

Declaration Of Civil Society Organizations On the Role of Data Protection and Privacy Commissioners Montréal, September 25, 2007

We the undersigned representatives of civil society groups, having gathered together in Montreal in advance of the September 2007 International Conference of Data Protection and Privacy Commissioners, have come to agreement on several important points that we would like to bring before the world's privacy commissioners. We agree that:

1. We are all witnessing the abandonment of our societies' core values and rights of privacy and autonomy at an alarming rate.
2. We are witnessing the creation of an unprecedented infrastructure for the global surveillance of individuals and groups. That includes the development of previously unimaginable systems to watch over our movement: the tracking of travelers, the profiling of passengers through vast data collection programs, including "passenger name record" databases, "advanced passenger information systems" and "entry-exit" schemes, and the imposition of new identity-tracking systems. We are witnessing the growing use of technology – including RFID (Radio Frequency Identification) tags, biometrics, DNA, data mining, CCTV (Closed Circuit Television), and many others – to track our movement within countries, communities, and even schools. We continue to uncover new ways in which our communications are becoming susceptible to eavesdropping. All these systems, and others, are driving an explosion of databases of personal information, along with new means of rapidly searching, combining, and judging the contents of those databases.
3. These systems for surveillance are being constructed both by governments and the private sector. Alarming, there is a growing convergence between the surveillance activities of states and of private corporations.
4. These systems are often developed without democratic debate, authorisation, or oversight. As a result, the claimed benefits of such systems are too often taken at face value, and they do not receive the scrutiny necessary to ensure that they interfere with our private lives only in ways that are necessary and proportionate.
5. Our nations' legal systems have largely failed to keep pace with the explosion of invasive new technologies. Elected representatives often lack adequate information about these developments, even when their consent is actually sought. In some of our countries, judicial institutions defer too often to the claims of executive authority, while in others they rarely hear cases on these issues because civil society groups lack the resources to bring challenges.
6. We are witnessing a destruction of individual rights that is greater than the sum all of these developments – an increasingly all-encompassing surveillance society.
7. Although our nations have all faced far greater threats and crises than terrorism within living memory, our security establishments have aggressively used the threat of terrorism and international crime to increase their own powers and undermine existing legal protections for privacy – and they are increasingly working together across national boundaries to advance their mutual aims.
8. The world's privacy commissioners are uniquely positioned to defend our societies' core values and rights of privacy in the face of this onslaught.

THEREFORE, we believe that stronger, more aggressive action by privacy commissioners is required to tackle this problem – that specific reports, warnings and enforcement actions, while often valuable, are not sufficient to address the enormity of the problem we face. In particular:

- The world’s privacy commissioners need to significantly broaden their mission to incorporate a greater focus on the “big picture” of disappearing privacy, and a stronger engagement in the overall direction in which our countries are headed. Too many privacy commissions have become mere administrative agencies, or have been cowed by the security agencies’ aggressive use of the terrorism threat to justify rollbacks in our privacy.
- We believe that the problem is urgent – that the pace of technology and the exploitation of the surveillance potentials it creates by the government and private sector mean that we must act quickly, before we are faced with the *fait accompli* of a total surveillance society.
- The world’s privacy commissioners must increase their own collective efforts at protecting privacy to counterbalance the increasing cross-border efforts of the world’s security establishments.
- There must be a more forceful effort by privacy commissioners in prodding their governments to resist pressure to weaken existing privacy standards, whether from the United States, other nations, or regional bodies. Within the global community, a single nation’s bad practice can degrade the privacy protections of all.
- In particular, this effort should include more active engagement with the public and the media, and if necessary the courts. Privacy commissioners should demand that governmental actions affecting privacy be publicly debated and democratically decided. And privacy commissioners should actively fight for the creation of adequate oversight mechanisms to permanently protect the public against invasive programs.
- Privacy Commissioners should be more proactive in addressing the privacy impacts of commercial services before such services become too entrenched for action to be practical. And they should coordinate their efforts in what is an increasingly global marketplace.
- There must be a concerted, cross-national effort to preserve fundamental human rights, and protect individuals from being routinely tracked in their movements and daily interactions, which are essential freedoms in a democratic nation.
- To our governments, we also call for actions to strengthen the institutions of privacy and data protection by giving privacy and data protection commissioners greater authority and independence, and creating such institutions where they do not exist.

Signatories:

- American Civil Liberties Union (ACLU)
- Australian Privacy Foundation (APF)
- BC Civil Liberties Association (BCCLA)

- BC Freedom of Information and Privacy Association (FIPA)
- Canadian Internet Policy and Public Interest Clinic (CIPPIC)
- Electronic Privacy Information Center (EPIC)
- European Digital Rights (EDRi)
- International Civil Liberties Monitoring Group (ICLMG) representing 38 Canadian civil society organizations
- Imaginons un réseau Internet solidaire (IRIS), France
- Ligue des droits et libertés (Québec)
- North American Consumer Project on Electronic Commerce (NACPEC), Mexico
- Privacy International
- Statewatch