

Cameras on School Buses and Privacy Concerns

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Agenda

- Mandate and Role of the IPC
- *MFIPPA* – Privacy Overview
- Privacy Complaints and Privacy Breaches
- Implementing School Bus Cameras
- Key Obligations under the Act
- Best Practices
- IPC Guidance Documents
- Questions?



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Our Office

- The mandate of the Information and Privacy Commissioner (IPC) is to provide an **independent** review of government decisions and practices concerning access and privacy, conduct research and education, and comment on proposed legislation and programs
- The Commissioner is appointed by and reports to the Legislative Assembly and remains independent of the government of the day to ensure **impartiality**



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The Three Acts

The IPC oversees compliance with:

- *Municipal Freedom of Information and Protection of Privacy Act (**MFIPPA**)*
- *Freedom of Information and Protection of Privacy Act (**FIPPA**)*
- *Personal Health Information Protection Act (**PHIPA**)*



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Application of *MFIPPA*

- *MFIPPA* applies to “**institutions**” regarding the personal information in their custody and control
- Institutions under *MFIPPA* include **school boards**
- School boards remain responsible for the information practices associated with school bus programs – including programs that have been outsourced to a **consortium**



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MFIPPA

Privacy Overview



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Why protect privacy?

- 9 in 10 Canadians are concerned about privacy
 - (Privacy Commissioner of Canada, 2015)
- Without adequate controls, video cameras may enable surveillance and profiling when collecting information such as the date, time and location of individuals and/or their vehicles
- Individuals may censor their activities when they are aware of being watched
- When institutions wish to use surveillance technology in a manner that will impact the privacy of all citizens, there must be **clear justification** for doing so



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Privacy

- *MFIPPA* **protects the privacy** of individuals concerning their personal information while providing them with the **right to access** that information
- *MFIPPA* establishes **rules for the collection, use and disclosure** of personal information
- For information in a record to qualify as personal information, it must be reasonable to expect that an individual may be **identified** if the information is disclosed



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Examples of Personal Information

- Race, colour, religion, age, sex, sexual orientation or marital or family status of the individual
- Any identifying number or symbol assigned to the individual (e.g., a licence plate)
- Video images of an individual (e.g., pedestrians and students)
- Address, telephone number, fingerprints or blood type of the individual
- Individual's name where it appears with other personal information relating to the individual

Does not include:

- Information associated with an individual in a professional, official or business capacity, for example:
 - names of individuals who provided services to an institution on a fee-for-service basis
 - information relating to business costs incurred by named employees during the course of their employment as public employees



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Privacy Obligations Under the Acts

MFIPPA sets out rules for the **collection, use, and disclosure** of personal information

To **collect** personal information, it must be:

- Expressly authorized by statute
- Used for the purposes of law enforcement, or
- Necessary to the proper administration of a lawfully authorized activity

Example:

Government institutions must have a legitimate reason and purpose for collecting personal information, such as a school board installing cameras to protect the safety and security of its students

You can only **use** personal information for:

- The purpose it was collected
- A consistent purpose or with consent (preferably in writing)

Example:

Video footage collected by a security camera cannot be used to monitor student attendance, but it may be used in relation to a security incident

You can only **disclose** personal information:

- With consent
- For a consistent purpose
- To comply with legislation
- For law enforcement
- For health and safety reasons
- For compassionate reasons

Example:

A video capturing evidence of a crime can be shared with law enforcement, even if it contains personal information



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Privacy Breaches and Privacy Complaints



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Privacy Breaches

- A privacy breach occurs when personal information is collected, retained, used or disclosed in ways that are not in accordance with the provisions of the act
- Among the most common breaches of personal privacy is the **unauthorized disclosure** of personal information, such as:
 - Sending communications to the wrong recipient due to human error
 - Improper records destruction procedures
 - Loss or theft of unsecured assets, such as laptop computers, digital cameras, or portable storage devices (USB sticks)



Privacy Breaches

- The IPC:
 - May receive privacy complaints from the public or investigate on its own accord
 - May investigate privacy complaints and report publicly on them
 - Can order the institution to cease and destroy a collection of personal information
 - May make recommendations to safeguard privacy



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Privacy Complaints

- **IPC Privacy Complaint MC13-60**
 - Cameras aimed within the school's property were appropriate, but not the recording of images from outside the school's property
 - IPC recommended that the school make changes to the video surveillance system to ensure that the cameras were not recording images outside the school's property



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School Bus Cameras



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Key Features

- Features of school bus camera systems may include:
 - Interior cameras
 - May record driver and students
 - Exterior cameras (e.g., stop-arm cameras, dash cameras)
 - May record vehicles, pedestrians and driver
 - Sound recording
 - May record driver and students
 - Global Positioning System (GPS)
 - May record vehicle's location
- Many capabilities are similar to video surveillance cameras



What's Unique?

