

Justice Department under Trump and Biden tried to seize email data of New York Times reporters

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The US Department of Justice (DoJ) under both the Trump and Biden administrations secretly sought to seize the email records of four *New York Times* reporters in a hunt for their sources, a top lawyer for the newspaper said on Friday.

According to the lawyer, David McCraw, the DoJ tried to obtain the email logs directly from Google, which operates the *Times*' email system, in the final weeks of the Trump presidency and continued doing so for an unspecified time period after Biden took office in January.

Significantly, the Trump White House concealed its attempt to find the source of leaks to the *Times*, while the Biden administration told executives at the newspaper about what it was doing and also imposed a gag order on March 3, blocking the information from being released to the public or to the executive editor or other journalists. McCraw said that he was free to discuss the matter because a federal court had lifted the gag order.

McCraw said that there was no precedent for the government to impose a gag order on *Times* personnel as part of an inquiry. He also said that the seizure of the phone records of the four *Times* journalists, which had been reported two days earlier, without advance notice was also unprecedented.

The Biden administration informed the *Times* that in 2020 law enforcement had successfully seized the phone records of the four reporters—Matt Apuzzo, Adam Goldman, Eric Lichtblau and Michael S. Schmidt—from January 14 to April 30, 2017. This disclosure followed similar recent notifications about the seizure of communications records of reporters at the *Washington Post* and CNN.

According to the *Times* report, the DoJ had a court order to seize the email logs," but was "ultimately unsuccessful" and that Google "had resisted the effort to obtain the information." The article reported that while the Silicon Valley tech monopoly said it does not comment on specific cases, Google is "firmly committed to protecting our customers' data and we have a long history of pushing to notify our customers about any legal requests."

Although the specific subject matter of Trump's leak investigation has not been revealed, the issues can be surmised based on the names of the individual *Times* reporters and on the date range of the email logs being sought. The DoJ inquiry was most likely focused on a *Times* story from April 2017 about the way then-FBI director James Comey handled "politically charged" investigations during the 2016 election, most notably the DoJ investigation into the use of a private email server by Democratic Party presidential candidate Hillary Clinton.

Trump fired Comey and considered him an enemy and was seeking to find evidence sufficient to charge him with illegally disclosing classified information. The *Times* report says that in the transition from Trump to Biden "the FBI and the career prosecutors working on the case wanted to keep the investigation open."

The report goes on to explain that in January prosecutors obtained a special sealed court order requiring Google to turn over the email logs. In court filings, the DoJ and the judge agreed that secrecy was justified in this instance because, as the judge wrote on January 5, "there is reason to believe that notification of the existence of this order will seriously jeopardize the ongoing investigation, including by giving targets

an opportunity to destroy or tamper with evidence.”

In a statement responding to the unprecedented attack on the first amendment, *New York Times* Executive Editor Dean Baquet went through the motions by saying, “Clearly, Google did the right thing, but it should never have come to this. The Justice Department relentlessly pursued the identity of sources for coverage that was clearly in the public interest in the final fifteen days of the Trump administration. And the Biden administration continued to pursue it. As I said before, it profoundly undermines press freedom.”

In an effort to contain the spiraling crisis, Biden’s Press Secretary Jen Psaki issued on Saturday a two-sentence release claiming that “no one at the White House was aware of the gag order until Friday night” because of the “independence of the Justice Department in specific criminal cases.” It went on to state that “issuing of subpoenas for the records of reporters in leak investigations is not consistent with the President’s policy direction,” and the department has “reconfirmed that it will not be used moving forward.”

No such promises from the Biden White House can be taken seriously. The characterization in court documents of journalists as “targets” who might “destroy evidence” as though they were criminals—while they were doing their job of reporting information to the public and, at the same time, protecting their sources—is an indication of how far the state apparatus has already gone in shredding the Bill of Rights.

Who are the DoJ “career prosecutors” who are responsible for advancing the legal arguments in the “special sealed court order” that demanded the seizure of the protected communications of journalists? In addition to the fact that the Biden administration and congressional Democrats are purposely covering up the role of the fascistic right wing in the January 6 assault on the US Capitol, it is well known that during the Obama administration, for which Biden served as Vice President, the DoJ attempted to seize journalists’ electronic communications in several leak investigations.

Whatever the promises and protests of the Democrats or their media representatives at the *New York Times* and *Washington Post*, the entire American ruling establishment has made clear its attitude toward First

Amendment rights in the case of WikiLeaks founder and editor Julian Assange. The courageous journalist remains behind bars in London and continues to face proceedings for extradition to the US on charges of violating the Espionage Act of 1917 for the “crime” of telling the people of the world the truth about imperialist wars and other crimes of the capitalist system internationally.



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