

Fighting Cybercrime, Fighting for Integrity in Cyberspace

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Department of Justice

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Premises

- ❑ Emergence of cybercrime
- ❑ Substantial difference between physical and virtual worlds
- ❑ Reach, accessibility and convenience
- ❑ Permanence
- ❑ The need for law or regulation



**Int'l Cybercrime
Conference
(2007)**

**Data
Privacy Act**



Cybercrime



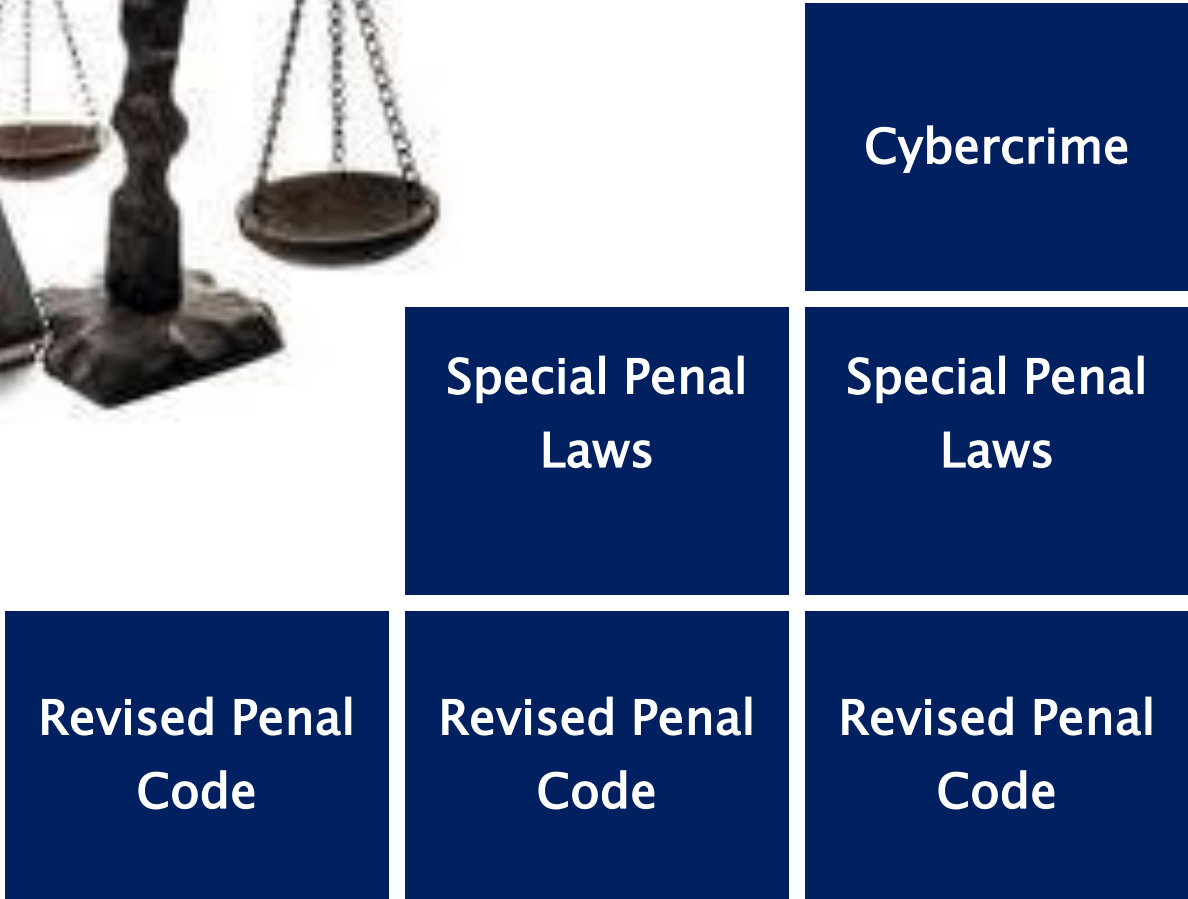
Cybersecurity





- ❑ Twin computer forensics laboratories, 2001–2003
- ❑ 2004 – 1st cybercrime conviction (PNP–CIDG)
- ❑ 2006 – 2nd cybercrime conviction (NBI)





