

Lawyer: US needs to present better data in encryption debate

21 September 2015, by Eric Tucker

The federal government needs to be clearer about the importance of accessing encrypted smartphone evidence in order to prosecute criminals, a Justice Department lawyer acknowledged Monday.

"We need to do a better job explaining how many cases are affected by this," Kiran Raj, senior counsel to the deputy attorney general, said at a Georgetown University law school panel discussion on encryption and privacy.

Federal [law enforcement officials](#) have repeatedly warned in the last year that [encryption technology](#) built into smartphones is making it harder for investigators to monitor messages from criminal suspects and to get the evidence they need while investigating child exploitation and other crimes. They want to ensure that they can access encrypted communications during investigations, with companies maintaining the key to unlock such data.

But [technology companies](#) have called those concerns overstated, saying encryption safeguards customers' privacy rights and offers protections from hackers and other breaches.

Critics also say the government has not made a compelling case that horrible crimes have occurred because law enforcement officials couldn't intercept encrypted communications. Nor have officials been able to point to a significant number of cases cracked because investigators had access to a smartphone. Some of the cases that [federal officials](#) have cited have involved evidence collected from sources other than on a phone.

"Quantitatively, I'd be the first to say that we as the government need to do a better job," Raj said. He said the fact that investigators used other means to solve a crime doesn't mean that encrypted communication was any less of a concern.

Technology companies and [law enforcement](#) have

been at odds on the encryption debate, and it's not clear where the disagreement is headed. Justice Department [officials](#) have said they aren't necessarily seeking a legislative fix and are instead hoping to work collaboratively with the companies.

Robert Litt, the general counsel for the Office of the Director of National Intelligence, expressed hope that some middle ground might be found. "The fact that there isn't a 100 percent solution doesn't mean we shouldn't try to get a solution for as much as we can," he said.

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