

U.S. Justice Dept. Demands Independent News Site's User Information

by Declan McCullagh via krill - CBS Monday, Nov 16 2009, 6:13am

international / mass media / other press

Justice Dept. Asked For News Site's Visitor Lists

It is not widely known that the Cleaves site was developed from the Indymedia (IMC) model. The current CMS software package in use by the Cleaves team is a product of Indymedia Ireland. We acknowledge that our existence (and continuing presence) would not have been possible but for the assistance of the IMC and as a show of solidarity we take this opportunity to throw our support behind our persecuted comrades in the Independent Media.



The following report from CBS details an attempt by the (clearly fascist) U.S. DoJ to attack the Independent Media by demanding log information of users while imposing a gag order in order to suppress knowledge of the DoJ's SORDID, **UNDEMOCRATIC** activities.

Fortunately the fighting spirit that created the IMC has not died; Indymedia volunteers and support staff asserted their **DEMOCRATIC RIGHTS** and spoke out against this heinous attempt by the DoJ to intimidate -- it is widely known and published on IMC sites that it is policy to purge logs daily or not to activate recording of user information.

It should not be forgotten that the outrageous totalitarian tactics by the U.S. DoJ occurred UNDER OBAMA'S WATCH -- get educated sheeple, Obama is more reprehensible than that idiot Bush as he is fully aware of his actions and who it is he SERVES!

Our message to ALL American FASCISTS is 'blow it out your totalitarian arse' -- please note that the wider IMC community may not necessarily express views in a similar fashion -- but what the hell, this is Oz talking!

CBS report follows:

In a case that raises questions about online journalism and privacy rights, the U.S. Department of Justice sent a formal request to an independent news site ordering it to provide details of all reader visits on a certain day.

The grand jury subpoena also required the Philadelphia-based Indymedia.us Web site "not to disclose the existence of this request" unless authorized by the Justice Department, a gag order that presents an unusual quandary for any news organization.

Kristina Clair, a 34-year old Linux administrator living in Philadelphia who provides free server space for Indymedia.us, said she was shocked to receive the Justice Department's subpoena. (The

Independent Media Center is a left-of-center amalgamation of journalists and advocates that - according to their [principles of unity](#) and [mission statement](#) - work toward "promoting social and economic justice" and "social change.")

The [subpoena](#) (PDF) from U.S. Attorney [Tim Morrison](#) in Indianapolis demanded "all IP traffic to and from [www.indymedia.us](#)" on June 25, 2008. It instructed Clair to "include IP addresses, times, and any other identifying information," including e-mail addresses, physical addresses, registered accounts, and Indymedia readers' Social Security Numbers, bank account numbers, credit card numbers, and so on.

"I didn't think anything we were doing was worthy of any (federal) attention," Clair said in a telephone interview with **CBSNews.com** on Monday. After talking to other Indymedia volunteers, Clair ended up calling the Electronic Frontier Foundation in San Francisco, which represented her at no cost.

Under long-standing [Justice Department guidelines](#), subpoenas to members of the news media are supposed to receive special treatment. One portion of the guidelines, for instance, says that "no subpoena may be issued to any member of the news media" without "the express authorization of the attorney general" - that would be current attorney general [Eric Holder](#) - and subpoenas should be "directed at material information regarding a limited subject matter."

Still unclear is what criminal investigation U.S. Attorney Morrison was pursuing. Last Friday, a spokeswoman initially promised a response, but Morrison sent e-mail on Monday evening saying: "We have no comment." The Justice Department in Washington, D.C. also declined to respond.

[Kevin Bankston](#), a senior staff attorney at the San Francisco-based [Electronic Frontier Foundation](#), replied to the Justice Department on behalf of his client in a [February 2009 letter](#) (PDF) outlining what he described as a series of problems with the subpoena, including that it was not personally served, that a judge-issued court order would be required for the full logs, and that Indymedia did not store logs in the first place.

Morrison replied in a [one-sentence letter](#) saying the subpoena had been withdrawn. Around the same time, according to the EFF, the group had a series of discussions with assistant U.S. attorneys in Morrison's office who threatened Clair with possible prosecution for obstruction of justice if she disclosed the existence of the already-withdrawn subpoena -- claiming it "may endanger someone's health" and would have a "human cost."

[Lucy Dalglish](#), the executive director of the [Reporters Committee for Freedom of The Press](#), said a gag order to a news organization wouldn't stand up in court: "If you get a subpoena and you're a journalist, they can't gag you."

Dalglish said that a subpoena being issued and withdrawn is not unprecedented. "I have seen any number of these things withdrawn when counsel for someone who is claiming a reporter's privilege says, 'Can you tell me the date you got approval from the attorney general's office'... I'm willing to chalk this up to bad lawyering on the part of the DOJ, or just not thinking."

Making this investigation more mysterious is that Indymedia.us is an aggregation site, meaning articles that appear on it were published somewhere else first, and there's no hint about what sparked the criminal probe. Clair, the system administrator, says that no IP (Internet Protocol) addresses are recorded for Indymedia.us, and non-IP address logs are kept for a few weeks and then discarded.

EFF's Bankston wrote a [second letter](#) to the government saying that, if it needed to muzzle Indymedia, it should apply for a gag order under the [section of federal law](#) that clearly permits such an order to be issued. Bankston's plan: To challenge that law on First Amendment grounds.

But the Justice Department never replied. "This is the first time we've seen them try to get the IP address of everyone who visited a particular site," Bankston said. "That it was a news organization was an additional troubling fact that implicates First Amendment rights."

This is not, however, the first time that the Feds have focused on Indymedia -- a Web site whose authors sometimes blur the line between journalism, advocacy, and on-the-streets activism. In 2004, the Justice Department [sent a grand jury subpoena](#) asking for information about who posted lists of Republican delegates while urging they be given an unwelcome reception at the party's convention in New York City that year. A Indymedia hosting service in Texas [once received a subpoena](#) asking for server logs in relation to an investigation of an attempted murder in Italy.

Bankston has written a [longer description](#) of the exchange of letters with the Justice Department, which he hopes will raise awareness of how others should respond to similar legal demands for Web logs, customer records, and compulsory silence. "Our fear is that this kind of bogus gag order is much more common than one would hope, considering they're legally baseless," Bankston says. "We're telling this story in hopes that more providers will press back and go public when the government demands their silence."

Update 1:59pm E.T.: A Justice Department official familiar with this subpoena just told me that the attorney general's office never saw it and that it had not been submitted to the department's headquarters in Washington, D.C. for review. If that's correct, it suggests that U.S. Attorney Tim Morrison and Assistant U.S. Attorney Doris Pryor did not follow [department regulations](#) requiring the "express authorization of the attorney general" for media subpoenas -- and it means that neither Attorney General Eric Holder nor Acting Attorney General Mark Filip were involved. I wouldn't be surprised to see an internal investigation by the [Office of Professional Responsibility](#); my source would not confirm or deny that.

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