‘We’ll have to put the light on it’: politicos and privacy experts urge investigation into PHAC’s collection of cellphone data

By MATTHEW HORWOOD (AUTHOR/MATTHEW-HORWOOD) JANUARY 12, 2022

A Conservative and Bloc Québécois MP say they are ‘worried’ by PHAC’s lack of transparency on the plan, and they want to know why the data was collected, whether it will go through a third party, and how long it will be used for.
Conservative MPs John Brassard, Damien Kurek, Lianne Rood, and Bloc Québécois MP René Villemure urged an emergency House Ethics Committee meeting, set for Jan. 13, to discuss PHAC’s collection of the mobile data of 33 million Canadians.

The Public Health Agency of Canada’s plan to continue using “de-identified” cellphone data to track Canadians’ pandemic travel patterns lacks transparency, accountability, and needs to be put under closer scrutiny, according to privacy experts and a Conservative and Bloc Québécois MP.

Last month, the agency (PHAC) revealed that it collected and used mobility data, such as cell-tower location data, from 33 million mobile devices to monitor Canadians’ movement during the pandemic. The cell phone data is de-identified, meaning that it can’t be used to view individual’s locations or travel habits.
PHAC is “trying to undermine what would be normal parliamentary scrutiny, and that doesn’t give me and should not give Canadians any sort of confidence in their institutions,” said Conservative MP John Brassard, who was one of the four MPs who sent a letter to the clerk of the Ethics Committee requesting an emergency meeting on the PHAC’s data collection. That meeting is set for Jan. 13.

PHAC spokesperson Anne Génier told The Hill Times the data is being used to evaluate the effectiveness of public lockdown measures and allow the agency to “understand possible links between movement of populations within Canada and spread of COVID-19.”

“Specifically, secure, de-identified and aggregated population-level mobility data analysis is needed to evaluate the effectiveness of public health directives during the pandemic. By analyzing population movement data, we can better understand the public’s responsiveness to public health directives,” she said in the Jan. 12 statement.

PHAC previously told The National Post it’s planning to track the population for roughly five years.

On Dec. 16, PHAC posted a request for proposals (RFP) for a contract for a third party to “provide access to cell-tower/operator location data to assist in the response to the COVID-19 pandemic and for other public health applications.” The contractor would be expected provide the de-identified cell-tower based location data from Jan. 1, 2019, and the contract ends in 2023, with the option to renew for another three years.

In an interview with The Hill Times, Brassard said the emergency committee meeting was called because MPs have an obligation to provide that oversight to ensure Canadians’ privacy and constitutional rights are being protected.
“PHAC can reassure us all they want, but the real role of Parliamentarians is to ensure that data collection is being done securely and that it doesn’t violate the privacy or constitutional rights of Canadians,” said Brassard (Barrie—Innisfil, Ont.), who sent the Jan. 10 letter with Conservative MPs Damien Kurek (Battle River—Crowfoot Alta) and Lianne Rood (Lambton—Kent—Middlesex, Ont.), and Bloc Québécois MP René Villemure (Trois-Rivières, Que.). The letter said the House Access to Information, Privacy, and Ethics Committee should look into PHAC “secretly” collecting the mobile data of 33 million Canadians and plans to continue the practice.

“There’s much reason to be concerned about with this data collection, not the least of which is that it was done in secret,” said Brassard.
NDP MP Matthew Green arrives for an emergency meeting of the Access to Information, Privacy, and Ethics on July 23, 2020. Green says he supports another recent call for an emergency meeting for Jan. 13 to look into PHAC’s data collection. The Hill Times photograph by Andrew Meade

NDP ethics critic Matthew Green (Hamilton Centre, Ont.) supported the meeting request and called it an “intrusion on the privacy of Canadians,” who he said deserve to know what kind of information the government is collecting.

A spokesperson for Privacy Commissioner Daniel Therrien (https://globalnews.ca/news/8503895/watchdog-probing-officials-cell-location-data/) told The Hill Times the office has received numerous complaints about the program, and is now looking into PHAC’s assurance the data could not be used to track individuals. “Now that we have received complaints alleging violations of privacy, we will turn our attention to the means chosen to de-identify the data mobility information relied upon by the government for public health purposes.”

Health Minister Jean-Yves Duclos (Québec, Que.) has communicated with Therrien’s office, according to Génier, to stress a commitment to protecting citizen privacy “while ensuring that Canada has the data needed to understand and inform our ongoing response to the COVID-19 pandemic.”

She said the PHAC briefed Therrien’s office in January, and is open to “receive advice in terms of the RFP, and in any investigations undertaken.”
Vito Pilieci, a senior communications advisor for Canada’s privacy commissioner, said the office has regular meetings with the PHAC on COVID-related initiatives and “welcome these meetings which show that the government is interested in considering privacy issues as it adopts measures to protect public health.” He said the office published a framework for the government to assess COVID-related initiatives that impact privacy, (https://www.priv.gc.ca/en/privacy-topics/health-genetic-and-other-body-information/health-emergencies/fw_covid/) which recommended using de-identified or aggregate data whenever possible in order to protect the information collected.

