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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

WIKIMEDIA FOUNDATION, INC.,

Plaintiff,

v. Civil Action No.: 1:15-cv-00662-TSE

NATIONAL SECURITY AGENCY, et al.,

Defendants

DEPOSITION OF MICHELLE S. PAULSON

(Corporate Designee for Wikimedia Foundation)

Washington, D.C.

Friday, April 13, 2018

9:53 a.m.

Reported by: Sheri D. Hayhurst-Smith, RPR

Page 2

1
 2 DEPOSITION OF MICHELLE S. PAULSON, held at the
 3 Offices of:
 4
 5 COOLEY, LLP
 6 1299 Pennsylvania Avenue, NW
 7 Suite 700
 8 Washington, DC 20004
 9
 10
 11 Pursuant to Notice, before Sheri D.
 12 Hayhurst-Smith, Registered Professional Reporter and
 13 Notary Public in and for the State of Maryland.
 14
 15
 16
 17
 18
 19
 20
 21
 22

Page 4

1 APPEARANCES
 2 (Continued)
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Page 3

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Page 7	<p>1 MICHELLE S. PAULSON, having been sworn,</p> <p>2 testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. GILLIGAN:</p> <p>5 Q Good morning. Could you please state your</p> <p>6 name for the record.</p> <p>7 A Michelle Sarah Paulson.</p> <p>8 Q Sarah Paulson?</p> <p>9 A Paulson, P-A-U-L-S-O-N.</p> <p>10 Q S-A-R-A?</p> <p>11 A H.</p> <p>12 Q Oh, that's your middle name?</p> <p>13 A Yes.</p> <p>14 Q So, Ms. Paulson then, for the record?</p> <p>15 A Yes.</p> <p>16 Q Okay. Very good. Ms. Paulson, my name is</p> <p>17 Jim Gilligan. I'm an attorney with the Department</p> <p>18 of Justice, representing the defendants in this</p> <p>19 case, including the National Security Agency and</p> <p>20 others.</p> <p>21 We're here to take your testimony in a lawsuit</p> <p>22 in which the Wikimedia Foundation asserts that a</p>	Page 9	<p>1 Q And what are your duties and</p> <p>2 responsibilities as a contractor for Wikimedia?</p> <p>3 A To assist with the NSA case, this case.</p> <p>4 Q What sort of assistance are you providing</p> <p>5 in connection with the case?</p> <p>6 A Appearing here today, amongst other</p> <p>7 things.</p> <p>8 Q That is your sole responsibility with</p> <p>9 respect -- I'm sorry. Did you say there are other?</p> <p>10 A In relation to this case.</p> <p>11 Q In relation to this case?</p> <p>12 A (The witness nods head up and down).</p> <p>13 Q I'm sorry. I apologize. I lost the</p> <p>14 thread there.</p> <p>15 You said that your duties as a contractor with</p> <p>16 the Wikimedia Foundation are to assist with this</p> <p>17 case?</p> <p>18 A Yes.</p> <p>19 Q And that they include appearing here</p> <p>20 today?</p> <p>21 A Yes.</p> <p>22 Q Are there any other duties and</p>

