



Lawsuit Seeks Release of Secret DOJ Press Spy Program Docs

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The Freedom of the Press Foundation (FPF), a nonprofit organization founded in 2012 to fund and support free speech, is suing the U.S. Department of Justice (DOJ) for the release of documents detailing the Federal Bureau of Investigation's use of national security letters—administrative subpoenas used in national security investigations—to spy on journalists.

Between 2009 and 2013, Associated Press and Fox News reporters were surveilled by Justice Department officials as a part of a series of attempts to determine reporters' sources. Investigators at DOJ designated Fox News correspondent James Rosen as a "criminal co-conspirator" for receiving foreign intelligence leaks from a U.S. Department of State contractor. Investigating the intelligence leak, DOJ investigators traced Rosen's telephone calls and accessed his personal e-mails.

In 2013, FPF requested the release of all records detailing DOJ's internal rules on issuing national security letters to investigate reporters. DOJ has refused to comply with the records request in a timely manner.

Jamie Lee Williams, a legal fellow at the Electronic Frontier Foundation, says the federal government's reporter spy program infringes on basic constitutional rights.

"Our government has long recognized the importance of a free and open press, and in most jurisdictions in this country, journalists enjoy protection against the compelled disclosure of their sources and notes," Williams said. "The protection exists ... to make sure that those with important information about matters of public concern can provide that information to journalists without fear that their identities will be disclosed and to make sure that journalists are not deterred from reporting on government deception."

'Chilling Effect'

Williams says the subpoenas silence necessary, constitutionally protected speech.

"The government's use of national security letters to snoop on journalists flouts that protection," Williams said. "It also has a chilling effect on both journalists reporting on potentially confidential matters of public concern and their potential sources. People will be scared to bring important stories to journalists for fear that the government is 'spying' on their conversations.

This will effectively silence reporting on matters critical to the national debate, to the detriment of the entire public.”

Secrecy ‘Undermines Self-Government’

Patrick Eddington, a Cato Institute policy analyst for homeland security and civil liberties and a former Central Intelligence Agency analyst, says the judge considering the case, U.S. District Judge Haywood S Gilliam Jr., has a responsibility to rule in favor of releasing the DOJ documents without any of the redactions.

“When the press and public are denied access to information they are due under laws like [the Freedom of Information Act], it fundamentally undermines self-government and public accountability, which are foundational to our political system,” Eddington said.

Eddington says there’s no national security justification for the FBI hiding its rules.

“The request by FPF was focused on internal FBI documents dealing with how they go about requesting records of reporters,” he said. “Nothing about that activity should be classified.”