

***Why We Should Resist  
a National ID Card for Canada***

**Submission of the Office of the  
Privacy Commissioner of Canada**

**to the**

**Standing Committee on  
Citizenship and Immigration**

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## Executive Summary

The debate about the need for a national identification card may be the most significant privacy issue in Canadian society today. The development of a national identification card would require the collection, use and dissemination of the personal information of Canadians on a massive scale. Canadians and Parliamentarians need to consider carefully the privacy risks that this would entail and weigh them against the likely benefits of such a scheme.

The debate has to be about more than just cards. A national identification card would require an elaborate and complex national identity *system*, with a database, communications networks, card readers, millions of identification cards, and policies and procedures to address a myriad of security, privacy, manageability, and human factor considerations.

The costs associated with such a system would be enormous. Just creating it could cost between \$3 billion and \$5 billion, with substantial additional costs to actually operate it.

There would also be costs to Canadians' privacy rights, and to the relationship between Canadians and the state.

Identification cards allow us to be identified when we have every right to remain anonymous, reveal more information about us than is strictly required to establish our identity or authorization in a particular situation, and allow our various activities to be linked together in profiles of our lives.

The system would likely entail compulsory participation, massive databases of personal information, serious problems of inaccuracies, and significant disruption and inconvenience to individuals.

Are these financial and social costs justified by any significant benefit?

The claim is made that a national identification card would help to combat terrorism, curb identity theft, and facilitate travel to the United States.

Precisely how national identification cards would help to fight terrorism is not clear. Comparing our identification cards against "watch lists" of suspected or known terrorists would be of no use against unknown or first-time terrorists using legitimate identification documents. Feeding all our daily transactions into a massive database that could then be mined for signs of potential terrorist activity would be highly invasive and contrary to our common law traditions and long-established civil liberties protections.

A national identification system might simply lull us into a false sense of security. Terrorists are too resourceful and technologically sophisticated to be stopped by such a simple device as an identification card. And such a system, containing personal data on every Canadian, could itself be an attractive target for cyber-terrorists.

How an identification card would reduce identity theft is similarly unclear. In current practice, merchants rarely bother to check the signature on a credit card slip and have no way of verifying identity over the telephone and Internet. An identification card alone will not change that. A comprehensive nationwide infrastructure of electronic card readers and trained personnel would be technically very complex and highly costly to deploy. Nothing comparable is currently in active operation anywhere in the world.

Even if the requisite infrastructure could be developed, there would be nothing foolproof about it. Experts agree that any card can be duplicated or tricked. The perceived strength of a card would simply make it more valuable to criminals and terrorists.

A national identity system could actually aggravate the problem of identity theft. Criminals could apply for an identification card in someone else's name, using surreptitiously obtained foundation documents. It would be difficult for victims of such an identity theft to prove that they themselves were not the impostors.

As for crossing the US border, if US authorities are going to insist that we provide the type of information that is typically on a passport, it would be simpler just to use a passport. If US customs agents are targeting Canadian travellers on the basis of personal information contained in their passport or other identification documents, a national identification card will not stop this.

A number of essential questions need to be asked about a national identification system. Simply asking them highlights the far-reaching implications of such a system—the practical and technological challenges of creating and managing it, the need to develop comprehensive legal and policy frameworks, the implications for privacy. These questions include:

- Who would be *issued* an identification card? Everyone? Canadians at the age of majority only? If children are issued a card, at what age?
- Would *participation* in and identification by the system be voluntary or mandatory?
- What would be the *scope of the data* that would be gathered about individuals participating in the system?
- Who would be allowed to *demand production of a card* from card carriers for proof of identity?
- Who could *contribute, view, or edit data* in a national ID system?
- What *types of uses* of the card and its attendant system would be allowed?
- What *legal structures* would protect the system's integrity as well as the data subject's privacy and due process rights, and determine the government and other parties' liability for system misuse or failure?

- Who would bear the full weight of privacy rights *accountability and responsibility* for a national identity system?
- What are the *alternatives* to a national identity system?

The privacy risks associated with a national identification card are substantial. The challenges of putting in place a national identification system that is workable, affordable, and respectful of the privacy rights of Canadians are enormous. A strong case for the benefits has not been made; to the extent that benefits would exist, they would be marginal at best.

Accordingly, this Office urges Parliament to reject the proposal.

## **Introduction**

Canadians are being asked to debate a proposal for a national identification card. Since the country has done well enough without one, one might be forgiven for wondering why this issue has arisen now. But the answer is in fact straightforward and evident: this debate flows from social, economic and political changes in Canada and abroad, and the growing emphasis on individuals identifying themselves.

Delivery of increasingly complex government programs and services has, over the last four decades or so, entailed more and better verification of the identities, entitlements and authorizations of individuals. Overall reductions in the levels of these programs and services have not diminished this; if anything, the need to control costs has exacerbated it. In commercial relations, cash-based transactions, where the identity of the buyer is mostly irrelevant, are giving way to the use of credit and debit cards, often without any face-to-face contact between buyer and seller. The identity of cardholders, or at least their authorization to use the card, has come to be considered a necessary protection against fraud. Moreover, changes in marketing and sales methods, and a shift to fragmented and customized markets and products, have made businesses eager to know more about their customers. Being able to identify customers is a means to collect and classify information about them.

