

# Google, Gag Orders and the WikiLeaks Investigation

By [Dr. Binoy Kampmark](#)

Global Research, January 31, 2015

Region: [USA](#)

Theme: [Police State & Civil Rights](#)

*Google's gargantuan presence on the Internet, be it in terms of search engines, archived data and the use of email, has become a problem. Given that it traffics in information of virtually every shade and colour, it was bound to be on the attractive hit list for law enforcement authorities. Those who use its services had to be aware that, at some point, their subscriber information would become attractive.*

Google took almost over two and a half years to disclose that it has handed emails and various forms of digital data belonging to three WikiLeaks staffers to the US government. On December 23, 2014, investigations editor Sarah Harrison, section editor Joseph Farrell, and spokesperson Kristinn Hrafnsson were told by the company that contents from their subscriber accounts had been handed over to US authorities. The letter to Google, authored by Michael Ratner, counsel from the Center for Constitutional Rights representing WikiLeaks, expresses astonishment and a degree of disturbance at the fact.[1]

The warrants, outlined in the letter of January 26, are said to have covered espionage, conspiracy to commit espionage, the theft or conversion of property belonging to the United States government, violation of the Computer Fraud and Abuse Act and conspiracy.

The extent of the disclosure required was staggering, "including stored or preserved copies of emails sent to and from the account; draft emails and deleted emails; all records or other information related to the identity of the account (associated phone numbers, IP addresses, types of services utilized, account status, log files, any credit or bank account numbers associated); all records or other information stored at any time using the account; any communications the person had with Google." [2]

Julian Assange's suspicions that Google might well have been in the FBI bed were triggered after it was revealed that orders had been made requiring Twitter to disclose material connected with WikiLeaks affiliates. The contents of the April 19, 2011 conversation held between Assange and Google's Eric Schmidt are disclosed in the letter.

In Assange's words, WikiLeaks was "fighting this case now, with Twitter, we've done three court hearings now, trying to get the names of the other companies that fulfilled the subpoenas for the grand jury in the US. Twitter resisted and so that's how some of us became aware. They argued that we should be told that there was a subpoena." Schmidt's response: "I can certainly pass on your specific request to our general counsel." The Google chief was left in no doubt that "Google argue legally that WikiLeaks as an organization should be informed... Ok, I'll pass that along."

Unlike Twitter, which challenged the US government over notification protocols to its subscribers in the event orders were made on the company, Google remained tardy. The technology beast was not for turning. In the words of Ratner's letter, "We are surprised that

Google appears to have failed to act upon this request, causing notice to our clients to be delayed more than two and a half years.” Lists on materials provided to law enforcement, or any pending legal proceedings, were not submitted.

The Twitter episode crystallised an approach that seems to have infected Google. In December 2010, Twitter received a court order for subscriber information covering five WikiLeaks staff members and supporters. The US Justice Department was sought out and pressed on the issue: those individuals concerned would be informed that their data was the subject of interest. Prosecutors in the Eastern District of Virginia did not, at that point, seek a gag order on Twitter. Disclosures were subsequently made to the supporters and staff.

It transpired that assistant US Attorney, Tracy Doherty-McCormick, turned up in the material that was subsequently published. The lid on the prosecutors had been lifted, ensuing a degree of fury and alarm. The US Attorney’s office duly hit the roof with the ensuing publicity. According to attorney Albert Gidari, who has represented both Twitter and Google at various stages, they even “went through” it.[3] A precedent had thus been set: the desire to seek gag orders over warrants disclosing material connected with WikiLeaks and coming through the conduit with Google, was born.

Gidari, as is to be expected, treads softly regarding his client. Google, he claimed, has repeatedly contested the gag order on the WikiLeaks warrants. “From January 2011 to the present, Google has continued to fight to lift the gag orders on any legal process it has received on WikiLeaks.” Their response to WikiLeaks says nothing of the sort.

The nature of these warrants has been deemed by Alexander Abdo, privacy expert at the American Civil Liberties Union, to be “shockingly broad”.[4] “This is basically ‘Hand over anything you’ve got on this person.’” The pressing point here, however, is how the conduct of WikiLeaks, in this case, hardly seems different from “what major newspapers do every single day in speaking to government officials and publishing still-secret information.” Editors and journalists beware – and very wary.

The gag order itself is also problematic, an aberration that stalks the First Amendment with its threatening fetters. The ACLU has argued that such orders must “be narrowly tailored to serve a compelling government interest.”[5] But authorities keen on getting the loot can’t help themselves, and tend to fall into generalising any associated risks.

There is the other, broader picture at stake here. Even as Schmidt attempts to remove the contents of any egg that has found its way onto his face, the Google revelations simply point to the continued interest in WikiLeaks by US authorities. The Eastern District of Virginia continues to busy itself with the publishing outfit. Around a dozen outstanding search warrants and court orders remain under seal, a situation attorney Ahmed Ghappour, who acts for journalist Alexa O’Brien, is attempting to redress.

Google has refused to disclose the details of its conduct towards the three WikiLeaks staff members, suggesting rather darkly that it does protect “all our users”. But the gag orders present a classic bind. Google won’t reveal to its subscribers that it will, in fact, hand their data to the authorities, even if it assures them legal action will be taken on their behalf to prevent that. In failing to do so, their own escape route is that there was a gag order to begin with. This suggests an incentive to get parsimonious when using the technology giant’s services.

*Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. Email: [bkampmark@gmail.com](mailto:bkampmark@gmail.com)*

## Notes

- [1] <https://www.documentcloud.org/documents/1508759-wikileaks-letter-to-google.html>
- [2] <https://wikileaks.org/google-warrant/>
- [3] [http://www.washingtonpost.com/world/national-security/google-says-it-fought-gag--orders-in-wikileaks-investigation/2015/01/28/e62bfd04-a5c9-11e4-a06b-9df2002b86a0\\_story.html](http://www.washingtonpost.com/world/national-security/google-says-it-fought-gag--orders-in-wikileaks-investigation/2015/01/28/e62bfd04-a5c9-11e4-a06b-9df2002b86a0_story.html)
- [4] <http://www.theguardian.com/technology/2015/jan/25/wikileaks-google-staff-emails-us-governmen>
- [5] <http://dissenter.firedoglake.com/2015/01/29/justice-department-confirms-wikileaks--investigation-continues-as-google-claims-it-fought-gag-orders/>

The original source of this article is Global Research  
Copyright © [Dr. Binoy Kampmark](#), Global Research, 2015

---

**[Comment on Global Research Articles on our Facebook page](#)**

**[Become a Member of Global Research](#)**

Articles by: [Dr. Binoy  
Kampmark](#)

**Disclaimer:** The contents of this article are of sole responsibility of the author(s). The Centre for Research on Globalization will not be responsible for any inaccurate or incorrect statement in this article. The Centre of Research on Globalization grants permission to cross-post Global Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Global Research article. For publication of Global Research articles in print or other forms including commercial internet sites, contact: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)

[www.globalresearch.ca](http://www.globalresearch.ca) contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)