AFFIDAVIT OF Julian Paul Assange

I, **Julian Paul Assange, a citizen of Australia, publisher, and political refugee** under the protection of the Embassy of Ecuador in London, AFFIRM THAT:

I am the Publisher of WikiLeaks and a director of associated organisations in a number of countries including Australia and Iceland.

I make this affidavit in relation to the monitoring of my journalistic activities by US military intelligence in Germany between 26 December 2009 and 30 December 2009 which was used to assist the prosecution an alleged WikiLeaks source, the US military intelligence officer Bradley Manning, who was sentenced to 35 years in military prison on 21 August 2013; and in relation to the likely unlawful seizure of property belonging to me and to WikiLeaks while it was under the control of the airport authorities of Arlanda (Stockholm) or Tegel (Berlin) on 27 September 2010, inter alia three encrypted laptops containing privileged journalistic and legal materials including evidence of a war crime; and this affidavit sets forth facts that form the basis of my belief that the aforementioned property was the subject of an unlawful search and seizure and that the monitoring of my activities in Germany was also illegal.

I am advised by my lawyers that, as well as the rights enjoyed by individuals, as a publisher and journalist, my work is protected by the corresponding rights and freedoms that are binding upon Sweden and Germany.

I write this affidavit to exercise my right to an effective remedy.

I make this affidavit to the best of my knowledge, information and belief.

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1. Summary of claims

1. I founded the WikiLeaks organisation in 2006. The publication specialises in the analysis of records under risk of censorship that are of political, diplomatic, historical or ethical importance. Among other countries, WikiLeaks publishes and analyses documents from the United States. These have included millions of sensitive documents relating to its diplomatic and security apparatus and its wars in Iraq, Afghanistan and elsewhere. The organisation has received numerous awards in relation to its publishing work, including the 2008 Index on Censorship Freedom of Expression Award, *The Economist* New Media Award (USA) 2008, the 2009 Amnesty International UK Media Award (New Media) (UK), the 2010 Sam Adams Associates for Integrity in Intelligence, Sam Adams Award (USA), the 2011 Sydney Peace Foundation Gold Medal (Australia), the 2011 Martha Gellhorn Prize for Journalism (UK), the 2011 Walkley Award for Most Outstanding Contribution to Journalism (Australia), the 2011 Blanquerna Award for Best Communicator (Spain), the 2011 International Piero Passetti Journalism Prize of the National Union of Italian Journalists (Italy), the 2011 Jose Couso Press Freedom Award (Spain), the 2012 Privacy International "Winston Smith Privacy Hero" Big Brother Award, the 2013 Yoko Ono Lennon Courage Award, and the 2013 Global Exchange Human Rights Awards, as well as formal nominations for the past three consecutive years of the Nobel Peace Prize and the support of the International Federation of Journalists (IFJ) Global Journalists' Union.

- 2. As a consequence of WikiLeaks' publishing work, the US government launched a multi-agency investigation into me and WikiLeaks in early 2010. The Obama administration has expended very substantial resources on the WikiLeaks investigation, which has been described by Australian diplomatic officials in official correspondence as being "unprecedented in scale and nature". The Department of Justice recently confirmed to the *New York Times* that its investigation is active and ongoing.
- 3. The subject of this affidavit concerns two events involving Sweden and Germany. These events occur within the context of publicly reported FBI activities against WikiLeaks in the UK, Denmark and Iceland from 2009 to the present, which concern my work as a publisher, journalist and editor.
- 4. In particular, this affidavit focuses on two previously unreported events. The first concerns the physical surveillance by US military intelligence of me at a congress in Berlin held on 26-30 December 2009. The US military used the results of this surveillance of me to convict Bradley Manning of 'Wanton Publication'. I understand by my lawyers that this testimony may also be used in the ongoing US Department of Justice action against myself and my publishing organisation. The second concerns the suspected illegal seizure on 27 September 2010 of my suitcase on a direct flight within the Schengen border-free area from Stockholm Arlanda to Berlin Tegel on SAS (Appendix D). The suitcase carried three laptops containing WikiLeaks material, associated data and privileged communications protected under client-attorney confidentiality laws and source protection laws. The suspected seizure or theft occurred at a time of intense attempts by the US to stop WikiLeaks' publications of 2010.
- 5. This affidavit is occasioned by the recent emergence of information about the aforementioned intelligence activities and events. A series of formal inquiries, case testimony and press revelations have entered the public domain in 2013. In connection with a 2013 parliamentary inquiry in Iceland I learnt that Iceland was aware that the Federal Bureau of Investigation (FBI) and other US government officers had conducted operations against me, WikiLeaks staff and alleged sources on European soil in connection with the Virginia-based federal investigation against WikiLeaks. I also learnt that the FBI's operations in Iceland were illegal, and potentially also those in Denmark. As a result, Iceland expelled the FBI agents and US Department of Justice prosecutors from Iceland. The FBI also led an operation in the United Kingdom in early July 2010 in connection with the WikiLeaks releases.³ Recent press reports have publicly revealed that the FBI illegally acquired stolen organisational and personal data belonging to WikiLeaks, me, and other third parties in Denmark in March 2012.⁴ The second major

¹ Sydney Morning Herald, 'US targets WikiLeaks like no other organisation', 2 December 2011 http://www.smh.com.au/technology/technology-news/us-targets-wikileaks-like-no-other-organisation-20111202-1obeo.html#ixzz2RobeLeu0

² New York Times, 'Assange, Back in the News, Never Left U.S. Radar', 24 June 2013 https://www.nytimes.com/2013/06/25/world/europe/wikileaks-back-in-news-never-left-us-radar.html?smid=tw-nytmedia&pagewanted=all&r=0

³ See paragraph 62 regarding the FBI raid on the house of Bradley Manning's mother in Wales.

⁴ The FBI travelled to Aarhus in Denmark to meet with Sigurdur Thordarson. In Denmark the FBI

event is the Bradley Manning⁵ court martial, which commenced on 3 June 2013. Although much of the material presented at the trial has been withheld from the public, transcripts of the public sessions have nevertheless provided important information and testimony relating to US spying on WikiLeaks and me personally in Germany, which I refer to in this affidavit.

- 6. I am submitting this affidavit because I understand that the actions in Germany in 2009 and in Sweden in 2010 detailed in this complaint are likely to be unlawful. I understand by my lawyers that if the US military's surveillance of me in Germany was unlawful, then its use in Bradley Manning's trial may have also been unlawful and that such a use of illegally obtained evidence could have consequences for Bradley Manning's pending appeal to the US Army Court of Criminal Appeal. The suspected seizure and/or theft of my suitcase and its contents would appear to violate my legal rights, including my rights to privacy, to be free from searches and seizures without due process, and to freedom of association. The incidents may also violate the intelligence, property, privacy and/or source protection laws of the states where the actions occurred. Given that the suitcase contained privileged and confidential attorney-client correspondence, I believe that this may also violate laws in various jurisdictions concerning legal professional privilege.
- 7. No explanation has been given to me, directly or indirectly, as to the whereabouts or the reason for the disappearance of the WikiLeaks equipment and data, despite my efforts and the efforts of those acting on my behalf to recover it. None of the entities involved, including the Swedish police, the airline SAS, the airports Arlanda and Tegel and related handling companies GlobeGround and Acciona, have offered an explanation, and in one case refused to communicate at all.⁶ The irregular response to inquiries is documented in this affidavit as well as the appendices section via the affidavits of Andy Muller-Maguhn (Appendix C), Kristinn Hrafnsson (Appendix D), Holger Stark and Marcel Rosenbach (Appendix F), and Johannes Wahlstrom (Appendix G).⁷
- 8. The WikiLeaks material taken on 27 September 2010 was of legal and historical significance and included shocking evidence of a serious war crime; the massacre of more than sixty women and children by US military forces in Garani, Afghanistan; evidence of a US military intelligence operation conducted against myself and the activist

questioned him and obtained in exchange for money property belonging to WikiLeaks, which had been stolen at my residence in the UK. See The Copenhagen Post, 'FBI met WikiLeaks informant in Copenhagen', 15 August 2013 http://cphpost.dk/international/fbi-met-wikileaks-informant-copenhagen; Slate, 'WikiLeaks' Teenage Benedict Arnold', 9 August 2013

http://www.slate.com/articles/technology/future_tense/2013/08/sigurdur_thordarson_icelandic_wikileaks_v_olunteer_turned_fbi_informant.html; Wired magazine, 'WikiLeaks Volunteer Was a Paid Informant for the FBI', 26 June 2013 http://www.wired.com/threatlevel/?p=58974; and Mashable, 'Revealed: WikiLeaks Volunteer Doubled as FBI Mole', 27 June 2013 http://mashable.com/2013/06/27/wikileaks-volunteer-fbi-mole/. See section 7.1 below "Known US intelligence operations against WikiLeaks in Europe since 2011".

⁵ In this affidavit I refer to Pvt. Manning as 'Bradley' when referring to past events and court documents which bear Manning's current legal name. I use the pronoun 'he' for consistency reasons. However, I note that Manning has expressed that she identifies as a female under the first name Chelsea.

⁶ See Appendices C and D.

⁷ See Appendices C, D, F, G.

Jeremie Zimmermann while on German soil (this operation has been subsequently corroborated by testimony in the Bradley Manning hearing⁸); and my privileged attorney-client communications, among other things. Other copies of this material have been rendered inaccessible to me by separate incidents that do not form part of this complaint.

- 9. In addition to the violation of my rights as a result of the suspected seizure of my suitcase while under the control of Swedish/German authorities, I have been advised that my rights were further violated when an effective remedy was not enforced after I and others made attempts to recover the suitcase, obtain an explanation and file a police report in relation to this matter. No explanation was ever given to me nor do I believe that authorities undertook an investigation of the disappeared property. This has prevented me from being able to effectively challenge the suspected seizure of privileged correspondence and WikiLeaks material and data.
- **10**. Unlawful intelligence operations are common in Sweden, according to the Swedish government's own inquiry published earlier this year. By reading the English summary of proposed changes to Swedish Espionage laws, I learnt that:

<u>It is quite common for foreign powers to conduct prohibited intelligence</u> <u>activities in Sweden</u> and that the activities are associated with secret or conspiratorial methods that <u>make them difficult to detect and counteract</u>.⁹

- 11. I understand that if the suitcase was seized it may have been seized unlawfully, as part of an intelligence operation with the purpose of gathering information about me, WikiLeaks, and/or our upcoming publications and in an attempt to unlawfully establish the identity of WikiLeaks' sources.¹⁰
- 12. I understand that if the United States investigation has received the contents of my suitcase in connection with its investigation against me, WikiLeaks, and perhaps other accused sources, these investigations may be contaminated by their unlawful evidence-gathering or intelligence-gathering methods.
- 13. The seizure of WikiLeaks' property in the custody of Swedish and German

⁸ Bradley Manning court martial, testimony of witness for the prosecution Matthew Hosburgh, 11 June 2013 (see page 24) https://pressfreedomfoundation.org/sites/default/files/06-11-13-AM-session.pdf

⁹ From the English summary of the Inquiry report into reforming the Espionage Act in Sweden, submitted for consideration to the Minister of Justice in February 2013. The English summary which includes the quote is available on pages 23-30 of the full report "Spioneri och annan olovlig underrättelseverksamhet", 6 February 2013 http://www.regeringen.se/sb/d/108/a/208622.

¹⁰ It is my belief that this material was seized as part of the ongoing US investigation against WikiLeaks. It is also possible that a different country's intelligence agency may have been involved. For example, the US National Security Agency (NSA) disclosed in November 2010 that I was under close surveillance by the Russian Intelligence Agency FSB, see http://www.thedailybeast.com/articles/2010/11/30/moscows-bid-to-blow-up-wikileaks-russians-play-by-different-rules.html Private intelligence companies are also known to have planned operations against WikiLeaks and may plausibly have the capability to seize such material. See, for example, the unlawful measures proposed by private intelligence firm HB Gary to sabotage WikiLeaks (http://wikileaks.org/IMG/pdf/WikiLeaks Response v6.pdf), which led to an investigation by the US House Armed Services Subcommittee on Emerging Threats and Capabilities.

authorities occurred in the context of publicly acknowledged, ongoing intelligence activities conducted unlawfully against me and WikiLeaks.