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<p>1 responsibilities that you have with respect to this 2 case? 3 A I started in my contract capacity in 4 December of last year and have just helped on an 5 as-needed basis, because during my long-term 6 employment with the Foundation that ended in May of 7 2017, I had done a substantial amount of work on 8 this case. I was leading the case in-house for 9 Wikimedia. 10 And, therefore, they thought I would be best 11 suited to continue at this next stage of the case. 12 Q So, until May of 2017, you were employed 13 by the Wikimedia Foundation? 14 A Yes. 15 Q And by whom have you been employed since 16 May, 2017? 17 A I decided to take time off for a year, and 18 I've been traveling. 19 Q Okay. Excellent. What were your duties 20 and responsibilities -- well, what was your -- let 21 me start here. 22 What was your position at the Wikimedia</p>	<p>1 A Yes. I have a JD from University of 2 California, Hastings College of the Law, and a 3 Bachelor's degree from University of California 4 Berkeley. 5 MR. GILLIGAN: I'd like to mark this as 6 what -- as I recall -- or as I'm told, I should 7 say, since I wasn't here, we ended at 8 Government's Exhibit 10 yesterday? 9 MS. HANLEY COOK: That's correct. 10 MR. GILLIGAN: So, we'll start with 11. 11 MS. HANLEY COOK: Is that the notice? 12 MR. GILLIGAN: Yeah. 13 MS. HANLEY COOK: I think we marked it 14 yesterday. If you have it, we can use it 15 again. But I'm happy to mark it again as well. 16 MR. GILLIGAN: Let's mark it again, yes. 17 Many more trees will be felled in this case 18 than over this little notice. 19 (Government's Exhibit No. 11 was subsequently 20 marked for identification and attached hereto). 21 MR. GILLIGAN: Here are several copies for 22 you folks. You can give that to the witness.</p>
Page 11	Page 13
<p>1 Foundation that you last held before leaving in May 2 of 2017? 3 A I was legal director and interim general 4 counsel. 5 Q And how long did you hold that position? 6 A As far as I can remember, the interim 7 general counsel was approximately nine months, and 8 legal director was probably approximately two years. 9 But I need to go and double check dates to be 10 exact. 11 Q It's close enough. And how long were you 12 employed by the Wikimedia Foundation all together? 13 A Since 2009. 14 Q And were you employed during that entire 15 time in a capacity as an attorney? 16 A In a variety of states. I started as a 17 legal intern and worked my way up. 18 Q Did you have any full-time employment 19 prior to joining the Wikimedia Foundation in 2009? 20 A No. I was just finishing school. 21 Q And speaking of which, can you please 22 state your educational background briefly.</p>	<p>1 BY MR. GILLIGAN: 2 Q Ms. Paulson, we've just marked as 3 Government's Exhibit 11, the Government's notice of 4 deposition pursuant to Federal Rule of Civil 5 Procedure 30(b)(6). 6 Are you familiar with this document? 7 A Yes. 8 Q Did you review it in preparation for this 9 deposition today? 10 A Yes. 11 Q I direct your attention to the third topic 12 of deposition listed on Page 2. 13 A Yes. 14 Q You're familiar with that? 15 A Yes. 16 Q Are you the person that the Wikimedia 17 Foundation has designated to testify on the matters 18 described in Topic 3? 19 A Yes. 20 Q And do you understand that in so far as my 21 questions today concern this third topic, the 22 answers you give will be on behalf of Wikimedia and</p>

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1 not yourself personally?
 2 A Yes.
 3 Q And do you understand that as far as my
 4 question is concerned, Topic 3, the answers you give
 5 are not to be limited by the extent of your own
 6 personal knowledge, but are to include all
 7 information known or reasonably available to
 8 Wikimedia Foundation?
 9 A Yes.
 10 Q Can you please tell me what you did in
 11 order to prepare for the deposition today?
 12 A Sure. I met with members of Cooley who
 13 are present here --
 14 Q Uh-huh.
 15 A -- as well as a couple of other members
 16 who are not, for a prep meeting on Monday that
 17 lasted, I think, seven to eight hours maybe, and
 18 then met again on Tuesday briefly.
 19 Q When you say "briefly," does that mean an
 20 hour? Two hours?
 21 A I would guess two hours, but I would need
 22 to look at my records.

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1 Q That's all right. And did you review any
 2 documents in preparation for the deposition today?
 3 A I did.
 4 Q Could you give me an estimate of how many
 5 documents you reviewed?
 6 A It's not an exact number, but probably,
 7 roughly, 60 or so, a variety of documents.
 8 Q Do you know whether these are documents
 9 that were produced to the defendants in this
 10 litigation?
 11 A Yes.
 12 Q All of them?
 13 A Yes. As far as I know.
 14 MR. GILLIGAN: May I ask you, Devon, if
 15 that's accurate or not?
 16 MS. HANLEY COOK: Yeah.
 17 MR. GILLIGAN: Okay. Thank you.
 18 MS. HANLEY COOK: With the exception of
 19 filings in this case, which are not produced.
 20 MR. GILLIGAN: Filings, we'll give you a
 21 break on.
 22 MS. HANLEY COOK: Thanks, Jim.

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1 THE WITNESS: I should also say that I
 2 reviewed the documents on my own without Cooley
 3 as well in preparation.
 4 BY MR. GILLIGAN:
 5 Q In addition to the Monday and Tuesday
 6 sessions?
 7 A Yes.
 8 Q How much time do you think you've spent
 9 reviewing the documents on your own?
 10 A Again, I would need to check my records,
 11 but maybe ten.
 12 Q Ten hours or so?
 13 A (The witness nods head up and down).
 14 MS. HANLEY COOK: Can we go off the record
 15 for one second?
 16 (A discussion was held off the record).
 17 MR. GILLIGAN: Okay. I'd like to mark
 18 this document as Government's Exhibit 12.
 19 (Government's Exhibit No. 12 was subsequently
 20 marked for identification and attached hereto).
 21 BY MR. GILLIGAN:
 22 Q Ms. Paulson, we've marked as Government's

