

Freedom of the Press: Obama Justice Department Secretly seized Associated Press Telephone Records

By [Barry Grey](#)

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In a brazen and illegal attack on press freedom, the Obama Justice Department secretly subpoenaed the telephone records of Associated Press editors and journalists and tracked ingoing and outgoing calls on at least 20 telephone lines, including the national headquarters of the press agency and its news bureaus in New York, Hartford and Washington DC. Among the lines tracked was the telephone used by AP reporters working out of the House of Representatives press gallery in the Capitol.

The Associated Press was given no advance notice of the government dragnet, which reportedly began in April of 2012 and continued through May of that year. Such a massive operation over a two-month period would generate records of many thousands of telephone calls, providing the government with legally privileged information about AP journalists' sources and methods. More than 100 journalists work in the offices where phone records were seized.

The lines that were tracked included the home and cell phones of at least one editor and an unknown number of reporters. While the Justice Department has not provided any reason for the spying operation, it is widely assumed, and so asserted by AP, that it was carried out in connection with a federal investigation into an alleged leak of "classified" information by the press agency in a May 7, 2012 article concerning a CIA covert operation in Yemen.

The article reported details of CIA efforts in Yemen to break up an alleged plot to blow up an airliner heading for the United States around the time of the one-year anniversary of the May 2, 2011 assassination of Osama bin Laden. The AP acknowledges that it had agreed to delay reporting the story at the urging of Obama administration officials.

Following the publication of the story, John Brennan, at that time President Obama's chief counterterrorism adviser and currently director of the CIA, denounced it as an "irresponsible and damaging leak of classified information." In June of 2012, Attorney General Eric Holder ordered federal leak investigations into the AP story as well as a *New York Times* report about the Stuxnet computer worm, which was developed jointly by the US and Israel to attack nuclear centrifuges at Iran's main uranium enrichment facility.

The *New York Times* reported Tuesday that it had asked the Justice Department whether its telephone records had been seized in connection with the Stuxnet article probe, but had not received a reply.

The Associated Press became aware of the spying operation against it only last Friday, when it was informed in a letter from the Justice Department. The AP reported Monday that included among those whose phones were tracked were five reporters and an editor who

were involved in the May 7, 2012 story. The two lead reporters on the story, Matt Apuzzo and Adam Goldman, were members of a team of journalists who won a Pulitzer Prize last year for reporting on the New York Police Department's covert surveillance of Muslim Americans.

In a letter to Holder sent on Monday, Associated Press CEO Gary Pruitt said: "I am writing to object in the strongest possible terms to a massive and unprecedented intrusion by the Department of Justice into the newsgathering activities of The Associated Press."

Demanding the return of the phone records and destruction of all copies, Pruitt continued: "There can be no possible justification for such an overboard collection of the telephone communications of The Associated Press and its reporters. These records potentially reveal communications with confidential sources across all of the newsgathering activities undertaken by the AP during a two-month period, provide a road map to AP's newsgathering operations and disclose information about AP's activities and operations that the government has no conceivable right to know."

Arnie Robbins, executive director of the American Society of News Editors, said, "On the face of it, this is really a disturbing affront to a free press. It's also troubling because it is consistent with perhaps the most aggressive administration ever against reporters doing their jobs—providing information that citizens need to know about our government."

Floyd Abrams, a First Amendment lawyer who defended the *New York Times* against the Nixon administration in the "Pentagon Papers" case, said: "The norm... was for the government to ask the press organization for information and to pursue them in court when they didn't receive it. The notion of avoiding any First Amendment resolution by the courts by going right to the telephone company with no notice to the press organization is outrageous."

At a Tuesday afternoon press conference, Holder sought to distance himself personally from the seizure of AP phone records, announcing that he had recused himself from the investigation and any decision to subpoena the records would have been made by Deputy Attorney General James Cole. At the same time, he defended the actions of the Justice Department and the US attorney in Washington DC, who is heading up the investigation. He said the AP article involved a "very serious leak" that "put the American people at risk," requiring "very aggressive action" by the government.

He dodged a question as to whether other news organizations had been similarly targeted, saying that question should be addressed to the deputy attorney general.

At a Tuesday press briefing, White House Press Secretary Jay Carney claimed that Obama had no knowledge of the seizure of AP telephone records. He repeatedly deflected reporters' questions by saying the White House could not comment on an ongoing investigation. At the same time, he spoke of the need to prosecute "illegal activity" and "balance" press freedom against the interests of "national security."

Also on Tuesday, Cole sent a reply to AP CEO Pruitt's letter, brushing off Pruitt's protests and defending the government's actions. Cole said the subpoenas were "limited in both time and scope," and concluded that the Justice Department had struck "the proper balance" between the public's right to know and "national security."

In fact, the revelation of massive spying against a leading press agency is consistent with the deeply anti-democratic practices of the Obama administration. Obama has relentlessly pursued alleged leakers and whistleblowers in an attempt to suppress exposures of government secrets and crimes. His administration has brought six cases against people accused of publicizing classified information, twice as many as all previous administrations combined.

Just last January, the Obama Justice Department obtained a 30-month prison sentence for former CIA agent John Kiriakou, whom it prosecuted for giving television interviews in 2007 in which he acknowledged that the CIA was engaged in the torture of alleged terrorists. Obama's policy is to jail those who expose abuse and torture of prisoners while refusing to prosecute the authors of the torture policy or those who carry it out.

The administration has conducted a vendetta against WikiLeaks and its founder Julian Assange in retaliation for their exposures of US war crimes in Iraq, Afghanistan and other countries and Washington's reactionary intrigues around the world. It is prosecuting Private Bradley Manning, after holding him in solitary confinement for years, for handing over material to WikiLeaks exposing the murderous activities of the US military internationally.

The scandal over spying against the press, moreover, coincides with the revelation that the International Revenue Service (IRS) targeted groups politically at odds with the administration that sought to obtain tax-free status as "social welfare" organizations. While it appears that the bulk of the groups initially selected for more intrusive investigation—including demands for lists of donors and political contacts—were associated with the Tea Party and the Republican right, guidelines drawn up by the IRS in 2012 called for tagging all organizations that were critical of government policies.

The attack on press freedom in the case of the Associated Press is part of a far broader assault on democratic rights and the preparation of dictatorial forms of rule. (See: "[The criminalization of political dissent in America](#)"). In the wake of the Boston Marathon bombing, which saw the military-police occupation of a major American city, Tim Clemente, a former FBI counterterrorism agent, told CNN that "all digital communications in the past" are recorded and stored by the government, including telephone calls, emails, online chats and other forms of communication.

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