

# REAL ID: CONNECTING THE DOTS TO AN INTERNATIONAL ID

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History offers many examples of societies which have sought to increase security by sacrificing freedom. America itself provides many pertinent instances. However, our founding fathers have not left us without wisdom on this issue. Ben Franklin has famously stated, "People willing to trade freedom for temporary security deserve neither and will lose both." REAL ID undoubtedly exemplifies a scenario in which a difficult tension exists between freedom and security. By commandeering every state's driver's license issuing process, REAL ID threatens the results warned by Franklin - loss of both freedom and security. It has become the biometric enrollment phase of a plan to implement a terribly invasive tracking system, largely without public knowledge or approval. REAL ID is merely the current face of a far larger, international government and private economic effort to collect, store, and distribute the sensitive biometric data of citizens to use for the twin purposes of government tracking and economic control. At issue are much more than standardized or non-duplicative driver's licenses. This effort extends worldwide, threatening every person alive today. Although very legitimate security concerns exist in this age of terrorism, this Act extends far beyond terrorism prevention or protection of the innocent. Keeping that broad picture in mind, let us move to some background behind the face of REAL ID implementation in America.

The REAL ID Act passed Congress in 2005 buried in a "must-pass" war funding and tsunami relief bill. The little debate in the House and total absence of debate in the Senate ensured that many Congressmen did not realize the full implications of REAL ID. Importantly, the desire by government and economic interests to implement a national tracking and ID system did not start with the REAL ID Act in 2005. Under the guise of security, it has been attempted numerous times in the past, even during Ronald Reagan's administration. When former Attorney General William French Smith proposed to implement what he called a "perfectly harmless" national ID system as well as when a second cabinet member proposed to "tattoo a number on each American's forearm," Ronald Reagan responded, "My God, that's the mark of the beast," signaling an abrupt end to the national ID debate during the Reagan years.

The significant opposition to a national ID system in the past extends to the REAL ID issue today. This conviction has united both Democrats and Republicans as well as such normally opposed groups as the ACLU and the ACLJ. Whether the concern is privacy, religious rights, states' rights, or cost of implementation, REAL ID has galvanized broad and deep resistance, currently including an estimated six hundred groups. Today, over

twenty legislatures have passed resolutions or legislation variously opposing implementation of the REAL ID Act. Eleven of those legislatures have gone further by passing laws specifically prohibiting compliance with REAL ID.

What does REAL ID do? REAL ID attempts to mandate a standardized process and format for all state drivers' licenses to achieve increased security. Most importantly in this standardized process, REAL ID mandates a certain picture quality. A footnote issued by the Department of Homeland Security establishes this quality as compliant with the ICAO Document 9303 biometric format. The global body setting this format, the International Civil Aviation Organization (ICAO), is a specialized agency created under the United Nations. Biometric data can be produced from a simple digital photograph of this quality by running the picture of a person's face through a software program which measures and analyzes the unique, personally identifiable characteristics of that face. The process results in a unique numeric code which identifies a person according to facial measurements. You read that correctly. A unique number or "code" is developed from an algorithmic formula which converts a digital biometric sample to biometric "face print" data. Under REAL ID biometric facial recognition technology, you become a number literally worn on your face - a number which is read by computer, tracked by surveillance camera, and distributed worldwide. Clearly, this international standard provides global compatibility of American citizens' biometric data collected through REAL ID.

Having this background, we should observe that many Americans still do not know why the provisions of the REAL ID Act must be rejected and aggressively opposed because they do not understand the full implications of REAL ID. Many wrongly assume that the legitimate need for security trumps all other considerations. However, REAL ID is not primarily about a secure driver's license or terrorism prevention. The full and dangerous implications of REAL ID may be fleshed out through a discussion of why each American must vigorously oppose this Act's most basic tenets. It poses dangers in the following three areas:

- 1** - REAL ID violates Constitutional rights.
- 2** - REAL ID compromises national and state sovereignty.
- 3** - REAL ID threatens the safety of all Americans.

**I-** First, let us note that compliance with REAL ID would violate our constitutionally protected freedoms.

### **Amendment I - Freedom of Religion**

REAL ID violates freedom of religion for some citizens by forcing inclusion into a system which requires a picture - and more - just to access public services. The Amish and some Mennonites provide examples of religious groups who view the mere taking of photographs as idolatry. REAL ID conditions their freedoms, such as entering a federal building, upon a provision which violates their religious beliefs. Because this "government" identification system limits travel and access to certain public places, and

could even become a debit card, other more mainline religious groups view REAL ID as the advent of the "mark of the beast."

