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Employee Privacy In Light of New Technologies: An Ethical and Strategic Framework

Abstract

[Excerpt] If freedom comes with responsibility, then the spate of new tools enabling employee surveillance calls for careful consideration among HR leaders. Although court rulings will eventually provide more legal guidance on the issue, as strategic business partners HR departments must reach their own conclusions about how to integrate employee tracking technology. Given the generally employer-friendly legal environment of the United States, American companies will likely have relatively free reign to monitor employees as they see fit, with the understanding that employees can simply find work elsewhere if they feel their privacy is being threatened. Despite the relatively lax legal constraints on employee monitoring, HR leaders are recognizing that the value of monitoring technology should be balanced with potential drawbacks, both ethical and strategic.

Keywords

HR Review, employee privacy, employee surveillance, monitoring technology

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Comments

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CORNELL HR REVIEW

EMPLOYEE PRIVACY IN LIGHT OF NEW TECHNOLOGIES: AN ETHICAL AND STRATEGIC FRAMEWORK

Olivia Blanchard

If freedom comes with responsibility, then the spate of new tools enabling employee surveillance calls for careful consideration among HR leaders. Although court rulings will eventually provide more legal guidance on the issue, as strategic business partners HR departments must reach their own conclusions about how to integrate employee tracking technology. Given the generally employer-friendly legal environment of the United States, American companies will likely have relatively free reign to monitor employees as they see fit, with the understanding that employees can simply find work elsewhere if they feel their privacy is being threatened. Despite the relatively lax legal constraints on employee monitoring, HR leaders are recognizing that the value of monitoring technology should be balanced with potential drawbacks, both ethical and strategic.

Strategic Advantages and Disadvantages

To be sure, a strong case can be made that employee monitoring is useful and even necessary for modern businesses to thrive. Few would argue that it would be unethical to place video cameras around a property to prevent theft, and most American workers accept that their companies have the right to monitor web browsing at work. Indeed, internet monitoring is the most acceptable form of surveillance to employees, perhaps because it seems intuitively reasonable to be reprimanded for spending six hours per day on Facebook (unless the job is social media-related).¹

Protestations that “big brother” is coming tend to surface when more technologically advanced forms of monitoring are broached, such as devices used to measure fitness, productivity, and location. Intriguingly, these more-controversial technologies also seem, at first glance, to be more valuable from a human capital perspective. As globalization and communications technology make work more competitive and fast-paced, managers feel pressure to optimize the efficiency of their workforce. This can mean matching employees’ schedules to times of peak customer demand, reducing health care costs by promoting physical fitness through fitness monitors, or identifying the (hopefully few) employees who are spending too much time away from their desks. So far, employee monitoring appears to be fairly stratified along lines of professionalization. Retail and fast food workers’ productivity can be easily tracked according to inputs and outputs, while “presenteeism” could be rife among customer service workers who appear to be working diligently in front of their computers—hence, the appeal of location-monitoring badges and productivity software.

However, as the drive for efficiency becomes more acute and technology becomes more advanced, professional workers are becoming less immune to workplace surveillance. Aside

from the fitness devices, which are perhaps more popular among those who work at a desk all day, “sentiment analysis” is allowing companies to collect and interpret employees’ opinions in real time.² By algorithmically processing the language contained in emails, instant messages, and other forms of workplace communication, this technology aims to determine employees’ “sentiments” about everything from their boss’s management style to the company’s broader culture. Optimistically, this would allow companies to reach a more genuine understanding of their organizational strengths and weaknesses, as well as to intervene when employees are disengaged or considering leaving.

From a strategic perspective, employers must balance the potential for increased productivity and efficiency with the negative business impact of employees who feel that their privacy is not being respected. Even if these disillusioned employees do not leave the company, their lack of engagement may result in presenteeism, which is difficult for managers to notice (particularly among professional knowledge workers) and can reduce individual productivity by over one-third.³ In contrast, engaged and motivated employees are more likely to be good organizational citizens, going above their official job duties to benefit the company in subtle but significant ways.⁴ Recent research suggests that to motivate employees, companies must inspire, promote kindness, and support employee self-care.⁵ Presumably, employees who perceive that their privacy is being threatened are less likely to feel inspired by the organization’s goals and vision, no matter how laudable.

On a broader organizational scale, research shows that strong, positive company cultures can be defined by seven criteria: honesty, performance focus, accountability, collaboration, agility, innovation, and an orientation towards winning.⁶ While employee monitoring may improve a company’s short-term ability to react flexibly to market forces, a heavy-handed reliance on employee surveillance is likely to compromise feelings of honesty, personal accountability, and collaboration within an organization.

Ethical Considerations

Clearly, the implications of employee monitoring for business strategy are mixed, requiring HR leaders to balance productivity concerns with employee motivation. Ethically, the matter becomes perhaps more complicated, since people have different conceptions of ethical and moral values. While most can agree that stealing and cheating are wrong, the concept of employee “privacy” seems rather vague when applied to technology that the company presumably owns. However, given the increasing pervasiveness of technology in the workplace, it would be irresponsible to use this vagueness as a reason to avoid asking difficult questions. For a modern HR leader, such questions should include:

How much autonomy are employees entitled to at work?

To what extent should we impose lifestyle recommendations that have implications for employees’ lives outside of work?

If we were able to know exactly what all employees were doing at all times, and we knew this would improve productivity, would it still be in line with our values and vision?

