



NATIONAL SECURITY, PRIVATE SECTOR DATA, ENCRYPTION

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Accountability Chains and National Security

- IAF has conducted significant research on making accountability work
- Companies can build accountability into their own use of data
- They can control their vendors via contracts and the enforcement of those contracts
- Private sector partners may be policed in the same way
- However, when police and national security agencies come with a perfected legal instrument, corporate accountability chains are only effective until data is surrendered

Dialogue Sessions to Explore Accountability

- IAF partnered with Privacy Projects, CDT, and Indiana University to hold to multi-stakeholders sessions on accountability chains
- Concluded:
 - Police work and national security are fundamentally different
 - Accountability chains are important, but the links break once data is surrendered
 - New accountability chains for governments must be required to meet the goals of national security, privacy and fair processing

Privacy Projects Body of Work

- Numerous sessions held over a three-year period
- Academic papers examined the law in most regions
- Recommendations were discussed earlier this year in London

Recommendations for Government

1. Legality

- I. Framework that defines governmental powers
- II. Rules to cover specific application – including external approvals

2. Proportionality – the inquiry should be proportional to risk and scope

3. Accountability

- I. Transparency
- II. Oversight
- III. Redress

Recommendations for Business

Based on Global Network Initiative

- Narrowly interpret and implement govt. demands
- Seek clarification if demands are overly broad
- Request clear communications that explain legal basis for demands
- Require govt. to follow own domestic legal processes
- Policies and procedures to address instances where govt. requests are not in writing or do not adhere to legal procedures
- Narrowly interpret govt. authority's jurisdiction
- Challenge govt. in domestic courts and/or seek assistance from others with an interest in fundamental rights

Privacy Project Recommendations

- They will be vetted at the International Conference of Data Protection and Privacy Commissioners in Marrakesh, Morocco, in October 2016