

US Justice Department seizes *New York Times* reporter's records in leak investigation

Alec Andersen**12 June 2018**

The Trump administration has faced widespread condemnation after it was revealed last week that the Department of Justice (DOJ) seized telephone and electronic communications records belonging to a *New York Times* journalist during an investigation into suspected leaks of classified information emanating from the Senate Intelligence Committee.

In a January letter, the Justice Department informed Ali Watkins that federal prosecutors had seized all of her phone and email records dating back to 2013, when she began her journalistic career as an intern for McClatchy Newspapers in Washington, D.C. while finishing her undergraduate degree at Temple University.

Two years later, she was a finalist for a Pulitzer Prize as part of a team of McClatchy reporters who exposed Central Intelligence Agency (CIA) spying on the Senate Intelligence Committee during the Committee's investigation into the CIA torture program initiated under the George W. Bush administration's criminal "War on Terror."

Watkins has since worked at various times for The Huffington Post, BuzzFeed, and Politico before joining the *New York Times* in December of last year, focusing primarily on national security, including coverage of the Senate Intelligence Committee.

The seizure of Watkins's private communications was not made public until Thursday, when news broke that former high-ranking Senate Intelligence Committee aide James A. Wolfe would be arraigned the next day on charges of lying to Federal Bureau of Investigation (FBI) agents. In court filings, federal prosecutors allege that Wolfe leaked classified information to Watkins and three other unnamed journalists.

Both Wolfe and Watkins have denied that he supplied

her with any non-public information, and Wolfe has not been charged with disclosing any classified materials during his decades-long tenure as head of security for the Committee.

Rather, Wolfe's charges stem from a 2017 interview with FBI investigators during which he is alleged to have denied being in regular contact with any members of the news media. When presented with pictures of himself and Watkins, prosecutors say he admitted to having a three-year-long romantic relationship with the reporter.

The allegations against Wolfe center around an article Watkins wrote for BuzzFeed in which she cited confidential sources as saying that the Federal Bureau of Investigation (FBI) had provided the Senate Intelligence Committee evidence that Russian intelligence agents had tried to recruit former Trump campaign advisor Carter Page. The article includes an acknowledgement by Page that he had met with the ostensible Russian agents and broke off contact when the FBI informed him that his contacts were the subject of a counterintelligence investigation.

In its January letter to Watkins, the Justice Department stated that the records seized did not include the content of messages or phone calls but was limited to contact information and the timing of her correspondence. However, charging documents against Wolfe included the content of messages he exchanged with Watkins using the messaging application Signal, which employs end-to-end encryption designed to prevent anyone other than the sender and recipient from reading a message.

That means that prosecutors could only have obtained that information with access to one of the devices used or with "backdoor" software allowing the government to decrypt messages, a capability that the officials have

long desired but has not been acknowledged publicly.

Even if the content of Watkins's communications were not obtained, as the DOJ claims, the contact information included in the records will allow federal officials to identify confidential sources, producing a chilling effect on future disclosures by whistleblowers to reporters.

Given Watkins's focus on national security and her role in exposing illegal CIA spying on Congress, it is clear that the DOJ hopes to make an example of her to other journalists who many seek to expose government criminality.

The seizure of years' worth of communications records for a journalist without consent or even prior notice represents a qualitative escalation of the attack on press freedom and other constitutionally-protected democratic rights which was ramped up under President Barack Obama, who prosecuted more whistleblowers and journalists than all previous presidents combined.

In order to quell widespread anger in the wake of revelations regarding the Obama Justice Department's secret acquisition of communications records for a Fox News journalist and similar abuses, Attorney General Eric Holder issued new guidelines in 2015 outlining the circumstances under which journalist records may be seized and the procedure for doing so.

Under these rules—which officially remain in place—a journalist's records may only be obtained when there is no other means of obtaining the information, and the journalist must be notified in advance so that they have an opportunity to mount a legal challenge or negotiate the scope of the records.

However, records could be seized without notice if the DOJ determined that such notice would jeopardize an ongoing investigation, threaten national security, or pose an imminent danger of bodily harm or death, loopholes so broad as to render the Holder guidelines all but meaningless. The DOJ has offered no explanation as to how its actions in this case met these conditions.

In a statement, Alexandra Ellerbeck of the Committee to Protect Journalists pointed to the anti-democratic precedent being set by the Trump DOJ in taking Watkins's records, writing: "We believe that the government's seizure of Ali Watkins's data sets a dangerous precedent. We fear it could be an opening

salvo in an ongoing battle over reporters' ability to protect their sources."

The seizure of Watkins's records is in line with the campaign by the ruling class worldwide to censor dissent and restrict democratic rights to suppress mounting dissent over war and deepening social inequality.



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