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1 Exhibit 12, Wikimedia Foundation, Inc.'s responses
 2 and objections to United States Department of
 3 Justice's first set of interrogatories.
 4 Are you familiar with this document?
 5 A Yes.
 6 Q Did you review this document in
 7 preparation for the deposition today?
 8 A Yes.
 9 MR. GILLIGAN: Okay. Then I would like to
 10 mark, next, Tim, it's going to be -- it should
 11 be Number 7. Mark that as Government's Exhibit
 12 13, I believe.
 13 (Government's Exhibit No. 13 was subsequently
 14 marked for identification and attached hereto).
 15 MR. GILLIGAN: We've just marked,
 16 Ms. Paulson, as Government's Exhibit 13, a
 17 document produced to the Government in the
 18 case, bearing on the front page, Bates Stamp
 19 Number Wiki -- that's W-I-K-I -- 0006674. And
 20 that goes through Bates Number Wiki0006696.
 21 MS. HANLEY COOK: Well --
 22 MR. GILLIGAN: I'm sorry -- 6697. Thank

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1 Internet backbone and scooping up all communications
 2 that way without Wikimedia's knowledge. They were
 3 wondering what kind of impact it would have to
 4 readers and editors and whether there would be a
 5 chilling effect on use of the projects. They were
 6 wondering -- they were generally not very
 7 comfortable with the idea that the government would
 8 be watching what they're reading or editing. They
 9 were wondering what we could do to safeguard
 10 communications of the Foundation and the community
 11 and whether our present security measures were
 12 enough and what could be done to better safeguard
 13 those communications.
 14 But, again, I would need to review it to make a
 15 more exhaustive list.
 16 Q So, among the concerns, they expressed a
 17 concern that the U.S. Government, through the NSA,
 18 was, as you put it, reading their communications
 19 with the Wikimedia Foundation?
 20 MS. HANLEY COOK: Objection. Misstates
 21 the prior testimony.
 22 Q You may answer.

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1 A Sorry. Could you repeat your question?
 2 Q Having listened to your answer there, I
 3 understood you to say -- but please correct me if
 4 it's wrong -- that "readers expressed concern that
 5 the U.S. Government was," as you put it, "watching
 6 what they were reading?"
 7 MS. HANLEY COOK: Same objection.
 8 Q You may answer.
 9 A I believe they were concerned about the
 10 general tapping of the Internet backbone and being
 11 able to scoop up communications that would include
 12 communications with Wikimedia, that may include
 13 reader information.
 14 Q But communications of theirs?
 15 A I'm sorry?
 16 Q The members of the community were
 17 concerned that the NSA was intercepting
 18 communications of theirs?
 19 A As well as Wikimedia's.
 20 Q As well as Wikimedia's. And what sort of
 21 information were they concerned that the NSA was
 22 acquiring of theirs?

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1 A This isn't an exhaustive list, and there
 2 may be people at the Foundation that have additional
 3 examples.
 4 From what I can recall, there were some
 5 concerns expressed about sharing forms of
 6 identification that some select community members
 7 were previously required to send us from the
 8 previous version of the access to nonpublic
 9 information policy. At that time, it was called
 10 access to nonpublic data policy.
 11 There were also concerns about communicating
 12 sensitive information over e-mail or other
 13 electronic forms. There was some concern about
 14 getting access to otherwise nonpublic information,
 15 such as IP addresses that we consider to be private
 16 and identifying information, which, in turn, could
 17 indicate reading habits of users.
 18 Q In addition to readers, did individuals
 19 who contribute to or edit project websites express
 20 concerns of this nature?
 21 A Yes. As far as I can tell you, again, if
 22 you can look at the documents that I referenced

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1 earlier of the discussion pages for the two
 2 consultations regarding surveillance and the privacy
 3 policy, you might be able to find particular
 4 examples.
 5 Q And if the NSA obtained this information,
 6 what were they concerned would happen?
 7 I'm trying to figure out if I'm speaking in a
 8 grammatically correct fashion.
 9 If the NSA obtained this information, what is
 10 it they were concerned would happen?
 11 A I certainly can't speak to what every
 12 community member or staff member feared would
 13 happen.
 14 Q Right.
 15 A That would be a great deal of speculation
 16 on my part.
 17 But from, personally, in my conversations with
 18 users and what I saw on mailing lists and in the
 19 discussion pages --
 20 Q Uh-huh.
 21 A -- they were concerned that there could be
 22 a chilling impact. They were concerned that the

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1 government would have that kind of information on
 2 them. There aren't that many people out there in
 3 the world that are thrilled for anybody to know what
 4 sites that they visit and what their browsing habits
 5 are. They have no idea what the NSA does with this
 6 information and who it's shared with. We don't know
 7 that.
 8 And not knowing how your information is used
 9 and information about how you live your life can be
 10 scary to some people. And they don't know what kind
 11 of consequences could happen as a result of those
 12 practices.
 13 Q Did some users, at least, express a
 14 concern that the information you were describing, if
 15 acquired by the NSA, would somehow be used against
 16 them by the U.S. Government?
 17 A I don't recall. But other people at
 18 Wikimedia might have specific examples, and there
 19 may be instances of that in the discussion pages or
 20 mailing lists that we turned over.
 21 Q Did some users express concern that the
 22 information you were describing, if acquired by the

