

# Metadata matters

communications metadata in law  
enforcement

Murray Hunter

---

Funded  
by the European Union  
and the Council of Europe



EUROPEAN UNION

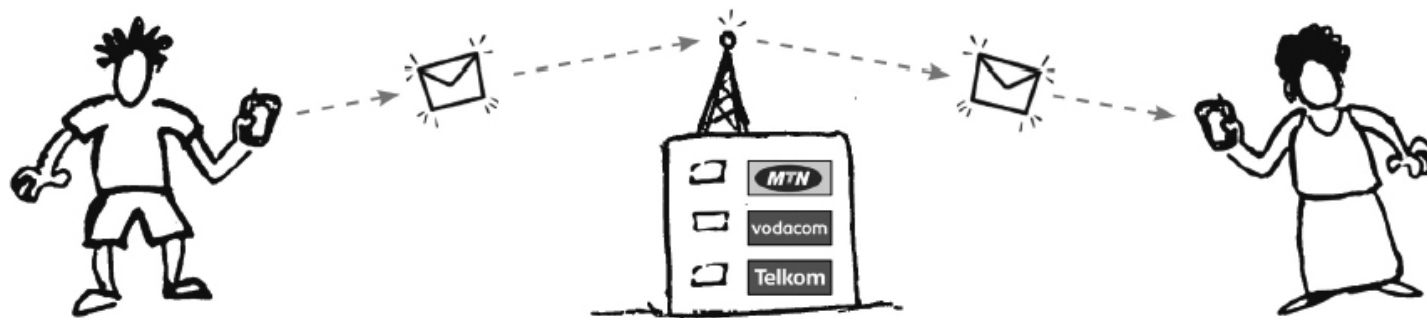
COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

