

## **ELECTRONIC INFORMATION AND THE LAW**

*Electronic Information and the Law* by Margaret Jackson and Marita Shelly: Thomson Reuters, 2012, ISBN 9780455227399, Pages: 343.

Having co-published before on the impact of technology on the law of commercial transactions, Jackson and Shelly now use their book *Electronic Information and the Law* to take an overview of the effect of technology in a wide spectrum of legal issues. It applauds the unexpected flexibility of the law to accelerated technological advances, but notes that particular legal uncertainties remain in the way in which electronic information is collected, stored, transferred and disclosed. The book is broken down into an introduction and 11 substantive chapters, which address these uncertainties.

A number of these deal with the impact of electronic information on commercial transactions. Chapter 2 analyses the development of the law relating to electronic documents and signatures, in particular the Australian response to the UNCITRAL *Model Law for Electronic Commerce* and its implementation of the United Nations *Convention on the Use of Electronic Communications in International Contracts* in the *Electronic Transactions Act 1999* (Cth) and corresponding State legislation.

Differences between conventional and online contracts, from click-wrap to web-wrap contracts, are identified in Chapter 4, along with the consequences for consumer protection policy, and how these are reconciled with the principles set down in the *Australian Consumer Law*. It identifies some concerning statistics, revealing that many such contracts fail to provide assurances as to delivery charges, return policies, privacy notices and security features that would usually be expected of such commercial contracts, in addition to limits on liability.

The attribution of responsibility between consumers, financial institutions and traders in commercial electronic transactions is discussed in Chapter 5, tracing the history of government inquiries and developments in online financial products and the legal principles which currently surround identity crime.

Several other chapters are related to the various facets of electronic information which carry privacy concerns. Chapter 6 explores the protection against unauthorised use of personal data by governments and data collection agencies, giving examples of instances where personal information was improperly accessed and supporting the calls of the Australian Law Reform Commission for the inclusion of a data breach notification section in the *Privacy Act 1988* (Cth).

In Chapters 9 and 10, the book examines social networking media and the legal obligations of the provider in relation to privacy, copyright and defamation, and then considers the use of voluntarily disclosed personal information on social media or blogs and its collection for the purpose of advertising or similar commercial practices and related privacy obligations.

Chapter 11 scrutinises the implications of the conversion of health data into electronic format under the regulatory framework provided by the *Healthcare Identifiers Act 2010* (Cth). The history of identity documentation in Australia is traced in Chapter 12, comparing the domestic position to the various regimes employed abroad, and evaluating criticisms of the proposed Australia Card with regard to draft legislation designed to strengthen the National Privacy Principles in the *Privacy Act 1988*.

A number of other ways in which electronic information adds a new dimension to the law are canvassed in the remaining chapters. Chapter 3 addresses the difficulties associated with disclosure in light of the vast increase in the volume of discoverable documents stored electronically by litigants, surveying the legal requirements for retention of information and the implications for privacy and the cost of litigation. Chapter 7 explains the role of search engines in potential breaches of copyright, and whether they come within the fair dealing and fair use defences offered in Australian, the United States and European copyright legislation. Chapter 8 questions the compatibility of rapid technological expansions with the obligation to allow accessibility to disabled persons, such as the visually impaired and the elderly, to the internet, with reference to international standards on web accessibility and domestic discrimination legislation in Australia, the United States, United Kingdom and Europe.

This book provides a thorough and thought-provoking analysis of the relevant problems associated with different forms of electronic information, and how they are dealt with by the law of various jurisdictions, to give some perspective on the position in Australia and direction for the way forward.

*Andrew Trotter*

## **EVIDENCE BASED POLICY AND PRACTICE IN YOUTH JUSTICE**

*Evidence Based Policy and Practice in Youth Justice* by Anna Stewart, Troy Allard and Susan Dennison: The Federation Press, 2011, ISBN 9781862878457, 272pp, paperback.

*Evidence Based Policy and Practice in Youth Justice* is an edited collection that “critiques the existing evidence base about the causes and prevention of youth offending in Australia and promotes the further development of this evidence base”.

This is a direct quote for the Overview of the collection prepared by its editors Professor Anna Stewart, Dr Troy Allard, and Associate Professor Susan Denison, all eminent academics who are or were in key positions with the School of Criminology and Criminal Justice or the Key Centre for Ethics Law Justice and Governance at Griffith University at the time the collection was assembled. Most of the contributors are or were from Griffith which has a justified reputation as a leader in this key area of research both nationally and internationally. A notable exception is a paper by Dr Don Weatherburn, the highly regarded Director of the NSW Bureau of Crime Statistics and Research in Sydney, dealing with Crime-prone Communities.

In reviewing the collection, I have to declare an interest in that I know a few of the contributors personally and had the honour of jointly launching it at a function at the University’s Southbank campus in February 2012.

The collection is a must read for any practitioner in the field of youth justice, either in the research or criminal justice field or involved in policy development or delivering programmes or assisting young people in trouble and or need.

At the launch, I spoke of the disconnect between what we know works based on evidence, and policy, and with those with the power to provide funding for programmes for young people beyond the building of more detention centres and the increase of penalties with the careless stroke of the parliamentary pen.

All the evidence is here in this collection, and, as a number of contributors note, it is usually is much more economically effective to provide programmes that prevent offending than to react punitively after the damage is done. In this regard, the excellent work of economist Dr Manning in his paper with Dr Allard dealing with economic modelling to analyse the complex and multiple criteria that are behind youth offending, with a view to the formation of prevention policy, is a must read for those who are usually blamed for withdrawing funding for youth justice research and programmes.

The collection essentially focuses on three themes: namely, understanding youth justice and offending, preventing youth offending, and establishing an evidence base.

Patience is essential, as the evolution of restorative justice principles from evidence based research to policy and practice over a decade in this State demonstrates. This collection demonstrates that with patience and with the evidence, much good can be done. It is an excellent tool for persuading policy makers to invest in programmes that do work and ultimately benefit not only an individual child, but the whole community. It will enable such people to act on evidence and not mere whim or ideology.

*John Robertson DCJ*