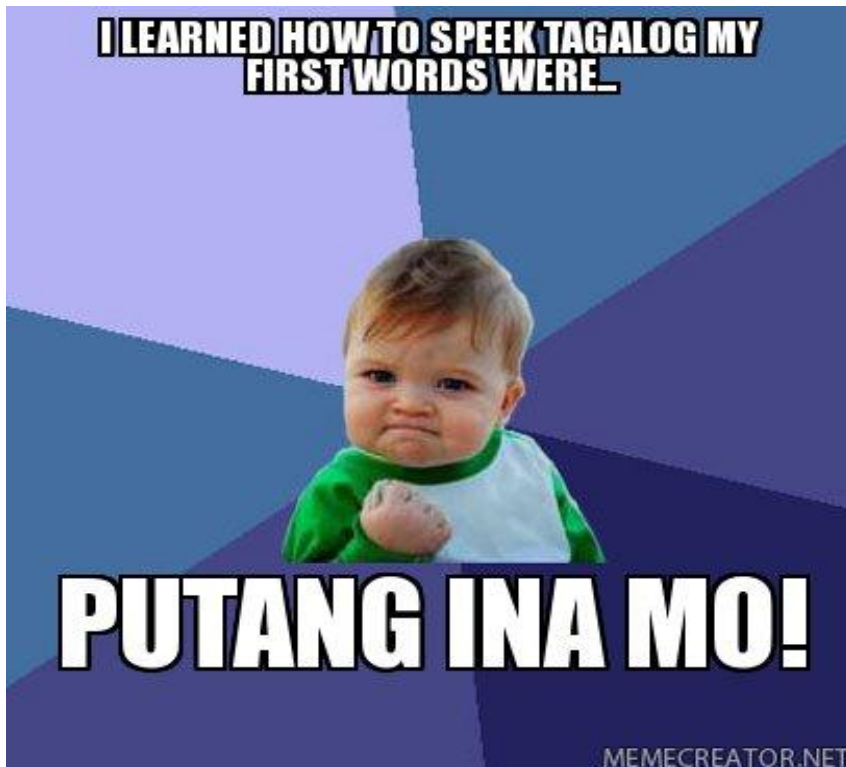
1932 → 1960s — 2000 → 2012
(E-Commerce Act)

REPUBLIC ACT NO. 10175

CYBERCRIME PREVENTION ACT OF 2012

RA 10175

SEC. 4(c)(4). *Libel*. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended committed through a computer system or *any other similar means which may be devised in the future*.



EJUSDEM GENERIS

Of the same kind

In the construction of laws, wills and other instruments, when certain things are enumerated, and then a phrase is used which might be construed to include other things, it is generally confined to things ejusdem generas

Section 1. It shall be unlawful for any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or dictaphone or walkie-talkie or tape recorder, or *however otherwise described*:

RA 4200: Anti-Wire Tapping Act of 1965

RA 10175

SEC. 5. *Other Offenses.* — The following acts shall also constitute an offense:

(a) Aiding or Abetting in the Commission of Cybercrime. — Any person who willfully abets or aids in the commission of any of the offenses enumerated in this Act shall be held liable.

(b) Attempt in the Commission of Cybercrime. — Any person who willfully attempts to commit any of the offenses enumerated in this Act shall be held liable.

