

## **How may an employer monitor employees in the workplace?**

In most states, citizens have a right to some privacy in their persons and affairs, and this right extends into the workplace to protect employees from over-intrusive monitoring by employers. For example, employees have a limited right, created by federal and state wiretapping laws, to privacy in their telephone conversations and voice mail messages. An employer who wishes to monitor telephone calls or voice mail messages must warn employees that it is doing so, and establish that the monitoring is undertaken in the ordinary course of business, such as to monitor performance or to coach employees. An employer may also monitor communications if it has reason to believe that an employee is using the telephone or voice mail to commit theft or somehow damage the company, but again, only if the employer warns the employee that it plans to monitor. An employer who monitors phone calls or voice mail messages for any reason must stop monitoring as soon as it determines that a call or message is private.

E-mail messages using the employer's network and Internet access from the employer's computer are generally not protected. Many employers monitor employee Internet use and e-mail messages. Monitoring is often done to ensure employees are not disseminating materials which would themselves violate employment laws (i.e., sexually explicit websites or racially harassing e-mails). Employees should assume their e-mail messages and Internet activities at work are not private.

Employers have monitored employees by placing video cameras around the workplace, as well. However, video surveillance of employees has been controversial. An employer who places a camera in the lunchroom or on a loading dock does not violate the law, but employers have been held liable for invasion of privacy, and sometimes for sexual harassment, after placing hidden cameras in bathrooms or in the ceilings of employees' offices.

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