

FINGERPRINTS FOR CHECK CASHING:

WHERE LIES THE REAL FRAUD?

PART 1 OF 2

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Maria looked at the bank teller with dismay. She didn't have much. A tiny apartment for herself and the two girls. A high school degree. And when the minimum wage job finally came through, an opportunity to have a few dollars more in her pocket than her welfare check used to provide.

Her dismay turned to disbelief "An account?" she whispered, almost to herself. "After I pay my rent, my electric bill, and my babysitter, what do you think I should *keep* in this. . .`account'?" "I'm sorry," the teller said, polite-as-can-be. "Unless you have an account with this bank, I need a thumbprint to let you cash that check."

Maria looked at her paycheck again, feeling somewhat criminal. She didn't have much. And this morning, allowing the bank teller to fingerprint her as she cashed her check, she had even less, as she felt a little bit of her newly found dignity slip away.

It appears the fingerprinting scheme facing Maria was originally the brainchild of the Texas Bankers Association. In 1994, banks in Texas, Arizona and Nevada operated pilot projects. Considered successful by the industry in reducing fraud, the practice spread quickly. By early 1998, banks in nearly 30 states collected thumbprints from non-account-holders wanting to cash a check.

According to the American Civil Liberties Union, the process works as follows: if a non-account holder asks to cash a check at a bank, the bank requests that person to provide identification and a fingerprint. If the customer objects, the banks refuses to cash the check. If the customer does not refuse and the check clears, nothing is done. If the check is returned as a counterfeit or a forgery, however, the check and fingerprint are turned over to local law enforcement agencies for comparison to state and national data bases of people with criminal records.

Setting aside the concerns of privacy advocates --not as unimportant but simply as different from those considered here-- bank fingerprinting of non-account-holders is replete with potential risks for low-income consumers. Because of their poverty, low-income persons will be treated with suspicion and subject to procedures that their more wealthy counterparts are not. The fingerprinting procedure, advocates say, is inherently prejudicial to low-income persons for at least two reasons. First, research abounds showing that poor households are *substantially* less likely to have checking and savings accounts. Not only do low-income consumers have fewer discretionary dollars to keep in bank accounts, but the monthly fees imposed upon small accounts do not make them financially feasible. According to the National Consumer Law Center, "race and chronically low household income. . .account for the major difference in the use of financial services markets by consumers. Blacks, Hispanics and other minorities (regardless of income and age) and low-income households are much less likely to use checking accounts, the principal financial service used by the majority of Americans." Indeed, when race and income are combined, NCLC says, the lack of access is magnified, with the percentage of low-income minority families not having checking accounts reaching 80 percent and increasing.

Second, there is a concern about whether banks will "really" require *all* non-account-holders to provide fingerprints. The federal Office of the Comptroller of the Currency (OCC) warns that "any bank that implements this type of [fingerprinting] plan should exercise care to ensure that it is not applied on a selective basis." Low-income and civil rights advocates express skepticism of the banking industry's ability to heed this warning. This concern is based on years of "selective" requests for identification from persons of color and low socio-economic status, evident in every industry from banking to apartment rentals.

Of equal concern, however, is the institutionally *approved* "selective enforcement" that was perhaps not envisioned by the OCC. Consider Ed Cohen, who owns a small business in Longwood (FL). Even though his business had banked at Great Western for nearly a decade, the bank would not cash his employee's checks without a fingerprint. Another small business owner, Deborah Johnson of Apopka (FL), said that her employees began to demand payment of their wages in cash, "and you can't blame them."

Ocean County (NJ) county employees don't have that same problem. The difference? In April 1997, Ocean County (NJ) freeholders objected when First Union Bank refused to cash paychecks for county employees who wouldn't provide fingerprints. When Ocean County threatened to stop doing business with First Union, moving to withdraw its \$60 million annual payroll account from the bank, First Union excused county government employees from the fingerprinting requirement. The bank continued its policy for other non-account-holders. Union County (NJ) soon followed suit by threatening to move its \$13.5 million in investment funds to alternative banks to protest First Union's fingerprinting policies. Poverty advocates question who can or will stand-up for the less politically powerful.

Persons without bank accounts, who are offended by the process of fingerprinting and thus refuse to submit to it, always have the option of cashing their paychecks at "check cashing stores" instead of banks. Exercising such a "choice," however, imposes considerable expense. One study in Oakland found that check-cashing fees range around five percent. One typical customer pays about \$50 a month in fees, reports David Troutt of Consumers Union (San Francisco). "Viewed over a year in which the family's income was \$17,436, the [customer] spends \$600 on check cashing fees. In that

time, the `friendly' check casher has taken almost 3.5 percent of the family's total annual income." Persons objecting to bank fingerprinting suggest that a low-income person should not be forced to pay such a burden for a little respect, rather than being treated as suspect because of their account-free status.

It perhaps would be understandable for banks to forge ahead, even in light of these problems, if the fingerprinting procedure really generated the benefits claimed for it. Part 2 of this article will examine whether fingerprinting customers when they cash checks is either necessary, or sufficient, to have the positive impacts asserted.