Because the office has received complaints alleging violations of privacy, he said it will turn attention to “the means chosen to de-identify the data mobility information relied upon by the government for public health purposes.”

‘There are lots of dark spots, and we’ll have to put the light on it’

During a press conference on Jan. 10, Brassard said there is no ability for Parliament to scrutinize what the information is being used for, what outcomes PHAC and the federal government is hoping to achieve, and what protections are in place to ensure the privacy of Canadians has been and will be protected. “Were they just simply finding out that people were going to Costco, or were they using this information for purposes that were going to help in the pandemic? At least on the surface, it appears to me, two years into this we’re not any further along, and so how is that information helpful?” he said.

Brassard pointed out PHAC’s request for the proposal was posted the same day Parliament adjourned, on Dec. 16, and it closed on Jan. 21, 10 days before Parliament resumes. He said he considered this an effort to evade parliamentary scrutiny.

Villemure said the fact that PHAC collects information on Canadians is not a problem “per se,” but the way the agency is doing it and the processes it’s trying to implement “worries me a lot.” He questions whether the cellphone data will go through a third party, what would happen with the data, and for how long.

The federal government previously accessed Canadians’ location data from Google (https://www.ctvnews.ca/sci-tech/google-s-sharing-canadians-location-data-with-the-government-but-says-privacy-s-assured-1.4880747) to do “basically the same thing,” he noted, which creates even more questions for the PHAC. “There are lots of dark spots, and we’ll have to put the light on it,” he said.

Data-collection by itself isn’t concerning, but lack of transparency and accountability is

Christine Van Geyn, litigation director at the Canadian Constitution Foundation, said she is “troubled” by the lack of transparency around the enhanced surveillance of Canadians, as well as the rationale for such measures “at this point in the pandemic, let alone on the extended timeline set out in the tender.”
Conservative MP John Brassard is among the opposition members on the Ethics Committee demanding an emergency meeting, now set for Jan. 13. *The Hill Times photograph by Sam Garcia*

“We of course know that our phones can show movement patterns, this is not new information. But who has access to that information, for how long, and what they use it for, is another matter. When the government is seeking access to this information for an extended period of time and for an uncertain purpose, we should all be concerned.”

Crises provide opportunities for governments to obtain new powers, she said, noting the pandemic is one example.

Van Geyn said she shares the opposition MPs’ concerns, including whether anonymized data can later be identified, and said the privacy commissioner should look into the matter. “We are living in exceptional times, but we must be wary of normalizing the expansion of government powers beyond what is tolerable in a free and democratic society.”

David Murakami Wood, director of the Surveillance Studies Centre, said he is not concerned about the issue from a privacy standpoint, given that data collection by governments is “unremarkable,” but he is concerned with the government’s lack of transparency and accountability with the data.
Christine Van Geyn, litigation director of the Canadian Constitution Foundation, says she is troubled by the lack of transparency around the enhanced surveillance of Canadians and supports the request to have the privacy commission look into the matter. Photograph courtesy of Christine Van Geyn

The acquisition of the dataset by PHAC is not nefarious, he said, given it is de-identified and anonymized information, but he said the fact Canadians were not informed “causes the problem.”

While he said PHAC’s collection of such information is “not some incredible step over a line into a surveillance society,” he praised opposition parties for “keeping the federal government on its toes and
David Murakami Wood, director of the Surveillance Studies Centre, says the government’s lack of transparency and accountability with the data is concerning. Photograph courtesy of David Murakami Wood

holding it to account.”

This could be a case of “good intentions” leading to unintended harms,” added Karen Eltis, a professor who specializes in digital and constitutional law at the University of Ottawa.

Eltis said the Canadian government, like governments around the world, has dealt with the “extraordinary circumstances” of the pandemic by harnessing proprietary technology for various purposes and then “overly relying on those technologies.” But at the same time, she said privacy laws have not been able to keep up. “These things are not properly structured in law and we’ve been struggling with this for 20 years. And then here comes the pandemic, and we jump from the brick and mortar world to the digital world without the proper safeguards in place,” she said.

Eltis said Canada’s democracy and its institutions are “only as strong as they are trusted,” and transparency and oversight are key to this trust, especially during an age of misinformation. When that trust is put into question, she said it’s easy for institutions to die from “small cuts,” creating greater need for tools in place to ensure “we’re not put on a slippery slope towards the normalization of mass surveillance or governing by
University of Ottawa law professor Karen Eltis says democracy and its institutions are ‘only as strong as they are trusted.’ Photograph courtesy of the University of Ottawa

proxy via an intermediary.”

