INQUIRY INTO WORKPLACE SURVEILLANCE

Organisation: Community and Public Sector Union, Victorian Branch

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Community and Public Sector Union

SPSF Group   O   Victorian Branch

Chair   29 July 2024
Economics and Infrastructure Committee
Legislative Assembly of Victoria
Parliament, Melbourne
VIC   3002

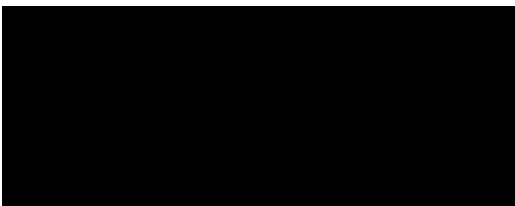Via email: worksurveillanceinq@parliament.vic.gov.au

Dear Chair

RE: INQUIRY INTO WORKPLACE SURVEILLANCE

On behalf of our members employed in the Victorian Public Sector, please find attached CPSU's submission to the Victorian Government's Inquiry into Workplace Surveillance.

If you have any questions or require additional information, please contact Shoshana Silverman, Research & Policy Officer, at ██████████████

Yours sincerely

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Karen Batt
VICTORIAN BRANCH SECRETARY

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Introduction

The Community and Public Sector Union (CPSU) welcomes the opportunity to make a submission to the Victorian Government's Inquiry into Workplace Surveillance.

CPSU supports the position of the Victorian Trades Hall Council (VTHC) as outlined in VTHC's comprehensive submission to this Inquiry. CPSU presents this submission as supporting evidence for VTHC's position with a primary focus on summarising the perceptions and experiences of CPSU members in relation to workplace surveillance and monitoring.

The expansion of AI for the purpose of surveillance has significant implications for workers' employment rights, their rights to equality, privacy, and the confidentiality of personal data, as well as their physical and mental health and well-being at work.[1]

In February 2024, CPSU developed and circulated a survey to its membership on the current use of AI technologies in public sector workplaces.[2] The data and quotes presented in this submission are derived from the 487 separate responses to the survey. They provide direct evidence of the concern many Victorian Public Sector workers have about the lack of communication and consultation from employers regarding the use of AI technologies in the workplace.

CPSU notes that to date there is no whole of government policy or guidance for public sector organisations in relation to the varied use of AI technologies in workplaces, including surveillance and monitoring of workers. For this reason, many workers are unable to identify how AI technologies are being used and if monitoring or surveillance processes are in operation in their workplaces. This presents a concerning lack of transparency and accountability on the part of employers and has implications for a range of issues impacting on the delivery of public services to the wider Victorian community.

As such, this submission will specifically address the following concerns:

- transparency about where, how and why AI technologies are being used for surveillance and monitoring purposes,
- worker concerns regarding privacy and confidentiality relating to the collection, storage and retention of personal data,
- the occupational health and safety risks surveillance and monitoring pose to workers' physical health, mental health and psychosocial well-being, and
- risks to workplace culture and relationships.

CPSU supports VTHC's over-arching recommendation for new legislation that will provide minimum standards and safeguards against workplace surveillance and monitoring and greater transparency and accountability in relation to its use. In addition, this submission will also provide recommendations to improve transparency and facilitate conversation between workers, employers and unions on how AI technologies are used in the Victorian Public Sector.

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[1] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org. uk/research-analysis/reports/technologymanaging-people-worker-experience

[2] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace*.

The use of surveillance and monitoring in public sector workplaces

In many workplaces, forms of surveillance are viewed as an acceptable security or safety precaution. However, the practice of gathering data about someone is an exercise of power and must be scrutinised for transparency and necessity.[3] Whilst the purpose of AI is commonly described as increasing productivity and efficiency as part of an organisation's work processes, CPSU is concerned that technologies used for surveillance and monitoring are open to improper use by employers without a consistent policy framework in public sector workplaces.

