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Safeguarding Justice for All Americans

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June 23, 2020

Senator Lindsey Graham
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Tom Cotton
326 Russell Senate Office Building
Washington, DC 20510

Senator Marsha Blackburn
357 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Graham, Senator Blackburn and Senator Cotton:

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of the 6,300 Assistant U.S. Attorneys working in the 93 U.S. Attorney Offices, I write you to express our strong support for the Lawful Access to Encrypted Data Act.

As the technological capabilities of our citizens rapidly increase, so too do the technological capabilities of criminals using these tools to undermine law enforcement investigations and conceal vital evidence. Federal law enforcement is often unable to fulfill lawful court orders to obtain evidence due to technological limitations. As a result of these obstacles, the enforcement of our nation's laws, including laws addressing terrorism, murder, human trafficking, and fatal drug distribution, are frequently thwarted.

Currently, criminals are able to hide behind outdated data privacy laws that threaten public safety. The Lawful Access to Encrypted Data Act addresses this gap in enforcement by codifying into federal law a requirement that technology companies ensure federal law enforcement have a process for obtaining lawful access to encrypted data.

This legislation allows investigators to work with technology companies to obtain information authorized to be searched, decrypt or decode information on an electronic device or remotely stored electronic information that is authorized to be searched, and to provide technical support as necessary to ensure effective execution of the warrant for the electronic devices particularly described in the warrant.

Furthermore, this legislation works to reduce the technological capability gap which exists between federal law enforcement and private technology companies. Technology experts tend to shy away from working with federal law enforcement for fear of being blackballed by private technology companies. This legislation authorizes a prize competition managed by the Justice Department for technology innovators to work with the federal government on projects to benefit national security. An increasing amount of crimes have a cyber-component, whether through online communications or personal data saved on devices, our federal government must modernize its approach to get ahead of criminal's technology use.

While our members have seen how technological obstacles can harm the enforcement of federal laws, our state and local counterparts have also struggled to work obtain vital evidence due to encryption obstacles. With a grant program for digital evidence training and database resources, law enforcement across the federal, state, local, and tribal judicial systems will be equipped with the training and resources to obtain necessary evidence to deliver justice.

When an investigator has a lawful court order to obtain evidence of a crime, no technological limitation should prevent them moving forward with the execution of that order. NAAUSA fully endorses this legislation to bypass longstanding obstacles to achieving justice.

Thank you for considering the perspective of NAAUSA. Please do not hesitate to reach out to Jason Briefel (jbriefel@shawbransford.com) if we can be of further assistance on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Lawrence J. Leiser". The signature is fluid and cursive, with a large initial "L" and "J".

Lawrence. J. Leiser
President