Chapter II

Ethics of Workplace Surveillance Games

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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.
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