

# San Francisco Employee privacy is at stake as corporate surveillance technology monitors Bay Area workers' every move

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## Key Points

- Corporate interest in surveillance seems to be on the rise to boost productivity.
- A 2018 survey by Gartner found that 22% of organizations worldwide are using employee-movement data, 17% are monitoring work-computer-usage data, and 16% are using Microsoft Outlook- or calendar-usage data.
- Employees are concerned over this invasion of privacy.

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The emergence of sensor and other technologies that let businesses track, listen to and even watch employees while on company time is raising concern about corporate levels of surveillance. Privacy advocates fear that, if the new technology is not wielded carefully, workers could be at risk of losing any sense of privacy while on the job.

Overall, corporate interest in surveillance seems to be on the rise. A 2018 survey by Gartner found that 22% of organizations worldwide in various industries are using employee-movement data, 17% are monitoring work-computer-usage data, and 16% are using Microsoft Outlook- or calendar-usage data.

Employers say it helps them boost productivity. Employees cringe at this invasion of privacy.

Who's listening in

Earlier this year, [Amazon](#) received a [patent for an ultrasonic bracelet](#) that can detect a warehouse worker's location and monitor their interaction with inventory bins by using ultrasonic sound pulses. The system can track when and where workers put in or remove items from the bins. An Amazon spokesperson said the company has "no plans to introduce this technology"

but that, if implemented in the future, could free up associates' hands, which now hold scanners to check and fulfill orders.

[Walmart](#) last year patented a system that lets the retail giant listen in on workers and customers. The system can track employee "performance metrics" and ensure that employees are performing their jobs efficiently and correctly by listening for sounds such as rustling of bags or beeps of scanners at the checkout line and can determine the number of items placed in bags and number of bags. Sensors can also capture sounds from guests talking while in line and determine whether employees are greeting guests.

Walmart spokesman Kory Lundberg said the company doesn't have any immediate plans to implement the system. Logistics company [UPS](#) has been using sensors in their delivery trucks to track usage to make sure drivers are wearing seat belts and maintenance is up to date.

Companies are also starting to analyze digital data, such as emails and calendar info, in the hopes of squeezing more productivity out of their workers. [Microsoft's](#) Workplace Analytics lets employers monitor data such as time spent on email, meeting time or time spent working after hours. Several enterprises, including Freddie Mac and CBRE, have tested the system.

There's also Humanyze, a Boston-based start-up that makes wearable badges equipped with RFID sensors, an accelerometer, microphones and Bluetooth. The devices — just slightly thicker than a standard corporate ID badge — can gather audio data such as tone of voice and volume, an accelerometer to determine whether an employee is sitting or standing, and

Bluetooth and infrared sensors to track where employees are and whether they are having face-to-face interactions.

The company also collects data to monitor who is communicating in meetings and whether it's by email or chat program. The data is all aggregated and analyzed to figure out things such as how often IT talks to management or how many hours a week employees sit in meetings.

### Privacy laws playing catch-up

Employers say analyzing these new forms of data helps to boost productivity. But employees are concerned over this invasion of privacy.

"Employees are in a difficult position. As more and more consumer privacy laws take shape, we've seen that there's been a concern from companies that those privacy laws don't apply to employees," said Lee Tien, senior staff attorney at the Electronic Frontier Foundation.

In the workplace, almost any consumer privacy law can be waived. Even if companies give employees a choice about whether or not they want to participate, it's not hard to force employees to agree. That is, unless lawmakers introduce laws that explicitly state a company can't make workers agree to a technology, he said.

One example: Companies are increasingly interested in employee social media posts out of concern that employee posts could reflect poorly on the company. A teacher's aide in Michigan [was suspended](#) in 2012 after refusing to share her Facebook page with the school's superintendent following

complaints about a photo she had posted. Since then, [dozens of similar cases](#) prompted lawmakers to take action. More than 16 states have passed social media protections for individuals.

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John Tomaszewski, a partner at the law firm Seyfarth Shaw, which specializes in data protection, privacy and security, says companies do have an obligation to provide a safe, non-harassing workplace. While there are few privacy protection laws in the U.S., there is the Electronic Communications Privacy Act and Stored Communications Act, as well as state laws about wiretaps, which cover how companies can monitor information, he explained. Companies that want to use new monitoring technology need to keep those laws in mind.

More importantly, "there's an actual business motivation to do the right thing," Tomaszewski said. Companies that deploy such technology inappropriately or anger employees could face a backlash or worse. "They may end up breaking a regulation that already exists or deal with a lawsuit, or end up getting regulated because somebody reported their complaints to their congressman," he said.

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Ben Waber, CEO and co-founder of Humanyze, said the company, which started as a project in MIT Media Lab, has developed guidelines to address company and employee privacy concerns. Employees opt in to use badges and can choose to use fake ones if they're not comfortable with the real ones. Microphones in the badges only record about 48 samples per second, which can track tone of voice and volume but not content. Companies also control what data fields to collect for Humanyze to analyze. So emails can be scrubbed of actual addresses, subject lines or anything else.

Still, the dearth of specific laws or guidelines around employee data privacy makes it tricky for companies to know what to do. "It would be beneficial to have sort of those standards so that people could understand what you should and shouldn't do. Today, especially in the U.S. and a lot of places in Asia, there's sort of no laws around it," said Waber.

### Employers fear backlash

Even though employers see potential in monitoring employees, some are holding back, fearing employee backlash and mishandling of data. According to a [recent survey by Accenture](#), even though 62% of executives said their companies are using new technologies to collect data on people — from the quality of work to safety and well-being — fewer than a third said they feel confident they are using the data responsibly.

The survey also showed that employees are indeed wary. More than half of the workers surveyed, or 64%, said that recent scandals over data privacy make them concerned that employee data might be at risk, too.

Eva Sage-Gavin, who leads Accenture's talent and organization practice globally, said that employers have two ways of building trust. First, by giving employees more control over their data in exchange for sharing their data. Second, by creating a corporate culture of shared responsibility.

"We've seen that [workforce data] could boost revenue by 6.4%. This has encouraged workers to be open to responsible use of data, but they want to know that they will get benefits and return on their time," she said. Sage-Gavin noted that the survey found that an overwhelming majority of workers, or 92%, said they would be open to sharing data if it helped them improve their performance.

Through trial and error some early adopters of workforce data analysis are finding ways to use data without alienating employees. When BMC Software wanted to track employee email and calendar info, it did so on an opt-in basis and gave employees personalized feedback on how to improve time management. The company also used aggregated data to relieve workflow bottlenecks and signs of overwork.

Companies should explain what they are doing, said Tien, adding, "There's nothing more prone to create bad feelings than if [employees] feel like they are being subjected to surveillance and don't know what it's covering and how it is being used."

Accenture advises companies to "co-own" the data with employees and create policies and frameworks to ensure the data is being used responsibly and ethically. The technology is advancing quickly, but it will take longer for companies to figure out how to do it.