

Wikimedia Foundation v. NSA
No. 15-cv-0062-TSE (D. Md.)

Plaintiff's Exhibit 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

WIKIMEDIA FOUNDATION,

Plaintiff,

v.

NATIONAL SECURITY AGENCY /
CENTRAL SECURITY SERVICE, *et al.*,

Defendants.

No. 1:15-cv-00662-TSE

DECLARATION OF JAMES ALEXANDER

I, James Alexander, declare:

1. I am a resident of Daly City, California, over the age of eighteen. I have personal knowledge of the facts stated in this declaration and if called to testify I could and would testify competently thereto. I am providing this declaration in my capacity as a former employee of the Wikimedia Foundation, Inc. (“Wikimedia”).

2. I graduated from the University of Rochester in 2010 with a Bachelor of Arts in Economics. I have been a volunteer editor on Wikimedia projects since November 2006 and worked professionally at Wikimedia from August 2010 until December 14, 2018. As an employee at Wikimedia, I worked with Trust and Safety investigations and community management, and in June 2013, I became a full-time Manager for Wikimedia.

3. Beginning in August 2015 until December 14, 2018, I was the Manager for Trust and Safety at Wikimedia. Between June 2013 and August 2015, I was Manager of Wikimedia’s Legal and Community Advocacy team. As Manager for Trust and Safety at Wikimedia, I focused on liaising and working with Wikimedia community members who have special administrative responsibilities requiring high levels of trust, including users who have access to private data and

other sensitive information. I also worked on threats of harm to community members or the public that arise in the context of the twelve free-knowledge projects (“Projects”) that Wikimedia operates. As Legal and Community Advocacy Manager, I occupied a similar role, coordinating community consultations on new Wikimedia policies and procedures, and acting as primary investigator on threats to community members and other members of the public.

I. Impact of Upstream Surveillance on Wikimedia and its Community Members

4. Since the public first became aware of Upstream surveillance in June 2013, Wikimedia community members have been less willing to read, contribute to, or otherwise engage with Wikimedia Projects and Wikimedia staff online. Due to NSA surveillance, including Upstream surveillance, numerous Wikimedia users around the world have expressed their reluctance to participate in the Wikimedia movement, to read and edit Wikimedia pages, and to share information or communicate with Wikimedia’s staff. Wikimedia users have done so in a variety of ways and settings, including but not limited to Wikimedia community forums, Wikimedia discussion groups, and in communications with Wikimedia employees. After the public revelations about Upstream surveillance began in June 2013, Wikimedia staff received numerous complaints about NSA surveillance from users in the United States and around the world. In dozens of these complaints, which occurred in person or through Internet messaging applications, community members either specifically referenced Upstream surveillance by name or the context made clear that they were referring to Upstream surveillance as the basis for their concern.

5. The impact of NSA surveillance—including Upstream surveillance—on Wikimedia community members has taken several forms.

6. Wikimedia staff, myself included, have had numerous conversations with Wikimedia users in the United States and abroad who have self-censored their speech with Wikimedia, or altered or limited their engagement with Wikimedia due to NSA surveillance, including Upstream

surveillance. Many of these individuals are involved in political or social activism and live or work in geopolitical areas that are a special focus of the U.S. government's counterterrorism or foreign policy efforts, such as Iran, Russia, Egypt, Ukraine, India, China, and Azerbaijan. These individuals have engaged in repeated acts of self-censorship vis-à-vis Wikimedia because of NSA surveillance: some refuse to discuss sensitive political topics on which they once spoke candidly; some will now only speak in person rather than over email or other communication channels they used to use; and some will only speak through intermediaries. Users fear NSA surveillance, including Upstream surveillance, and the consequences of that surveillance. In particular, they fear information about their activity on Wikimedia sites could, among other things, identify them, jeopardize or undermine the political or social movements in which they work, or otherwise result in harm to themselves or their families. Many of them were especially concerned about their online activity on Wikimedia project pages because of published NSA slides showing that the NSA was surveilling Wikimedia communications in order to obtain intelligence information. *See* Exhibit 8 (WIKI0006462, -6471-73) (Wikimedia-hosted email list discussing NSA slide with Wikimedia logo).