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1 NSA, would be shared with their own governments?
 2 A There were a couple of instances that I
 3 was personally aware of, where there was concerns
 4 about information that couldn't be possibly
 5 intercepted being shared. However, there may be
 6 more instances that other people in the Foundation
 7 would be aware of that I was not consulted on.
 8 Q And did these users express concern that
 9 if this information was shared with their
 10 government, they would suffer adverse consequences
 11 of some kind as a result?
 12 A Yes.
 13 Q What kind of adverse consequences?
 14 MS. HANLEY COOK: Objection. Beyond the
 15 scope of the topic as noticed. The witness
 16 will answer in her personal capacity.
 17 MR. GILLIGAN: The reasons that should
 18 become clear soon. We disagree. And we'll
 19 take that as a standing objection to save time
 20 -- or a standing response to your objection, I
 21 should say --
 22 MS. HANLEY COOK: Great.

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1 MR. GILLIGAN: -- that we disagree.
 2 MS. HANLEY COOK: If you would like to
 3 save time, I can also say "beyond the scope of
 4 the topic" to shorten my objection, if we can
 5 stipulate that that means that the witness is
 6 answering in her individual capacity.
 7 MR. GILLIGAN: And two people suffering
 8 with allergies agree to speak less.
 9 MS. HANLEY COOK: Also, there's a question
 10 pending, but I do have a logistical matter we
 11 should stop for one second and discuss at some
 12 point.
 13 BY MR. GILLIGAN:
 14 Q Well, are you prepared to answer?
 15 A Sorry. Could you repeat the question for
 16 us?
 17 MR. GILLIGAN: Madam Court Reporter, could
 18 you please repeat the question for us?
 19 (Question read back).
 20 BY MR. GILLIGAN:
 21 Q That is to say, what kind of adverse
 22 consequences did community members state they feared

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1 they would suffer if the information that you were
 2 describing was intercepted by the NSA and shared
 3 with their home governments?
 4 A This is not a definitive list, but it's
 5 what I can remember off of the top of my head.
 6 Again, if you speak with other Wikimedia employees
 7 who might have more.
 8 There were some concerns about being
 9 investigated or harassed by local authorities,
 10 detained, having an adverse impact on their job or
 11 family, prevented from leaving the country, and in
 12 one case, potentially tortured.
 13 MS. HANLEY COOK: Can we go off the record
 14 for one second?
 15 MR. GILLIGAN: Oh, yes. I'm sorry. Yes.
 16 You had a logistical issue.
 17 (A discussion was held off the record).
 18 MR. GILLIGAN: Back on the record.
 19 BY MR. GILLIGAN:
 20 Q Okay. Ms. Paulson, can I direct your
 21 attention, please, to Exhibit 12, Wikimedia's
 22 responses to the DOJ interrogatories. And could I

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1 practices, and it contributed to them being
 2 reluctant to talk to us over certain mediums.
 3 Q And that's the full extent of your
 4 recollection of what they said?
 5 A That is what I recall now. I might recall
 6 something later in the deposition.
 7 Q Did they express any concern about
 8 sensitive information being transmitted by
 9 electronic means somehow being used against them?
 10 MS. HANLEY COOK: Objection. Asked and
 11 answered.
 12 A I do not recall whether or not they
 13 specified that. However, I believe that they -- I
 14 don't know whether they -- I can't remember whether
 15 or not they specified by the U.S. Government, but I
 16 do recall there being concerns about surveillance
 17 being potentially leading to negative consequences
 18 for them.
 19 And as we discussed earlier, there were the
 20 potential ways that they could be retaliated
 21 against, including being investigated, harassed,
 22 detained, tortured, adverse impact on the job, and

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1 prevented from leaving the country.
 2 Q And these were consequences, as I recall
 3 us discussing, that would have flowed from the
 4 sharing of their sensitive information with their
 5 home governments?
 6 MS. HANLEY COOK: Objection. Misstates
 7 the testimony.
 8 A From what I recall we discussed earlier,
 9 these were potential consequences that certain
 10 individuals feared would happen by their own
 11 government, because they don't know what NSA
 12 practices are in regards to sharing of information
 13 or using such information.
 14 Q So, returning to the interrogatory
 15 response, the second sentence, as I read before,
 16 states, "Fears over NSA surveillance of
 17 international text-based Internet communications
 18 meant that Wikimedia was required to increasingly
 19 rely on telephone and in-person communications and
 20 encrypted messaging systems."
 21 Why was Wikimedia required to increasingly rely
 22 on these systems? To make it easy, is it because

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1 the users were reluctant or unwilling to use other
 2 forms of communication?
 3 A The Wikimedia Foundation works hand in
 4 hand with its community. It's what makes us a
 5 successful organization and have successful
 6 projects.
 7 So, maintaining open lines of communication
 8 with our community is vital to our existence and the
 9 way we function. And if there were community
 10 members that were not comfortable communicating in
 11 one way, we preferred not to forego the
 12 communication all together. So, we would try to
 13 find other methods of communication that they were
 14 more comfortable with that may not have been as
 15 insecure as an encrypted e-mail.
 16 And as I stated before, a few examples of these
 17 messaging systems that we used --
 18 Q Could you do this slowly this time?
 19 A Yes. Of course. Signal, one that I
 20 personally recommend and love, telephone, in-person
 21 meetings, telegram, iMessage, IRC, Messenger.
 22 Q Is that it?

