

Spying on the Media and the US Congress: The AP Seizures and the Frightening Web They've Uncovered

What We Know is Bad; What's Behind It is Worse!

By [Global Research News](#)

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[This Can't Be Happening](#)

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"Paranoia," said Woody Allen, "is knowing all the facts." By that measure, we're becoming more and more "paranoid" every day.

This week, we learned that the Obama Justice Department [seized two months of records](#) [1] of at least 20 phone lines used by Associated Press reporters. These include phone lines in the AP's New York, Washington and Hartford, Conn offices as well as the main AP number in the House of Representatives press gallery, the private phones and cell phones belonging to AP reporters and a fax line in one AP office.

The government effected this massive seizure "sometime this year" according to a letter from the Justice Department to AP's chief counsel this past Friday (May 10).

The letter cites relevant "permission" clauses in its "investigative guidelines" and makes clear that it considers the action legal and necessary.



Locking Horns: AP's Gary Pruitt and Attorney General Eric Holder

In many ways, this is the most blatant act of media information seizure in memory. It affects over 100 AP journalists and the countless people those journalists communicated with by phone during those two months. It violates accepted constitutional guarantees, the concept of freedom of the press and the privacy rights of literally thousands of people. Predictably and justifiably, press, politicians and activists have expressed outrage.

But as outrageous as the admitted facts are, the story's larger implications are even more disturbing. It's bad enough that the Obama Administration has grossly violated fundamental constitutional rights, acknowledged the violation and defended their legality. Even worse is that likelihood that the intrusion will probably be ruled legal, that it has been ongoing against other targets for some time and that this is only the tip of the intelligence-abuse iceberg.

The facts are still tumbling out daily but here's what we know. While the Justice Department's letter of notice to AP didn't provide the reason for the seizure, the date of the seizure or the dates of the data seized, the timing hints strongly that this is tied to a major investigation of "whistle-blowing". Last year, the AP used unnamed sources in a story about a Central Intelligence Agency effort to disrupt a Yemen-based terrorist plot to bomb an airliner. The AP, at the government's request, held that story for several days but published it on May 7, 2012 after it was confident the plot had been foiled. Because the AP's story ran a day before Federal officials were scheduled to announce their "victory", it's logical to assume Associated Press honchos knew the government would be unhappy.

So they were probably not surprised that, led by the U.S. Attorney Ronald Machen, federal investigators spent a year aggressively searching for the people who leaked the information. That's vintage Obama. With six government "whistle-blowers" in jail or being prosecuted, federal law-enforcers have [prosecuted twice as many whistle-blowers](#) [2] as all previous Administrations combined over the course of two and a quarter centuries. But until now, the media-savvy Obama people have been careful to restrain their pursuit of the corporate press, limiting confrontations to an occasional request or demand for one source revelation.

That's why these revelations are so shocking to media professionals and advocates. As AP's CEO Gary Pruitt told Attorney General Eric Holder [in his letter of complaint this week](#) [3], "These records potentially reveal communications with confidential sources across all of the newsgathering activities undertaken by the AP during a two-months period, provide a road map to AP's news gathering operations and disclose information about AP's activities and operations that the government has no conceivable right to know."

There, in a nutshell, is the problem. For the corporate media, there is still such a concept as "no conceivable right to know". Up to now, part of Obama's information policy has been that mainstream media qualifies for First Amendment protection but "alternative" journalists and the news organizations they work for, as well as bloggers, activists, writers and others who work independently of major news organizations and who use the Internet as the free vehicle of communications it was invented to be have absolutely no protections. Since 2009, this government is known to have taken action against Internet activists and truth-tellers: seizing servers, email records and virtually all forms of on-line communications and then prosecuting people in over a dozen cases based on some of those seizures. There's been very little action taken against the corporate press, which for its part has largely ignored or blacked out any reporting on the government attacks on its smaller media competitors.

This "favored status" commercial media has enjoyed has now been trashed. The "protected press" is as exposed as the rest of us. In answering Pruitt's letter, the Justice Department said as much. "We must notify the media organization in advance unless doing so would pose a substantial threat to the integrity of the investigation," U.S. Attorney's Machen spokesman William Miller explained, in a remark that went way beyond the traditional exemption for protecting lives. He added, "...we are always careful and deliberative in seeking to strike the right balance between the public interest in the free flow of information and the public interest in the fair and effective administration of our criminal laws."

In fact, there was no urgency involved in the government's assault on AP's news operation — the incident in question was over — and seizure of this kind of information has traditionally been allowed only if a court-ordered subpoena is issued, after the targeted media parties have had a chance to challenge the government intrusion in court. The courts, after all, constitute one of the protections of privacy and free speech we citizens have. Under our Constitution, the courts, not the government, are supposed to decide what is "the right balance," as Miller put it.

Most of us lost those protections with the Patriot Act and the [Justice Department's updated guidelines](#) [4] which allow the government to engage in secret seizure if its investigators believe there is a real "security threat". In fact, it is only required to announce that seizure when "it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation." In other words, they can seize anything without a subpoena if they think they should seize it without a subpoena.