- Penalty is one (1) degree lower

RA 10175

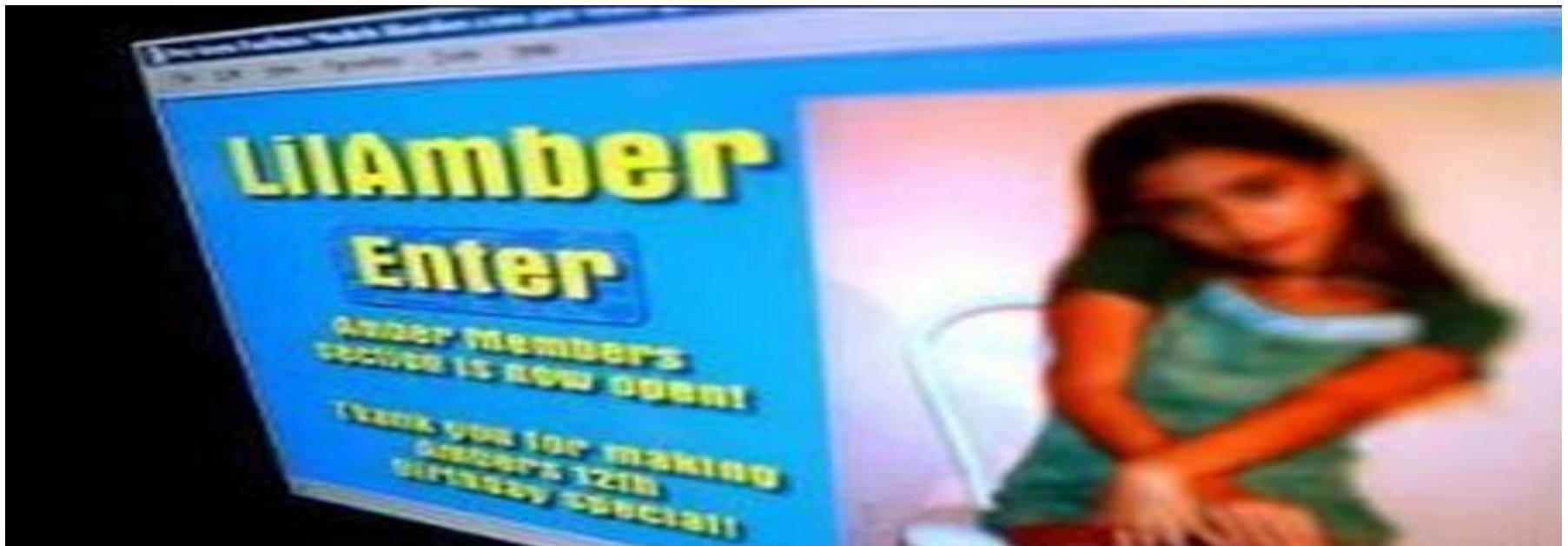
SEC. 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

*Expressio unius est exclusio
alterius*

The expression of one thing is the
exclusion of another

RA 10175

SEC. 4(c)(2). *Child Pornography.* — The unlawful or prohibited acts defined and punishable by Republic Act No. 9775 or the Anti-Child Pornography Act of 2009, committed through a computer system. Provided, That the penalty to be imposed shall be one (1) degree higher than that provided for in Republic Act No. 9775.



Section 17. *Liability under the Revised Penal Code and other laws.* – Prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code or any other law.

RA 8484: Access Devices Regulation Act of 1998

RA 10175

SEC. 7. *Liability under Other Laws.* — A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code, as amended, or special laws.

“For instance, I told him, if a woman commits adultery using a computer, she would be guilty of a cybercrime and her penalty would be one degree higher.”

“To use my previous example of the case of the woman accused of adultery, because of Section 6, if a married woman’s e-mail to her lover were submitted as evidence, her penalty if convicted automatically becomes one degree higher.”

–from “The Cybercrime Law was brought to you by 7 senators & 12 congressmen,” an online article by journalist Raissa Robles

RA 10175

SEC. 12. *Real-Time Collection of Traffic Data.* — Law enforcement authorities, **with due cause**, shall be authorized to collect or record by technical or electronic means traffic data in real-time associated with specified communications transmitted by means of a computer system.

Traffic data or *non-content data* refers to any computer data other than the content of the communication including, but not limited to, the communication's origin, destination, route, time, date, size, duration, or type of underlying service.



Registration



Log in

RA 10175

SEC. 19. *Restricting or Blocking Access to Computer Data.* — When a computer data is *prima facie* found to be in violation of the provisions of this Act, the DOJ shall issue an order to restrict or block access to such computer data.



**transcendent, time critical,
clear and present danger rule,
patently illegal acts**

Luneta incident

**How to make IED's
creating panic or fear**

terrorism

mass suicide

quarantine

public health

warrantless arrest

checkpoint search

HDO

prima facie versus probable cause

Not open-ended, 3 days

ex parte

Notification process

Attributable

Publication

Appeal

RA 10175

SEC. 20. *Noncompliance.* — Failure to comply with the provisions of Chapter IV hereof specifically the orders from law enforcement authorities shall be punished as a violation of Presidential Decree No. 1829 with imprisonment of *prision correctional* in its maximum period or a fine of One hundred thousand pesos (Php100,000.00) or both, for each and every noncompliance with an order issued by law enforcement authorities.



