# Chapter XVI
# Bridging the Gap between Employee Surveillance and Privacy Protection

**Lilian Mitrou**
*University of the Aegean, Greece*

**Maria Karyda**
*University of the Aegean, Greece*

## 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 for reasons of efficiency, security, or legal obligation. Nowadays, however, information technology (IT) has significantly reduced the cost and time needed for information processing, storage, and retrieval, thus making monitoring easier. Moreover, new technologies allow for the creation of increasingly more sophisticated information sources on employees. At the same time, companies and their information systems face increased threats originating from their interior. To address this so-called *insider threat*, companies adopt a wide range of monitoring tools provided by the IT industry. The use of these tools, however, has been reported as threatening employees' privacy. As monitoring and surveillance devices is steadily becoming easier to use as well as cheaper, it is to be expected that monitoring and surveillance technologies will be used even more intensively in the near future.

Is the workplace to be considered as a public domain where the notion of privacy is out of place? Do employers' property rights prevail over employees' right to privacy? This chapter aims to provide answers to these questions and to analyze privacy implications of the use of monitoring technologies, with regard to lawful monitoring principles.

## BACKGROUND

*Employee monitoring* or *employee surveillance* denotes employer-controlled observation of employees in order to ascertain the performance, behavior, and other characteristics of employees. Traditionally, frontline supervisors had the duty to perform employee surveillance as a means of managing their workforce and protecting the workplace. Surveillance nowadays is, in most cases, automatically performed through the use of technologies such as video and monitoring software. Electronic monitoring entails the following actions:

- 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.