



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

VIA ELECTRONIC MAIL

February 13, 2018

Fred Eisenberger
Mayor
City of Hamilton
Hamilton City Hall
2nd Floor, 71 Main Street West
Hamilton, ON L8P 4Y5

Eric Girt
Police Chief
Hamilton Police Service
155 King William Street
Box 1060, LCD1
Hamilton, ON L8N 4C1

Dear Mayor Eisenberger and Chief Girt:

Re: CCTV cameras and private properties

I am writing to you about a significant privacy issue involving the City of Hamilton's proposed use of CCTV images taken by private individuals. Council's General Issues Committee passed a motion on February 7, 2018, that city staff work with the Hamilton Police Service to review the current CCTV by-law applicable to private homes and assess the feasibility of amending it to permit the collection of personal information from public spaces for use by the police.

As you know, my office oversees the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, which applies to municipal government institutions and law enforcement agencies, and sets rules for protecting the privacy rights of Ontarians. The use of surveillance cameras by the city or police, and the collection of images from private cameras, must comply with this law.

In my view, any attempt by the city to permit or encourage the use of private video surveillance cameras, for the purpose of collecting personal information to aid in law enforcement, would undermine privacy rights under *MFIPPA*.

While in some cases CCTV surveillance may enhance public safety and the security of assets, it also poses risks to the privacy of individuals whose personal information may be collected, used and disclosed. The risk to privacy is particularly acute because video surveillance may, and often does, capture the personal information of law-abiding individuals going about their everyday activities. In view of the broad scope of personal information collected, special care must be



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taken when considering whether and how to use this technology. To encourage the wholesale collection of personal information by private citizens for use in law enforcement on what appears to be a routine basis, without a warrant, is unjustified and would erode the fundamental right to privacy.

The proposed program would also be a significant extension to the surveillance capability of the city and the police, and could be construed as an attempt by the city and the police to avoid compliance with *MFIPPA*. In addition, the routine collection of surveillance images from private cameras by police may, by itself, be a violation of *MFIPPA*.

In 2015, my office issued *Guidelines for the Use of Video Surveillance* to assist institutions in developing CCTV systems that comply with privacy laws. These guidelines highlight that where justified, proportionate and properly managed, video surveillance can be used in a way that protects the privacy of individuals. In my view, the conditions precedent for the implementation of video surveillance in a privacy protective way do not exist here.

Given the privacy risks arising from the potential for widespread use of video surveillance as an aid to law enforcement in the City of Hamilton, I urge the city to refrain from amending the by-law.

If city staff have any questions about this letter or video surveillance in general, they should contact Renee Barrette, Director of Policy, at 416-326-3461 or renee.barrette@ipc.on.ca.

Sincerely,

Original signed by:

Brian Beamish
Commissioner

cc: Rose Caterini, City Clerk
Lisa Barroso, Manager, Records and Freedom of Information, City of Hamilton
Andrea Avery, Freedom of Information Coordinator (A), Hamilton Police Service