These developments have tended to produce pressure for a reliable, consistent means of identifying people. But they have been around for a long time, and they alone would not have been enough to trigger this debate.

What has made the difference is the changed security situation, and the changes in our society's expectations and presumptions, since the September 2001 terrorist attacks on the US. The fact that many of the September 11 attackers lived and worked in the US without attracting the notice of law enforcement and security agencies has persuaded many people that the key to our security is identification of individuals.

It is easy to understand why there would be support for a national identification card. Asked whether they would like a national identity card to catch terrorists, many people would likely answer yes, for obvious enough reasons. And asked whether they would like a single national identity card to replace the driver's licence, health insurance card, library card, passport, and credit cards in their wallets, many people would also likely say yes.

If computer experts are asked about such a proposal, on the other hand, they might well answer no, because they know the technical challenges. If those with experience setting up large-scale national databases are asked, they also might answer no, because they know the financial implications. And if those with privacy expertise are asked, they will almost certainly answer no, because they know the privacy costs.

The Office of the Privacy Commissioner (OPC) is keenly interested in this debate, for obvious reasons. The establishment of a national ID system necessarily involves the collection, use and dissemination of the personal information of individual Canadians on a massive scale. The national ID card proposal may be the most significant privacy issue being debated in Canadian society today. Answering key questions such as how a national ID system would work, and more fundamentally *whether* such a system is even desirable or necessary, is core to protecting the privacy rights of Canadians.

Privacy is not an absolute right. As an important social value, it exists in a dynamic balance with other such values, not in isolation from them. We all have an interest in prevention of fraud and theft, and in interdiction of crime and terrorism, and the social value we accord to privacy rights has to accommodate those interests.

But to say that privacy must accommodate other social interests is not to say that it has to be sacrificed for them. This Office does not accept the simplistic arithmetic that says, for example, that less privacy equals more security against crime and terrorism. In fact, as we point out below in our discussions of terrorism and identity theft, less privacy can in fact mean less security. There is nothing contradictory about privacy and security, and it is imperative that public officials strive to maximize both.

Anyone arguing that privacy must be diminished in the interest of protecting against crime and terrorism or easing our passage across borders bears an extremely heavy burden of proof. It is the view of this Office that the proponents of a national ID card have failed to make their case.

### **Context: Minister Coderre's Proposal**

Minister Coderre first called for a public debate on the merits of a national ID card for Canada in late 2002. Shortly thereafter, he asked the House of Commons Standing Committee on Citizenship and Immigration to formally study the matter and report back to the House. He appeared before the Committee in early February 2003 to more fully explain his position, and has also made a number of other public interventions on the matter since then.

In Minister Coderre's view, it is important for Canadians to engage in a debate on the merits of a national ID card, in large part due to new national security requirements that have emerged in the wake of the September 11 terrorist attacks:

*"In the aftermath of the terrorist attacks in the United States on September 11, 2001, identity has taken on a new prominence in countries around the world. Canada has been no different. Canadians have come to see the ability to establish identity as an important element of personal and collective security."<sup>1</sup>*

The Minister argues, however, that while the focus on a positive proof of identity is "partially rooted" in the aftermath of the terrorist attacks, "other forces" are at play.<sup>2</sup> Specifically, Minister Coderre contends that a national ID card would:

- provide a more secure and reliable proof of identity;
- help combat identity theft and ID fraud;
- facilitate travel by Canadians abroad, notably in the United States; and
- prevent racial profiling at the border.

The Minister has even suggested that a national ID card could help secure the privacy of Canadians.<sup>3</sup>

Later in this submission, we analyze in detail the alleged benefits of a national ID card. What follows are simply our preliminary observations on the Minister's position.

The difficulty with Minister Coderre's position is that he presents little or no evidence for the arguments he advances. His department has made public no hard data, no substantive research or analysis to buttress any of the advantages that supposedly would flow from the Minister's scheme. As a result, it is impossible to ascertain whether the benefits of a national ID card are sufficient to outweigh the undoubted risks to privacy, human rights and our social values that the proposal entails. This Office believes it is incumbent upon government officials who initiate large scale public debates on significant public policy proposals to provide full and complete information on the benefits they believe would accrue from their proposals. By doing so, Canadians and Parliament may better judge for themselves the merits of these proposals.

The Minister's arguments, although interesting, are perhaps not as important to the unfolding of an informed debate as what he *did not* say about a national ID card for Canada. Specifically, the Minister has not provided any information on a number of key questions, which need to be addressed before the government forges ahead with implementation of a national ID card. These questions are<sup>4</sup>:

- Who would be *issued* an ID card? Everyone? Canadians at the age of majority only? If children are issued a card, at what age?
- Would *participation* in and/or identification by the system be voluntary or mandatory?
- What would be the *scope of the data* that would be gathered about individuals participating in the system?
- Who would be allowed to *demand production of a card* from card carriers for proof of identity?
- Who could *contribute, view, and/or edit data* in a national ID system?

- What *types of uses* of the card and its attendant system would be allowed?
- What *legal structures* would protect the system's integrity as well as the data subject's privacy and due process rights, and determine the government and other parties' liability for system misuse or failure?
- Who would bear the full weight of privacy rights *accountability and responsibility* for a national identity system?
- What are the *alternatives* to a national identity system?

