



Online searches

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- What is an "online search"?
 - Current investigative possibilities and their shortcomings
- Current legal state: Austria, Germany
 - The recent decision of the German BVerfG
- Potential legal problems:
 - Basic rights
 - Copyright, el. signatures, ...
- Technical implementation
 - Hardware
 - Software: Remote Forensic Software (RFS)
- Dangers and limitations



What is an "online search"?

- Online search: Investigating the computer of a suspect "over the Internet"
- Typical elements:
 - Without knowledge of the suspect: **Secretly**
 - Inspecting data **residing on** the computer, not only that which is **sent from or to** it
 - Used to overcome cryptography and custom protocols
 - » **Get at the data before/after it has been en-/decrypted**
- Optional elements:
 - Without going there physically, i.e. remote installation
 - » **Through hacking, infected E-Mails/websites/updates, ...**
 - Realtime monitoring: Data is sent back to the police over the Internet continuously (during other online traffic)
 - Continuous monitoring ⇔ One-time remote imaging
 - By software (Remote Forensic Software, RFS)



Current investigative possibilities and their shortcomings

- **Computer forensics:** Impound computer and investigate
- **Bugging:** Copying data during transmission
 - **Telephones, internet connections etc.**
- **Main problems are**
 - **Encryption:** Data is sent and stored encrypted only
 - » **Examples: PGP + E-Mail, Harddisk encryption, Skype**
 - **No transmission:** Plans for attacks are only stored locally but never transmitted, physical search difficult
 - » **Duplicating a large disk requires a long time!**
 - **Secrecy:** Acquiring data without the suspect knowing it
 - » **Secret physical searches are difficult and "dangerous"**
 - **Precautions by suspects**
 - » **Usually larger groups → Not everyone has a secure system**



- Ministry of the interior absolutely wants it
- 3/2008: Report by a working party of several ministries
 - **Currently there is no legal basis whatsoever**
 - **Hidden searches as well as remote infiltration would constitute a criminal act at the moment**
 - » **Especially: Programming the software & deploying/using it**
 - » **Possible now: Listening in on communication, bugging**
 - **It is not completely impossible by the constitution**
 - » **But it would be quite difficult to do, require a lot of precautions, and could be used only rarely**
 - **Technical problems are not completely clear, especially regarding the value (reliability) of evidence obtained**
- Legally situation is seen as comparable to Germany
 - **See the recent BVerfG decision later!**



Legal state: Germany

- **Currently hidden online searches are illegal in Germany**
 - » **Decision by the BGH, GZ StB 18/06 from 31.1.2007**
 - **Differs from bugging and telecommunication surveillance**
 - **It is prohibited to combine elements from various laws allowing basic rights infraction to create a new one**
- **A law of Nordrhein-Westfalen allowing hidden online search was found unconstitutional**
 - » **Decision by the BVerfG, 1 BvR 370/07 from 27.2.2008**
 - **Note: The decision does not disallow hidden online searches completely!**
 - » **Its just very difficult to match all the prerequisites**
 - » **The law to inspect did not match all of them**
- **It can be expected, that a law allowing it will be passed**



German BVerfG decision

- Requirements defined by the court:
 - **General basic constitutional right on the confidentiality and integrity of information systems**
 - **Actual evidence for a concrete danger for an outstandingly important legally protected right**
 - » **E.g.: Physical integrity, life, freedom of persons; common goods whose endangerment affects the foundations of the state or the existence of humans**
 - » **Could be possible if not yet sufficiently probable that the danger will materialize soon, but specific facts hint at a danger by specific person(s) in a concrete instance**
 - **Previous permission by a judge**
 - **Must protect the inner core of private life**
- **Value as evidence might be doubtful, but it need not be criminal proceedings → Usable for "investigation"**



Potential legal problems: Basic rights

- **Three main aspects are touched:**
 - **Privacy: The collection of the data as such**
 - **Freedom of communication: Inspecting E-Mail/VoIP(...**
 - **Inviolability of home: Physically installing the RFS**
- **Basic rights are not absolute: Appropriateness limitation**
 - » **Necessary, but not sufficient argumentation!**
 - **Public interest: Scope limited by the ECHR!**
 - » **Seen as problematical by the German decision (see later!)**
 - **Suitability: Technical solution must be reliable and useful**
 - **Appropriateness: Less intrusive ways possible?**
 - » **Reduced by control, oversight, etc.**
- **General problem: Should be available in very early stages, but need for a very strong suspicion!**
 - **"We don't know much, but we fear the worst!"**



