



# Communique

Newsletter of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners

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## HIGHLIGHTS:

- Message from the Chair
- Mobile apps
- Privacy in a Digital Age
- What's happening around the world
- Some observations in surveillance
- Amsterdam Conference

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## Message from the Chair

As we continue our preparations for our conference in Amsterdam, privacy and data protection issues regularly feature prominently in international news headlines. That the proposed intelligence and security topic will retain its currency is borne out by recent reports of German intelligence activities involving France, the imminent expiry of parts of the USAPATRIOT Act, and new laws addressing security in the wake of terrorist activities in Canada, France and elsewhere. Similarly, almost daily reports of advances in genetic technology, and the reduced cost, and increased capability of genome sequencing means that topic (being developed by USA and France) will be a highlight of the Closed Session. Registrations are now open at <https://www.privacyconference2015.org/>

It is important for the Executive Committee not to lose sight of the fact that the Conference must deliver for as wide a range of members as possible. There remains room for the discussion of other matters, but please give the Secretariat as much notice as possible of any resolutions you are proposing to invite the Closed Session to consider. The venue and host will also be able to accommodate side meetings, and I would encour-

age you to notify the host (and secretariat) of any proposals for regional or subject matter groupings to convene during the Conference.

One important discussion will be about the strategic direction of the conference, and how we can capture and capitalise on all that has been learned from previous conferences. This is part of the "firm footing" mandate of the strategic direction working group. I am pleased to report that that working group has developed a number of proposals for strengthening the conference, and a paper setting out some options will soon be circulated to members.

As Chair, one of my responsibilities has been to maintain relations with other important international stakeholders. Since I last reported to you, I have held meetings with the European Commission, the European Data Protection Authority, the Article 29 Working Group, the OECD, and APEC and have strengthened links between our conference and those organisations.



Next week I will join (by Skype) the Enforcement Cooperation meeting in Ottawa, and I look forward for seeing the results of their deliberations on operationalising the cooperation resolution from the 36<sup>th</sup> Conference in Mauritius. In a related development, it is great to see progress in the eagerly anticipated GPEN Alert system, which provides a practical and secure means for GPEN members to notify selected authorities of investigations of interest, and to share information to foster collaboration.

We would love to hear your thoughts on the Newsletter. Is it useful? How could it be improved? Do you have a topic to contribute?

*John Edwards - New Zealand Privacy Commissioner and Chair of the ICDPPC Executive Committee*



## The International Conference and mobile apps

*Continuing our series briefly reflecting upon previous Conference initiatives.*

In 2013 the closed session of the 35<sup>th</sup> Conference spent much of a day reflecting upon the privacy implications of the now ubiquitous 'mobile app'. Expert presenters explained aspects the topic and reference was made to detailed critiques already published by several regulators. A declaration recording the tenor of the discussion was released.

The session started with a presentation by Dr Federrath, a German academic, who conveyed key technical information and also shared his expert views on what was needed from a technical and regulatory perspective to promote better privacy out-

comes. Kelvin Mahaffey, the proprietor of a US company with a wealth of experience in assessing the security and privacy practices of online services brought a quite different but complementary perspective. Colin Bennett, a Canadian political scientist, rounded out the presentation by speaking of the rise of political micro-targeting techniques.

Detailed discussions amongst commissioners referred to existing studies and guidance on the topic of privacy and mobile apps developed variously by the FTC, Berlin Group and A29WP. Discussions were summarised into a [declaration](#) released to mark the occasion.

Did the discussions have any practical results? The session gave impetus and assistance to various commissioners to individually and collectively do further work on the topic. The most substantial outcome was the decision by [GPEN](#) to focus its 2014 online enforcement sweep on mobile apps. At regional level, the [APPA Forum](#) made mobile apps the theme of Asia Pacific Privacy Awareness Week in 2014.



## United Nations: Privacy in the Digital Age

The United Nations Human Rights Council (HRC) recently announced that it would appoint a Special Rapporteur on privacy for a period of three years.

The Conference Chair, John Edwards, released a public statement on behalf of the Conference hailing this as an historic step and added:

'Data protection and privacy authorities everywhere welcome the United Nations taking a lead in seeking to ensure the promotion and protection of privacy, especially given the challenges posed by new technology.

'The Conference had repeatedly resolved to encourage

and support international efforts to better protect privacy and stands ready to cooperate fully with the Special Rapporteur to complete the mandate assigned by the UN.'