The Minister is to be commended for calling for a public debate on this important issue, as opposed to presenting Canadians with a policy *fait accompli*. Parliament, and the Canadian people it represents, are best served when major government policy proposals are discussed openly and in full consideration of as many opinions as possible. However, this Office is disappointed that the Minister's proposal should contain so little detail on what he sees as a viable, workable national ID system for Canada. We believe that Parliament and the Canadian public would have been better served by a more comprehensive exposition by the Minister and his department of the purposes, scope, uses and potential users, structure and functioning of a national ID system. This is especially true given that in July, the media widely reported that the Minister had raised the possibility of having a biometrically enhanced national ID card in place for 2005.<sup>5</sup> This timeframe gives precious little time for Canadians—and for Parliament in particular—to absorb the full implications of what is being proposed.

The Minister has stated emphatically that “what we need is objectivity, an open debate based on facts and reasons, not assumptions and myth.”<sup>6</sup> We could not agree with him more. Informed debate, like informed consent, requires complete and detailed information on the issues of necessity, purposes, uses, access and disclosure rights, sharing privileges, appeal mechanisms and oversight.

### **More Than Just a Card**

Before asking ourselves whether Canada needs a national ID card, it is worthwhile to reflect on what a card is and, perhaps more fundamentally, what issuing one to every Canadian actually entails.

#### ➤ *Creating a System*

The creation of a national ID card involves more than merely distributing a physical card to every citizen, with “I am Canadian” written on it. It involves the creation of an elaborate and complex national identity *system*, with detailed rules and a large, multi-faceted yet integrated bureaucracy governing the system's operation. The fact that Canada is a constitutional federation only adds a further layer of complexity to such a proposal, as provincial and territorial governments would most certainly need to be involved in the system's design and operation.



As the United States National Research Council indicated recently, the term “ID system” suggests the complicated nature of what would be required in a way that the colloquial and simplistic expression “ID card” does not:

*“ ‘System’ may be the most important (and heretofore least discussed) aspect of the term ‘nationwide identity system,’ because it implies the linking together of many social, legal, and technological components in complex and interdependent ways.... The control of these interdependencies, and the mitigation of security vulnerabilities and their unintended consequences, would determine the effectiveness of the system.”<sup>7</sup>*

The Council goes on to argue that a national identity system would consist of more than simply a database, communications networks, card readers, and millions of ID cards. Such a system would also need to provide for detailed policies and procedures. It would need to account for a myriad of security and privacy considerations. Human factors and manageability considerations would also need to be taken into account. “The system might need to specify the participants who will be enrolled,” the Council writes, “the users (individuals, organizations, governments) that would have access to the data, the permitted uses of the data, and the legal and operational policies and procedures within which the system would operate.” Procedures would need to be established to register individuals, manipulate identity information about them (e.g. enter, store, update, search, and return data), issue credentials, and verify search requests, to name a few.<sup>8</sup>

### ➤ ***Cost Implications***

Creating such a system would be no easy task, and the costs associated with its creation, as well as its day-to-day operation, would undoubtedly be enormous. Minister Coderre has not put forward any estimates of how much it would cost to create and maintain a national ID system using machine-readable, biometric identifiers. Our Office has estimated that the potential cost for implementing a nationwide ID system using biometrics might be somewhere between \$3 billion and \$5 billion. This does not cover the estimated costs of actually running the system, which would likewise be considerable. We based this estimate in part on the cost of registries currently in place in Canada and also by reference to attempts abroad at putting in place national ID systems.

For instance, in 1999 Human Resources Development Canada (HRDC) submitted an estimate to Parliament on the cost of an ID card system based on the Social Insurance Number (SIN), and came up with a potential cost of up to \$3.6 billion. This estimate did not include, however, what HRDC termed as several “incremental expenditures” and “additional substantial costs.”<sup>9</sup>

In the United Kingdom—whose population is roughly twice the size of Canada’s—recent government estimates for a similar national identity system there put the system’s cost at over \$7.2 billion (CAN). UK figures have been criticized, however, as far too low and unrealistic, in part because they exclude any costs of building and maintaining the national *infrastructure* needed to read “smart” cards, authenticate the card holder’s biometric data, and communicate with a central database in real-time.<sup>10</sup> The British press also reported last July on a leaked document authored by Home Secretary David Blunkett that revealed that the government was considering making everyone except retired people over 75 years of age and those on low incomes pay £39 (\$85 CAN) for a mandatory card.<sup>11</sup> (Other, independent estimates have put the cost of a UK card to individual citizens nearer the £100 mark, or \$218 CAN.<sup>12</sup>)

Finally, it has been estimated that establishing a national ID system in the United States could easily require up to \$50 billion US, and \$3 billion to \$6 billion US a year to operate.<sup>13</sup>

Whatever the estimate, the history of government cost overruns associated with deploying and running national registries and IT networks—the SIN and the firearms registry, for instance—should serve as an additional warning of the potentially exorbitant cost of issuing a national ID card to every Canadian. The fact that Canada is a federal state should also be considered, in that the necessary ongoing federal-provincial-territorial linkages would undoubtedly raise considerably the costs of a national ID system.

### ➤ *Privacy Costs and Other Social Considerations*

The “costs” of a national ID system involve more, however, than just dollars and cents. Creating and maintaining a nationwide identity system would also involve substantial social costs—costs to Canadians’ privacy rights, and costs to the relationship between Canadians and the state.