Current forms of workplace surveillance and monitoring can take many forms, including: [4]

- Use of cameras and other technologies to track workers' movements in the workplace or when using employer property, for example, vehicles for work duties
- Use of audio technologies for monitoring and recording telephone calls
- Use of monitoring software on computers to watch workers' screens in real time, monitor click and keystroke rates, and read emails, webchats and other communications
- Use of monitoring software to monitor social media usage and social interaction
- Use of technologies to collect biometric data, particularly for human resources and performance management purposes.

Until recently, the most widespread existing forms of surveillance used in the Victorian Public Sector have been:

1) the use of cameras, CCTV and similar technologies to monitor workers in a range of workplaces including prisons, youth justice settings and some face-to-face customer service settings. The use of cameras for surveillance purposes is lawful in public places and regulated under the *Surveillance Devices Act 1999* (Vic) (SD Act). Under the Act, data collected about workers may be used to monitor and/or manage performance and to investigate allegations of misconduct, providing employers have advised workers of the use of cameras to record or monitor workplace settings. Collection of personal information of workers visible to cameras is also permitted under the *Privacy and Data Protection Act 2014* (the PDP Act), as upheld on 8 January 2020 in a Victorian Civil and Administrative Tribunal (VCAT) ruling, *Kaliszewski v Department of Justice and Community Safety.* [5]

2) the use of CVTrack technology in prisoner escort vehicles introduced by Corrections Victoria in 2010 for the purpose of securely tracking prisoners. Under the SD Act, employers may use tracking technology with the 'implied consent' of workers. After being advised of the presence of tracking technology, workers' use of vehicles is deemed as implied consent. Given that an individual's identity is not immediately obvious from viewing raw tracking data, the data is not considered 'personal information' under the *Information Privacy Act 2000* (Vic) (IP Act).

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[3] Ball, K. (2021). *Electronic Monitoring and Surveillance in the Workplace: Literature review and policy recommendations,* European Union: Luxembourg.

[4] Hall Payne Lawyers. (2024). *Is it legal for employers to monitor employees using surveillance devices?* www.hallpayne.com.au/blog/2022/april/surveillance-device-monitoring.

[5] Office of the Victorian Information Commissioner. (2024). *Kaliszewski v Department of Justice and Community Safety (Human Rights). (2020).* VCAT 27. www.ovic.vic.gov.au/case-note/kaliszewski-v-department-of-justice-and-community-safety-human-rights-2020-vcat-27/.

However, a significant development in AI enables the collection of valuable information about behaviours and personal characteristics. This has implications for the amount and extent of visibility the employer has of workers, both during work hours and beyond into an individual's personal life. This latter point is particularly notable given the increase in remote work during and after the COVID-19 pandemic.[6] The collation of diverse types of surveillance data, for example, data on working hours, sick leave, social interaction, etc, enables employers to make assumptions and formulate conclusions about individual workers that may be incorrect or circumstantial, and may reinforce existing inequalities.[7] If unregulated, invasive forms of data collection via surveillance and monitoring processes can result in discriminatory outcomes for workers, leading further to the breakdown of trust and goodwill in the employment relationship.[8]

For these reasons, CPSU is opposed to invasive surveillance and monitoring conducted by employers outside a worker's usual working hours and believes it should only be permitted when allegations of criminality exist or police surveillance for the purpose of investigation is warranted.

Transparency

On 21 May 2024, the Australian Council of Trade Unions (ACTU) issued a media release and statement to the Australian Government's Senate Select Committee hearing on Adopting Artificial Intelligence (AI). The media release and statement called out the lack of transparency and consultation across all sectors of the Australian economy on the adoption and regulation of AI, and cited the risks and harms workers face due to 'unreasonable surveillance'.[9]

CPSU supports the ACTU's position and believes there is a greater need for consultation of workers in relation to the introduction of AI technologies in public sector workplaces. Without transparency and genuine consultation, workers are left with little or no influence over when and how AI is used at work.[10] A total of 78 per cent of members who participated in CPSU's membership survey either strongly agreed or agreed with the statement that 'AI use should be more transparent in my workplace'.[11] In addition, 42 per cent of respondents advised that transparency was the most pressing issue for them in relation to AI technologies and 22 per cent advised that AI surveillance and monitoring is currently operational in their workplaces.[12]

Comparable concerns relating to transparency were found in a research study conducted in the UK by the Trades Union Congress. In a survey question where workers were asked if they believed that AI technologies were being used in their workplaces despite little or no communication from

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[6] Ball, K. (2021). *Electronic Monitoring and Surveillance in the Workplace: Literature review and policy recommendations*. European Union: Luxembourg.

