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June 2, 2015

Via email: [soci@sen.parl.gc.ca](mailto:soci@sen.parl.gc.ca); [CIMM@parl.gc.ca](mailto:CIMM@parl.gc.ca)

The Honourable Kelvin Ogilvie  
Chair, Senate Committee on Social Affairs, Science and Technology  
The Senate of Canada  
Ottawa, Ontario  
Canada, K1A 0A4

Mr. David Tilson  
Chair, Citizenship and Immigration Committee  
House of Commons  
Sixth Floor, 131 Queen Street  
Ottawa ON K1A 0A6

Dear Senator Ogilvie and Mr. Tilson:

**Re: Bill C-59, Division 15, Part 3 – Privacy implications of expanded collection of biometric personal information**

I am writing on behalf of the Privacy and Access Law Section of the Canadian Bar Association (the CBA Section) to voice concerns about the impact on privacy rights of Division 15, Part 3 (s. 168) of Bill C-59, which proposes amendments to the *Immigration and Refugee Protection Act* (IRPA) to expand the requirements to collect biometric information.

In previous submissions, the CBA has raised concerns about presenting significant changes to laws in omnibus budget legislation. Coupled with the extremely limited time given by Parliamentary Committees for public input on these measures, this militates against meaningful comment or debate of important changes to the law.

The CBA is a national association representing 36,000 jurists including Canadian lawyers, notaries, law teachers and students. Its primary objectives include improvement in the law and the administration of justice. The CBA Section comprises lawyers with in-depth knowledge of privacy and access to information law and policy.

**Proposed amendments to *Immigration and Refugee Protection Act***

Section 11.1 of IRPA states that “a prescribed foreign national who makes an application for a temporary resident visa, study permit or work permit must follow the prescribed procedures for the collection of prescribed biometric information.” It applies to an exhaustive list of applications - temporary resident, work permit and study permit applications.

The amendment proposed under Part 3, Division 15 (s. 168) of Bill C-59 would create a non-exhaustive, open-ended list of applications subject to collection of personal biometric information for “verification” purposes. The proposed amendment would expand the current framework for the collection of biometric information in a way that undermines the essential privacy principle of collecting the least amount of personal information required.

Biometric personal information is, by nature, sensitive health information and its permitted or mandated disclosure by statute warrants careful analysis, due process and deliberation. The proposed amendment would expand the collection of personal information without adequate rationale and sufficient consultation.

The CBA’s 2003 submission regarding a proposed national identify card to collect biometric information<sup>1</sup> said that “technology is a tool to implement public policy, not a capability to drive policy”. The CBA identified significant privacy concerns and highlighted duplication of existing measures and a marginal benefit from the proposed measure at best. The CBA urged the government then, and urges the government now, to “identify a specific and limited purpose”, a critical element missing from the amendment to IRPA proposed in Bill C-59. The CBA Section recommends that additional parameters be placed on the scope of the proposed amendment, based on further consultation and an opportunity for adequate public consultation.

### **Omnibus bills not the appropriate vehicle for substantive legislative amendments**

An omnibus bill is not the appropriate vehicle to introduce substantive changes to laws unrelated to finance, taxation or spending, especially when those changes raise significant privacy concerns. The CBA has urged the government to limit the use of omnibus bills in this fashion<sup>2</sup>. Omnibus bills decrease effective democratic process and debate and weaken the legislative branch of government. The time provided for Parliamentary Committee deliberations is inadequate to permit meaningful consultation and full participation in the process, and inadequate for the input received to be properly considered by Committee members. The proposed amendment to IRPA exemplifies this concern.

We trust these comments will be valuable in your deliberations.

Yours truly,

*(original letter signed by Sarah Mackenzie for Deirdre Wade)*

Deirdre Wade  
Chair, CBA Privacy and Access Law Section

Cc: The Honourable Joseph A. Day  
Chair, Committee on National Finance  
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<sup>1</sup> CBA 2003 submission on the [Proposal for a National Identity Card](#), also reflected in 2005 CBA submission on the [Anti-Terrorism Act 2001](#).

<sup>2</sup> [Resolution 13-04-M](#)