

**To:** COUNCIL

**Meeting Date:** 10/19/2021

**Subject:** Video Surveillance Privacy Complaint Report MI118-5 / Privacy Impact Assessment

**Submitted By:** Danielle Manton, City Clerk

**Prepared By:** Mary Carr, Supervisor of Information Management and Archives

**Report No.:** 21-176(CRS)

**File No.:** A18

---

## Recommendation(s)

THAT Council receive Report No. 21-176 (CRS) Video Surveillance Complaint Report MI18-5 / Privacy Impact Assessment for information.

---

## Executive Summary

### Purpose

- This report provides an outline of the Privacy Complaint investigation launched in 2018 by the Information Privacy Commissioner and provides an overview of the recommendations in the privacy complain report M118-5 as outlined in Appendix A, actions taken and next steps on behalf of the City of Cambridge.
- To ensure compliance with the Municipal Freedom of Information and Privacy Act and the recommendations from the Information and Privacy Commissioner, the City also completed a Privacy Impact Assessment as outlined in Appendix B.

### Key Findings

- As a result of a privacy complaint received by the Information Privacy Commissioner (IPC) regarding the installation of a Video Surveillance System in the Downtown Core as a breach of privacy, an investigation was launched.

- The IPC issued a Privacy Complaint Report, Report No. MI18-5, and provided recommendations to the City to ensure its video surveillance system has been implemented in a manner consistent with the Municipal Freedom of Information and Protection of Privacy Act (*Act*).
- The IPC recommended that the City complete a Privacy Impact Assessment (PIA) to ensure compliance with the Act.
- The City is required to report back to the IPC by October 2021 outlining the steps taken as a result of the PIA providing proof of compliance with the recommendations outlined.

## **Financial Implications**

- In 2017 and 2018 Council approved a 3 phased approach for core areas. An operating budget of \$200,000 was assigned for each phase of implementation for the cameras.
- An operating maintenance budget was previously assigned for \$15,000; \$7,500 for 2019 and \$7,500 for 2020, which has been deferred to 2021 due to delays.
- As a result of the IPC investigation a Privacy Impact Assessment was completed within the Clerk's operating budget at a cost of \$13,870.

## **Background**

In 2017, Cambridge Council approved Phase 1 of the Security Camera project report 17-014 (OCM) Single Source Provider for Security Camera Project, Downtown Cambridge (Galt) to enhance a positive and safe environment for the Downtown Cambridge Core area.

In March 2018, as part of Phase 1 of the Camera Project, the City installed ten (10) external video surveillance cameras at 10 different locations consisting of intersections, lots, parking lots and streets in the City's Core Areas.

In May of 2018, Council approved a policy for Camera Surveillance report 18-021 (OCM) Policies - Video Surveillance System.

The City was notified by the IPC in July 2018, of a privacy complaint related to the camera surveillance specifically related to 10 Cameras in the Galt Core Area and future installation of cameras.

In September 2018, Council approved Phase 2 of the Camera Project report 18-003 (CRE) Single Source Provider for Security Camera Project, Downtown Cambridge (Galt). As part of Phase 2, between September 2019 and December 2019, one camera was installed at the end of the Water Street Pedestrian Bridge and five cameras were installed along the Dan Spring Way Trail.

Phase 3 of the Camera Project Surveillance System Installation for the Preston Towne Centre approved through the 2019 Capital Budget Process.

The privacy complaint was submitted to the Information and Privacy Commissioner (IPC) in July 2018, and since then the investigation has been ongoing.

In December 2020, Council approved Corporate Security Information Report 20-304 (CRS) related to next steps for Security at the City as it relates to staffing. This report advised Council that a new policy would be drafted for the Camera Surveillance System.

The IPC's intent with this investigation was to determine whether the City's video surveillance program is in accordance with the Act and whether it was consistent with the principles and best practices set out in the IPC's guidelines for the use of video surveillance. Further that the City have a PIA completed to ensure compliance.

A Privacy Impact Assessment (PIA) is a risk management process that helps institutions ensure they meet legislative requirements and identify the impacts their programs or activities may have on individuals' privacy.

Privacy risks or impacts fall into two broad categories:

- **Risks to individuals**, including identity theft and other forms of fraud, adverse impact on employment or business opportunities, damage to reputation, embarrassment, distress, or financial impacts.
- **Risks to institutions**, including the financial, legal, and reputational impact of privacy breaches and the consequences of the failure to comply with MFIPPA.

