



BY-LAW NO. 399-2022

**A BY-LAW TO ESTABLISH POLICY
ON ELECTRONIC MONITORING OF EMPLOYEES**

1. PREAMBLE

- 1.1 WHEREAS subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- b. generally determine after consultation with the Chief of Police, objectives and priorities with respect to police service in the municipality;
 - c. establish priorities for the effective management of the police service, and
 - e. direct the Chief of Police and monitor his or her performance;
- 1.2 AND whereas subsection 31(6) of the *Police Services Act* provides that the Board may, by by-law, make rules for the effective management of the police service;
- 1.3 AND whereas an amendment was made to the *Employment Standards Act, 2000* (the ESA), specifically Bill 88, the *Working for Workers Act, 2022* which introduced a new requirement for employers in Ontario to have a written policy for all employees with respect to the electronic monitoring of all employees covered by the ESA;
- 1.4 AND whereas in recognition of the distinct statutory and common law duties of Police Officers employed by the Board, this By-law applies only to Civilian Members to whom Part VII.0.1 of the *Employment Standards Act, 2000* (the ESA) applies;
- 1.5 AND whereas it is the responsibility of the Chief of Police of the Niagara Regional Police Service to administer the policing services of the Regional Municipality of Niagara in accordance with the policies, priorities and objectives established by the Niagara Police Services Board;
- 1.6 AND whereas it is the responsibility of the Chief of Police to develop the necessary procedures to ensure compliance with Board policies and effective operations of the police service.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2. DEFINITIONS

For the purpose of this By-law, the following definitions apply:

- 2.1 “Act” means the *Police Services Act*, R.S.O. 1990, c.P.15, and amendments thereto.

- 2.2 “Board” means the Regional Municipality of Niagara Police Services Board.
- 2.3 “Chief of Police” or “Chief” means the Chief of the Niagara Regional Police Service.
- 2.4 “Computer Monitoring” is the practice of collecting user activity data on employer-owned computers, tablets, connected officer devices, networks, and other IT infrastructure. This data includes, but is not limited to, web browsing history, files downloaded, data input, network traffic, log-ons to corporate systems, interactions with data, peripheral device usage (mouse, keyboard, monitor, etc.), and information about the employee’s computer.
- 2.5 “Electronic Access Controls (EACs)” is the technology used to provide and deny physical or virtual access to a physical or virtual space. This includes, but is not limited to, the microchip included within security proximity/ID access cards, which also keeps records of access times and locations.
- 2.6 “Electronic Monitoring” is a general term referring to all forms of employee monitoring that is done electronically on devices or other electronic equipment issued by the employer.
- 2.7
- 2.8 “Employer” refers to the Board and/or the Service, as applicable.
- 2.9 “Executive Director” means the Executive Director of the Niagara Police Services Board.
- 2.10 “Global Positioning System (GPS)” is a network of satellites and receiving devices used to determine the location of something on Earth. This technology can be enabled within equipment such as vehicles (Automated Vehicle Location System - AVLS), connected officer devices, and portable radios, in order to determine the location of equipment, both at present, and historically. AVLS also documents current and historical speed or vehicles in which it is enabled.
- 2.11 “Service” means the Niagara Regional Police Service.
- 2.12 “Video/Audio Surveillance/Monitoring Equipment” is surveillance or otherwise monitoring by means of a camera or other recording device that monitors or records visual images and/or captures audio of activities recorded on employer-owned electronic devices. This includes, but is not limited to, on-site surveillance cameras, and in-car camera systems.

3 BOARD POLICY

- 3.1 It is the policy of the Board to support the Civilian Members of the Niagara Regional Police Service and Board Staff (collectively, “Member” or “Members”) in modernizing employer requirements to provide transparency about the electronic monitoring of employees where appropriate.
- 3.2 The purpose of this policy is to describe how and in what circumstances the employer may electronically monitor employees, and to outline the purposes for which information obtained through electronic monitoring may be used.

4 GUIDING PRINCIPLES

4.1 EXPECTATION OF PRIVACY IN THE WORKPLACE

Monitoring employee usage of employer-owned workplace technology devices is an essential component of enforcing procedures, maintaining a respectful work environment, and ensuring that Information Technology (IT) assets that are owned and managed by the employer are used safely and appropriately. This includes an employee’s personal device

when operated on a remote desktop connection as a service platform.

The employer monitors workplace technology devices to ensure IT resources are used in accordance with relevant Board policies, guidelines, and Service procedures/general orders.

For that reason, employees must not expect privacy when using employer systems. While all personal information collected by the employer will be used appropriately in accordance with Board policies and Service procedures, all activities that take place via employer-owned electronic assets should be considered monitored.

5 DIRECTION TO THE CHIEF

5.1 PROCEDURES

5.1.1 The Chief shall develop and maintain processes and written procedures that meet the requirements of Part VII.01.01 of the *Employment Standards Act, 2000*, which outlines whether the Service electronically monitors employees, and if so:

- a) Provides a description of how and in what circumstances the Service may electronically monitor employees;
- b) The purposes for which information obtained through electronic monitoring may be used by the Service; and
- c) Such other information as may be prescribed.

5.1.2 All employees acknowledge that there is no expectation of privacy when using employer systems and devices, including but not limited to, employer-owned computers, tablets, networks, and other IT infrastructure.

5.1.3 The employer is authorized to electronically monitor employees through the use of video/audio surveillance/monitoring equipment, computer monitoring, telephone monitoring, electronic access controls, and global positioning systems, for the purposes outlined in the Service's procedures/general orders.

5.2 COMMUNICATION OF POLICY AND RELATED INFORMATION

5.2.1 The Chief, in regards to Civilian Members of the Niagara Regional Police Service, and the Executive Director, in regards to employees of the Niagara Police Services Board, will ensure that:

- a) All new employees are provided with a copy of this By-law and Service procedures/general orders within 30 days of a Member's hire date;
- b) All existing Members are provided with a copy of this By-law and Service procedures/general orders, and any amended versions, within 30 days of approval or amendment; and
- c) All temporary Members are provided with a copy of this By-law and Service procedures/general orders, and any amended version, within 24 hours from the start of their assignment.

5.3 EMPLOYER RECORD KEEPING REQUIREMENTS

5.3.1 The Chief shall ensure that a copy of every written policy or procedure on the electronic monitoring of employees that was required by the ESA is retained for three years after the policy is no longer in effect.

6 REPORT TO THE BOARD

- 6.1 The Chief of Police shall provide the Board with a written report on an annual basis in respect of the electronic monitoring of employees. The report shall include:
- a) a summary of the written procedures concerning the electronic monitoring of employees;
 - b) confirmation of Service compliance with the said procedures.

7 IMPLEMENTATION

- 7.1 This By-law shall come into force upon the date of its passage.
- 7.2 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 27th day of October, 2022.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

(Signed Original on File)
William C. Steele, Chair

(Signed Original on File)
Deb Reid, Executive Director