That I have learned personally and this is either a disclaimer or a claim to authenticity. Last year, the FBI snatched a server co-located at May First/People Link (my organization) from its location. We believe they were investigating some nut using anonymous servers (servers that don't maintain records of who used them) to mail threatening emails to students at the University of Pittsburgh. We co-locate one such server for our colleagues at [Rise-Up](#) [5].

The AP case applies the suspension of our rights to the "established" media, finalizing a remarkably swift collapse of balance of power protections by removing the courts from the equation.

It's a moment described in the famous Civil Rights Movement saying, quoted by Angela Davis: "If they come for me in the morning, they'll come for you at night." After years of chipping away (largely without protest or even acknowledgement from the mainstream corporate media), at the rights of what the Administration considers the most dangerous and uncontrollable information source — the Internet and the activists and independent journalists who thrive on it like Wikileaks or Mayfirst, the web hosting service I helped found — they've now knocked on the door of the mainstream media.

To get a feeling for how dangerous this is, all one must do is trace how these investigations unfold and visualize the investigative web that is developing.

First, they get the phone records. In this case, the phone companies apparently just gave it to them. Protestations that these include "only" phone numbers called and nothing else collapse upon careful examination. Seized cell phone records (and their logs of emails, websites visited and texts sent) are now in the Justice Department's hands along with all the numbers called by over 100 reporters on 20 phone lines. Starting with the phone numbers called, investigators can then go to commercial email providers (like Google's Gmail) and seek records of everyone who the reporters contacted. After all, they can now search the providers' databases against the acquired names and phone numbers!

Email on AP's servers wasn't seized — that could never be done "secretly". But some AP reporters probably use their non-company email as well and investigators can go

after that. Internet providers are under enormous pressure to give up those records and many, like Google, will do so voluntarily upon official government request. They've already done it for the Chinese government to help it go after its critics.

So anybody who gets a phone call from one of the seized lines during this period can now be investigated more aggressively without subpoenas using the powers of investigation the government already has and information it has already gathered in secret from reporters who had promised them anonymity.

Where is the limit? Without a court hearing, there is none. If an AP reporter called your phone or emailed you from a targeted cell phone, the government now knows it and your phone number (and possibly email address) is now part of the investigation. That gathered information now includes your name, address, phone number, calls you received and calls you made. If they got to the email, all of that is theirs. No matter what those phone calls or email messages from your cell phone are about, they are a part of a government investigation into a major security leak.

Once you're in the mix, the government can then declare you an investigation "target" and legally seize and read all your email and seize all the email of anybody you wrote. All of this activity is legally covered and, based on past government practice, can be done without informing you.

What's more there are now indications that the government isn't stopping there. According to the Washington Post, you don't even need to be part of an investigation.

"Every day, collection systems at the National Security Agency intercept and store 1.7 billion e-mails, phone calls and other types of communications," [the Post reported](#) [6] in its extraordinary series on government intelligence. "The NSA sorts a fraction of those into 70 separate databases."

The Guardian's Glen Greenwald argues that [such numbers are only possible if the government is recording](#) [7] every phone call, text and email being transmitted in this country. Several FBI whistle-blowers and former agents, he points out, have attested to that scope of activity.

To say you will be part of a prosecution or that the investigation would reach such lengths may, at this point, border on paranoia. But not long ago most of us would have considered paranoid the idea that such collection of data is even taking place. "Mass surveillance is the hallmark of a tyrannical political culture," Greenwald wrote. To deny the danger in all this is to trust that the government won't abuse this power or consider your completely legal activities to be dangerous.

Does the Obama Administration deserve that trust? Its stated position is that the government can collect and use any information of this type if there is a security reason to do so. The issue is what is a "security reason" and, since courts have been effectively removed from the process, that definition is completely in the hands of the Justice Department, Homeland Security, the FBI and the National Security Agency. If one of those agencies says you have no right to privacy, you don't.

There are many people in this country working in opposition to the government.

Many of them oppose policies and challenge laws. Many of them have relationships with similar activists in other countries and take up issues that affect those other countries. Should we really feel comfortable giving some government functionary the power to decide if our activities are “dangerous” or “pose a threat”? This is an Administration that has criminally charged Internet activists for violating terms of service agreements, smeared the reputations of countless legitimate activists in all kinds of movements and kept scores of people in Guantamo’s prison for years without charges, in most cases knowing and even conceding that they are innocent of any. Does that track record offer any assurance that they will be judicious and restrained with your information?

Should we trust them with the powers they have amassed? Clearly not, because, given the facts we already know, mistrust isn’t paranoia; it’s knowing the facts.

Links:

[1]

http://www.nytimes.com/2013/05/14/us/phone-records-of-journalists-of-the-associated-press-seized-by-us.html?pagewanted=all&_r=0

[2] http://www.salon.com/2012/02/09/obamas_unprecedented_war_on_whistleblowers/

[3]

http://www.wired.com/images_blogs/threatlevel/2013/05/Letter-to-Eric-Holder_reporter-call-records.pdf

[4] <http://www.wired.com/threatlevel/2013/05/doj-got-reporter-phone-records/>

[5] <https://riseup.net/>

[6]

<http://projects.washingtonpost.com/top-secret-america/articles/a-hidden-world-growing-beyond-control/print/>

[7] <http://www.guardian.co.uk/commentisfree/2013/may/04/telephone-calls-recorded-fbi-boston>

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