

Forensic IT – procedures and limitations

ACLE Forensics Workshop
March 17, 2006

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- Necessity of digital evidence gathering
 - Legal provisions
 - Procedures and limitations
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Necessity of digital evidence gathering

- Change from an analogue to a digital society
 - some information never existed on paper
 - some paper information will be destroyed
 - information on paper is limited to the content

Legal provisions

- No specific legal provisions in national laws
- Interpretation of existing legal provisions
- Practise following on “analogue evidence gathering”

Legal provision : Dutch Example

- Look into business information and documents
(5:17 General Administrative Law act)
- No limitation to analogue document but also
information in electronic format ¹

¹ Tweede Kamer 1995 / 1996, 24707, nr. 3. P. 85

Limitations

- Business information documents (not private)
- Proportionate (no fishing expedition)
(art. 5 : 13 General Administrative Law Act)
- No legally privileged information
(art. 51 competition Act)

Procedure



Procedure inspection and copying of Digital Data and documents (June 2003, adjusted November 2005)

Copy at the premises

Extract private and legally privileged documents at the NMa (based on notice and attendance of Lawyer)

Search query (in attendance of Lawyer)

Hit – list available for the company
“ Look into business information and documents “