[7] Ball, K. (2010). Workplace surveillance: an overview. *Labor History*, *51*(1), p. 87. https://doi.org/10.1080/00236561003654776

[8] Ball, K. (2021). *Electronic Monitoring and Surveillance in the Workplace: Literature review and policy recommendations,* European Union: Luxembourg.

[9] Australian Council of Trade Unions (ACTU). (2024, July 21). *Workers should be front and centre of AI regulations, says ACTU*. www.actu.org.au/media-release/workers-should-be-front-and-centre-of-ai-regulations-says-actu.

[10] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org.uk/research-analysis/reports/technologymanaging-people-worker-experience

[11] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace*.

[12] Ibid.

employers of how and why, 89 per cent of respondents selected "yes" or "not sure".[13] The researchers concluded that this result was predominantly caused by a lack of consultation and transparency.[14]

Similarly, 37 per cent of respondents replied 'yes' and 38 per cent of respondents replied 'not sure' to a question in CPSU's membership survey about whether AI was currently being used in their workplaces.[15] 28 per cent advised that it was informally adopted by individuals or teams without specific permission. 19 per cent said AI was not officially acknowledged but is used in practice. Only 8 per cent of members advised that the use of AI was officially announced by the department or by division.

When asked whether their organisation has a policy on the use of AI at work, 11 per cent responded yes, 24 per cent responded no and 57 per cent were unsure. 9 per cent advised they were 'very informed', about the use of AI in their workplaces, 22 per cent responded, 'somewhat informed', 24 per cent responded, 'not very informed, and a staggering 39 per cent responded, 'not informed at all'.[16]

The following is a selection of statements made by respondents regarding transparency around the use of AI.[17] (Please note that names of organisations have been omitted from comments to protect members' privacy).

- *It should be clear where AI is used and the assumptions underpinning it should be laid out.*
- *There is no policy on AI use, and no disclosure of when AI has been used for work (internally or externally).*
- *There is a lack of transparency when these AI tools are implemented. Usually, it's an announcement made about the benefits, downplaying the detriment and either little or no consultation with staff.*
- *It is a major concern it is being used and staff have not been advised / consulted.*
- *It is well proven that most algorithms and LLMs are opaque black boxes. We don't know how the data inputted into them is being used and by whom.*
- *[My organisation] is currently looking into an AI solution for resource allocation. It does not have the expertise internally to manage such a tool, meaning it will effectively be beholden to whatever consultants they employ and then run blind from then onwards. Transparency will be non-existent because even [my organisation] won't know how it works.*

CPSU believes that public sector employers must urgently address this lack of transparency around the use of AI. It is crucial that workers understand the types of data collected by surveillance and monitoring technologies, the purpose of collection, the potential ways in which data may be used, how it is stored and how long it is retained for.

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[13] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org. uk/research-analysis/reports/technologymanaging-people-worker-experience
[14] Ibid.
[15] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace*.
[16] Ibid.
[17] Ibid.

Privacy

Whilst privacy legislation is based on the concept of consent, this does not translate well to the workplace where a worker often has little choice about whether they allow personal data to be collected and used by the employer.[18] As such, privacy at work is a major concern for many Australian workers due to each state and territory having different legislation in place relating to the use of surveillance.[19] This is further complicated by a general lack of knowledge and awareness of consent and implied consent in relation to personal data.[20]

48 per cent of respondents to CPSU's survey advised that privacy was the most pressing issue.[21]

As one respondent advised:

AI systems need access to vast amounts of data to train and operate effectively. This raises concerns about data privacy. There is a huge issue regarding staff/employee privacy with these AI tools that the organisation has already adopted or wants to adopt. For example, [my organisation] has significant monitoring and surveillance capabilities including 'sentient analysis' to analyse quality of interactions, for the express purpose of targeting staff for intense coaching and monitoring.