---

Implemented  
by the Council of Europe



www.coe.int/cybercrime  
www.coe.int/dataprotection

# Is it “content” or “metadata”?

## **Classified as “content”:**

- What person A said to person B in a text message / phone call

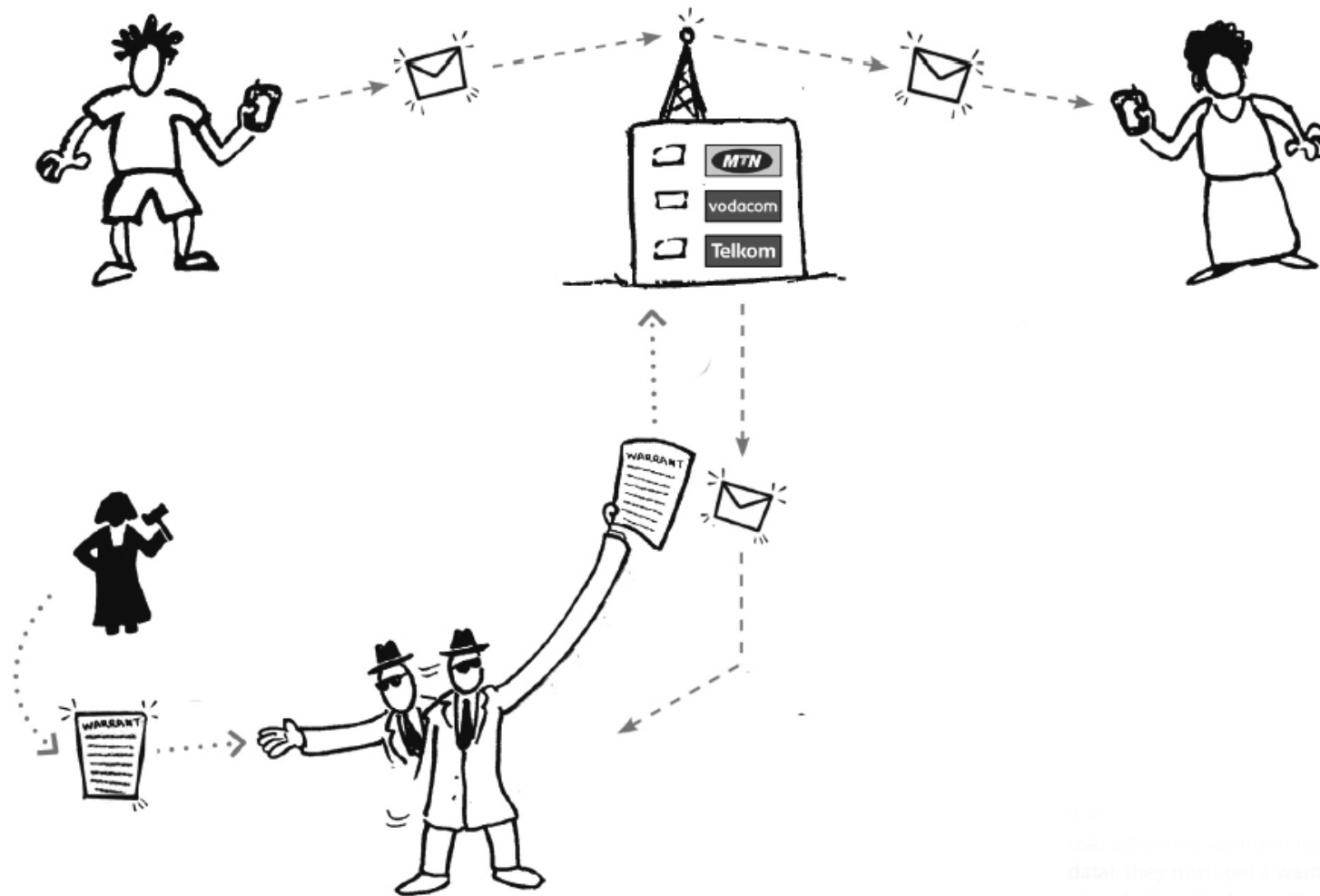
## **Classified as “metadata”:**

- The identities of person A and person B
- The time that the message was sent
- Their locations
- Their unique device ID



Metadata... “may give an insight into an individual’s behaviour, social relationships, private preferences and identity that go beyond even that conveyed by accessing the content of a private communication.”

– UN High Commissioner on Human Rights. ‘The Right to Privacy in the Digital Age’, 2014

