

IPC issues caution to school boards implementing video surveillance at schools

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In a March 11, 2015 decision, the Office of the Information and Privacy Commissioner of Ontario (“IPC”) upheld a privacy complaint against the Halton Catholic District School Board (the “Board”) regarding the use of video surveillance at a secondary school in Oakville. The complaint was brought under the *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”) by a parent whose child attended the school. The complaint expressed concern with the use of video surveillance and that there was a lack of consultation in its implementation. The IPC commenced an investigation and found that although the Board had enacted a policy for the implementation of video surveillance at its schools, it had not followed the policy when it introduced video surveillance at the particular school in question. While the IPC did not find that surveillance was a violation of MFIPPA, it found that the School Board did not provide enough evidence that it was necessary in the circumstances. The Board was ordered to apply its policy and consider whether surveillance was necessary.

The issue of video surveillance in schools is not new to the IPC. In 2003 it published a document entitled, “*Guidelines for Using Video Surveillance in Schools*”. The guidelines recognized that by virtue of a school board’s responsibility under the *Education Act* for the safe operation of a school, the collection of personal information in the form of video images could be a lawfully authorized activity as required by MFIPPA. This did not however provide *carte blanche* for schools to implement video surveillance. The video surveillance must also be *necessary* for that safe operation. The guidelines, which were updated in 2009, provided the following directions:

- *Video surveillance should only be considered where less intrusive means of deterrence, such as increased monitoring by teachers, have shown to be ineffective or unworkable;*
- *In its consultation with the school community, the board should outline the less intrusive means that have been considered and the reason why they are not effective;*
- *Before implementing a video surveillance program, a school should be able to demonstrate:*
 - *a history of incidents occurring in the specific school;*
 - *the physical circumstances of the school – does it permit ready access to unauthorized individuals; is there a history of intrusion by unauthorized individuals; are there specific safety issues involving that school;*
 - *whether a video surveillance program would be effective in dealing with or preventing future incidents of the type that have already occurred;*
- *Video surveillance programs should only be adopted where circumstances have shown that it is necessary for the purposes of providing the safety of students and staff, or for the deterrence of destructive acts, such as vandalism;*
- *The board should provide justification for the use and extent of a video surveillance*

- program on the basis of addressing specific and significant concerns about safety and/or the theft or destruction of property;*
- The board should conduct an assessment into the effects that the surveillance system will have on personal privacy and the ways in which such adverse effects may be mitigated;*
 - The board should consult openly with parents, staff, students and the broader school community as to the necessity of the proposed video surveillance program and its acceptability to the school community. Consultation should provide stakeholders with an opportunity to comment on the actual location of cameras on school property, should the project proceed; and,*
 - The board should ensure that the proposed design and operation of the video surveillance system minimizes privacy intrusion to that which is necessary to achieve appropriate goals through lawful activities.*

The Halton Board had enacted a policy for the use of video surveillance at its schools which was found by the IPC to be consistent with guidelines above. However, its decision to implement the video surveillance at the school in question was part of a broader initiative to introduce video surveillance to all secondary schools under its operation, and did not correspond to its own policy.

By introducing video surveillance in such a sweeping way, the Board failed to conduct a detailed consideration of the necessity of video surveillance at this particular school. It did not conduct assessments for the privacy impacts or the security risks, nor did it consider whether there were less intrusive means to achieve its objectives in relation to the particular school in question. Furthermore, the IPC found that there was no apparent consideration by the Board as to whether the design and operation of the surveillance system minimized its intrusion on privacy. As a result of the above, the IPC concluded that the Board failed to follow its own policy, and failed to meet the requirements of MFIPPA. The IPC recommended that the Board conduct an assessment of the video surveillance at the school in a manner consistent with MFIPPA, its own policy, and the IPC's report.

Video surveillance will often be necessary in schools for the safety of students, staff and property. This decision demonstrates that school boards must nonetheless exercise caution in implementing video surveillance. It is not enough to have a policy framework in place. A school board must follow it in practice, and ensure that it has carefully considered the circumstances which make video surveillance necessary, and can identify those circumstances if the surveillance is challenged.

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