

Ms. Kathleen Carroll Senior Vice President
Mr. John Daniszewski, Standards Editor
Ms. Karen Kaiser, General Counsel
Associated Press

24 August 2016

Dear all,

I am writing to submit a formal complaint in relation to the journalistic conduct of Mr. Raphael Satter. This conduct appears to have breached the ethical standards applicable to journalists of the Associated Press (AP).

On Tuesday morning (23 August) at 3:19 EDT (8:19 CEST), AP published an inflammatory article, described as an 'AP Investigation' by Raphael Satter and Maggie Michael, under the title "Private lives are exposed as WikiLeaks spills its secrets". The article, which has been widely distributed, contained falsehoods and distortions, including the disingenuous claim that WikiLeaks had been contacted and given the opportunity to address the substance of the article's claims. Mr. Satter did not contact WikiLeaks (sunshinepress@this.is). Instead he sent an email to me, a lawyer for Mr. Assange, at 12.38am in the morning, just seven hours before the article went to press.

The details of my exchange with Mr. Satter are described below.

I am a human rights and international criminal lawyer, who assisted Mr. Assange to submit a complaint on arbitrary detention before the United Nations Working Group on Arbitrary Detention. The Justice4Assange website and Sunshine Press list me as a member of Mr. Assange's legal team, provide my telephone number and email address, and state that I am English speaking and based in The Hague.

Mr. Satter contacted me on Monday night by sending me a text message at 10.30pm (Central European Summer Time – CEST).

I am copying the text message exchange as an annex to this email. As you can see from the exchange, I indicated that it was quite late for me to be speaking to a journalist, and asked for clarification if the matter was "urgent". Mr. Satter responded by confirming that he was also attempting to speak to Mr. Shenkman (who is listed as living in a completely different time zone), and that the issues could be addressed with me on Tuesday morning, if he was unable to contact Mr. Shenkman.

While his message indicated that the article would be published "soon", he did not mention in either his messages or our conversation that it would be published first thing on Tuesday morning. To the contrary, in his messages and during our conversation, he stressed that the purpose of contacting me was to either enable me to ascertain whether anyone at Wikileaks would be willing to be interviewed, or to conduct follow up inquiries.

Mr. Satter was aware from both the details supplied by Sunshine Press and from our conversation that I am a lawyer that assists Mr. Assange, and not a Wikileaks journalist. Indeed, as set out in his message, the primary purpose of speaking to me appears to have been to “brief” me, rather than to put questions to me; thus underscoring his own impression that I was not in a position to respond to his specific queries.

During our conversation, which took place from 22.38pm until 23.07pm CEST on Monday (22 August) night, Mr. Satter indicated that he had become aware from conducting searches of the Saudi Foreign Ministry's cables, that they appeared to include private details. He then indicated that he had contacted persons named in these cables to ascertain their views in relation to such disclosures. He also claimed that he had sent an email – a year ago – to my client, Julian Assange and the Icelandic investigative journalist Kristinn Hrafnsson to draw their attention to this issue.

I asked Mr. Satter if firstly, he could provide me with specific details regarding the alleged privacy violations so that I could verify this, and secondly, if he could forward me the email that he had sent to Mr. Assange and Mr. Hrafnsson.

As concerns the first issue, Mr. Satter indicated that he could not reveal such information to me due to the individuals' privacy, but that if I wished to look for it myself, I could find such cables by conducting a search on Wikileaks using the words 'medical records' or 'rape'.

I responded that if this was the case, then publishing an article on such matters would only serve to draw increased attention to the matter. This would in fact intentionally publicise information on individual cases that AP considered to be private.

I further informed Mr. Satter that I have worked in the area of war crimes, genocide and rape for over 17 years at international criminal courts, and that one of the fundamental rules of victim protection is that if there has been a disclosure of information that could be private or protected, the parties are absolutely forbidden from referring to, or drawing attention to such a disclosure in public. Indeed, such secondary disclosure can be more damaging than inadvertent disclosures, which are often overlooked or ignored by the public. Mr. Satter's response was simply to state that the same holds true for national security issues; that one cannot write about them without revealing national security information.