Particularly because this technology assigns a unique number to represent each person's biometric face print, these concerns are hardly unfounded.

A PowerPoint presentation from L-1 Identity Solutions, the major biometrics company in the U.S. today, bolsters this claim. A slide in that presentation includes a graph which charts future likely applications for biometrics. Phase 1 of this "blueprint" for biometric implementation utilizes the authority of Federal agencies to impose such requirements as REAL ID. Phase 2 utilizes bureaucratic leveraging on regulated industries to implement biometrics. Phase 3 anticipates mass implementation on the citizens at large for such everyday activities as buying and selling. As an example, under Phase 2 DHS is attempting to force airlines to pick up the costs of collecting biometrics from foreigners at airports. In Texas under Phase 3, a company is experimenting with using the driver's license as a debit card. Whether one is personally alarmed at some or all of these concerns, REAL ID would prohibit the free exercise of religion for many people.

#### **Amendment IV – Freedom of Privacy**

REAL ID also violates the Fourth Amendment's guarantee of freedom of privacy. First, by mandating the collection, storage, and dissemination of personally identifiable data without any informed consent, REAL ID tramples on this right. In reality, this practice constitutes government-sanctioned identity theft and seriously breaches the "security of person" guaranteed to every U.S. citizen. No sufficiently compelling need exists to warrant government mass collection and storage of such sensitive information about its citizens. Concern heightens even further when private corporations control the databases being set up to house this information. As an example, L-1 Identity Solutions houses a database of U.S. driver's license information. This company, which has consolidated a virtual monopoly on the driver's license issuing market in the U.S., will handle all private information collected during the license issuing process.

Secondly, REAL ID threatens freedom of privacy because this warehoused data cannot be confidently secured. Even the Department of Homeland Security's own Privacy Impact Assessment fails to guarantee that the database linking and networking that will result from REAL ID will be secure. Many privacy experts agree that REAL ID will actually increase identity theft! In reality, the database and access to it will create an electronic superhighway for potential mass identity theft.

Thirdly, REAL ID violates the Fourth Amendment in that the process of collecting personal biometric data without consent violates the very laws that exist to protect against such measures. This is probably one of the most significant Constitutional issues. Current US law allows the collection of biometric information only in the case of criminal activity. However, REAL ID institutionalizes the capture of facial recognition biometrics for every driver, regardless of criminality.

Fourthly, REAL ID ripens the climate for aggressive efforts to control the masses via information and leading-edge technology, regardless of crucial privacy considerations. Data collection and surveillance is simultaneously occurring across several diverse fronts, each one a potential privacy danger painting the broader picture of where REAL ID will take us as a country. For instance:

- 1-** In Rhode Island, a school district is allowing a company to place radio frequency tracking (RFID) chips in students' book bags.
- 2-** Nationwide, Great Britain has installed an estimated 4.2 million surveillance cameras utilizing facial recognition technology to keep tabs on all citizens. These cameras, of which there is 1 for every 14 citizens, can observe a person up to 300 times in a normal day in the city of London.
- 3-** China is aggressively pursuing country-wide surveillance of its citizens using facial recognition technology purchased from a contractor supplied by the previously mentioned L-1 Identity Solutions.
- 4-** According to a June 28, 2008 New York Times article, US and European officials are nearly agreed upon a "binding international agreement" which would allow "European governments and companies to transfer personal information to the United States, and vice versa." Under the cloak of terrorism prevention, European governments could request "private information - like credit card transactions, travel histories, and Internet browsing habits" about American citizens.
- 5-** Homeland Security Presidential Directive 24 issued by the President on June 5, 2008, "establishes a framework to ensure that Federal executive departments and agencies use mutually compatible methods and procedures in the collection, storage, use, analysis, and sharing of biometric and associated biographic and contextual information of individuals." This step shows the President's extensive authority and disregard for privacy in streamlining the biometric sharing process.
- 6-** The FBI is currently building a billion-dollar database to house an enormous amount of biometric data. While officially aimed at housing criminal and terrorist data, this database already retains finger prints, iris scans and other individual biometrics that the government collects on ordinary citizens. Who knows the extent of the private information that will be stored in this massive database? REAL ID-collected "face prints" are just one more piece of the data collection and tracking system.

These examples only serve to underscore the aggressive global government efforts to track and control citizens. In every case, REAL ID violates the freedoms guaranteed by the Fourth Amendment.

### **Amendment X – States' Riights**

REAL ID violates the Tenth Amendment in that the federal government is attempting to force the states to collect private data on their citizens, only to allow that data to be

shipped out-of-state and shared worldwide. This action forces the states to work against the very interests of the citizens they are to protect. When states accede to this pressure under REAL ID, they allow the transfer of state authority to the federal government. The separation of powers built into our Constitution then crumbles as the federal government makes the rules, interprets the rules, and enforces the rules regarding all state drivers' licenses.

