

Bravehearts Position Statement



Data Retention and Child Protection

As an organisation focussed on lobbying for policies and legislation in relation to child sexual assault, Bravehearts is actively involved in lobbying for evidence-based legislative and policy responses to issues impacting on the safety and protection of our children and young people from sexual exploitation.

For child sex offenders advances in on-line technologies are continuing to provide increased opportunities; including for grooming victims, accessing child exploitation material and networking.

The recent discussions around the proposed introduction of data retention laws have emerged out of the debate around addressing terrorism threats. In Bravehearts' view, debate around data retention laws has a serious implication for combating the sexual exploitation of children.

ONE CASE STUDY AMONG MANY

In 2013, one of Bravehearts police contacts shared a case study with us that underlines the importance of prescribing a minimum period for ISPs to retain data (the information has been de-identified):

"In 2008, (we) arrested a guy... who was chatting with others and convincing them to sexually assault their children live on a web cam for him to watch. From (the offender's) hard drive (we) recovered, decoded and analysed... chats and identified 34 targets.

One of those IPs resolved to a target (city and State). A subpoena was issued to the ISP for the IP logs to identify that person. Unfortunately the ISP didn't keep logs more than 30 days and so (we) could not identify the person molesting his daughter as was described in the chats. The suspect claimed he was molesting his then 4 year old daughter and described exactly what he was doing to her.

The suspect's (user name) was... and he had a profile picture. The (details were) put aside in the hopes [sic] that more information may come.

In 2012, a little girl named "Anna" 7 years old told her mum that "daddy" was touching her and stuff. Dad was arrested and charged.

They asked me to testify at his trial to correlate the chat logs I found in 2008 to help prove he had been abusing his daughter since at least that time which matched the little girl's disclosure and statement... I met the little girl and her mother... and I couldn't help but feel broken hearted that despite our efforts we didn't save her from 4 years of abuse she didn't need to suffer. This because an ISP decides they don't need to keep a small text file".

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APPROACHES TO DATA RETENTION LAWS

It is Bravehearts' position that the introduction of a data retention scheme is a critical tool for supporting the investigation of child sexual exploitation matters and other serious offences.

Bravehearts view is that the formulation of the legislation should be done with consideration of community and ISP concerns and legislation should be based on reviews of current approaches and an understanding of the complexity of introducing domestic laws in an international context.

Cross-border cooperation is an integral component of responding to online crimes. Where this exists, data retention periods can assist in policing efforts. As found by a European Commission report in relation to the benefits of the data retention legislation scheme enacted in 2006 in European countries including: Austria, Bulgaria, Denmark, Estonia, France, Italy, Latvia, Liechtenstein, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Norway and the United Kingdom:

“Law enforcement authorities in most EU States have reported that retained data play a central role in their criminal investigations... The retained data provided valuable leads and evidence that have resulted in convictions for criminal offences and in acquittals of innocent suspects in relation to crimes which, without an obligation to retain these data, might never have been solved” (European Commission, 2013, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/police-cooperation/data-retention/index_en.htm)

DATA RETENTION AND PROTECTING OUR KIDS

To address on-line threats to children there needs to be a concerted, collaborative and holistic approach. We believe that legislation around data retention must be developed in close consultation with policing and regulatory agencies, those working within the on-line environment (including ISPs, and social networking sites), online oversight bodies and those in the child protection sector. All of this needs to be considered in terms of the borderless nature of the online environment and of online crimes.

Bravehearts supports the introduction of legislated data retention periods that allow ISPs to retain metadata (not including, for example, content, browsing histories or location records) that has been proven in the past to assist in identifying online threats to our children.

The ultimate aim must be to ensure the safety and protection of children in the on-line environment with an underlying emphasis on the best interests of children.

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