

# Biometrics in the Workplace – Where to Draw the Line

Gary T. Clarke

[gary.clarke@fmc-law.com](mailto:gary.clarke@fmc-law.com)

(604) 443-7133



FRASER MILNER CASGRAIN LLP

MONTRÉAL

OTTAWA

TORONTO

EDMONTON

CALGARY

VANCOUVER

NEW YORK

[www.fmc-law.com](http://www.fmc-law.com)

## Biometrics - Overview

- What are biometrics?
- Advantages and disadvantages



## Finding the Balance

- Employee's right to privacy vs. Employer's right to manage
- The interest in efficiency
- The interest in security



## Legislation

- British Columbia and Alberta PIPAs consent exemption for employee personal information
- Application to biometrics

## Hand Scanning

- Cascadia Terminal and G.W.U., Loc. 333 (2004)
- Canada Safeway Ltd. and U.F.C.W., Loc. 401 (2005)



## Voice Prints

- PIPEDA Case Summary #281 (2004)
- Turner v. Telus Communications Inc. (2005)



## Finger Scan

- IKO Industries Ltd. and U.S.W.A., Loc. 8580 (2005)



## Lessons Learned

- Have a good reason
- Consider what is at stake
- Look for alternatives
- Look for least intrusive way
- Collect as little as possible



## More Lessons

- Collect in an open manner
- Consult in advance
- Develop a written policy
- Collective agreement provision
- Ensure no health concerns



## More Lessons - Security

- Ensure strict security and safeguards
- Limited memory
- Limited access
- Encryption
- Mathematical templates



## More Lessons - Security

- Impossible to reverse engineer
- No links
- One-to-One match
- No other use or purpose
- Timely destruction





MANKOFF

*"Oh, can't complain."*