

**TORONTO TRANSIT COMMISSION
REPORT NO.**

MEETING DATE: March 26, 2014

SUBJECT: TTC Corporate Policy Update – Video Recording in Public Areas

ACTION ITEM

RECOMMENDATION

It is recommended that the Board:

1. Approve the updated TTC Corporate Policy entitled “Video Recording in Public Areas”, as attached.

FUNDING

There are no financial implications resulting from the implementation of this policy update.

BACKGROUND

At its meeting on October 25, 2013 the TTC Audit Committee had before it an Audit Department report entitled “Review of Video Surveillance – Privacy Practices (2013)”. The Audit Committee adopted the following action:

1. TTC Management should formally address the impact organizational changes have had on various aspects of the TTC’s Video Surveillance Program, and update the TTC Video Recording Policy accordingly.
2. Implementation of a self-assessment audit process on an annual basis to be thorough, comprehensive and testing of the program areas to ensure compliance with the policy and written procedures.
3. Consider integrating the Video Surveillance program with other corporate safety, security, and privacy measures to ensure clear accountability and responsibility.

In addition, at its meeting of October 8-11, 2013, City Council adopted the recommendations in the investigation report from the Ombudsman entitled “Wheel-Trans is Watching: An Investigation into the Toronto Transit Commission’s Use of Video Surveillance on Wheel-Trans Vehicles”. Recommendation No. 7, in particular, proposes that the TTC amend its Video Recording policy if the TTC continues to use video recordings to re-assess eligibility.

DISCUSSION

Since the Video Recording policy was first adopted by the TTC Board in March 2010, a number of organizational changes have taken place at the TTC. In response to the Audit Department recommendation related to the potential impact of these organizational changes, an across-the-board survey, meetings and communications were undertaken with departments having roles in the operation of the video recording program to identify any gaps or inconsistencies. This policy

provides the necessary updates to those roles and responsibilities within the current organizational structure; procedures and processes that meet TTC's corporate privacy requirements for access, retention and destruction of video records; and general administrative improvements.

This policy also incorporates a self-assessment audit requirement on an annual basis to be thorough, comprehensive and testing of the program areas to ensure compliance with the policy and written procedures, which is also consistent with the previous recommendation of the Information and Privacy Commissioner of Ontario (IPC). In addition, the processes and controls over the video surveillance program are also subject to assessment during departmental audits.

Accountability and responsibility within the updated policy is assigned to a number of individual TTC departments due to the wide range of functions and technical requirements to operate the video recording program across the entire system. Integrating all of these individual requirements into one existing security or safety program is not considered a viable option to strengthen or streamline accountability and responsibility because the same delegation of duties and responsibilities will be necessary.

In reference to the recommendation in the investigation report from the Ombudsman that the TTC amend its Video Recording policy if the TTC continues to use video recordings to reassess Wheel-Trans eligibility, the following new requirements have been added to "Section 3.5 – Head of Bus Transportation":

"The Head of Bus Transportation shall be responsible for the following:

- Advising and providing Wheel-Trans customers with all information related to the use of video images from Wheel-Trans vehicles for the purpose of re-assessing customer eligibility.
- Ensuring that an eligibility re-assessment program that uses video images from Wheel-Trans vehicles meets all standards of procedural fairness as it relates to public notice, public consultation, full and fair disclosure of information, evaluation criteria and communication".

The foregoing was submitted to the Ombudsman's office for review and there have been no concerns expressed with the proposed amendments.

JUSTIFICATION

It is necessary to update this policy in order to adhere to the recommendations from the "Review of Video Surveillance – Privacy Practices (2013)" report and Recommendation No. 7 of the Ombudsman's Investigative Report entitled "Wheel-Trans is Watching: An Investigation into the Toronto Transit Commission's Use of Video Surveillance on Wheel-Trans Vehicles."

