CONFERENCE ON ENHANCED CO-OPERATION AND DISCLOSURE OF ELECTRONIC EVIDENCE

CO-OPERATION IN EMERGENCY SITUATIONS:
THE ROLE OF 24/7 POINTS OF CONTACT

A View From The United States of America

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First, a quick caveat
The Perspective From the United States of America

- **Statutory Framework**
  - The disclosure of stored computer data by providers is governed by the Stored Communications Act, 18 U.S.C. § 2702-2703
  - Establishes a framework for compelling production of stored data
  - This satisfies our obligations under Article 18 of Budapest Convention
• Handling of Emergency Situations

• Section 2702 Emergency Disclosure Provision

• A provider may disclose stored computer data, including contents, “to a government entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of [data] relating to the emergency”

• Definition of “government entity”
The Perspective From the United States of America

- Computer Crime and Intellectual Property Section (CCIPS)
- Serve as the U.S. Point of Contact to the Art. 35 24/7 Network
- Act to facilitate emergency disclosure requests (EDRs) on behalf of foreign governments
The Perspective From the United States of America

- Act as a trusted intermediary between foreign governments seeking assistance and U.S. providers possessing the data
- Review requests to ensure compliance with statutory standard
- Leverage existing relationships with U.S. providers
- Utilize providers’ emergency disclosure forms
- Have attorneys on call 24/7/365
• Article 9 of the Second Additional Protocol

• CCIPS would operate to receive and transmit any requests under this provision

• Would utilize the emergency disclosure provision of Section 2702, as appropriate, to advance in-coming requests

• Use of the 24/7 Network provides trust and reassurance
THANK YOU!