

# US escalates fight with Apple over iPhone in attacks probe

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The US Justice Department asks for a court order to compel Apple to help unlock an iPhone as part of the probe into last year's San Bernardino attacks, escalating the legal battle over encryption

The US government Friday sought a court order to force Apple to help unlock an iPhone as part of the probe into last year's San Bernardino attacks, escalating a legal showdown over encryption.

The motion brought by the Justice Department sought to counter Apple's claim that cooperating with the FBI probe would undermine overall security for its devices, and laid out the legal case for technical assistance.

"The order does not, as Apple's public statement alleges, require Apple to create or provide a 'back door' to every iPhone," said the motion filed in a federal court in California.

"It does not provide 'hackers and criminals' access to iPhones; it does not require Apple to 'hack (its) own users' or to 'decrypt' its own phones."

The filing comes after Apple pledged earlier this week to fight a magistrate's order to assist in unlocking an iPhone used by one of the shooters in the December attacks, which have sharpened the public debate over encryption.

Apple chief executive Tim Cook took a public stand against the request, arguing that it could pave the way for ill-intentioned individuals to unlock any iPhone and raised major privacy concerns.

There was no immediate response by Apple to the latest court filing.

## **'Marketing concerns'**

The new motion said that Apple's public statements suggest it is basing its defense on "marketing concerns" and that the company was not being asked to hand over any sensitive software that could be used by hackers.

"Apple did not assert that it lacks the technical capability" to help, the motion said, but is refusing in part because of "a perceived negative impact on its reputation and marketing strategy were it to provide the ordered assistance."

A hearing in the case is set for March 22, according to the motion.

"The urgency of this investigation requires this motion now that Apple has made its intention not to comply patently clear," it said.

"There may be critical communications and data... that thus far has not been accessed."

The [motion](#) said Apple has the capacity to help the FBI unlock an iPhone 5C used by Syed Farook, a US citizen who went on the rampage with his Pakistani wife Tashfeen Malik, killing 14 people at an office party in San Bernardino, California.

The government is seeking Apple's help in disabling a feature that wipes data from the phone when too many attempts are made to guess the passcode.

Apple's Cook said it was too risky to provide the requested software.

"The US government has asked us for something we simply do not have, and something we consider too dangerous to create. They have asked us to build a backdoor to the iPhone," he said in a message to customers this week.

"In the wrong hands, this software—which does not exist today—would have the potential to unlock any iPhone in someone's physical possession."

The initial [court order](#) raised hackles among privacy advocates, who see the potential to unleash unbridled surveillance in the United States and elsewhere.

But Apple also came under attack for thwarting a critical security

investigation. The case is likely to work its way through the courts, which will need to consider a number of both technical and legal questions.

The White House said this week it supports the request by the FBI and Department of Justice, disputing Apple's claim about weakening security.

White House spokesman Josh Earnest said the order is "simply asking for something that would have an impact on this one device."

Yet Apple and many in the tech sector fear that complying could open the door for broader requests to unlock devices and ultimately more widespread surveillance.

Magistrate Judge Sheri Pym's order is based on the 1789 All Writs Act, which lays out broad authority for the courts to help enforcement of the law.

US officials have declined to speculate how the courts may enforce the order, but Apple in theory could be held in contempt, with a number of penalties, if it fails to comply.

The case is likely to face appeals from both sides, and could end up before the US Supreme Court.

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