Fair trial: Self-incrimination

- **Self-incrimination: Helping yourself in decrypting material, which might be damaging for you**
 - **Usually excluded: What can be obtained through compulsory powers, e.g. bodily tissue (→ DNA testing), blood samples, physical keys, etc. but exists independent of the will of the accused (motives, knowledge,)**
 - » **Independently existing: Can be very reliable**
 - » **Depends on the will of the suspect: Unreliable (lies!)**
 - Here: Because "hidden" → Quite reliable (but not completely; the suspect might have caught on to the RFS!)
 - **One approach: You are not required to disclose keys, but if police finds them independently, they are admissible**
 - » **Murder weapon: Admissible; telling where it is: Disallowed**
 - **Note: In UK exists a law requiring disclosure of keys**
 - » **First persons imprisoned (<= 5 years possible) for refusing!**
- **"Bending the will": Does not happen here**



Potential legal problems: Electronic signature

- One key aspect of online searches is cryptography
 - **This can be a conflict with electronic signatures!**
- According to the law, the important legal consequences of a qualified electronic signature will not apply, if the security measures have been compromised
 - **If someone has access to the computer used for signing, he can modify the data sent to the external device used for signing, i.e. modify the content**
 - » **PIN/private key typically do not leave the smartcard reader, so they can not be accessed by RFS**
 - **These signatures are then invalid!**
 - » **This could mean, that a crime has not been completed, but only attempted**
 - » **This could lead to problems for innocent persons, where third parties could claim this**



Potential legal problems: Copyright

- **Copyright: RFS changes other SW to remain undetected**
 - **Is this allowed?**
 - **Currently completely unknown!**
 - » **There exists an exception for criminal proceedings and public security**
 - » **But: Exception must be seen narrowly**
 - » **But: Little incentive for protests from copyright owners**
- **Copyright for the RFS itself**
 - **Must probably be adhered to even then**
 - » **Modification of a program allowed, but the trojan must be programmed by the police, not copied from somewhere**
 - **Otherwise secret services would not have to pay for any software they use, as its employed for public security!**



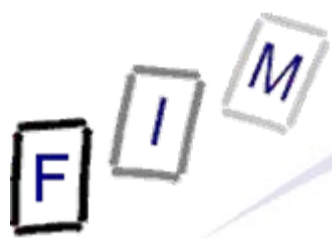
Potential legal problems: Damages

- Through modifying the security elements of a computer and the modifications themselves, damages can occur
 - "Normal" search: The suspect can tell the police what might be dangerous. If he doesn't do this, surprising damages will not be compensated.
- Examples:
 - Other malware might reach the computer
 - The RFS might have a bug and damage something
 - When adding hardware, something gets broken
 - Additional costs because of the RFS communication
- Austria: Plans for a compensation obligation independent of guilt → Only causality required



Potential legal problems: Various

- **International jurisdiction: Searching computers in other countries (Laptops!) would be problematic**
 - **Especially with electronic "infection": Location very difficult to ascertain!**
 - **Searching not suspect but someone else who is communicating with him, because this person is "available"?**
- **Specially protected persons: It is not the area of a specific person, that is searched, but a machine**
 - **Which can be used by anyone, including special persons**
 - **Examples: Priests, medical doctors, attorneys, ...**
 - » **Searching their documents would be extremely difficult, if not completely illegal, in the "physical" world**
 - » **How to distinguish their data from that of someone else on a shared computer?**
 - » **How to know whether the suspect is such a person?**



- **Adding a hardware keylogger to the system**
 - **Requires physical access to the computer**
 - **Depending on the location (in cord/within the keyboard) they are easy/extremely hard to detect**
 - **Drawbacks:**
 - » **Radio → Easy to find**
 - » **Storage → Requires physical presence for data extraction; no realtime monitoring possible**
 - » **Difficult to evaluate the data**
 - » **No access to stored data, only to newly added one**
 - » **Detection and possession usually do not allow reuse or reengineering for other purposes**
 - **Advantages: Reliable, proven technology, hard to detect, little potential for misuse by others**
- **Theoretical option: Hardware screenshot taking**



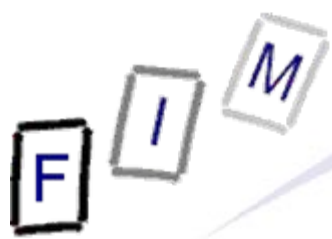
- **Recording electromagnetic emissions**