- 14. There is a pattern of unlawful evidence-gathering or intelligence-gathering operations by US agencies in relation to myself, my staff and associated individuals in European countries and the US at least since 2009. In June 2013 it was reported that property and information belonging to WikiLeaks had been illegally obtained by the FBI on 18 March 2012 in Denmark.¹¹
- 15. I understand that as a publisher and editor my publishing activities are protected by the corresponding rights and freedoms that are binding upon Sweden and Germany. Any knowledge of operations that interfere with my work and violate my rights is liable to investigation, and is challengeable in a court of law. The failure to investigate further violates my right to an effective remedy.
- 16. I understand that an investigation could prompt a clarification from Sweden and Germany as to the extent of their own authorities' involvement in the actions described in this affidavit. I understand that if these actions were carried out unlawfully at the behest of another state, this could amount to a violation of their sovereignty and it is in the public interest for the authorities to clarify this matter as did the state of Iceland earlier this year in connection with unlawful FBI operations against WikiLeaks in that country.

2. Present status

17. My lawyer Michael Ratner has stated publicly in interviews that it is likely that the US intends to prosecute me. The US has stated publicly that it is exploring how to prosecute me and others associated with the WikiLeaks publication, ¹² even when

¹¹ See note 4 above.

¹² US Attorney General Eric Holder indicated on 30 November 2010 that "an active, ongoing criminal investigation" against me and WikiLeaks was under way. From a Washington Post article from the same date: "Holder was asked Monday how the United States could prosecute Assange, who is an Australian citizen. "Let me be very clear," he replied. "It is not saber-rattling." "To the extent there are gaps in our laws," Holder continued, "we will move to close those gaps, which is not to say . . . that anybody at this point, because of their citizenship or their residence, is not a target or a subject of an investigation that's ongoing." Other legislators, both Democrats and Republicans, have pressured for my prosecution under the Espionage Act, or under terrorist legislation. The head of the US Senate's powerful intelligence oversight committee, Dianne Feinstein, called for my prosecution under the Espionage Act on 7 December 2010 http://online.wsj.com/article/SB10001424052748703989004575653280626335258.html, and again in July 2012 http://www.smh.com.au/national/us-senator-calls-to-prosecute-assange-20120701-21b3n.html. On 1 December 2010, US Congresswoman Candice Miller called for the Obama administration to "[treat] WikiLeaks for what it is – A terrorist organization whose continued operation threatens our security" http://www.c-spanyideo.org/program/Candic. On 1 December 2010, CNN reported that US Congressman Peter T. King "said Assange should be prosecuted for espionage. He also said that the United States should classify WikiLeaks as a terrorist group so that "we can freeze their assets." And he called Assange an

prominent human rights groups, the Committee to Protect Journalists and others have condemned these attempts.¹³ Some influential opinion writers have cheered on a prosecution against me¹⁴ and some have gone as far as to call for my assassination.¹⁵

- **18**. The US Department of Justice launched the criminal investigation into me and WikiLeaks in early 2010.¹⁶ On 24 June this year, the *New York Times* reported that the Department of Justice had confirmed that the criminal investigation continues.¹⁷ Diplomatic communications from the Australian mission in Washington characterise the US investigation into WikiLeaks as "unprecedented in scale and nature".¹⁸
- 19. On 28 September 2012 the Pentagon renewed its threats against WikiLeaks, stating "it is our view that continued possession by WikiLeaks of classified information belonging to the United States government represents a continuing violation of law" and "[w]e regard this as a law enforcement matter". The investigation comprises the FBI and at least 10 other US agencies. In official Australian government records the US probe is

enemy combatant." http://www.cnn.com/2010/WORLD/europe/12/01/sweden.interpol.assange/index.html

13 See 'CPJ urges US not to Prosecute Assange', CPJ letter to Barack Obama, 17 December 2010 https://www.cpj.org/2010/12/cpj-urges-us-not-to-prosecute-assange.php; Human Rights Watch in 2010, https://www.hrw.org/news/2010/12/15/us-don-t-prosecute-wikileaks-founder">https://www.hrw.org/news/2010/12/15/us-don-t-prosecute-wikileaks-founder; "Global Journalists' Union Supports WikiLeaks', 16 July 2013 https://www.nytimes.com/2013/https://www.nytimes.com/2013/03/14/opinion/the-impact-of-the-bradley-manning-case.html? https://www.nytimes.com/2013/03/14/opinion/the-impact-of-the-bradley-manning-case.html? https://www.nytimes.com/2013/03/14/opinion/the-impact-of-the-bradley-manning-case.html? https://www.nytimes.com/2013/03/14/opinion/the-impact-of-the-bradley-manning-case.html?

¹⁴ For example, former publisher of the Wall Street Journal and former executive vice president of Dow Jones, Gordon Crovitz, calling for my prosecution for 'aiding the enemy' on 17 March 2013 http://online.wsj.com/article/SB10001424127887324532004578362593064526174.html

¹⁵ Journalists calling for my assassination include, most recently, Time's senior correspondent Michael Grunwald (see New Yorker, 'Michael Grunwald and the Assange Precedent Problem', 18 August 2013 http://www.newyorker.com/online/blogs/closeread/2013/08/michael-grunwald-and-the-assange-precedent-problem.html and Appendix M), and Jeffrey T. Kuhner, a columnist at The Washington Times and president of the Edmund Burke Institute (see Washington Times, 'Assassinate Assange', 2 December 2010 http://www.washingtontimes.com/news/2010/dec/2/assassinate-assange/ but compare this to the screenshot of the original headline in Appendix M).

These include: within the Department of Defense, Centcom, the Defense Intelligence Agency, the US Army Criminal Investigation Division, the United States Forces in Iraq, the First Army Division, The US Army Computer Crimes Investigative Unit (CCIU) and the Second Army Cyber-Command; the Department of Justice, most significantly, and its US Grand Jury in Alexandria Virginia and adjoined Federal Bureau of Investigation (FBI) file, which had, according to court testimony in early 2012, produced a file of 42,135 pages into WikiLeaks, of which less than 8,000 concern Bradley Manning; and the Department of State and Department of State's Diplomatic Security Services. In addition, WikiLeaks has been investigated by the Office of the Director General of National Intelligence (ODNI), the Director of National Counterintelligence Executive, the Central Intelligence Agency (CIA), the House Oversight Committee, the National Security Staff Interagency Committee, and the PIAB - the President's Intelligence Advisory Board.

¹⁷ See New York Times, 'Assange, Back in the News, Never Left U.S. Radar', 24 June 2013 https://www.nytimes.com/2013/06/25/world/europe/wikileaks-back-in-news-never-left-us-radar.html?smid=tw-nytmedia&pagewanted=all&r=0

¹⁸ Sydney Morning Herald, 'US targets WikiLeaks like no other organisation', 2 December 2011. http://www.smh.com.au/technology/technology-news/us-targets-wikileaks-like-no-other-organisation-20111202-1obeo.html#ixzz2RobeLeu0

described as a "whole of government" investigation. 19

- 20. In Alexandria, Virginia, a Grand Jury has been empanelled for the past three years to explore ways to prosecute WikiLeaks for its publishing work. It has identified seven civilians, including the "founders, owners or managers of WikiLeaks". ²⁰ The Grand Jury's case number is 10GJ3793. Prosecutors Neil MacBride and Andrew Peterson are listed in motion filings associated with the Grand Jury. ²¹ Although the Grand Jury is held in secret, documents relating to the Grand Jury hearing have made their way into the public record²² and one of the witnesses who was compelled to testify before the Grand Jury has come forward. ²³
- 21. I understand from the proceedings against the alleged WikiLeaks source Bradley Manning that the US administration has every intention of imprisoning me and other WikiLeaks associates as co-conspirators. The prosecution has repeatedly referred to me in the Manning court martial. Mr Manning stated in pre-trial testimony that he communicated anonymously with someone at WikiLeaks who he believed to be "likely Mr. Julian Assange... or a proxy representative of Mr. Assange...".²⁴ The prosecution in the Manning case has attempted to establish that Mr Manning acted as an an agent under my control rather than as a journalistic source of mine, even though in his own statement to the court Manning denies this.²⁵ The US military charged Manning with twenty-two counts in connection with the release of more than 700,000 classified or confidential documents to WikiLeaks. On 30 July 2013 Manning was convicted of twenty of these counts and sentenced to thirty-five years in prison on 20 August 2013.
- **22**. I understand from my lawyers' analysis of my situation presented to the government of Ecuador in relation to my asylum application that the treatment of the alleged

http://www.alexaobrien.com/secondsight/wikileaks/grand_jury/wikileaks_grand_jury_seven_civilians_targ_eted_by_fbi_for_criminal_activity_and_espionage.html

www.alexaobrien.com/secondsight/wikileaks/grand jury/legal dockets a/wikileaks grand jury prosecuto r_andrew_peterson_case_history.html

¹⁹ See http://www.smh.com.au/technology/technology-news/us-targets-wikileaks-like-no-other-organisation-20111202-1obeo.html

²⁰ See

²¹ The names are listed in the filings and/or court docket for a motion to stay an 18 USC. § 2703(d) Stored Communications Act request filed on 14 December 2010 in relation to case 10GJ3793. The request relates to the US Government asking Twitter to turn over information of my account

²² See http://www.salon.com/news/opinion/glenn greenwald/2011/06/09/wikileaks/subpoena.pdf; http://www.salon.com/news/opinion/glenn greenwald/2011/06/09/wikileaks/Ltr:House.pdf

²³ See http://www.democracynow.org/2011/7/11/david house on bradley manning secret#transcript

²⁴ Pfc. Bradley E. Manning's Statement for the Providence Inquiry, 28 February 2013 http://www.alexaobrien.com/secondsight/wikileaks/bradley_manning/pfc_bradley_e_manning_providence_hearing_statement.html

^{25 &#}x27;Pfc. Bradley E. Manning's Statement for the Providence Inquiry', 28 February 2013 http://www.alexaobrien.com/secondsight/wikileaks/bradley_manning/pfc_bradley_e_manning_providence_hearing_statement.html; See also: "In the course of making that argument, the government's prosecutors keep mentioning Assange's name. Over and over. So far in the trial, he has been referenced 22 times." 'Julian Assange Emerges As Central Figure In Bradley Manning Trial' by Huffington Post's Matt Sledge, 19 June 2013 http://www.huffingtonpost.com/2013/06/19/julian-assange-bradley-manning-trial n 3462502.html

WikiLeaks source Bradley Manning shows that there is a real risk of being subjected to cruel, inhuman and degrading treatment if I am imprisoned in the United States. Manning was detained for more than 1,000 days before his trial commenced on 3 June 2013. During this time he remained for 258 days in solitary confinement.²⁶ The UN Special Rapporteur on Torture found that the conditions and length of Manning's confinement at Quantico, Virginia, amounted to inhuman and degrading treatment.²⁷ Manning's lawyer, David Coombs, said in court that the treatment of Manning was an attempt at breaking him so that he would implicate me.²⁸ The US military court system eventually found that Mr Manning was unlawfully punished as a result of this treatment while in US custody.²⁹

- 23. The charges against Bradley Manning included 'aiding the enemy' and espionage. The 'aiding the enemy' charge carries with it a potential death sentence, or life without parole. There is a consensus among legal commentators that the application of the 'aiding the enemy' charge in the Bradley Manning trial constituted a serious threat to journalism. While Manning was eventually acquitted of aiding the enemy, it remains a charge that the US government could still seek to employ against others, including me. Manning was convicted of espionage; the first whistleblower ever so convicted. He was sentenced to 35 years in prison on 20 August 2013 and has appealed to the US Army Criminal Court of Appeal.
- 24. Much of the proceedings in the Manning trial have been kept secret from the public, which led me and my publishing organisation earlier this year to challenge the military

http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/19/61/Add.4&Lang=E

See also http://www.guardian.co.uk/world/2012/mar/12/bradley-manning-cruel-inhuman-treatment-un. The US State Department spokesman P.J. Crowley later resigned after voicing disagreement regarding Manning's treatment, remarking the measures imposed on Manning were "ridiculous and counterproductive and stupid". http://www.washingtonpost.com/blogs/44/post/pj-crowley-resigns-after-bradley-manning-comments/2011/03/13/AB1CvgT_blog.html