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1.0 RESPONSIBILITY

Chief Financial & Administration Officer

2.0 PURPOSE

The Toronto Transit Commission recognizes the need to balance an individual's right to privacy and the need to ensure the safety and security of TTC employees, customers and property. While video recording cameras are installed for criminal, safety, security and evidentiary reasons, the TTC's video recording systems must also be designed to minimize privacy intrusion. Proper video surveillance, where deemed necessary, is one of the most effective means of helping to keep the TTC transit system, facilities and properties operating in a safe, secure, and privacy protective manner.

This TTC policy has been developed to govern video surveillance for public areas of the transit system, as more particularly set out in Section 2.1., and in accordance with the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). This policy applies to all types of camera recording devices in public areas that are used for the stated purposes.

This policy does not apply to covert video surveillance undertaken by the TTC for law enforcement purposes or to video surveillance in non-public places.

2.1 Video Recording Systems Locations

- A. Property: Video Recording Systems and related equipment are used by TTC at various subway stations and buildings which are owned, leased and/or occupied by the TTC in which the public has general access.
- B. Buses: Video Recording Systems and related equipment are used by the TTC on various TTC buses.
- C. Streetcars: Video Recording Systems and related equipment are used by the TTC on various TTC streetcars.
- D. Subway Vehicles: Video Recording Systems and related equipment are used by the TTC on various subway cars commencing with the new subway vehicles which entered into service in 2011.
- E. Wheel-Trans Vehicles: Video Recording Systems and related equipment are used by the TTC on various Wheel-Trans vehicles.

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3.0 ROLES AND RESPONSIBILITIES

3.1 Chief Financial & Administration Officer:

The Chief Financial & Administration Officer may delegate various responsibilities under this policy to Department Heads. The key duties of the Chief Financial & Administration Officer include:

- Ensuring policy compliance;
- Reviewing the policy every two years and forwarding recommendations for update, if any, to the TTC Board for approval;
- Co-ordinating the development of video recording system related privacy training standards;
- Establishing and maintaining a CCTV Steering Committee, if required; and
- Receiving status updates, as required, and annual audit scope and results from the Heads of Safety & Environment, Human Resources, Bus Transportation, Subway Transportation, Bus Maintenance, Streetcar Maintenance, Rail Cars & Shops, Plant Maintenance and the Manager of Streetcar Transportation regarding staff adherence to the responsibilities within the policy.

3.2 Head of Safety & Environment:

The Head of Safety & Environment shall be responsible for the following:

- Conducting Video Security Threat Assessments to determine the requirements for a video recording system for TTC owned, leased or occupied properties (excluding vehicles).
- Providing assistance for Video Security Threat Assessments to the Heads of Bus Transportation, Subway Transportation and the Manager of Streetcar Transportation, as required, to determine the requirements for a video recording system for TTC vehicles.
- Preparing recommendations for review and obtaining installation approval of video recording systems for TTC owned, leased or occupied properties (excluding vehicles).
- Approving the installation of video cameras in accordance with this policy at specified TTC owned, leased or occupied properties (excluding vehicles).
- Advising on the placement of video recording signs for TTC properties

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(excluding vehicles).

- In consultation with the Chief Financial & Administration Officer, developing privacy training for TTC and contract staff regarding obligations and compliance with the MFIPPA and this policy.
- Immediately reporting all alleged privacy breaches of this policy to the Chief Financial & Administration Officer
- Undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy.

3.3 Head of Human Resources

The Head of Human Resources shall be responsible for the following:

- Management and operation of a Video Services Unit responsible for the retrieval of all CCTV images from TTC properties and vehicles in compliance with this policy as it relates to privacy, storage, dissemination and documentation for disclosure of images.
- Acting or appointing a designate contact for all requests for access to video records collected from TTC properties and vehicles.
- In consultation with the Chief Financial & Administration Officer, developing privacy training for TTC and contract staff regarding obligations and compliance with the MFIPPA and this policy.
- Immediately reporting all alleged privacy breaches of this policy to the Chief Financial & Administration Officer
- Undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy.

