

# Derided as paranoid, Saanich mayor vindicated

Installation of spyware  
against the law: report

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VANCOUVER SUN

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VICTORIA — Less than two weeks after being sworn in as mayor, Saanich Mayor Richard Atwell learned he was being spied upon.

A whistleblower sidled up to the rookie mayor at a community event last December, and suggested the mayor's own staff had bugged his municipal computer.

Distrustful of Saanich's top bureaucrats — many of whom were loyal to the six-term incumbent that Atwell had just upset at the polls — the mayor of Vancouver Island's largest municipality felt he had only one option left: launch his own investigation.

Armed only with the recording app on his iPhone, Atwell began interviewing former and current staff in Saanich's computer department. He approached one employee outside a local recreation centre, hoping to catch him away from his managers so he could speak freely.

When the mayor tracked down the technician who'd installed the tracking software, he went to the man's home on the employee's day off to record their conversation.

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**CONTINUED ON A4**

FROM PAGE A1

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"It just seemed so incredible," Atwell said. "These employees were very uncomfortable having done this job."

"They felt so uncomfortable they were asking questions internally and trying to get the information out somehow," Atwell added.

Atwell's suspicions were vindicated Monday in a report by privacy commissioner Elizabeth Denham, who said Saanich staff broke the law by installing spyware software called Specter 360 onto several municipal computers.

The district collected too much unnecessary personal information and didn't provide proper notification to those being monitored, Denham ruled.

The software was also too invasive, tracking not only Atwell's Internet and email usage, but also recording all the keystrokes he made and taking screenshots of his screen every 30 seconds, Denham said.

"I was deeply disappointed that Saanich didn't seem to understand that they were even collecting sensitive personal information," Denham said.

It's cold comfort for Atwell, a former Apple software engineer. His own council publicly portrayed him as a paranoid oddball and he became a national laughingstock in the two months after the spyware allegations became public.

"I'm very concerned how we got to this point, where essentially I was right and it seems like everyone else was wrong," Atwell said Monday.

"It took Elizabeth Denham to come out with her own independent investigation to validate what I was saying in the first place. ... Certainly it's a concern for democracy when staff can put a piece of software on a piece of equipment in the mayor's office, who is supposed to be overseeing the municipality."

Saanich shut off the software Jan. 20, saying it had become too great a distraction to the district. Denham recommended it delete any captured information.

Atwell sidestepped questions Monday on whether he wants to see anyone disciplined for the



DIRK MEISSNER/THE CANADIAN PRESS

**"I'm very concerned how we got to this point, where essentially I was right and it seems like everyone else was wrong," says Saanich Mayor Richard Atwell, shown speaking to reporters outside the legislature in Victoria on Monday.**

mess, and said he'll keep trying to work with his council.

Saanich council had claimed in a statement that the spyware was recommended as part of a May 2014 district audit into computer security.

That's not true, said Denham, who reviewed the audit and concluded it said no such thing.

"That was definitely misstating the conclusions and recommendations of the audit," she said.

Ironically, the spyware made Saanich's computer system even more vulnerable because it pooled all the personal information in one "honey pot" for hackers or viruses, and didn't properly monitor who could access the data, Denham said.

Council relied on staff advice and never actually saw the security assessment before it made that statement, Saanich Coun. Vic Derman said.

He said he hopes the privacy commissioner's report closes the case.

"I'm hopeful this is a water-under-the-bridge type of thing," Derman said. "I don't think any great malevolent scheme was intended. I think the intent was to make sure the municipality was properly protected."

A Saanich police investigation into the spyware said there was no evidence of criminal activity. Denham said police focused too

narrowly on the Criminal Code, missing other applicable provincial and federal laws.

Atwell has asked the Office of the Police Complaint Commissioner to review Saanich police conduct, as well as the conduct of the regional traffic unit that has pulled him over four times without issuing any infractions.

No other B.C. municipality uses spyware software to track employees, but Denham said they should heed Saanich's lessons and recognize employees have some right to privacy, even on work computers.

"I was concerned the public commentary around this report seemed to imply employees had absolutely no privacy rights when they entered the office door," Denham said.

"Acceptable-use policies give you some right to use the telephone, to use your cellphone to call your spouse and arrange pickup at the daycare, to check your online banking, to maybe do some vacation planning on your lunch break.

"So you don't expect your employer to be monitoring all of that activity in real time and retaining that information."

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