As technology becomes more advanced more quickly, one ethical pitfall for employers is adapting the new forms of monitoring simply because they are available, without considering the effects on the autonomy of the employees being monitored. Why is this concern for autonomy important? Michael J. Meyer, a professor at the Santa Clara University Center for Applied Ethics, believes that a certain level of autonomy is essential for an ethical employment relationship—respect for autonomy implies a recognition of employees as people, rather than simply productivity inputs: “Employees are autonomous moral agents. Among other things, that means they have independent moral status defined by some set of rights, not the least of which is the right not to be used by others only as a means to increase overall welfare or profits”.⁷ The key word here is “only” —of course employees are used to increase company profits, but according to Meyer’s view, an ethical employer will recognize that his or her employees are “thinking actors” whose personal thoughts, feelings, and choices should remain as private as possible.

A Suggested Ethical Framework

The question then logically follows, *What does “as private as possible” mean for modern companies?* Meyers offers a six-point test determining when privacy may be breached in the context of law enforcement. Applied to a corporate context, the criteria can be centered around four themes: purpose, relevance, restrictions, and protection. Given the fast-paced, constantly-changing landscape of employee monitoring technology, an ethical framework for using this technology should be simple, adaptable, and useful for preserving both employer and employee interests. Because there is a nearly endless variety of business models and organizational structures, companies should use these four principles to decide which kinds of monitoring technology to introduce and why. Ideally, this model would be developed with employees’ input, strengthening company culture in the process, by promoting qualities like honesty, collaboration, and accountability. Table 1 includes an example of how a fictional company, ABC Corp, could use this model when deciding whether to use sentiment analysis technology.

As companies seek to remain competitive in an increasingly complex business landscape, leveraging new technologies is an appealing way to potentially improve workforce efficiency and productivity. However, forward-thinking HR managers will recognize that employee monitoring can have unforeseen negative impacts on morale and engagement if not deployed carefully and for a specific purpose. To mitigate these risks, companies should use an ethical framework to develop a consistent model for integrating these technologies on an ongoing basis, ideally with employee collaboration. ✎

Olivia is completing her second year of the Master of Industrial and Labor Relations program at Cornell University, with a concentration in Dispute Resolution. While at Cornell, Olivia has had a paper published in the Dispute Resolution Journal, and she has also served as a Teaching Assistant for three semesters in the Labor Relations, Law, and History department. Before Cornell, Olivia worked in marketing and human resources at a policy research firm in Washington, D.C. She is originally from the Atlanta, GA area and plans to complete an HR rotation program with Capital Group after graduation. Olivia holds a Bachelor of Arts in English Literature from UNC-Chapel Hill and a Master of Studies in Women's Studies from the University of Oxford.

Table 1

Criteria	Question	Charter Decision
Purpose	Does the use of this technology fit with ABC Corp's broader vision and mission?	ABC Corp is a regional bank with a largely professional workforce. We are committed to providing excellent, reliable service and to have a positive impact on our community. Sentiment analysis seems to be a good fit—our values include caring for our employees, which includes caring about their day-to-day experiences.
Relevance	Which parts of ABC Corp's business strategy and/or goals will this technology support?	Our business strategy depends on differentiating ourselves through service, with a slightly higher price point for our products and services. Sentiment analysis will allow us to analyze employee engagement and respond proactively.
Restrictions	What limitations and processes will be put in place to ensure that all data collected is used appropriately?	<ul style="list-style-type: none"> • Transparency: all employees will know that we are introducing sentiment analysis. • We will only use it in aggregate, protecting anonymity, and only in written communication (no phone calls). Employees will also have a separate survey section to directly share their thoughts and feelings.
Protection	How will employee data be protected and stored?	<ul style="list-style-type: none"> • A separate server will be used to collect and analyze data. • Quarterly and annual reports will be used to monitor engagement. • Data will be deleted on an annual basis, although the reports will be stored.

¹ Holland, P. (2012). This is Your Wakeup Call on Employee Privacy. *Harvard Business Review*. <https://hbr.org/2012/12/this-is-your-wakeup-call-on-em#>

² Schrage, M. (2016). Sentiment Analysis Can Do More than Prevent Fraud and Turnover. *Harvard Business Review*. <https://hbr.org/2016/01/sentiment-analysis-can-do-more-than-prevent-fraud-and-turnover>

³ Hemp, P. (2004). Presenteeism: At Work – But Out of It. *Harvard Business Review*. http://www.npg-rsp.ch/fileadmin/npg-rsp/Themen/Fachthemen/Hemp_2004_Presenteeism.pdf

⁴ Williams, L. J., & Anderson, S. E. (1991). Job satisfaction and organizational commitment as predictors of organizational citizenship and in-role behaviors. *Journal of Management*, 17(3), 601. Retrieved from <http://search.proquest.com.proxy.library.cornell.edu/docview/215259771?accountid=10267>

⁵ Seppala, E. (2016). To Motivate Employees, Do 3 Things Well. *Harvard Business Review*.

<https://hbr.org/2016/01/to-motivate-employees-do-3-things-well>

⁶ Mankins, M. (2013). The Defining Elements of a Winning Culture. *Harvard Business Review*.

<https://hbr.org/2013/12/the-definitive-elements-of-a-winning-culture/>

⁷ Schulman, M. (2000). Little Brother is Watching You. *Santa Clara University Markkula Center for Applied Ethics*.

<https://www.scu.edu/ethics/focus-areas/business-ethics/resources/littlebrother-is-watching-you/>