In June of 2021 the City entered into an agreement with PrivacyWorks Inc. for the completion of a Privacy Impact Assessment on the use of Surveillance Cameras within the City of Cambridge. The report from the PIA is attached as Appendix B.

The Phase 1 and Phase 2 of the Galt Core Area implementation of cameras outlined specific locations for the placement of cameras. There are additional cameras throughout the City, including on City facility property and traffic cameras. Due to the nature of the original privacy complaint to the IPC and as part of our due diligence, the City has incorporated all cameras used within the City of Cambridge within the scope of the PIA. Further, all recommendations being implemented as part of the process will be required to comply with municipal policies as well as legislation. A complete listing of cameras is attached as Appendix C.

---

## Analysis

### Strategic Alignment

PEOPLE To actively engage, inform and create opportunities for people to participate in community building – making Cambridge a better place to live, work, play and learn for all.

Goal #2 - Governance and Leadership

Objective 2.4 Work collaboratively with other government agencies and partners to achieve common goals and ensure representation of community interests.

Analysis:

- As a result of the IPC's recommendations a PIA was conducted to ensure that camera surveillance system is necessary to achieve its objectives, to enhance a positive and safe environment and the City's compliance with regards to the collection, use, and retention of personal information under the Municipal Freedom of Information and Protection of Privacy Act. The City has completed a review of existing policies and will be providing further policies to support the operation of its inventory of cameras.

---

## Comments

The City of Cambridge recognizes the need to balance an individual's right to privacy and the need to ensure the safety and security of municipal employees, residents, visitors and property. As an institution governed by the Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, Chapter M. 56, the City has obligations with respect to notice, access, use, disclosure, retention, and disposal of records. While video surveillance cameras are installed for safety and security reasons, the Municipality's video surveillance systems must also be designed to minimize privacy intrusion. Proper video surveillance, where deemed necessary, is one of the most effective means of helping to keep Municipal facilities and properties operating in a way that protects security, safety, and privacy. Personal information collected by video surveillance includes video images and audio.

### Information and Privacy Commissioner Investigation:

Following the complaint and investigation regarding the City's installation of a video surveillance system in its downtown core areas, the report from the IPC identified the following concerns:

**IPC Concern #1**    **Is the information at issue "personal information" as defined by section 2(1) of the Act? (Personal Information)**

City's Rationale:    The City does recognize that the images collected by its video surveillance system is considered to be personal information

and therefore subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

IPC Findings: The IPC finds that the information at issue qualifies as “personal information” under section 2(1) of the Act.

**IPC Concern #2 Is the collection of the personal information in accordance with section 28(2) of the Act? (Collection of Personal Information)**

City’s Rationale: The City advised that, pursuant to section 11(1) of the Municipal Act, 2001 the collection of the personal information at issue is necessary to the proper administration of a lawfully authorized activity. The City further advised that there is a real, substantial and pressing problem of public safety to be addressed by the use of its video surveillance system and as evidence of this concern the City advised that there are police reports documenting incidents that have occurred in the Core Areas.

IPC Findings: While the IPC accepts the City’s position and is satisfied that the City’s operation of the Core Areas is a lawfully authorized activity, the IPC must also consider whether the collection of the personal information through the City’s video surveillance system is necessary to the proper administration of its operation of the Core Areas.

The IPC does not conclude that the City’s use of its video surveillance system is not necessary, rather we have not demonstrated that it is necessary, or even necessary to the degree to which it has been implemented.

**IPC Concern #3 Is the notice of collection in accordance with section 29(2) of the Act? (Notice of Collection)**

City’s Rationales: As required under section 29 of the *Act* the City has placed the signs described in the Surveillance Policy at the public access points to and within areas under surveillance.

IPC Findings: The IPC is satisfied that the City has provided the notice required by section 29(2) and, therefore, finds that Notice of Collection of the personal information is in accordance with this section.

**IPC Concern #4 Is the use of the personal information in accordance with section 31 of the Act? (Consistent Purpose)**

City's Rationale: The City advised that the purpose for which it is obtaining or compiling the personal information is "to ensure the safety of the residents and visitors; deter unsafe activities; deter loitering on municipal streets and around public buildings; and contribute to the Cambridge Core Area revitalization. And that, the Surveillance Policy states that, the information collected through video surveillance is used only for the purposes of contributing to the safe environment of the Cambridge Core Area, deterring unsafe activities and assisting as one of the components of Cambridge Core Area revitalization.

