

**Radio-Frequency Identification Document Advisory Panel Meeting
900 N Street, Room 340
Sacramento, CA**

**Summary
March 10, 2008**

Panel Members in Attendance

Susan Hildreth - State Librarian, Chair
Beth Givens - Director, Privacy Rights Clearinghouse
Roxanne Gould – Senior VP for California Government and Public Affairs, American
Electronics Association
Steve Keil – California State Association of Counties
Clark Kelso - California State Chief Information Officer
Jen King – Research Specialist, Samuelson Law, Technology
& Public Policy Clinic
Bill Newill – Security Industry Association VP, SecuraKey
Nicole Ozer - ACLU
Paul Preston – Principal, Washington Unified School District West
Randy Vanderhoof – Executive Director, Smart Card Alliance
Leilani Yee – Legislative Advocate, Consumer Federation of California

Chris Marxen – Assistant Director, California Research Bureau
Pam Martin – Research Analyst, California Research Bureau

The meeting came to order at 10:00 a.m.

1. Welcoming Remarks by Susan Hildreth, Chair

2. Remarks by Chris Marxen, Assistant Director, California Research Bureau

Each panel member was given an outline of the CRB report being written. Chris noted that changes to this version are written in magenta and italics.

Following this meeting, the CRB anticipates a report draft will be written in three weeks. The panel will be sent a draft and have ten days to review it. After panel feedback is received and incorporated, a final draft will be sent to the panel. Only non-substantive changes will be incorporated into the final draft before completion of the report.

Panel members who disagree with findings and wish to have their opinion noted in the report may write a letter that will be incorporated into the report as an addendum. The letter must be on letterhead. CRB requests the panel member limit the letter to three pages.

Nicole stated she had thought a Bill of Rights would be compiled. Susan stated that Nicole is welcome to provide this.

3. Review

Page 1 – 4

Overview of the outline of the report.

Page 2

Nicole had a question about the phrase “inconclusive nature” in the sentence concerning information presented regarding RFID privacy issues. Susan suggested that the word “inconclusive” be changed to something showing that there is not unanimous agreement in the field.

Page 5

This page is new, having to do with non-State government agencies and the applicability and exemption from recommendations. Some language on this page is derived from the State Administrative Manual (SAM).

Bill suggested to change “will” to “may” in first paragraph. Panel: Agreed.

Beth suggested a change to the phrase “or where privacy issues are unchanged” because that is too open-ended. Nicole called for the phrase to be deleted. Steve agreed, if a non-State government agency can declare privacy issues were assessed earlier.

Susan advised that the concept of “municipal” must include school districts. Paul wanted to include K-14. He noted there is a UC exemption later in the report. Heather stated that the intent of Senate Bill 30 was to include all schools except those in the UC system. Nicole noted that UC’s exemption is for political reasons, not policy, and that UC students deserve privacy protections as well.

Chris advised that, at a minimum, K-12 ought to be included in the term municipal. Higher education is addressed later in the report.

Susan stated that on page 5, we will include local jurisdiction including K-12 schools. It should be clear in the report what the panel recommends with regard to the exemptions already in law.

Leilani suggested a discussion of exemptions be placed in the report on or before page 5. The panel agreed.

Page 6

No substantive changes to the text.

Page 7

Chris stated the SAM has basis in law, including organizations exempt from deployment regulations on government-issued identification documents.

Page 8

Chris stated that K-12 is included, and currently-exempted organizations.

Page 9

There was discussion about the third paragraph. Beth and Nicole suggested that it be made clear what facts are known and not known. The word “inconclusive” is too nebulous.

Ed Howard from the AEA (audience) also found the third paragraph to be unclear. He wondered if it is needed at all, and that the point could be made in greater detail later in the report.

Page 10

Chris will strike the phrase “publicly-issued”.

Page 11

It was noted that the state procurement process already includes a feasibility study. Roxanne said she thought the panel was not going to specifically list sample technologies, as it would look like a list of “blessed” technology. Nicole approves of the list due to the inclusion of the phrase “feasible alternative systems”. Clark suggested further modification so that the list can remain. Panel: agreed.

With regard to privacy impact assessments, Roxanne stated we ought to clarify the difference between “on the document” and “collected and/or stored”.

Page 12

Chris noted that the list on this page is derived from the federal “e-government” act, adapted to California for purposes of this report.

