



CaliforniaCivilLiberties.org

California Civil Liberties Advocacy
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Tuesday, May 19, 2015

Assemblymember Ed Chau
P.O. Box 942849
Room 2179
Sacramento, CA 94249-0049

RE: Assembly Bill 929

Dear Assemblymember Chau,

We are writing to enlist the CCLA's **SUPPORT** for Assembly Bill 929 *in its current form*.

It appears that the primary intent of AB 929 is to immunize state law enforcement officers from federal prosecution when they utilize pen/trap devices absent a court order in "emergency" situations. Federal law requires agents to follow the reasonable suspicion standard of proof when implementing pen/trap devices. Additionally, federal law allows such warrantless uses in emergency situations only if permitted by state statute. Since there is currently no statutory provision in California for such situations, officers who implement pen/trap devices in such emergency situations are technically guilty of violating a federal misdemeanor.

It is also disconcerting that many local agencies throughout the state have failed to follow the Attorney General's advisory opinion, which recommends following the probable cause standard in joint operations with federal agents. The California Constitution extends greater privacy protections than the Fourth Amendment. By enacting state law that requires a higher standard of proof, when officers are seeking court order for pen/trap devices in such emergency situations, AB 929 will, in effect, codify the Attorney General's advisory opinion. In so doing, the language of AB 929 will ensure statewide consistency, immunity of state law enforcement officers from federal prosecution, and extend greater protections for individual privacy that comports with the California Constitution.

We recognize the fact that similar organizations have remained silent on AB 929. However, part of the CCLA's mission is to advocate *sensible laws and policies*. Thus, we feel that AB 929 properly balances the needs of law enforcement with the privacy rights of

"Indifference to personal liberty is but the precursor of the state's hostility to it."
— Justice Kennedy, U.S. Supreme Court

individuals residing in California. Moreover, AB 929 simultaneously ensures statewide consistency, which ensures the privacy *expectations* of individuals.

Based on the aforementioned reasons, the CCLA strongly **SUPPORTS** AB 929 *in its current form*. Please don't hesitate to contact us for any reason.

Respectfully,

A handwritten signature in blue ink, appearing to read "Matty Hyatt", is written over a horizontal blue line.

Matty Hyatt
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