Similarly, members expressed concerns that extensive surveillance could allow for detailed monitoring of their personal lives, behaviours, and activities inside and outside the workplace.

- *I feel that having my vehicle movements, speed, braking, and location constantly tracked is a massive invasion of my personal privacy. Even when I'm off the clock, I have no way to prevent this monitoring.*
- *I'm worried this data could be used punitively against me, perhaps resulting in unfair disciplinary actions or even termination for minor incidents taken out of context.*
- *I am concerned about excessive monitoring (e.g., driver rating scores when using fleet cars, monitoring number of keyboard clicks per hour).*
- *I worry about information security and confidentiality in general. Government should have AI policies that address, among other things, how privacy is being protected and those policies should be publicly available. I work in child protection so yes this is an issue.*
- *I don't feel clear or confident about how AI programs used by the workplace manage personal or sensitive information. I'm concerned about how privacy is managed within the workplace (whereas the focus has been on privacy outside the organisation).*

On the issue of consent, the Trades Union Congress study of UK workers found that 75 per cent of workers believed employers should be legally required to consult with workers prior to

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[18] Kutchel, D. (2023, November 27). *Watching you work at home: The rise of employee surveillance*. https://lsj.com.au/articles/watching-you-work-at-home-the-rise-of-employee-surveillance/

[19] Office of the Australian Government Information Commissioner. (2024). *Workplace monitoring and surveillance*. https://www.oaic.gov.au/privacy/your-privacy-rights/surveillance-and-monitoring/workplace-monitoring-and-surveillance#:~:text=The%20Privacy%20Act%201988%20doesn,and%20recording%20of%20telephone%20conversations.

[20] Macpherson, K. (2018, October 11). *Surveillance in the workplace – what's allowed and what's not under Australian law*, https://mk.com.au/surveillance-in-the-workplace-whats-allowed-and-whats-not-under-australian-law/

[21] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace*.

surveillance and monitoring systems being implemented. However, only 29 per cent agreed that they were consulted when new forms of monitoring were introduced.[22]

CPSU strongly believes that comprehensive policy and guidance on privacy and confidentiality in relation to the use of AI in the workplace is necessary. Workers need clarity on how data is collected, stored, shared and owned, and how they may access their data. They also need guidance on issues of consent and implied consent.

Workplace relations and culture

Surveillance and monitoring – if implemented by employers without consultation with workers, and in good faith with full transparency – may leave workers feeling that their competence, their commitment to organisational goals, and their honesty and integrity are under scrutiny by their employer.[23] They may also feel a lack of control and/or autonomy over their performance and approach to their working lives.[24]

In the Trades Union Congress study of UK workers, only 27 per cent of workers agreed that if they felt uncomfortable with a form of workplace monitoring used in their workplace, they would be able to speak up, challenge it and stop it from happening.[25] Similarly, 56 per cent of respondents agreed that 'introducing new technologies to monitor the workplace damages trust between workers and employers' with one in seven workers feeling under increased surveillance compared to before the pandemic.[26]

Indeed, many workers may perceive that their activities are monitored or tracked regardless of whether this is actually happening.[27] Such perceptions can erode trust towards managers, reduce levels of morale and the sense of belonging workers feel toward their organisations, and result in greater levels of disengagement and poor workplace cultures.[28] In fact, some research has shown that surveillance can have the opposite of its intended effect: instead of helping to improve worker performance and deter wrong-doing, it may generate a backlash from workers who feel their privacy and job autonomy unfairly restricted.[29]

CPSU members provided the following comments:[30]

- *As an employee, I feel this vehicle monitoring system is a major overstep that shows profound disregard for my privacy rights, dignity and autonomy in the workplace. I worry it will irreparably damage morale, trust and the employee-employer relationship.*

[22] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org. uk/research-analysis/reports/technologymanaging-people-worker-experience

[23] Ball, K. (2021). *Electronic Monitoring and Surveillance in the Workplace: Literature review and policy recommendations*. European Union: Luxembourg.

