



Video Surveillance of Employees on Increase

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What does the law allow an employer to do when it comes to monitoring employee behavior?

Technological advances, such as video cameras, GPS vehicle monitoring systems, and even drug testing have provided employers with superior tools for investigating and gathering evidence of employee misconduct in the workplace. Various federal and state laws, however, limit the extent to which employers may use such technology.

These limitations multiply exponentially for employers who have a unionized workforce. The National Labor Relations Act limits the rights of unionized employers to investigate employee misconduct through methods that have not been negotiated in advance. Employers generally are not permitted to implement drug tests, polygraph examinations or physical examinations in a unionized workplace without first bargaining about it. While even non-union employers must be cautious in implementing policies that implicate an individual's privacy interests, they may generally use a much broader array of investigatory tools and methods.

These cases underscore the need for employers to act cautiously when conducting investigations into employee misconduct, especially in a unionized workplace.

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