²⁸ See audio transcript of interview with Michael Ratner of the Center for Constitutional Rights: "The lawyer for Bradley Manning, David Coombs, has said openly in court that they are going after Manning with so much toughness, with wanting a 40-year sentence or whatever he said in court, because they want him to testify against Julian Assange", 13 September 2012 http://therealnews.com/t2/index.php? option=com content&task=view&id=31&Itemid=74&jumival=8806

²⁹ The conditions of Manning's confinement were the subject of an unlawful pre-trial punishment motion hearing in which the US military conceded that it had subjected Manning to unlawful pre-trial punishment. http://www.bradleymanning.org/news/military-judge-rules-bradley-manning-was-illegally-treated-awards-112-days-credit

³⁰ See, for example, Yochai Benkler, law professor and director of the Berkman Center for Internet and Society at Harvard University, 'Bradley Manning 'aiding the enemy' charge is a threat to journalism', The Guardian, 19 July 2013 http://www.guardian.co.uk/commentisfree/2013/jul/19/bradley-manning-trial-aiding-the-enemy-charge; as well as Yochai Benkler's testimony in the court martial: https://pressfreedomfoundation.org/sites/default/files/07-10-13-AM-session.pdf See also 'Transparency, accountability at stake in Manning trial', Committee to Protect Journalists, 16 May 2013 https://www.cpj.org/blog/2013/05/transparency-accountability-at-stake-in-manning-tr.php; Floyd Abrams and Yochai Benkler, 'Death to Whistleblowers?', New York Times, 13 May 2013 https://www.nytimes.com/2013/03/14/opinion/the-impact-of-the-bradley-manning-case.html? r=1&

²⁶ 'Army transfers accused intel specialist to MDW', 30 July 2010 http://www.army.mil/article/43114/

²⁷ The Special Rapporteur's findings were included in the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, United Nations Human Rights Council, 29 February 2012, A/HRC/19/61/Add.4

court's secrecy alongside other journalists and the US Center for Constitutional Rights.³¹

- 25. I understand by my lawyer Gareth Peirce's assessment, expressed in a letter to foreign minister of Australia Kevin Rudd and subsequently released by the Australian government, that a sealed indictment is very likely to have been issued for me and that a sealed US extradition request is ready to be issued, if it has not been issued already. Internal emails from the "global intelligence" company Stratfor detail a sealed indictment against me issued in January 2011 or before. According to a respected UK newspaper, the US and Sweden entered into informal talks about my extradition during December 2011 or before December 2011.
- **26**. In this context I have been granted asylum after a formal assessment by the government of Ecuador in relation to the current and future risks of persecution and cruel, inhuman and degrading treatment in the United States in response to my publishing activities and my political opinions.³⁴ I remain under the protection of the embassy of Ecuador in London for this reason.

3. Known intelligence operations prior to travelling to Sweden

December 2009 - August 2010

- 27. Because of the nature of our work, WikiLeaks journalists expect to be the subject of intelligence operations from time to time. US intelligence operations have been carried out against WikiLeaks for a number of years. Intelligence operations on European soil relating to my work include US covert monitoring of my person in Germany in 2009 (as detailed in this affidavit), and the publicly reported operations of FBI officers and others in the UK in August 2010, in Iceland in 2011 and in Denmark in 2012.
- 28. At the same time that the suitcase containing WikiLeaks property, associated data and my privileged client-attorney communications was seized or stolen, WikiLeaks and

³¹ See 'Julian Assange Sues Military Over Bradley Manning Trial Secrecy', Huffington Post, 22 May 2013 http://www.huffingtonpost.com/2013/05/22/julian-assange-bradley-manning-lawsuit_n_3321302.html and Center for Constitutional Rights et al. v. United States & Lind, Chief Judge http://ccrjustice.org/ourcases/current-cases/ccr-et-al-v-usa-and-lind-chief-judge

³² The person who wrote the email is Stratfor's Vice-President for Counterterrorism and Corporate Security, a former Deputy Chief of the Department of State's (DoS) counterterrorism division for the Diplomatic Security Service (DSS). See http://wikileaks.org/gifiles/docs/375123 fw-ct-assange-manning-link-not-key-to-wikileaks-case-.html

^{33 &}quot;Informal discussions have already taken place between US and Swedish officials over the possibility of the WikiLeaks founder Julian Assange being delivered into American custody, according to diplomatic sources." - 'Assange could face espionage trial in US', The Independent, 8 December 2010 http://www.independent.co.uk/news/uk/crime/assange-could-face-espionage-trial-in-us-2154107.html

³⁴ Declaración del Gobierno de la República del Ecuador sobre la solicitud de asilo de Julian Assange, Comunicado No. 042, 16 August 2012, http://www.mmrree.gob.ec/2012/com042.asp

my person were the subject of heightened intelligence operations. The US government publicly displayed an intense interest in tracking my movements and in preventing WikiLeaks from publishing.³⁵ I followed closely news reports about the US investigations and the WikiLeaks Grand Jury. I became aware through a number of tipoffs from sources within the intelligence and diplomatic communities of the types of activities, including extraterritorial conduct, that were being entertained in relation to WikiLeaks.

29. Below I set out a chronology of the political, security and legal events that led up to the suspected seizure or theft of WikiLeaks material, data and privileged correspondence on 27 September 2010. It is necessary to establish the plausibility of extra-legal activity by the United States or other governments or individuals acting as its agents or on their own behalf.

26-30 December 2009

30. On 11 June 2013, US marine special intelligence system administrator (MoS 2651) Matthew Hosburgh, a witness for the prosecution in the Bradley Manning court martial, testified that he had engaged in an intelligence reporting activity in relation to me at the 26C3 meeting in Berlin (26-30 December 2009),³⁶ where I delivered a talk about WikiLeaks.³⁷ Hosburgh also engaged in intelligence-gathering at a talk by Jeremie Zimmermann at the same Congress.³⁸ Mr. Zimmermann is a personal friend of mine and a vocal supporter of WikiLeaks. In the beginning of 2012 he was targeted at a US airport by the FBI in an attempt to recruit intelligence about me and WikiLeaks.³⁹ Hosburgh subsequently wrote the report 'CCC Here Be Dragons Trip Report',⁴⁰ which has been withheld from the public records associated with Bradley Manning's case although it was submitted as evidence. The report was leaked to WikiLeaks and was being prepared for publication during September 2010. The report was among the WikiLeaks materials that had been kept encrypted in the suitcase that was seized on 27 September 2010 when I was travelling from Stockholm to Berlin.

³⁵ See, for example, Philip Shenon reports in June 2010: "Anxious that Wikileaks may be on the verge of publishing a batch of secret State Department cables, investigators are desperately searching for founder Julian Assange": Philip Shenon, 'Pentagon Manhunt', The Daily Beast, 10 June http://www.thedailybeast.com/articles/2010/06/10/wikileaks-founder-julian-assange-hunted-by-pentagonover-massive-leak.html. This followed earlier reports from Glenn Greenwald (then reporting for Salon, but who now writes for The Guardian) about the "increasingly aggressive war being waged against WikiLeaks by numerous government agencies, including the Pentagon" in March 2010: Glenn Greenwald, 'The war on WikiLeaks and why it matters', Salon. 27 March 2010 http://www.salon.com/2010/03/27/wikileaks/singleton/

³⁶ See pages 24-45, https://pressfreedomfoundation.org/sites/default/files/06-11-13-AM-session.pdf

³⁷ The video of my talk is available at: https://www.youtube.com/watch? v=VAfT0L0WvS4&list=PL5C1B15B103C45DEE

³⁸ The video of Mr. Zimmermann's talk is available at: https://www.youtube.com/watch?v=gy8TUFAhLVk

³⁹ See J. Assange with J. Appelbaum, A. Muller-Maguhn and J. Zimmermann, "Cypherpunks", ed. O/R Books at p. 27: 'Harassment of Jacob Appelbaum and Jeremie Zimmermann'.

⁴⁰ See pages 24-45 https://pressfreedomfoundation.org/sites/default/files/06-11-13-AM-session.pdf

- **31**. The report was significant in that it formed the basis from which it would be possible to challenge the legality of the US intelligence activity on German soil at the 26C3. The report potentially raises legitimate concerns over whether this particular US surveillance operation fell within the agreed parameters of permitted intelligence activity by the US within German jurisdiction. Although the report is mentioned in the Bradley Manning court martial and some of its contents have been discussed, the report itself remains inaccessible to the public, along with much of the other evidence, motions and proceedings of the trial, due to the secrecy imposed on the Manning proceeding by the US military.
- **32**. I understand that the agreement between Germany and the United States grants the US bases in Germany strictly limited surveillance powers to defend the bases from surveillance and terrorist attack.
- 33. I understand from having read the secret report the same report that was submitted as evidence (Exhibit 43) in the Bradley Manning trial that Germany may have grounds to challenge the legality of US military intelligence monitoring of me and Mr Zimmermann. The report used a doubtful chain of logic in an apparent attempt to justify its monitoring effort, which contrasts with the clearly defined parameters in which spying by a foreign power is permitted under German law.
- **34**. The report, in what may be a deliberate attempt to evade legal limitations on the conduct of US military intelligence officers in Germany stated (from memory):
 - a) WikiLeaks helps whistleblowers publish safely.
 - b) This may encourage soldiers within US bases in Germany to use WikiLeaks.
 - c) Which might reveal security weaknesses at the bases.
 - d) Which might then increase the chance of attack on US bases in Germany.
- **35**. The report also showed similar *mens rea* in its monitoring of Jeremie Zimmermann. It attempts to justify its possible violations of German law with the following chain of reasoning (paraphrased, from memory):
 - a) Jeremie Zimmermann and his organisation La Quadrature du Net are part of the campaign for 'Network Neutrality'.
 - b) 'Network Neutrality' is a legislative reform that mandates "the principle that internet service providers and governments should treat all data on the

internet equally, in the same way that electricity is charged the same regardless of whether the device is a TV or a power tool".

- c) If there is no discrimination of services on the internet by telecommunications companies there may be less blocking (censoring) of internet services and sites.
- d) If there is less internet censorship there may be more people communicating with terrorist websites.
- e) If there are more people communicating with terrorist websites then there may be more terrorism. If there is more terrorism then US bases in Germany may be more likely to suffer a terrorist attack.
- 36. The author of the "after action" report (a report made after a military action, in this case, the monitoring in Berlin), US marine special intelligence system administrator (MoS 2651) Matthew Hosburgh, testified for the prosecution at the Manning trial on 11 June 2013 (see Annex N).
- **37**. The prosecution used Hosburgh's testimony and report in an attempt to conflate WikiLeaks with terrorism in order to convict Bradley Manning on the most serious charge which carries the death penalty or life in prison, *aiding the enemy*, and in relation to what the defence called the "made up offense" of *wanton publication*⁴¹.
- 38. In relation to net neutrality, Hosburgh made the link to terrorism in arguing that terrorists can better hide their communications with net neutrality. In relation to WikiLeaks, however, the link to terrorism is implied.
- **39**. According to the Manning trial transcripts, the report states in relation to terrorists and the use of the internet that "the internet is an essential communication tool for terrorists" (page 2). Page 3 of the report claims that WikiLeaks poses a large threat, not only from the actual external disclosure, but from the insider.⁴²

2010

40. In early 2010 the US government publicly displayed an intense interest in my whereabouts and my publishing activities. 43

⁴¹ See 'Overview of Charge of Wanton Publication and USG Classified Witnesses' http://www.alexaobrien.com/secondsight/wikileaks/bradley manning/us v pfc manning overview of wanton publication and classified government witnesses.html

⁴² Bradley Manning court martial, 25 July 2013 https://pressfreedomfoundation.org/sites/default/files/07-25-13-PM-session.pdf

⁴³ Glenn Greenwald wrote about the "increasingly aggressive war being waged against WikiLeaks by numerous government agencies, including the Pentagon" in March 2010: Glenn Greenwald, 'The war on WikiLeaks and why it matters', Salon, 27 March 2010