IPC Findings: The IPC satisfied that the personal information collected by the City is used for the same purpose for which it was obtained or compiled.

**IPC Concern #5 Is the disclosure of the personal information in accordance with section 32 of the Act? (Where disclosure is permitted)**

City's Rationale: While the current policy states that the City does not disclose a video record to any individual or organization except where permitted under the Act, the current practice is to only release footage to a law enforcement agency through a formal request or where requested or subpoenaed by, for search warrants, summons or other order of the courts or a quasi-judicial tribunal. Access to data related to footage shared with law enforcement would require a separate freedom of information request to the law enforcement agency.

IPC Findings: The IPC states that the circumstances in which the City may disclose the personal information are in accordance with sections 32 of the Act.

**IPC Concern #6 Is there a right of access to the personal information in accordance with section 36(1) of the Act? (Right of Access to Personal Information)**

City's Rationale: The City's Policy under Requests for Disclosure states: The City of Cambridge does not disclose a video record to any individual or organization, except as permitted through MFIPPA. Public requests for disclosure - Any person may make a written request for access to video records created through a video surveillance system through the freedom of information process. Access may depend on whether there is a justified invasion of another individual's privacy and whether

any exempt information can be reasonably severed from the record.

Internal requests for disclosure – City employees or consultants may request a copy of a video recording if it is necessary for the performance of their duties in the discharge of the corporation’s function.

Law enforcement requests - The City may disclose a copy of a video recording to a law enforcement agency where there are reasonable grounds to believe that an unlawful activity has occurred and has been captured by the video surveillance system in accordance with section 32. (g) of MFIPPA.

IPC Findings: The IPC finds that there is a right of access to the personal information in accordance with section 36(1) of the *Act*.

**IPC Concern #7 Are there reasonable measures in place to protect the personal information as required by section 3(1) of Ontario Regulation 823 under the Act? (Reasonable measures to prevent unauthorized access)**

City’s Rationale: In addition to the Surveillance Policy, the City also has a “Code of Conduct” and Privacy Policy which set out relevant procedures concerning the use and disclosure of the personal information collected by the City’s video surveillance system and inform City employees that this information must be protected, not inappropriately accessed and handled in accordance with the *Act*.

IPC Findings: The IPC is satisfied that the City has put in place reasonable measures to safeguard the footage collected by its video surveillance system. Therefore, find that there are reasonable measures in place to protect the personal information as required by section 3(1) of O Reg 823 under the Act.

**IPC Concern #8 Does the City have proper retention periods in place for the personal information?**

City’s Rationale: The City’s policy states that in cases where the surveillance system records activities that relate to an insurance, liability, law enforcement, or other similar issue, the appropriate section of the recording will be copied to suitable media and stored in a separate secure location for a period of no less than one (1) year or a longer appropriate length of time. And that video that has not been requested within the maximum retention period is

considered transitory and is automatically erased by being overwritten.

IPC Findings: The IPC is satisfied that the City has provided a reasonable basis after consultation with the video surveillance system provider and the police for retaining the unused video footage for this period. And that the City's retention of the unused personal information collected by the City's video surveillance system is in accordance with the *Act*.

## Privacy Impact Assessment

As a result of the IPC Investigation and concerns outlined in their report, the City entered into an agreement to conduct a Privacy Impact Assessment regarding the City's use of cameras. While the initial complaint and investigation from the IPC was related to the Galt Down Town Core area, in the process of gathering information on the city's use of cameras, it was identified that the scope needed to be increased and consequently captured within the scope of the PIA resulting in the following risks:

- PIA Risk #1** It is unknown as to whether the *Policies Governing the Use of Video Surveillance Equipment in City of Cambridge Workplaces* document has been reviewed or updated since 2004.
- PIA Risk #2** It is unknown as to whether the Control Documents for each City Facility are reviewed every two years as stated in the *Policies Governing the Use of Video Surveillance Equipment in City of Cambridge Workplaces* document.
- PIA Risk #3** There is missing information on the systems used and the technical capabilities for a number of the City Facilities.
- PIA Risk #4** The City does not currently have an Individual Access Policy/Procedure or an Employee Acceptable Use Policy which governs the PI under its custody or control.
- PIA Risk #5** There is a risk that the City is not in compliance with section 28(2) of MFIPPA, as there is limited information available on how and why the decision to implement surveillance cameras was made.
- PIA Risk #6** The Alliance Agreement (section 5.2 of this PIA) expired on June 30, 2020. The Alliance Agreement is the camera system service maintenance agreement for phase 1 and 2 cameras.
- PIA Risk #7** It is unknown if the City has entered into other Agreements for the purchasing, use, maintenance, or other considerations related to camera surveillance.
- PIA Risk #8** The City is lacking confidentiality agreements from City employees. There are currently no staff confidentiality agreements or pledge of confidentiality signed by City employees.

**PIA Risk #9** The City's current Privacy Policy does not include the following information:

- Individual's right to make a complaint.
- Contact information for the Privacy Officer.
- How to make a complaint to the Privacy Officer Contact information for the IPC.

**PIA Risk #10** There is no standard policy governing the use of the camera movement capabilities. This, coupled with the incomplete information surrounding the technical capabilities of the cameras presents a risk of over-collection of Personal Information.

**PIA Risk #11** City's Privacy Policy is not posted on the website nor is the contact information for the Privacy Officer (City Clerk) easily accessible.

As a result of this risk analysis, a number of recommendations have been developed to mitigate identified privacy risks, close any compliance gaps, and reduce to overall level of residual risk to an acceptable level.

### **PIA Recommendation #1**

Compile information related to how and why the decision to implement surveillance cameras was made.

City Action:

Clerk's staff is currently compiling documentation regarding the implementation of the City's surveillance systems and have reached out to the various community groups involved. (Waterloo Regional Police Service and Cambridge BIA's).

### **PIA Recommendation #2**

It is recommended that the City enact a standard Surveillance Camera Policy, the use of camera surveillance. Policy should include:

- Policy review schedule;
- Access audit schedule;
- Access permissions;
- Acceptable use of recordings;
- How movement capabilities of cameras can be used, in what situation, and by whom.

City Action:

Use of Corporate Camera Policy attached as Appendix D.

### **PIA Recommendation #3**

Compile information regarding any contracts or agreements that the City has entered into in relation to camera surveillance.

City Action:

Clerk's staff is currently compiling an inventory outlining all camera information including location, document status, access permissions, and contact information for each location.

### **PIA Recommendation #4**

The camera system information and technical capabilities of each camera system should be documented in a single document.

City Action:

Clerk's staff currently compiling an inventory all cameras outlining functionality and technical capabilities.

### **PIA Recommendation #5**

It is recommended that the City create and implement the following additional privacy considerations:

- Records Correction Policy and Procedure;
- Complaints Policy and Procedure;
- Privacy training for all City Staff.

City Action:

Staff policies recommended through the PIA are being delivered through training to all staff.

### **PIA Recommendation #6**

Consider implementing an Acceptable Use Policy for all Personal Information (not just camera recordings).

City Action:

Acceptable Use Policy and Procedure for Personal Information being drafted to be implemented by December 2021.

### **PIA Recommendation #7**

Create and implement a Confidentiality Agreement to be signed by staff, in keeping with best practice.

City Action:

Through the implementation of privacy training, Clerk's will be reviewing the recommendation to implement a confidentiality agreement with staff that have access to cameras across the City and will determine how best to ensure of this compliance.

### **PIA Recommendation #8**

Update the City Privacy Policy to include:

- Individual's right to make a complaint;
- Contact information for Privacy Officer;
- How to make a complaint to the Privacy Officer;
- Contact information for the IPC.

City Action:

Clerk's Staff is currently updating the Privacy Policy and reviewing this in connection to the recommendation for confidentiality agreements. This is anticipated to be completed by December 2021.

### **PIA Recommendation #9**

Post the City's Privacy Policy on the public facing website, and include the contact information for the Privacy Officer and the IPC.

City Action:

External City web page being developed to launch by December 2021.

### **PIA Recommendation #10**

Update or renew the Agreement with Alliance.

City Action:

Alliance agreement for Phases 1 and 2 has been extended until such time that Phase 3 cameras are installed. Upon completion of Phase 3 a new maintenance agreement will be entered into outlining coverage for all 3 phases.

