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| Registration Directory Service (RDS-WHOIS2) Review |
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| Draft Report including F2F#3 agreements and action items  OBJECTIVE 3 SUBGROUP REPORT - SECTION 5 ONLY FOR CATHRIN TO PROVIDE REDLINED UPDATES |
| RDS-WHOIS2 Review Team |
| 30 July 2018 |
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5 Objective 3: Law Enforcement Needs

[SUBSECTION NUMBERS WILL BE ADJUSTED WHEN ADDED BACK TO MASTER DOC]

## Topic

Subgroup 3 - Law Enforcement Needs is tasked with investigating, analyzing, and drafting recommendations (if needed) to address the following Review objective:

Consistent with ICANN’s mission and Bylaws, Section 4.6(e)(ii), the review team will assess the extent to which the implementation of today’s WHOIS (the current gTLD RDS) meets legitimate needs of law enforcement for swiftly accessible, accurate and complete data by (a) establishing a working definition of “law enforcement” used in this review, (b) identifying an approach used to determine the extent to which these law enforcement needs are met by today’s WHOIS policies and procedures, (c) identifying high-priority gaps (if any) in meeting those needs, and (d) recommending specific measureable steps (if any) the team believes are important to fill gaps. Note that determining which law enforcement requests are in fact valid will not be addressed by this review.

To accomplish this objective, the subgroup agreed to take into account current and emerging technology and to include:

1. Cybercrime investigations and enforcement;
2. Data protection laws and enforcement;
3. What’s required of the Registrar to retain data under the RAA;
4. A clear direction from Law Enforcement of what is needed; and
5. A better understanding of procedures and requirements by both Law Enforcement and the Registrars.

## Summary of Relevant Research

To conducts its research, all members of this subgroup reviewed the following inventoried WHOIS policy and procedure materials, posted on the [subgroup's wiki page](https://community.icann.org/pages/viewpage.action?pageId=71604734):

* [WHOIS Review Team (WHOIS1) Final Report](https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf) (2012), Chapter 6 and   
  Appendix E: The WHOIS Review team’s Law Enforcement Survey
* [WHOIS Misuse Study Final Report](https://urldefense.proofpoint.com/v2/url?u=http-3A__whois.icann.org_sites_default_files_files_misuse-2Dstudy-2Dfinal-2D13mar14-2Den.pdf&d=DwICAg&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=a5VfrQZP4r0Kte2xBJT17IgRyRBHECC3vHSuFP_QBqD22G4dgkHhRZBEhshbjycD&m=KVKiAANhsB2YfKfOoFIDugGhVTqpV57rA86SIYRpiTQ&s=4rIYFNnGsPt9XaD5nHwvS6gZRVh5hpk0_F3a0AyRQwQ&e=), especially  
  Section 4. Law Enforcement & Researchers survey
* [ICANN61 GAC PSWG - OCTO Update](https://61.schedule.icann.org/meetings/647648)
* Additional links specific to Subgroup 3 may be added here,  
  once identified by this subgroup

To conduct its research, the subgroup agreed to start with the following steps:

* Informal outreach to law enforcement contacts to solicit input on needs, including for example GAC PSWG, APWG, and SSAC members
* Review prior RT Law Enforcement Survey
* Review the update given by the ICANN Office of CTO to the GAC PSWG

<SUBGROUP TO UPDATE AND DRAFT ADDITIONAL TEXT FOR THIS SECTION TO IDENTIFY ANY ADDITIONAL MATERIALS OR SOURCES OF DATA LEADING TO FINDINGS>

## Analysis and Findings

At this time, the subgroup has not gathered findings, but intends to take this approach:

* Establish working definition of “law enforcement” to be used in this review
* Each subgroup member will conduct informal outreach to law enforcement contacts
* Based on initial findings, subgroup may conduct broader formal outreach
* Formalized outreach (if any) would be structured in a transparent and accessible way (e.g., survey)

After conducting this research, all subgroup members will review outreach results to determine the extent to which Law Enforcement needs are met by today’s WHOIS policies and procedures and high-priority gaps (if any).

Note: The timing and approach used for outreach may be impacted by near-term changes to WHOIS resulting from GDPR compliance efforts.

<SUBGROUP TO DRAFT TEXT FOR THIS SECTION AFTER SURVEY RESULTS ARE AVAILABLE TO REFLECT RESEARCH METHODOLOGY, SURVEY QUESTIONS, SURVEY FINDINGS, AND THE SUBGROUP'S ANALYSIS OF FINDINGS>

ACTION ITEM - Subgroup to consider the following items:

* Geographic distribution of responses to date. Note that Compliance subgroup also found under-representation of global south in WHOIS inaccuracy reports - possible systemic issue?
* Formulating a recommendation on continuous data gathering to inform future assessment of the effectiveness of WHOIS, as well as future policy development (e.g., ePDP)
* Possibility of opening the survey to cybersecurity professionals - if not at this point, then in the future. Potentially related to accreditation and criteria that may be applied there. Bylaws mandate is explicitly law enforcement, so results would need to be analyzed separately and not conflated.
* Possibility of repeating survey between public comment close and final report to allow additional participation and comparison of results; public comment could include a way for interested parties to express interest in participating in next survey (indicating their email address, duty station, geographic region)

DECISION REACHED - Reopen survey to collect additional responses; defer discussion of results (and issues/recommendations) until final survey close to avoid influencing respondents. New deadline for survey - August 6 - 23:59 UTC.

ACTION ITEM - Cathrin to draft methodology and findings for RT review before 6 August plenary call, keeping findings confidential until the survey closes

ACTION ITEM - ICANN Org to investigate geographic distribution of responses to date and provide any available information to the subgroup, enabling additional targeted outreach by subgroup members to under-represented areas

## Problem/Issue

[TO BE INSERTED AFTER SURVEY RESULTS ARE AVAILABLE]

## Recommendations (if any)

Disclaimer: recommendations are not a requirement.

[TO BE INSERTED AFTER SURVEY RESULTS ARE AVAILABLE]

## Possible impact of GDPR and other applicable laws

[TO BE PROVIDED]