Is there more?

**We have too many laws.
The problem is implementation.**

But what is implementation?

How do we make implementation work?

Understand and assess needs.

Framework or approach.

Hard work.

Structure.

People.

Feedback.



Cybersecurity refers to the collection of tools, policies, risk management approaches, actions, training, best practices, assurance and technologies that can be used to protect the cyber environment and organization and user's assets.



RA 10175

SEC. 4(a)(6)

Cyber-squatting. — The acquisition of domain name over the Internet in bad faith to profit, mislead, destroy reputation, and deprive others from the registering the same, if such a domain name is:



RA 10175

SEC. 4(c)(1). *Cybersex.* — The willful engagement, maintenance, control, or operation, directly or indirectly, of any lascivious exhibition of sexual organs or sexual activity, with the aid of a computer system, for favor or consideration.



Three women were arrested by members of the Provincial Intelligence Branch during a raid on another cybersex den in Cordova town yesterday morning. **JOY TORREJOS**

Special Laws

RA 10175 – Cybercrime Prevention Act of 2012

RA 9995 – Anti-Photo and Voyeurism Act of 2009

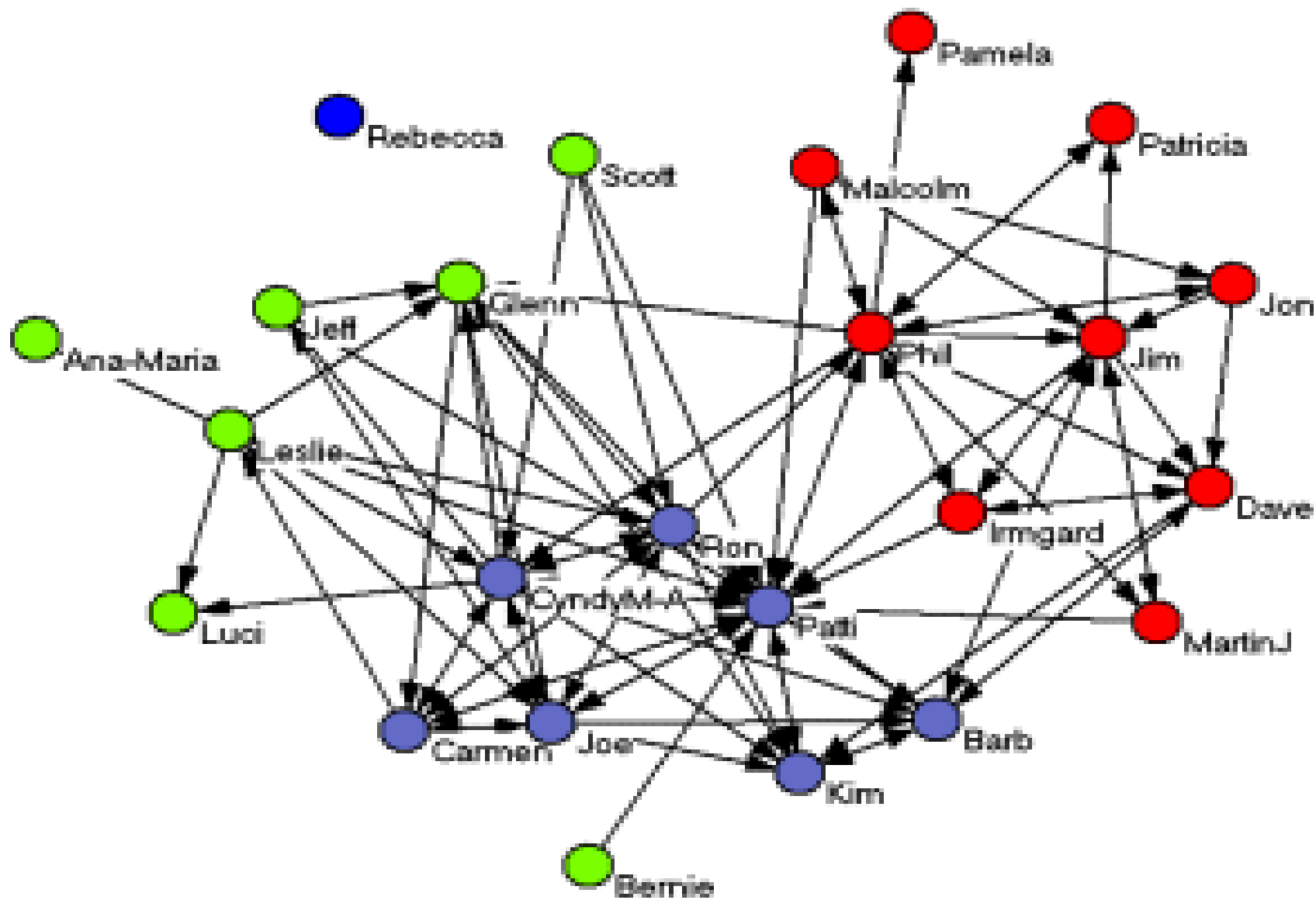
RA 9725 – Anti-Child Pornography Act of 2009

