



CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION  
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February 26, 2015

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

Dear Senator Leno: *Mark*

RE: **Sponsor SB 178 (Leno)**

I am writing on behalf of the California Newspaper Publishers Association to express the Association's support and co-sponsorship with the ACLU of your SB 178.

SB 178 would prohibit a governmental entity from obtaining the contents of an electronic device, like a cell phone, without a warrant. The bill would also require a valid search warrant to access wire or electronic communication from a service provider or remote computing services. Further, the bill imposes a requirement that the government contemporaneously serve a copy of the warrant to any known subscriber, customer, or user whose information is subject to that warrant. If the subscriber's identity is not known when the warrant is issued, the government must notice any affected individual within 3 days of its execution.

The threat of law enforcement obtaining protected, personal information from third parties without a warrant presents serious problems for newspaper publishers, editors and working journalists. California has unique protections that allow publishers, editors and working journalists to maintain sensitive source information and unpublished notes without being subject to routine access by law enforcement and litigants.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 the contents of a journalist's electronic communications can be obtained from a third party without a warrant.

Off-site data management, e.g., the Cloud, is a primary means of intentionally and passively storing personal and private information for countless Californians. All users, especially journalists, have a reasonable expectation that the information stored with these

providers will not be searched without a duly authorized warrant. Law enforcement should not be allowed to circumvent the protections of California's Shield Law or the Fourth Amendment of the United States Constitution simply because current law has not kept pace with developing technology and practice.

CNPA applauds your leadership in protecting the rights of the public and journalists. We look forward to working with you to obtain the Governor's signature on SB 178.

Sincerely,



James W. Ewert  
CNPA General Counsel

cc: Roger Coover, CNPA President, Publisher *The Record*  
Julie Xanders, CNPA Governmental Affairs Committee Chairwoman, Vice President and Assistant General Counsel, *Los Angeles Times*  
Jeffrey Glasser, Vice President and Senior Counsel, *Los Angeles Times*  
Thomas W. Newton, CNPA Executive Director  
Nicole D. Moore, CNPA Staff Attorney  
Mary Kennedy, Counsel, Assembly Public Safety Committee  
Eric Csizmar, Consultant, Senate Republican Caucus