41. On 18 February 2010, WikiLeaks released a classified cable from the US Embassy in Reykjavik dated 13 January 2010. The witness statement of US Under-Secretary of State Patrick Kennedy at the Manning trial explained that the release of this cable prompted an investigation by the US Diplomatic Security Service (DSS) and other elements of the US government:

Our diplomatic security service, which is the security arm of the State

Department, worked with other elements of the United States government to determine what the source of that [Reykjavik 13 cable] leak might have been.⁴⁴

March 2010

42. In March 2010 I was based in Iceland. Together with a team of people, I prepared WikiLeaks' release of a video that depicted the indiscriminate slaying of more than a dozen people in the Iraqi suburb of New Baghdad, including two Reuters news staff, by US forces. Two young children were also critically wounded in the attack. Also in March, WikiLeaks published an intelligence report from 2008 prepared by the US Army Counterintelligence Center. The report detailed numerous ways which it believed could be used to destroy or marginalise WikiLeaks – essentially by subjecting the organisation and those associated to it to political persecution. These methods include:

The identification, exposure, termination of employment, criminal prosecution, legal action against current or former insiders, leakers, or whistleblowers could potentially damage or destroy this center of gravity and deter others considering similar actions from using the Wikileaks.org Web site.⁴⁷

24 March 2010

43. The team working in Iceland were subjected to physical surveillance during this time, which led to the organisation alerting the public on 24 March 2010 via its twitter account that our physical security and the security of our work was at risk.⁴⁸

5 April 2010

44. On 5 April 2010, I held a press conference at the Washington National Press Club to announce the release of the Baghdad helicopter video, *Collateral Murder*.⁴⁹

http://www.salon.com/2010/03/27/wikileaks/singleton/

⁴⁴ See Under-Secretary of State Patrick Kennedy's testimony in the Bradley Manning trial on 5 August 2013 https://pressfreedomfoundation.org/sites/default/files/08-05-13-AM-session.pdf

⁴⁵ See http://collateralmurder.org/

⁴⁶ See http://file.wikileaks.org/file/us-intel-wikileaks.pdf

⁴⁷ See http://file.wikileaks.org/file/us-intel-wikileaks.pdf

⁴⁸ See www.gawker.com/5500703/is-the-us-spving-on-a-tiny-secret+sharing-website

⁴⁹ See http://collateralmurder.com

29 May 2010

45. Bradley Manning was placed in pre-trial confinement at Camp Arifjan, Kuwait by US forces.⁵⁰

7 June 2010

46. At the daily press briefing on 7 June 2010, US State Department spokesperson P.J. Crowley addressed journalists' questions regarding WikiLeaks' possession of yet unpublished US State Department cables: "State Department is working closely with the US Army Criminal Investigative Division, or CID".⁵¹

8 June 2010

- **47**. A news report entitled 'The State Department's Worst Nightmare' said that the Pentagon was "conducting an aggressive investigation" into whether WikiLeaks had 260,000 US diplomatic cables and the material's whereabouts.⁵²
- **48**. Neil H. MacBride, United States Attorney for the Eastern District of Virginia, announced that Andrew Peterson was joining the Terrorism and National Security Unit as a prosecutor. Both MacBride and Peterson are involved with the WikiLeaks Grand Jury. MacBride's controversial prosecutorial tactics include the extraterritorial application of US criminal law. MacBride explained in a *Washington Post* article:

"Criminals today aren't confined by borders, and neither are we... A criminal organization is as much a threat to us from across the ocean as it is across the street. That's why we made the strategic decision to go after networks and their leadership wherever they are found." 55

10 June 2010

⁵⁰ See http://www.alexaobrien.com/timeline us versus manning assange wikileaks 2010.html#may

⁵¹ See http://www.state.gov/r/pa/prs/dpb/2010/06/142797.htm

⁵² Philip Shenon, 'The State Department's Worst Nightmare', The Daily Beast, 8 June 2010 http://www.thedailybeast.com/articles/2010/06/08/state-department-anxious-about-diplomatic-secrets-bradley-manning-allegedly-downloaded.html

MacBride has announced he will down in September 2013. step http://www.washingtonpost.com/local/us-attorney-neil-macbride-to-leave-office-as-va-governor-probeheats-up/2013/08/22/17797f9e-0aa8-11e3-8974-f97ab3b3c677 story.html. See www.alexaobrien.com/secondsight/wikileaks/grand_jury/legal_dockets_a/wikileaks_grand_jury_prosecutor andrew peterson case history.html http://www.alexaobrien.com/timeline us versus manning assange wikileaks 2010.html#may

Audio of Neil H. MacBride at the American Bar Association from 17 April 2013: http://www.americanbar.org/content/dam/aba/multimedia/law national security/podcast macbride 041720 13.mp3

⁵⁵ See http://www.washingtonpost.com/world/national-security/in-vas-eastern-district-us-attorneys-reach-transcends-geographic-bounds/2012/12/15/a3f8f992-4625-11e2-9648-a2c323a991d6_story_1.html

49. The article 'Pentagon Manhunt' described Pentagon investigators desperately trying to track me down in relation to the US diplomatic cables that we would begin to release on 28 November 2010: "Anxious that Wikileaks may be on the verge of publishing a batch of secret State Department cables, investigators are desperately searching for founder Julian Assange". The officials "would not discuss the methods being used to find Assange, nor would they say if they had information to suggest where he is now." On reading this, I became concerned for our continued ability to publish effectively.

17 June 2010

50. US Department of Defense spokesman Geoff Morrell said in relation to WikiLeaks that there was an "ongoing criminal investigation involving the Army Criminal Investigation Division, as well as, I believe, some other law enforcement agencies." ⁵⁸

16 July 2010

51. US Department of Homeland Security agents appeared at the HOPE computer conference in NYC looking for me.⁵⁹ I was supposed to give a keynote speech at the conference.⁶⁰ My friend Jacob Appelbaum gave the keynote speech in my place.⁶¹

25 July 2010

- **52**. I was part of a team in the United Kingdom that published the *Afghan War Diaries*: 75,000 secret Pentagon documents about the war in Afghanistan, which included the detailed records about the deaths of nearly 20,000 people.
- 53. With our publication of the *Afghan War Diaries* and the news that WikiLeaks intended to publish hundreds of thousands of US diplomatic cables, US government officials started an attempt to delegitimise the legal protections WikiLeaks enjoys as a publisher by casting WikiLeaks as an adversary opposed to US national interests. The White House attempted to induce other news outlets into referring to WikiLeaks in these terms. The *New York Times* reported that the White House emailed reporters with suggested "reporting tacks to take" on WikiLeaks and its disclosures.

⁵⁶ See 'Pentagon Manhunt', The Daily Beast, 10 June 2010 http://www.thedailybeast.com/articles/2010/06/10/wikileaks-founder-julian-assange-hunted-by-pentagon-over-massive-leak.html

⁵⁷ See 'Pentagon Manhunt', The Daily Beast, 10 June 2010 http://www.thedailybeast.com/articles/2010/06/10/wikileaks-founder-julian-assange-hunted-by-pentagon-over-massive-leak.html

⁵⁸ See http://www.alexaobrien.com/timeline us versus manning assange wikileaks 2010.html#may

⁵⁹ See 'Feds look for Wikileaks founder at NYC hacker event', CNet, 16 July 2010 http://news.cnet.com/8301-1009 3-20010861-83.html?tag=mncol;txt

 $^{^{60}}$ See 'Feds look for Wikileaks founder at NYC hacker event', CNet, 16 July 2010 <u>http://news.cnet.com/8301-1009_3-20010861-83.html?tag=mncol;txt</u>

⁶¹ See 'Feds look for Wikileaks founder at NYC hacker event', CNet, 16 July 2010 http://news.cnet.com/8301-1009 3-20010861-83.html?tag=mncol;txt

The White House e-mailed the following statement with the subject line "Thoughts on Wikileaks" to reporters on Sunday evening. In the memo, the <u>White</u> <u>House advised journalists on possible reporting tacks to take</u> on the [Afghan War Diaries] documents [...].⁶²

54. The White House memo reportedly included:

As you report on this issue, it's worth noting that wikileaks is not an objective news outlet but rather an organization that opposes US policy in Afghanistan.⁶³

26 July 2010

55. White House Press Secretary Robert Gibbs states that WikiLeaks "poses a very real and potential threat […]".⁶⁴

27 July 2010

56. A Pentagon press release indicated that the US Army's Criminal Investigation Division (CID) is in charge of the WikiLeaks investigation:

The current investigation into the leak of the documents to WikiLeaks isn't focused on any one, specific individual," Lapan said. "It's much broader. They're going to look everywhere to determine what the source may be."65

57. In my home country Australia *The Canberra Times* reported that:

Australian security authorities are assisting a United States intelligence probe into the whistleblower website Wikileaks and its Australian founder and editor, Julian Assange. The <u>US request for support in what Australian national security sources described as ''a counter-espionage investigation'' preceded Wikileaks' dramatic publication yesterday of a leaked US military operations log, described as an "extraordinary compendium" of 91,000 reports by United States and allied soldiers fighting in Afghanistan.⁶⁶</u>

28 July 2010

⁶² See 'The War Logs: Reaction to Disclosure of Military Documents on Afghan War "6:46 p.m. | White House Offers Advice to Reporters", 25 July 2010 http://atwar.blogs.nytimes.com/2010/07/25/the-war-logs/#Jones

⁶³ See 'The War Logs: Reaction to Disclosure of Military Documents on Afghan War "6:46 p.m. | White House Offers Advice to Reporters", 25 July 2010 http://atwar.blogs.nytimes.com/2010/07/25/the-war-logs/#Jones

⁶⁴ See http://www.c-spanyideo.org/program/WhiteHouseDailyBriefing1571

⁶⁵ See http://www.defense.gov/news/newsarticle.aspx?id=60187

⁶⁶ See 'Australia aids US probe into war log leak', Philip Dorling, The Canberra Times, 27 July 2010 (only available in print).

58. US Department of Defense Secretary Gates "called FBI Director Robert Mueller and asked for the FBI's assistance in [the WikiLeaks] investigation as a partner."

Calling on the FBI to aid the investigation ensures that the department will have all the resources needed to investigate... noting that use of the bureau ensures <u>the</u> <u>investigation can go wherever it needs to go</u>."⁶⁷

30 July 2010

- **59**. The immediate former head of the Central Intelligence Agency (CIA) and the National Security Agency (NSA), Michael V. Hayden, denounced my work in a CNN article entitled 'WikiLeaks disclosures are a "tragedy".⁶⁸
- **60**. A US Army press release announced that Bradley Manning had been moved from Camp Arifjan, Kuwait to Quantico, Virginia, where he was put in solitary confinement.⁶⁹
- **61**. The *New York Times* reported that US Defense Secretary Robert Gates

declined to comment about the investigation beyond noting that he had enlisted the Federal Bureau of Investigation to assist Army investigators, a move that is seen as a precursor to potentially charging people who are not uniformed service members[...] A person familiar with the investigation has said that Justice Department lawyers are exploring whether Mr. Assange and WikiLeaks could be charged with inducing, or conspiring in, violations of the Espionage Act, a 1917 law that prohibits the unauthorized disclosure of national security information.⁷⁰

- **62**. That same week, while I was still in the United Kingdom, I discovered that the FBI was carrying out operations on UK soil in relation to its investigation into WikiLeaks' publishing activities. On 1 August 2010, the press reported that the FBI and British police were carrying out searches and interrogations in the UK.⁷¹ These facts concerned me. The FBI was conducting operations in the UK, where I found myself at the time, in connection with the WikiLeaks disclosures.
- **63**. Over the next days, the US counter-attack against WikiLeaks intensified. Certain prominent commentators and former White House officials championed extraterritorial

2010/OPINION/07/30/hayden.wikileaks.secrets/index.html

⁶⁷ See http://www.defense.gov/news/newsarticle.aspx?id=60238 For more details about the FBI's extraterritorial, and unauthorised, activities against WikiLeaks, see s. 7.1 "Known US WikiLeaks intelligence operations in Europe since 2011"

⁶⁸ See http://www.cnn.com/

⁶⁹ See http://www.army.mil/article/43114/

⁷⁰ See http://www.nytimes.com/2010/07/30/world/asia/30wiki.html

⁷¹ See 'FBI question WikiLeaks mother at Welsh Home: Agents interrogate 'distressed' woman then search her son's bedroom', Mail Online, 1 August 2010 http://www.dailymail.co.uk/news/article-1299311/FBI-question-WikiLeaks-mother-Welsh-home-Agent-interrogate-distressed-woman-search-sons-bedroom.html

measures and the violation of international law "if necessary". These actions would directly infringe the basic rights and freedoms of those associated with the organisation and myself.⁷²

3 August 2010

64. Influential former speech writer for President George W. Bush, Marc Thiessen, published a *Washington Post* article entitled 'WikiLeaks Must be Stopped'. Thiessen, who is described by Scott Horton, a human rights attorney and Columbia Law School lecturer, as the "mouthpiece of senior Bush-era intelligence community figures", ⁷³ asserted that even though I am a non-US citizen working outside of the territory of the US

...the government has a wide range of options for dealing with him. It can employ not only law enforcement but also intelligence and military assets to bring Assange to justice.⁷⁴

Thiessen further advocated for the US to put pressure on any state in which I was located and that the US should, if necessary, arrest me even without the consent of that state. To support his position, he cited legal advice from the Department of Justice regarding FBI operations abroad:

The United States should make clear that it will not tolerate any country -- and particularly NATO allies such as Belgium and Iceland -- providing safe haven for criminals who put the lives of NATO forces at risk.