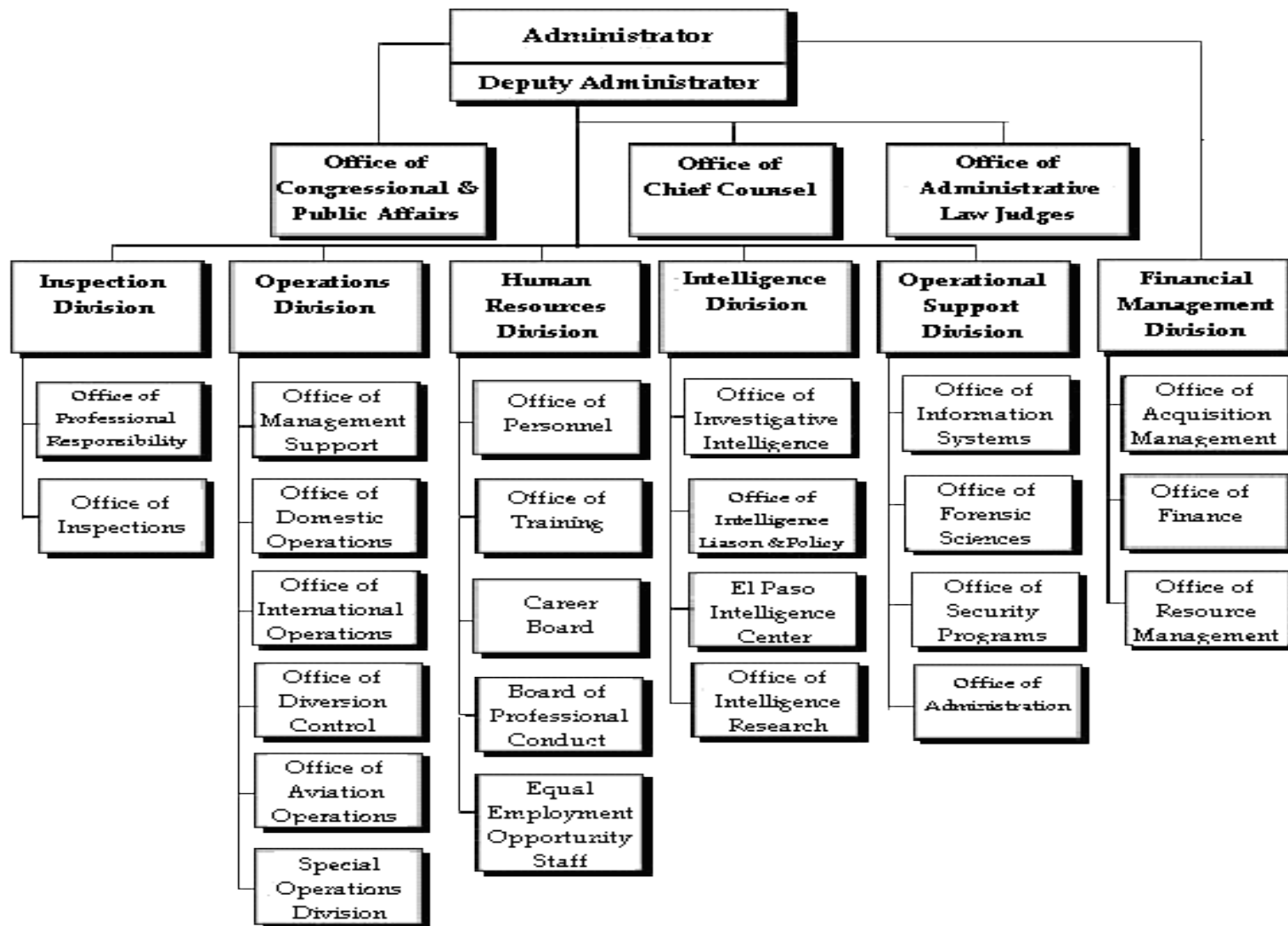
RA 9208 – Anti-Trafficking in Persons Act of 2003

