



2018-03

NATIONAL SHERIFFS' ASSOCIATION SUPPORTS FBI CALL FOR ACTION ON ENCRYPTION, A MAJOR PUBLIC SAFETY PROBLEM

WHEREAS, cybercrime is out of control, and law enforcement and U.S. policymakers must do more to combat the global scourge represented by the cyber threat;

WHEREAS, the Nation's sheriffs, working through the National Sheriffs' Association, are committed to making a difference in combating the cyber threat, working in partnership with federal agencies within President Trump's Administration, and with municipal and tribal police, district attorneys and attorneys general, and other local and state law enforcement;

WHEREAS, the Nation's sheriffs increasingly see their efforts to investigate criminal activity of all kinds—human trafficking, counterterrorism, counterintelligence, gangs, organized crime, child exploitation, and cyber—being stymied by private firms' unilateral private commercial decision to “encrypt” smart phones and other devices and apps, which preclude anyone from accessing the encrypted data without a secret password or other secret data, in the name of cyber security;

WHEREAS, when a judicial warrant or other judicial order complying with constitutional due process requirements authorizes law enforcement to access information on a smart phone or other device or app, it is absolutely unacceptable, under the U.S. criminal justice system, that anyone's unilateral private commercial decision should prevent law enforcement from doing its job of investigating criminal activity conducted in compliance with constitutional due process;

WHEREAS, the Federal Bureau of Investigation has for years raised this encryption problem as a major barrier to the conduct of federal criminal investigations of all kinds, and sheriffs and their local and state law enforcement partners are increasingly seeing their own constitutional criminal investigations being stymied by the same encryption problem;

WHEREAS, FBI Director Christopher Wray has recently called this encryption problem a “major public safety problem”, and has called for information security programs that are thoughtfully designed so they “don't undermine the lawful tools needed to keep the Nation safe”;

NOW THEREFORE, BE IT RESOLVED, that the National Sheriffs' Association joins the FBI in supporting strong information security measures, including strong encryption, which are implemented in a way consistent with both the rule of law and strong cyber security;

BE IT FURTHER RESOLVED, that the National Sheriffs' Association urges the U.S. Congress to exercise leadership in the nation's public safety interest to pass federal legislation to assure that no one's unilateral private commercial decision to encrypt data can be implemented in such a way as to prevent law enforcement from carrying out criminal investigations that are conducted in compliance with constitutional due process requirements.

Approved by the Board of Directors of the National Sheriffs' Association on June 18, 2018, at the Annual Conference of the National Sheriffs' Association, New Orleans, Louisiana. This resolution to remain in effect until June 24, 2022, in accordance with Article XIII, Section 6 of the Constitution and Bylaws of the National Sheriffs' Association.