment and affect human interaction only indirectly.) In the usual case, the purpose in using surveillance is to alter interaction strategically. That is, the employer monitors computer use, predicting that employees will behave differently because of what the employer may find out. To achieve this kind of effect, the employees need to know about the surveillance. This explains why, ethics aside, so many surveillance devices declare themselves. (But some do not. While covert surveillance is certainly possible, and gets cheaper, we will treat it as a special case later.)

Therefore, we will analyze workplace surveillance as strategic interaction. This will allow us to develop an ethical analysis in terms of choices agents make between technologically structured alternatives. We emphasize choices of employees, as well as employers, and suggest that some informal game theory is useful to explore the structure of their interactions. For example, in our analysis, whether a particular surveillance technology is used cooperatively is not solely determined by the technology itself. An employee can see a particular surveillance technology as protection from harassment or as an invasion of privacy. We analyze this ambivalent situation as the General Surveillance Game next.

Our approach to ethics and technology issues begins with an elementary game theoretic analysis. We attempt abstractly to characterize a technology in terms of the alternative actions (strategies) it facilitates and various agents' values (preferences) over the resulting outcomes. Hopefully, the results are some simple models that capture some of the ethically salient features of the situation structured by the technology. Game theory may strike some readers as an inappropriate tool for ethical analysis. While this is not the place for a full discussion of the relation of these two fields (Binmore, 2004), we should briefly speak to two misapprehensions. First, game theory need not assume that agents are amoral or selfish; agents with values that include others also have strategy problems amenable to game theoretic analysis.

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