

PROGRAM

MONDAY 29 APRIL 2019

0830-0900 Registration | Eureka Room Foyer

0900-0915 Opening Session

Welcome & Opening Remarks

Professor Louis de Koker, Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC
Professor Danuta Mendelson, Research Professor, Deakin Law School

0915-1015 SESSION 1: New Data Technologies for National Security and Law Enforcement Agencies Application

This session frames the roundtable discussion. It explores the impact of technologies on national security and law enforcement agencies and agendas globally and considers the current changes in the structure, operations and legal framework of the National Intelligence Community in Australia, in view of the 2017 Independent Intelligence Review. It is also cognisant of challenges that must be faced not only at national level, but as a global response to a world of fast and dramatic changes and threats.

Moderator **Dr Sanjay Mazumdar**, CEO, Data to Decisions CRC

Dr Robert Mathews, Distinguished Senior Research Scholar on National Security Affairs and U.S. Industrial Preparedness at the University of Hawaii – **Presenting via live video link**

Mr Stephen Merchant PSM, former Director, Defence Signals Directorate; former Deputy Secretary, Department of Defence, Director, Data to Decisions CRC; Co-Reviewer, 2017 Independent Intelligence Review

1015-1045 Morning Tea

1045-1200 SESSION 2: A Pro-Active Approach to Procuring Appropriate Technologies

National security and law enforcement agencies face several challenges in ensuring that they enjoy access to appropriate technologies to support their functions and mandates. This session considers different ways in which these challenges are being met.

Moderator **Professor Louis de Koker**, Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC

Professor Tom van Engers, Full Professor of Legal Knowledge Management at the University of Amsterdam; Scientific Lead: Networks of Crime and Terrorism (IAS); Director of Leibniz Centre for Law

Leanne Fry, Chief Innovation Officer and Chief Information Officer, AUSTRAC

Dr Sanjay Mazumdar, CEO, Data to Decisions CRC

1200-1300 Lunch

1300-1415 SESSION 3: New Technologies, Privacy and Data Protection

New data technologies promises benefits for national security and law enforcement but also involves security and privacy risks. Is the current legal framework fit for purpose and can de-identification techniques support the ever increasing inter-agency information sharing? In the EU, the 2018 European General Data Protection Regulation [GDPR] while offering some solutions to the risks of privacy and security of data by providing requirements for “lawfulness of processing”, also raises new issues and interpretative challenges.

Moderator **Professor Pompeu Casanovas**, Research Professor, La Trobe Law School, La Trobe University; Founding Director, Institute of Law and Technology, Autonomous University of Barcelona

Professor Giovanni Sartor, Full Professor in Philosophy of Law and Legal Informatics, University of Bologna, Professor of Legal Informatics and Legal Theory, European University Institute of Florence, former President of the International Association for Artificial Intelligence and Law – **Presenting via live video link**

Dr Chris Culnane, Senior Lecturer, Department of Computing and Information Systems, University of Melbourne

Professor David Watts, Professor of Information Law and Policy, La Trobe Law School, former Privacy and Data Protection Commissioner, Victoria

Discussion

1415-1445 Afternoon Tea

1445-1600 SESSION 4: National Security and Law Enforcement Agencies and Technology: Reforming Institutions, Practices and the Law

National security and law enforcement agencies have to adapt to increased volumes and types of data and to enhanced data analytics. This requires changes in laws, practices, institutional governance as well as institutional governance and culture. What are the key challenges and how can they be met?

Moderator **Professor David Watts**, *Professor of Information Law and Policy, La Trobe Law School*

Panel Speakers include:

Professor Lyria Bennett Moses, *Professor of Law, Director of the Allens Hub for Technology, Law and Innovation, UNSW Law*

Professor Louis de Koker, *Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC*

Mr Tim Scully, *Chair, Data to Decisions CRC*

Mr Shannon Callaghan, *Manager, Policy and Information Sharing; National Criminal Intelligence System (NCIS) Program*

Discussion

1600-1700 Networking Reception | Eureka Room Foyer

TUESDAY 30 APRIL 2019

0830-0900 Registration | Eureka Room Foyer

0900-1000 SESSION 5: Drones, Robotics and the Law

The session focuses on some problematic aspects presented by the development of data-driven devices, in particular, unmanned aerial vehicles (UAVs) or drones: how should we regulate the collection and use of drone data that might infringe our fundamental rights, including privacy and security? How should we track, control and penalise telecommunications and cyber-security breaches? Do we have technology capable of registering and identifying UAVs, their pilots and operators? One of the most important technological responses to these questions is the concept of “security through design,” that is, embedding normative safeguards into the design of technology, taking into account the protection of fundamental rights and the probability of events, their probabilities, and costs, so as to determine levels of risk.

