

Miller & Chevalier

Barry J. Pollack
Member
202-626-5830
bpollack@milchev.com

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VIA ELECTRONIC MAIL AND U.S. MAIL

The Honorable Loretta E. Lynch
Attorney General of the United States
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dear General Lynch:

As you are aware, on November 29, 2010, the United States Department of Justice announced it was commencing an investigation of potential crimes committed by WikiLeaks and its founder, Julian Assange. As recently as March 15, 2016, the Department of Justice in a publicly filed court document confirmed that this "investigation continues to this day." See Defendants' Motion for Summary Judgment, *Manning v. U.S. Department of Justice and the Federal Bureau of Investigation*, 15-cv-01654-APM (D.D.C.), DE 12 at 1, 11. On May 19, 2016, in a subsequent publicly filed pleading, the Department reiterated the on-going nature of the investigation. See Defendants' Reply in Support of Motion for Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment, *Manning v. U.S. Department of Justice and the Federal Bureau of Investigation*, 15-cv-01654-APM (D.D.C.), filed May 19, 2016, DE 16 at 1 ("[T]he FBI's ongoing investigation is focused on any civilian involvement in Manning's leak of classified records published on WikiLeaks, and not on an investigation of Manning herself."). There are three distinct components of the Department currently conducting the investigation(s): the Criminal Division, the National Security Division, and the Federal Bureau of Investigation. See, e.g., *Electronic Privacy Information Center v. Department of Justice, Criminal Division*, et al., 12-cv-127 BJR (D.D.C.), Memorandum Opinion dated March 4, 2015, DE 40, at 1, 4.

As Mr. Assange's criminal defense counsel in the United States, I have repeatedly sought information from the Department of Justice regarding this now nearly-six-year-old investigation. Despite the fact that the Department has continually publicly confirmed through court filings and statements to the press that it is conducting an on-going criminal investigation of Mr. Assange, the Department has provided me no substantive information whatsoever about

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the status of the investigation. Two developments during the pendency of this investigation cause me to write to you to ask that you publicly announce the closure of the criminal investigation with no criminal charges.

First, in January 2015, the Attorney General revised the Department's regulations with respect to obtaining evidence from and charging members of the news media. The revised policy noted, "The Department's policy is intended to provide protection to members of the news media from certain law enforcement tools, whether criminal or civil, that might unreasonably impair newsgathering." *See* United States Attorneys' Manual, 9-13.400, "Obtaining Information From, or Records of, Members of the News Media; and Questioning, Arresting, or Charging Members of the News Media." The new policy states: "No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he or she is suspected of having committed in the course of, or arising out of, newsgathering activities without first providing notice to the Director of the Office of Public Affairs and obtaining the express authorization of the Attorney General. 28 C.F.R. 50.10(f)(3)."

Second, last month, the Department publicly announced it was closing its criminal investigation of the handling of classified information by Hillary Clinton. The Department did so the day after FBI Director Comey recommended against prosecution, stating that "no reasonable prosecutor" would pursue the case. In his statement, and in subsequent testimony before Congress, Director Comey made it clear his conclusion was based on the necessity of proving criminal intent. Director Comey noted that responsible prosecutors consider the context of a person's actions. Criminal prosecution is appropriate only when a person was knowingly violating the law and was intending to aid enemies of the United States or was attempting to obstruct justice.

The pending criminal investigation of Mr. Assange is plainly based on his newsgathering and reporting activities. WikiLeaks has published information out of a single overriding motivation: its belief that the information being published is newsworthy. The extensive third-party media coverage of information published by WikiLeaks confirms that WikiLeaks' assessment in this regard was correct. WikiLeaks' intent was lawful. It was not to aid enemies of the United States or to obstruct justice; it was to inform the public about matters of great public interest.

Under the circumstances, there is no legitimate basis for continuing the Department's lengthy criminal investigation of Mr. Assange and WikiLeaks. Doing so chills the newsgathering and reporting of WikiLeaks and other media organizations, improperly allows the Department to evade its responsibilities to disclose information pursuant to the Freedom of Information Act premised on the open investigation, and has resulted in what the United Nations has deemed to be the unlawful detention of Mr. Assange in the Ecuadorian Embassy in London for more than four years.

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For all of the reasons above, please promptly inform me of the conclusion of the Department's criminal investigation of Mr. Assange. Specifically, please publicly announce: 1) there are no pending charges against Mr. Assange under seal, or, if there are, they will be promptly dismissed; and 2) the continuing criminal investigation of which he is a target will be closed immediately with no criminal charges being brought.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Barry J. Pollack" followed by a stylized flourish.

Barry J. Pollack