Bridging the Gap between Employee Surveillance and Privacy Protection

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ABSTRACT

This chapter addresses the issue of electronic workplace monitoring and its implications for employees’ privacy. Organisations increasingly use a variety of electronic surveillance methods to mitigate threats to their information systems. Monitoring technology spans different aspects of organisational life, including communications, desktop and physical monitoring, collecting employees’ personal data, and locating employees through active badges. The application of these technologies raises privacy protection concerns. Throughout this chapter, we describe different approaches to privacy protection followed by different jurisdictions. We also highlight privacy issues with regard to new trends and practices, such as teleworking and use of RFID technology for identifying the location of employees. Emphasis is also placed on the reorganisation of work facilitated by information technology, since frontiers between the private and the public sphere are becoming blurred. The aim of this chapter is twofold: we discuss privacy concerns and the implications of implementing employee surveillance technologies and we suggest a framework of fair practices which can be used for bridging the gap between the need to provide adequate protection for information systems, while preserving employees’ rights to privacy.

INTRODUCTION

Employee monitoring is not a new phenomenon. Employers have always monitored their employees...
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An employer’s use of electronic devices to review and evaluate the performance of employees;

An employer’s use of electronic devices to observe actions of employees while employees are not directly performing work tasks, or for a reason other than measuring work performance;

An employer’s use of computer forensics, the recovery and reconstruction of electronic data after their deletion, concealment, or attempted destruction (Lasprogata, King, & Pillay, 2004).

Why Do Companies Conduct Surveillance?

Typically, employment terms entail collecting a considerable amount of information about employees, as these data are necessary for basic management activities (Mitrou & Karyda, 2006). Electronic monitoring in the past was mainly used to measure and evaluate employee performance (for instance, through keystroke analysis). Employers tend to regard control of the workplace as their prerogative, including the right to protect and control their property, and the right to manage employee performance in terms of productivity, quality, training, and the recording of customer interactions (Findlay & McKinlay, 2003).

Lately, however, the stakes of security and liability have altered the rationale of employee monitoring. One of the reasons most commonly cited by enterprises employing monitoring technologies is the endeavor to protect the interests of the company and its stakeholders. The following paragraphs illustrate the main reasons used for justifying employee surveillance.

Productivity, Cost Control, and Allocation

Employers have legitimate rights and interests to run their business efficiently, evaluating and
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