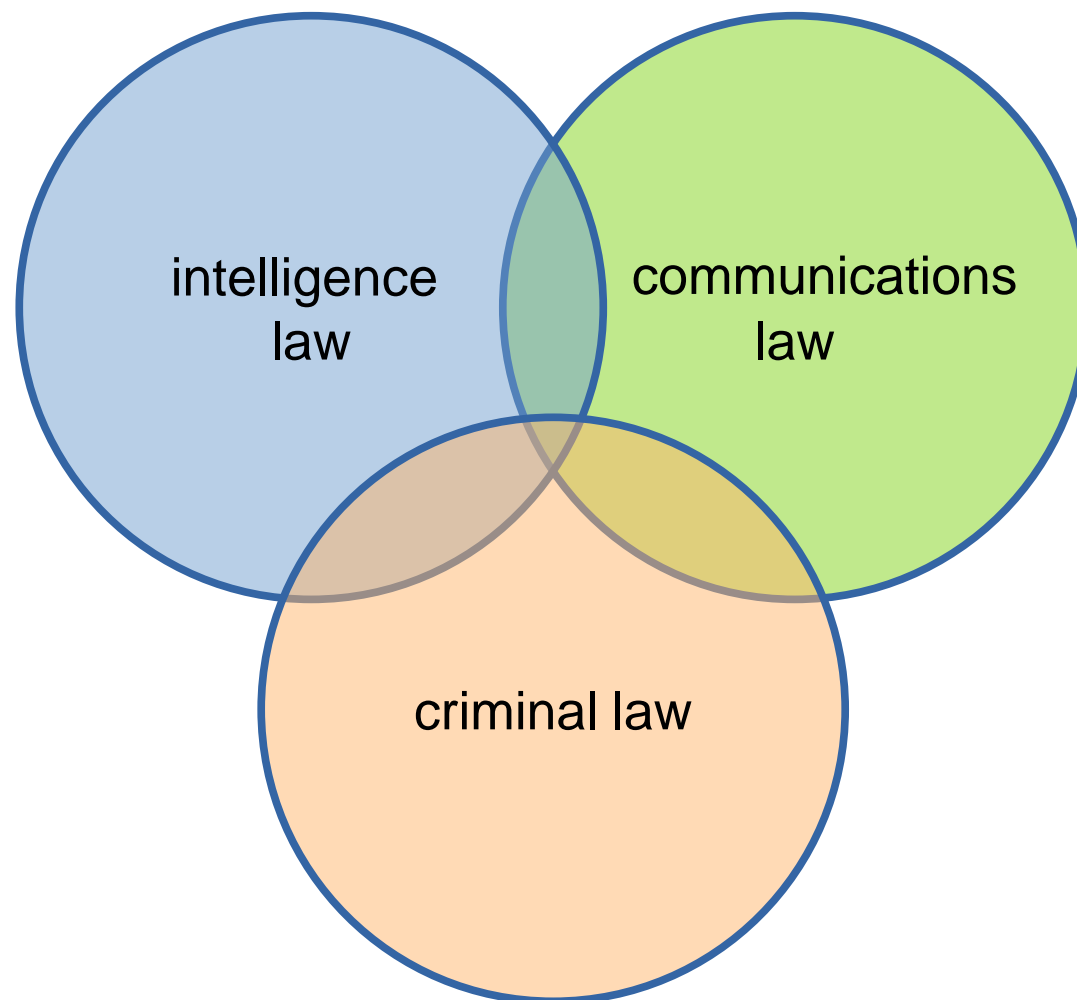


## **Accessing 'content' of communication**

- Limited number of officials
- For very serious offences
- With permission of a senior judge

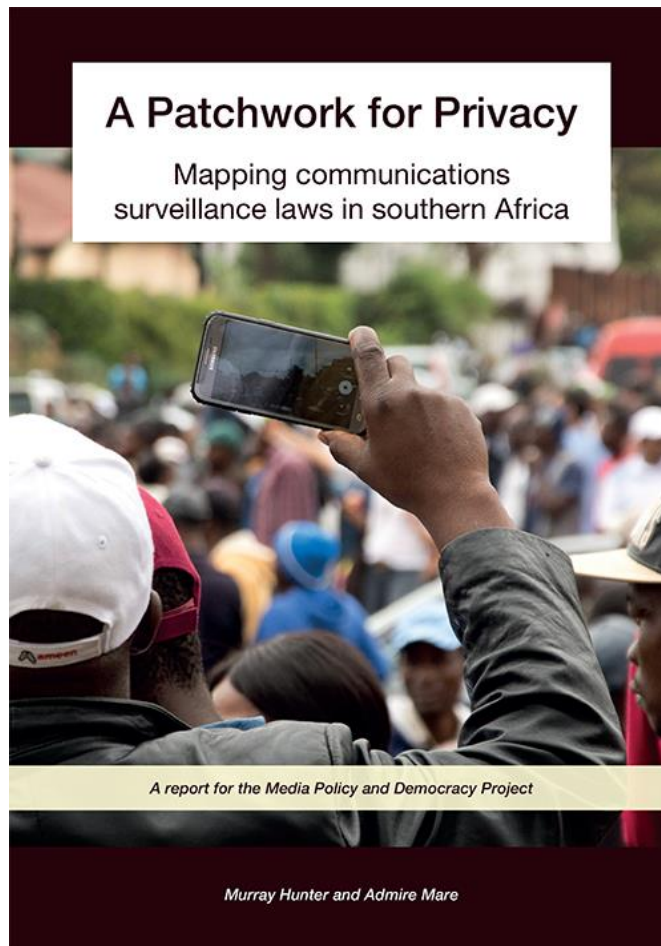
## **Accessing metadata of communication**

- Most officials
- Any offence
- Any judge – if that



## A Patchwork for Privacy

Mapping communications  
surveillance laws in southern Africa



*A report for the Media Policy and Democracy Project*

*Murray Hunter and Admire Mare*






## South Africa: metadata loophole in surveillance reform




*Different legal representative at the high court in Pretoria during an application by amaBhungane against Rica's surveillance regulations laws. Photo: Brenda Masilela / ANA*

**Court rules in favour of amaBhungane  
and declares sections of Rica unlawful**



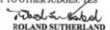
REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO: 25978/2017

(1) REPORTABLE: YES  
(2) OF INTEREST TO OTHER JUDGES: YES

16 September 2019   
ROLAND SUTHERLAND

In the matter between

AMABHUNGANE CENTRE FOR INVESTIGATIVE  
JOURNALISM NPC First Applicant  
SOLE, STEPHEN PATRICK Second Applicant

and

MINISTER OF JUSTICE AND CORRECTIONAL  
SERVICES First Respondent

Zimbabwe: Access to phone records without a warrant?



*Section 50 of Criminal Procedure and Evidence Act*

Malawi: All call-related data collected?

'Spy machine' roll out in September, says  
Malawi regulator



*Consolidated ICT Regulatory Management System (CIRMS)  
... the "Spy Machine"*

## Questions going forward