7. Due in part to concerns about U.S. government surveillance, including Upstream surveillance, some Wikimedia community members abroad have self-censored their speech by refusing to transmit photo identification to Wikimedia staff over the Internet. To gain access to certain tools and access privileges for Wikimedia Projects, community members were historically required to send Wikimedia a copy of their official government-issued identification so that their identities could be confirmed. On several occasions since the public first became aware of Upstream surveillance, users have told Wikimedia that they would not transmit photo identification to Wikimedia via the Internet because of concerns about U.S. government

surveillance. One user stated in a community consultation about Wikimedia’s privacy-related policies, “I am . . . very concerned and feel deeply uneasy about (re-)sending a copy of my ID—which is probably one of the most delicate information the WMF can hold—to an organization in a country where countless government agencies can force them to reveal any and all information they want, or even get the information without a court’s approval or the subject’s awareness. (Yes, I’m looking at the U.S., the recent scandals around the NSA, and the worryingly broad scope of the CIA and other intelligence-gathering organisations.)” *See* Exhibit 9 (WIKI0006410, -6417). These refusals by users to transmit photo identification to Wikimedia due in part to concerns about NSA surveillance have directly affected Wikimedia’s ability to carry out its work. They have forced Wikimedia staff to find other, less convenient ways to review community members’ identification, including via in-person meetings with international community members.

8. Similarly, due to NSA surveillance, including Upstream surveillance, Wikimedia community members have expressed reluctance to share private data when seeking Wikimedia’s assistance in making arrangements to attend Wikimedia conferences or events. Trust and Safety and other teams have also operated through intermediaries when communicating with users in countries of interest to U.S. intelligence agencies, in an effort to avoid surveillance of text-based Internet communications.

9. In addition, certain community-elected users with advanced access to Wikimedia tools and settings, known as “stewards,” have avoided email communications with Wikimedia due to NSA surveillance, including Upstream surveillance. Historically, stewards communicated via email regarding a variety of issues arising from Wikimedia’s activities, including sensitive conversations about perceived threats to the safety and security of community members. However, after the public first became aware of Upstream surveillance in the summer of 2013, the stewards

expressed reluctance to communicate via email regarding sensitive issues. Thus, in order to work with the stewards on sensitive topics, Wikimedia began to hold regular encrypted videoconference meetings with the stewards.

10. As another example, due to NSA surveillance, Wikimedia community members have sought to use special applications that completely anonymize their communications with Wikimedia. To maintain the integrity of content on Wikipedia, Wikimedia does not permit users with editing privileges to rely on software such as Tor—an Internet browser application that helps anonymize communications online—to shield their IP addresses from Wikimedia. Since the public first became aware of Upstream surveillance in June 2013, Wikimedia community members abroad, including American citizens, have increasingly requested exceptions to this policy as part of efforts to avoid NSA surveillance activities. *See* Exhibit 10 (WIKI0009221, -9222) (“I am a US citizen living abroad. According to recent news reports this places me in a category for elevated surveillance by my government I prefer to minimize such invasions of my privacy and so use TOR where possible. The global block on TOR exit points has reduced my spontaneous contributions to the WMF projects I am still somewhat involved with.”); Exhibit 11 (WIKI0009218, -9219) (“I would like to use Tor while editing Wikimedia wikis, but it seems Wikimedia blocks all Tor exit nodes. . . . I am concerned that [the Philippines] will take hard measures like spying on Filipino citizens and collaborating with the NSA. That’s why I am using Tor to prepare if this happens.”). I have also had in-person conversations with users who have stated that they would not feel comfortable contributing to or editing Wikimedia pages without using anonymizing software.