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1 A I believe that's all I said before.
 2 Again, this isn't a completely exhaustive list.
 3 Q Okay. If you will indulge my ignorance,
 4 can you tell me what kind of messaging system Signal
 5 is?
 6 A It's an SMS messaging system.
 7 Q Texting?
 8 A Yes. An encrypted texting.
 9 Q And when you said "telephone," were you
 10 referring to just picking up the phone and dialing
 11 and calling somebody, or were you referring to
 12 something else?
 13 A It can -- when I said "telephone," it can
 14 mean a traditional telephone. It can mean a cell
 15 phone. It could also mean voiceover IP methods of
 16 communication. Would you like examples of those?
 17 Q No. Thank you. That far into the
 18 20th century -- 21st Century -- excuse me. I made
 19 it. I almost just proved my own point there.
 20 Telegram, is that a reference to traditional
 21 Telegram communications, or is that something
 22 different? Now, we're back in the 19th Century.

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1 A To the best of my recollection, there may
 2 be more information in the discovery documents that
 3 we provided or through the personal knowledge of
 4 other employees of the Wikimedia Foundation.
 5 However, it's my recollection that they spoke
 6 about NSA Upstream surveillance intercepting our --
 7 sorry, not intercepting -- but the surveillance
 8 impacting Wikimedia communications in between users
 9 and the Wikimedia Foundation. And by the people who
 10 tend to come to Wikimedia or talk about these issues
 11 in person or participate in mailing lists are some
 12 of the most active members of Wikipedia on the other
 13 projects, meaning that they are contributors to it.
 14 So, when they do talk about something affecting
 15 the projects and communications, they're frequently
 16 talking about their own as well as the work of
 17 others.
 18 Q And in what way did they state that NSA
 19 surveillance might impact Wikimedia communications?
 20 A Some community members -- and there may be
 21 other examples of this that other Wikimedia staff
 22 know or appear in the discovery documents or that I

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1 might recall later.
 2 But some of them, based on their learning from
 3 credible news sources, that the NSA's dragnet
 4 surveillance program is where we're sweeping up
 5 their nonpublic communications with Wikimedia, which
 6 could include information that they deemed to be
 7 personal and nonpublic, such as IP addresses or
 8 reading habits.
 9 Q And in addition to that, was there some
 10 concern that --
 11 A There was also mention of potential
 12 chilling effects on participation of both reading
 13 and contributing to Wikimedia projects.
 14 Q If the NAS intercepted their
 15 communications?
 16 MS. HANLEY COOK: Objection. Vague and
 17 ambiguous.
 18 A That there would be chilling effects as
 19 the result of this new knowledge of the extent and
 20 sophistication of the NSA's dragnet surveillance, in
 21 which it was tapping into the backbone of the
 22 Internet and through practices that were not

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1 previously known by the Foundation itself and not by
 2 the users until the media attention.
 3 Q Did they explain how or state how they
 4 believe that knowledge or that belief would lead to
 5 a chilling effect on Wikimedia communications?
 6 A From my recollection, there were instances
 7 in which people talked about a possible chilling
 8 effect as a result of NSA surveillance. There may
 9 be other examples that foundation staff or the
 10 discovery documents provide. But I remember there
 11 being a conversation about people tending to
 12 self-censor when they believe their actions are
 13 being monitored, especially when it's nonconsensual
 14 and by a large and powerful entity that is
 15 governmental in nature, such as the NSA.
 16 There were also reasonable concerns around what
 17 the NSA's practices are and who they shared that
 18 information with, which could again contribute to a
 19 chilling effect.
 20 Q Because of a fear of adverse consequences
 21 as a result of who the NSA might share the
 22 information with, correct?

