# CYBERCRIME AND INTERNATIONAL LAW

Some Interesting Issues

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# TOPICS

- The law and "crime"
- Crime in a global context
- Challenges of globalization
- The future

**Questions ANYTIME!**

# ABOUT ME

- Inspector (retired) Vancouver Police Department:
  - Patrol officer, Dogmaster, Supervisor
  - First Internet investigator in BC
  - Computer-assisted dispatch and record system PRIME-BC
  - Forensics, Financial Crime, Technological Crime Unit

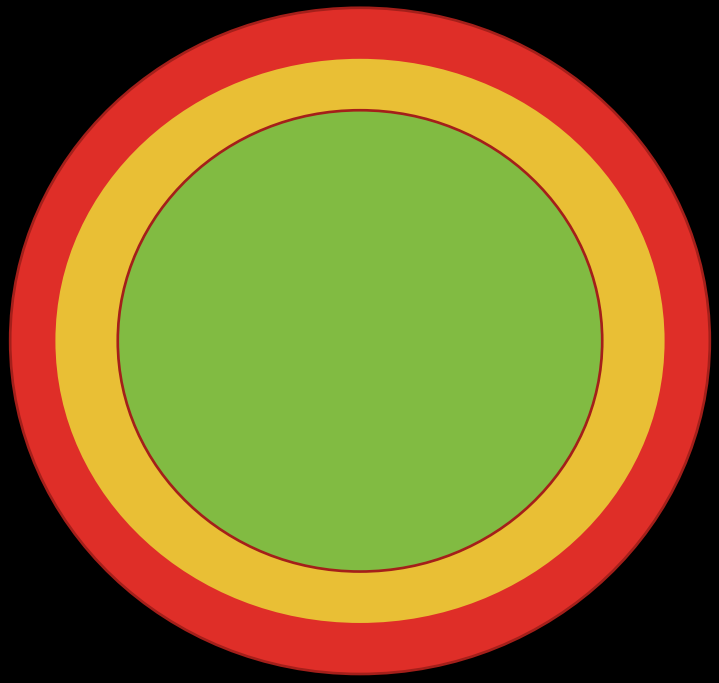
- SFU:
  - Computing Science, Mathematics, 1977 – 1981
  - Communications: 1997 – 2001:
    - Research topic: innovation in wireless telecommunication systems
  - Adjunct Professor, Criminology
  - Sessional Instructor, CMPT120

# THE LAW?

- Laws are based on community standards
- They define ”acceptable” versus “unacceptable” behaviour
- Laws are contextual.  They vary with:
  - Region
  - Culture
  - Historical context

