



# Apple vs. FBI: Congress must act before the next crisis

**Matt A. Mayer**

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With news that the [FBI successfully hacked](http://www.latimes.com/local/lanow/la-me-ln-fbi-drops-fight-to-force-apple-to-unlock-san-bernardino-terrorist-iphone-20160328-story.html) (http://www.latimes.com/local/lanow/la-me-ln-fbi-drops-fight-to-force-apple-to-unlock-san-bernardino-terrorist-iphone-20160328-story.html) the Apple iPhone of San Bernardino terrorist Syed Rizwan Farook with the help of an unnamed entity using an unknown process, the legal battle between Apple and the FBI ended. (Apple is signaling, however, that it [may commence legal proceedings](http://www.latimes.com/local/lanow/la-me-ln-fbi-drops-fight-to-force-apple-to-unlock-san-bernardino-terrorist-iphone-20160328-story.html) (http://www.latimes.com/local/lanow/la-me-ln-fbi-drops-fight-to-force-apple-to-unlock-san-bernardino-terrorist-iphone-20160328-story.html) to find out how the FBI hacked into the iPhone in order to plug a loophole in its security system.)

Yet, this certainly does not mean the issue of terrorists' use of technology and the implications thereof for both law enforcement and technology companies are gone. Other cases are bound to follow.



([http://www.aei.org/wp-content/uploads/2016/03/RTX28ALW\\_apple\\_fbi-e1459279846263.jpg](http://www.aei.org/wp-content/uploads/2016/03/RTX28ALW_apple_fbi-e1459279846263.jpg))

A rally in support of Apple's refusal to help the FBI, in Santa Monica, California, United States, February 23, 2016.

REUTERS/Lucy Nicholson.

Resolving these crises via legal battles [makes little sense](https://www.aei.org/publication/apple-v-fbi-encryption-case-shows-that-lawsuits-are-inherently-polarizing/) (https://www.aei.org/publication/apple-v-fbi-encryption-case-shows-that-lawsuits-are-inherently-polarizing/). Therefore, before the next case arrives, Congress should move forward immediately on the national commission proposal. For its part, Apple continues to “underscore[] the crucial questions at the heart of the case, urging ‘a national conversation about our civil liberties, and our collective security and privacy.’” The Obama administration should come out in support of the idea and push Congress to send legislation to sign as soon as possible. With the recent terrorist attacks in Brussels, the urgency to determine how best to balance law enforcement's need for the capability to access private communications against the private sector's push for increased security

measures becomes even greater.

The critical activities the [national commission](http://www.aei.org/wp-content/uploads/2016/01/National-commission-on-terrorists-use-of-technology-is-needed.pdf) (<http://www.aei.org/wp-content/uploads/2016/01/National-commission-on-terrorists-use-of-technology-is-needed.pdf>) should do include:

- Reviewing the government’s classified and unclassified actions, successes, and failures to date to determine where vulnerabilities exist where technology is a sword and a shield;
- Gaining access to the core technology of private-sector companies to gauge the seriousness and need for enhanced security measures; and,
- Identifying where the technology is headed and any future issues, including how government can improve its own data-protection capabilities.

We can continue to talk about the problems of terrorists’ use of technology, or we can actually engage in a deliberative process aimed at finding the “worst-best” solutions to increasingly complex and legally murky problems. As I’ve noted in my [report](http://www.aei.org/wp-content/uploads/2016/01/National-commission-on-terrorists-use-of-technology-is-needed.pdf) (<http://www.aei.org/wp-content/uploads/2016/01/National-commission-on-terrorists-use-of-technology-is-needed.pdf>), Americans are growing more and more skeptical that government can keep us safe. Taking meaningful action on an issue that impacts nearly every American with a smart phone or computer may help restore the faith Americans have in their political leaders.

**Learn more:** [National commission on terrorists' use of technology is needed](http://www.aei.org/publication/national-commission-on-terrorists-use-of-technology-is-needed/)  
(<http://www.aei.org/publication/national-commission-on-terrorists-use-of-technology-is-needed/>) |  
[Apple v. FBI encryption case shows that lawsuits are inherently polarizing](http://www.aei.org/publication/apple-v-fbi-encryption-case-shows-that-lawsuits-are-inherently-polarizing/)  
(<http://www.aei.org/publication/apple-v-fbi-encryption-case-shows-that-lawsuits-are-inherently-polarizing/>)  
| [Our dangerous reality](http://www.aei.org/publication/our-dangerous-reality/)  
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