**II-** In addition to the three ways REAL ID would violate the Constitution, compliance with the REAL ID Act would undermine our national and state sovereignty. While REAL ID reads like a manual for a national ID card, the Department of Homeland Security's own rules for REAL ID reveal that it implements an international ID system based on biometric identification. Complying with the requirements under REAL ID would violate U.S. national and state sovereignty by forcing states to adopt international biometric facial image standards and to document standards set by international organizations.

As mentioned previously, the ICAO, affiliated with the UN, sets the standards for facial image captures (photos). Besides tracking the movements of international travelers, the ICAO also has assumed the responsibility of creating a common international passport system that stores individual personal and biometric information on a RFID chip built into the passport. The American Association of Motor Vehicle Administrators (AAMVA), which recognizes ICAO standards, "enables" this scheme. This international body and private organization sets nearly all the standards for REAL ID document scanning, storage, data encryption, barcode and layout design to comply with their 2005 international driver's license system. Under REAL ID, AAMVA is the hub and backbone of the database system being set up to share information between states. From a broad perspective, the system created by REAL ID destroys national sovereignty and constitutional authority by removing control of government from the people and establishing government control over the people.

Furthering AAMVA's control strategy here in North America, implementation of REAL ID is "de facto" enrollment of each state into AAMVA's Driver's License Agreement (DLA). AAMVA has pushed the DLA, which meets REAL ID specifications, for nearly ten years. The implementation of this DLA is crucially important to the global effort because it mandates the sharing of all U.S. drivers' license information with Mexico and Canada. This egregious step places U.S. citizen's data at the mercy of Canadian and Mexican privacy controls, further exacerbating the identity theft problem, and violating Constitutional law and national sovereignty by essentially having states form a treaty with a foreign nation.

REAL ID also violates national sovereignty because any international system includes and requires agreements and obligations that would weaken any sovereign standing. In fact, a Government Computer News report notes the following from Robert Mocny, acting program manager for the U.S. Visitor and Immigrant Status Indicator Technology program. His quote comes from comments about a federal plan to extend biometric data sharing to Asian and European governments and corporations, so as to create a Global Security Envelope of identity management.

"My question is, how is it ethical not to share?" Mocny asked. "It makes no sense for us to develop separate systems . . . information sharing is appropriate around the world." Government Computer News further notes that he is sketching a plan for sharing biometric data that would permanently link an individual with data that governments and corporations hold. Since both governments and corporations have been infiltrated by extremists and terrorists and since certain governments of today may be our enemies tomorrow, I hardly think that worldwide sharing of our citizen's data is a good idea!

Enhanced Driver's Licenses (or EDL's) provide a further example of the undermining of national and state sovereignty. Citizens that purchase these nearly REAL ID-compliant licenses, which contain biographic and biometric information on an RFID chip, can use them as a passport to enter either Mexico or Canada. This advancement establishes the international ID designation of REAL ID. The Canadian province British Columbia has also issued a new EDL which, according to their website is also, "an acceptable document for entry from Canada into the United States by land and water."

REAL ID violates state sovereignty because the issue in contention is "national identity management", with the federal government manipulating the tool of state driver's licenses. Consider the following statements about REAL ID from Electronic Data Systems, the very company likely to maintain AAMVA's driver's license database: "The Real ID Act, then, is about more than a driver's license. It puts in place a set of standards for Identity Management (IdM) that can be leveraged across an entire government organization to create an integrated citizen identity security program." The international biometric standards mandated in DHS's final rules, paint the broader picture of an international ID card for government surveillance and tracking.

**III-** REAL ID would endanger Constitutional rights and both national and state sovereignty. Finally, let us consider that compliance with the REAL ID Act would compromise the safety of our people. Unlike what some government officials might say, 9/11 and the prevention of terrorism are not the real reasons for REAL ID. In fact, this technology was being pushed well before 9/11. Although REAL ID and biometrics are promoted as the "cure-all" to terrorism and identity theft problems, many highly dispute this claim. In response to the post-9/11 claims of biometrics companies that their technology could have prevented 9/11, Jim Wayman, the former head of the US Biometrics Center countered, "No, the government didn't have this stuff in place, precisely because it had been working on it and knew its limitations and didn't find any value for the costs involved." He further noted, "It's going to be hard to know how these technologies can be applied to increase national security. We're not just going to turn these machines on and start catching terrorists." REAL ID will not assure greater safety since terrorists will either avoid or duplicate a REAL ID compliant drivers' license, although a correctly operating biometric system would certainly increase the difficulty of faking or forging a license.

