

August 24, 2017

The Honorable Jeff Sessions
Attorney General
Department of Justice
Washington, DC 20530

Re: Justice Department request for data associated with Inauguration Day protests

Dear Attorney General Sessions:

The undersigned organizations write to express concern over the Justice Department's demand for information associated with a website used to organize protests on Inauguration Day. While the government, in the face of mounting public pressure, has significantly narrowed its initial demand for data on every individual who visited the site, we remain concerned that the government made its sweeping request in the first place – and that it continues to maintain that this request was legal and appropriate.

In July, the Justice Department filed a motion with the D.C. Superior Court to compel the website provider DreamHost to comply with a search warrant seeking company records and information associated with the website www.disruptj20.org.¹ According to the response filed by DreamHost, complying with this request would have amounted to handing over roughly 1.3 million visitor IP addresses to the government, in addition to contact information, email content, and photos of thousands of visitors to the website.²

The website in question was used as a platform for providing and exchanging information about Inauguration Day protests. The Justice Department has asserted that the website was also used in the “development, planning, advertisement, and organization of a violent riot” that took place during the Inauguration. But the warrant originally sought and obtained by the Department of Justice was not limited to relevant information about the approximately 200 individuals who were arrested in connection with alleged violence. Instead, the warrant sought the disclosure of information about 1.3 million visits to the website, all of which is then subject to being searched by the government.

The warrant impinged on both the Fourth and First Amendments. A warrant must identify with particularity both the places to be searched and the items to be seized. A search of data pertaining to all 1.3 million visits to the website is the opposite of “particularized”: it is the very “general warrant” that the Fourth Amendment's authors intended to prohibit. Moreover, compliance with the warrant would have effectively disclosed to the government a list of people who expressed opposition to the incoming administration, in addition to anyone who happened to visit the website. Regardless of whether the administration took any action against those individuals, the provision of such a list would have created a significant chilling effect on future expressions of political speech and participation in protests.

Two days before a scheduled hearing on the case, the Department narrowed its demand for information related to the website. In a new court filing, federal prosecutors dropped the request for visitor logs and narrowed the timeframe for part of the demand from July 2016 through Inauguration Day. But there

¹ United States' Motion for DreamHost to Show Cause: <http://bit.ly/2vLQTIH>.

² DreamHost's response in opposition to United States' Motion for DreamHost to Show Cause: <http://bit.ly/2vLNqdi>.

remain significant Fourth and First Amendment issues. The warrant the government now seeks would still force DreamHost to disclose the IP addresses and content of email inquiries and comments submitted from numerous private email accounts associated with the website, not limited to information related to the individuals under investigation. The information yielded by this demand could allow the government to identify individuals engaged in constitutionally protected speech and dissent, as well as members of the news media and the public who simply participated in meetings or communicated with organizers whose email accounts are affiliated with the J20 website.

Furthermore, given that the government narrowed the scope of its demand only after DreamHost challenged the warrant in court, resulting in widespread public outcry and objection from privacy and civil liberties groups, questions remain over whether similar warrants exist that are not receiving the same level of public scrutiny generated by the DreamHost case. In addition, the Department maintains that its initial request was legal and appropriate, raising concerns that the Department might seek similar warrants in the future.

The Justice Department's actions in this case conflicted with core American values. Americans have a right to organize and assemble without fear of surveillance; they have a right to privacy; they have a right to dissent; and they have a right to petition their government without fear of persecution. Even in its prosecutorial role – especially in its prosecutorial role – the Justice Department should seek to uphold, not undermine, these constitutional protections.

Sincerely,

Access Now

Advocacy for Principled Action in Government
Alliance for Justice

American-Arab Anti-Discrimination Committee
(ADC)

American Association of Law Libraries

American Society of Journalists and Authors
(ASJA)

American Federation of Teachers, AFL-CIO

American Library Association

American Society of News Editors

Associated Press Media Editors

Association of Alternative Newsmedia

Brennan Center for Justice

Center for Democracy & Technology

Center for Science in the Public Interest

Citizens for Responsibility and Ethics in
Washington

Clean Elections Texas

Constitution Project

Constitutional Alliance

CorpEthics

Corporate Accountability International

Common Defense

Courage Campaign

Center for Biological Diversity

Center for International Environmental Law

Center for Science and Democracy at the Union
of Concerned Scientists

Center for Media and Democracy

Defending Rights and Dissent

Demand Progress

Democracy Spring

EarthRights International

Electronic Frontier Foundation

Endangered Species Coalition

Environmental Action Center

FirstAmendment.com

Food & Water Watch

Freedom to Read Foundation

Free Press

Friends of the Earth U.S.

Government Accountability Project

Human Rights Watch

In The Public Interest

Institute for Agriculture and Trade Policy

Jobs With Justice

Jobs to Move America

National Association of Criminal Defense

Lawyers (NACDL)
National Coalition Against Censorship
National Lawyers Guild
National LGBTQ Task Force
Natural Resources Defense Council
New America's Open Technology Institute
New England First Amendment Coalition
New Jersey Progressive Democrats
Niskanen Center
OpenTheGovernment
Oregon Climate Action Now
OVEC-the Ohio Valley Environmental Coalition
PEN America
People For the American Way
Project On Government Oversight
Promotores Comunitarios del Desierto
Public Citizen
Public Justice Center

Rachel Carson Council
Restore The Fourth
RootsAction.org
Sciencecorps
Small Planet Institute
Society of Professional Journalists
Sunlight Foundation
TechFreedom
Treatment Action Group
Tully Center for Free Speech
Turtle Island Restoration Network
Unitarian Universalist Association
Women's Institute for Freedom of the Press
Veterans For Peace
The Woodhull Freedom Foundation
Win Without War
X-Lab