Moderator **Professor Patrick Keyzer**, *Chair of Law and Public Policy; Head of La Trobe Law School*

Professor Ugo Pagallo, *Professor of Jurisprudence at the Department of Law, University of Turin*

Dr Eleonora Bassi, *Senior, Research Fellow, The Nexa Centre for Internet and Society of the Polytechnic University of Turin*

Discussion

1000-1100 SESSION 6: Privacy and Cybersecurity Technologies in the Age of Unbridled Data Collection

The collection of massive amounts of personal data can support analytical processes with benefits for national security and law enforcement. However, inherent in such bulk collections are a wide array of risks; for example, being compromised by cyber-attacks, invasion of individual privacy, and perpetuation of unlawful discrimination. This session explores how to strike the right balance between privacy, data protection and national security and law enforcement objectives. Information is not property, but if property is conceptualised as information, can the balance be achieved by employing traditional property rules to safeguard our fundamental rights in information environments?

Moderator **Professor Jenni Lightowlers**, *Dean of Deakin Law School, Deakin University*

Professor Joshua Fairfield, *William Donald Bain Family Professor of Law, Washington and Lee University Law School*

Mr David Medine, *Senior Privacy Advisor, Consultative Group to Assist the Poor, former Chair of the US Privacy and Civil Liberties Oversight Board*

Discussion

1100-1130 Morning Tea

1130-1215 SESSION 7: National Security, Law Enforcement and Black Box Algorithms

“Black box” is a metaphor for unaccountability of algorithms – software codes behind machine learning/AI processes (another metaphor) that discover correlations and patterns, which are used to make/generate automated or human decisions for us and about us. Should National Security, Law Enforcement Agencies “no longer use ‘black box’ AI and algorithmic systems” as recommended by the 2017 *Report of the AI Now Institute* at New York University? Or should we consider, as Professor Frank Pasquale has proposed, distinguishing between “artificial intelligence and intelligence augmentation” and concentrate on developing new technologies that are complementary (rather than substitutive) legal automation. In what other ways can we deal with problems posed, and benefits that might be provided by “black box” algorithms?

Moderator **Professor Danuta Mendelson**, *Research Professor, Deakin Law School*

Professor Frank Pasquale, *University of Maryland Francis King Carey School of Law, author of *The Black Box Society: The Secret Algorithms That Control Money and Information* – Presenting by live video link*

1215-1315 SESSION 8: Cybersecurity, Enhanced Analytics and National Security and Law Enforcement

Cyber threats to society and the nation are escalating. We would all agree that the goal of cybersecurity, at least in non-authoritarian countries, is to ensure public safety and economic and national security through development of new technical solutions through enhanced analytics, while at the same time protecting privacy, and other fundamental rights of individuals. Questions to be delved into in this session include the best options to achieve such balance, and where we are in terms of innovation to make our nation resilient against attack and misuse.

Moderator **Professor Louis de Koker**, *Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC*

Professor Matthew Warren, *Professor of Cyber Security, Deakin University*

Professor Jill Slay AM, *Optus Chair of Cyber Security at La Trobe University and Director of Cyber Resilience Initiatives for the Australian Computer Society*

Assoc Prof Sara Smyth, *Director of the Master of Laws, La Trobe Law School*

Dr Andre Oboler, *Managing Director of the Online Hate Prevention Institute, Lecturer in cyber security, La Trobe Law School*

Discussion

1315-1415 Lunch

1415-1530 SESSION 9: Rule of Law, Democracy and Legal Compliance

Some consider that software codes can be more impartial and have less decisional discretion than humans, and therefore are excellent substitutes for human decision-making. But is it that simple? This session will discuss aspects of Big Data, predictive analytics and robotic law enforcement from legal, philosophical, sociological, and technical perspectives. The rule of law is deemed to be "the restriction of the arbitrary exercise of power by subordinating it to well-defined and established laws". Again, is it that simple? The notion of democracy is also evolving with the web. Embedding the protections of the rule of law into languages that computer systems can understand is one of the next steps, along with figuring out new ways of settling disputes and reaching automated agreements.

