



**2011-5**

**NATIONAL SHERIFFS' ASSOCIATION URGES CONGRESS TO TAKE STEPS TO PRESERVE LAW ENFORCEMENT'S ABILITY TO LAWFULLY INTERCEPT ELECTRONIC COMMUNICATIONS REGARDLESS OF THE COMMUNICATIONS TECHNOLOGY INVOLVED AND TO ENSURE THAT REFORMS TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT DO NOT RESULT IN ADDED DELAYS TO LAWFULLY AUTHORIZED LAW ENFORCEMENT INVESTIGATIONS**

**WHEREAS**, the National Sheriffs' Association (NSA) takes a proactive role in defending and advocating for the interests of America's sheriffs;

**WHEREAS**, the ability of sheriffs to protect citizens in their jurisdictions must be preserved and strengthened as technology evolves;

**WHEREAS**, law enforcement must have both the technological capabilities and appropriate legal authorities to conduct effective and timely investigations;

**WHEREAS**, developments in communications and networking technologies have resulted in great benefits for federal, state, county, municipal and tribal law enforcement;

**WHEREAS**, these same developments have created new challenges for law enforcement investigations as criminals exploit gaps in communications intercept capabilities, resulting in a phenomenon known as "Going Dark" where law enforcement is unable to lawfully intercept communications;

**WHEREAS**, the Communications Assistance for Law Enforcement Act (CALEA) requires telecommunications service providers to ensure that their equipment allows for law enforcement to conduct surveillance of electronic communications when lawfully authorized to do so;

**WHEREAS**, the widening gap in communications intercept capabilities endangers the safety and well-being of American citizens from both the crime and homeland security perspectives;

**WHEREAS**, the Electronic Communications Privacy Act (ECPA) sets standards for law enforcement access to electronic information such as e-mails, cell site location data, stored documents, and related information;

**WHEREAS**, Congress was unable to anticipate certain technology developments when ECPA was enacted in 1986, including the development of "cloud computing," and ECPA provisions do not specifically address these developments;

**WHEREAS**, law enforcement relies upon timely access to electronic information with proper legal authority to conduct effective investigations and to prevent acts of crime, violence, and terrorism;

**WHEREAS**, proposals to elevate the legal standard for law enforcement access to certain types of electronic information from reasonable suspicion to probable cause would cause delays in investigations and lessen law enforcement's ability to protect citizens;

**THEREFORE, BE IT RESOLVED**, that the National Sheriffs' Association urges the United States Congress to take steps to preserve law enforcement's ability to lawfully intercept electronic communications regardless of the communications technology involved;

**BE IT FURTHER RESOLVED**, that the National Sheriffs' Association urges the United States Congress to ensure that reforms to the Electronic Communications Privacy Act do not result in added delays to lawfully authorized law enforcement investigations.

Adopted at a Meeting of the General Membership in St. Louis, MO on June 20, 2011.