Once the Office of the High Commissioner for Human Rights (OHCHR) invited nominations for appointment to the Special Rapporteur position the Executive Committee Secretariat drew the opportunity to the attention of all member authorities. The OHCHR has appointed a consultative group to review all 30 applications and propose a shortlist to the President of the HRC. The Special Rapporteur is expected to be appointed by the President with the approval of the Council's member states in

the HRC's 29th session (to be held 15 June – 3 July).

The Special Rapporteur builds upon earlier UN work dating back to 2013 when Frank La Rue (former Special Rapporteur on Freedom of Expression) submitted a report to the HRC on state surveillance. The General Assembly adopted resolutions in relation to the Right to Privacy in the Digital Age in December 2013 and December 2014.

## Highlights of the Executive Committee meeting

The Executive Committee met on 13/14 May 2015 via teleconference. A few highlights:

France and NZ are well advanced in evaluating hosting proposals on behalf of the Committee.

The digital education working group has started work on its objectives and will report with concrete results in Amster-

dam.

The Secretariat reported on communication initiatives: website, newsletter and a new Conference brochure.

The Netherlands provided an update on Amsterdam conference planning.

The Conference 'Privacy in digital age' resolution affirms



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International Conference of Data Protection & Privacy Commissioners

the Conference's readiness to participate in the UN multi-stakeholder dialogue. The Office of the High Commissioner for Human Rights has acknowledged the offer to support and assist the special rapporteur.

## Around the world European Conference of Data Protection Authorities

The conference entitled 'Navigating the Digital Future - let's get practical!' was hosted by the UK's Information Commissioner's Office (ICO). Conference members produced a Resolution on 'Meeting data protection expectations in the digital future', drawing from research commissioned by and also drawn together by the ICO on what citizens expectations are when it comes to upholding their fundamental rights to data protection and privacy in Europe.

### European commitments to meeting citizens' future digital expectations

Citizens need to know more about their data protection authorities and authorities need to better understand citizens. But providing practical privacy protection can only happen with sufficient resources and with clear rules from lawmakers that authorities can apply easily. These were some of the main messages of the practical approach to data protection that members of the European Conference of Data Protection Authorities committed to in Manchester this May.

The conference welcomed almost 100 participants from more than 35 authorities. Participants discussed in three panels on individuals' expecta-

tions, perspective from organisations who process data and what data protection authorities can practically deliver. The conference also committed to use a common online space to cooperate on future European conferences. Next year's conference will be hosted by the Hungarian data protection authority.

The conference microsite contains all documents discussed and adopted at the conference: <https://eurospringconference.wordpress.com/>

*Hannah McCausland*  
UK Information Commissioners Office

**ico.**  
Information Commissioner's Office

**ECDPA 2015**

## Developments on the Amsterdam Conference

In the Netherlands, the host Conference website is up and running. The registration process has opened for accredited authorities and observers, as well as for all persons who have pre-registered for the Conference via the provisional website. You must have received an e-mail invitation in your inbox. Further updates, especially on the Conference

program and confirmed speakers, will be uploaded to the website.

In the meantime, we would once more ask for your input for the Data Protection Tour du Monde. Have there been major developments in jurisprudence, legislation, local DPA funding or structure, or other significant events related

to data protection in your jurisdiction since April 2014? What other developments around the world have most significantly impacted your work and the field since April 2014? Please email your feedback to our researcher Ms Emily Barabas via [data.protection.year.in.review@gmail.com](mailto:data.protection.year.in.review@gmail.com).



**37<sup>th</sup>** International Privacy Conference Amsterdam 2015



Organization of  
American States

## Profile of Partners in Privacy: Organization of American States (OAS)

**Dante Negro, Director,  
Department of International Law, Secretariat for  
Legal Affairs, Organization of American States**

### What does your role involve?

My position involves guiding and coordinating the work of the OAS Department of International Law. The department has overall responsibility for:

- \* Advising the political bodies and organs of the OAS and the inter-American specialized conferences on matters of public and private international law.
- \* Providing secretariat support to the Inter-American Juridical Committee (CJI), as well as technical secretariat services on various matters and for various committees and working groups in coordination within the General Secretariat.
- \* Prepare and coordinate research and activities on topics related to the development, codification standardization and harmonization of public and private international law, including the legal aspects of economic integration in the regional context.
- \* Serve as depository of treaties and agreements.
- \* Provide legal program content for projects and activities in priority areas such as developing conventions or "model" laws.

Within the OAS I am the institutional focal point for the Ibero-American Data Protec-

tion Network (RIPD) and the Transparency and Access to Information Network (RTA).