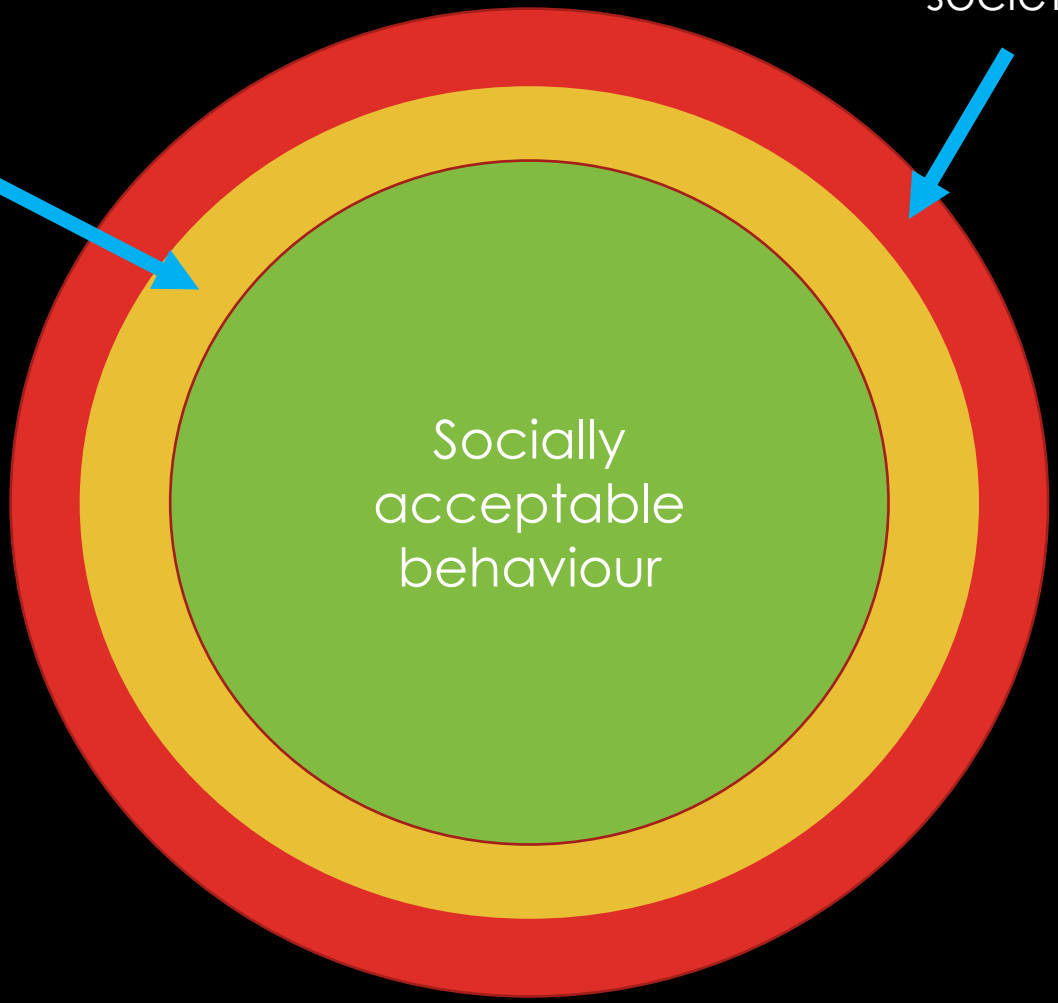
# THE LAW REGULATES BEHAVIOUR

- Boundaries of “acceptable” versus “unacceptable” behaviour in society



Unacceptable behaviour in society

"Fringe" behaviour which is nonetheless socially acceptable



# CRIMES

- This set of "unacceptable behaviours" is called "crime"

- But:
  - Is this boundary between *acceptable* and *unacceptable* behaviour static?
  - Is this boundary the same for every culture and society?
  - What are some potential problems with a definition like this?

# THE LAW EVOLVES

- Laws change over time to reflect community standards
- This is by design!
- This is challenging in the technological context

# COMPARATIVE CRIMINAL JUSTICE

- Major criminal justice systems:
  - Common Law
  - Civil Code
  - East Asia
  - Islamic

- Some systems are better able to adapt to societal changes than others

# NATION STATES

- Traditional law is *geographically* based:
  - Commonalities between people in regional areas led to the creation of separate "nation states"
  - Each state has its own set of laws, to reflect the commonalities in philosophy, culture, religion in that region
  - Neighbouring nation states will differ in their laws:
    - Why???

# CURRENTLY: 195 NATIONS

https://geology.com/world/world-map.shtml

# GLOBALIZATION

- The Internet:
  - Global network
  - Technological elimination of traditional international boundaries

- One result:
  - Conflicting community standards
  - Therefore, conflicting laws:
    - Different interpretations of law
    - Or no law in a particular area at all

# POLICING

- A class of societal workers traditionally called "the police" are empowered to enforce violations of community standards (i.e. "crimes")
- Crimes are therefore tied implicitly to the nation state and its standards
- Police have an implicit geographical jurisdiction

# JURISDICTIONAL CHALLENGES

- Police from one nation do not have jurisdiction in other nation states:
  - *Nor should they!*
- Law also differ:
  - What is a crime in one nation may not be, or it may be defined very differently, in another
  - *No law, no crime*
- Scenario:
  - Victim of crime in one nation, suspect in another
- Significant law enforcement and legal challenges!

# CYBERCRIMINALS

- Criminals, and criminal organizations are not the "average criminals"
- They understood very early that the Internet can be leveraged to:
  - Commit crime
  - Impede law enforcement
  - Take advantage of weak (or strong) laws in other nations
- Examples

# LAW ENFORCEMENT ISSUES

- Language, procedures, differing laws
- Jurisdiction
- Rules of evidence
- Timeliness – need for preservation of evidence
- Slow evolution of criminal law
- Non-technical elements of the Criminal Justice System:
  - Prosecutors, defense counsel, judges

# MLATS

- Mutual Legal Assistance Treaties
- A mechanism tat allows police in one nation to recover evidence in another nation
- Issues best described in an example!

# MLATS DO NOT EXIST BETWEEN ALL NATIONS

- If an MLAT does not exist between nations A and B, then how can that affect international investigation of crime?

- MLATs are NOT transitive:
  - For ***195*** nations in the world, ***18,195*** separate MLAT treaties would be required for full international information sharing

# CURRENT SITUATION

- Police are relying on joint investigations in order to further serious cases:
  - Police can contact investigators in other jurisdictions, establish rapport, and then work on local aspects of the investigation
  - Challenging; not always successful
  - Laws differ and investigative responsibilities and powers differ, so some police agencies are better able to investigate than others

# CONVENTION ON CYBERCRIME

- A set of standards in relation to cybercrime and cyber investigative techniques
- Designed so that if adopted by multiple nations the standards will simplify co-investigation and prosecution of offenders
- The convention (standard) will define a similar foundation for cybercrime for each signatory nation, hence associated crimes will have similar characteristics and definitions in nations' criminal legislation

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE
COUNCIL OF EUROPE

# THE FUTURE?

# DISTINCT JURISDICTION?

- Defining a new "cyber jurisdiction" which is deemed to be global in scope
- This jurisdiction supra to that of traditional nation-states
- Analogue: international maritime law
- Issues?

# TREATIES AS PROPOSED BY COE

- Fuller international support and compliance to tools like the Convention on Cybercrime

- Implementation challenges:
  - Legal
  - Cultural
  - Political

# USER AWARENESS

- Less victimization due to evolution of the public's understanding of the risks associated with use of globalized technology

- Naïve?

# YOUR IDEAS?

# MY CONTACT INFORMATION

- I am always happy to discuss these ideas and issues:
  - Papers
  - Prep for exams, quizzes, et cetera

- mcquiggi@sfu.ca

# QUESTIONS?

# THANK YOU!