The Evolution of Signer Identification Methods in Notarial Practice

Sessions 141, 233

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Overview

Identification: Evolution of a Concept

- Sociological change influenced perceived need to ID
- How general ID methods emerged and evolved
  - ID documents became “satisfactory evidence”
    - Technology’s influence on ID methods
    - Looking ahead

Transformative Growth

Insular Colonial Communities

- Few traveled
- Limited access to transportation
- Limited travel infrastructure
- Families settled close to home

Everyone knew each other
Transformative Growth

U.S. Territorial Expansion

Exponential territorial growth
Westward expansion

Transformative Growth

Transportation Revolution

Roads / “turnpikes”
Canals
Railroads
Commercialized U.S. Economy

New communities and cities... blended, more diverse populations

Transformative Growth

Industrial Revolution

U.S.-manufactured goods
Improved production methods
Better transportation of goods to market
Economic independence
Transformative Growth

Urbanization

- From self-employed to working for a company
- Influx of immigrants seeking opportunity
- General population explosion
- Evolution from a largely rural to an urban society

Transformative Growth

Other Significant Influences

Advancements that changed how people lived
- Electricity
- Automobile
- U.S. Highway System
- Air Travel
- Governmental programs tied to a person's identity
- Social Security
- The Internet - changed our interaction with information, and with each other

"We all know each other" to "We are largely strangers"

Societal Need to ID

Societal Transformation Drove ID Needs

Transportation & Industrial Revolutions; Urbanization; World War; Technology and Internet Age

- Proving payment for a service
- Controlling access into factories
- Monitoring border crossings during wartime
- Distributing government program benefits based on a person's identity
- Automating face-to-face services such as banking
- Adding security features to everyday items
- Adding security to online access and transactions
Societal Need to ID

Technology Drove ID Advancements

Transportation & Industrial Revolutions; Urbanization; World War... ...Technology and Internet Age

- Personalization of common objects (railway tickets)
- Employee badges, buttons
- Enhancing trusted documents with photos

- Passwords, PINs
- Electronic credentials
- Biometrics
- Authentication methods

Notary’s ID Imperative

Then...
- Direct personal knowledge, or general knowledge of identity
- Personal papers such as letter of introduction
- Introduction by another person

Now:
- Personal knowledge
- Satisfactory evidence:
  - Credible witness(es)
  - Identification documents

This took time!

Late Bloomers: Common U.S. “ID” Documents

Passport
- First issued during Revolutionary War
- Similar to letter of introduction; no description of the bearer
- No photo of bearer until 1914
- WWI — catalyst, passport’s new role as identification document

Driver’s License
- 1899 — Chicago, New York City required driving test
- 1903 — Massachusetts, Missouri first U.S. states to require a license
- 1915 — Only 29 states issued driver’s licenses
- 1934 — South Dakota last state to require a driver’s license
- 1958 — California is first U.S. DL to include a photo

Birth Certificate
- ID “traveler” document
- Certifies that a birth occurred
- Obsolete methods of recording births (parish clerk, local pastor); some not recorded
- Universal birth registration not achieved until 1933
- In 1942, estimated 40% of Americans still lacked a birth certificate

Notaries examined these by custom, not mandate
Notary’s ID Imperative

“ID Documents” as Satisfactory Evidence

- 1981 – California appellate court: Notary negligently relied on ID documents (Allstate Saving & Loan Association v. Lotito)
- 1982 – California statutorily allows notaries to rely on ID documents

Other states:
- 1985 – Minnesota
- 1999 – Colorado
- 1991 – Florida
- 2004 – Massachusetts
- 1997 – Texas
- 2006 – New Hampshire

Majority of states now specifically allow reliance on ID documents

Remote Notarization & Satisfactory Evidence

Physical presence for:
- Paper notarial acts
- Electronic notarization pursuant to Model Notary Act; NASS Standards

Same identification methods

Remote presence:
- “Personal appearance” satisfied by audio/video communications technology
- VA – electronic documents only; MT – paper or electronic documents

Different identification methods due to limitations of examining tangible ID documents remotely

Technology’s Influence on ID

Driver’s License – Going “Mobile”

De facto U.S. National ID Card
- Real ID Act compliance - federal design standards to enhance security, deter fraud

Iowa Mobile Driver’s License Pilot
- Real-time verification and update of bearer information
- Leverages security features built into smartphones (PIN, biometric unlock)
- Visible and covert security features, linked and layered
Technology’s Influence on ID

ID for Remote Notarizations

- **MONTANA**
  - Electronic or paper documents
  - Personal knowledge or credible witness
  - Very familiar ID forms

- **VIRGINIA**
  - Electronic documents only
  - Personal knowledge
  - Digital certificate accessed by biometrics or govt.-issued ID credential
  - Antecedent in-person ID proofing process; “high” assurance level

Technology’s Influence on ID

ID Proofing; “Antecedent”

ID proofing: verifying that a person is who they claim they are.

**Purpose:** for online or network access, account opening or credentials issuance

**Remote or In-person**

- Remote ID proofing (online): verifies identity by asking questions based on the personal and financial history compiled by data aggregators (credit bureau, public data source).
- In-person ID proofing: face-to-face session; reviewer examines identification documents to verify the bearer’s identification. Federal standards specify which ID documents and other requirements.

“Antecedent” = previous

**Use Case:** Federal, online health insurance marketplace

Technology’s Influence on ID

Knowledge-Based Authentication

“KBA” – an identity authentication method. The subject must correctly answer at least one security question to gain access to online or digital resources.

**Static or Dynamic KBA**

- Static KBA: User inputs own answers to selected security “challenge” questions during creation of password-protected account or profile. Challenge questions are commonly asked upon user log-in.
- Dynamic KBA: Presents user with randomly selected questions based on information held by data aggregators. User must correctly answer questions within a preset timeframe.

KBA processes can be combined with other authentication methods to strengthen identification assurance.

**Use Case:** Remote notarization technologies
Looking Ahead

Could Use of Non-Presence Notary ID Methods Grow?

Consider:
- Pending amendment, Revised Uniform Law on Notarial Acts
- Possible state enactments (attempts in Texas, Maryland; possibly Maryland again in 2017)
- Louisiana – formally studying remote notarization
- National Association of Secretaries of State – formed Remote Notarization Task Force to review, make recommendations
- Model Electronic Notary Act addresses remote notarization

Looking Ahead

Technological Processes - No Notary?

The blockchain:
"21st century notarization"

Advanced biometric technologies to authenticate user identity:
- Facial recognition
- Bone conduction/skull sounds
- Multi-layer biometrics: face plus voice and eye print

Preserve the Notary’s Role

Ageless Value of the Notarial Act

The Assurances of Notarization, Regardless the Medium
- Presence of the signer before the Notary
- Satisfactory identification of the signer
- Assessment of signer comprehension, volition
- Document review, for barriers to notarization
- Authorized notarial act
- Completed notarial certificate
- Record of the act

To retain these assurances, the Notary’s role must be preserved, leveraged in technology-assisted transactions
Preserve the Notary's Role

Be Informed, Be Ready

- Be open to adapting with the times
- Take advantage of opportunities to learn more
- Look to trusted sources for information and guidance
- Proudly carry the assurances of notarization into the future, even as methods of notarization and signer identification continue to evolve