With appropriate diplomatic pressure, these governments may cooperate in bringing Assange to justice. But if they refuse, the United States can arrest Assange on their territory without their knowledge or approval.

Thiessen further asserted that the FBI could violate international law in order to stop me and apprehend other people associated with WikiLeaks' publishing activities. Thiessen cited a Department of Justice memo:⁷⁵

"the FBI may use its statutory authority to investigate and arrest individuals for violating United States law, even if the FBI's actions contravene customary international law" and that an "arrest that is inconsistent with international or foreign law does not violate the Fourth Amendment." In other words, we do not need permission to apprehend Assange or his co-conspirators anywhere in the world.

⁷² See the following paragraphs for examples.

⁷³ Scott Horton, 'WikiLeaks: The National-Security State Strikes Back', Harper's, 3 August 2010 http://harpers.org/blog/2010/08/wikileaks-the-national-security-state-strikes-back/

⁷⁴ Marc Thiessen, 'WikiLeaks Must Be Stopped', Washington Post, 3 August 2010 http://www.washingtonpost.com/wp-dyn/content/article/2010/08/02/AR2010080202627.html

⁷⁵ Authority of the Federal Bureau of Investigation to Override International Law in Extraterritorial Law Enforcement Activities: http://www.fas.org/irp/agency/doj/fbi/olc_override.pdf

Arresting Assange would be a major blow to his organization. But taking him off the streets is not enough; we must also recover the documents he unlawfully possesses and disable the system he has built to illegally disseminate classified information.

<u>This should be done, ideally, through international law enforcement cooperation. But if such cooperation is not forthcoming, the United States can and should act alone.</u>

65. My personal safety was also at risk. Scott Horton, who is also the legal affairs and national security contributor at *Harper's*, wrote 'WikiLeaks: The National-Security State Strikes Back':

[Assange] will certainly be targeted for petty harassment and subject to steady surveillance, and efforts to kidnap him are almost certainly being spun at this very moment.⁷⁶

5 August 2010

- **66**. Pentagon Press Secretary Geoff Morrell announced an anti-WikiLeaks task force at the Department of Defense: "a 24-hour operation. They have roughly -- they're up to about 80 personnel".⁷⁷
- **67**. The task force mushroomed over the next weeks. It grew from 80 to 120 agents by 12 September 2010.⁷⁸
- **68**. The "distinct responsibility" of the Information Review Task Force dubbed by some occupants as the "WikiLeaks War Room" was:⁷⁹
 - ...to gather evidence about the workings of WikiLeaks that might someday be used by the Justice Department to prosecute Assange and others on espionage charges.
- **69**. I read the article 'The General Gunning for WikiLeaks', which described the task force:⁸⁰

http://www.defense.gov/transcripts/transcript.aspx?transcriptid=53001

⁷⁶ Scott Horton, 'WikiLeaks: The National-Security State Strikes Back', Harper's, 3 August 2010 http://harpers.org/blog/2010/08/wikileaks-the-national-security-state-strikes-back/

⁷⁷ Department of Defense Press Briefing, 5 August 2010

⁷⁸ Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

⁷⁹ Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-

In a nondescript suite of government offices not far from the Pentagon, <u>nearly</u> 120 intelligence analysts, FBI agents, and others are at work—24 hours a day, seven days a week—on the frontlines of the government's secret war against WikiLeaks.

Dubbed the WikiLeaks War Room by some of its occupants, <u>the round-the-clock</u> operation is on high alert this month ...

- **70**. The same article states that Brig. General Robert A. Carr, who runs "the Pentagon's equivalent to the CIA", the Defense Counterintelligence and Human Intelligence Center of the Defense Intelligence Agency (DIA), was "handpicked" by Defense Secretary Robert Gates to head the team because he "is highly respected …and <u>a fitting adversary</u> **to Assange**".⁸¹
- **71**. General Carr's "central assignment" was reportedly "to try to determine exactly what classified information might have been leaked to WikiLeaks". ⁸² General Carr testified at the Bradley Manning sentencing hearing on 31 July 2013. ⁸³

10 August 2010

72. I followed closely how pressure mounted on US allies to track my movements and to stop our publications. Official sources within the administration revealed to the press that the US was not only considering how to prosecute me in relation to WikiLeaks' publications in the US, but was also requesting their allies to prosecute me under their own national security laws:⁸⁴

American officials confirmed last month that the Justice Department was weighing a range of criminal charges against Assange and others [...]

Now, the officials say, <u>they want other foreign governments to consider the same</u> <u>sorts of criminal charges.</u>

The Obama administration is pressing Britain, Germany, Australia, and other allied Western governments to <u>consider opening criminal investigations of WikiLeaks founder Julian Assange and to severely limit his nomadic travels</u>

⁸¹ Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

document-dump.html

Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

⁸³ See https://pressfreedomfoundation.org/sites/default/files/07-31-13-AM-session.pdf

See Philip Shenon, 'U.S. Urges Allies to Crack Down on WikiLeaks', The Daily Beast, 10 August 2010 http://www.thedailybeast.com/articles/2010/08/10/a-western-crackdown-on-wikileaks.html

73. In addition to the stated intention to restrict my freedom of movement, the US government attempted to convince its allies not to allow me entry into their territory as a warning to me, to those working with me and WikiLeaks, and to our supporters:⁸⁶

Through diplomatic and military channels, the Obama administration is hoping to convince Britain, Germany, and Australia, among other allied governments, that Assange should not be welcome on their shores either, given the danger that his group poses to their troops stationed in Afghanistan, American officials say.

They say severe limitations on Assange's travels might serve as a useful warning to his followers that their own freedom is now at risk.

74. The Australian government publicly entertained the possibility of cancelling my passport, reportedly as a result of pressure placed on Australia by the United States. Australian Attorney General Robert McClelland assured the United States that the Australian government would "provide every assistance to United States law-enforcement authorities", including by exploring the possibility of cancelling my passport.⁸⁷

75. Not only was the US seeking to put pressure on me and other individuals associated with my organisation directly and pressuring its allies to do the same, the US also considered reviewing its diplomatic relations with Iceland because of the connection WikiLeaks had with that country:

An American military official tells The Daily Beast that <u>Washington may also</u> want to closely review its relations with Iceland in the wake of the release of the <u>Afghan war logs.</u>⁸⁸

⁸⁵ Philip Shenon, 'U.S. Urges Allies to Crack Down on WikiLeaks', The Daily Beast, 10 August 2010 http://www.thedailybeast.com/articles/2010/08/10/a-western-crackdown-on-wikileaks.html

⁸⁶ Philip Shenon, 'U.S. Urges Allies to Crack Down on WikiLeaks', The Daily Beast, 10 August 2010 http://www.thedailybeast.com/articles/2010/08/10/a-western-crackdown-on-wikileaks.html#sthash.K900qoyI.dpuf

⁸⁷ Mr McClelland also said the Australian government had considered cancelling Mr Assange's passport, but there were "issues in respect of serving a notice of cancellation":

[&]quot;More importantly, there (are) issues as to whether it would be constructive or counter-productive to the law enforcement," he said.

Assange's passport would set off alarms if presented at an airport, and Mr McClelland questioned "whether it would be counter-productive to remove the identification that would in fact trigger the law-enforcement process". http://news.smh.com.au/breaking-news-national/australia-to-help-us-over-assange-20101204-18k3w.html

⁸⁸ See 'U.S. Urges Allies to Crack Down on WikiLeaks', The Daily Beast, 10 August 2010 http://www.thedailybeast.com/articles/2010/08/10/a-western-crackdown-on-wikileaks.html

11 August 2010

76. On 11 August 2010, former CIA general counsel Jeffrey Smith told National Public Radio that although the law does not permit the US government to go after me with the sole intent of harassment or putting me out of business, "I think it is entirely appropriate for us to be very aggressive".⁸⁹ He went on to say:

If I were the US government, I would be trying to make it as difficult as possible for the WikiLeaks founder to continue to do business... <u>To the extent we can persuade our allies to consider prosecution</u>, I think that's all to the good.

77. US pressure even resulted in public attempts to influence decisions based on human rights considerations where I and WikiLeaks were concerned. The US pressured Switzerland not to grant me political asylum:⁹⁰

The United States ambassador to Switzerland, Donald Beyer, has also entered the Wikileaks debate. He has warned the Swiss government against granting Assange asylum, which the Australian founder of Wikileaks has said he was considering requesting. "Switzerland should very carefully consider whether to provide shelter to someone who is on the run from the law," Beyer told the newspaper Sonntag.

78. Friends and associates of mine and volunteers of the organisation were regularly targeted at borders from this moment on.⁹¹ Border searches and interrogations have affected security researcher Jacob Appelbaum, who had given the keynote speech in my

90 For example, the Swiss paper NZZ am Sontag published an article entitled 'Pressure mounts on WikiLeaks and Assange': http://www.swissinfo.ch/eng/politics/Pressure mounts on WikiLeaks and Assange.html?cid=28956246 and in June 2012 the Washington Post Editorial Board advocated applying coercive measures (suspending special trade preferences) to influence Ecuador's sovereign decision, based on human rights considerations, as to whether to grant me asylum http://articles.washingtonpost.com/2012-06-20/opinions/35460325 1 asylum-for-julian-assange-ecuadoran-extradition

91 On 29 July 2010 US citizen Jacob Appelbaum was detained at Newark Liberty International Airport and questioned about me for three hours by Department of Homeland Security and Army CID agents. His laptop and three cell phones were seized. http://news.cnet.com/8301-27080 3-20012253-245.html

September 2010 onwards - US citizen David House of the Bradley Manning Support Network was detained and questioned at the border on each of the seven occasions he re-entered the US after foreign travel. On 3 November 2010 – he was detained on the border by two agents, one from Homeland Security and second FBI Joint Terrorism Task Force: a from the http://www.democracynow.org/2011/3/3/bradley manning hit with new charges The American Civil Liberties Union (ACLU) filed a civil lawsuit, which resulted in a settlement with the US government. Early 2012 – Jeremie Zimmermann, who appears in the Collateral Murder video credits, and Smari MacCarthy, who briefly volunteered for WikiLeaks in Iceland, were both detained and questioned in US airports. http://www.abc.net.au/4corners/stories/2012/07/19/3549280.htm

⁸⁹ See 'WikiLeaks Faces Growing Pressure Over War Files', NPR, 11 August 2010 http://www.npr.org/templates/story/story.php?storyId=129135378

place at the HOPE conference on 16 July 2010.⁹² In an interview for *Democracy Now!*, Appelbaum described the targeting he experiences at airports:

In the period of time since [the HOPE conference on 16 July 2010] they've started detaining me, around a dozen-plus times... I was put into a special room, where they frisked me, put me up against the wall. One guy cupped me in a particularly uncomfortable way. Another one held my wrists. They took my cellphones. I'm not really actually able to talk about what happened to those next.... And they took my laptop... then they interrogated me, denied me access to a lawyer. And when they did the interrogation, they have a member of the U.S. Army, on American soil. And they refused to let me go. They ... implied that if I didn't make a deal with them, that I'd be sexually assaulted in prison."

