

**Policy Laundering
and
International Co-operation
as a Good Thingtm**

Attorney General of Australia stated in June 2001, trying to pass the Cybercrime Bill:

"A magistrate would be able to order a person with knowledge of a computer system to provide such information or assistance as is necessary and reasonable to enable the officer to access, copy or print data. Such a power is contained in the draft Council of Europe Convention on Cybercrime and will assist officers in gaining access to encrypted information."

New Zealand Herald, Justice Minister Phil Goff stated in April 2003 that the new Counter-Terrorism Bill "was the final step in adopting the last of 12 United Nations conventions aimed at fighting terrorism."

"It will give police and customs officers more powers to fight terrorism, including enabling police to use tracking devices, and will allow evidence found in the investigation of one crime to be used in the prosecution of another."

Circumventing Deliberation

Using the language of
'international obligations'
'harmonisation'
'multilateralism'
'support to allies in war on
terror'

**PL1: Forum-Shifting and
Laundering Data
Retention**

1995: FBI Director calls for
ISPs to keep data stores.

2000: United Kingdom proposes
retention for 7 years.

1997-2001: G8 and CoE were
thinking about it.

LAUGHTER

"[To further international cooperation, please c]onsider data protection issues in the context of law enforcement and counterterrorism imperatives," and "[r]evise draft privacy directives that call for mandatory destruction to permit the retention of critical data for a reasonable period."

Letter from GWB to RP-EC, October 16 2001

"Any data protection regime should strike an appropriate balance between the protection of personal privacy, the legitimate needs of service providers to secure their networks and prevent fraud, and the promotion of public safety."

U.S. statement at November 2001 Cybercrime meeting.

March of Retention

UK Anti-Terror Law.

French Cyber-law.

Spanish Crime Law.

EU Electronic Privacy Directive.

South Africa, Argentina, ..

Post-Madrid Bombings calls for
harmonization at the EU.

**PL2: Modeling in
Anti-Terror**

Canada's Bill C-36

"causes serious interference with or serious disruption of an essential service, facility or system, whether public or private:

Provided that nothing in this paragraph refers to any lawful advocacy, protest, dissent or stoppage of work, which does not involve an activity that is intended to result in the conduct or harm referred to in paragraph (a), (b) or (c)."

After deliberations,
deleted 'lawful'

"This would ensure that protest activity, whether lawful or unlawful, would not be considered a terrorist activity.."

Canada's Law

"causes serious interference with or serious disruption of an essential service, facility or system, whether public or private:

Provided that nothing in this paragraph refers to any advocacy, protest, dissent or stoppage of work, which does not involve an activity that is intended to result in the conduct or harm referred to in paragraph (a), (b) or (c)."

Jamaica's Draft Bill

"causes serious interference with or serious disruption of an essential service, facility or system, whether public or private:

Provided that nothing in this paragraph refers to any lawful advocacy, protest, dissent or stoppage of work, which does not involve an activity that is intended to result in the conduct or harm referred to in paragraph (a), (b) or (c)."

South Africa's Draft Bill

"causes serious interference with or serious disruption of an essential service, facility or system, whether public or private:

Provided that nothing in this

paragraph refers to any **lawful** advocacy, protest, dissent or stoppage of work, which does not involve an activity that is intended to result in the conduct or harm referred to in paragraph (a), (b) or (c)."

Rhetorical Questions

Where are decisions made?

What happens to deliberative processes?

Who participates at international level?

Who adapts and how do they interpret?

We don't want to give good
people bad ideas.

Nor do we want to give bad
people good intentions.

...and this is why the U.S. must not
ratify the CoE Convention.

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