

Brief to the Standing Committee on Access to Information, Privacy and Ethics

For the study on

Federal Government's Use of Technological Tools
Capable of Extracting Personal Data from Mobile
Devices and Computers

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Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

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The Public Service Alliance of Canada represents nearly 230,000 workers in every province and territory in Canada and in locations around the world. Our members work for federal government departments and agencies, Crown Corporations, universities, casinos, community services agencies, Aboriginal communities, airports, and the security sector among others. PSAC is headquartered in Ottawa with 23 regional offices across Canada.

Many of these employees use employer issued technological tools in their daily work, whether they work from the employer's premises or remotely.

We recognize that many of our members are involved in work that includes investigation, search, seizure and other enforcement or security-related tasks and they use technological tools for these tasks.

We have several concerns about the use of tools that are capable of extracting personal data from devices, should there not be robust processes around the appropriate use of these tools, the protection of employees' personal information, and the disclosure of all reasons why the tools may be deployed.

For many unionized members in the federal public service who work in call centres, the language in the collective agreements is clear:

*Call monitoring is intended to improve performance by providing guidance and feedback to the employee and shall not be used for disciplinary purposes.*¹

Coaching and development feedback resulting from call monitoring shall be provided in a timely and meaningful fashion.

Our greatest concern is that so many departments failed in their responsibilities to conduct Privacy Impact Assessments (PIA). This lackadaisical approach to an important principle in the protection of employees' right to privacy is unacceptable, especially in the face of the rapid development of new, increasingly intrusive technologies. Although we haven't had complaints about spyware from members, given the secretive purposes it is used for it is possible that our members are being monitored without their knowledge, making a complaint impossible, and underscoring the need for transparent PIAs.

If such technologies are to be used by or on our members, we insist that all PIAs be conducted in advance of the procurement of the technology, regularly reviewed throughout the lifecycle of the technology, in particular upon updates, and that all PIA results be proactively disclosed to the employees and to the union. Additionally, the union should be

¹ Program and Administrative Services (PA) Agreement Between the Treasury Board and the Public Service Alliance of Canada <https://psacunion.ca/sites/psac/files/attachments/pdfs/pa-eng.pdf>

informed proactively on the reasons for the incursion on members' privacy and whether the incursion is consistent with the problem that it is designed to solve.

For example, if one employee is suspected of criminal activity and it is supported by evidence, it's not appropriate to put spyware on the computers of everyone in the section. This poses the question of whether the initial evidence actually supports the use of spyware or is the introduction of spyware instead of a fishing expedition for evidence where no evidence exists, only rumour or suspicion.

Additionally, the lack of remedial action in the Treasury Board Directive for senior bureaucrats is of concern. There seems to be an implicit and incorrect expectation that managers, leaders, directors, and others in senior decision-making roles will always do the right thing in accordance with their oath to the code of values and ethics. We can see this isn't the case by the failure to conduct appropriate PIAs. We suggest that Treasury Board implement a specific directive that creates a remedial process to be in place in case senior bureaucrats do not conduct appropriate PIAs, or use the technology inappropriately, and that the remedial process be strong enough to discourage such behaviour.

We hope this committee study, and the surrounding discussion, will put in place robust and proactive measures so that new technologies make it more efficient and effective for public service workers to do the jobs they are proud to do without compromising their rights to privacy and security.