



Testimony to the  
House of Commons'  
Access to  
Information, Privacy  
and Ethics  
Committee

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*Parliamentary Hearings  
related to the review of the  
Personal Information  
Protection and Electronic  
Document Act*

*February 8, 2007*

On behalf of the NATIONAL ASSOCIATION FOR INFORMATION DESTRUCTION (NAID)-CANADA, I would like to thank the Committee for the opportunity to speak here today.

NAID-Canada is the non-profit trade association for the secure information destruction industry. NAID-Canada's members, like those of its sister organizations in the US and Europe, provide commercial services, ranging from the secure shredding of discarded paper records to the destruction of information contained on end-of-life electronics.

We take the invitation to address you here this morning as a sign of a growing understanding among policymakers around the world that protecting personal information at the end of its life cycle is every bit as important as protecting it during its useful life. We will offer recommendations to reflect that in the legislation.

NAID-Canada and its sister associations in other countries have earned a reputation as a vigilant consumer advocate and as a trusted and credible resource for policymakers.

Our association has been asked to provide counsel in matters of proper information destruction to the Canadian Privacy Commissioner's office, the Ontario Information and Privacy Commissioner, the government of Ontario, Alberta and British Columbia, the US Federal Trade Commission, the US House of Representatives Financial Services Committee and the British Standards Institution.

With that said, we did not travel here today simply to remind you that discarded personal information should be destroyed first. That is a basic and well-accepted principle of information protection.

What we would like to share with you, however, is our observation that governments need to provide a higher level of direction to ensure wider compliance with this principle and, thereby, real protection for its citizens. We maintain that you have that opportunity by amending PIPEDA.

Even with PIPEDA and other applicable Provincial regulations in place, personal information is routinely abandoned or discarded without benefit of proper destruction.

Here are just a few examples:

In September 2005, a film company obtained several hundred boxes of office paper from a recycling center to be used to replicate the scene of the 9/11 World Trade Center tragedy. As it turned out, the recycling company had delivered medical records to fulfill this request. These most personal of records were then summarily strewn about the windy streets of Toronto's business district.

More recently, it was widely reported that bank employees had deposited confidential information in publicly accessible waste bins. The resulting investigation found the bank had inadequate policies and procedures to ensure proper information destruction.

In March 2006, a BC government office sold magnetic tapes at public auction which contained 77,000 medical files, including those of patients with many sensitive diagnoses.

A month later in Winnipeg, the dental records of hundreds of citizens were reported found in a dumpster.

The truth is these incidents are unique only in that they made the headlines. On any given day, it would not take long to find personal information being discarded intact and accessible to the public.

Careless disposal in dumpsters or garbage bins is the obvious example. Keep in mind as well, however, that recycling alone is not safe information destruction. Documents may still remain intact, vulnerable to a privacy breach, for extended periods of time before being recycled.

Privacy protection is no longer simply a human rights issue. Violating the rights of others by casually discarding their personal information provides much of the feedstock for what has become a global epidemic of Identity Fraud.

According to a study conducted in the United States, the vast majority of identity theft results from low tech access to personal information, such as dumpster diving.

Indeed, law enforcement officials in the US recently exposed elaborate rings of organized criminals, capitalizing on this ready source of personal information. These rings were found to have divisions of labor, where lower ranks start by harvesting the information from dumpsters, which is then handed over to others of higher rank, who have been trained to best exploit it.

Only in the United States has a new generation of legislation begun to appear, exemplified by FACTA and a host of state laws, which is designed not only to protect privacy rights, but also to stem the tide of Identity Fraud. As a result, there is a marked difference in the regulatory language regarding information disposal.

Where in the past a regulatory reference to information disposal would require limiting unauthorized access, improved regulations now require that steps be taken to destroy personal information prior to its disposal. Further to the point, the newer generation of legislation requires that such security measures be documented in the organization's policies.

We are here to respectfully urge this committee to enhance the effectiveness of PIPEDA in protecting the citizens of Canada by adopting a similar approach. Information destruction requirements must be clearly spelled out in legislation. That is the only way to put an end to these unnecessary breaches.

There are a number of specific recommendations that must be noted to ensure that such protections are effective. We will focus on the most important here.

To ensure the full impact of a requirement to destroy discarded personal information, NAID-Canada recommends that “information destruction,” be clearly defined *as the physical obliteration of records in order to render them useless or ineffective and to ensure reconstruction of the information (or parts thereof) is not practical*. Enshrining such a definition is critical. It cannot be left to interpretation, as it is currently.

Further, we recommend that any organization that collects or stores personal information must have an information and document destruction policy. That forces organizations to think about this issue and implement a policy that fits the definition just provided.

We also support stronger contracting requirements between information custodians and third parties to whom processing is outsourced.

The contract should clearly delineate the third-party’s responsibilities, policies and procedures. The contract should also clearly indicate the third-party’s acknowledgement that they are bound by the same obligation as the primary custodian to protect the personal information under PIPEDA.

We also recommend requiring information custodians to provide notification to individuals put at risk by breaches of security. Historically, such notification has been reserved for incidents involving sensational electronic data breaches. However, just over a year ago, there was an incident where millions of citizens of Los Angeles were put at risk by irresponsible disposal of paper records. In that case, LA County determined that this incident warranted a notification event.

It is our recommendation that PIPEDA not only be amended to include a “notification” requirement for electronic data put at risk, but also casual disposal of paper records.

In closing, everything we have recommended this morning is already included in current information protection regulations elsewhere in the world.

Identity theft is a growing scourge with no borders. When governments strengthen information protection in one jurisdiction, the criminals will move to where the laws are weaker or less well defined.

Also, please keep in mind, as processors of personal information ourselves; we fully understand that we will be subject to the same regulations and consequences of violation.

Finally, I will leave you with a story that best demonstrates the value of increased government direction in the area of disposal.

In May of 2002, the State of Georgia passed the first serious “shredding law” in the United States.

About two weeks afterward, our executive director received a call from the VP of operations of a very large insurance company; well known to everyone in the room.

The gentlemen asked if NAID could send him a list of their members in Georgia so that their many claims offices could comply with the new law. Of course, we were more than happy to accommodate the caller, but our director added that he could also send a list of members across the country for their other offices. Without a second thought, he said, “No thanks, the other states don’t have shredding laws.”

I wish I could tell you that your good counsel and prodding would be enough to prevent the casual disposal of personal information, but history has proven that more deliberate direction is required. Most important, the legislation must define information destruction.

Thank you for the opportunity to appear before you today. We remain at your service at any time to provide further input or support for this Committee’s efforts to better protect the privacy of Canadians.