



New York State Defenders Association, Inc.

Public Defense Backup Center

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MEMORANDUM IN SUPPORT

S.296 (Myrie) & A.84 (Quart)

Prohibits the use of reverse location and reverse keyword searches

The New York State Defenders Association (NYSDA) writes in strong support of S.296/A.84, which would prohibit the use of reverse location and reverse keyword searches.

NYSDA, through our Public Defense Backup Center and its Veterans Defense Program, provides comprehensive services to the approximately 6,000 public defenders, legal aid society lawyers, and court-appointed attorneys in over 130 county-based programs who represent people accused of crime and adults involved in family court cases who cannot afford to hire an attorney. We offer training, legal research, a statewide clearinghouse, and substantial technical and legal assistance that is critical to the effectiveness of overburdened defenders, and vital for improving racial and social justice.

Reverse location and reverse keyword warrants can result in the exposure of hundreds or thousands of people's private information to law enforcement, not because they are suspected of any wrongdoing, but merely because they were in a certain area at a particular time or because they entered certain keywords into a search engine. Such searches throw a dragnet over large swaths of unknown people merely because their digitally-generated data match the expansive and unfocused parameters of the warrant. These fishing expeditions invade privacy by exploiting the enormous data collections occurring through our ever-expanding array of digital devices.

Phones and other connected devices are omnipresent in our daily lives. And while technology has advanced exponentially, state and federal privacy laws remain largely unchanged. People should not have to choose between using new technologies and services and keeping their personal and digital lives out of the hands of police. The same constitutional protections that prevent police from rifling through our drawers without probable cause must also be given their full effect in protecting digital data that reveals who we are, where we go, who we know, and what we do. Law enforcement searches must be narrowly targeted, specific, and based on probable cause; reverse warrants are none of these.

Reverse warrants have already led to multiple alarming incidents including false arrests, and they were used at First Amendment-protected protests against police brutality, ensnaring protesters in Minneapolis, Minnesota and Kenosha, Wisconsin. They are also rapidly spreading; recent disclosures by Google show a twelvefold increase of reverse location requests from 2018 to 2020, totaling 20,932 requests.

Public defenders represent communities that are already over-surveilled, over-policed, and over-punished, where expansive and intrusive law enforcement tactics such as these will only exacerbate the abuses our clients suffer every day. Relying on multinational technology corporations to resist broad subpoenas from law enforcement offers insufficient protection, as we have already seen, and public defense clients do not have the resources to challenge the release of information by these corporations to the police. We need state legislation to address these issues.

S.296/A.84 will modernize New York's privacy laws by outlawing these types of dragnet searches. For these reasons, NYSDA urges the New York State Legislature to pass S.296/A.84.

The New York State Defenders Association strongly supports this bill.

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