After Costigan

The role of computerised crime intelligence

The seminar, held on Wednesday 6th March 1985, was entitled *"After Costigan: computers and criminal intelligence"*. Speakers included Paul Willee (General Counsel assisting the National Crime Authority), Diane Higgins (Chief Executive with the Director of Public Prosecutions), Robert Hayes (Australian Law Reform Commissioner), and Jim Nolan (NSW Privacy Committee). These speakers discussed the systems with which they had been involved, and commentators discussed the issued raised.

Paul Willee, who was formerly involved in development of the Special Prosecutor's system, spoke at some length about the capabilities of that system. The vast piles of documents received first went through a registry process - they were numbered, photocopied, and all details were recorded. This meant that later, all references to any object - such as a particular drug name - could be collated. A statistical weighting process ranked objects - for example, by the level of their association with one of the system's targets, or how likely they were to be an individual about whom some particulars (but not name) were known.

The same and other techniques were used to make sense of the mass of financial material received. Cheques could be ordered by amount, number, date, name, or with cheque stubs, bank statistics and cashbooks; and individual "cash flow periods" of six months could be studied for significant deviations.

"Pathway analysis" enabled the computer to find logical connections between any two objects, such as a person, racehorse, or place. To do so, up to 280 separate pathways could be investigated, to a depth of five transactions. Specific types of links between people could be excluded from the search to highlight other, more significant, ones. Soundtex, a phonetic search facility, enabled collation of like-sounding names which might be references to the same person.

Security of the system - an important aspect for privacy considerations - was as good as they could make it, said Mr. Willee. However, it was very difficult to guard totally against politically-motivated 'leaks' from inside.

Did the system have problems? Yes, said Mr. Willee stemming mainly from its small beginnings with early Painters and Dockers enquiries. There were many 'patches' in the COBOL programming; text "strings" could not be searched; the software used was becoming outdated; many changes had been necessary to enable the system's prosecution and intelligence functions to be kept separate. Perhaps the major problem was the lack of an effective optical character reader - as a result, the high levels of human-input required created a bottleneck.

The databases of the Costigan and Stewart Commissions (the latter due to complete its reference in April 1985) would be going over to the new National Crime Authority.

Roger Gyles (former Special Prosecutor) later spoke about the development of the Special Prosecutor's system, and contrasted it with that of the Costigan Commission. The difference was one of approach - the Special Prosecutor's system was designed to be simple at the input stage, with retrieval being developed on a free text basis by the investigators. This eliminated backlogs, and the need for huge input staff resources. However the purposes of the Special Prosecutor's office were different - it had a defined number of targets ("Bottom of the Harbour" scheme organisers).

Diana Higgins described this system, with which she had been involved from 1982 to 1984, in greater detail. Designed by Computer Power, it used Wang computers in Sydney (with 25 word processing stations), Melbourne (20 stations), Brisbane and Perth.

As with the Costigan Commission, the volume of documents was a problem - one search warrant alone netted 250,000 documents! The Special Prosecutor also received batches of material from the NCSC, the Tax Department and others. After listing and batching, documents were entered using word-processing facilities, then converted to DP files and loaded onto the database that evening. Within the database, documents were in 10 groups, such as correspondence, banking, company records, etc. The tenth group as litigation support database, to assist with case notes, exhibits, and other aspects of the Director of Public Prosecutions' very large cases.

A high level of physical security was supported by checks on staff employed, individual sign-ons and access cards for every user, and regular changes of passwords. All keyboards had locks and all data lines were encrypted.

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policy on data protection and said he felt that the Privacy Committee had struck a more sensible balance in its recommendations than the rather extreme views of the Council. He recommended introducing FOI-style rights of access to reports by people to reports about themselves in the private sector, and a strengthening of these rights in the public sector.

Jim Nolan, the Executive Member of the Privacy Committee, said that standards for data security, integrity, and retention periods on such databases should be established. The apparent acceptance of information from suspect sources was worrying (such as anonymous calls to recent 'Operation Noah') It was also worrying that police wanted to be able to use information collected for other purposes such as the records of the Electricity Commission. When the Privacy Committee examined the files of the Special Branch in 1978, they found many examples of innocent or coincidental connections causing records to be kept on people - such as Salvation Army officers using the same car park as one of the suspects.

Mr Nolan echoed the call for a Privacy Commissioner to intervene on behalf of those who believed themselves wronged by such systems, especially when the new 'artificial intelligence' databases enable one database to track down information in others .

Trade Practices Act

COMPUTER CONTRACTS: Four parts of the Act relevant

The July lunchtime meeting of the New South Wales Society for Computers and the Law was addressed by Mr. **Philip Argy**, partner in a large Sydney law firm and an expert in the intricacies of the Trade Practices Act 1974 as it affects computer contracts. Mr. Argy explained that many detailed sections of the act, as well as its "catch all" provisions, had a bearing on the processes of choosing a computer, negotiating the terms of the sale, and finalising the contract - as well as on levels of after-sales backup, accessory supplies etc.

There were four main parts of the Act which affected computer contracts, Mr. Argy said. These were Part 4 (dealing with restrictive trade practices which 'substantially lessen competition', and three divisions of Part 5 (which covers consumer protection). Division 1 covered unfair practices, Division 2 conditions and warranties in consumer transactions, and Division 2A actions against manufacturers and importers.

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Part 5 began with section 52, the "catch-all" provision. This forbade "misleading or deceptive" conduct, whether intentional OR unintended. For this reason there were no criminal penalties entailed, only civil remedies via the iniunction process - in cases based on the following sections, it was necessary to prove criminal intent.

Section 53 then listed specific types of misrepresentation, such as: "standard, quality, grade"; "particular history or previous use' (an increasingly important clause as the market for second-hand software grows); "new" (was an unused but twice-superseded computer "new"?); "acces- sories" and "uses" (laser printers could NOT print overhead transparencies, as suppliers had claimed); and so on.

The most powerful of these clauses dealt with performance characteristics. Some purchasers of daisy wheel printers had been surprised to find that their 55-characters-per-second printers would only achieve this speed in 25-pitch, printing all full stops! In deciding whether misrepresentation was intended, the test was: what would a reasonable person think was met?

Division 2 of Part 5 turned from remedies for breaches of the Trade Practices Act itself to breaches of contract - this section therefore dealt with conditions and warranties in the relationship between the supplier and purchaser. One of the tests which applied here was whether the goods were "or a kind ordinarily acquired for personal, domestic or household use", which created problems when, for example, a personal computer was being used in a small business. If the goods in question had been bought through a finance company, section 73 allowed the same right of action as if the purchaser had bought the goods direct.

Division 2A, dealing with actions against manufacturers and importers, had similar provisions to Division 2 in that it required goods to be of "merchantable quality". However, defects which occurred before supply (such as damage in transit) were not covered.