[24] Ibid.

[25] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org. uk/research-analysis/reports/technologymanaging-people-worker-experience

[26] Ibid.

[27] Ball, K. (2010). Workplace Surveillance: An Overview. *Labor History 51* (1): p. 87–106.

[28] Moore, P. (2020). *Data subjects, digital surveillance, AI and the future of work*. European Parliamentary Research Service. European Union: Brussels.

[29] Alge, B, J. (2001). Effects of Computer Surveillance on Perceptions of Privacy and Procedural Justice. *Journal of Applied Psychology 86* (4): p. 797.

[30] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace*.

- *The telematics system makes me feel like my employer fundamentally doesn't trust me to do my job properly without excessive surveillance. This undermines my motivation and morale.*
- *I am very concerned that I could be charged with misconduct due to using AI without any evidence-based permissions or policies in place.*
- *I am concerned that the department is using AI as a way to monitor staff throughput that would be measured against an algorithm with no clear indication of the level of intervention required.*
- *It's definitely a worry. Who is responsible for its use in our workplace and what is their moral compass and social cohesion value system?*
- *Employers will not be transparent about their use of AI regarding matters pertaining to staff.*
- *Decisions will be made without human understanding of all circumstances e.g., Robodebt.*
- *Copilot results could be misinterpreted and used vs the operator. Management could use it as a tool or basis for penalising the operator.*
- *There has been a rise of micro-management in [my organisation] over the past five years, alongside a rise in the fetishisation of 'data' which doesn't take into account poor tech systems and support. The adoption of tech to increase monitoring and surveillance of staff is the acceptable trade-off for managers who want to use the data to agitate government for increased funding.*

Bias in AI decision-making

AI bias refers to knowledge or information provided by technologies that reflect and perpetuate human bias.[31] Training, algorithmic and cognitive biases are all capable of skewing results produced by AI. Of significant concern is the ability of AI to determine that some data characteristics are more favourable than others, thereby potentially underlining human bias towards gender, ability, race or cultural background, age, etc.[32]

There is a strong feeling among workers that unless carefully regulated, using technology to make decisions about issues that affect the workforce could increase unfair treatment in the workplace and potentially set back a range of diversity and equity measures.[33] [34] 60 per cent of workers surveyed by Trades Union Congress shared this view, with a further 54 per cent agreeing that AI decisions may be inherently biased.[35]

Survey comments from CPSU members illustrate this perspective.

- *How can it not be, or grow to be, biased given what we see of other instances where algorithms are used? We could be undoing years of work around diversity and inclusion.*
- *AI could have significant gender and diversity impacts.*
- *Current code driven social media has strong gender biases and reflect poor attitudes to women. AI will perpetuate this.*

[31] IBM, *Shedding light on AI bias with real world examples*. (2023, October 16). www.ibm.com/blog/shedding-light-on-ai-bias-with-real-world-examples
[32] Ibid.
[33] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace.*
[34] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org.uk/research-analysis/reports/technologymanaging-people-worker-experience
[35] Ibid.

- *The closed & non-transparent nature of AI models means it's impossible to know what potential biases exist. The authoritative nature with which AI delivers answers can lead to people accepting them uncritically.*
- *These tools are not well regulated yet and there are significant risks of bias especially for automated AI decision making.*
- *I do not trust AI in recruitment processes (e.g., screening applicants) and would not like to see it introduced as I believe it introduces greater bias.*
- *AI suffers the biases of the overwhelmingly white, male developers.*
- *Biases in AI systems are based on human biases, but without the ability to self-scrutinise that human writers have.*
- *AI is only as intuitive and accurate as the humans that programmed it and will be subject to all forms of bias.*
- *Driving data could be used to discriminate against me due to my age, gender, disability status or other factors unrelated to job performance.*

CPSU believes that consistent and common policy for the use of AI should also be guided by ethical frameworks to ensure that both workers' rights and quality of information provided to the Victorian community are not impacted by AI bias. This involves developing checks and balances to review data obtained by AI technologies, and regularly reviewing data collection and analysis for bias. A commitment to removing bias wherever possible should include regular consultation with VPS Staff Networks and diversity and inclusion practitioners across the service, as reflected on in the following comment by a CPSU member:

- *The VPSC urgently needs to develop evidence-based COMMON POLICY (no more of those hurriedly drafted policies of varying quality and consistency between different departments) on how AI is permitted to be used and what would constitute misconduct in its use in the VPS. The VPSC's development of the AI Common Policy should be co-designed with a representative, intersectional sample of both community members and public sector employees from a range of "social classes" and education levels and be supported by the VPSC to participate meaningfully in the co-design process.*[36]

Impacts on physical and mental health and well-being of workers

Intrusive workplace surveillance is a growing workplace phenomenon, recognised by Australian and international unions.[37] [38]Although not officially considered a psychosocial hazard by WorkSafe Victoria, there is increasing recognition that surveillance and monitoring can have significant impacts on worker's physical and mental health. [39]

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[36] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace.*

[37] Victorian Trades Hall Council (VTHC) Occupational Health and Safety (OHS) Unit, *Intrusive Workplace Surveillance and Algorithmic Management,* www.ohsrep.org.au/intrusive_workplace_surveillance#:~:text=If%20left%20unchecked%2C%20intrusive %20workplace,Webcams%20on%20work%20computers

[38] Trades Union Congress. (2020). *Technology Managing People: The worker experience.* www.tuc.org. uk/research-analysis/reports/technologymanaging-people-worker-experience

[39] VTHC OHS Unit, *Intrusive Workplace Surveillance and Algorithmic Management,* www.ohsrep.org.au/intrusive_workplace_surveillance#:~:text=If%20left%20unchecked%2C%20intrusive %20workplace,Webcams%20on%20work%20computers

Numerous studies have been undertaken on the impact of heightened scrutiny as the "new normal" in the workplace, with low trust, increased pressure, and negative perceptions about justice, procedural fairness and autonomy, cited as factors that impact a worker's psychosocial health and job performance.[40] Similarly, studies on risks to physical health of workers have found that intensive surveillance and monitoring can contribute to higher rates of workplace accidents and injuries due to workers struggling to be "as productive" as colleagues, and skipping breaks due to increased pressure.[41] Some workers have even reported having to take extra time off work for mental health reasons due to the pressure and low levels of personal dignity they experience in the workplace.[42]

A 2024 Canadian study exploring the impact of surveillance and monitoring on a national sample of Canadian workers found that perceptions about surveillance contributed to increased psychological distress and lower job satisfaction. Surveillance was seen to create secondary work stressors in the form of reduced autonomy, violation of privacy and increased job pressures.[43]

These findings are supported by comments from the Trades Union Congress survey:[44]

- *Going to work is not enjoyable anymore, as you are scrutinised and watched over constantly. Knowing that there is monitoring software installed, whether it is active or not, makes work more stressful. I feel like I have to second-guess everything I do and can't relax and be myself at work.*
- *Today's workplace has become an unfriendly and sad environment. This is not the fault of technology; it relates to the way technology is being used by employers... more research needs to be sponsored to better understand the relation of technology (mis)use and the rise of mental health issues at work.*
- *In my company AI Is being either used to replace staff or put staff under more pressure.*
- *People are viewed as a series of statistics measured against an arbitrary level of performance.*
- *There is a health and safety issue not being addressed here in terms of eye strain, vertebral disc compression and drying out of discs, muscular/skeletal injury.*
- *Supervision and professional and personal development are governed by online 'tick box' IT systems which do not adequately appreciate the complexities of the work being undertaken and pressure applied by targets, isolation, increased workload and lone working.*

These sentiments are echoed by comments in CPSU's membership survey:[45]

- *I have no control over how this deeply personal data about my movements and habits gets used, stored, or even sold to third parties. The potential for misuse is deeply concerning and affects my mental health.*

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[40] Ball, K. (2021). *Electronic Monitoring and Surveillance in the Workplace: Literature review and policy recommendations,* European Union: Luxembourg.

[41] Trades Union Congress. (2020). *Technology Managing People: The worker experience*. www.tuc.org.uk/research-analysis/reports/technologymanaging-people-worker-experience

[42] Ibid.