Page 13

Susan requested that the first sentence be rephrased to reflect that technology can only be selected after following earlier steps. Paragraph 1 was rearranged to reflect the steps in the process. Make consideration phase part of the feasibility study.

Leilani suggested RF shielding device instead of Faraday cage.

Page 14 – no comments

Page 15 – no comments

Page 16

Susan asked to eliminate the phrase “when deploying a new technology”.

Roxanne stated that if we make it onerous to move to a new technology, this could turn prohibitive.

Nicole still feels in a budget situation, small agencies cannot do all these steps.

Heather stated that the steps are already in place.

Howard stated that if doing nothing is more costly than a feasibility study, an agency will move forward with a study.

Matt cautioned against disadvantaging new technology in favor of existing technology.

Public comments:

Jim Halley, Technet: Government should not mandate specific technologies. Government should encourage a level playing field. Let the technology sector have flexibility for updates, and to meet the specific needs of agencies. Include a paragraph in the report about the need to be tech-neutral in this matter.

Page 17 – no comments

Page 18

Jen asked if all procurement is open to the public. Chris: No, it is not to this extent, per the State Administration Procedures Act (APA). (www.leginfo.ca.gov → CA laws → Government Code → G.C. Section 11346 – 11348)

Matt and Howard disagreed with the last sentence in #5, stating it is potentially actionable.

Nicole stated there used to be an advisory panel in the last draft, which subsequently came out. Part of the advisory panel’s job was to inform the public that the process was happening. There should still be an advisory panel, or at least a robust public notice process.

Chris replied that in the APA, public notification process is spelled out. Also, the CRB Advisory Panel discouraged the inclusion by wondering who would be on the panel, what level of expertise they would have, etc.

Other members present agreed they did not want an advisory panel recommendation in the final paper. Clark stated there is no shortage of input of agencies, stakeholders and members of the public in the process already. The concern is with overhead. Also, an advisory committee can push layers of scope and would make the process more complicated.

Susan suggested that filing determination statements with the Department of Consumer Affairs, Office of Information Security and Privacy Policy (OISPP), so that OISPP could serve as a repository. Chris stated that we could include emergency procedures of APA. Heather suggested we could require a proscribed way (following the APA guidelines), or have an advisory board addressing a certain set of questions. Panel agreed.

Page 19

Beth recommended changing “would like to” to “would benefit from”. Panel agreed.

Page 20 – No comments.

Page 21

The last paragraph covers notices at the reader’s location. Text is from SB 30. It is not tech-neutral, as it is limited to RFID. The panel asked for rewording to make the reader notice language tech-neutral.

Matt and Howard suggested that the card will be read remotely. Asked if people will only be notified of the technology at the point of use. Pam explained that users will also be provided notice when the ID is issued. Randy stated the panel had previously agreed that a notice on each point of use was too descriptive, on top of all the other public alert processes. To put the scope on an ID reader would go beyond what is needed. Full reader site-disclosure is too cumbersome.

Susan reminded the panel that SB 30 offers signs as one option. The other option is written notice of all locations of readers. Susan worried that rogue readers would read an ID without knowledge or consent.

Chris stated he would be willing to include all options that are currently in SB 30. Clark felt this would be a good compromise. Most of the panel agreed.

Page 22 – No comments.

Page 23 – No comments.

Page 24 – No comments.

Page 25

The third bullet has to do with non-state entities that have a piece of the information system. Must have an agreement similar to government entities.

Page 26 – No comments.

Page 27

Nicole stated that a notice needs to be sent to ID users.

Page 28

Bill stated that this page related to individuals who breach the system. Susan asked if the Penal Code sections presently relate to identification documents. Chris replied that they do not.

Page 29

Howard asked if the text is not covered in Identification Theft laws. Nicole stated there is no anti-skimming legislation currently. Chris recommended modifying Section Penal Code section 502 to address hacking, theft, unauthorized access, etc.

Nicole suggested we also add two things to the list. 1) Notices to users when a database is breached. 2) Injunctive relief – a process to go to the agency, if an agency does not fix a breach in a timely manner.

4. Closing remarks

Chris explained that a report draft will be mailed to the panel members, and feedback will be solicited. The draft will include information stating the panel did or did not reach consensus on the points.

The meeting adjourned at 4:00.