In its essence, the privacy problem with national identification cards is that they allow us to be identified when we have every right to remain anonymous, reveal more information about us than is strictly required to establish our identity or authorization in a particular situation, and allow our various activities to be linked together to form patterns and profiles of our lives. Identity cards do not always do this, they do not have to, and it is conceivable that they could be carefully designed and structured so as to avoid it. But it is what they can do, and what they are likely to do.

In the absence of a detailed proposal for a national identification system, it is difficult to assess its privacy implications and other social costs. To do so properly, we would need to know such things as:

- what information would be contained on the card;
- whether the information would be stored on the card or in a central database;

- whether information on the card or in the database would be available to all users or, alternatively, “zoned” to limit users on a need-to-know basis;
- who would be allowed to ask for or require that the card be produced;
- what uses of the card would be allowed;
- whether transactions using the card would be recorded and linked to each other; and
- whether the proposed national identification card would be voluntary or mandatory.

Just posing these questions gives an indication of the scale of the potential privacy implications and larger social costs. The benefits that the Minister is claiming the system will bring us suggest that the answers are the ones we would least like to hear.

For example, on the critically important question of who would be able to ask for the card and for what purposes, we must assume that the intention is that it be used in commercial transactions in the private sector. Otherwise, it would be of limited value in preventing many forms of identity theft and fraud, something the Minister is claiming for it.

There are a number of reasons to be concerned about commercial access to the personal information contained in a national identification system. Based on what we have seen with other identifiers (such as the SIN), allowing businesses to demand to see an identification card would tend to lead to increasingly casual demands for it, even when no proof of identity is reasonably necessary. Depending on how the system and the card were structured, this could result in businesses having unnecessarily liberal access to an individual’s personal information.

There is nothing intrinsically wrong with establishing our identity every time we make a credit card purchase, rent an apartment, board an aircraft, cross a border, pay our taxes, or negotiate a loan. Linking all those transactions, however, by use of the same card is an entirely different matter. Indeed, a national ID system raises the possibility that the state or private sector organizations may create or have access to massive databases on each and every one of us, detailing information on some of the most personal aspects of our lives, without even our knowledge or consent.

As for larger social costs, we cannot underestimate the impact of the creation of a mandatory nationwide identity system on relations between citizens and the state. It is true that proponents of the system are hedging on whether participation would be voluntary or mandatory. But for the system to do what is being claimed for it, it would have to be mandatory. A voluntary card would not be useful in fighting identity theft, if identity thieves were not compelled to present proof of identity when, for instance, fraudulently taking out a loan in someone else’s name. Known terrorists could not be stopped from entering Canada, or from boarding an aircraft, if they could simply state “I’m not in the system” when asked to produce their national identification card.

Complete and absolute authentication of identity would be impossible if only a segment of the Canadian population were to register with the national system.

So, if the national identification system is to have the advantages claimed for it, it would *have* to be mandatory. And many Canadians may not want to participate in the system, for any number of legitimate reasons. People with memories of oppressive regimes may be fearful of overly invasive government intrusion in their personal lives. People may have strong personal, cultural or religious objections to being required to submit to biometric sampling. For some people, it may simply be contrary to their values—including the belief in the sanctity of personal privacy. All of these individuals would need to be *compelled* by government authorities to register, or face the consequences of the law if they did not.

Even a voluntary system, assuming that it could be made to work, would have a significant coercive element. Millions of Canadians would, to varying degrees, feel compelled to participate. Those who refused to do so would likely find accessing government services and commercial transactions more difficult and frustrating—much like life now for those without credit cards, computers, or Internet access—leaving them with little choice but to register.

Establishing a national identity system would also likely involve significant disruptions and inconveniences. If participation in the system were mandatory, it would require each and every Canadian to physically go to a government office and prove his or her identity, have his or her picture taken, and perhaps his or her fingerprint taken and iris scanned. Furthermore, once created, a national ID registry would need to be updated and maintained. Each and every Canadian would be required to update their ID card on a regular basis, just as we do with our drivers' licences, simply to ensure that the information on the card is current and its security features up to date.

Under a national identity system, one would be presumed to be oneself only upon presentation of the ID card as proof of identity. Forgetting one's card might even lead to denial of service. People who lose their cards would need to register anew. Stolen cards would need to be reported and revoked. Not carrying one's ID card might even lead to legal complications, should law enforcement authorities come to rely on the card—as they most certainly would—for proof of identity.

Canadians would have to deal with new problems as a result of errors committed by the system. No information technology system, however sophisticated, is error free. Incorrect data in the national ID registry could be very costly and time consuming to correct. Government services or private sector transactions that were easily completed in the past would be slowed or complicated by errors generated by the national identity system.

The implications for Canadians of creating a national identity system would therefore be significant. A national ID card would change the way we live. The UK Information Commissioner, Richard Thomas, made a similar observation in his response to the British Government’s consultation paper on the establishment of a national ID card in Britain. He noted insightfully that the creation of a national ID card in the UK—or what has been termed there as an *entitlement* card—touches on the very nature of society:

*“We must recognise that we may risk turning our society from one where the need to prove identity is commensurate with the service on offer, with complete anonymity being a real option in many circumstances, to one where the highest level of identity validation becomes the norm for the most mundane of services, one where we run the risk of the unique personal number being used to track our various interactions with the state and others, and to have all this recorded on a central register under its control. Of course, nothing in the government’s current proposals is so draconian. But we must appreciate that, whilst we may be reassured that benign administrations will live up to their promises about limitations as to use, we will be creating a potentially powerful infrastructure.”<sup>14</sup>*

The same sobering observation applies to Minister Coderre’s national ID system proposal.

