

New revelations of US government spying on the press

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The FBI followed and obtained emails from Fox News chief Washington correspondent James Rosen as part of an investigation of a 2009 leak of information from the State Department, according to a report in the *Washington Post*. To seize emails and obtain information on the journalist's movements, which were part of the normal news gathering process, the Obama administration alleged that Rosen was involved in criminal activity.

The revelations concerning Rosen make clear that the spying directed against the Associated Press—first reported last week—was only part of a much broader assault on the freedom of the press. The targeting of Rosen and seizure of telephone records of AP journalists are part of a deliberate campaign to create a climate of fear and intimidation against journalistic efforts to expose government secrets and crimes.

In the case of Rosen, the alleged leak was of an intelligence document provided to the reporter by State Department security advisor Stephen Jin-Woo Kim in 2009. The report concluded from CIA sources that additional United Nations sanctions on North Korea would likely compel the regime to step up nuclear testing. The report was sent to about 100 people within the intelligence community, including Kim.

Kim faces a decade in prison though he never sought to obtain unauthorized information, sold any information, or gave it to someone that the US considers to be an enemy of the state.

In pursuing its case against Kim, the FBI targeted Rosen, using security badge access records to follow his movements to and from the State Department. The FBI tracked his telephone calls and even obtained personal emails from him by subpoena.

The *Post* article relies on court documents, including an affidavit sworn to by FBI agent Reginald Reyes. The

documents do not identify James Rosen by name, but several unnamed officials confirmed his identity.

In order to obtain the content of Rosen's emails, the Justice Department had to allege that Rosen himself was likely to have engaged in criminal activity. Reyes' sworn testimony in the affidavit made the allegation that the reporter committed a crime in receiving the information in question, "at the very least, either as an aider, abettor and/or co-conspirator." To date, Rosen faces no criminal charges.

As evidence of this supposed crime, Reyes wrote that Rosen allegedly used a "covert communications plan," citing an e-mail exchange between Rosen and Kim. This "covert communications plan" amounted to the use of aliases in email exchanges, along with certain coded messages.

According to the *Post*, the court documents show abundant evidence gathered from Kim's office computer and phone records. However, investigators insisted on seizing two days' worth of Rosen's personal emails — and all of his email exchanges with Kim.

Under US law, a journalist can be prosecuted for possession of leaked information only if he or she actively stole it or paid for it. Mere solicitation, or arrangement of receipt of leaked information, is entirely legal. That a federal judge could sign off on such a warrant based on what was in Reyes' affidavit testifies to the complicity of the judicial branch in the decay of American democracy.

Last week, the Associated Press revealed that the Justice Department had obtained a court order to seize phone records from some 20 lines registered to AP reporters and offices for a period of two months between April and June 2012. The alleged leak concerned information about a supposedly foiled Al

Qaeda plot, in which a US and UK intelligence asset was directly involved.

On Sunday, Associated Press CEO Pruitt denounced the White House's actions in the investigation, telling CBS' "Face the Nation:"

"Their rules require them to come to us first [before seeking a subpoena in a secret court] but in this case they didn't, claiming an exception, saying that if they had it would have posed a substantial threat to their investigation. But they have not explained why it would and we can't understand why it would."

Pruitt said the subpoena targeted phone lines used by approximately one hundred journalists who, over the time period of the subpoena, would have made or received thousands of newsgathering calls.

The subpoenas and the investigation have already had a "chilling" effect on the constitutionally guaranteed rights to free speech and the freedom of the press. Pruitt said that the AP has already encountered a situation where "officials that would normally talk to us, and people we talk to in the normal course of newsgathering, are already saying they're a little reluctant to talk to us; they fear that they will be monitored by the government."

The revelation of the spying on Rosen makes clear that the Obama administration's attack on press freedom goes far beyond the AP spying scandal. The administration has refused to answer questions about how many other journalists it has targeted.

The same supposed crime raised in relation to Wikileaks and Julian Assange—that mere receipt of classified government information constitutes criminal activity—is now being used against a journalist from a corporate news outlet. There is not a single reporter on governmental affairs who can say with any confidence that his or her activities, phone calls, emails, meetings and movements have not, or are not currently being, monitored by the FBI.



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