RA 8792 – E-Commerce Act of 2000

RA 8484 – Access Device Regulation Act of 1998

Offenses under Budapest Convention on Cybercrime	Offenses under RA 10175
<p>Offenses against the confidentiality, integrity and availability of computer data and systems</p> <ul style="list-style-type: none"> a. Illegal Access b. Illegal Interception c. Data Interference d. System Interference e. Misuse of Devices 	<p>Offenses against the confidentiality, integrity and availability of computer data and systems</p> <ul style="list-style-type: none"> a. Illegal Access b. Illegal Interception c. Data Interference d. System Interference e. Misuse of Devices f. Cyber-squatting
<p>Computer-related Offenses</p> <ul style="list-style-type: none"> a. Computer-related Forgery b. Computer-related Fraud 	<p>Computer-related Offenses</p> <ul style="list-style-type: none"> a. Computer-related Forgery b. Computer-related Fraud c. Computer-related Identity Theft
<p>Content-related Offenses</p> <ul style="list-style-type: none"> a. Offenses related to child pornography 	<p>Content-related Offenses</p> <ul style="list-style-type: none"> a. Cybersex b. Child Pornography c. Unsolicited Commercial Communications d. Libel
<p>Offenses related to infringements of copyright and related rights</p> <ul style="list-style-type: none"> a. Offenses related to infringements of copyright and related rights 	<p>Other Offenses</p> <ul style="list-style-type: none"> a. Aiding or Abetting in the Commission of Cybercrime b. Attempt in the Commission of Cybercrime
<p>Ancillary liability and sanctions</p> <ul style="list-style-type: none"> a. Attempt and aiding or abetting 	<p>All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of ICTs</p>
	<p>Liability under Other Laws</p>

