Due: Monday, 21 October before 12:00

The Department of Justice and Constitutional Development invited the public to comment on the draft Cybercrimes and Cybersecurity Bill until 30 November 2015. Visit the following URL for details:


In COS721 we are (in 2015) not interested in the entire spectrum of cyber crimes that may be committed. However, it is interesting to note that the word forensic (or a derivative) occurs twice in the draft bill and twice in the accompanying discussion document. The word investigate (and its derivatives) occurs much more frequently. The word evidence occurs frequently in both documents, but in relatively few instances can it be interpreted to refer to forensic evidence.

The South African ECT Act (Electronic Communications and Transactions Act, 2002 - Act No. 25 of 2002) devotes Chapter XII to the discussion of cyber inspectors — a concept that is relevant to the draft bill.

For this assignment you are expected to read Chapter XII of the ECT Act, and the relevant parts of the draft Cybercrimes and Cybersecurity Bill. (For clarity, for the purposes of this assignment the relevant parts are those where you can find ‘forensic’ or ‘investigat*’ or where ‘eviden*’ sheds light on your task.)

Your task is to attempt to clarify the roles of investigators, inspectors and scientists (if scientists are indeed involved) as envisaged by the Act and the Draft Bill. Determine the role and authority (or powers) envisaged by the Act and draft Bill to each of the parties, the educational or training requirements that are prescribed or implied for each of these role players and the extent to which such role players are already active in South African law enforcement. The websites of South African law firms specialising in IT law will be your most appropriate sources for this assignment, but you are welcome to also look at other legislation and case law. (However, do remember that we are not jurists practising law —
we are IT specialists making sense of activities and language in our domain of expertise).

With respect to education and training reflect on whether these role players are in any way envisaged to be governed by the Natural Scientific Professions Act, 2003 (Act No 27 of 2003). (This act mentions forensic science twice — once in Article 43 and once in earlier versions of the regulations that apply to the act.)

You ultimate task — given what you have learnt from the exercises above — is to try to interpret what is meant when the term forensic (or its derivatives) as used in the draft Cybercrimes and Cybersecurity Bill and its related discussion document. (Hint: only one of the four occurrences suggests a meaning — hence you may have to borrow ideas from the other sources mentioned.)

Write your opinion in the style of an academic paper (but without an abstract). Amongst others this means you should include an introduction, primary argument, conclusion and references in your submission. Most references will probably be to opinions on law firm’s websites and opinions written by lawyers on the Web.

You are allowed to submit up to four A4 pages written in 12pt font. (As usual, a larger font may be used for headings.)