

SPEEDING TOWARDS A PRIVACY DISASTER



ENHANCED DRIVERS' LICENCES AND
THE SECURITY AND PROSPERITY PARTNERSHIP

by **Stuart Trew**

The Harper government is driving us towards a one-stop identity flash at the border. Despite the lack of a national discussion on new security technologies, and an overwhelming rejection of the idea of a national identification card when it was first proposed by the Chrétien government in 2003, the current Harper government is encouraging provinces to create so-called Enhanced Driver's Licences (EDLs) as an alternative to passports for crossing the Canada-U.S. border. These new licences would contain biometric information, such as a person's national-

ity, and security features including a barcode for proximity scans and a radio frequency identification chip that border agents could scan and read 20 feet away.

The new technology is being created to satisfy U.S. demands, as part of the Western Hemisphere Travel Initiative, that anyone entering the country after June 2009 has a valid passport or some other secure document to prove nationality. The Canadian and provincial governments are selling the EDL as a convenient way to get across the border quickly for those who might not want to pay for a passport.

So far, the governments of British Columbia, Manitoba, Saskatchewan, Ontario and Quebec have all announced EDL projects.

Some may argue this technology is a harmless and voluntary means of crossing the border a little quicker without a passport. Not so. It is unnecessary and invasive, and in fact a back-door approach to a North American identification card. EDLs will not make us safer from terrorism, and they will not ease traffic flows at the border. What they will do is facilitate the creation of a North American surveillance society.

CANADA'S PRIVACY COMMISSIONERS REJECT EDLS

In February 2008, commenting on British Columbia's new enhanced licences, Canada's federal and provincial privacy commissioners said that no EDL project should proceed on a permanent or even a temporary basis unless there were clear assurances that the personal information required by participating drivers would remain in Canada. Canadians' personal information cannot be protected under our privacy laws once the information is shared across the U.S. border. Similar U.S. privacy protection laws apply only to U.S. citizens. The United States government is under no obligation to protect Canadians' personal information and, in fact, could use it to create profiles on any number of citizens in order to restrict or more closely monitor the movement of people the government considers risky. This would be unconstitutional in Canada.

We know that Canadian security agencies are already voluntarily sharing information with their U.S. counterparts, which has resulted in Canadian citizens with arrest records – not even necessarily convictions – being warned not to cause any trouble while in the U.S., or being barred from the country altogether.

We also know that, despite public opposition, the U.S. government continues to work towards a system where various unrelated databases can be linked in order to “mine” for certain behaviours and “risk-score” travellers based on various, expanding criteria. It will be difficult, if not impossible, for a Canadian to challenge a U.S. scoring system.

VOLUNTARY NOW DOES NOT MEAN VOLUNTARY LATER

Clearly the usefulness of EDLs depends on their widespread use – otherwise it would be more reasonable to insist that people get a passport to cross the border. The U.S. Department of Homeland Security has already said it wants to expand its own EDL program, the REAL ID Act, which forces all U.S. states to develop compatible driver's licences and create linkable databases containing the personal information of cardholders. Currently, U.S. EDLs are used to board federally regulated airlines and enter federal buildings. While it isn't clear how the system will be expanded, it is easy to imagine other situations where state agencies will find it tempting to scan a driver's licence for instant access to a person's profile.

A NORTH AMERICAN ID CARD IN DISGUISE

The Canadian Department of Public Safety is working with the provinces and the U.S. Department of Homeland Security to set common standards for the various provincial identification cards being planned. Documents acquired through access to information requests in the U.S. show that bilateral discussions related to a "one-card" solution to travel security were being held through Security and Prosperity Partnership of North America meetings as early as 2005. The EDLs appear to be a way to sneak a North American identifica-

tion card past Canadians, even though Canadians have clearly opposed the idea.

THE POTENTIAL FOR ABUSE IS HIGH

Voluntary or not, EDLs will potentially confer mobility rights along racial or class lines – just like their elite predecessor the Nexus card, which is reserved for "trusted" high-value customers who can clear a Canadian and U.S. security check. The border has already become a source of racial profiling as people from certain countries deemed "high risk" by the U.S. government are harassed on the basis of little or no evidence to suspect them of wrongdoing. Not having an EDL, or a new enhanced ID card being proposed in Ontario, could one day automatically make you a target of extra searches or questioning. If you're in the "slow lane," so to speak, you must be trying to hide something – or so some border agents might think.

CANADA NEED NOT PARTICIPATE

While the United States government, according to the norms of international relations, has every right to restrict who can and cannot enter its territory, Canada should not be going out of its way to help establish integrated North American systems that will threaten our privacy for nominal or no extra security value. Federal Privacy Commissioner



Enhanced Driver's Licences may soon become mandatory at the Canada-U.S. border despite rising concerns with the lack of protection of personal information that would be included on them.

Jennifer Stoddart said this year that the EDLs "may be an attempt to encourage us to harmonize with them ... we think it's unnecessary. We think it's intrusive, and we think it's a route that Canadians don't need to follow."

Canada needs a chance to debate this new technology before any province implements it at the border. We have the chance to put the brakes on this process of security integration and harmonization, which is supposed to ease the flow of goods across the border, but is actually moving us another step towards the surveillance society.

Stuart Trew is the Ontario/Quebec/Nunavut Regional Organizer for the Council of Canadians

THE COUNCIL REMEMBERS

Marion Dewar—The Council of Canadians would like to offer sincere condolences to the family of Marion Dewar, who passed away recently. Marion was a founding member of the Council of Canadians, former Mayor of the City of Ottawa and as described in Maude Barlow's book *The Fight of My Life*, a "feminist and passionate advocate for the underdog." Through the years, Marion continued to be a member of the Council's advisory board. Her commitment to activism and progressive social issues will be remembered.

Jean Murray—The Council of Canadians also remembers Jean Murray, a longtime member and supporter of the Council of Canadians. Jean and her husband Rev. Lewis Murray were both involved with Council activities for many years in their community in Nova Scotia. Jean was the recipient of the Council of Canadians' 1997 Ken Wardropper Founder's Award for her spirited involvement in Council issues. She is said to have found expression for her sense of justice and social concern through her volunteer efforts. We offer sincere condolences to her family.