



2ND NATIONAL CONFERENCE ON
**CYBER SECURITY
& DATA PROTECTION**



Legal, Regulatory and Policy Issues, Concluding Highlights

A FID Perspective

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Financial Investigations Division

www.fid.gov.jm

- ▶ Division of the Ministry of Finance and Planning



OUR VISION

- ▶ **“To be an effective financial intelligence and investigation organization that delivers quality products and services and contributes to financial and national security”**

Mandate

- Advise the Minister on matters relating to financial crimes;
- Receive and process information relating to financial crimes;
- Investigate financial crimes including money laundering and terrorist financing;
- Compilation of statistics on the investigation and prosecution of financial crimes.
- Asset Management of any property seized, restrained or forfeited in connection with financial crimes.
- Collaborate with Law Enforcement Agencies (LEAs)

Activities

- ▶ Forensic Accounting
- ▶ Intelligence Gathering
- ▶ Prosecution
- ▶ Digital Forensics Investigation
- ▶ Asset Recovery

Authority

- ▶ Proceeds of Crimes Act 2007
- ▶ Terrorism Preventions Act 2005
- ▶ Financial investigations Division Act 2010
- ▶ Others

Mantra

- ▶ Follow The Money



- ▶ Taking the Profit (Benefit) out of Crime

Cyber Living

- ▶ Facilitated by Private Sector and Government
 - Access to Internet and Data Services
 - E-Learning
 - Growing E-Economy
 - Community Access points
 - Growing E-Government
 - Internet/Smartphone Penetration



The E-Transaction Act

- ▶ Facilitates agreeing parties to conduct transactions electronically
- ▶ Information requested in writing may be given electronically
- ▶ Signatures are not relevant if other means of verification are used
- ▶ Contracts may be formed electronically

Negative Result of Cyber living

- ▶ Access to information personal data
- ▶ Proliferation of Crime
- ▶ Using the computer as a weapon
- ▶ etc

POCA

1. Deprive criminals of ill-gotten gains
2. Remove criminal proceeds from use in future criminal activities
3. Deter persons from engaging in crime
4. Satisfy mandatory international requirements



Asset Recovery Agency

- ▶ The FID is Designated the ARA. POCA Requires:
 - Annual plan (Objectives, performance targets, priorities & resources)
 - Annual report and audited statement of accounts
 - Access to information held by any statutory body, agencies & department of government.
 - Unauthorized disclosure (\$1m/12 months)

Types of Investigations

- ▶ Cash seizure
- ▶ Civil recovery of property
- ▶ Confiscation/forfeiture; and
- ▶ Money laundering

No Requirement for Conviction

- ❑ Conditions for seizing cash:
 - ❑ \$100,000 or more
 - ❑ recoverable property
 - ❑ intended for use in criminal conduct
- ❑ Civil proceedings
 - ❑ Recover property which is or represents, property obtained through conduct



Tools

- Disclosure Order
- Customer Information Order
- Production Order
- Account Monitoring Order
- Search Orders
 - (Search & seizure warrants)

Forfeiture Order

- ▶ Determine by the Supreme Court on application by:
 - ARA or
 - DPP

Recovered Assets

- ▶ Arguments against: (speaking about lottery Scaming)
 - Being done as **REPARATION**
 - These ‘**White people**’ enslaved us
 - **Government Scamming**
 - It is still...
 - **CRIMINAL PROCEEDS**

Impact if Left Unabated

- ▶ Destabilization of the Economy
- ▶ Up-swing in Criminality
- ▶ Loss of Jamaica's reputation in International circles
- ▶ Loss of financial support
- ▶ etc

Concern

- ▶ Insufficient legislative coverage in Jamaica
- ▶ The need for proper compliance under existing regulations

Data Trading

- ▶ Large Commercial Market for Data
- ▶ In the course of lottery scamming investigations it is observed that:
 - Victims data are traded:
 - Credit Rating
 - Gaming History
 - Age
 - Several businesses facilitate targeting persons



Data Repatriation

- ▶ Is the process of returning/destroying content belonging to a person after their access of the particular service has been terminated/concluded.
- ▶ Need for Policies to be available across jurisdictions so users can impose on providers of cloud services





Data Examination

- ▶ There should be a legal recourse to having data held by any party to be corrected, expunged or deleted
- ▶ An opt-in policy should allow persons the right to examine information held on them



Data Retention

- ▶ Data retention, also called records retention, is the continued storage of an organization's data for compliance or business reasons.
- ▶ There are presently no policy which requires ISP's and cloud organizations to keep their records outside of a court order

Data Sharing

- ▶ This growth in Cyber Living means that
 - More information on individuals will be stored online
 - Access to this information may be shared with law enforcement



**How do we balance
personal privacy and national security?**

EU Data Protection Rule

- ▶ In 2012, the European Commission proposed a major reform
 - Companies are no longer required to notify individuals
 - Introduce increased responsibility and accountability
 - Establish single national data protection authority
 - Must notify supervisory authority of breaches
 - Easier access to personal data
 - Right to be forgotten
 - Rules apply abroad
 - New rule for Police and Judicial cooperation

What Happen to the funds

- ▶ Consolidated Fund
- ▶ Shared with partners
- ▶ Returned to victims

Case

- ▶ Mandeville Businessman
- ▶ Received US\$45000 in his business account
- ▶ Knowingly or unknowingly
- ▶ Money determined to be Lottery Scam
- ▶ He was convicted
- ▶ Money Returned to Victim

Contact the FID

- ▶ If you have Information on:
 - Money Laundering
 - Terrorist Financing
 - Lottery Scam
 - .
 - Other financial crime

Tell the Police or call the FID

<http://www.fid.gov.jm/html/contact-us/>

▶ Thank You ...