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As reported in Part 1 of this article, more and more banks around the country today are fingerprinting non-account-holders seeking to cash a check. Bankers assert that fingerprinting is a necessary evil in order to stop the millions of dollars in fraudulent check losses incurred by the industry. Most of these programs are launched with great fanfare and statements from local police departments stating how this program will aid them in the prosecution of criminals.

According to a nationwide study conducted by the Federal Reserve in 1995, there were 529,000 cases of check fraud resulting in \$615 million dollars in losses. The Fed study found that the majority of check fraud cases involved stolen personal checks. This seems to make a pretty impressive case for surrendering one more slice of privacy and submitting to fingerprinting. The truth is somewhat less compelling.

The actual use of fingerprint matching in criminal prosecutions is not likely to result in a substantial reduction in bank fraud. Boris Melnikoff, testifying on behalf of the American Bankers Association before the U.S. House Banking Committee, conceded that "taking fingerprints is effective in reducing check fraud mostly as a deterrent. . ."

Aside from the deterrence, for reasons ranging from the practical to the technical, it is unlikely that bank fingerprinting will not generally be useful in actual prosecutions. From a practical perspective, taking proper fingerprints is a skill that requires training to do properly. Criminalists get extensive training in the proper way to take fingerprints in order to insure that a good set is taken. In contrast, bank tellers have no training in fingerprinting. Indeed, according to the American Civil Liberties Union, fingerprinting will not even necessarily be administered by the teller. The ACLU reports that tellers will keep inkless pads --the ink does not leave a residue on the finger-- next to pens or send them to motorists through drive-through vacuum tubes.

Legal problems prevent bank fingerprints from being used in prosecution as well. It is highly unlikely that such prints would be admissible in court. No means exists to establish a chain of custody from an evidentiary stand point. How can it be established that the check with your print on it is the check you submitted to the teller? How can a bank establish how many people, or who, handled the check prior to its processing? Too many holes appear for bank fingerprinting to be valid evidence in court.

Given these problems, consumer advocates have often questioned the "real" motives behind the rapid spread of fingerprinting procedures. After all, they say, even if the practical and legal problems are solved, fingerprinting will only help catch a criminal who already has fingerprints on file with a law enforcement agency. If you have never had a set of fingerprints taken, there is nothing to *compare* to the thumbprint a bank places on the check. In addition, professional thieves will likely understand the shortcomings of both the fingerprinting process and its effectiveness in court. The only persons "deterred," therefore, will be the ordinary, and innocent, non-account-holder.

Early speculation was that fingerprinting benefits larger institutions and harms community banks. Under this reasoning, larger lenders hope that fingerprinting will convince unsuspecting customers to switch banks. Typically, large employers have their accounts with large financial institutions. These larger institutions tend to have more branch locations throughout a market area than do smaller community banks. It is more convenient, therefore, for an employee to cash his or her check at the employer's bank than to drive across town to the community bank where their account is located. The large institution offers the noncustomer the option of being fingerprinted or opening up an account.

These suspicions were validated when, in July 1997, a New Jersey newspaper report cited the existence of an internal First Union memorandum that instructs tellers on how to handle a customer who refuses to be fingerprinted: "If someone without an account should object to being fingerprinted, use this opportunity to encourage the customer to establish a financial relationship with us."

In contrast to fingerprinting, there is a simple way to prevent fraud: asking for multiple identification for all customers. Experience in the banking industry finds that aggressively checking identification would reduce bank fraud losses in large banks by 40 percent. In addition, with new holographic technology and imaging, state identification cards and drivers licenses have become much more sophisticated and are far less susceptible to forgery than in the past. Indeed, even the American Bankers Association says that "not opening a fraudulent account is one of the first defenses against check fraud." The Bankers Association concedes that one of the most important anti-fraud procedures "includes requiring appropriate identification, verifying addresses and telephone numbers, calling new customers at their place of business, checking zip codes, and looking for other indicators."

Existing technology will help protect against fraud as well. According to John Stafford, vice-president of the California Bankers Association, the big increase in check fraud in recent years has arisen because of the widespread availability of high-quality color printers, scanners and consumer computer equipment. Bank equipment, called MICR readers, however, can help determine at the point of presentment if the checks are magnetically encoded. These readers are designed to screen out color or laser check copies by checking for the magnetic ink at the bottom of the check. In addition, the American Bankers Association admits, check fraud could be substantially reduced by using many of the same techniques used for currency: micro-print, high resolution borders, watermarks, security threads,

embossment and even holographs.

The fingerprinting of non-account-holders is inherently prejudicial to low-income customers. These customers tend not to have bank accounts. Indeed, when income, race and ethnicity are considered together, the penetration of bank accounts is found to be quite low. Given the ineffectiveness of fingerprinting in the first place, as well as the availability of reasonable alternatives, quite aside from privacy concerns, many low-income and civil rights advocates believe that fingerprinting should not be allowed.