CLA Civil Liberties Australia http://www.cla.asn.au

Analysis   *10 September 2007*

Crime tops the card as technology mushrooms

There are serious concerns about how new technologies in Australia are likely to be misused in future, according to detailed analyses by the Australian Institute of Criminology *(article 5 Sept 07).*

The AIC's warnings are a further cautionary tale against the proposed national identity (ID) card, called the Access Card by the federal government, which is poorly conceived and riddled with potential problems because of some design elements.

As well, the analyses highlight the need for law reform, the AIC says.

However, CLA believes the AIC's recommendations should go further: what is needed is a broader strategic review of information management and protection that encompasses the ownership, control and security of data. *(See CLA's position statement, below.*

The AIC has released two publications looking at how Australians will use information and communications technologies, and the resulting opportunities for crime and breaking rules. The reports are:

- *Future directions in technology-enabled crime: 2007-09*, the most recent publication in the AIC's *Research and public policy series*, and
- *The future of technology-enabled crime in Australia, number 341* in the *Trends & issues in crime and criminal justice series*.

The reports highlight the need for law reform. Areas where reform is needed, according to the AIC, include:

- capacity to deal with criminal complicity - an increase in instances of individuals acting jointly in the commission of a crime;
- greater uniformity in legislation across jurisdictions because of the likelihood of multiple jurisdictions being involved;
- development of new admissibility of evidence procedures to counter the new and sophisticated defences to charges that will be developed;
- new punishments will need to be explored, such as forfeiture of computers and restriction-of-use orders, that may be more effective in deterring crime than traditional punishments.

The AIC discloses that the Australian High Tech Crime Centre funded its research.

Reports are available online at:
- http://www.aic.gov.au/publications/rpp/78/
- http://www.aic.gov.au/publications/tandi2/tandi341.html

What CLA believes Australia needs for data laws

CLA believes what is needed is a roughly 7-8 year project to address all data-related information issues in Australia, including the possibility of a national card.

The project outline might be:
- a 3-4 year academic/legal analysis (possibly by the Australian Law Reform Commission, ALRC) of all Australian consumer, financial, data protection and privacy legislation, protocols, guidelines and the like (including all legislation relating to financial and data movement to and from Australia which affects Australian individuals and entities), with the outcome being a major discussion paper and proposed new legislation;
- a 2-year period of public discussion/debate and submissions to the analyst entity;
- development of draft financial, data protection and privacy legislation for Australia, for all States and Territories and for international transactions and dealings;
- the taking of written submissions, and an Australia-wide series of hearings, by the appropriate federal parliamentary committee; and
- producing over-arching, robust and interactive financial, data and privacy legislation which will be a model for the world.

The fundamental problem in Australia is that the intertwined issues of privacy, data and financial legislation (and consumer protections associated with all three areas) are usually treated piecemeal.

Australia has the opportunity to develop a best-practice model for the world.

– Bill Rowlings

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