

## BOOK REVIEWS

*Computer Crimes and Digital Investigations* by IAN WALDEN [OUP, Oxford, 2007] 482 pp, hb £75, ISBN 13: 978-0-19-929098-7; ISBN 10: 0-19-929098-9

In the Foreword to this text, Professor Wasik outlined the nature of the substantial changes that the use of technology had brought about since his earlier text was published in 1991. In particular, the use of the internet by criminals to carry out their nefarious activities has become a significant factor. Arguably, criminals have 'never had it so good', to quote a few of the words from the speech given by Harold Macmillan, the Prime Minister, in Bedford on 20 July 1957. Criminals no longer need to be physical about theft: the world's banks have opened their virtual doors; the gullible (apparently with more money than sense) are taken in with Nigerian 'advanced fee' or '419' fraud; cyber warfare is undoubtedly a reality, as Estonia can testify, as is cyber espionage, conducted against both States and businesses; released from the limiting factors of trying to sell and distribute abusive images of children in the physical world, the makers and distributors of such disgusting wares have used the internet to further their interests; in addition, digital crimes are readily perpetrated across jurisdictional boundaries and across time zones in a matter of seconds – illustrating how important it is to encourage and enhance cross-border cooperation between national police forces and prosecuting authorities. It is for this reason that Ian Walden's book is both a timely and welcome addition to the canon.

The primary readers of the book (1.17–1.24 and 2.110) are legal practitioners, academics and students, although it is also suggested, which is much to be hoped, that non-lawyers will also read the text, such as digital evidence specialists and people responsible for IT security. What the text seeks to achieve is more complex: the discussion (1.03–1.16) in itself illustrates the various strands that, put together, make up a partial entirety of the whole. This text focuses on the legal framework and the related procedures of investigating and prosecuting crimes; but it also considers the technologies, in particular computers and networks, concentrating on criminal conduct and enforcement, rather than on the criminal and the victim.

For the potential reader that does not know they do not know, this text will be an invaluable background source, as well as a guide to the substantive offences. Chapters 1 (Introduction) and 2 (From Computer Abuse to Cybercrime) are, in combination, a useful introduction to the subject matter for the novice, especially readers that have no legal knowledge. The striking observation to note is the speed at which States have acted on an international and regional level in an attempt to deal with crimes relating to computers and networks, although some members of the judiciary and some practising lawyers are struggling to understand the nature of digital evidence, and some governments have yet to implement effective legislation. For instance, a number of African countries have yet to adjust their evidence laws to permit the introduction of digital evidence into legal proceedings, with the result that attempts at prosecuting wrongdoers have been unsuccessful.

For the reader that already knows they know about this issue, this text will be invaluable, in particular Chapters 3, 4, 5 and 6. The technical issues relating to substantive offences are discussed in Chapter 3 (Committing Crimes: Substantive Offences). Although many experienced lawyers may consider they are fully in command of the law and practice in this area, a glance through the discussions in Chapter 3 will pay dividends. Chapter 4 considers the problems, which are not insignificant, relating to digital forensics and criminal procedure. In many aspects, the contents of this chapter comprise some of the best material in the book. Consideration is given to some significant issues, including how to obtain evidence from networks that span a number of jurisdictions, the nature of surveillance and the limitations imposed upon the authorities in obtaining evidence that can be used in proceedings from surveillance, and the concerns surrounding the interception of communications. Much of the content of this chapter is technical in nature, providing a clear discussion of the rules that govern surveillance, interception and the obtaining of

evidence from a suspect. The very nature of some of the technologies are illustrated in 4.252, in respect of the blurring of the distinction between the attributes of a communication and the content, which tend to be obscured at a technical level. This in turn may have implications for the collection of data for the purposes of an investigation. There is no doubt that how evidence is obtained, and whether it is obtained legally, will depend upon the technical attributes of any given network, which implies that the investigating authorities and the lawyers that advise them must be fully alert to the complications brought about by the provisions of the law and how they apply to any given situation.

Chapter 5, 'International Aspects: Jurisdiction and Harmonization' provides a useful addition to the standard textbooks, especially with respect to procedural jurisdictional issues when dealing with a cyber crime investigation across State boundaries that may involve the obtaining of data held on a system located in another jurisdiction, or where the physical location of the data is not known by the investigating authority. This can be particularly important, bearing in mind that the data may be held on systems controlled by the suspect or a third party, such as an Internet Service Provider. Professor Walden's discussion on remote surveillance and remote interception, and remote search and seizure of data are of particular relevance, as are the following sections on international and regional attempts to harmonize substantive offences and criminal procedure. The strength of the European Arrest Warrant was amply demonstrated with extradition of Hussain Osman (also known as Hamdi Issac) from Italy after he fled the UK via Eurostar after the 21 July 2005 bombings. The Italian police were able to track him down and arrest him because he used his mobile telephone as he travelled to Italy.

The final chapter discusses the evidential issues and presenting data in court. This chapter supplements, to a certain extent, the substantive practitioner texts in the area, and will be a useful introduction to the lay person in particular. Whilst it is helpful to have a brief discussion on presenting evidence in court, nevertheless it would have been beneficial to have had slightly more discussion on computer generated evidence, because the factual underpinning of such evidence is rarely challenged. Arguably, reference ought to have been made to the work of the most significant commentator in this area, Gregory P Joseph, and his text *Modern Visual Evidence*, even though he only deals with the United States of America. This book purports to offer a great deal to a variety of people: and it succeeds. Lawyers and academics might not need the earlier chapters, but lawyers involved in the criminal legal system will benefit from having this text ready to hand. Professor Walden takes a fine scalpel to distinguish some important and interesting points, such as a focus on the effects of the criminal provisions of the Data Protection Act 1998 (3.36), the definition of 'instrument' (3.91–3.93) and the note about 'interference' (4.72). In this respect, there is a minor, but not insignificant blemish to an otherwise helpful and extremely useful text – the reference to identity 'theft' in 3.74 repeated the highly inaccurate estimate produced by the Government of the cost of identity 'theft' in the UK (a person's identity cannot be stolen – identity fraud has been divided into three main categories: 'account takeover' where a thief obtains access to a person's accounts; 'true name' where a thief uses an item of personal information that serves to identify the victim; and 'covering tracks' where a criminal commits crimes using the identity of an innocent person). Bearing in mind that government policies have been drafted and legislation enacted based upon such inaccurate figures, it is to be hoped that if this topic is covered in the second edition, that the learned author will cast his analytical eye over the false figures more rigorously to properly reflect the reality. This is a highly pedantic point that does not detract from an otherwise interesting and valuable book.

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