

WikiLeaks Lawyers to DOJ: You Set the Precedent, Now Drop Your Case

The revelation that former Secretary of State Hillary Clinton sent and received classified information using her unsecured private email server during her tenure at the State Department has been fodder for criminal defense attorneys around the country.

Now, it just might come to the aid of two very unexpected people: WikiLeaks co-founder Julian Assange and former NSA technician Edward Snowden.

WikiLeaks, in part of its effort to call on President-Elect Donald Trump to pardon Assange, Snowden and former Army Private 1st Class Bradley Manning—who underwent a “sex change” to become “Chelsea” Manning—released a copy of a letter sent in August to Attorney General Loretta Lynch. In the letter, attorneys representing Assange claim the Department of Justice has refused to provide any information about its nearly six-year investigation of WikiLeaks’ publication of classified material given to it by Manning, known as “Cablegate.”

The attorneys also point out the DOJ created a precedent when it failed to indict Clinton for her activities:

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.