

## MEMORANDUM 2024-38

### Notice of Administrative Subpoena

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At its October 2023 meeting, the Commission<sup>1</sup> decided to begin a short second-look study of issues raised during the legislative process for [Assembly Bill 522](#) (Kalra).<sup>2</sup> This memorandum provides a brief status update for that work.

Following the Commission's June 20, 2024, meeting, the staff began stakeholder outreach.<sup>3</sup> The staff has been reaching out to state and local agencies that use administrative subpoenas in their work, as well as other interested stakeholders, to better understand how administrative subpoenas are currently used. At this point, several stakeholders have provided informal input to the staff, and additional meetings are scheduled. Staff is still in the process of identifying and contacting interested stakeholders.

As indicated in [Memorandum 2023-42](#), the California Department of Justice raised two main issues during the legislative process. Specifically,

- (1) DOJ proposes that the effect of the bill be limited to targets who are natural persons. As presently drafted, it would apply to all persons, including legal entities such as corporations.
- (2) DOJ proposes that the communication service provider be required to notify the target of an administrative subpoena, rather than the agency that issued the administrative subpoena.

The staff will be discussing the practical and legal considerations around these and other issues in a future memorandum, with the goal of identifying possible refinements to the Commission's earlier recommendation.<sup>4</sup> In addition, if the staff's outreach identifies other matters in need of Commission attention, the staff will present those matters in a future memorandum.

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<sup>1</sup> Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Most materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

<sup>2</sup> [Minutes \(Oct. 2023\)](#), p. 5; see also [Memorandum 2023-42](#).

<sup>3</sup> See [Memorandum 2024-27](#).

<sup>4</sup> [State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena \(Preprint – Mar. 2022\)](#).

Respectfully submitted,

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