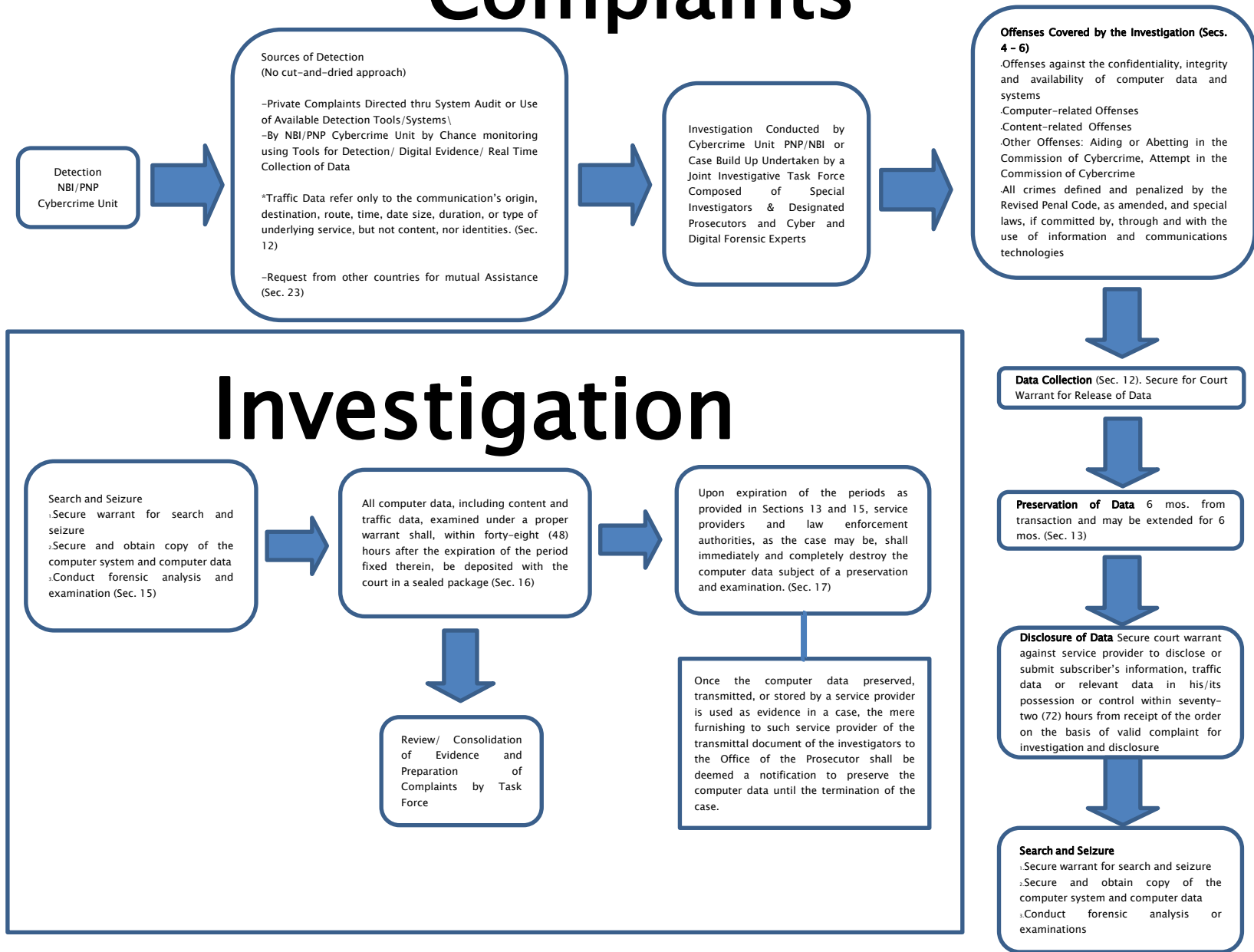




Implementation – Criminal Justice Response

- Q and A Guide on Cybercrime
- Joint Investigation Manual for Law Enforcement and Prosecutors
- Electronic Evidence Guide (specialized forms)
- Accession to Convention on Cybercrime (COC)
- Build a network of monitors, investigators, prosecutors, public defenders, judges

Procedure for Detection and Filing of Complaints



Implementation – Societal response

Internet safety for children

Civility in cyberspace

Restorative justice

Crowd-sourcing

Accreditation



Leila M. De Lima <lmdelima.doj@gmail.com>

re: Sex videos and cybercrime law

1 message

Tue, Oct 2, 2012 at 10:57 PM

[REDACTED]
To: "lmdelima.doj@gmail.com" <lmdelima.doj@gmail.com>

Ginang De Lima,

Magandang araw po sa inyo.. Ako po si [REDACTED], filipina, 17 years old. Marahil inyo pong natatandaan ang aking pangalan dahil ako po yung babae na na involve sa [REDACTED] videos. Ako po ay minor de edad nung nangyari po yun at ngayon po ay may nakasampa ng kaso sa taong umabuso sa akin. Pero po kahit na meron na po kasong nakasamapa, hindi pa din po matahimik ang buhay ko dahil ang mga sex vidcos ay patuloy na naka post sa internet. At sa karamihan ng social networking sites pinopost nila kung saan madownload ang mga videos na yun. alam ko po na mahirap na mapatnggal ang mga videos na yun dati, pero po ngayong meron na tayong batas na anti cybercrime law, ako po ay nagkapagasa na matatanggal na po ang mga videos na yun. kung pwede lang po sana na matulungan ninyo ako sa aking problema. hindi ko po alam kung saan at kanino ako tatakbo. hanggang ngayon po ay madami pa din ang nagpapakalat ng videos na yun sa internet. gusto ko na po mabuhay ng tahimik, pero parang habangbuhay ko na po dadalihin yun kahihyan na dulot ng videos na yun.. Ginang De Lima sana maintindihan ninyo po kalagayan ko, di ko gusto ang mga nangyari sa akin nun, pero di ko na din matatakas ang kahihyan na nangyari sa akin.. tulungan ninyo po ako, bilang isang babae at ina po.. sana maintindihan ninyo po ako..

Maraming Salamat po,

[REDACTED]

Way Forward

Collaboration with all stakeholders

Oversight on law enforcement agencies

Focus on syndicates and organized crime