### **The Minister’s Case: Review and Analysis**

In this section, we analyze more closely the claims made by Minister Coderre regarding the benefits of a national identity card. It is difficult to discuss the merits of a national high-tech ID card in the absence of a clearly articulated description by the Minister or his department of the scheme they have in mind. In any event, as we shall see here, it is not wholly clear what basis there is for the claimed benefits of a national ID card.

#### **➤ *Fighting Terrorism and Securing the Nation***

National ID cards are claimed to be an effective way to fight terrorism. Precisely how an ID card would combat terrorism is not clear, however. Individuals could be required to produce their ID cards when applying for services, boarding planes or renting cars, and the names on the card could be matched against a “watch list” of suspected or known terrorists. The problem with this approach is that there is no database containing the names of each and every “bad guy.” For example, first time or unknown terrorists using legitimate identification documents will not be in law enforcement databanks. It is difficult to see, therefore, how a national identity system—however sophisticated—could compensate for such shortcomings.

One could also question whether it makes sense to create an elaborate and costly national ID system, and issue cards to as many as 30 million Canadians, on the remote chance that this might help law enforcement agencies capture suspected terrorists. Surely, if the terrorists are known to law enforcement and security authorities, the money spent on a national ID system could be used in any number of other ways that would be more likely to apprehend them. Three to five billion dollars in new funding, and the funds that would otherwise be consumed for ongoing ID system operation, would undoubtedly be welcomed by customs officers, security forces and law enforcement authorities.

The other way an ID card might be useful is if all Canadians were required to present their cards every time they made a purchase, used a credit card or rented a car, and this information was fed into a massive database that could then be mined for patterns that might identify suspected terrorists. This approach of course is similar to the “Terrorism Information Awareness” (TIA) proposal—formerly “Total Information Awareness”—in the United States. The TIA is intended to allow the US government to use “data-mining” to analyze public and private commercial database information to track potential terrorists and criminals. Compiling this kind of incredibly detailed database on millions of law-abiding citizens in the hope of apprehending suspected terrorists would be highly invasive and contrary to our democratic values. Indeed, in our system of law, the police can only investigate someone if they have reasonable and probable grounds. Moreover, a national ID card system would undoubtedly wrongly identify significant numbers of people as potential terrorists. Even a highly accurate system—which does not exist at present—would generate a huge number of false positives. A system with an error rate of only one tenth of one percent (0.1%), when applied to Canada’s population of roughly 30 million, would result in 30,000 false positives. For the wrongly accused, having one’s good name removed from a list of suspects in a criminal or national security investigation could be a lengthy and harrowing experience.

A national ID system would likely not impede terrorists in any substantial way from plying their trade in Canada. Nor would it likely block them from using Canadian territory as a launching pad for terror attacks in other countries. Terrorists have become too resourceful to be stopped, or even hindered, by such a simple device as a national ID card. The technological sophistication of modern-day terrorists is an increasingly well-documented fact, and their resourcefulness in using legitimate means to achieve their ends also has become obvious. The Canadian Security Intelligence Service points out in a publicly available discussion paper that terrorists are now more technologically resourceful than ever:

*“Terrorist methods continue to become more sophisticated.... Terrorists today are globally mobile and knowledgeable about communications technology, computers and explosives. In addition, they have contacts around the world. Their activities and targets are difficult to predict. The use of technology, more than ever a part of their arsenal, has been enhanced.”<sup>15</sup>*

A national ID system may thus very well lull us into a false sense of security, in that it would amount to proverbially putting all our eggs in the same basket. Such a system, containing significant amounts of personal data on every Canadian, used by government and perhaps the private sector in conducting important transactions with the public, could become an attractive target for cyber-terrorists. No information system is completely secure—even the Pentagon has been hacked—and no national ID system is foolproof. Ironically, a high-tech national ID card and its attendant centralized registry, instead of making us safer, could be a tempting target to those who would do us harm.

➤ ***Proof of Identity, ID Fraud and Identity Theft***

According to Minister Coderre, identity theft costs Canadians billions of dollars each year. He has suggested that a high-tech national identity card might be effective in combating this growing problem.

It is important to clarify what we are talking about here. Identity theft is a very specific crime. Before credit and debit cards existed, if someone stole another person's cheque book, forged a signature and successfully withdrew money from a bank account or cashed a false cheque in a commercial transaction, it was never called "identity theft." It was simply called "theft" and "forgery." There is no magical reason that theft and forgery become identity theft when the information printed on a cheque is committed to a plastic card and magnetic strip.

In the view of our Office, the term identity theft should refer to the fraudulent collection and use of someone else's personal information in order to assume that person's identity, usually for criminal purposes. Identity thieves use stolen personal information to take over existing accounts, open new accounts, apply for benefits, borrow money, and so forth—all in other people's names, leaving them with the unpaid bills and the responsibility of clearing their names and re-establishing their credit ratings.