11. Wikimedia users have also expressed their concerns about NSA surveillance—and how that surveillance deters users from participating in Wikimedia Projects—through Wikimedia

community forums and similar web pages. Wikimedia hosts a number of forums and other pages in which Wikimedia users converse on a range of topics, including their use of, and participation in, Wikimedia Projects. For example, in December 2013, a group of over 100 users from the German Wikipedia community specifically mentioned NSA surveillance when discussing proposed revisions to Wikimedia policies related to user data. *See* Exhibit 12 (WIKI0001474, -1476) (“The revelations by Edward Snowden and the migration of programs from the Toolserver to Tool Labs prompted discussions among the community on the subject of user data and how to deal with it.”). As another example, on a user “Talk page” about the implications of NSA surveillance, one community member stated: “Wikimedia relies on editors being able to edit freely without real world retaliation. This is one reason thinks [*sic*] like no legal threats is a policy. If editors fear retaliation [*sic*] by gov for the things they do on Wikimedia, they wont do things that might piss off gov Obviously we arent at a full surveillance/police state yet, but things like that happen one small step at a time. This is a large step.” *See* Exhibit 13 (WIKI0008128, -8144). Indeed, users feared U.S. surveillance of their communications and the potential consequences. Because of NSA surveillance, including Upstream surveillance, many Wikimedia users indicated to me and other Wikimedia staff in conversations in person and through encrypted messaging applications that they feared not only participating in Wikimedia Projects as contributors or editors, but also even reading or visiting Wikimedia pages. They feared NSA surveillance of their communications with Wikimedia and the consequences of that surveillance. In particular, they feared that the information could be used by the U.S. government to reveal users’ identities, to identify their political or social activism, or to detect anti-American bias.

12. When users self-censor their speech or otherwise limit their engagement with Wikimedia, it directly harms Wikimedia’s ability to carry out its mission to develop and disseminate free

educational content. This disengagement also interferes with the work of Wikimedia staff, discussed in more detail below.

II. Interference with the Work of Wikimedia and its Staff

13. Due to NSA surveillance, including Upstream surveillance, Wikimedia staff have self-censored their speech and in some instances have forgone electronic communications altogether. NSA surveillance, including Upstream surveillance, has made it more difficult for Foundation staff to receive information from and effectively respond to community members—an essential part of running an international community-based organization like Wikimedia. Wikimedia staff have been forced to rely more heavily on in-person meetings and encrypted messaging systems to preserve the confidentiality and security of their communications. As a result, Wikimedia has suffered harm to its institutional goals.

14. Since the public became aware of Upstream surveillance in June 2013, Wikimedia staff on the Trust and Safety team have traveled to attend international Wikimedia conferences more frequently to communicate about sensitive issues in person with community members who are concerned about NSA surveillance, including Upstream surveillance, of their Internet communications. The Trust and Safety team sent at least two additional staff members to each of the annual “Wikimania” conferences held from 2014 through 2018; these conferences are held at locations around the world and the cost of attendance can reach several thousand dollars per staff member. Wikimedia has also sent additional staff each year to attend the “Wikimedia Conference” in Berlin to communicate about sensitive issues in person. Finally, members of the Trust and Safety team have more frequently attended additional country-specific conferences, especially in locations around the world where community members have expressed concerns about NSA surveillance, including Upstream surveillance, such as Germany, Austria, the Middle East, and Eastern Europe. I was personally involved in the decision to send more Wikimedia staff to attend

these events, and the decision was strongly influenced by the fact that Wikimedia community members and affiliate organizations were not comfortable having sensitive conversations online about issues crucial to Wikimedia's mission.

15. Forgoing email and other forms of text-based Internet communications has other adverse consequences on Wikimedia staff. The use of encrypted messaging systems often requires staff to publicly disclose their personal contact information when they otherwise would not have done so. For example, one encrypted messaging system that I frequently used to communicate with community members and other international staff—WhatsApp—requires that I disclose my mobile phone number for account verification. Because Wikimedia lacks the resources to provide staff with mobile phones and data plans, I disclosed my personal mobile phone number to community members in order to use WhatsApp, when I would otherwise not have done so.

16. Due to Upstream surveillance, the Trust and Safety team cannot communicate and operate as effectively worldwide.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 17, 2018 in San Francisco, California.


James Alexander