Despite the government's assurances about the "certain" safety benefits of REAL ID, no government or company can create a foolproof, perfectly secure system. A person who breaks the law or who desires to wreak havoc on American soil will find a loophole with

which to avoid the requirements of REAL ID. One needs only consider that driver's licenses on the black market will continue to be readily available.

Further, the safety of law abiding citizens will be compromised as their identities are stolen, stored and made accessible to thieves around the globe. Some people reject this idea because they hope that the government will be able to protect their identity once it has all of a person's information. The simple faith implicit in this idea is widely misplaced, however. As proof, consider that in 2007, a Globe and Mail report noted, "A security flaw in Passport Canada's website has allowed easy access to the personal information - including social insurance numbers, dates of birth and driver's licence numbers - of people applying for new passports." A breach of security in Great Britain last December resulted in the loss of approximately 25 million individual records. In my state of Pennsylvania, a security breach which occurred two years ago at a Driver's License Center resulted in over 11,000 records being compromised. Such security breaches highlight significant personal dangers to law abiding citizens and prove that the only secure data is uncollected data.

Finally, REAL ID does not assure safety because biometric technology itself does not work predictably. At this point in time, the technology we are discussing does not work well; hence REAL ID and facial recognition biometrics can not ensure safety. As a result, no one has yet been successfully prosecuted via facial biometrics. The opportunity for false identification and therefore being, "guilty before proven innocent" is great. For example, the Tampa, Florida police force scrapped a facial recognition system in 2003 because, according to a spokesman, "We never identified, were alerted to, or caught any criminal. It didn't work." While on its face, the concept of REAL ID seems like it would increase security, it does not. A Privacy International Study conducted in 2004 found "Of the 25 countries that have been most adversely affected by terrorism since 1986, eighty percent have national identity cards, one third of which incorporate biometrics. This research was unable to uncover any instance where the presence of an identity card system in those countries was seen as a significant deterrent to terrorist activity." The simple truth is that REAL ID cannot stop crime.

In summary, we have seen that REAL ID threatens Constitutional rights, national and state sovereignty, and the safety of our people. The enrollment of American citizens into an international biometric system of identification and tracking constitutes the heart of the REAL ID issue. A secure driver's license is not the ultimate goal or certainly the ultimate result of the REAL ID Act. And it is unfortunately clear that the ultimate purpose is government tracking and economic control through enhanced knowledge and surveillance through biometric identification and tracking.

This being established, it is clear that this aggressive effort of the federal government, working hand-in-hand with private commercial interests, must be opposed on every level. While Congress must move to quickly repeal the passage of the REAL ID Act, the states provide an ideal position from which to fight this encroachment by the federal government. The responsibility for the security and privacy of our own generation and the generations to come, however, rests upon our shoulders.

The next action to be taken involves the following three steps.

First, Congress must immediately repeal the REAL ID Act and resist any effort to pass anything remotely similar. Secondly, individual states which have not passed legislation preventing implementation of any provision of REAL ID, particularly the biometric portion, must do so without delay. As has been stressed throughout this article, biometrics is the core provision of REAL ID; consequently, the states must move to protect their citizens' biometric data immediately. This step is critical because the vast majority of statutory law did not envision the breadth of individually identifiable data that could be gleaned by rapidly advancing technology. Further, because L-1 Identity Solutions holds a virtual monopoly as contractor for state DMVs, they could use their position to coerce the states into implementing all of DHS's wishes. This scenario further endangers state's rights.

Therefore, it is not enough for states to simply stop collecting biometric data. They must purge and "dumb-down" databases to preclude any government knowledge or use of private citizen's biometrics. Additionally, private third-party inspections should be ordered to ensure that all measures have been fully implemented. Fundamentally, the states must demand control – they must inform the contractor what to do, not vice versa. Thirdly, citizens must play a role in resisting illegitimate actions of the federal government. They must be encouraged in their capacity as law-abiding citizens to whom Constitutional guarantees were acknowledged, to resist implementation of any effort that would compromise their individual, God-given rights.

The American people remain the strongest defenders of freedom in the world. Many in our past have died for the liberties we enjoy today. Most of us are still willing to fight and die today for our freedom and the freedom of our children tomorrow. May we each do our part to ensure the greatest nation on earth remains "the land of the free and the home of the brave!"

*"Liberty has never come from the government; it has always come from the subjects of it. The history of liberty is a history of limitation of governmental power, not the increase of it."* -Woodrow Wilson

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