3.4 Head of Subway Transportation and Manager Streetcar Transportation

The Head of Subway Transportation and Manager Streetcar Transportation shall be responsible for the following:

- Conducting a Video Security Threat Assessment, in consultation with the Head of Safety & Environment to determine the requirements for a video recording system on TTC streetcars and subway vehicles.
- Preparing recommendations for reviewing and obtaining installation approval of video recording systems for TTC streetcars and subway vehicles.
- Approving the installation of video cameras, in accordance with this policy, on specified TTC streetcars and subway vehicles.
- Advising on the placement of video recording signs for TTC streetcars

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- and subway vehicles;
- Delegating day-to-day operations of video systems for TTC streetcars and subways to Designated Departmental Management staff (DDM).
- Responding to requests for access to video records collected on TTC streetcars and subway vehicles in consultation with the Head of Human Resources, or designate.
- In consultation with the Chief Financial & Administration Officer, developing privacy training for TTC and contract staff regarding obligations and compliance with the MFIPPA and this policy.
- Immediately reporting all alleged privacy breaches of this policy to the Chief Financial & Administration Officer.
- Undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy.

3.5 Head of Bus Transportation

The Head of Bus Transportation shall be responsible for the following:

- Conducting a Video Security Threat Assessment, in consultation with the Head of Safety & Environment to determine the requirements for a video recording system for TTC buses (including Wheel-Trans vehicles).
- Preparing recommendations for reviewing and obtaining installation approval of video recording systems for TTC buses (including Wheel-Trans vehicles).
- Approving installation of video cameras, in accordance with this policy, on specified TTC buses (including Wheel-Trans vehicles).
- Advising on the placement of video recording signs for TTC buses (including Wheel-Trans vehicles).
- Delegating day-to-day operations of video systems for TTC buses (including Wheel-Trans vehicles) to DDM staff.
- Responding to requests for access to video records collected on TTC buses (including Wheel-Trans vehicles) in consultation with the Head of Human Resources, or designate.
- Advising and providing Wheel-Trans customers with all information related to the use of video images from Wheel-Trans vehicles for the purpose of re-assessing customer eligibility.
- Ensuring that an eligibility re-assessment program that uses video images from Wheel-Trans vehicles meets all standards of procedural fairness as it relates to public notice, public consultation, full and fair disclosure of information, evaluation criteria and communication.
- In consultation with the Chief Financial & Administration Officer

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developing privacy training for TTC and contract staff regarding obligations and compliance with the MFIPPA and this policy.

- Immediately reporting all alleged privacy breaches of this policy to the Chief Financial & Administration Officer.
- Undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy.

3.6 Heads of Bus, Streetcar, Plant Maintenance and Rail Cars & Shops

The Heads of Bus, Streetcar, Plant Maintenance and Rail Cars & Shops shall be responsible for the following:

- Ensuring that video surveillance equipment on TTC property and in subway stations, buses (including Wheel-Trans vehicles), subway vehicles and streetcars is maintained in a state of good repair.
- Delegating day-to-day maintenance of video systems to DDM staff.
- In consultation with the Chief Financial & Administration Officer developing privacy training for TTC and contract staff regarding obligations and compliance with the MFIPPA and this policy.
- Immediately reporting all alleged privacy breaches of this policy to the Chief Financial & Administration Officer.
- Undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy.

3.7 Designated Departmental Management staff (DDM):

The DDMs are responsible for the video operations for a particular location, including vehicles. The responsibilities of a DDM include the following:

- Overseeing day-to-day operations and maintenance of video recording cameras at a specific site location.
- Providing supervision to approved Users.
- Complying and ensuring User compliance with all aspects of this policy.
- Ensuring recording devices are stored in a safe and secure location.
- Ensuring records of activities related to video devices and records are kept and maintained by Users.
- In consultation with the Head of Commission Services, providing training to Users regarding obligations and compliance with the MFIPPA and this policy.

