

**Report to / Rapport au:**

**OTTAWA POLICE SERVICES BOARD  
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

**26 September 2022 / 26 septembre 2022**

**Submitted by / Soumis par:**

**Policy and Governance Committee / Comité des politiques et de la gouvernance**

**Contact Person / Personne ressource:**

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**SUBJECT: NEW BOARD POLICY – ELECTRONIC MONITORING**

**OBJET: NOUVELLE POLITIQUE DE LA COMMISSION – SURVEILLANCE  
ÉLECTRONIQUE**

**REPORT RECOMMENDATIONS**

**That the Ottawa Police Services Board approve the new proposed Board Policy, “Electronic Monitoring”.**

**RECOMMANDATIONS DU RAPPORT**

**Que la Commission de services policiers d’Ottawa approuve la nouvelle proposition de Politique de la Commission, intitulée « surveillance électronique ».**

**BACKGROUND**

On February 28, 2022, the Ontario Government introduced Bill 88, the Working for Workers Act, 2022 (the “Act”), in the Ontario Legislature. The Act subsequently received Royal Assent and came into force on April 11, 2022. The purpose of the Act was to introduce new employee protections and improvements to employee experiences, through changes to various pieces of employment-related legislation.

Among these changes, the Act made significant amendments to the Employment Standards Act, 2000 (the “E.S.A.”), including the introduction of a new requirement for employers in Ontario with 25 or more employees to have a written policy on electronic monitoring for all employees covered by the E.S.A. The intention behind this amendment is to protect employee privacy by requiring employers to be transparent

about if, how, and in what circumstances, they track employees and their use of electronic devices, as well as the purpose for which the information obtained by the employer can or will be used.

The amended E.S.A. provides for a transition period of six months from the date on which the Act received Royal Assent for employers to comply with the relevant requirements regarding the written policy on electronic monitoring of employees, meaning that employers are required to have a compliant policy prepared by October 11, 2022.

As the Board is the employer of all Members of the Ottawa Police Service and Board Staff, including those to whom the E.S.A. generally applies, the proposed Electronic Monitoring of Employees Policy seeks to ensure that the Board complies with its statutory obligations under the E.S.A. The Board will recall that, generally, the E.S.A. does not apply to police officers, with some exceptions.

## **DISCUSSION**

### Context for the new legislative requirement that the Board have a Policy

Ontario is the first province or territory within Canada to require employers to create a policy related to electronic monitoring of employees. This requirement enhances transparency in the workplace by requiring employers to have a policy on electronic monitoring of employees, in which employers are required to describe how and in what circumstances electronic monitoring is performed, and the purpose for which any information is collected. This policy obligation coincides with a shift in decentralized work, as more employees are now performing their job remotely.

### Research and alignment with best practice

A jurisdictional scan was conducted in order to understand the approach other policing boards were taking to address the new requirement. Policies were slow to develop as many awaited further direction from the Province, as well as guidance from professional organizations.

The proposed Electronic Monitoring Policy has been developed in consultation with Policy and Legal Services staff at the Ottawa Police Service in order to ensure alignment. It was also reviewed by the Board's legal counsel to ensure compliance with statutory obligations.

### Policy approach, scope, and ESA compliance

The employment relationship between the Board and Members of the Service is governed by a constellation of statutes, regulations, collective agreements, procedures, and practices.

The policy must take into consideration the unique rights, responsibilities, and obligations of police officers employed by the Board, as recognized in the *Police Services Act* and reflected through the general non-application of the ESA to police officers.

The proposed Policy, therefore, applies exclusively to civilian Members of the Service and Board Staff.

#### Overarching general principles

The Policy aligns with the Board and the Service's commitment to promoting a culture of transparency and trust, by outlining how and in what circumstances Employees are electronically monitored. Given the nature of the systems which Employees access (e.g. C.P.I.C.), some monitoring is to be expected. The Policy affirms that Employees must not expect privacy when using Employer systems. However, each of the electronic monitoring measures which are in place are an essential component to enforcing Board and Service governance, maintaining a respectful work environment, and ensuring that Information Technology assets that are owned and managed by the Board and the Service are used both safely and appropriately.

#### **CONSULTATION**

Board staff consulted with the Big 12 Police Services Boards.

Board staff also worked closely with Policy and Legal Services staff at the Ottawa Police Service in order to ensure alignment.

In discussion with the Chair of the Policy and Governance Committee, and in order to comply with the requirement to have a policy in place by the required deadline of October 11, the proposed policy has been brought directly to the Board for review and approval.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications related to the recommendations contained within this report.

#### **SUPPORTING DOCUMENTATION**

Document 1 - Draft Policy CR-20: Electronic Monitoring

**CONCLUSION**

The proposed policy has been developed in consultation with Policy and Legal Services staff at the Ottawa Police Service in order to ensure alignment. It was also reviewed by the Board's own legal counsel to ensure compliance with statutory obligations.

In order to ensure that the Board has a Policy in place regarding electronic monitoring before October 11, 2022, in compliance with the amended ESA, the Board is being asked to approve the proposed Policy, attached as Document 1.