

SAN FRANCISCO PRESS CLUB
A Professional Journalism Organization Serving the Greater Bay
Area

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May 14, 2019

Dear District Attorney Gascon and Attorney General Becerra:

The San Francisco Press Club, an organization of reporters, editors, producers, photographers and other news media professionals, strongly objects to the San Francisco police raid of the home and office of freelance journalist Bryan Carmody on May 10.

Carmody, a freelancer who has sold stories to news outlets for many years, came into possession of a San Francisco Police Department report regarding the death of Public Defender Jeff Adachi in February. Using that report, he sold stories to three news outlets.

Police visited his home on April 11 and, according to his attorney, repeatedly asked him to identify the source who gave him the report. He respectfully declined to reveal his source, as is his right under the California Shield Law enshrined in Article I, Section 2(b) of the California Constitution and Evidence Code Section 1070.

On May 10, police used a sledgehammer to break into his home. During the search, Carmody was handcuffed for six hours without charges. While rummaging through personal documents, police discovered that he had an office at another location, and went there to continue their raid.

Police have claimed that the searches of Carmody's home and

office were done with Hobbs warrants obtained from judges. But given the Shield Law and Evidence Code Section 1070, it's hard to see how a warrant could be justified in this case.

It's also curious that police didn't consult with the District Attorney's office before obtaining these warrants, as that is a typical practice. Possibly a deputy district attorney would have objected to the warrants because of the Shield Law provisions that apply to Carmody.

If police argued in the warrants that an "exigency" exception existed in this case, it's hard to see how that would be justified. The stories citing the police report in Adachi's death aired in February and the first visit by police inspectors to Carmody's home was on April 11. An entire month elapsed between that visit and the raid. During that month, police had ample time to go to a court and apply for a subpoena, which would have allowed Carmody to appear at a hearing where the balancing test described in the Shield Law could be performed.

Instead, police bypassed the law and raided his home and office, seizing a dozen reporters' notebooks, paperwork and more than a dozen laptops and cellphones, according to his attorney.

The Press Club asks for the following:

1. A full investigation into the circumstances surrounding the raid of Carmody's home and office.
2. The unsealing of the two warrants.
3. The return of all materials taken by police in these searches.
4. An order that police not read or copy any of the materials that were seized.

5. Training for the officers involved in this search about the Shield Law and related statutes that protect the rights of journalists.

6. An end to any attempt to force Carmody to disclose his confidential source.

We realize that many in leadership positions in San Francisco are embarrassed and angry that the circumstances surrounding Adachi's death were publicly disclosed. But that doesn't justify storming a reporter's home, seizing his documents and equipment, and handcuffing him for six hours. The Shield Law exists to protect journalists from searches like the ones that occurred on May 10. As the San Francisco Chronicle put it in an editorial on May 14, "Such an assault on a journalist should be regarded as an intolerable assault on journalism itself."

Thank you in advance to your response to this letter.

Sincerely,

The Board of Directors of the San Francisco Press Club

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