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3.8 Responsibilities of Users:

Users are TTC staff or contracted individuals entrusted by a DDM to operate and/or maintain the video recording system for a particular location. The duties and responsibilities of the User include:

- Complying and adhering to all aspects of this policy.
- Ensuring all aspects of the video recording system is functioning properly.
- Documenting information regarding the use, maintenance, access and storage of records to enable a proper audit trail.
- Ensuring that no personal information is disclosed without the approval of the DDM.
- Ensuring that no copies of data/images in any format (hardcopy, electronic, etc.) is taken from the video recording system without approval from the DDM.
- Forwarding all requests for access to video records to the DDM. The DDM will, as required, consult with the Co-ordinator, Freedom of Information/Records Management and /or the Head of Human Resources, or designate, on appropriate processing.

3.9 Head of Commission Services

The Head of Commission Services shall be responsible for the following:

- Providing advice and recommendations to staff to assist in MFIPPA.
- Processing formal access requests for video recording records from external parties where disclosure may be inconsistent with the principle purposes of the collection.
- Responding to privacy complaints related to video installations.
- Investigating video recording security / privacy breaches.
- In consultation with the DDM staff, providing training to Users regarding obligations and compliance with MFIPPA and this policy.

3.10 Responsibilities of a CCTV Steering Committee:

The TTC may establish a CCTV Steering Committee for the following purposes:

- Making recommendations regarding the installation of video surveillance equipment at specific site locations; and
- Making recommendations to the Chief Financial & Administration Officer

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regarding updates to this policy.

3.11 Responsibilities of Employees and Contractors:

All TTC employees and contractors must adhere to this policy and must not disclose, access or use information contained in the TTC video recording system, its components, files, or database for personal reasons nor disclose, dispose, destroy, erase or alter any record without proper authorization from the DDM and without following the terms and conditions contained in this policy.

4.0 GUIDELINES TO FOLLOW PRIOR TO THE IMPLEMENTATION OF A VIDEO SURVEILLANCE SYSTEM

4.1 Installation of Video Recording System:

Before deciding to install a video recording system, the following factors must be considered:

- The use of video recording cameras should be justified on the basis of verifiable, specific reports of incidents of crime or significant safety concerns.
- A video recording system should only be considered after other measures of deterrence or detection have been considered and rejected as unworkable.
- An assessment must be conducted on the effects that the proposed video recording system may have on personal privacy, and the ways in which any adverse effects can be mitigated.
- The proposed design and operation of the video recording systems should minimize privacy intrusion.

A form entitled Video Security Threat Assessment has been provided to assist in reviewing these factors.

4.2 Designing, Installing and Using Video Recording Equipment:

When designing a video recording system and installing equipment, the following must be considered:

- Given the open and public nature of the TTC's facilities and vehicles and the need to provide for the safety and security of employees and patrons who may be present at all hours of the day, the TTC's video recording

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- systems may operate at any time in a 24 hour period.
- The video equipment shall be installed to only record those spaces that have been identified as requiring video recording.
 - Users' ability to adjust cameras shall be restricted so that Users cannot adjust or manipulate cameras to overlook spaces that are not intended to be covered by the video recording program.
 - Equipment shall never record the inside of areas where the public have a higher expectation of privacy (e.g. change rooms and washrooms).
 - Where possible, video recording should be restricted to periods when there is a demonstrably higher likelihood of crime being committed and detected in the area under surveillance.
 - Reception/recording equipment must be located in a strictly controlled access area. Only DDM staff, or those properly authorized by the DDM, shall have access to the controlled access area and the reception/recording equipment.
 - Every reasonable attempt should be made by video Users to ensure video equipment is not in a position that enables the public and/or unauthorized staff to view images.
 - Video recording systems and related equipment shall be installed at locations as more particularly set out in Section 2.1 of this policy, which may be amended from time to time.

4.3 Notice of Use of Video Recording System:

In order to provide notice to individuals that a video recording is in use:

- The TTC shall post signs, visible to members of the public, at all entrances and/or prominently displayed on the perimeter of the location being video recorded; and
- The notification requirements of this sign must inform individuals of the legal authority for the collection of personal information; the principal purpose(s) for which the personal information is intended to be used; and the title, business address, and telephone number of someone who can answer questions about the collection.