### How did you become involved in data protection or privacy?

My background is in international law and human rights. As the OAS Member States began to understand the right of access to public information as a way to make governments accountable, protect basic human rights and strengthen democracy, our Department began to design and execute projects aimed at disseminating the Inter-American Model Law on Access to Public Information as the baseline for reform in the Hemisphere. We soon found that the protection of personal data is inevitably and inextricably linked to the right of access to public information, as well as to other human rights.

### What is the OAS?

The Organization of American States (OAS) is the world's oldest regional organization, dating back to the First International Conference of American States, held in Washington, D.C., from October 1889 to April 1890. That meeting approved the establishment of the International Union of American Republics, and the stage was set for the weaving of a web of provisions and institutions that came to be known as the inter-American system, the oldest international institutional system. The OAS came into being in 1948 with the signing in Bogotá, Colombia, of the Charter of the OAS, which entered into force in December 1951.

### What are the OAS objectives?

The Organization was established in order to achieve among its member states "*an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.*"

Today, the OAS brings together all 35 independent states of the Americas and constitutes the main political, juridical, and social governmental forum in the Hemisphere. The Organization uses a four-pronged approach to effectively implement its essential purposes, based on its main pillars: democracy, human rights, security, and development.

### What have been its most notable achievements in the last few years? What has the entity been working on recently?

The Department of International Law (DIL) of the OAS has been working on the following:

**Access to public information:** The DIL supports member states in their efforts to take legislative action towards ensuring access to public information and to exchange best practices. The work is based on the Inter-American Model Law adopted by the General Assembly in 2010. In May 2013 the DIL submitted an Inter-American Program on Access to Public Information, which the Organization's policy-making bodies are currently considering.

The DIL has permanent observer status with the Transparency and Access to Information Network (RTA) and is an active participant.

Between 2013-15, highly successful High Level Workshops on Equitable Access to Public Information have been organized in Argentina, Costa Rica, Guatemala, Panama and Peru, bringing together lawmakers, policy analysts, government officials, civil society and academics in order to learn from each other and to formulate recommendations for reform.

**Secured Transactions:** The DIL supports Member States' capacity to implement reforms to their secured transactions systems, including promotion of access to credit, based on the Inter-American Model Law and public records based on Model Rules.

**Arbitration:** The DIL executed a unique project to strengthen the Member States' capacity to implement commercial arbitration decisions.

**Access to justice for persons in situations of vulnerability:** In 2014 the DIL published a collection of best practices in access to justice and public defence in the region.

**Indigenous peoples:** The DIL provides legal advice to the CAJP Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples. The Department's mandate includes promoting the rights of indigenous peoples, to which end it implements a program of action to train indigenous leaders, with a special emphasis on good governance, human rights, political participation by

women.

**Refugees, internally-displaced persons, and stateless persons:** The Department works on the rights of refugees and stateless persons and on strengthening the legal and institutional framework for the protection of refugees, asylum seekers, stateless persons, internally-displaced persons, and others in need of international protection.

**What is coming up of most interest to Data Protection and Privacy Commissioners?**

The DIL promotes information channels with other international and regional organizations, on the protection of personal data in order to facilitate information sharing and cross-border cooperation in the subject area. In 2013 it published a comparative study of legislation on personal data protection.

The DIL also supports the CJI in putting together proposals on different ways to regulate personal data protection, including a draft Model Law, which is in the development stage. In March 2015, the Inter-American Juridical Committee approved and adopted a document prepared by the rapporteur for access to information and data protection which sets the groundwork for said draft Model Law, which aims to be the baseline for the regional framework for data protection laws and policies.

The DIL continues to be a permanent observer with the Ibero-American Personal Data

Protection Network and actively participates in world conferences organized by the privacy and personal data protection committees.

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Useful links:  
[http://www.oas.org/en/sla/dil/international\\_law.asp](http://www.oas.org/en/sla/dil/international_law.asp)  
[http://www.oas.org/dil/data\\_protection.htm](http://www.oas.org/dil/data_protection.htm)

## Some observations on surveillance

Surveillance and privacy is a heady mix. So much has been happening in that space before and since Edward Snowden's revelations that it can be hard to keep track of the twists and turns and to see the big picture of the issues.

Wouldn't it then be helpful for an expert in privacy to provide a summary and point us to some of the key issues? Well, someone has ...