Precisely how an ID card system would reduce identity theft remains unclear. If we had a highly secure ID card, and we were required to produce that card every time we purchased a good or service, opened an account, applied for a benefit, rented an apartment or engaged in any other commercial transaction, then yes, it might make it more difficult for identity thieves to assume someone else's identity. As well, an ID card might make it somewhat more difficult for identity thieves to obtain the information they need to commit fraudulent activities. But these advantages, on closer examination, are by no means a certain outcome of a national ID card scheme.

First, to have any benefit, the ID card would have to be mandatory. The Minister has suggested that it might be voluntary. If it were, identity thieves would simply choose not to register for one, utterly defeating the entire scheme.

Merchants and others would have to take the time during transactions to verify identity. However, even now, many merchants rarely bother to check the signature on a credit card slip to see if it matches the signature on the card. And a national ID card would be of little or no value in verifying identity for the increasing number of transactions that occur each day over the telephone and Internet.

A national ID card might be effective in fighting the identity theft problem if we had a comprehensive—and possibly networked—national infrastructure of ID card readers and trained personnel at all points and occasions where identity thieves ply their trade. The infrastructure would have to be nationwide and absolutely comprehensive, or else identity thieves would simply migrate to areas without it. Such an infrastructure is not currently in place, and it would be technically very complex and highly costly to deploy. No ID card infrastructure of comparable scope and application is currently in active operation anywhere in the world. Which also raises the question of who would pay for all of the card readers and other infrastructure components if the private sector were going to benefit.

Even if the requisite infrastructure could be developed, there would be nothing foolproof about it. “Smart” cards, however tamper-proof or tamper-resistant their features, can be duplicated or tricked, sometimes with very low-tech methods. The more secure the card is perceived to be, the greater the incentive to counterfeit it, because its perceived strength would make it more valuable to criminals and terrorists. (The media have reported that the Maple Leaf Card for immigrants, introduced in June of 2002, has already been widely counterfeited.)

And a national identity system could actually facilitate identity theft, by accelerating the collection and use of personal data stored on the card and accessed with each swipe. To the extent that ID card readers would record all transactions and communicate with central databases, this personal information would become vulnerable to interception and capture. The centralization of registration and usage data in large databases would be an invitation for hackers and opportunistic insiders to misuse and abuse the data.

There would also be nothing to prevent criminals from applying for an ID card—no matter how high-tech it might be—in someone else’s name if they based their application on surreptitiously obtained foundation documents, such as birth certificates. An ID card will only be as strong or as valid as the underlying foundation documents, such as birth certificates or immigration documents, that are used to establish one’s identity. As we know, these documents are not secure. (Perhaps we should focus on strengthening the reliability of existing identification documents, rather than a national ID card.)

A trusted ID card in the wrong person’s hands would simply make identity theft a more intractable problem than ever. With identity thieves brandishing falsely-obtained but highly trusted national ID cards, the consequences for the victims of identity theft would be magnified. It would be that much more difficult for them to prove that they were not the impostors.



In short, a national ID card could easily increase the risk of identity theft and make the consequences for the victim worse.

Two final points about identity theft. First, this Office questions the Minister's statistics. The basis for his estimate of a \$2.5 billion annual cost to the Canadian economy has not been made public. If we are to have an informed public debate, more information about the basis and the validity of this estimate is essential. It is difficult to assess how and where a national ID card system might make a quantifiable difference without a generally accepted measure of the extent of the problem or, for that matter, a clearly agreed and accepted definition of identity theft.

Second, there is a legitimate question as to where the responsibility lies for fighting identity theft. The commercial sector created plastic cards with magnetic strips containing electronic data, and the financial systems and databases related to them. And the commercial sector has instituted the practice of offering credit to consumers, with few safeguards to prevent these offers falling into the wrong hands; this is suspected to be an important source of personal information for identity thieves. If commercial transactions based on credit and debit cards are so vulnerable to theft and fraud, should not the commercial and private sector bear the responsibility to secure their own systems?<sup>16</sup> Does the Canadian taxpayer's duty to Canadian society include pouring billions of dollars into a national ID system so that the bottom line of companies can be enhanced?

#### ➤ *Easing Travel to the USA*

A national ID card containing biometric identifiers could prove useful in authenticating the identity of Canadians crossing the US border, but would it be any more useful than existing documents? What is wrong with the Canadian passport, the traditional means of identity verification for the purposes of international travel? How will a second, duplicative card represent an improvement on the current passport sufficient to justify its expense? And if something is wrong with the Canadian passport, would it not be preferable to fix it and see how that works, before implementing such a complex and expensive solution as a national, high-tech ID system?

Some proponents of a national ID card argue that a card would speed up crossings at the Canada-US border and ease traveller woes. However, Canada and the US already have programs aimed at speeding the processing of travellers at the border: for example, the NEXUS program. The NEXUS program allows pre-screened, low-risk travellers from Canada or the US who volunteer to participate in the program to be processed more quickly when crossing the border. It is not clear what more a national ID card would contribute in this regard.

Would the ID card help customs officials rule out innocent or trusted travellers by checking on all travellers who cross the border, even those who do not participate in NEXUS? For this to happen, an ID card, by itself, hardly suffices unless it is somehow linked to a larger and deeper database of personal information on every citizen. It is a sad reflection on the current state of affairs that the price we are asked to pay to allow some

to travel more freely is the personal information and history of each and every Canadian. Moreover, this Office fails to see why all Canadians should be made to carry a national ID card and have information stored about them in a national ID registry when Americans have been spared this obligation. The *Homeland Security Act*, which created the US Department of Homeland Security last year, explicitly bans the development of a national ID card in the United States.