4.4 Personnel Authorized to Operate Video Equipment:

Only employees and contractors designated by Department Heads responsible for various aspects of the video system program or the DDM, as applicable (Users), shall be permitted to operate and/or maintain video recording systems. All Users shall acknowledge in writing that they have received training with

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respect to their confidentiality obligations and that they understand those obligations. Breach of this policy by any employee of the TTC may result in discipline of the employee, up to and including dismissal. Any breach of this policy by any contractor under contract to the TTC may result in the contract being terminated.

5.0 VIDEO EQUIPMENT / RECORDS

5.1 Types of Recording Devices:

The TTC may use a Digital Video Recorder system (DVR) and may implement technology replacements and/or upgrades, as required. As recommended by the Information & Privacy Commissioner of Ontario, the following retention periods shall apply:

- 5.1.1 Information collected by a video recording system from a TTC bus or streetcar (excluding Wheel-Trans vehicles) will be retained, unless otherwise requested, for a period of 15 hours of vehicle operational time.
- 5.1.2 Information collected by a video recording system from a subway vehicle or subway station will, unless otherwise requested, be retained for a period of 72 hours.
- 5.1.3 Information collected by a video recording system from a TTC Wheel Trans vehicle will be retained, unless otherwise requested, for a period of 7 days.

5.2 Record Identification

All records (storage devices) shall be clearly identified (labelled) as to the date and location of origin including being labelled with a unique, sequential number or other verifiable symbol. In facilities with a DVR that stores information directly on a hard drive, the computer time and date stamp shall be understood to be this identification.

Each User or facility, as applicable, shall maintain records of activities related to video devices and records. The activities include information regarding the use, maintenance, access and storage of recorded material.

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5.3 Remote Access:

The TTC may use remote access to monitor, retrieve, operate, maintain or audit all or part of its video surveillance system. TTC further reserves the right to provide remote access to law enforcement agencies for law enforcement purposes. Any remote access provided to law enforcement agencies shall contain a provision allowing the TTC to conduct annual audits relating to the collection, use and disclosure of information obtained through the TTC's video recording system(s) and any such audits shall be performed in accordance with this policy.

Logbooks shall be maintained at each remote access site location to record all activities related to video devices and records. The activities include all information regarding the use, maintenance and storage of records; and all instances of access to, and use of, recorded material. All logbook entries will detail authorized staff, date, time and activity. This logbook must remain in a safe and secure location at the remote access site location.

6.0 AUDIT OF VIDEO RECORDING SYSTEMS:

6.1 Annual Audit:

TTC Departments identified as having duties and responsibilities related to the TTC Video Recording in Public Areas Policy shall undertake an annual risk-based, self-assessment audit to ensure departmental adherence to this policy. In addition, these same duties and responsibilities are subject to standard departmental audits undertaken by the Head of Audit.

7.0 ACCESS TO VIDEO RECORDS

7.1 Access:

Access to the video recording records shall be restricted to authorized personnel only in order to comply with their roles and responsibilities as outlined in this policy.

7.2 Storage:

All storage devices that are not in use must be stored securely in a locked receptacle located in an access-controlled area.

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7.3 Formal Access Request Process:

All formal requests for video records from external parties where disclosure may be inconsistent with the principle purposes of the collection shall be directed to the Co-ordinator, Freedom of Information/Records Management for processing. A person requesting access to a record should make a request in writing in the form of a letter and submit it to the Co-ordinator, Freedom of Information/Records Management. The individual requesting the record must:

- Provide sufficient detail (the approximate time and date, the location - if known - of the incident, etc.) to enable an experienced employee of the TTC, upon a reasonable effort, to identify the record; and
- At the time of making the request, pay the prescribed fees as provided for under the MFIPPA.

7.4 Access – Law Enforcement, Security, Safety and Evidentiary Purposes:

If access to a video recording record is required in matters consistent with the principle purposes of the collection, the requester (or in emergency situations, the User that authorized the release) must complete the TTC's Investigative Services Video Request form and forward this form to the Video Services Unit. The Video Services Unit will provide the recording for the specified date and time of the incident as requested.