- School bus camera systems present **different challenges** from traditional video surveillance systems:
 - Mobile devices pose additional challenges that impact on privacy
 - Notifying individuals who may be recorded can be challenging
 - The potential to collect and retain much more information than video surveillance devices that are overwritten following a defined time period (e.g., 72 hours)
 - The amount of data captured may pose storage/security related problems



Implementing School Bus Camera Programs



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Key Obligations under the Act

- **Legal Authorization**

- Ensure the school board has the legal authority to collect, use and disclose personal information under *MFIPPA*
- Video surveillance should always be a last resort – establish that there are no other means of addressing the issue

- **Data Minimization**

- Limit the collection, use, retention and disclosure of personal information to that which is **necessary** for the purposes of the program



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Key Obligations under the Act

- **Notice**
 - Notify the public **prior to beginning** the program
 - Utilize local media, social media and the consortium and school boards' websites
 - Post a notice on the rear window of the bus if external cameras (but ensure it does not contravene rules and regulations re: school buses)
 - Post a notice inside the bus if internal cameras
 - Ensure that the information required by *MFIPPA* s. 29(2)(a)–(c) is available and easily accessible on the school board and consortium's website



Key Obligations under the Act

- **Retention**

- Limit retention of personal information to the **amount of time reasonably necessary** to discover or report an incident that occurred in the space under surveillance

- **Security**

- Protect the personal information collected from unauthorized access and disclosure, and inadvertent destruction or damage
- Strong encryption, secure storage, logging access



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Key Obligations under the Act

- **Access Requests**
 - School boards must be prepared to process **freedom of information requests** from the public
 - All or portions of the video footage requested may be exempt from disclosure under *MFIPPA*
 - School boards must develop protocols for the **redaction of personal information** from the video footage where appropriate



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Key Obligations under the Act

- **Access Requests (continued)**
 - School boards may use tools and techniques to **redact** personal information such as:
 - Digitizing analogue footage to enable the use of more powerful editing tools
 - Blacking out or blurring images of individuals
 - Removing the sound of voices



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Access Example: TTC Footage

- **IPC Order MO-3238**
 - Request for bus surveillance tape pertaining to an incident that occurred on a Toronto TTC bus
 - Requester asked for copy of the tape to prove that he was assaulted by a bus driver
 - TTC identified a surveillance tape, but denied access as it was considered an unjustified invasion of privacy
 - Adjudicator disagreed and ordered footage to be disclosed after severing the personal information of other identifiable individuals



Access Example: City CCTV Footage

- **IPC Order MO-3358**
 - A reporter sought access to camera footage from five locations near the scene of a fatal collision between a bus and a train
 - The city identified five clips of CCTV camera footage from certain locations that had images, most notably faces, that were blurred using image blurring technology, but denied access, citing an unjustified invasion of privacy
 - IPC found CCTV camera footage with blurring technology applied would not invade privacy and it was ordered to be disclosed



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Best Practices

- Best practices for school boards implementing a school bus camera program include:
 - Consulting your school board's **Freedom of Information and Privacy Coordinator** and the **public**
 - Conducting a **privacy impact assessment (PIA)**
 - Establishing **policies** and **procedures**
 - Establish a **privacy breach protocol**
 - **Training** employees
 - **Auditing** roles, responsibilities and practices
 - Consult with **our office**



Privacy Impact Assessments (PIA)



Planning for Success:
Privacy Impact Assessment
Guide

- A PIA is a formal risk management tool used to **identify the actual or potential risks** that a proposed or existing information system, technology or program may have on individuals' privacy
- A PIA should be conducted during the design phase and **prior to implementation**
- IPC **highly recommends** a PIA

Benefits of a PIA

- A PIA will help:
 - Identify **privacy and security risks**
 - Develop mitigation strategies
 - **Reduce costs** by providing “early warnings” of challenges
 - Determine necessary **roles and responsibilities**
 - Foresee problems in merging technologies and systems
 - **Set standards** for new data handling practices and existing systems handling new information



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Policies and Procedures

- Comprehensive policies and procedures should be in place to address privacy and security issues including:
 - When **recording will be permitted**, required, prohibited
 - Retention, use, disclosure and destruction of recordings
 - Privacy/security **safeguards** for cameras, servers, and other systems (e.g. encryption, role-based access, audit processes)
 - Responding to access requests



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Video Surveillance Guidelines



Guidelines for the Use of Video Surveillance

October 2015

- The IPC published video surveillance guidelines in 2015
- This guide consolidates previous advice provided by the IPC and presents new issues and factors to consider, including **retention periods** and **notices of collection**
- It also provides **key messages** and **examples** for clarity

Police Body-Worn Camera Guidance



GUIDANCE FOR THE USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT AUTHORITIES

This guidance document aims to identify some of the privacy considerations law enforcement authorities should take into account when deciding whether to outfit law enforcement officers with body-worn cameras. Also described is the privacy framework that should be part of any law enforcement body-worn camera program in order to ensure compliance with Canada's personal information protection statutes.

This document is endorsed by:

Office of the Privacy Commissioner of Canada
Office of the Information and Privacy Commissioner of Alberta
Office of the Information and Privacy Commissioner for British Columbia
Manitoba Ombudsman
Office of the Access to Information and Privacy Commissioner - New Brunswick
Office of the Information and Privacy - Newfoundland and Labrador
Office of the Information and Privacy Commissioner of the Northwest Territories
Nova Scotia Freedom of Information and Protection of Privacy Review Office
Office of the Information and Privacy Commissioner of Nunavut
Office of the Information and Privacy Commissioner of Ontario
Office of the Information and Privacy Commissioner of Prince Edward Island
Commission d'accès à l'information du Québec
Office of the Saskatchewan Information and Privacy Commissioner
Office of the Yukon Information and Privacy Commissioner

- Canada's federal, provincial and territorial Commissioners issued guidance on police use of body-worn cameras in 2015
- Recommendations include conducting a PIA, providing notice to the public, and establishing comprehensive policies and procedures for using the cameras



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Questions?



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