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1 A I would say it was a reasonable concern
 2 for those users, as I'm sure you're aware of the
 3 U.S. is not a country in isolation, and it has
 4 partnerships with countries around the world, and
 5 intelligence sharing is part of those practices.
 6 While it is not common knowledge exactly the
 7 nature and extent and methodology of the sharing, I
 8 think it's a perfectly reasonable suspicion that
 9 some information gets shared with other
 10 organizations. And without knowing what that is,
 11 they want to be able to protect the nature of those
 12 communications.
 13 Q Okay. Moving further down then in Exhibit
 14 20 to the second paragraph, it states, "Our current
 15 architecture cannot handle HTTPS by default, but
 16 we've been incrementally making changes to make it
 17 possible. Since we appear to be specifically
 18 targeted by XKeyscore, we'll be speeding up these
 19 efforts."
 20 Do I understand correctly the reference to, in
 21 the second paragraph, XKeyscore to be referenced to
 22 the so called NSA XKeyscore program alluded to in

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1 sites with HTTPS", okay, the document is dated --
 2 the announcement, I should say, is dated June 12th,
 3 2015.
 4 And at the very end, before you get to the
 5 comments section on page WIKI0007109, it says,
 6 "Today, we are happy to start the final steps of
 7 this transition, and we expect completion within a
 8 couple of weeks."
 9 Did Wikimedia achieve that objective? In other
 10 words, did they complete the final steps of the
 11 transition, at least as that term is used in this
 12 document, within a few weeks of June 12th, 2015?
 13 A I believe the authors of this blog post
 14 were referring to this step in this particular part
 15 of the transition, in that HTTPS by default
 16 implementation would occur within the next couple of
 17 weeks.
 18 However, as we discussed earlier, this is an
 19 ongoing process. We still have those two ways where
 20 HTTP traffic could still occur, one of which is in
 21 our control, and the other is not. As I mentioned
 22 before, the browsers, the old browsers, we don't

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1 have control over, but over time, those browsers
 2 would be presumably updated or fallen out of use,
 3 for the most part.
 4 The part that we do have active work on is
 5 making the noncanonical sites secure, and that is an
 6 ongoing process.
 7 So, to say that the transition is totally
 8 complete would be inaccurate at any point, and
 9 especially when you also consider that security
 10 standards change, and upgrades will have to continue
 11 to be made in order to maintain industry standards
 12 around our TLS termination servers will need to be
 13 updated.
 14 So, this is an ongoing process and one that
 15 we're committed to in order to continue to protect
 16 against NSA surveillance, particularly upstream.
 17 Q Thank you. But I'm not sure, in your
 18 response there, that it necessarily got to my
 19 question.
 20 Insofar as this document -- let me try it this
 21 way: The document in the last sentence there before
 22 the comments section talks about a transition.

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1 And I'm understanding the qualifications, the
 2 qualifiers in the answer you just gave, it says that
 3 "we expect completion", at least with the transition
 4 that this announcement is talking about, "within a
 5 couple of weeks."
 6 And, so, all I'm asking is whether the
 7 transition that this document is talking about was,
 8 in fact, completed within a couple of weeks of
 9 June 12th, 2015?
 10 A I would need to check other documents or
 11 talk to someone at Wikimedia to ensure it. But as
 12 far as I know, it did complete within the couple of
 13 weeks stated.
 14 But, again, this is only for this particular
 15 step of the transition.
 16 MR. GILLIGAN: Very good. Okay. Let's
 17 take a break. Off the record, please.
 18 (A brief recess was taken).
 19 MR. GILLIGAN: All right. I would ask the
 20 court reporter to mark this as Government
 21 Exhibit 22.
 22 (Government Exhibit No. 22 was subsequently

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1 marked for identification and attached hereto).
 2 BY MR. GILLIGAN:
 3 Q Ms. Paulson, we have just marked as
 4 Government Exhibit 22 a document produced by
 5 Wikimedia to the defendants in the litigation,
 6 bearing Bates Stamp Numbers WIKI0006872 through --
 7 can you tell me the last one or show me -- 6938.
 8 Ms. Paulson, if you know, can you tell us what
 9 a Wikipedia village pump is?
 10 A A village pump is a certain area of
 11 Wikipedia that is frequently used for discussions
 12 amongst community members and sometimes with
 13 interactions with staff, usually relating to topics
 14 on Wikipedia as opposed to other Wikimedia projects.
 15 Q And are you familiar with the document
 16 titled "Wikimedia Village Pump (technical)/Archive
 17 138?"
 18 A Yes.
 19 Q Did you review this in preparation for the
 20 deposition?
 21 A I did.
 22 Q Is it, in fact, what it purports to be,

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1 Wikimedia Village Pump (technical)/Archive 138?
 2 A I haven't read all 138 pages, but it
 3 appears to be that on first glance.
 4 Q There's a table of contents on the first
 5 page. Do you see where I'm referring to?
 6 A I do.
 7 Q Listing various, I guess, discussion
 8 topics in the pump, for lack of a better term. One
 9 of which is HTTPS by default; do you see that, about
 10 a third of the way down the list?
 11 A Yes.
 12 Q If you would turn to Page 7 of the
 13 document, bearing bates stamp Number WIKI0006878,
 14 there is a heading "HTTPS by default," as indicated
 15 in the table of contents. And there's a -- tell me
 16 if this is not the proper terminology -- but a
 17 message that begins, "Hi everyone, over the last few
 18 years, the Wikimedia Foundation has been working
 19 towards enabling HTTPS by default for all users,
 20 including the anonymous ones, for better privacy and
 21 security for both readers and editors."
 22 And then it goes on after several sentences to

