



CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION
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April 15, 2011

The Honorable Mark Leno
California State Senate
State Capitol, Room 5100
Sacramento, California 95814

Re: SB 914 - Support

Dear Senator Leno:

The California Newspaper Publishers Association is pleased to co-sponsor your SB 914, which will prevent the search without a warrant of the contents of an individual's cellular telephone or other portable electronic device incident to a custodial arrest.

You have introduced SB 914 in response to the Supreme Court's decision in *People v. Diaz*. Decided in January, the Diaz court held that law enforcement need not obtain a warrant or judicial oversight to search the personal data of cell phones incident to a custodial arrest. The Diaz court reasoned that warrantless searches of the informational contents of cell phones are similar to searching a pack of cigarettes or the suspect's clothing, even though the cell phones and laptops of most Americans contain intimate personal information and confidential business information.

The Diaz decision presents serious problems for newspaper publishers, editors and working journalists. California has unique protections that allow publishers, editors and working journalists to do their job and protect sensitive sources and their unpublished notes from being routinely accessed by law enforcement and litigants. This information is protected from subpoena under the California Shield Law (See, Cal. Const. Art. Sec. 2 and Evidence Code Sec. 1040) and by the absolute prohibition on the search of newsrooms contained in the Penal Code (See, Sec. 1524 (g)). These protections against forced disclosure of sensitive information are meaningless if all the contents of a journalist's cell phone (i.e., contacts, notes photographs, connections to newsroom servers, etc) can be searched following a custodial arrest.

The modern cell phone allows storage of an almost limitless amount of personal and private information. Commonly linked to the Internet, these devices are used to access personal and business information and databases that reside in computers and servers located anywhere in the world. All Californians, and especially journalists, have a reasonable expectation that, upon a custodial arrest, the information these devices contain will not be searched without a duly authorized warrant. We look forward to working with you to obtain the governor's signature approval of this important bill.

Sincerely,

Thomas W. Newton
Executive Director

cc: Ralph Alldredge, CNPA President, Publisher, *Calaveras Enterprise*
Karlene Goller, CNPA Governmental Affairs Committee Chairwoman, Vice President and Deputy General Counsel, *Los Angeles Times*
Jim Ewert, CNPA General Counsel
Mary Kennedy, Counsel, Senate Public Safety Committee