



NATIONAL FRATERNAL ORDER OF POLICE

PATRICK YOES NATIONAL PRESIDENT

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9 February 2022

The Honorable Lindsey O. Graham
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Richard Blumenthal
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senators Graham and Blumenthal, Mr. Chairman and Senator Grassley,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our support for S. 3538, the “Eliminating Abusive and Rampant Neglect of Interactive Technologies (EARN IT) Act.”

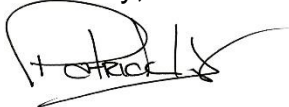
The legislation would establish a National Commission on Online Child Sexual Exploitation Prevention in an effort to combat the sexual exploitation of children on the Internet. This Commission would be composed of 19 members and must have at least two law enforcement officers with experience in investigating online child exploitation crimes. The Commission’s purpose is to create a voluntary list of best practices with respect to preventing, reducing and responding to the online exploitation of children. Once established, these best practices would be reviewed and updated every two years to ensure that they keep up with emerging technology.

After Congressional review and the official publication of these best practices, interactive computer service providers will allow companies to “earn” their liability protections under Section 230 of the Communications Decency Act with respect to violations of laws related to child sexual abuse material. Service providers will, if they choose, submit a written certification to the U.S. Attorney General that shows they are in compliance with these best practices and certifications will be made public so that consumers will know whether or not these companies provide safe services. Companies which choose not to comply with these voluntary guidelines may lose the extraordinarily broad liability protections of Section 230, which have led to lax oversight and enforcement of the rules and laws regarding the online exploitation of children.

While we support and appreciate the Committee's efforts to consult and work with law enforcement on issues like preventing, reducing, and investigating the online exploitation of children, the FOP remains very concerned about the impact of end-to-end encryption and lawful access to electronic evidence, whether "in motion" or "at rest." Previous hearings held by the Committee highlight the challenges to law enforcement investigators and the intransigence of technology companies with respect to lawful access. We hope that the Committee will continue to pursue this issue as well, knowing that the FOP stands ready to assist in any way we can.

On behalf of the more than 364,000 members of the Fraternal Order of Police, we thank you all for your leadership on this important issue. If I can be of any additional assistance, please do not hesitate to contact me or Executive Director Jim Pasco in our Washington, D.C. office.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Yoes", with a large, stylized flourish extending to the right.

Patrick Yoes
National President