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1 say, "This has finally been implemented on English
 2 Wikipedia, and you can read more about it here," and
 3 it gives a link to a website.
 4 It then continues "Most of you shouldn't be
 5 affected at all. If you edit as a registered user,
 6 you have already had to log in through HTTPS. We'll
 7 keep an eye on this to make sure everything is
 8 working as it should. Do get this touch with us if
 9 you have any problems logging in or editing
 10 Wikipedia after this change, or contact me if you
 11 have any other questions."
 12 And following the end of the message there, it
 13 appears the name -- I don't know how you say it --
 14 Johan or Johan -- I'm not sure which -- followed by
 15 the initials, WMF, in parenthesis, the word, "talk",
 16 and then a time and date stamp of 12:43 on
 17 June 12th, 2015.
 18 Are you familiar with a Wikimedia staff person
 19 named Johan?
 20 A I am.
 21 Q Would that Johan, as in Johnson?
 22 A Yes.

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1 Q J-O-N-S-S-O-N?
 2 A I believe so.
 3 Q So, does the appearance of his name here
 4 at the end of this message indicate that he is the
 5 person who wrote that message?
 6 A It is an indication that he is the one
 7 that posted that message. I can't say whether or
 8 not he is the one that was the original drafter.
 9 Q But he posted it?
 10 A Yes.
 11 Q And, so, then a couple lines down, there
 12 is another message. It says, "To Johan," followed
 13 by the initials, WMF, "you have to know what a real
 14 drag this is."
 15 And the individual goes on to say, after
 16 several sentences, "I want to be able to choose
 17 whether or not I'm on the HTTP server or the HTTPS
 18 server."
 19 And whether or not that's the person's real
 20 name, it's signed Paine, P-A-I-N-E, with a date
 21 stamp of June 12th, at 1421 hours.
 22 What then follows under that, is a message that

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1 again, ends with the name, Johan, followed by the
 2 initials, WMF.
 3 Is that an indication then that the message
 4 underneath Paine's message was posted by Johan from
 5 the Wikimedia staff?
 6 A Yes. Well, it is possible that it was not
 7 posted by him, because sometimes things go out of
 8 alignment if you don't format it properly. This
 9 indicates that it was an insert by Johan.
 10 Q Thank you. And it states there, does it
 11 not, "The answer I was given when I was asked about
 12 this is that any form of opt-out would also leave
 13 potential security risks in our implementation,
 14 which would make it difficult to safeguard those who
 15 do not opt out."
 16 Do you have any understanding of what the
 17 security risks are there that are being referred to?
 18 A As I stated, I'm not a technical expert,
 19 and I am not here to answer questions in that
 20 capacity.
 21 Unfortunately, I do not recall the particular
 22 security risks that Johan is referring to, but there

