



Written by [Bob Adelman](#) on May 17, 2017

## Whistleblowers Ask Trump to Drop Investigation Into WikiLeaks

The Courage Foundation [released a letter](#) on Monday signed by more than 100 free speech activists (including Noam Chomsky and Edward Snowden) asking President Donald Trump to drop his administration's investigation into Julian Assange and his organization WikiLeaks.



The Courage Foundation funds legal defense for whistleblowers and journalists such as Assange and Snowden. The letter presses the point that the real issue is freedom of the press under the First Amendment:

The threat to WikiLeaks escalates a long-running war of attrition against the great virtue of the United States: free speech. The Obama Administration prosecuted more whistleblowers than all presidents combined and opened a Grand Jury investigation into WikiLeaks that had no precedent....

It is reported that charges, including conspiracy, theft of government property and violating the Espionage Act are being considered against members of WikiLeaks, and that charging WikiLeaks Editor, Julian Assange, is now a priority of the Department of Justice.

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This refers to Trump's Attorney General Jeff Sessions' comments during his visit to the southern border last month:

We have professionals in the security business of the United States for many years [who] are shocked by the number of leaks, and some of them are quite serious. So yes, it is a priority. We've already begun to step up our efforts and whenever a case can be made, we will seek to put some people in jail.

Presumably those "people" would include Assange and at least some of his people at WikiLeaks.

The letter indirectly reminded Trump not only of his previous comments to a crowd of supporters in Pennsylvania last October that included "I love WikiLeaks," but also how important WikiLeaks's document dump concerning Hillary Clinton, John Podesta, and Bernie Sanders was in damaging the Democrat campaign just weeks before the November election:

It was a free and robust press that provided you with a platform on which to run for president ... [but] the kind of threat now facing WikiLeaks — and all publishers and journalists — is a step into the darkness.

Therefore, said the letter, "We ask you to immediately close the Grand Jury investigation into WikiLeaks and drop any charges against Julian Assange and other WikiLeaks staff members which the Department of Justice is planning."



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The only trouble is that there appear to be no charges being “planned” against Assange or his people. The investigation dates back to 2010 following WikiLeaks’ publication of sensitive U.S. diplomatic cables. And although CIA Director Mike Pompeo last week called WikiLeaks a “nonstate hostile intelligence service,” he has no power to bring charges. Under the Obama administration no charges were brought thanks to First Amendment “concerns.”

The biggest roadblock to bringing charges may just be a 46-year-old Supreme Court ruling in a somewhat similar case: *New York Times Co. v. United States*. This was a landmark decision that allowed the *Times* to publish the then-classified Pentagon Papers without risk of government censorship or punishment.

Supreme Court Justice Hugo Black’s opinion in the case represents the biggest stumbling block to the DOJ’s ongoing investigation, as well as a good lesson in just how important the First Amendment in the Bill of Rights is to liberty itself:

In seeking injunctions against these newspapers and in its presentation to the Court, the Executive Branch seems to have forgotten the essential purpose and history of the First Amendment.

When the Constitution was adopted, many people strongly opposed it because the document contained no Bill of Rights to safeguard certain basic freedoms. They especially feared that the new powers granted to a central government might be interpreted to permit the government to curtail freedom of religion, press, assembly, and speech.

In response to an overwhelming public clamor, James Madison offered a series of amendments to satisfy citizens that these great liberties would remain safe and beyond the power of government to abridge. Madison proposed what later became the First Amendment in three parts, two of which are set out below, and one of which proclaimed: “The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, *shall be inviolable.*” (Emphasis added.)

The amendments were offered to curtail and restrict the general powers granted to the Executive, Legislative, and Judicial Branches two years before in the original Constitution. The Bill of Rights changed the original Constitution into a new charter under which no branch of government could abridge the people’s freedoms of press, speech, religion, and assembly.

Yet the Solicitor General argues [in the present case] and some members of the Court appear to agree that the general powers of the Government adopted in the original Constitution should be interpreted to limit and restrict the specific and emphatic guarantees of the Bill of Rights adopted later.

I can imagine no greater perversion of history. Madison and the other Framers of the First Amendment, able men that they were, wrote in language they earnestly believed could never be misunderstood: “Congress shall make no law ... abridging the freedom ... of the press....” Both the history and language of the First Amendment support the view that the press must be left free to publish news, whatever the source, without censorship, injunctions, or prior restraints.

In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government’s power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose



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deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell.

In my view, far from deserving condemnation for their courageous reporting, the *New York Times*, the *Washington Post*, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam War, the newspapers nobly did precisely that which the Founders hoped and trusted they would do.

With just a slight change in the language of Black's opinion it could be repeated in the present instance.

As a result President Trump faces a conundrum: Should he recant his comments from last October while campaigning and instead support the supposed plans of his attorney general to bring charges against WikiLeaks and its founder? Or should he rebuff his AG, tell him to stand down, and confirm instead what he said last October is what he means to say today?

Image of WikiLeaks defense fund logo: [Courage Foundation](#)

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