The Hill Times
To read more great stories like this one and stay ahead of the political curve, subscribe to The Hill Times (https://www.hilltimes.com/get-a-subscription).

RELATED STORIES

JAN 13, 2022
Politics This Morning: Ethics Committee to meet over PHAC cell data collection (https://www.hilltimes.com/2022/01/13/politics-this-morning-ethics-committee-to-meet-over-phac-cell-data-collection/337754)

JAN 12, 2022
Ethics Committee has the chance to set a new tone in the new year (https://www.hilltimes.com/2022/01/12/ethics-committee-has-the-chance-to-set-a-new-tone-in-the-new-year/337457)

JAN 10, 2022
Politics This Morning: Trucking industry warns against vaccine mandate at the border (https://www.hilltimes.com/2022/01/10/politics-this-morning-trucking-industry-warns-against-vaccine-mandate-at-the-border/336991)

OCT 27, 2021
Bill C-11 was the gift that needed returning (https://www.hilltimes.com/2021/10/27/bill-c-11-was-the-gift-that-needed-returning/324436)
'Massive overhaul' of privacy law leaves political parties off the hook

‘We’ll have to put the light on it’: politicos and privacy experts urge investigation into PHAC’s collection of cellphone data

A Conservative and Bloc Québécois MP say they are ‘worried’ by PHAC’s lack of transparency on the plan, and they want to know why the data was collected and whether it will go through a third party.

Feds report $326.1-million in lost revenue, public money, property in 2020-21
Stolen or vandalized federal property in 2020-21 included 63 cellphones, 211 Crown vehicles or other transports, 29 combat uniforms, and 3,689 cases involving materials, tools, or supplies.

Expect continuity in Canada’s foreign policy and national security corridors after DM shuffle: analysts

Trade consultant Eric Miller says David Morrison will bring a new approach as deputy minister of international trade.

Canadians with disabilities ‘left behind’ say advocates after Ottawa spends $797-million in targeted COVID support

Advocates and experts say they want more from the proposed new Canada Disability Benefit after COVID exposed weaknesses in the existing array of federal programs for people with disabilities.

Feminism on the rise in Canada, but experts say more policy action needed to match

'If the Canadian public is generally on side [with feminism] then that makes it easier for policies to come forward and to be brought into place that will continue to move the agenda forward,' says Sen. Donna Dasko.
With another year of holiday plans upended by rising case numbers, to a serious crunch felt by health care workers fatigued by the pandemic, COVID-19 continues to cast its ugly shadow over Canadians' lives.

Locked down and locked in: federal inmates face renewed isolation as COVID outbreaks sweep prisons

Experts say that because of an inability to progress on correctional plans, inmates are being kept for longer than they ought to be, and vulnerable to outbreaks of COVID in the congregate settings.

Families Minister Gould hangs on to chief of staff Tsaï-Klassen

Russell Milon has followed Gould to her new office, continuing as director of parliamentary affairs, and James Cudmore has joined the minister’s team as communications director.

Massive federal deficit shows signs of shrinking, but economists urge policy review to avoid austerity measures
shrinking—but-economists-urge-policy-review-to-avoid-austerity-measures/336706)

NEWS: By MATTHEW HORWOOD (HTTPS://WWW.HILLTIMES.COM/AUTHOR/MATTHEW-HORWOOD)

Canada's record $327.7-billion deficit is expected to ‘rapidly shrink’ in the coming years, economists say, as the federal government transitions to cheaper and more targeted support measures for Canadians.

TRENDING STORIES

JAN 10, 2022

JAN 10, 2022
Will COVID revive the federal public service? (HTTPS://WWW.HILLTIMES.COM/2022/01/10/will-covid-revive-the-federal-public-service/336733)

JAN 10, 2022
Conservatives demand Liberals make NSICOP a parliamentary committee, release Winnipeg lab docs (HTTPS://WWW.HILLTIMES.COM/2022/01/10/conservatives-demand-liberals-make-nsicop-a-parliamentary-committee-release-winnipeg-lab-docs/336831)

JAN 10, 2022
Decarbonization will mean industrial restructurings on an unprecedented and massive scale, Canada better get ready for it (HTTPS://WWW.HILLTIMES.COM/2022/01/10/decarbonization-will-mean-industrial-restructurings-on-an-unprecedented-and-massive-scale-canada-better-get-ready-for-it/336597)

JAN 10, 2022
Families Minister Gould hangs on to chief of sta Tsaï-Klassen (HTTPS://WWW.HILLTIMES.COM/2022/01/10/families-minister-gould-hangs-on-to-chief-of-sta-tsai-klassen/337014)

JAN 10, 2022
China policy will be a major foreign policy test for Trudeau’s government (HTTPS://WWW.HILLTIMES.COM/2022/01/10/china-policy-will-be-a-major-foreign-policy-test-for-trudeaus-government/336712)