[43] Glavin, P., Bierman, A. & Shieman, S. (2024). Private Eyes, They See Your Every Move: Workplace Surveillance and Worker Well-being. *Social Currents,* 24, 1–19. DOI: 10.1177/23294965241228874

[44] Ibid.

[45] Community & Public Sector Union (CPSU). (2024, February). *Membership Survey on Artificial Intelligence (AI) in the Workplace.*

- *With vehicle tracking, it feels like my employer can monitor me even on my own time, blurring the boundaries between work and personal life.*
- *The unending surveillance and scrutiny of my driving creates immense stress and anxiety that negatively impacts my overall well-being.*

CPSU members also point out that surveillance and monitoring is unevenly applied across groups of workers, which adds to perceptions of unfairness and the 'singling out' of workers.

- *Unequal Implementation! I worry the telematics could be used inconsistently to target certain employees over others based on favouritism or bias.*
- *Copilot is too invasive. It records your every move and location. Unlike for office workers, no such stringent monitoring is in place.*

CPSU strongly recommends further work is undertaken by the Victorian Government to identify the impacts of surveillance and monitoring on the physical, mental and psychosocial well-being of workers. Investigation should include the impacts on remote-working and on workers who use equipment fitted with surveillance devices outside their immediate workplace, for example, in Government owned vehicles when workers are "off the clock."

It is also imperative that impacts of surveillance and monitoring on individual workers are viewed in the broader context of issues affecting specific groups of workers to identify where risks to psychosocial safety and well-being are more prevalent.

Recommendations

In accordance with member concerns, CPSU recommends the following measures. They are designed to reduce the risks workplace surveillance and monitoring pose to principles of justice, fairness, accountability and transparency.

1. CPSU supports VTHC's recommendation for the introduction of a Privacy in Working Life Act (PIWLA) to establish minimum safety standards and safeguards and provide measures for enforceable action against employers who engage in arbitrary surveillance or collect, use and share data inappropriately.[46] Prior to any implementation, employers must demonstrate a genuine need for workplace surveillance and commit to engage in meaningful consultation with workers and union representatives.

2. CPSU supports VTHC's recommendation that surveillance and monitoring are recognised as risks to psychosocial safety in the workplace. CPSU supports the development of guidance for employers and workers by WorkSafe Victoria in consultation with unions to identify hazards and mitigate risks from an occupational health and safety perspective.

3. CPSU supports VTHC's recommendation that there should be a total ban on surveillance of workers and their communications when they are not at work, including a prohibition on social media trawling. However, legitimate police and investigative surveillance that complies with current legal requirements should not be restricted.

4. CPSU recommends that the Victorian Government tasks an appropriate body with responsibility for developing a whole of government common policy framework, including

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[46] VTHC. (2024). Submission to the Victorian Government's Inquiry into Workplace Surveillance.

ethical standards, guidelines, and user-friendly advice for employers and workers on the use of surveillance and monitoring.

5. CPSU recommends a Memorandum of Understanding is established between CPSU and the appropriate body for regular consultation on the use of AI technologies that support surveillance and monitoring of workers.

6. CPSU recommends that public sector employers commit to genuine and meaningful consultation with workers and unions to reduce the danger of AI bias. This should include regular consultation with VPS Staff Networks and diversity and inclusion practitioners.

7. Employers must demonstrate a genuine commitment to transparency by sharing information with workers on where, how and why surveillance and monitoring is being used. Concerns about privacy, confidentiality, justice and fairness must be addressed to ensure all parties in the employment relationship can make informed choices prior to implementation of surveillance and monitoring.

8. Employers must acknowledge risks to the physical, mental and psychosocial well-being of workers and commit to reporting to the Victorian Government OHS Review Board, or appropriate committee, on preventative strategies to mitigate OHS risks contributed to by surveillance and monitoring.

9. Employers should commit to ensuring that data collected for an identified purpose is not collated with data collected for a secondary purpose to mitigate the risk of drawing conclusions that could negatively impact fairness and procedural justice.