

THE INTERNATIONAL MANHUNT FOR WIKILEAKS

One of the things DOJ is protecting from FOIA in Electronic Privacy Information Center's suit is information other governments have shared with the US on the investigation.

According to FBI's David Harvey, this includes classified information from foreign governments.

(45) E.O. 13526, § 1.4(b) authorizes the classification of foreign government information. E.O. 13526, § 6.1(s) defines foreign government information as: "(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence; (2) information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or (3) information received and treated as 'foreign government information' under the terms of a predecessor order."

(46) Many foreign governments do not officially acknowledge the existence of some of their intelligence and security services, or the scope of their activities or the sensitive information generated by them. **The free exchange of information between United States intelligence and law enforcement**

services and their foreign counterparts is predicated upon the understanding that these liaisons, and information exchanged between them, must be kept in confidence.

(47) The release of official United States Government documents that show the existence of a confidential relationship with a foreign government reasonably could be expected to strain relations between the United States and the foreign governments and lead to diplomatic, political, or economic retaliations. A breach of this relationship can be expected to have at least a chilling effect on the free flow of vital information to the United States intelligence and law enforcement agencies, which may substantially reduce their effectiveness. **Although the confidential relationship of the United States with certain countries may be widely reported, they are not officially acknowledged.** (48) *Disclosure of such a relationship predictably will result in the careful analysis and possible compromise of the information by hostile intelligence services. The hostile service may be able to uncover friendly foreign intelligence gathering operations directed against it or its allies. This could lead to the neutralization of friendly allied intelligence activities or methods or the death of live sources, cause embarrassment to the supplier of the information, or result in economic or diplomatic retaliation against both the United States and the supplier of the information.*

(49) Even if the government from which certain information is received is not named in or identifiable from the material it supplies, the danger remains that if the information were to be made

public, the originating government would likely recognize the information as material it supplied in confidence. Thereafter, it would be reluctant to entrust the handling of its information to the discretion of the United States.

(50) The types of classified information provided by foreign government intelligence components can be categorized as: (a) information that identifies a named foreign government and detailed information provided by that foreign government; (b) documents received from a named foreign government intelligence agency and classified "Secret" by that agency; and (c) information that identifies by name, an intelligence component of a specific foreign government, an official of the foreign government, and information provided by that component official to the FBI.

[snip]

(51) The cooperative exchange of intelligence information between the foreign governments and the FBI was, and continues to be, with the express understanding that the information will be kept classified and not released to the public. Disclosure of the withheld information would violate the FBI's promise of confidentiality. A breach could reasonably be expected to strain relations between the United States and the foreign governments, chill the free flow of vital information to the intelligence and law enforcement agencies, and cause serious damage to the national security and the war on transnational terrorism. This information, which is under the control of the United States Government, is properly classified at the "Secret" level and withheld pursuant to E.O.

13526, § 1.4(b), and is exempt from disclosure pursuant to Exemption 1.

According to Criminal Division's John Cunningham, DOJ withheld information on foreign governments that helped us investigate WikiLeaks under both an implied and explicit promise of confidentiality.

37. The Criminal Division has specifically sought to withhold information sought by the United States from foreign governments and named individuals pursuant to certain Mutual Legal Assistance Treaties ("MLAT's"). For these reasons, the Criminal Division has properly withheld this information pursuant to FOIA Exemption 7(D).

38. During the course of the Criminal Division's investigation, DOJ attorneys have sought and continue to seek the assistance of various foreign governments and individuals to obtain information in aid of these investigations. Information has been provided by various foreign governments and individuals under both express and implied assurances of confidentiality.