Paul Chadwick, the former Privacy Commissioner for the Australian State of Victoria (2001-06) served as moderator of the 'Surveillance versus Dataveillance' panel at the 36<sup>th</sup> Conference. In introducing the session, Paul was able to bring his usual clear style and insightful approach, honed by years as a privacy commissioner and journalist, to distilling the essence of what has been going on. It is a useful read for all who are interested in privacy and state security.

Paul's full [presentation](#) begins by highlighting three things we have long known about surveillance:

- digital technologies reduce the cost of surveillance and make it easier to undertake surveillance on a mass scale
- surveillance can serve legitimate purposes but it can

also pose serious risks to manage the risks we need a framework of law - confidence in that framework gives legitimacy to the trade-off between privacy and security in democracies.

But in the last 18 months, he observed that much has been revealed in the Edward Snowden aftermath about collection and use of personal data by NSA and associated intelligence organisations.

In brief, he suggests that: "We have learned:

- surveillance of phone, email, social media and internet activity is far more extensive than previously understood
  - frameworks of law that were thought to operate to give surveillance legitimacy in democracies have been, if not broken, then stretched perhaps beyond usefulness
- oversight mechanisms seem to be inadequate since what happened has taken place despite the existence of those oversight mechanisms."

He goes on to recount the initial response of some governments and then the later and evolving responses. Paul goes into some detail on several specific current controversies before ending upon the fundamental issue of public trust in democratic institutions:

"One of the most troubling aspects of the Snowden disclosures for a person familiar with privacy and data protection work is the potential of the disclosures, combined with the initial response, to shake the confidence of the public in the valuable work that is done by some legislators, judges, privacy and data protection agencies and privacy specialists within large cor-

porations and government organisations. That is, the work done by most of you attending this conference.

"You work routinely to try to ensure the proper handling of many diverse types of personal data. Most of it has nothing to do with national security and we trust that on a mass scale it is of no interest to intelligence and security agencies. Medical data is one example. Public confidence in the proper collection and use of that kind of data is essential.

"Crises of legitimacy have their costs.

"People who lack confidence in institutions' assurances start taking self-defensive measures which can be self-defeating."

These are timely reminders for all who are involved in data protection whether they are in government, industry or regulators' offices.

The closed session in October will include detailed discussion of oversight of national intelligence organisations and the roles of DPAs.

## Commissioner Profile Novo Scotia, Canada: Catherine Tully

**Catherine Tully, Nova Scotia, Commissioner, Canada**

**Where did you grow up?**  
Northern Ontario, Canada where it snows for 9 months and then the bugs eat you for the other 3 months.

**When did you first become involved in data protection or privacy?**  
My first privacy job was in 2000 when I became the Director of Access and Privacy for the Ministry of Attorney General for British Columbia, Canada

**What was the first Interna-**

**tional Conference that you attended?**  
I have never attended a conference so this year's conference will be my first.

**What did you do before you became a commissioner?**  
I was the Director of Privacy for Canada Post for 2 years, and prior to that I was the Assistant Privacy Commissioner for British Columbia.

**What is the best thing about participating in the International Conference?**  
I'm looking forward to sharing investigation strategies with other DPAs.

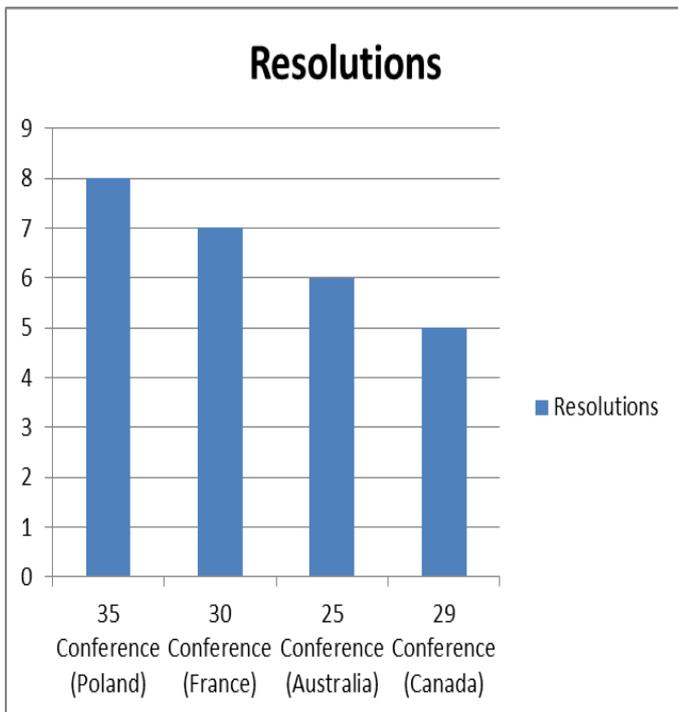
**What was the funniest thing that you saw, or happened to you, at an International Conference?**  
I'll have to wait for this year's conference to answer this question.