The Video Services Unit will record the following information in a video logbook:

- The date and time of the original, recorded incident including the designated name/number of the applicable hardware, vehicle, station, property, requester, type of incident and associated tracking numbers.
- The name of the User completing the download.
- The time and date the copy of the original record was sealed.
- The time and date the sealed record was provided to the requester.

7.5 Viewing Images:

When recorded images from the cameras must be viewed for law enforcement or investigative reasons, this must only be completed by an individual(s) authorized by the DDM in a controlled area. Every reasonable attempt should be made to ensure that images are not viewable by other individuals.

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7.6 Custody, Control, Retention and Disposal of Video Records/Recordings:

The TTC retains custody and control of all original video records. Video records are subject to the access and privacy requirements of the MFIPPA, which includes but is not limited to the prohibition of all TTC employees and contractors from access, or use of information from the video recording system, its components, files, or database for personal reasons.

Information collected from the video recording system will be retained for a minimum of three (3) years where it has been used by the TTC or a law enforcement agency as part of a criminal, safety, or security investigation or for evidentiary purposes.

The TTC will take all reasonable efforts to ensure the security of records in its control / custody and ensure their safe and secure disposal. Old storage devices must be disposed of in accordance with an applicable technology asset disposal process ensuring personal information is erased prior to disposal, and cannot be retrieved or reconstructed. Disposal methods may include shredding, burning, or erasing depending on the type of storage device.

With the exception of records retained for criminal, safety, security investigations or for evidentiary purposes, the TTC shall delete video records as follows:

- 7.6.1 For records collected from a video recording system on a bus or streetcar - after 15 hours of operational time for buses and streetcars.
- 7.6.2 For records collected from a video recording system within the subway system - one time per day for all recordings that have been retained for at least 72 hours.
- 7.6.3 For records collected from a video recording system on a subway vehicle after 72 hours.
- 7.6.4 For records collected from a video recording system on a Wheel Trans vehicle - after 7 days.

7.7 Unauthorized Access and/or Disclosure (Privacy Breach):

A TTC Employee or contractor who becomes aware of any unauthorized disclosure of a video record in contravention of this Policy and/or a potential privacy breach shall immediately notify the Chief Financial & Administration

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Officer through their respective Department Head.

Upon confirmation of the existence of a privacy breach, the Chief Financial & Administration Officer shall notify the Information and Privacy Officer of Ontario (IPC) and work constructively with the IPC staff to mitigate the extent of the privacy breach and to review the adequacy of privacy protection within the existing policy.

The Department Head shall inform the Chief Financial & Administration Officer of events that have led up to the privacy breach. The employee or contractor shall work with the Department Head, or designated DDM to take all reasonable actions to recover the record and limit the record's disclosure.

The Chief Financial & Administration Officer, in consultation with the Department Head, or designated DDM, and where possible, will notify affected parties whose personal information was inappropriately disclosed. The Chief Financial & Administration Officer, in consultation with the Department Head, or designated DDM shall investigate the cause of the disclosure with the goal of eliminating potential future occurrences.

A breach of this policy by an employee of the TTC may result in discipline, up to and including dismissal. A breach of this policy by service providers (contractors) to the TTC may result in a poor performance review and/or termination of their contract.

7.7 Inquiries From the Public Related to the Video Recording Policy:

An employee receiving an inquiry from the public regarding the Video Recording in Public Areas policy shall direct the inquiry to the Co-ordinator, Freedom of Information/Records Management at 416-393-4000.

7.8 Review of Video Recording Policy:

This policy shall be reviewed every two years by the Chief Financial & Administration Officer who will forward recommendations for update, if any, to the TTC Board for approval.

8.0 REFERENCE SOURCES

- Municipal Freedom of Information and Protection of Privacy Act;

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- Ontario Information Privacy Commissioner Privacy Investigative Report MC07-68, dated March 3, 2008

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