

Lessons to be Learned in Privacy Law from the Public Shaming of the District of Sannich

In January of 2015, the Mayor of Sannich, British Columbia publically complained that the District of Sannich (“District”) had installed “spyware” on his office computer. In fact, the District had installed a monitoring program called Spector 360 on 13 employee workstations which, among other things, collected the following information:

- Automated screenshots at 30 second intervals
- Instant messaging
- Log of all websites visited
- Record of all email activity
- Log of every key stroke

The BC Information and Privacy Commission initiated an investigation pursuant to the Freedom of Information and Protection of Privacy Act (“FIPPA”) into the District’s actions, and found major violations of FIPPA. In particular, the District failed to consider how the monitoring software impacted the employees’ privacy rights. The software collected personal information, which the District did not have the authority to collect under FIPPA. Furthermore, the District did not notify the employees of the collection of this information as required under FIPPA.

Although the District is a public body in a province that has specific privacy legislation, the ‘spirit’ of the findings is noteworthy for all employers across Canada.

- First, where employees are allowed even incidental personal use of employer-owned computers, they have a reasonable expectation of privacy with respect to any personal emails, data, and websites visited.
- Second, privacy law sets a very high threshold for the use of routine monitoring tools, such as keystroke logging, workstation mirroring, or the tracking of personal messages.
- Finally, employers all need to be aware of and have a general understanding of relevant privacy legislation.

A big step to complying with the above-noted principles is to ensure you have the proper privacy policies and procedures in place. Should you need assistance reviewing or drafting your privacy policy, please contact e2r® to speak with an Advisor.