

Witness Statement  
of  
**Sharon Polsky**  
**Policy Director**  
*Canadian Association of Professional Access and Privacy Administrators*



presented to

**Standing Senate  
Committee on Legal and  
Constitutional Affairs**

Thursday, May 17, 2007

10:45 a.m.

Room 257, East Block

**Bill C-31, An Act to amend the Canada  
Elections Act and the Public Service  
Employment Act.**

**Comité Sénatorial Permanent  
des Affaires Juridiques et  
Constitutionnelles**

Le jeudi 17 mai 2007

10 h 45

Pièce 257, édifice de l'Est

**Projet de loi C-31, Loi modifiant la Loi  
électorale du Canada et la Loi sur l'emploi dans  
la fonction publique.**



## **EXECUTIVE**

Carla Heggie, National Chair  
Diane Cormier, Secretary  
Eric Lawton, Director of Professional Certification  
Sharon Polsky, Policy Director  
Ave Bella Gould, Director of Communications  
Dawn Lake, Director of Membership

## **EXECUTIVE ADVISOR**

Jim Franks, University of Alberta

## **REGIONAL REPRESENTATIVES**

Rosemary Smith, Newfoundland & Labrador  
Fran White, New Brunswick  
Marc-Aurele Racicot, Québec/Ottawa  
Lindsay McWilliams, Ontario  
Kate Mann, Edmonton & Northern Alberta  
Jason Blacker, Calgary - Central & Southern Alberta

## **CONTACT INFORMATION**

Sharon Polsky, Policy Director  
Telephone : 403.254.4376

Canadian Association of Professional Access and Privacy Administrators  
330 – 440 -10816 Macleod Trail SE, Calgary AB T2J 5N8  
[www.capapa.org](http://www.capapa.org)



It is my pleasure and privilege to be here, and my thanks go to the Committee for inviting me to speak on behalf of the Canadian Association of Professional Access and Privacy Administrators — CAPAPA.

CAPAPA is dedicated to the ongoing professional development, education, and expanded expertise of people who work in the field of information access and privacy protection.

With the support of the Privacy and Information Commissioners of Canada, and of the Alberta Privacy Commissioner, CAPAPA is developing the standards, competencies, and governance structure to certify information access and privacy professionals in Canada.

CAPAPA was created in 2002, and its members are representative of the larger Canadian context, except that our members' awareness of privacy and access laws — and the real-life application and limits of those laws — is perhaps somewhat greater than among the general population.

Our members are Canadian citizens, parents, members of military and law enforcement families, and actively involved in their communities. Our members understand the complexities of the issue and appreciate the good intentions of some of the changes proposed for the *Canada Elections Act*.

We also recognize the very real danger that the privacy-invasive amendments would bring to all Canadians — and in particular Subsection 107(3) — which will require that every voter's name, address, and birth date shall be distributed in hard and electronic copy to all candidates and political parties. Some private information has always been available on voters' lists, but mandatory electronic distribution is a far cry from printed rosters stapled to telephone poles.

Today's scanning technology makes it easy to convert a paper-based voter's list into an electronic list, which would then be available for manipulation and data mining. Restricting distribution to paper obviously is not the answer.

Compounding CAPAPA's concern is the fact that political parties and candidates are outside the purview of Canadian privacy laws. The very fundamental components that identify **22,466,621** people — the number of voters in Canada on the list for the 2004 federal election — will be published and provided to candidates and political parties that have absolutely no obligation under privacy law to protect or limit the use or dissemination of that



information. Common sense, good business ethics, morals, and the threat of minimal after-the-fact penalties will be the only control.

The proposed changes will deny voters the most fundamental right enshrined by Canadian privacy laws: the right to grant or deny consent to the collection, use, and distribution of their private information.

The only option available will be to refuse to register to vote, in an attempt to keep private information private. Many have already told me that that is precisely what they will do because their privacy is more important to them than is exercising their right to vote.

Quebec's practice of collecting and distributing private information has been referred to. That legislation includes penalties for the person who abuses the information, and the person who is responsible to safeguard the information.

The proposed amendments offer no such protection.

Minister Van Loan assured this Committee a week ago that the *Elections Act* provides penalties of \$1000 and/or 3 months in jail for misusing information collected under the *Canada Election Act* — if you're caught. That's a pittance. At the going street rate of \$50 per name, the 2004 voter's list is worth \$1.1 Billion (22,466,621 X \$50 = \$1,123,331,050). I am not suggesting that anybody would be so foolish or foolhardy as to get the entire voters' list and try to sell it, but there are opportunists among us.

As Senator Joyal noted last week, paying \$200 would entitle virtually anyone to receive the Canadian voters' list. Small investment. Great potential returns.

Financial crimes like identity theft continue to be viewed as events that merely involve "stuff" and hurt no one.

On the contrary.

Significant privacy breaches occur daily, and have led to severe consequences — up to and including suicide. The number and frequency of occurrences, and the causes and costs of those events — are too much to discuss today, and I would be pleased to provide the Committee with a



detailed report exploring how effectively and routinely people expose sensitive private information.

Privacy and other laws, and the threat of penalty, simply aren't enough. Just look at the Bank of Canada, Revenue Canada, CSIS, Alberta Health and Wellness, the BC Government, CIBC and the Bank of Montreal, and every other government, agency, corporation, and organization in Canada and abroad that was — by law — supposed to keep private information private — but didn't.

When major institutions can't contain the most sensitive information they've collected, and with growth of data mining and converged telecommunication technologies, it's fantasy to believe that the wealth of valuable private information on the voter list *won't* be breached. Whether intentionally or unintentionally is irrelevant.

The proposed amendments will make the application of existing privacy and access laws infinitely more challenging for CAPAPA members — and for election officials — because there will be no way to verify that anyone's identification is valid.

What's the worst that could happen if someone voted in my stead? Inadvertently deny me the opportunity to vote, and risk casting the deciding vote that elects someone that I might not have voted for. The likelihood of that happening is pretty remote.

The worst that could happen by forcibly distributing my private information into an uncontrolled and uncontrollable environment is significantly greater and far more likely.

It has been said that every bad policy around the world is justified based on the philosophy that it is good for society — and that the individual must sacrifice his or her selfish rights in favor of the needs of the many.

If passed into law, these shortsighted privacy-invasive amendments will place 22 million Canadians — and many more as our youth register to vote — at great risk for the sake of protecting us from rare instances of voter fraud.

CAPAPA looks forward to the *Elections Act* being amended to actually protect Canadians.

Thank you, Mr. Chairman, for considering these most important issues.