

# Dayton RISC 2006

## Electronic Evidence in Criminal Defense

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**INTERHACK**

# Speaker Biography

## ■ Founder, Interhack Corporation

- Forensic Computing, Information Assurance
  - Pharmatrak Privacy Litigation
  - Sony BMG “Rootkit” Litigation
  - Privacy and Security Research

## ■ Lecturer, The Ohio State University

## ■ Author

- *Brute Force...* (Copernicus Books, 2005)
- *Developing Trust...* (Apress, 2001)

# Agenda

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- Investigation
- Prosecution Strategy
- Data Analysis
- Defense Strategy
- Result
- Lessons

# Investigation

- DHS grant funds state police electronic investigation capability
- Trooper goes to training, gets tools
- Trooper searches P2P networks for child pornography
- A file from a PC with in-state IP address leads to pre-dawn raid of family home

# Prosecution Strategy

- Three suspect files found on computer belonging to all-American teenager
- Investigator's expert opines subjects are underage
- Investigators allege teenager “viewed” images and knowingly distributed
- Prosecutor charges F2, two F3, F4, M1

# Data Analysis

- Father and son chat, why fight
- Relative availability of child pornography on P2P networks
- Malware-infested machine
- “Access” vs. “view”
- My opinion forms

# Defense Strategy

- Due process fight: Prosecutor “cannot give contraband” to defense expert
- Forensic psychologist
- Forensic computer scientist

# Result

- Prosecutor hears where my investigation is going during hearing with judge
- Deal reached: defendant writes paper on how to avoid picking up child pornography online, all charges dropped, record expunged
- Young man now at university



# Lessons

- Overzealous investigators find bogus conclusions
- What if son were from poor family, or fatherless?
- Internet brings everyone, criminal and otherwise, into the same neighborhood
- Defense attorneys need technical expertise

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# Questions & Answers

# Session Evaluation Form

- Please fill out the form
- ... after completing the form, please leave it on the table as you leave the room