The concept of forcing every Canadian to carry a national ID card in order to make it easier for some people to travel to the United States is unacceptable to many Canadians. Darrell Evans, of the British Columbia Freedom of Information and Privacy Association, perhaps expressed this point of view best, when he appeared before the Standing Committee on Citizenship and Immigration last February:

*“With respect, I find this attitude offensive. Rather than having Canadians subjected to increased surveillance and indignities at the border of a foreign country, Mr. Coderre would subject all Canadians to increased surveillance and indignity. I, for one, would rather leave Canada as a free citizen and be fingerprinted and monitored as a visitor entering the US than be treated as a suspicious visitor in my own country.”*

The passport is the standard means of identifying oneself at international borders. At the present time a passport is not needed to enter the United States. If the US is going to insist, however, that to enter its borders we provide the type of information that is typically on a passport, would it not be simpler just to use a passport? Canadians choosing to travel to the US could then simply acquire one.

### ➤ ***Preventing Racial Profiling at the Border***

The argument that a national ID card could prevent racial profiling seems to be based on the assumption that a card could confirm that a cardholder is indeed a Canadian—as opposed to a resident of some other country whose citizens may be the target of prejudicial treatment. If US customs agents are targeting Canadian travellers on the basis of certain personal information contained in their passport or other identification documents, it is not clear how a national ID card would stop this sort of activity.

Let us be blunt: a Canadian of Middle Eastern ethnic origin will not look any different simply because he or she is carrying a national ID card. Nor will his or her name, if it is Middle Eastern, sound any different because of the ID card; that name will be clearly printed on the card, for all to see. Those bent on submitting Canadians who “look different” to greater scrutiny will not be deterred by a national ID card. If anything, a national ID card will become a handy instrument to submit perfectly trustworthy Canadians to added scrutiny.

We must ask ourselves, as Canadians and inheritors of a tradition where the rights of minorities are embraced and upheld, whether we want residents of this country to be exposed to this sort of treatment. The Canadian government may well be able to impose controls on how a card is used at home—and that is far from being a foregone conclusion—but it will not be able to control how foreign governments use the card and the information it contains when residents of Canada travel abroad.

➤ *The “100 Countries Have It” Argument*

Minister Coderre has observed on many occasions that “identity cards exist in one hundred countries around the world.” The implication, therefore, is that if most other countries have ID cards, why should we resist?

This Office asked Citizenship and Immigration Canada to provide the research survey results upon which Minister Coderre’s statement is based, and it has kindly done so. We have reviewed the survey and in our opinion, the department has failed to establish any uniform criteria for determining what qualifies as a “national ID document.” Indeed, by the department’s own criteria, Canada today should be included in the list of countries with national ID cards, since our SIN card would clearly qualify. Numerous other countries on the Citizenship and Immigration Canada list have “ID cards” that are noted as identical in nature and purpose to Canada’s SIN. Yet the SIN is a far cry from the kind of national ID system the Minister appears to have in mind.

In our view there is insufficient evidence for affirming, on the basis of this research survey, that “identity cards exist in one hundred countries around the world.” Such a claim is a misrepresentation and, in any case, says nothing at all about the need for a national ID document in the Canadian context.

**Privacy Concerns**

As the above discussion illustrates, while the benefits of a national ID card system are marginal, the privacy risks associated with such a system are considerable.

*Function creep*—finding new uses for information collected for a specific purpose—is a major concern. There will be great temptation to use a national ID card infrastructure for new uses, for example by adding health data to the ID card chip, or to otherwise combine information in the national ID system with other databanks, like the firearms registry. If the history of the SIN has taught us anything, it is that new and unrelated uses will be found. Such a scenario has profound privacy implications, since it holds forth the prospect of more and more personal information being stored on the card and of transaction data being automatically recorded, logged, transmitted, and used in endlessly creative ways by more organizations. The bar code on drivers’ licences, so useful for helping to speed up roadside checks by police officers, yields much more than one’s birth date when scanned by a bar or club reader to verify age.

A related privacy concern is the tendency towards *identification creep*, wherein Canadians would be increasingly required to identify themselves more frequently, more deeply, and to more organizations as they go about their day-to-day lives, sometimes for the most mundane of transactions. This would violate the fundamental premise of our right to privacy—that the individual should be able to determine how much information about himself or herself to reveal, to whom and for what purposes.

Any ID system that results in the creation of a centralized database immediately raises privacy concerns because of the potential use of the database for law enforcement or other secondary purposes. A card that is used for multiple purposes and is linked to central databases could conceivably be used to monitor and track an individual by recording the uses that are made of the card.

A high-tech national ID card could become a kind of internal passport. The failure to produce the card on request could mean a denial of service, could be grounds for suspicion or, even worse, could constitute an offence in its own right. It would open the door to situations in which Canadians are routinely stopped by the police and forced to identify themselves. This would conflict with many of the fundamental rights and freedoms that distinguish free and democratic societies, and would jeopardize the privacy and autonomy of Canadians.

### **Other Considerations**

#### **➤ *Practical Obstacles to a Multi-Use Card***

Some people understandably find the idea of replacing the many cards they currently carry with a single card very appealing, but is this realistic?