- **Possible through the air (especially tube monitors), but also over the wires (data and power cables)**
 - » **Also possible indirectly: Heating pipes, air condition, ...**
- **Depending on equipment, building and technology (esp. antennas) used distances up to 500 m are possible**
 - » **E.g. serial data cables: 40-50 meters over the air**
- **Difficult to distinguish between multiple data sources**
- **No searching possible, only "viewing" what the suspect currently views/enters**
- **No possibility of detection by the suspect**
- **Impossible to prevent for non-experts, with normal materials, or for normal equipment**
- **Depends largely on external influences (building, noise,...)**



Technical implementation Software (RFS)

- Installing a software for inspections
 - Also called: "State trojan", "Remote Forensic Software"
- Allows inspection of the whole computer, i.e. remote control to execute arbitrary commands
 - Can take screenshots, log keystrokes, copy files, search disks for regular expressions, copy E-Mail, ...
 - Has access to every single bit of data on the system
 - Access to all those external systems reached/logged in to with the same rights as the user
 - » Note: External logging can be a problem then!
- Possible completely over Internet → Unknown location
- (Partially) deactivating security measures:
 - Antivirus, personal firewall, rootkit detection, ...

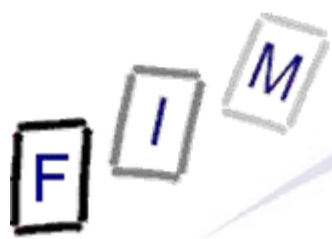


How to "infect" a system

- **Physical visit (twice!)**
 1. **Gather necessary data for building a custom RFS**
 2. **Install RFS on the system**
- **Using a hack to smuggle it in**
 - **Known software bug (buying zer-day exploits?)**
 - **Update/software download (company/ISP cooperation?)**
 - » **ISP can modify webpages, downloads, ... on the fly**
 - **E-Mail attachment to be clicked on by suspect (reliable?)**
- **Other persons using the same computer (motivation?)**
- **Company/ISP personnel (legal obligation?)**
 - **Add it on the fly to any unsecured software download**
- **"If the police could infect my system, others might have done this too → It wasn't me!"**



- **Detection of the RFS**
 - "Feeding" the police with incorrect data (suspect, thirds)
 - Using the software for criminal activities
- **Trustworthiness**
 - Installation is a (usually extensive!) modification of the system to search
 - How is the person performing the search monitored?
- **Detection by Antivirus/IDS**
 - Not that large because of special (?) production
- **Destruction of data/evidence by installation and use**
 - File system area overwritten, system integrity, speed, ...
- **How to counter virtual machines?**
 - Rebuilding it from a write-protected area every time?



Limitations of RFS

- **Difficult to ensure targeting the correct system when installed remotely**
 - **E.g. E-Mail → Internet café comp. somewhere is infected**
- **Removing it afterwards**
 - **For innocents as well as criminals**
 - **How to remove it from backups (→later analysis/reuse!)?**
 - **How to ensure everything is left as it was?**
- **Must be built separately for each system:**
 - **Windows vs. Linux vs. Solaris, ...**
 - **Various antivirus and firewall vendors**
 - **Computer configuration**
- **Hiding the transmission of data**
 - **Only when other data is sent, compression (amount!)**
 - **None: Physical visit and no interactive gathering**



Problems: Evidentiary value

- How reliable is data from a compromised system?
 - If the police could "hack" it, others could have done the same (and then put in illegal material, changed data, ...)!
- Official search: The suspect is present and can log objections, other persons are present as well
 - How to ensure that the police (or even a single policeman) cannot make changes?
 - » Can RFS be built that such changes are absolutely impossible?
- How to ensure unmodified and secure transmission?
 - Encryption + signing/checksums on suspect's computer
- Planned measures:
 - Logging (de-)installation, transmission, changes
 - » Where? How done securely? Data overwritten?
 - » To avoid arguments: "The RFS deleted/added this file"



- Some kind of hidden online search will be introduced
 - Securely encrypted communication must be broken somehow in some cases
- What needs to be addressed in addition:
 - Accidental finds
 - Informing communication partners and third persons
 - International aspects (partners in other countries)
 - » E.g. where listening in on a communication is illegal ...
 - Who investigates the content and excludes material which is either irrelevant or is prohibited to be used
- Technical solution quite open: Hardware/Software?
 - RFS is a **dangerous** terrain, as the software **will** "escape"

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Questions?

Thank you for your attention!