



Chapter XIV

Guarding the Guards: The Right to Privacy, and Workplace Surveillance and Monitoring in Policing

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Abstract

This chapter is concerned with the use of communication and computer technology to surveil and monitor the performance and activity of police officers. First, while I argue that there is an in-principle difference between police officers and most other occupations in relation to workplace monitoring and surveillance, there is also a sameness, viz. police officers retain their individual right to privacy in the workplace. Second, combating crime and corruption in the workplace depends on the desire to do good and avoid evil on the part of those monitored and surveilled. Unjustified, covert, and intrusive monitoring and surveillance will undermine trust and ultimately undermine the attempt to combat crime and corruption. Third, notwithstanding the development of a variety of useful methods of monitoring and surveillance to deal with the problem of policing the police, an in-principle problem of guarding the guards remains.

Introduction

The coming into being of new communication and computer technologies has generated a host of ethical problems, and some of the more pressing concern the moral notion of privacy. Some of these problems arise from new possibilities of data collections and software for computer monitoring. For example, computers can now combine and integrate databases provided by polling and other means to enable highly personalised and detailed voter profiles. Another cluster of problems revolves around the threat to privacy posed by the new possibilities of monitoring and surveillance. For example, telephone tapping, interception of electronic mail messages, minute cameras, and virtually undetectable listening and recording devices give unprecedented access to private conversations and other private communications and interactions. Possibly the greatest threat to privacy is posed by the possibility of combining these new technologies, and specifically combining the use of monitoring and surveillance devices, with certain computer software and computer networks, including the Internet.

My concern in this chapter is with the use of communication and computer technology to surveil and monitor the performance and activity of employees in the workplace (Garson, 1988; Rule, 1996), specifically the performance and activity of police officers. Note that while police officers work in organisational settings, much of their work is out in the community.

In the first section of this chapter I provide an account of the notions of privacy and confidentiality; in the second section, I give a general account of the problems posed for individual privacy and for confidentiality by workplace surveillance and monitoring; and in the third and final section, I address some specific problems that arise in policing.

Moral Rights to Privacy and Confidentiality

Provision of an adequate philosophical account of the right to privacy is a necessary precursor to setting the proper limits of intrusion by the various new technologies.¹ Such an account of the right to privacy would assist in defining the limits to be placed on unacceptably intrusive applications of new technologies. Moreover, it would do so in such a way as to be sensitive to the forms of public space created by these technologies and not unreasonably impede those new possibilities of communication and information acquisition that are, in fact, desirable. As always, it is important to balance the rights of individuals against

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