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Cybercrime, criminal justice and the 'Funnel Effect': Evidentiary challenges for Forensic investigators, prosecutors, and judicial officers

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With increase in reports of cybercrime globally, one would expect to see a corresponding increase in successful prosecutions and convictions of offenders. However, this has not been the case, with many investigations and prosecutions failing to get off the ground. A 'funnel effect' or 'bottle neck' occurs when the number of cases reported is significantly greater than the number of cases prosecuted or convicted. As this phenomenon is pronounced in the case of cybercrime, it is important to explore factors impeding cybercrime investigation and prosecution to raise awareness and identify blockages. The technical complexity of cybercrime, jurisdictional obstacles, difficulties in obtaining evidence to sustain charges, and the limited capacity of investigators, prosecutors, judicial officers and jurors to grasp fundamental aspects of the science which facilitate the commission of cybercrime, are among the chief causes of this outcome. This presentation will examine criminal justice responses to cybercrime, including the capacity of key stakeholders to address cybercrime and perform their core functions. Various challenges will be illustrated using a case study based on several notorious cybercrime cases. The following themes will be canvassed:

- The role of technology in the commission of crime
- The impact of national legal frameworks and policy on policing cybercrime
- Techniques related to investigating cybercrime, and operational challenges
- Legal and forensic issues of evidence surrounding collection and presentation of electronically stored information (ESI) in criminal trials
- Elements of offences and defenses to criminal culpability
- Capacity of criminal justice officers and the role of experts

Biography

Cameron Brown is an Australian Executive Endeavour Fellow. He graduated in law and psychology from the University of Melbourne and holds combined Masters level degrees from Macquarie University in international security, policing, intelligence and counter terrorism. He has also attained technical certifications in computer crime investigation, cyber-security, data recovery, and digital and network forensics. Cameron is affiliated with the Australian National University's Cybercrime Observatory where he has conducted in-depth research into emerging trends in forensic science, terrorism prevention, corruption, and modes of cyber-conflict. Internationally, he has worked with Transparency International and the United Nations Office on Drugs and Crime. In the field he served with police task-forces and government agencies where his duties included provision of technical advice, expert testimony, and supervision of evidence discovery and analysis. He is also admitted as an Australian Legal Practitioner with professional pursuits related to authentication of electronically stored information, data protection, privacy, regulatory compliance, information security, and investigation of fraud.

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