

# Privacy in the workplace

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The sample case study presents a workplace privacy issue wherein e-mail communications and correspondence of employees at Johnson & Dresser were subjected to their employer's scrutiny and ultimately used against them. More particularly, it touches on the issue of whether or not the employees are entitled to privacy in the workplace insofar as e-mail communication is concerned and what are the corollary duties of an employer in ensuring employee privacy rights.

As adequately established in the case study, Jason Perry's suggestion that the employees should be notified that their email correspondence are being monitored and archived will make the affected employees less inclined to use e-mail. Thus, the productivity gains which the company intended to realize by adopting this technology would be lost. However, as also correctly pointed out by the company's Chief Operating Officer (COO), the policy of archiving and inspecting e-mails also aided the company in uncovering insider trading scandal and in taking immediate action.

The COO's motives, in this case, are not unlawful per se. After all, he is merely protecting the business interest of the company against unscrupulous employees. However, in order to justify the reasonableness of its policy, the company should have first informed the employees that their e-mails were being archived and inspected for future reference. In this case, the employees concerned cannot invoke reasonable expectation of privacy for the reason that they were, in the first place informed of the status of their e-mail correspondence.

Whether an employee acquired a reasonable expectation of privacy typically involves an analysis of the content of the employer's policies and whether

employees were put on notice of a lack of privacy, how and whether the policies were regularly enforced, the sort of privacy right involved, the nature of the employer's business interest, the nature of the employee's privacy interest, the type of information involved, the level of intrusion by the employer, to name a few (Gross, n. d. ).

In a list of decided cases, a number of courts have ruled that an employee has no privacy expectation in workplace computer files where company guidelines and policy explicitly inform the employee that no expectation of privacy exists (Muick v. Genayre, 280 F. 3d 741, 743 (7th Cir. 2002); United States v. Simons, 206 F. 3d 392, 398 (4th Cir. 2000).

Stated otherwise, if the employees were not informed of the company policy regarding interception and inspection of their correspondence, then reasonable expectation of privacy attaches such that the employer must not, as a consequence of his nondisclosure, be allowed to use such e-mails against his employees.

## References

Gini, Al and Marcoux Alexei M. (2005) Case Studies in Business Ethics, sixth Edition. Upper Saddle River, New Jersey: PearsonEducation, Inc.

Gross, Barrie. Reasonable Expectation of Privacy in the Workplace. Retrieved 14 Sept. 2008 from <http://www.allbusiness.com/labor-employment/labor-regulation-policy-employee-privacy/8518785-1.html> Lane, Frederick S III (2003). Naked Employee: How Technology is Compromising Workplace Privacy. New York: AMACOM. Muick v. Genayre, 280 F. 3d 741, 743 (7th Cir. 2002) United States v. Simons, 206 F. 3d 392, 398 (4th Cir. 2000)

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