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Agenda Item: 7

An Art of Balance: e-Crime Investigation vs. Privacy Protection

Purpose: Information
Submitted by: Hong Kong



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Privacy Protection in E-Government
and E-Commerce
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An Art of Balance - e-Crime Investigation vs. Privacy Protection

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Agenda

- Related Privacy legislation in Hong Kong
- e-Crime Investigation
- The Need of Partnership
- Conclusions



Legislation

- Personal Data (Privacy) Ordinance, Cap 486 Laws of Hong Kong
- The Ordinance enacted since December 1996.



Objectives

- Protecting the privacy interests of living individuals in relation to personal data.
- Enabling free flow of personal data to Hong Kong from restrictions by countries that already have data protection laws.



Interpretations

“Personal data” means any data-

- (a) relating directly or indirectly to a living individual;
- (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained;
- (c) in a form in which access to or processing of the data is practicable;



Data Protection Principles

Principle 1 -- Purpose and manner of collection.

- This provides for the lawful and fair collection of personal data and sets out the information a data user must give to a data subject when collecting personal data from that subject.



Data Protection Principles

Principle 2 -- Accuracy and duration of retention.

- This provides that personal data should be accurate, up-to-date and kept no longer than necessary.



Data Protection Principles

Principle 3 -- Use of personal data.

- This provides that unless the data subject gives consent otherwise personal data should be used for the purposes for which they were collected or a directly related purpose.



Data Protection Principles

Principle 4 -- Security of personal data.

- This requires appropriate security measures to be applied to personal data (including data in a form in which access to or processing of the data is not practicable).



Data Protection Principles

Principle 5 -- Information to be generally available.

- This provides for openness by data users about the kinds of personal data they hold and the main purposes for which personal data are used.



Data Protection Principles

Principle 6 -- Access to personal data.

- This provides for data subjects to have rights of access to and correction of their personal data.



Exemption

Sec 58 Cap 486, Personal Data (Privacy Ordinance)

- (a) the prevention or detection of crime;
- (b) the apprehension, prosecution or detention of offenders;
- (c) taxation purposes;
- (d) the prevention, preclusion or remedying of unlawful or seriously improper conduct, or dishonesty or malpractice, by persons...etc.



e-Crime Investigation

- IP addresses
- Transaction Log
- Communication Log
- Account Subscriber Details
- Communication Content (e.g. email, ICQ...)



IP address / Domain name

- Open source information (Such as APNIC, ARIN, checkdomain.com...)
- DOS command (ping, netstat, tracert.....)
- Software (visual route, smartwhois....).



e-Crime Characteristics

- Absence of Physical Borders
- Time Critical
- Digital Evidence
- Multiple Stakeholders



Acquisition of Personal Data

- Exemption under Section 58 of the Personal Data (Privacy) Ordinance
- Search Warrant



Sharing of Personal Data

- Must be in compliance with the Personal Data (Privacy) Ordinance
- Sharing of “shared” Personal Data must be explicitly authorised by the original sharer or the data owner



Importance of Partners

- Local / Overseas Law Enforcement Agencies
- Industry (e.g. ISPs; Network Administrators)
- Privacy Regulators



An Art of Balance

- Identity Theft is one of biggest and Most Serious Crime over the Internet
- Enabling LEA to prevent and detect e-Crime actually help us to help you.



Our Vision

- To Ensure Hong Kong Remaining One of the Safest and Most Stable Societies in the World...and

This include the physical and cyber space



Thank You

Commercial Crime Bureau

