

# Enactment of cybercrime legislation in Japan

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## Overview

- ◆ 2001 Government of Japan signed the Convention on Cybercrime
- ◆ 2004 Bill submitted to the Diet → dropped
- ◆ 2005 Bill submitted to the Diet → dropped
- ◆ 2006 Bill submitted to the Diet → dropped in 2009
- ◆ **2011 Bill submitted to the Diet → passed in June 2011**

### ◆ Contents

#### 1. Revision of the Penal Code

in effect on July 14.2011

#### 2. Revision of the Criminal Procedure Law

in effect on June 22.2012

# 1. Revision of the Penal Code ~ Criminization~

## Brief:

1. New: penalty for the production, offer ...etc of **computer virus**
2. New: penalty for **attempt** of **interference of computer system**
3. Expansion: offences related to distribution of **pornography**

# 1. Criminization (1)

## ◆ New:

penalty for the production, offer ...etc of **computer virus**

### It will be a crime:

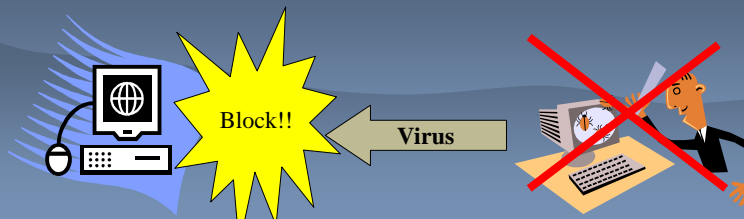
- ❖ **Production, offer and making available** of computer virus without legitimate reason
  - ◆ Imprisonment for not more than 3 years or a fine of not more than 500,000 yen
- ❖ **Procurement and taking custody** of computer virus without legitimate reason
  - ◆ Imprisonment for not more than 2 years or a fine of not more than 300,000 yen



## 1. Criminization (2)

### ◆ New: penalty for **attempt** of **interference of computer system**

- ◆ Imprisonment for not more than 5 years or a fine of not more than 1,000,000 yen
- ❖ e.g.: It will be a crime when a person attempts to send computer virus through computer network, but was blocked by a firewall.



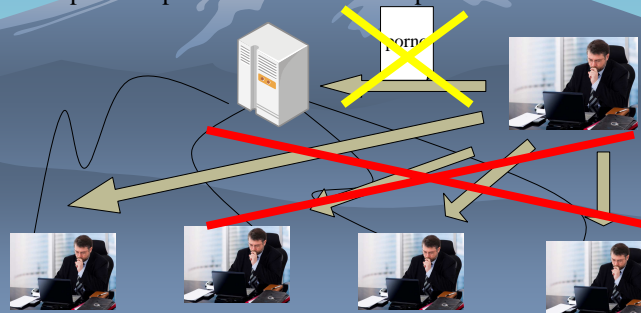
## 1. Criminization (3)

### ◆ Expansion: offences related to distribution of **pornography** <before>

- ❖ Posting of pornography on a internet forum → punished
- ❖ Distribution of pornography by email → **unclear**

### <Revised Law>

- ❖ Penal code has been amended to punish those who **email pornography** to unspecified persons or a number of persons.



## 2. Criminal procedure laws

1. Expansion: **new method of seizure** of stored computer data
2. New: **Production order**
3. New: Seizure of **computer data stored in a computer** which is networked and **accessible** from another computer.
4. New: **Request for preservation** of traffic data
5. New: **Request for assistance** to people who has knowledge about the functioning of the computer system
6. Amendment: **the Act on International Assistance in Investigation and Other Related Matters**

## 2. Criminal procedure laws

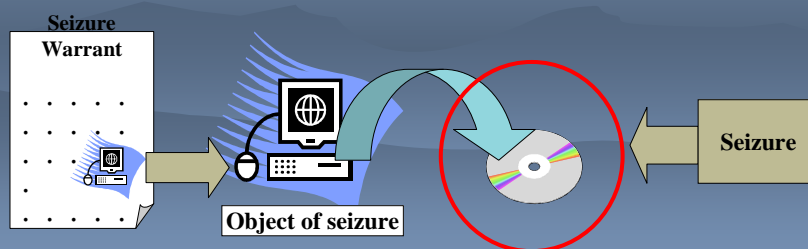
**Before** the revised law;

- Seizure of the computer itself storing specified data
- With consent, copying data from the server computer and seizing the data storage medium
- × Without consent, copying data from the server computer and seizing the data storage medium → ○
- × Seizure of data stored in a computer which is networked and accessible from another computer → ○