79. This practice has even affected my legal advisor, Jennifer Robinson, who was placed on an 'inhibited' list at Heathrow airport. Robinson has been affected in other ways as well. In November 2010 she received an inappropriate letter from the State Department, which prompted the Lawyers Rights Watch Canada (LRWC) to issue a statement to US Secretary of State Hillary Clinton and Attorney General Eric Holder that the State Department letter had interfered with my right to counsel. 94

80. Jeremie Zimmermann, who was reported on by US intelligence at the 2009 26C3 meeting in Berlin alongside me, was subsequently ambushed at Washington Dulles airport, by individuals purporting to be FBI agents. The agents attempted to gain cooperation from Mr Zimmermann in relation to WikiLeaks through intimidating tactics. Mr Zimmermann was told that his name was mentioned in the Virginia Grand Jury against WikiLeaks. Mr Zimmermann was allowed to board his plane but was asked to contact the agents upon his arrival in France, where Mr Zimmermann lives.⁹⁵

Philip Shenon, 'U.S. Urges Allies to Crack Down on WikiLeaks', The Daily Beast, 10 August 2010 http://www.thedailybeast.com/articles/2010/08/10/a-western-crackdown-on-wikileaks.html

⁹³ See 'Who stopped Robinson? The inhibition of responsibility', Crikey, 20 April 2012 http://www.crikey.com.au/2012/04/20/who-stopped-robinson-the-inhibition-of-responsibility/ See also the transcript of ABC 4 Corners, 'Sex, Lies and Julian Assange' http://www.abc.net.au/4corners/stories/2012/07/23/3549280.htm

⁹⁴ The statement notes that the LRWC was "alarmed by actions of US State Department Legal Advisor Harold Hongju Koh that put British barrister Jennifer Robinson in jeopardy and interfere with the right of her client Julian Assange to be represented." http://www.lrwc.org/statement-linking-lawyer-jennifer-robinson-with-her-client-julian-assange-violates-advocacy-rights-2/

⁹⁵ See J. Assange with J. Appelbaum, A. Muller-Maguhn and J. Zimmermann, "Cypherpunks", ed. O/R Books at p. 27: 'Harassment of Jacob Appelbaum and Jeremie Zimmermann'.

4. Extended stay in Sweden

11 August 2010 - 27 September 2010

- **81**. In the context of my heightened concerns about US activities in the United Kingdom I left the country on 11 August 2010. Within days of arriving in Sweden I became concerned about my safety and security there, in particular because of the pressure being brought to bear on US allies, including Sweden.
- **82**. I was aware of the publicly stated attempts to track my movements. I used a number of risk minimisation procedures, including relying on the goodwill of friends and their circles for my safety and to protect the confidentiality of my whereabouts and communications.
- 83. My contacts in Sweden had arranged for me to stay in two safe houses during the few days I had intended to stay in Sweden. One of the safe houses belonged to a journalist who I knew and another to a Social Democrat party figure unknown to me who had lent her apartment while she was away. However, because these two original safe houses arranged prior to my arrival became known very soon, I stayed in three additional safe houses between 11 and 20 August 2010.

11 August 2010

- 84. I travelled to Sweden to put in place a legal strategy to try to protect our publishing servers, some of which were in Sweden. I believed these assets were at risk as a result of the intense political pressure from the US described above. I met with representatives of the Swedish Pirate Party, which is represented in the European Parliament, who agreed to host WikiLeaks servers in order to further protect our publishing work. ⁹⁶ I also felt it was best to leave the United Kingdom at that time because the FBI was known to be carrying out operations in connection with the investigation into our publications. ⁹⁷ I intended to stay in Sweden for less than a week.
- **85**. On the same day I arrived in Sweden, 11 August 2010, I received information from an Australian intelligence source that extra-legal actions might be taken against me by the US or its allies. This was later reported in the Australian newspaper *The Age*:

An Australian intelligence official privately warned Wikileaks on August 11 last year that Assange was the subject of inquiries by the Australian Security Intelligence Organisation, and that information relating to him and others associated with Wikileaks had been provided to the US in response to requests through intelligence liaison channels.

⁹⁶ See 'Swedish Pirate Party to Host New WikiLeaks Servers', Christian Engstrom, Pirate Party Member of the European Parliament, 17 August 2010

https://christianengstrom.wordpress.com/2010/08/17/swedish-pirate-party-to-host-new-wikileaks-servers/

⁹⁷ See http://www.dailymail.co.uk/news/article-1299311/FBI-question-WikiLeaks-mother-Welsh-home-Agent-interrogate-distressed-woman-search-sons-bedroom.html

The Australian intelligence official is also claimed to have specifically warned that Assange could be at risk of "dirty tricks" from the US intelligence community.

13 August 2010

- 86. My dependency on other people while in Sweden was aggravated when, shortly after my arrival in Stockholm, my personal bank cards were blocked. On 13 August 2010, the WikiLeaks organisation's Moneybookers account could no longer be accessed. That same day, I contacted the company, who replied: "following recent publicity and the subsequently (sic) addition of the Wikileaks entity to blacklists in Australia and watch lists in the USA, we have terminated the business relationship". I requested further information from MoneyBookers on 13 August and 16 August regarding the closure, including which blacklists and watchlists my accounts and/or WikiLeaks' account had been added to, but I was refused this information (Appendix H).
- 87. The freezing of WikiLeaks' Moneybookers account was an early example of what in December 2010 would become a concerted extra-judicial global economic blockade against WikiLeaks by US financial service companies, including VISA, MasterCard, PayPal, Bank of America, Western Union and American Express. The blockade is the subject of several court actions, a European Commission investigation, a resolution by the European Parliament, and condemnation by the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Inter-American Commission on Human Rights Special Rapporteur for Freedom of Expression. 99 On 24 April 2013 the Supreme Court of Iceland found the blockade to be unlawful. 100
- **88**. As a result of being suddenly cut off from personal and organisational funds upon arriving in Sweden, I had to rely on others not only for shelter, but also for food, safety and telephone credit. Unfortunately, my closest associates were reporters who were only sporadically in the country.
- 89. On 13 August 2010 one of the main Swedish newspapers, *Svenska Dagbladet*, published an article entitled 'Defence ministry prepared for the next leak', which detailed that a group within the Swedish Ministry of Defence was preparing for WikiLeaks' next publication and had analysed 76,000 previous publications from WikiLeaks in relation to ⁹⁸ See 'Assange told of ASIO snooping', The Age, 11 March 2011

http://www.theage.com.au/national/assange-told-of-asio-snooping-20110315-1bvyb.html

⁹⁹ See, for example, UN Special Rapporteur on the Promotion and Protection the Right to Freedom of Opinion and Expression and the Inter-American Commission on Human Rights Special Rapporteur for Freedom of Expression, 'Joint Statement On Wikileaks',

http://www.oas.org/en/iachr/expression/showarticle.asp?artID=829&lID=1 and the European Parliament resolution of 20 November 2012 on 'Towards an integrated European market for card, internet and mobile payments' (2012/2040 (INI)) http://www.europarl.europa.eu/sides/getDoc.do? pubRef=-//EP//TEXT+TA+P7-TA-2012-0426+0+DOC+XML+V0//EN

¹⁰⁰ Reporters Without Borders, 'Court orders Visa subcontractor to lift block on payments to WikiLeaks', 26 April 2013 http://en.rsf.org/iceland-court-orders-visa-subcontractor-to-26-04-2013,44440.html

18 August 2010

- **90.** Swedish state television published a segment entitled 'We risk United States relationship deteriorating', which argued that the presence of WikiLeaks in Sweden would negatively affect the strategic relationship between Sweden and the United States. ¹⁰²
- **91**. Through the diplomatic cables I also learned of secret, informal arrangements between Sweden and the United States. The cables revealed that Swedish intelligence services have a pattern of lawless conduct where US interests are concerned. The US diplomatic cables revealed that the Swedish Justice Department had deliberately hidden particular intelligence information exchanges with the United States from the Parliament of Sweden because the exchanges were likely unlawful.¹⁰³
- 92. The US diplomatic cables, reports by major human rights organisations, and the UN's own findings made me aware that Sweden had been complicit in torture as a result of its participation in secret CIA renditions from 2001 through to at least 2006. 104 The rendition of the Swedish political refugees Agiza 105 and Alzery resulted in strong condemnation by the UN Committee Against Torture, Amnesty International, Human Rights Watch, and others. 106 There is still complete impunity for the officers of the Swedish state involved and their US counterparts. No charges have been laid although the complicity of the Swedish state has been well established in successful civil litigation. I recently learnt that Sweden was partly implicated in CIA renditions of its own citizens

¹⁰¹ See 'Försvarsmakten redo för nästa läcka', SvD, 13 August 2010

http://www.svd.se/nyheter/inrikes/forsvarsmakten-redo-for-nasta-lacka 5130211.svd

 $^{^{102}}$ See 'Piratpartiets samarbete med Wikileaks: "Risk för sämre relation till USA"

http://www.svt.se/nyheter/sverige/piratpartiets-samarbete-med-wikileaks-risk-for-samre-relation-till-usa

¹⁰³ See http://wikileaks.org/cable/2008/11/08STOCKHOLM748; http://wikileaks.org/cable/2007/05/07STOCKHOLM506.html

¹⁰⁴ See http://wikileaks.org/cable/2006/04/06STOCKHOLM527.html

¹⁰⁵ On 18 December 2001, 45-year-old Ahmed Agiza was secretly apprehended in Sweden by Swedish Security Police. Agiza was then handed over to agents of the US CIA, who stripped him, dressed him in overalls and chained and shackled him before transporting him in a Gulfstream V aircraft to Egypt, where he was severely tortured. At the time of his unlawful rendition, Agiza, an Egyptian citizen, was living in Sweden with his wife and five young children, waiting for a determination on their political asylum application. See Binyam Mohamed et al. vs. United States and JEPPESEN DATAPLAN, INC. https://t.co/Bi85LEMX6k

¹⁰⁶ Agiza v. Sweden, Committee Against Torture, No. 233/2003, at para. 13.4, UN Doc. CAT/C/34/D/233/2003 (May 20, 2003) http://www.unhcr.org/refworld/docid/42ce734a2.html; Mohammed Alzery v. Sweden, CCPR/C/88/D/1416/2005,UN Human Rights Committee (HRC),10 November 2006, available at: http://www.refworld.org/docid/47975afa21.html. The EU Parliamentary report from 2007 endorsed the findings from both the Human Rights Council and the Committee Against Torture that Sweden had violated the ban on torture in both cases: http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-32. It also suggests that Sweden's refusal to investigate or indict a single person in the matter is likely an ongoing breach of its international obligations. See also, Binyam Mohamed et al. vs. United States and JEPPESEN DATAPLAN, INC., of which Agiza was a petitioner. See https://t.co/Bi85LEMX6k

from Djibouti earlier this year. 107

93. Through an intelligence source, I became aware that on 19 August 2010, the Swedish Security Service (SÄPO) requested information about me from an Australian intelligence organisation. The Australian intelligence organisation responded to the request with information about me on 21 August 2010.

20 August 2010

- 94. On 20 August 2010, Swedish police opened a 'preliminary investigation' against me. The next day, the more serious allegation was dropped, but after an intervention police authorities reopened the closed preliminary criminal investigation against me on 1 September 2010. Three years have passed. Although I have not been charged with any crime, I have spent ten days in solitary confinement, more than 500 days under house arrest and over a year unable to leave the protection of the embassy of Ecuador in London as the British government refuses to abide by its international law asylum obligations.
- **95**. According to the 'Agreed Facts' filed to the UK Supreme Court, to which the prosecutor in Sweden has agreed, the circumstances of the opening of the investigation are as follows:

During his visit he had sexual intercourse with two women [AA and SW]. After AA and SW spoke to each other and realised that they had both had intercourse with the Appellant during the currency of his visit in circumstances where respectively they had or might have been or become unprotected against disease or pregnancy, SW wanted the Appellant to get tested for disease. On 20th August 2010 SW went to the police to seek advice. AA accompanied her for support. The police treated their visit as the filing of formal reports for rape of SW and molestation of AA. 108

On 20th August, police related the reports to the on-duty assistant prosecutor (Maria Kjellstrand) over the telephone who, at 5pm, ordered that the Appellant should be arrested.