In theory, a national ID card could replace provincial and territorial drivers' licences, health cards, and birth certificates. However, before this could happen the federal government would have to reach agreement with ten provinces and three territories. Common standards would have to be developed, policies would have to be harmonized and a formula for allocating costs would have to be agreed upon. Can all of this be achieved efficiently and effectively before 2005?

Reaching agreement with financial institutions to create a multi-use national ID card/credit card/debit card appears equally ambitious.

The most likely result is that a national ID card will supplement rather than replace existing cards, so that instead of reducing the number of cards we have to carry, we will end up with one more card.

#### **➤ *The Need for a Legal Framework***

One of the lessons that we should have learned from the SIN is the need to create rules and a legal framework before such a program is introduced.

The SIN was originally intended to be nothing more than an account number for employment insurance and pension benefits. However, the authorized uses of the SIN were gradually expanded and the private sector's use of the SIN has never adequately been controlled. As a result, the SIN was in such widespread use by the end of the 1970s that it was perceived as a *de facto* national common client identifier—the very thing it was never intended to become.

In almost every annual report since the Office was created, the Privacy Commissioner of Canada has called for legislative restrictions on the use of the SIN. As well, Parliamentary committees and the Auditor General have advocated reform, but many of the problems that have plagued the SIN remain unresolved. Perhaps the federal government should address these problems first, and demonstrate that it can manage this program, before undertaking an even more complex and ambitious initiative such as a national ID card scheme.

### **Conclusion**

The Minister has referred to the benefits of a national ID card, but he has provided no information about how such a card or the system that would be put in place to support it would work.

Without this information it is impossible to assess the privacy implications of a national ID system. To even begin to do so, we would need to know, at a minimum, whether the card would be voluntary or mandatory, the information that would be required to verify identity, the information that would be contained on the card, the type of biometric that would be used, whether the information would be stored on the card or in a central database, who would be allowed to ask for or require that the card be produced, and the uses that would be allowed. Given the Minister's claims for the benefits to flow from the system, we think it is correct to assume that he envisages a mandatory card with multiple uses by the public and private sectors.

The privacy risks associated with such a proposal are substantial. The challenges of putting in place a national ID system that is workable, affordable, and respectful of the privacy rights of Canadians are enormous. A strong case for the benefits has not been made; to the extent that benefits would exist, they would be marginal at best.

Accordingly, this Office urges Parliament to reject the proposal.

## References

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- <sup>1</sup> The Honourable Denis Coderre, Minister of Citizenship and Immigration, “*Why Discuss a National Identity Card?*,” notes for an address by the Minister before the Standing Committee on Citizenship and Immigration, February 6, 2003.
- <sup>2</sup> The Honourable Denis Coderre, “*National identity document: why we need a reasoned debate*,” notes for an address by the Minister at a Public Policy Forum meeting, February 27, 2003.
- <sup>3</sup> Ibid. Also in notes for an address by Minister Coderre in the House of Commons in response to a motion opposing a national identity card, February 13, 2003.
- <sup>4</sup> Most of these questions are taken or inspired from the US National Research Council paper, “*IDs—Not that Easy: Questions About Nationwide Identity Systems*,” Washington: National Academy Press, 2002, [www.nap.edu/html/id\\_questions](http://www.nap.edu/html/id_questions).
- <sup>5</sup> Maria McClintock, “*National ID cards slated for 2005*,” Edmonton Sun, July 13, 2003. Also widely reported in other media.
- <sup>6</sup> The Honourable Denis Coderre, address of February 27, 2003.
- <sup>7</sup> US National Research Council, “*IDs—Not that Easy*.”
- <sup>8</sup> Ibid.
- <sup>9</sup> Human Resources Development Canada (HRDC), “*A Commitment to Improvement: The Government of Canada’s Social Insurance Number Policy*,” Response to the Standing Committee on Human Resources Development and the Status of Persons with Disabilities and to the Standing Committee on Public Accounts, December 31, 1999.
- <sup>10</sup> Richard Thomas, UK Information Commissioner, “*Entitlement Cards and Identity Fraud—The Information Commissioner’s Response to the Government’s Consultation Paper*,” January 30, 2003; in Appendix B—Perri 6, “*Entitlement cards: benefits, privacy and data protection risks, costs and wider social implications*,” paper for the UK Information Commissioner, 2003 (see Part III: Costs).
- <sup>11</sup> Andy McCue, “*Blunkett has ‘underestimated’ cost of ID cards*,” Silicon.com (UK), July 7, 2003.
- <sup>12</sup> Ibid. Ian Brown, Director of the Foundation for Information Policy Research, a technology think-tank, is reported as saying that independent estimates for a national ID card in the UK are closer to £100 per person.
- <sup>13</sup> Richard Sobel, “*The Demeaning of Identity and Personhood in National Identification Systems*,” Harvard Journal of Law and Technology, Volume 15, Number 2, p. 360.
- <sup>14</sup> Thomas, “*Entitlement Cards and Identity Fraud*,” p. 2
- <sup>15</sup> Canadian Security Intelligence Service (CSIS), “*Operational Programs—Counter-Terrorism*,” [www.csis-scrs.gc.ca/eng/operat/ct\\_e.html](http://www.csis-scrs.gc.ca/eng/operat/ct_e.html).
- <sup>16</sup> In fairness, some card issuers are proposing to introduce chip-based cards.