<p style="text-align: right;">Page 130</p> <p>1 might be others in Wikimedia Foundation that would 2 know which he's referring to, as he does seem to 3 have asked someone in particular for this 4 information. It may also appear in other parts of 5 discovery documents. I might recall later. 6 MR. GILLIGAN: All right. Let's go to the 7 next one, Tim. 8 Let's mark this as Number 23. 9 (Government Exhibit No. 23 was subsequently 10 marked for identification and attached hereto). 11 BY MR. GILLIGAN: 12 Q Ms. Paulson, we are marking as Government 13 Exhibit 23, a document produced to us in the 14 litigation by Wikimedia, bearing the Bates Stamp 15 Numbers WIKI0006536 through 6540. 16 Is this a document you are familiar with? 17 A Yes. 18 Q Is this a document you reviewed in the 19 course of your preparation for the deposition? 20 A Yes. 21 Q All right. It says at the very top of the 22 page, "HTTPS Meta."</p>	<p style="text-align: right;">Page 132</p> <p>1 have will have to use it. 2 And then it says in parenthesis, "This is 3 necessary to prevent the SSL-stripping attack." 4 A Okay. 5 Q Okay. But you say you can't tell, on the 6 base of this document, whether that particular 7 statement was made by Wikimedia or by third party 8 user? 9 A Based on the document that appears before 10 me, without an editing history or a signature, I 11 cannot confirm with certainty that it was written by 12 a Wikimedia Foundation employee. 13 Q Where would I be able to find the editing 14 history of the document? 15 A If you go to the address at the bottom of 16 the page that we referred to earlier, 17 HTTPS://media -- sorry -- 18 meta.wikimedia.org/Wiki/HTTPS, there will be a tab 19 that you can click on the top of the page that says, 20 "History," and that will provide you with dates and 21 identify who, either by IP or user name, made edits 22 and what it is that they made.</p>
<p style="text-align: right;">Page 131</p> <p>1 Does that indicate it was posted on the site, 2 meta.Wikimedia.org? 3 A Yes. As indicated at the bottom of the 4 page. 5 Q Indeed. And is this then a post of some 6 kind on that website by Wikimedia on this topic as 7 HTTPS? 8 A The author, unless I'm missing it 9 somewhere, is not indicated, and I would need to 10 look at the revision history of the document in 11 order to see whether it was a Wikimedia employee, a 12 series of Wikimedia employees or a combination of 13 Wikimedia employees and community members, because 14 Meta is open to editing by the community as well as 15 the foundation. 16 Q Well, it says at the -- 17 A If you would like to direct me to it. 18 Q Yes. I indeed would. It says at the 19 bottom of Page 3, with Bates Stamp Number 6538, 20 under the heading "Effect on Unregistered 21 Contributors," "Once HTTPS is switched fully on, 22 there will be no option to disable, and all users</p>	<p style="text-align: right;">Page 133</p> <p>1 Q When edits are made by Wikimedia 2 personnel, is there any distinctive format to be 3 made? 4 A Sometimes. Not always. And in earlier 5 years, it was not as uniform as it is now. So, 6 there may still be employees that don't have the 7 parenthesis, WMF, that you saw in the previous 8 exhibits that we went through. 9 Now, most of them have it, but not all of them. 10 Q But if that was used, that would be 11 indicative -- 12 A Yes. 13 Q -- that the edit was done by Wikimedia 14 personnel? 15 A Yes. 16 MR. GILLIGAN: I want to redirect your 17 attention to the interrogatory responses, 18 but -- and you can certainly do that on your 19 own. I, at the moment, however, cannot find my 20 own copy of the interrogatory responses. 21 And, you know what, if you'll indulge me, can 22 we just go off the record for a second. I'm going</p>

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1 names.

2 You didn't say that those were the only two

3 ways that HTTP traffic could occur, did you?

4 MR. GILLIGAN: Before the witness answers,

5 I would just like object that that misstates

6 the prior testimony.

7 MS. HANLEY COOK: I wasn't sure.

8 THE WITNESS: I don't know exactly what I

9 said previously, but for clarification, these

10 are two of the ways. There could be others,

11 but those were the two that I recalled at this

12 time.

13 Other people at the foundation might know other

14 ways or other instances or examples, and there might

15 be more information in the documents. As you stated

16 earlier, there's quite a lot of them.

17 MS. HANLEY COOK: And then we can go off

18 the record. I had need to take a quick break,

19 holding this open five minutes to check

20 something. And then I'll come back on the

21 record, if that's okay?

22 MR. GILLIGAN: Okay.

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1 (A brief recess was taken).

2 MS. HANLEY COOK: I have no further

3 questions.

4 MR. GILLIGAN: Just one question on

5 redirect. And you may have already said this,

6 but I don't recall. And, so, I just want to be

7 sure.

8 EXAMINATION

9 BY MR. GILLIGAN:

10 Q So, Ms. Paulson, you were asked on

11 redirect by Wikimedia's counsel, whether there were

12 perhaps other ways that the two of you had testified

13 to that Wikimedia might still have some HTTP

14 traffic, notwithstanding it having transitioned to

15 HTTPS by default.

16 And as I recall, you said it's possible there

17 are other ways that might happen, other than the two

18 you testified to; is that correct?

19 A As far as I can recall, I thought that I

20 said that these were two that I remember. There

21 could be others. It might have been worded

22 differently. But, yeah, I think that's it.

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1 Q Okay. That's fine. And you put your

2 finger on just what I want to make sure is clear, at

3 least in my mind, that although you say there may be

4 others, you don't know what they are, at least as

5 you sit here now?

6 A I do not recall anything else.

7 MR. GILLIGAN: All right. That's all,

8 subject to our position about holding the

9 deposition open, as we discussed before.

10 MS. HANLEY COOK: Right. And mine as

11 well.

12 MR. GILLIGAN: Yes.

13 (Signature having not been discussed, the

14 deposition of Michelle S. Paulson was concluded at

15 5:33 p.m.)

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Sheri D Smith, Registered Professional

3 Reporter, the officer before whom the foregoing

4 deposition was taken, do hereby certify that the

5 foregoing transcript is a true and correct record

6 the testimony given; that said testimony was taken

7 by me stenographically and thereafter reduced to

8 typewriting under my direction and that I am neither

9 counsel for, related to, nor employed by any of the

10 parties to this case and have no interest, financial

11 or otherwise, in its outcome


12 IN WITNESS WHEREOF, I have hereunto set my

13 hand and affixed my notarial seal this 19th day of

14 April, 2018

15 My commission expires November 4, 2020

16

17 

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