

THE NATIONAL PRESS CLUB



June 15, 2018

The Honorable Jeff Sessions
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General,

As fellow citizens of a democracy whose vibrancy depends upon a free and independent press, and on behalf of organizations concerned professionally with press freedom and civil liberties, we respectfully invite you to join us in considering how the Justice Department can, in the words of your department's own guidance for handling investigations of the news media, "strike the proper balance between law enforcement and free press interests."

In recent days, many of us have publicly expressed our concern about your department's decision to seize the phone and email records of New York Times reporter Ali Watkins. We would appreciate an opportunity to hear more about your thinking in this particular matter and to discuss the possible implications for our country.

In the present case, we would like to know what justified such a broad seizure of records and whether the other avenues specified in Justice Department guidelines were in fact exhausted as existing regulations require.

This intrusion is particularly troubling because it relates to reporting concerning alleged misdeeds by the president's campaign, raising questions about whether the content of the reporting is what occasioned this unusual level of scrutiny. Moreover, we share a concern that this will have a chilling effect on other journalists who now know that records of their calls, emails and texts may be reviewed without their knowledge, perhaps months and years after the fact.

For the past several years, civil society groups and media organizations have fruitfully engaged in discussion with the Department of Justice about these matters. After controversy arose when the Justice Department seized records of the Associated Press in 2013, then-Attorney General Eric Holder met with a News Media Dialogue Group. Based on those conversations and the recommendations of federal prosecutors, new regulations were developed in 2015 designed, as Mr. Holder wrote at the time, to "ensure the highest level of oversight when members of the Department seek to obtain information from, or records of, a member of the news media."

We are heartened that your department has continued conversations with the News Media Dialogue group. We echo some of that group's concerns. As you know, one of the important precepts contained in the 2015 guidelines states that "(t)he use of a subpoena or court order to obtain from a third party communications or business records of a member of the news media should be pursued only after the government has made all reasonable attempts to obtain the information from alternative sources." Was that the case with regard to the seizure of the Times reporter's data? Is your department still operating under the protocols enshrined in the Code of Federal Regulations at 28CFR 50.10?

The Department of Justice also committed to publishing annual reports showing the instances in which it applied the News Media Guidelines in obtaining information from, or records of, members of the news media, and questioning, arresting, or charging members of the news media. The first annual report was released in summer 2015 and encompassed calendar year 2014. The second annual report was released in summer 2016 and encompassed calendar year 2015.

We respectfully urge you to publish the 2016 and 2017 reports which serve to provide the public with information about how often the guidelines are used and for what purpose.

We hope you will agree that protecting the public's right to know is something that transcends political differences. Our democracy works because there are checks and balances on power. The Fourth Estate is one of them. "The only security of all is in a free press," Thomas Jefferson wrote to the Marquis de Lafayette.

We look forward to your response and are prepared to meet with you at any time to address these questions directly. Moreover, the National Press Club will make its podium available to you should you want to explain the Department's actions in public and answer questions from the press.

Sincerely,

Andrea Edney, President
National Press Club

Suzanne Nossel, CEO
PEN America

Barbara Cochran, President
National Press Club Journalism Institute

John Donnelly, President
Military Reporters & Editors

Brandon Benavides, President
National Association of Hispanic Journalists
(NAHJ)

Michael P. King, President
National Press Photographers Association
(NPPA)

Ricardo Trotti, Executive Director
Inter American Press Association

Chuck Raasch, President
Regional Reporters Association

Margaux Ewen, North America Director
Reporters Without Borders (RSF)

Sandy Johnson, President & COO
National Press Foundation

Bernie Lunzer, President
NewsGuild-CWA

George Freeman, Executive Director
Media Law Resource Center

Bruce Shapiro, Executive Director
Dart Center for Journalism and Trauma

Dan Shelley, Executive Director
Radio Television Digital News Association

Margaret Engel, Executive Director
The Alicia Patterson Foundation

Sue Cross, Executive Director and CEO
Institute for Nonprofit News

Alfredo Carbajal, President
American Society of News Editors

Molly Willmott, President
Association of Alternative Newsmedia

Jim Simon, President
Associated Press Media Editors

Craig Aaron, President
Free Press/Free Press Action Fund

Contact:

National Press Club
529 14th Street NW, 13th Floor
Washington, DC 20045
kkiely@press.org

PEN America
588 Broadway, Suite 303
New York, NY 10012
agasparian@pen.org