



WHISPeR

Whistleblower & Source Protection Program
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The Rt. Hon Priti Patel
Secretary of State for the Home Department
2 Marsham Street
London
SW1P 4DF

May 16, 2022

Dear Home Secretary,

The Whistleblower & Source Protection Program is a US-based nonprofit organization that protects freedom of the press and civil liberties by providing pro bono legal defense for journalistic sources and whistleblowers. We write to urge you to reject the United States government's request to extradite Julian Assange.

We are uniquely positioned to speak to this matter. We have represented several of the most prominent defendants in Espionage Act cases, including Edward Snowden, Thomas Drake, John Kiriakou, and Daniel Hale, who were investigated, charged, and/or prosecuted for revealing information about mass surveillance, torture, and war crimes. They were charged under the same law as Mr. Assange: the Espionage Act of 1917, a draconian wartime law that has been increasingly abused to hide government abuses and punish dissent. Under the Espionage Act, no prosecution of a non-spy can be fair or just. The trial would take place largely in secret. Moreover, it is effectively a strict liability law that does not permit you to raise a defense because under the terms of the law, intent is irrelevant.

Thanks to vague and overbroad language, the Espionage Act implicates a wide range of activities that are central to the news-reporting process and bear little or no resemblance to classic espionage. Prosecutions of journalists' sources over the past decade have done enormous damage to the free functioning of investigative journalism, a central pillar of democracy. The prosecution of a publisher such as Assange is even more chilling. Several counts of the Assange indictment criminalize "pure publication," and others extend to ordinary journalistic activities, including using encryption.

The precedents from any such proceeding would erode the bedrock principles of the Anglo-American legal tradition, and the cherished freedoms they guarantee. The extradition of a foreign-citizen publisher operating on foreign territory for crimes of pure publication would give encouragement and cover for similar behavior by tyrants and dictators around the world. It would be a boon to the enemies of freedom and a travesty for human rights and freedom of speech globally.

Finally, the U.S. Bureau of Prisons is simply too capricious and arbitrary to guarantee that Mr. Assange will receive the minimum standard of humane treatment for prisoners. Consider the experience of our client, drone whistleblower Daniel Hale. Last year, Hale was unexpectedly jailed pre-trial due to supposed concern for his mental health. He was sent to the William G. Truesdale Adult Detention Center in Alexandria, Virginia – the same facility where Assange would be held – where he was placed in “administrative segregation,” euphemism for solitary or near-solitary confinement. In actual practice, mental health is commonly used as a pretext for more oppressive conditions.

At sentencing, Judge Liam O’Grady recommended Hale for placement in minimum security prison, citing Hale’s nonviolent offense, lack of criminal history, and the utter impossibility of recidivism, given his now permanent lack of access to classified information. The Bureau of Prisons, however, is not bound to this recommendation, and instead sent him to a high security facility called a Communications Management Unit (CMU) where he is nearly isolated from the outside world. These conditions, while not meeting the strict definition of solitary confinement, do not meet international minimum standards, and are deeply detrimental to his well being. The stated rationale for creation of Communications Management Units was the need to more heavily monitor and control the communications of people convicted of crimes with ties to organized crime or terrorist networks, who could potentially carry on these crimes while incarcerated. The specious logic of the Bureau of Prisons placement then should be obvious, given the aforementioned impossibility of recidivism by Hale, and the fact that the communications central to his conviction were with a journalist, not a criminal network. Julian Assange would certainly be vulnerable to these kinds of capricious designations.

The assurances provided by the U.S. government elided these realities, and even their own terms left plenty of freedom to renege. Our experience is that they are not reticent to take those liberties, and given the political nature of Assange's prosecution, they would be exceptionally eager to avail themselves of any opportunity for retaliation.

For these reasons, we ask you to reject this extradition.

Sincerely,

A handwritten signature in black ink that reads "Jesselyn Radack". The signature is fluid and cursive, with "Jesselyn" on the first line and "Radack" on the second line.

Jesselyn Radack, Director, Whistleblower & Source Protection Program at
ExposeFacts