As concerns the second issue, Mr. Satter promised to send me the email within 10 minutes of our conversation. After the conversation, I sent Mr. Satter a follow up message – again stressing that it was late – and asking him to let me know when he had sent the email in question.

Mr. Satter did not respond until 12.40am CEST (i.e. Tuesday 23 August early in the morning), at which time he confirmed that he had sent the email, and stated that “Hopefully Julian or Kristinn can find some time tomorrow to address these issues”.

The email in question was sent at 12.38am CEST (i.e. Tuesday 23 August early in the morning).¹ Rather than forwarding the email he had allegedly sent to Mr. Assange and Mr. Hrafnsson, he set out a couple of links to cables, and a series of questions.

I was at this time, quite understandably, asleep; I am a full-time working mother, with two young children.

On Tuesday 23 August in the morning – 08.16am CEST (3.19am EDT) – AP published a story from Mr. Satter and Maggie Michael. The story initially claimed that questions sent to the Wikileaks site on Tuesday remained unanswered.

“Attempts to reach WikiLeaks founder Julian Assange were unsuccessful; a set of questions left with his site wasn't immediately answered Tuesday.”

This is false. Mr. Satter did not 'leave questions with 'his site''. I have been informed that the email for press to contact WikiLeaks, sunshinepress@this.is, has not received a single email from Mr. Satter over the past two weeks. Mr. Satter is aware that this is the means to contact WikiLeaks given that he has corresponded with sunshinepress@this.is since 2010. In fact, sunshinepress has received 37 emails from Mr. Satter, since August 2010, and that account has emailed Mr. Satter 76 times, with WikiLeaks press releases and replies to queries. The most recent email was a briefing note sent by Sunshinepress@this.is to Mr. Satter on August 19, five days before the story was published and to which Mr. Satter did not reply.

Mr. Satter's email claimed to have “tried to reach Kristinn and Julian over the past couple of weeks on this issue but have not gotten through”. I have been informed that Mr. Hrafnsson has not received any emails from Mr. Satter, although Mr. Satter has Mr. Hrafnsson's email address and has corresponded with him in the past.

The article was updated later on Tuesday with a new timestamp, 5.09 pm EDT. The modified version claimed that “Attempts to reach WikiLeaks founder Julian Assange for an interview over the past month have been unsuccessful and the ex-hacker did not reply to written questions”. There was no correction note to reference the fact that the article had originally been published at 3.19 a.m. EDT on Tuesday morning, and the update maintains the misrepresentation. The original timestamp (3.19 am EDT) is shown in the archived version of the original article, which was widely publicised by AP and Mr. Satter on Twitter immediately upon publication:

<https://web.archive.org/web/20160823074148/http://bigstory.ap.org/article/b70da83fd111496dbdf015acbb7987fb/private-lives-are-exposed-wikileaks-spills-its-secrets>).

----- Forwarded message -----
From: **Satter, Raphael** <RSatter@ap.org>
Date: Tue, Aug 23, 2016 at 12:38 AM
Subject: WikiLeaks cables
To: "melindataylor@gmail.com" <melindataylor@gmail.com>

Cc: "R Satter (raphael.g.satter@gmail.com)" <raphael.g.satter@gmail.com>, "Kristinn Hrafnsson (khrafnsson@gmail.com)" <khrafnsson@gmail.com>, Sarah <sarah@wikileaks.org>

Modifying the timestamp in the context of the subject of this complaint is severely deceptive.