**What is your favourite privacy quotation?**  
The protection of privacy is a prerequisite to individual security, self-fulfilment and autonomy as well as to the maintenance of a thriving democratic society. (Supreme Court of Canada in *R. v. Spencer* 2014 S.C.C. 43 and other cases).

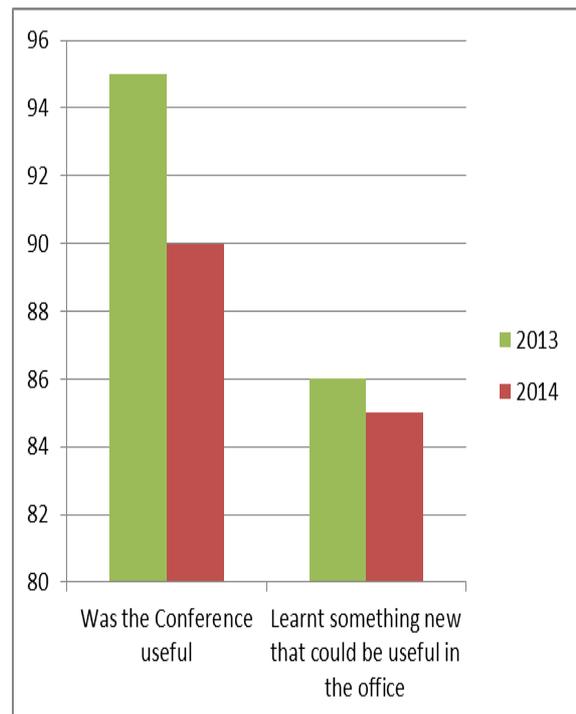


## Factoid

Number of resolutions adopted at a Conference



How useful were the previous two Conference closed sessions?



Factoid Source: Conference Secretariat 2015

## Profile of Partners in Privacy: Asia Pacific Privacy Authorities (APPA) Forum



**Brenton Attard, APPA Secretariat (Office of the Australian Information Commissioner)**

### What does your role involve?

I provide a central contact point for our members across 17 jurisdictions, assist members with their preparations to host meetings, invite eligible authorities to join the Forum, as well as general administration including management of membership fees. I've been performing the role for 2.5 years.

### How did you become involved in data protection or privacy?

I joined the Australian Public Service in 2008 working at the Australian Taxation Office (ATO). During my time at the ATO I led a project which established an informal administrative access scheme for the release of personal information of bankrupt estates. The key component to the project was ensuring the protection of personal information. I enjoyed working in this space so much I joined the former Office of the Privacy Commissioner in 2010. I was promoted to the position that includes running the APPA Secretariat within the now Office of the Australian Information Commissioner in August 2012.

### What is the APPA Forum?

APPA was formed in 1992. It is the principal forum for privacy authorities across the Asia Pacific Region to form partnerships and exchange ideas about privacy regulation,

new technologies and the management of privacy enquiries and complaints. It meets twice a year and does some work out of session in working groups and teleconferences.

### What are its objectives?

APPA's objectives include to:

- ◆ Facilitate sharing knowledge and resources between privacy authorities in the region
- ◆ Foster cooperation in privacy and data protection
- ◆ Jointly promote privacy awareness activities
- ◆ Promote best practice amongst privacy authorities
- ◆ Work to continuously improve our regulatory performance
- ◆ Support efforts to improve cross-border cooperation in privacy enforcement.

For the full statement of objectives please refer to: <http://www.appaforum.org/resources/#objectives>

### What have been APPA's most notable recent achievements?

Over the last four years APPA has almost doubled its membership to now include 17 member authorities from Asia, the Pacific and the Americas.

For a number of years APPA has coordinated an Annual Privacy Awareness Week across the Asia-Pacific. The theme for 2015 was Privacy

everyday.

The forum has recently adopted a statement of common administrative practice on surveying community attitudes to promote the developing of useful privacy metrics and has re-launched its secondment framework.

### During 2015 what is the entity focusing on?

In 2015, members are undertaking a review of the Forum's strategic direction.

### What might be of most interest to Data Protection and Privacy Commissioners?

The next APPA meeting will be held in June 2015 be hosted by the Office of the Privacy Commissioner for Personal Data, Hong Kong. See <http://www.pcpd.org.hk/misc/appaforum43/index.html>

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