96. My lawyers in Sweden, Per E. Samuelson and Thomas Olsson, were able to review the phone records that are part of the investigation, including SMS traffic between the ¹⁰⁷ Two Swedish citizens, Ali Yasin Ahmed and Mohamed Yusuf, and one Briton, Mahdi Hashi, were held without charge for three months, physically abused, and then unlawfully renditioned to the US from Djibouti. Just days before their detention in Djibouti, Sweden dropped their own criminal investigation into these individuals, which suggests Swedish cooperation in the seizure of its own citizens in Djibouti for their subsequent rendition to the US. The case has been reported in the Independent newspaper's article 'Rendition gets ongoing embrace from Obama administration' from 2 January 2013 (http://www.independent.co.uk/news/world/americas/rendition-gets-ongoing-embrace-from-obama-administration-8434963.html) and in the Open Society Justice Initiative's 'CIA Secret Detention and

Extraordinary Rendition' from February 2013

http://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf

See paragraph 4, 'Agreed Statement of Facts and Issues' Submission by the parties to the Supreme Court of the United Kingdom http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case. Neither of the women alleges she has been raped.

two women and between SW and some of the witnesses. My lawyers notified me via email on 8 December 2011 of the content of twenty-two of these messages.¹⁰⁹

97. While the younger woman was at the police station on 20 August 2010, her phone records show that she wrote that she:

<u>did not want to put any charges on JA but that the police were keen on getting a</u> <u>grip on him (sv: få taq på honom) (14:26);¹¹⁰</u>

and that

she was "chocked [sic: shocked] when they arrested JA because **she only wanted him to take a test** (17:06)".¹¹¹

- **98**. The woman concerned told a friend that she felt that she had been "railroaded by police and others around her", according to the latter's police statement.¹¹²
- **99**. According to the younger woman's phone records, who the 'rape' allegation is associated to, she wrote at 07:27 on 21 August 2010 that she

"did not want to accuse JA for anything";

and at 22:25 that

"it was the police who made up the charges". 113

- **100**. Although the police initially opened an investigation into 'rape' in relation to woman AA, there was no allegation in her testimony that she had been raped. She expressed in her statement to the police that she consented to sex ("frivilligt gått med på att ha sex med Assange") and subsequently tweeted on 22 April in 2013 "I have not been raped".¹¹⁴
- 101. The press was immediately and unlawfully informed that there was a warrant for 109 My lawyers have been refused a copy of the phone records in full; the citation is paraphrased and is a direct quote from my lawyers' email.
- ¹¹⁰ My lawyers have been refused a copy of the phone records in full; the citation is paraphrased and is a direct quote from my lawyers' email.
- 111 My lawyers have been refused a copy of the phone records in full; the citation is paraphrased and is a direct quote from my lawyers' email.
- ¹¹² See the women's reported testimony to the Swedish police investigation, http://info.publicintelligence.net/AssangeSexAllegations.pdf and versions in English: http://rixstep.com/fup and http://nnn.se/nordic/assange/protocol.htm.
- ¹¹³ My lawyers have been refused a copy of the phone records in full; the citation is paraphrased and is a direct quote from my lawyers' email. This SMS should read "allegations" given that I have not been charged.
- ¹¹⁴ The tweet was subsequently deleted, but archived as http://archive.is/OTQWI/image. See screenshot at Appendix K.

my arrest for the "rape of two" women. The Swedish government prosecutor unlawfully, and without any subsequent explanation or remedy, immediately confirmed to the press that there was a live warrant for my arrest. The prosecutor's breach triggered an avalanche of news reports. Within days there were millions of references online which associated my name with the word 'rape'. Immediately the police accusations were used to attack WikiLeaks' work and my reputation as its publisher. US Defense Secretary Robert Gates celebrated the news of my arrest warrant with a smile, telling reporters that the arrest "sounds like good news to me". Various twitter accounts officially associated with the Pentagon spread descriptions of me as a "rapist" and a "fugitive". In the prosecutor of the pressure o

21 August 2010

102. Less than 24 hours after the arrest warrant was issued, the chief prosecutor of Stockholm was appointed to take over the investigation and cancelled the arrest warrant, stating "I don't believe there is any reason to suspect that he has committed rape". ¹¹⁹ The Agreed Statement of Facts and Issues submitted to the UK Supreme Court states: ¹²⁰

A preliminary investigation was commenced and both women were interviewed (SW on 20th August, and AA on 21st August). At the conclusion of those interviews, on 21st August 2010, the case was taken over by the Chief Prosecutor of Stockholm (Eva Finne). Having assessed the evidence, she cancelled the arrest warrant against the Appellant; she having made the assessment that the evidence did not disclose any offence of rape

25 August 2010

103. Four days later, Chief Prosecutor Eva Finne dismissed the 'rape' investigation altogether: "I have discontinued the preliminary investigation of the charge (sic) originally designated as rape. There is no suspicion of any crime whatsoever." The Agreed Statement of Fact and Issues submitted to the Supreme Court:

The conduct alleged by SW <u>disclosed no crime at all and that file (K246314-10) would be closed.</u>

121

https://twitter.com/allmilitarynews/status/5315609218785280;

https://twitter.com/allmilitarynews/status/6020879939010560;

https://twitter.com/AllMilitaryNews/status/6020879939010560.

Briefing to the Australian Parliament, 2 March 2011 http://wlcentral.org/node/1418

¹¹⁶ See http://thelede.blogs.nytimes.com/2010/12/17/interviews-with-freed-wikileaks-founder/

¹¹⁷ See http://www.nytimes.com/2010/12/08/world/08military.html

¹¹⁸ See https://twitter.com/allmilitarvnews/status/5284064529481729:

¹¹⁹ See 'Assange inte längre misstänkt för våldtäkt', Svenska Dagbladet (SvD), 21 August 2010 http://www.svd.se/nyheter/inrikes/assange-inte-langre-misstankt-for-valdtakt 5167469.svd

¹²⁰ See paragraph 7, 'Agreed Statement of Facts and Issues' Submission by the parties to the Supreme Court of the United Kingdom http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case.

¹²¹ Paragraph 9, 'Agreed Statement of Facts and Issues' Submission by the parties to the Supreme Court of the United Kingdom http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case.

27 August 2010

104. A Swedish high profile Social Democrat politician Claes Borgström, who was running as a candidate in Sweden's imminent general elections along with AA¹²² was appointed counsel for the two women on 27 August 2010. He applied to re-open the investigation with a different prosecutor in the otherwise unrelated city of Gothenberg.

30 August 2010

105. I cancelled my other appointments and remained in Sweden where I appointed a Swedish lawyer, Leif Silbersky. I gave an interview to the police on 30 August 2010 in relation to the only remaining allegation. The Agreed Statement of Facts and Issues submitted to the Supreme Court of the UK states:

On 30th August 2010, the Appellant, who had voluntarily remained in Sweden to cooperate with the investigation, attended for police interview in respect of the ongoing Preliminary Investigation in respect of AA's report. He answered all questions asked of him. ¹²³

106. I was highly concerned for my personal safety and the safety of WikiLeaks' operations while I remained in Sweden, but I stayed for another five weeks after the 'preliminary investigation' was initiated in order to clear my name and to cooperate with the police investigation. Only after I had obtained an assurance from the prosecutor Marianne Ny that I could leave the jurisdiction did I prepare to leave the country.

1 September 2010

107. In response to the Borgström application, Prosecutor Marianne Ny, decided to "resume" the 'rape' 'preliminary investigation' (SW) and expand AA's complaint with a number of additional allegations.¹²⁴

8 September 2010

108. The head of the Swedish military intelligence service ("MUST") publicly denounced WikiLeaks in an article entitled 'WikiLeaks a threat to our soldiers'. ¹²⁵ I

Claes Borgström appeared continuously in the media talking about my case in the run-up to the Swedish general elections, which were three weeks away. One of the two women applied for a new lawyer on 28 February 2013 because, she says, Borgström had "prioritised communicating with the media instead of with me... I no longer trust him." According to his own estimation, Claes Borgström spent "at least 80 hours" speaking to the media about my case. See Claes Borgström's costing estimate submitted to Stockhom district court on 22 March 2013 http://www.scribd.com/doc/134650160/Borgström-Assange-kostnadsrakning-2013

¹²³ Paragraph 10, 'Agreed Statement of Facts and Issues' Submission by the parties to the Supreme Court of the United Kingdom http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case.

¹²⁴ See 'Agreed Statement of Facts and Issues' Submission by the parties to the Supreme Court of the United Kingdom http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case.

¹²⁵ See 'Wikileaks ett hot mot våra soldater', NyTeknik, 8 September 2010

became increasingly concerned about Sweden's close relationship to the US in military and intelligence matters.

109. Around this time I was warned by a trusted intelligence source that the Swedish intelligence service SÄPO had been privately told by its US counterparts that US—Sweden intelligence-sharing arrangements would be "cut off" if Sweden was viewed to be sheltering me. This is consistent with the reports I had read in the US press outlined above. I considered my continued presence in Sweden to be a serious risk to my personal safety and a risk to WikiLeaks' continued publications. I asked my lawyer to request permission for me to leave Sweden to attend planned engagements.

12 September 2010

110. While in Sweden, I continued to follow closely the international press, especially news about the US investigation against WikiLeaks and me. The article entitled 'The General Gunning for WikiLeaks' from 12 September demonstrated that my movements were being tracked and that there was intense interest in my actions and whereabouts. Pentagon officials said that: 126

[Assange] has been living openly in Europe for much of the summer and his newfound global celebrity means that he can be easily tracked.

111. I learnt that WikiLeaks' publications had created "anxiety" in the Obama administration and that, as a result, the Pentagon's "WikiLeaks War Room" had grown by 50 per cent since its announcement a month earlier:

Officials say that in a sign of the anxiety WikiLeaks has created within the Obama administration, the staff of Carr's operation, known formally as the Information Review Task Force, has grown by nearly 50 percent since its existence was first revealed by the Pentagon last month.¹²⁷

112. The purpose of the Task Force was to determine what classified information WikiLeaks had received, as well as to gather information on "the workings of WikiLeaks that might someday be used by the Justice Department to prosecute Assange and others on espionage charges". ¹²⁸ I understand, having spoken to my legal advisors, that the mandate of the Pentagon's task force interferes with basic protections afforded to

http://www.nyteknik.se/asikter/debatt/article2468311.ece

Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

¹²⁷ Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

Philip Shenon, 'The General Gunning for WikiLeaks', The Daily Beast, 12 September 2010 http://www.thedailybeast.com/articles/2010/09/12/pentagons-wikileaks-war-room-readies-for-new-document-dump.html

publishers where free speech and freedom of the press are enforced, including the First Amendment in the US.

15 September 2010

113. My lawyer in Sweden Bjorn Hurtig obtained an agreement from the prosecutor Marianne Ny that I was free to leave Sweden. ¹²⁹ I left Sweden on 27 September 2010.

