

Dubi Kanengisser – Opening Remarks

Thank you for inviting me to speak before the committee. My name is Dubi Kanengisser, I am a senior advisor, strategic analysis and governance to the Toronto Police Services Board (TPSB), and I led the development of the recently approved Board Policy on use of artificial intelligence by the Toronto Police Service, which is, to the best of our knowledge, the first of its kind in Canada.

Before I begin I would like to clarify that I am not speaking today on behalf of the Board. I encourage you to refer to the Minute that I have submitted with the attached Board Report, as approved by the Board in February 2022.

The TPSB's Policy on the Use of Artificial Intelligence Technology was developed to guide future discussions on particular AI implementations that the Toronto Police Service (TPS) may seek to use. The Policy sets the requirements for the evaluation and analysis of any AI tools, and the requirements for Board approval, prior to their adoption. These requirements are risk-based, based on a scale from minimal-risk tools that are internal only and are not likely to impact any individual's rights or freedoms, up to extreme-risk tools which are completely prohibited.

Along this scale, the Board's Policy identifies any AI tools that make use of biometrics to identify individuals, as high-risk. Categorizing these tools as high risk leaves the door open for the TPS to bring forward a business case for the adoption of such tools, provided that they successfully demonstrate that it responds to a real operational need, as well as its accuracy and fairness, and provided that they present a mitigation plan to address any risks of bias or infringement of privacy or other rights. The Service will also have to ensure a governance structure that would allow for the effective auditing of any such tools, and report on outcomes, including possible unintended consequences.

An important challenge that we faced in developing this Policy has to do with the training necessary for Service members, both officers and civilians, to even recognize that a tool uses AI, and may therefore pose risks that may not be immediately evident. AI is incorporated into many easily available apps that anyone could install on their phone and use. Police officers are resourceful people who may be happy to try out new tools that could help them crack a case or

rescue a victim. The Policy therefore places an emphasis on the requirement to train all officers and civilian employees to recognize possible AI tools, and ask that they be evaluated prior to any use.

Finally, the Policy was developed through extensive consultations with legal, human rights, and technical experts, as well as the general public, which resulted in over 40 written submissions from members of the public, experts, and community organizations. These consultations resulted in many improvements to the Policy. However, there were some suggestions that we did not adopt.

We've heard suggestions that all biometrics, and in some cases, all instances of AI, should be banned from use by the police. In recommending this Policy to the Board, we found these suggestions fail to fairly balance the potential benefits against the potential risks. The Policy places an onus on the Service to prove that the benefits outweigh the risks, and that the risks can be effectively mitigated. The Policy also places a heavy burden of proof, both pre- and post-deployment of AI tools, that ensures that tools will not be adopted willy-nilly, but only where such an effort is truly justified.

We have also heard from stakeholders concerns about the ability of both the TPS and the TPSB to accurately gauge the risks posed by these tools. These stakeholders suggested that the Board should form an expert panel to evaluate such tools and make recommendations to the Board. In our recommendations to the Board we agreed with the need for an expert panel, but suggested that such a panel should be formed at the provincial level, to ensure both cost-effectiveness and consistency across the Province. We are currently in the process of engaging with other Boards in Ontario, and with Ontario's Information and Privacy Commission, to explore options for such a panel.

The TPSB, in approving this Policy, took a crucial first step towards the protection of rights and freedoms of Canadians while enabling the police to effectively protect people and enforce the law. But the Policy was developed without the benefit of an existing legal framework or even best practice models. Lacking these, Canadians will face an inconsistent patchwork of policies over a matter that is critical for their rights and freedoms. I look to you, alongside Provincial governments, to contribute to the legal framework that would enable us to improve on this first step, and thank you for exploring this matter.