

US Department of Justice forces journalist Risen to testify in leak case

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A subpoena was issued by US District Judge Leonie M. Brinkema on Tuesday requiring *New York Times* journalist James Risen to appear at a moot hearing on January 5. At this preliminary hearing he will face questioning from prosecution and defense attorneys to ascertain whether or not he will comply with a subpoena issued by the US Department of Justice (DOJ).

Risen is being compelled to testify in the trial of former CIA officer Jeffrey Sterling who is facing multiple charges under the Espionage Act. In seeking to prove that Sterling was Risen's confidential source prosecutors have already obtained the journalist's credit card statements, FedEx records, and a Western Union transaction with one of his children.

Federal prosecutors are seeking to prove that Sterling is the source for classified information about Operation Merlin, a botched CIA operation under the administration of President Bill Clinton. In his 2006 book *State of War*, Risen revealed details about the covert operation which provided faulty designs to the Iranians in an attempt to derail their nuclear program. However, the designs may have instead aided them.

Attorney General Eric Holder, who once again approved the subpoena last week, decided that Risen would not be compelled to reveal the name his confidential source. The DOJ is still seeking to force Risen to divulge details about of his relationship with his confidential source and also if he had a prior "non-confidential reporter-source relationship" with Sterling.

Risen's attorney stated at Tuesday's hearing that he was uncertain that his client would commit to answering the specific series of questions outlined by federal prosecutors. Risen has previously insisted that he would never under any circumstances identify his source, even if it meant being jailed.

Risen, first subpoenaed in relation to Sterling's case by the DOJ under the Bush administration in 2008, refused to testify and the subpoena subsequently expired in the summer of 2009. The Obama DOJ, under the direction of Holder, took the extraordinary action of renewing the subpoena seeking to force Risen's testimony about his confidential source.

Risen challenged the renewed order and sought to have the subpoena quashed as a violation of the established right of journalists to protect their sources. The Fourth Circuit Court of Appeals ruled 2-1 in July 2013 that Risen could be compelled to testify in Sterling's case.

"There is no First Amendment testimonial privilege, absolute or qualified, that protects a reporter from being compelled to testify by the prosecution or the defense in criminal proceedings about criminal conduct," the appeals court stated.

In June the Supreme Court refused to hear Risen's appeal of the circuit court's decision, giving its effective stamp of approval to the subpoena.

The Obama administration's determination to force Risen to testify in the Sterling case is part and parcel of its attack on democratic rights and campaign to punish anyone that exposes the criminality of the American government.

Under Obama, seven whistleblowers and leakers have been charged under the Espionage Act for passing officially classified information to the media. More people have faced Espionage Act charges under Obama than all previous presidents combined. Among those charged are:

* Former NSA analyst Edward Snowden, who revealed details about the American governments sprawling global electronic spying operation. He has been charged with theft of government property and

two counts of violating the Espionage Act. Snowden is currently living in de facto exile in Russia where he has been granted temporary asylum.

* Private Chelsea (Bradley) Manning, who passed evidence of war crimes committed by the American military in Iraq and Afghanistan, as well as a trove of US diplomatic cables to the online journalistic organization WikiLeaks. Among other things Manning was charged with violating the Espionage Act, stealing government property, and aiding the enemy. Manning was convicted in July 2013 and is serving a 35-year sentence at the US military's maximum security facility at Fort Leavenworth, Kansas.

* Former CIA analyst John Kiriakou, the first person to publicly discuss the CIA's use of waterboarding against detainees. He was charged with one count of violating the Intelligence Identities Protection Act, three counts of violating the Espionage Act, and making false statements to the CIA's Publications Review Board. Kiriakou pled guilty to one charge of passing classified information to the media, sparing any journalists from being compelled to testify in the course of his trial. He is serving a 30-month term in federal prison and is due to be released in early 2015.

* Former NSA senior executive Thomas Drake who went public with concerns about a classified program known as Trailblazer, the experimental program aimed at sweeping up information about Internet and cell phone communications, which he believed to be ineffective and wasteful. Drake was charged in 2010 with five counts of violating the Espionage Act, as well as one count of obstructing justice. He pled guilty to one count of unauthorized use of a computer in 2011 and was sentenced to one year probation.

In the course of these leak investigations the Obama Justice Department has put immense pressure on journalists who have published classified information.

It was revealed last year that the DOJ had subpoenaed the telephone records of 20 AP journalists and tracked phone calls placed over at least 20 AP phone lines over the course of a two month period in 2012 in relation to an unspecified leak investigation. The *Washington Post* reported in May 2013 that the DOJ had tracked the activities of Fox News journalist James Rosen in the course of a leak investigation in 2009. They reportedly tracked his phone calls, emails, and visits to the State Department. Rosen was labeled as a criminal co-

conspirator as well as a flight risk on the warrant which authorized his surveillance.

Julian Assange, the editor and publisher of WikiLeaks, who has not been charged with any crime, has been confined to the Ecuadorian embassy in London since 2012. He was granted political asylum after facing extradition to Sweden on trumped up allegations of sexual assault. Criminal investigations by the US government into Assange's activities are ongoing.



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