

Reporting on Blackwater Operations in Iraq: Journalist James Risen Must Be Shielded from Department Of Justice Prosecution

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James Risen of The New York Times, using recently disclosed State Department documents, has [written](#) a bombshell-of-a-story chronicling how Blackwater's top manager threatened to kill the U.S. government's chief investigator in 2007, thus thwarting an investigation into Blackwater's operations just weeks before the company's guards [massacred](#) 17 Iraqi civilians.

The story is characteristic Risen: unflinchingly and thoroughly reported. However, Risen may not be able to write such stories in a matter of months. Instead, he may be [sitting in a jail cell](#) as a result of a case being prosecuted against him by the Obama administration.

The case against Risen began in 2008. This is when his book, [State of War](#), was published, which contained information on a secret, botched CIA operation in Iran. The Bush administration, furious at the revelations, subpoenaed Risen and demanded that he reveal his confidential source. Risen has steadfastly refused, and if the Obama administration proceeds this summer to prosecute Risen, the NYT journalist may soon be behind bars.

[Here's Jonathan Mahler](#) of the *Times* on the Risen case:

After more than six years of legal wrangling, the case – the most serious confrontation between the government and the press in recent history – will reach a head in the coming weeks. Mr. Risen has steadfastly refused to testify. But he is now out of challenges. Early this month, [the Supreme Court declined to review his case](#), a decision that allows prosecutors to compel his testimony. If Mr. Risen resists, he could go to prison.

Though the court's decision looked like a major victory for the government, it has forced the Obama administration to confront a hard choice. Should it demand Mr. Risen's testimony and be responsible for a reporter's being sent to jail? Or reverse course and stand down, losing credibility with an intelligence community that has pushed for the aggressive prosecution of leaks?

The dilemma comes at a critical moment for an administration that has struggled to find a balance between aggressively enforcing laws against leaking and demonstrating concern for civil liberties and government transparency. Whatever the Justice Department chooses to do will send a powerful message about how far it is willing to go to protect classified information in the digital age. And journalists and press freedom activists are watching closely for the precedent the decision will most likely set.

The DOJ's case, inherited from the Bush administration and pursued with equal determination, is a monumental one for both Risen and for press freedoms in our country. At a time in which whistleblowers are being prosecuted at record rates, Risen represents a metaphorical watershed: will such prosecutions spill over onto the journalistic landscape, or will the DOJ decide not to prosecute journalists for simply doing their jobs?

Eric Holder hinted recently that the DOJ might not prosecute Risen, [expressing](#) before a group of reporters exactly this sentiment, saying, "As long as I'm attorney general, no reporter who is doing his job is going to go to jail."

However, the DOJ's case is continuing, which makes one wonder if journalists who use anonymous sources who reveal confidential information – considered law-breaking whistleblowers by the Obama administration – will be treated as whistleblowers themselves.

Risen [stated](#) recently that he has two choices, "Give up everything I believe in – or go to jail."

David Pozen, a Columbia University law professor who specializes in leak cases, believes that what the Obama administration decides to do with Risen will establish how such cases will be handled in the future, [stating](#), "If they let Risen go, it would suggest that however else they try to bring these criminal-leak cases going forward, journalists will largely be shielded."

However, with the Wikileaks and Snowden cases in the background, there's reason to believe that the Obama administration would be wary to set such a precedent, particularly with Wikileaks functioning as a journalistic outlet.

Holder has hinted that the Obama administration won't keep journalists from doing their jobs. In order for his words to be true, in order for U.S. journalists to enjoy those press freedoms necessary for the press to truly form a Fourth Estate, the Obama administration must end its prosecution of Risen.

For if Risen is not shielded, the result will likely be the prosecution of more journalists, and the silencing of many who make it their job to report precisely on those things those in power wish to remain secret.

In many ways, the functioning of our democracy in an ideal sense, in which an informed electorate can make choices based upon the actions of those in power, hangs in the balance.

David Harris-Gershon is author of the memoir [What Do You Buy the Children of the Terrorist Who Tried to Kill Your Wife?](#), published recently by Oneworld Publications.

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