Moderator **Professor Louis de Koker**, *Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC*

Professor Pompeu Casanovas, *Research Professor, La Trobe Law School, La Trobe University; Founding Director, Institute of Law and Technology, Autonomous University of Barcelona*

Dr Guido Governatori, *Software Systems Group Leader, Data 61*

Associate Professor Marta Poblet Balcell, *Vice Chancellor's Principal Research Fellow, Graduate School of Business & Law, RMIT*

Professor John Zeleznikow, *College of Business, University of Victoria, former Director of the Joseph Bell Centre for Forensic Statistics and Legal Reasoning at the University of Edinburgh*

1530-1600 Afternoon Tea

1600-1715 SESSION 10: New Data Technologies for National Security and Law Enforcement Agencies: Governance, Oversight and Society: Models for Australia

National security and enforcement agencies play a pivotal role in developing, protecting, defending and securing information infrastructure and digital networks. To this end they employ such new technologies as predictive analytics based on pre-trained AI systems that may not have undergone rigorous double-blind trials to validate (or otherwise) the true accuracy of their predictions and automated decisions. Given that these decisions and predictions might have international, national, social, and individual implications, good and effective governance of new technologies is of utmost importance. How *should* we govern and provide oversight over national security and law enforcement use of new technologies?

Moderator **Professor Danuta Mendelson**, *Research Professor, Deakin Law School*

Mr Bret Walker SC, *Australia's first independent National Security Legislation Monitor from 2011 to 2014*

Professor David Watts, *Professor of Information Law and Policy, La Trobe Law School, former Privacy and Data Protection Commissioner, Victoria*

Mr David Medine, *Senior Privacy Advisor, Consultative Group to Assist the Poor, former Chair of the US Privacy and Civil Liberties Oversight Board*

Discussion

WEDNESDAY 1 MAY 2019

0830-0900 Registration | Eureka Room Foyer

0900-1015 SESSION 11: Rule of Law and the Web of Data

The Web of Data is challenging the way we perceive our identity, our social relations and institutional bonds. We are experiencing a deep cultural change. Are our current legal instruments appropriate to define and regulate rights and norms that are already expressed mainly through computational means? Are the legal theories of the past still able to inform the general framework for how the law might work on the web of data? Legal governance, soft law, and ethics might offer some new ways of understanding, modulating and shaping regulations, fostering legal ecosystems and sustainable regulatory patterns.

Moderator *Professor Patrick Keyzer, Chair of Law and Public Policy; Head of La Trobe Law School*

Professor Pompeu Casanovas, *Research Professor, La Trobe Law School, La Trobe University; Founding Director, Institute of Law and Technology, Autonomous University of Barcelona*

Professor Tom van Engers, *Full Professor of Legal Knowledge Management at the University of Amsterdam; Scientific Lead: Networks of Crime and Terrorism (IAS); Director of Leibniz Centre for Law*

1015-1045 Morning Tea

1045-1200 SESSION 12: Ethics, AI and the Law

A number of international and Australian initiatives focus on the development of ethical principles in relation to the development and implementation of AI. This session will focus on some of the key initiatives and explore their differences and their impact on the development of legal principles. In the Web of Linked Data and the Internet of Things (IoT), ethics provides a dimension of values and principles that is not only normative in nature but capable of being embedded into regulatory automated systems. Empowering and protecting end-users, data subjects, and citizens from some of the abusive traits of Big Data analytics tools and practices is a trend that has been embraced in all democratic societies. The session will also consider the role of fairness and AI in interactions and new ways of settling disputes.

Moderator *Professor Pompeu Casanovas, Research Professor, La Trobe Law School, La Trobe University; Founding Director, Institute of Law and Technology, Autonomous University of Barcelona*

Professor Ugo Pagallo, *Professor of Jurisprudence at the Department of Law, University of Turin*

Professor Greg Adamson, *Enterprise Fellow, Cyber Security School of Computing and Information Systems, Melbourne School of Engineering, Melbourne University*

Professor John Zeleznikow, *College of Business, University of Victoria, former Director of the Joseph Bell Centre for Forensic Statistics and Legal Reasoning at the University of Edinburgh*

1200-1300 SESSION 13: High-Level Principles on the Regulation of Big Data Processing by Defence, National Security and Law Enforcement Agencies

The Law and Policy Program of the Data to Decisions Cooperative Research Centre (D2D CRC) has identified a set of high-level principles to guide the development of recommendations concerning the regulatory framework for the appropriate use of Big Data for defence, national security and law enforcement purposes. This reflects insights gained in the course of a five-year program of research on specific projects on specific aspects of the use of Big Data in national security and law enforcement. Following an explanation of the background to the draft principles and their rationale the audience will be invited to engage with the drafters around what these principles should comprise. In particular, the discussion will explore what is missing, what should be changed and what might pose challenges.

Moderator *Professor Lyria Bennett Moses, Professor of Law, Director of the Allens Hub for Technology, Law and Innovation, UNSW Law*

1300-1310 SESSION 14: Closing Remarks

Professor Louis de Koker, *Professor, La Trobe Law School, National Lead: Law and Policy; Data to Decisions CRC*

Professor Danuta Mendelson, *Research Professor, Deakin Law School*