[snip]

40. Exemption 7(D) has been asserted, in conjunction with Exemptions 6, 7(C) to protect the names and/or identifying information about cooperating foreign governments and individuals who have provided information to the Criminal Division under implied assurances of confidentiality during the course of the Criminal Division's investigations into the disclosure of classified information that was subsequently published on the WikiLeaks website. Exemption 7(D) has also been asserted to protect the information these governments and individuals provided to the Criminal

Division under implied assurances of confidentiality. **These foreign governments and individuals provided specific and detailed information that is singular in nature about the matters under investigation.** The disclosure of their identities could have disastrous consequences. **Given the nature of these investigations and also prior incidents of harassment and threats toward individuals associated with these investigations,** the Criminal Division has legitimate cause to conclude that the disclosure of the identities of cooperating foreign governments and individuals could subject them to reprisal and have a chilling effect on future cooperation by them in these or other cases. These foreign governments and individuals have provided information of value to the Criminal Division in relation to these investigations, and in doing so, have placed themselves in harm's way should their cooperation with/participation in these investigations become publicly known.

41. Accordingly, foreign governments and individuals who have cooperated with the on-going investigations under implied assurances of confidentiality, as well as the information they provided, are entitled to protection and the Criminal Division has properly invoked Exemption 7(D) in conjunction with Exemptions 6 and 7(C), to protect this information.

This is not really surprising news. After all, the target – Julian Assange – and two subjects – Birgitta Jónsdóttir and Rop Gonggrijp – are all foreign citizens living overseas.

Moreover, while the great bulk of documents released by WikiLeaks were American, releases came from a number of other countries—everything from Syria, Italy, Switzerland, Germany, Norway,

and more. Any of these countries might have conducted their own counterintelligence investigations, and even the Syrian documents might have been liberated by people who have since defected to the US or UK.

Then there's the ongoing drama involving Sweden and the UK regarding Julian Assange, which explicitly involves an MLAT. Though I assume Ecuador is not sharing any intelligence about their long-term dinner guest.

I'm most interested, however, in the Icelandic case. Before WikiLeaks started releasing the bulk of US documents, its role in exposing efforts to prop up Iceland's banks was one of WikiLeaks's most important contributions. And while the government itself has moved away from implementing the Washington Consensus, I wouldn't be surprised if there were people cooperating with the US investigation, which would be particularly alarming given Jónsdóttir's role in Parliament.

Which is why I find this news item—particularly its timing—awfully interesting.

Iceland's interior minister [Ógmundur Jonasson] said Friday that he ordered the country's police not to cooperate with FBI agents sent to investigate WikiLeaks two years ago, offering a rare glimpse into the U.S. Department of Justice's investigation of the secret-busting site.

[snip]

"I, for one, was not aware that they were coming to Iceland," he said in a brief telephone interview. "When I learned about it, I demanded that Icelandic police cease all cooperation and made it clear that people interviewed or interrogated in Iceland should be interrogated by Icelandic police."

Jonasson said that Icelandic diplomats

protested the FBI's trip to their U.S. counterparts.

"We made clear to the American authorities that this was not well-seen by us," he said.

After all, this unannounced FBI trip to Iceland took place in August 2011, almost a year and a half ago. Yet Jonasson decides to reveal it the day after DOJ releases documents showing extensive cooperation from other governments in its investigation of WikiLeaks. Moreover, Jonasson is not saying Iceland did not cooperate. Only that it insisted on conducting the interrogation of its citizens itself.

Good for Iceland for refusing to let the FBI bigfoot in its country. But that doesn't mean Iceland isn't one of the apparent multiple countries that have helped the US hunt down WikiLeaks contributors.

Update: Thanks to Sam Knight for alerting me that Jonasson's story is almost certainly a response to this revelation from WL's spokesperson.

"The FBI came here in a private jet and landed at Reykjavík Airport. According to my information—which is very solid and I have had it confirmed—Minister of the Interior Ögmundur Jónasson was notified of their arrival and reacted angrily because it is unbelievably presumptuous to come here this way," Kristinn stated.

"According to my information, he demanded that these agents pack their bags, embark the plane and leave the country," Kristinn added. "I know that this was later discussed within the government, which formally objected to U.S. authorities."