

Federal Bureau of Investigation
Agents Association

April 14, 2016

The Honorable Richard Burr
Chairman
Senate Intelligence Committee
217 Russell Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Vice Chairman
Senate Intelligence Committee
331 Hart Senate Office Building
Washington, DC 20510

Re: *Compliance with Court Orders Act of 2016*

Dear Chairman Burr and Vice Chairman Feinstein:

On behalf of the FBI Agents Association (FBIAA), a voluntary professional association currently representing over 13,000 active duty and retired FBI Special Agents, I write to express the FBIAA's support for your recently released *Compliance with Court Orders Act of 2016*. Your legislation would help ensure that our Constitutional search and seizure system can continue to protect both the privacy rights and the safety of the American public.

Never before in our country's history have criminals and terrorists had access to technology that could allow them to communicate nationally or internationally without any ability for law enforcement to legally access the evidence of their conspiracies. This scenario—often described as “going dark”—is creating new and dangerous risks of crime and terrorism.

Unfortunately, we have already begun to see the risks posed by this new technology. In the wake of the recent attacks in Paris, FBI Director Comey recently explained that:

The threat posed to us by the group called ISIL, the so-called Islamic State, which, in the United States we talk about what they've been doing here, the recruiting through social media, if they find a live one, they move them to Twitter direct messaging. Which we can get access to through judicial process...But if they find someone they think may kill on their

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behalf, or might come and kill in the caliphate, they move to a mobile messaging app that's end-to-end encrypted.

In the face of these threats, this is not the time for the mass marketing of products that have been intentionally designed to circumvent established and constitutional search and seizure procedures.

Your legislation would take important steps towards addressing the risks associated with going dark. First and foremost, by requiring that companies respond to court orders with information or necessary technical assistance, your legislation would help ensure that no company is above the law. Additionally, your legislation protects the security of individuals' electronic data because, rather than utilizing any sort of widely available "back door," control over access to the protected data on covered technology remains entirely in the hands of the companies that design and manufacture communication devices.

While we appreciate the ideological and economic interests that are served by choosing talk over action, now is the time for action on the threat posed by this new technology. If your legislation becomes law, individuals and companies will enjoy the privacy protections that have been established and refined under our laws over the course of hundreds of years, and law enforcement officer such as FBI Agents will be better able to perform their vital work protecting our country.

The FBIAA greatly appreciates the introduction and consideration of this very important legislation. We look forward to working with you and your staff in the effort to ensure that the proper balance between profit, privacy, and security is maintained.

If you have any questions, please contact me, or our General Counsel Dee Martin, dee.martin@bracewelllaw.com, and Joshua Zive, joshua.zive@bracewelllaw.com.

Sincerely,



Reynaldo Tariche
President

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