

TTC's surveillance cameras comply with privacy Act, but additional steps needed to enhance privacy protection, says Privacy Commissioner Ann Cavoukian

TORONTO – Ontario Information and Privacy Commissioner Ann Cavoukian ruled today that the Toronto Transit System's expansion of its video surveillance system, for the purposes of public safety and security, is in compliance with Ontario's *Municipal Freedom of Information and Protection of Privacy Act* – but she is calling on the TTC to undertake a number of specific steps to enhance privacy protection.

The Commissioner's office conducted a four-month special investigation that went beyond the scope of the usual privacy investigation conducted in that it included:

- A detailed review of the literature and analysis from various parts of the world on the effectiveness of video surveillance;
- An examination of the role that privacy-enhancing technologies can play in mitigating the privacy-invasive nature of video surveillance cameras; and
- A detailed investigation into a privacy complaint by U.K.-based Privacy International about the expansion of the TTC's video surveillance system.

“Video surveillance presents a difficult subject matter for privacy officials to grapple with impartially because, on its face, it is inherently privacy-invasive due to the potential for data capture – despite that fact, there are legitimate uses for video surveillance ... that render it in compliance with our privacy laws,” said the Commissioner. “Mass transit systems like the TTC, that are required to move large volumes of people, in confined spaces, on a daily basis, give rise to unique safety and security issues for the general public and operators of the system.”

“The challenge we thus face is to rein in, as tightly as possible, any potential for the unauthorized deployment of the system. We have attempted to do this by ensuring that strong controls are in place with respect to its governance (policy/procedures), oversight (independent audit, reportable to my office) and, the most promising long-term measure, the introduction of innovative privacy-enhancing technologies to effectively eliminate unauthorized access or use of any personal information obtained.”

While the expectation of privacy in public places is not the same as in private places, it does not disappear. People have the right, the Commissioner stresses in her report, to expect the following when it comes to video surveillance:

- That their personal information will only be **collected** for legitimate, limited and specific purposes;
- That the collection will be **limited** to the minimum necessary for the specified purposes; and
- That their personal information will only be **used** and **disclosed** for the specified purposes.

“These general principles,” said Commissioner Cavoukian, “should apply to all video surveillance systems. Where developments such as video surveillance in mass transit systems, like the TTC, can be shown to be needed for public safety, you must also ensure that threats to privacy are kept to an absolute minimum.”

Among the 13 recommendations the Commissioner is making to the TTC are the following:

- That the TTC reduce its retention period for video surveillance images from a maximum of seven days to a maximum of 72 hours (the same standard as the Toronto Police), unless required for an investigation;
- That the TTC’s video surveillance policy should specifically state that the annual audit must be thorough, comprehensive, and must test all program areas of the TTC employing video surveillance to ensure compliance with the policy and the written procedures. The initial audit should be conducted by an independent third party using Generally Accepted Privacy Principles, and should include an assessment of the extent to which the TTC has complied with the recommendations made in this special report;
- That the TTC should select a location to evaluate the privacy-enhancing video surveillance technology developed by University of Toronto researchers, K. Martin and K. Plataniotis; and
- That, prior to providing the police with direct remote access to the video surveillance images, the TTC should amend the draft memorandum of understanding (MOU) with the Toronto Police to require that the logs of disclosures be subjected to regular audits, conducted on behalf of the TTC. A copy of the revised draft MOU should be provided to the Commissioner prior to signing.

EMERGING PRIVACY-ENHANCING TECHNOLOGY

The Commissioner devotes part of her 50-page special report, and a specific recommendation, to the area of emerging privacy-enhancing video surveillance technology.

“In light of the growth of surveillance technologies, not to mention the proliferation of biometrics and sensing devices, the future of privacy may well lie in ensuring that the necessary protections are built right into their design,” said the Commissioner. “*Privacy by*

design may be our ultimate protection in the future, promising a positive sum paradigm instead of the unlikely obliteration of a given technology.”

As an example of the research being conducted into privacy-enhancing technologies, the Commissioner cites the work of researchers Karl Martin and Kostas Plataniotis at the University of Toronto, who used cryptographic techniques to develop a secure object-based coding approach. While the background image captured by a surveillance camera can be viewed, the sections where individuals are caught in the image would automatically be encrypted by the software. Designated staff could monitor the footage for unauthorized activity, but would not be able to identify anyone. Only a limited number of designated officials with the correct encryption key could view the full image.

The Commissioner is recommending that the TTC select a location to evaluate the video surveillance technology developed by Martin and Plataniotis.

A copy of the special report is available on the IPC’s website, www.ipc.on.ca.

Ontario’s Information and Privacy Commissioner is appointed by and reports to the Legislative Assembly, and is independent of the government of the day. The Commissioner's mandate includes overseeing the access and privacy provisions of the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, as well as the *Personal Health Information Protection Act*, and helping to educate the public about access and privacy issues.

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