It seems that the only attempt that Mr. Satter made to contact WikiLeaks was to request an interview with Mr. Assange on 17 August. The interview request made no mention of the Saudi material. The entirety of Mr. Satter's email is as follows:

“We'd be seeking a television interview with Assange; there're a backlog of question about the DNC emails and recent NSA malware. Also several people we've recently spoken to have raised concerns about your operations which we'd like to put to Assange directly. Raphael”

It is thus clear that Mr. Satter provided WikiLeaks with no effective opportunity whatsoever to respond to claims, because no claims were put to Wikileaks itself before publication.

The article itself included the very details that Mr. Satter had refused to provide to me on the ground that it would compromise the individual's privacy. Mr. Satter's inclusion of specific issues and names in his article has now broadened the public dissemination and audience for the cables in question.

According to “AP NEWS VALUES & PRINCIPLES”,² AP journalists should never publish something that contains inaccuracies or distortions, or which portrays someone in a negative light without giving them a fair opportunity to respond.

In terms of the latter aspect, the AP principles elaborate that:

“We must make significant efforts to reach anyone who may be portrayed in a negative way in our stories, and we must give them a reasonable amount of time to get back to us before we move the story. What is “reasonable” may depend on the urgency and competitiveness of the story. If we don't reach the parties involved, we must explain in the story what efforts were made to do so.”

Mr. Satter gave me clear representations that I would be given a reasonable opportunity to transmit the questions to other persons, with a view to potentially transmitting a

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response. His conduct and the timing of the publication of the article prevented me from doing so.

Given that the content of the story is similar to the content of a story published by Mr. Satter in 2015, there was no 'urgency' and competitiveness' at play, which could justify Mr. Satter's conduct.

In such circumstances, it is also misleading to state that Mr. Assange did not reply to written questions and that he "gave no indication on Tuesday that the offending material would be taken down". This is particularly the case given that apart from three cables sent at 12.38am (one of which refers to a deceased person), Mr. Satter refused to identify the "offending material" to me.

If the purpose of contacting me was to give Wikileaks a genuine opportunity to address this matter, then Mr. Satter should have adhered to his representations that I would have the opportunity to conduct follow up inquiries, and to disseminate the questions to other persons.

Since Mr. Satter was aware that I was in The Hague (and that it was extremely late by the time that he sent the questions), it is clear that he completely misrepresented his objectives when he contacted me.

Now that the article has been published, it is also impossible for Wikileaks to give a meaningful response. Mr. Satter's article has itself highlighted specific private information which can be searched for on the internet, and which is available independently of the Wikileaks site (as Mr. Satter should know, the content of the Saudi Cables was published online before Wikileaks collated it as the 'Saudi Cables'). If Wikileaks were to delete any specific cables, this would only serve to draw attention to the contents of such cables, by creating a verifiable record of the difference between the content on the Wikileaks site, as compared to the initial release.

Mr. Satter's conduct plainly breaches AP standards for journalistic conduct, and appears to have been a reckless attempt to exploit privacy concerns for the purpose of launching an unfair attack on Mr. Assange and Wikileaks. Indeed, the partial nature of the article is evidenced by Mr. Satter's use of offensive epithets – such as "ex-hacker" to describe Mr. Assange. Such a description is both petty, and irresponsible, since it undermines Wikileaks' First Amendment protections in the United States and its sources all over the world, including in Saudi Arabia, which is attempting to prosecute Mr. Assange for the publication.

I would be grateful if you could kindly inform me as to how Associate Press intends to address these concerns, at your earliest convenience. At a minimum, since Mr. Satter was aware prior to publication, and you are now aware post publication that Mr. Satter did not give WikiLeaks the opportunity to address the claims, and of the irreversible harm caused by content of this article, I request

- a) an investigation into Mr. Satter's conduct, including twitter comments, which appear to reflect a personal animus against Mr. Assange;
- b) that Mr. Satter be removed from working on AP publications related to WikiLeaks until the investigation is complete; and
- c) that AP publish WikiLeaks response to Mr. Satter's article (which WikiLeaks will send in due course).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Melinda Taylor', enclosed in a thin black rectangular border.

Melinda Taylor