### **PIA Recommendation #11**

If feasible, consider consolidating camera systems across the City and creating an electronic access log for recorded footage.

## City Action:

The City will pursue consolidation of camera systems upon renewal of systems and will ensure that electronic access control measures are implemented as systems are renewed.

The Clerk is the Municipality's Head under the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA"), and is responsible for providing a response to access requests.

An internal committee will be developed under the Clerk's supervision to ensure of the following as it relates to camera installation and access:

- Undertaking yearly evaluations of video surveillance system installations to ensure compliance with this Policy.
- Approving installation of video cameras at specified municipally owned and leased properties.
- Advising on placement of video surveillance monitoring signs.
- Acting as the primary contact for all requests from by law enforcement agencies for access to video records.
- Updating and ensuring compliance with all aspects of Security Video Surveillance Policies.
- Ensuring monitoring and recording devices are stored in a safe and secure location.
- Ensuring logbooks, recording all activities related to video devices and records, are kept and maintained.
- Ensuring that no copies of data/images in any format (hardcopy, electronic, etc.) is taken from the video surveillance system inappropriately.
- Immediately taking action with respect to alleged privacy breaches, including investigating video surveillance security privacy breaches and providing quarterly reports to Council.
- Reporting to Council when video surveillance is being proposed in new locations.

Ensuring that staff receive appropriate training. All Staff must adhere to the video surveillance policy and must not access or use information contained in the video surveillance system, its components, files, or database for personal reasons, nor dispose, destroy, erase or alter any record without proper authorization and without following the regulations contained in the Security Video Surveillance Policy.

---

## Existing Policy/By-Law

### Provincial Legislation

- The Municipal Freedom of Information and Protection of Privacy Act.

- FIPPA and MFIPPA: Bill 8 — The Recordkeeping Amendments.
- The Municipal Act

### **City of Cambridge Policies**

- City of Cambridge Privacy Policy
- Policy CLK 150-010 Governing the Use of Video Surveillance Equipment in City of Cambridge Workplaces
- Policy CLK 150-020 Governing the Use of Covert Video or Other Types of Surveillance Equipment in City of Cambridge Municipal Work Places
- Surveillance Cameras in the Cambridge Core Areas
- Policy ADM 004 – Surveillance Cameras in the Downtown Core Areas
- Policy HRM 002 – Code of Conduct for Employees

### **City of Cambridge By-Laws**

- By-Law 144-18 To authorized the execution of agreement(s) for the Phase 2 portion of the Video Surveillance System Project with a sole source procurement process pursuant to section 40 of the Purchasing By-Law 133-14

---

## **Financial Impact**

A one-time cost of \$13,780 was incurred to complete the Privacy Impact Assessment from the City Clerk's Operating Budget.

---

## **Public Input**

Any member of the public requesting video captured on City Surveillance Cameras is required to submit a request in writing under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

All requests are subject to the provision outlined within the Act.

Signage for all cameras across the City advise the public that the area is under video surveillance.

---

## **Internal/External Consultation**

External Consultation was completed with the IPC to further understand the report and with PrivacyWorks Consultants Inc for the completion of the PIA.

---

## **Conclusion**

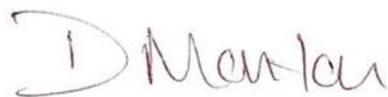
The City of Cambridge is committed to ensuring and enhancing the safety and security of the public, its employees and property by integrating security best practices with the responsible use of technology. To ensure compliance with legislation and ongoing transparency, staff have worked collaboratively with the IPC to review and implement recommendations as a result of the investigation. The review of the recommendations and the results of the PIA have provided an

opportunity to strengthen current procedures and provide training to staff to build awareness for the use of cameras across the city.

---

## Signature

### Division Approval



**Name: Danielle Manton**

**Title: City Clerk**

Reviewed by the CFO

Reviewed by Legal Services

### Departmental Approval



**Name: Dave Bush**

**Title: Deputy City Manager**

### City Manager Approval



**Name: David Calder**

**Title: City Manager**

---

## Attachments

- Appendix A - IPC Privacy Complaint Report MI18-5
- Appendix B - PrivacyWorks – Privacy Impact Assessment: City of Cambridge Surveillance System
- Appendix C - Camera Inventory
- Appendix D – Use of Corporate Cameras Policy