## 2. Criminal procedure laws (1)

◆ Amendment: **new method of seizure** of stored computer data

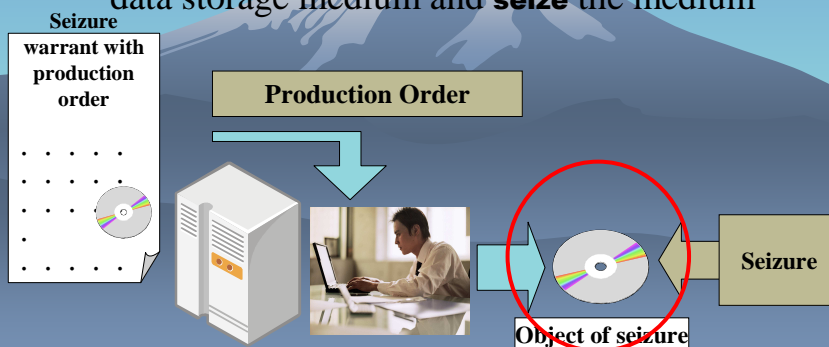
- ❖ Instead of seizing the computer itself, it is now possible to **copy** the data from a computer and **seize** the computer-data storage medium without the consent of the owner or custodian of the computer,.



## 2. Criminal procedure laws (2)

◆ New: **Production order**

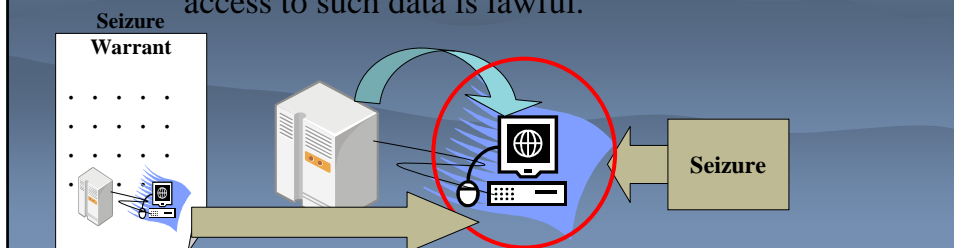
- ❖ It is now possible to **order** the administrators of the data to **copy** the necessary data to a computer-data storage medium and **seize** the medium



## 2. Criminal procedure laws (3)

- ◆ New: Seizure of **computer data stored in a computer** which is networked and **accessible** from another computer

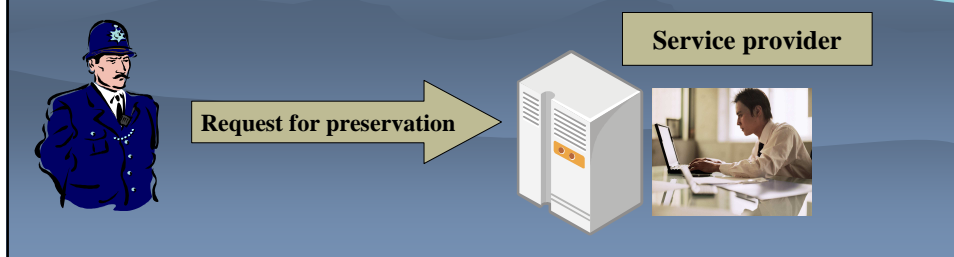
- ◆ It is now possible to **copy** computer data stored in another computer (e.g.: mail server, storage server) and **seize** the data-storage medium if network access to such data is lawful.



## 2. Criminal procedure laws (4)

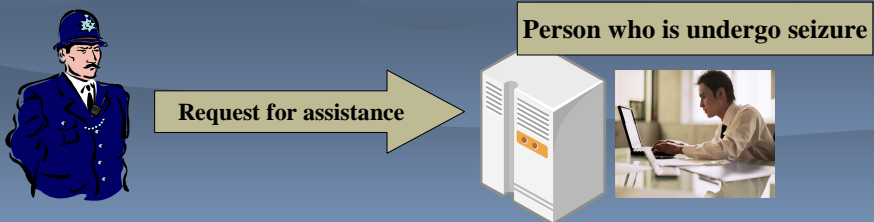
- ◆ New: **Request for preservation** of traffic data

- ❖ It is now possible to request the service provider to preserve traffic data for up to 60 days.



## 2. Criminal procedure laws (5)

- ◆ New: **Request for assistance** to people who is to undergo seizure.
  - ❖ It is new prescribed in law the authority to request for assistance to operate the computer by a person who has knowledge about its computer system.



## 2. Criminal procedure laws (6)

- ◆ Amendment: the Act on International Assistance in Investigation and Other Related Matters
  - ❖ **Use of all these new measures for mutual legal assistance became possible!!**



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# F Y I

The Government of Japan supports the CoE Global Project on Cybercrime.

Between 6<sup>th</sup> to 8<sup>th</sup> in the Foyer of the Committee of Ministers, an exhibition

**“Tsunami in Japan, towards a better future”**  
is organized.

**All participants are welcomed!!**