5. Suspected seizure of suitcase, Stockholm/Berlin

27 September 2010

- 114. I had two long-standing appointments in Berlin relating to WikiLeaks' work scheduled for 27 September 2010, which I was required to attend. I had also scheduled to be in London by 30 September 2010 in order to give a prominent public talk on censorship at London's City University organised by Index on Censorship. Although there were risks attached to returning to the United Kingdom, intelligence treaties and practice meant that it would be unlikely that I would be harmed or kidnapped by the US while on UK soil. The talk offered political cover for re-entry into the UK.
- **115**. On 27 September 2010 I arrived at Stockholm's Arlanda airport shortly after noon. It was on this flight that my suitcase, laptops, privileged attorney-client communications and other important information belonging to WikiLeaks disappeared.
- 116. I implement counter-intelligence practices when I am aware that there is an active intelligence interest in my activities and movements. As I have explained above, I had learned through WikiLeaks' own sources and through media reports that there were heightened activities of this nature directed at me. As an investigative journalist who specialises in intelligence reporting, one of the methods I use to reduce the chance of post-flight surveillance of my work is to buy or exchange tickets immediately before a flight, often at the airport, so that intelligence services do not have sufficient time to observe, understand, alert, authorise, equip and deploy.
- **117**. I followed my routine counter-intelligence practice in this instance as well. I arrived at the airport just after noon with the intention of purchasing a ticket shortly before the departure on the early afternoon flight. However, I was not able to gain a seat on my preferred flight and had to wait until a later flight, SAS SK2679 departing at 17.25. As a result, I was forced to wait at the airport for many hours longer than I would prefer, given my security concerns.
- 118. I knew that Swedish intelligence services, and possibly other countries' intelligence

¹²⁹ See Agreed Statement of Facts and Issues, UK Supreme Court (February 2012) http://www.scribd.com/doc/80912442/Agreed-Facts-Assange-Case

agencies, were likely to monitor Arlanda airport and its ticketing system.¹³⁰ I was concerned that my continued presence at Arlanda would be noticed and would permit those monitoring the airport to inform US authorities of my presence, take action themselves and/or alert German counterparts or services operating unlawfully in Germany of my pending arrival.

- 119. I checked in one suitcase on SAS flight SK2679 to Berlin. I was in the middle of the check-in queue. The suitcase was a medium-size soft suitcase with tan colour, trolley wheels and an extendable handle. It weighed 13 Kg and contained three encrypted laptops, telephone power supplies, assorted electronics, additional encrypted hard drives, telecommunications equipment and clothing. The phones, documents and other materials, including a laptop, which were the most difficult to protect I carried with me on my person, up to the allotted carry-on weight.
- **120**. My boarding pass states that I took flight "SK2679", scheduled to depart 17:25 and shows that I had checked one bag weighing 13 Kg, PNR "ZR37P", with tracking number "0117 SK 847249 SK 2679 /27SEP" (Appendix A).
- **121**. I had no issues during check-in for the flight. The luggage that had been checked in was easily identifiable because it was under my name. Boarding was briefly delayed for reasons unknown to me.
- 122. When I arrived at Berlin Tegel airport I went directly to the designated luggage carousel. My luggage did not appear. I then immediately went to the airport luggage claim office. The claim office said there was no unclaimed luggage there and that no one else from my flight, a direct flight within the Schengen area, was missing their luggage. The office also told me that it was extremely unusual that luggage had disappeared from a direct SAS flight within the Schengen open border area between Stockholm Arlanda and Berlin Tegel. This was also conveyed to Mr Wahlstrom (Appendix G) and Mr Stark and Mr Rosenbach (Appendix F)

6. Efforts to recover the suitcase and file a police complaint

¹³⁰ See the controversial agreements between the US Department of Homeland Security and the EU in relation to sharing Passenger Name Records (PNR) with the US and the debate regarding the sharing deal. www.rue89.com/2008/03/04/a-divided-europe-wants-to-protect-its-personal-data-wanted-by-the-us. surveillance 'FRA' law Sweden's controversial signals introduced http://www.redicecreations.com/article.php?id=4076. The US diplomatic cables show data retention reforms in Sweden were driven by US foreign policy http://cablegatesearch.net/cable.php? id=09STOCKHOLM141&version=1314326040&q=09stockholm141. See Rickard Falkvinge, 'Sweden's Stasi"', The new wiretapping law "much worse than the Local, http://www.thelocal.se/article.php?ID=12334&print=true

- 123. I filed a formal property irregularity report and received a copy of the complaint (Appendix B), which lists the baggage tag number as "SK847249" and the reference number as "TXLSK11342/27SEP10/1742GMT". I provided details about how to contact me. The luggage claims office also gave me a small black bag containing toiletries and a T-shirt. I was told that the disappearance was highly unusual and that my suitcase would most likely arrive on the next flight from Stockholm. Over the next days, six people (including myself) made inquiries to try to track down the suitcase.
- **124**. I sent a message through to a journalist colleague, Johannes Wahlstrom, who was in Sweden, informing him of the situation. I asked him to make inquiries in Sweden. His affidavit is attached in Appendix G.
- 125. From the airport I travelled to meet Stefania Maurizi of *L'Espresso*, who has also submitted an affidavit (attached in Appendix E) and Kristinn Hrafnsson of WikiLeaks (Appendix D). We met at Berlin's Best Western Hotel. I told Ms Maurizi that my luggage had disappeared without trace from a direct SAS flight flying Stockholm to Berlin. The next day I met again with the Italian journalist Stefania Maurizi to start a publishing partnership between WikiLeaks and her publication in relation to 15,000 unpublished documents relating to the war in Afghanistan. Stefania Maurizi subsequently wrote about our meeting and the suspected seizure of my luggage in an article published in the Italian newspaper *l'Espresso*. ¹³¹
- **126**. On 28 September 2010, I called my then-Swedish lawyer Bjorn Hurtig in Sweden to inform him of the suspicious disappearance of the luggage containing the WikiLeaks equipment and to ask him to make inquiries. Ms Stefania Maurizi was present during this call.
- 127. That same day, Kristinn Hrafnsson and I met as planned with Holger Stark and Marcel Rosenbach (whose affidavit is attached in Appendix F) from the publication *Der Spiegel*. We met at the home of Andy Muller-Maghun (affidavit in Appendix C) from the Wau Holland Foundation. The purpose of the meeting with *Der Spiegel* was to discuss the publishing partnership between *Der Spiegel* and WikiLeaks, which involved the publication of 400,000 secret documents of the Iraq War and more than 251,000 confidential US diplomatic cables. I informed Mr Stark and Mr Muller-Maguhn about the disappearance of the WikiLeaks equipment and asked for their advice about how to track it from Germany.
- **128**. The meetings with Stefania Maurizi of *l'Espresso* and Holger Stark and Marcel Rosenbach from *Der Spiegel* were pre-scheduled. WikiLeaks shares material it has obtained with publishing partners in order to maximise the coverage of WikiLeaks' material. In practice, entering a partnership has two components. The first is the signing of a document agreeing to the terms of publishing the material, such as the publishing schedule and information-sharing relating to the coverage of the material. The second is a handover of material. These meetings had been arranged through various means of

¹³¹ See 'L'eversore' published in L'Espresso magazine, 9 December 2010 (available in print only, see Appendix J).

communication. Mr Muller-Maguhn's affidavit estimates that the meetings were set up in early September 2010 (Appendix C). The meeting with Stefania Maurizi was arranged over open email, which meant that this correspondence was interceptable. The intelligence services could have had ample time to prepare an operation through monitoring these communications, for example by trying to seize material which was going to be handed over (just such an interception and seizure operation occurred on 18 September 2013 of alleged US classified documents being carried by David Miranda for journalistic purposes – a matter also connected to me and to the *Guardian* newspaper¹³²). The first contact was made by Stefania Maurizi on 26 July 2010, and I replied on 7 August, four days before flying to Stockholm. The date of the meeting was confirmed for 27 and 28 of September over a month before, on 25 August 2010 (Appendix L).

- **129**. On my behalf, Mr Muller-Maguhn, Holger Stark and Marcel Rosenbach made several calls that night and over the coming days to those responsible in Germany for lost property claims. They told me that these inquiries revealed that there was no record of the suitcase after it entered Stockholm Arlanda airport.
- **130.** I refer to Appendix F, in which the affidavit of Mr Stark and Mr Rosenbach explains that they spoke to a Miss Kahland, the supervisor for lost and found luggage at Tegel airport. Miss Kahland was reachable on the phone number +493088756140. Mr Stark and Mr Rosenbach explain in their affidavit that they were told that the company in charge was GlobeGround. GlobeGround in Berlin made multiple inquiries with the ground staff at Stockholm Arlanda, but were given no response at all. (See Appendix D and page 4 of Appendix C.)
- **131.** The only information the GlobeGround company could provide was that the suitcase was correctly labelled and scanned when I checked in at Stockholm Arlanda (Appendix C).
- **132**. Further inquiries by Mr Stark and Mr Rosenbach led to a company called Acciona. The Duty Manager at Acciona, who was reachable on +493041013718, claimed that according to the records, my suitcase appeared not to have left Stockholm. Neither Acciona nor GlobeGround could provide a reason why (Appendix F).
- 133. Andy Muller-Maguhn (Appendix C) learned through his inquiries that the disappearance of my luggage on a flight with these characteristics was highly unusual: where luggage goes missing there is a 12-hour policy in place for the Star-Alliance partners. If inquiries are not dealt with within this time frame, the inquiry is prioritised. It seemed that this had not happened in my case. My suitcase had simply disappeared from the system. The lack of response or resolution on the part of the authorities and handling companies compounded these unusual characteristics.
- 134. Kristinn Hrafnsson, who was with Mr Muller-Maguhn at the time, said that the latter "quoted someone working for the luggage handler saying that he had never

Glenn Greenwald, 'Detaining my partner will have the opposite effect to that intended', The Guardian, 18 August 2013 http://www.theguardian.com/commentisfree/2013/aug/18/david-miranda-detained-uk-nsa

encountered anything like this before" (Appendix D).

- 135. Mr Wahlstrom (Appendix G) called the air carrier SAS from Sweden to inquire about my luggage. The airline representative said that the bag was checked in but she didn't know where it was. The representative told Mr Wahlstrom that it was the first time in her life that she had seen this happen, because usually the computer system will give an indication of where the luggage has been misplaced. Since the representative could not see the bag in her computer system she said that there was nothing she could do, but if it showed up she would contact him. He left his address and telephone number (Appendix G). Mr Wahlstrom called the airline on several other occasions in the subsequent days. He informed me that the luggage had not been found.
- 136. Given that Johannes Wahlstrom's inquiries had not yielded any results, I asked him to report the matter to the Swedish police. Mr Wahlstrom explains in his affidavit that he contacted the police approximately one week after the luggage went missing (Appendix G). Mr Wahlstrom spoke to police detective Mats Gehlin. He explained that I was concerned that an intelligence operation was behind the seizure and that I was concerned that WikiLeaks' material had been stolen. He also explained that I felt uneasy about trusting the Swedish authorities with this matter, given the possible involvement of the Swedish secret services and the previous events. Detective Mats Gehlin told Johannes Wahlstrom that if the security services were involved in the seizure of my luggage, he would be aware of it. Gehlin promised to make inquiries. Mr Wahlstrom was given no explanation or contacted thereafter (Appendix G). Police detective Gehlin was actively involved in the 'preliminary investigation' of the sex case against me. He had easy access to my lawyer. He could have contacted my lawyer if he was unwilling to contact Mr Wahlstrom regarding the matter. Mr Wahlstrom was not contacted, and my lawyer Bjorn Hurtig informed me that he had not been contacted about this matter either.
- 137. I understand by my lawyers that the failure to explain or remedy this situation by all of the authorities involved, including the Swedish police, constitutes a failure to enforce my right to an effective remedy. I understand that I am within my rights to challenge those authorities that were responsible for the safe delivery of my property across borders.

7. Continued US efforts to stop WikiLeaks' publications

October - December 2010

138. A large escalation of resources in the military and intelligence community occurred during my stay in Sweden and following my departure. As the reported spying and tracking intensified it became clear that the US was attempting to stop our publishing activities, as we had yet to publish the *Iraq War Logs* and the US diplomatic cables. This

resource escalation was matched by US officials' belligerent messages. 133

22 October 2010

139. WikiLeaks published the *Iraq War Logs* from London. The War Logs record 109,000 violent deaths, including 66,081 civilian deaths. The release was later credited as ultimately leading to the end of the Iraq War. ¹³⁴ The UN High Commissioner for Human Rights, Navi Pillay, stated formally on 26 October 2010 that the US is under an obligation to investigate the human rights violations documented in WikiLeaks' *Iraq War Logs*: ¹³⁵

The files reportedly indicate that the US knew, among other things, about widespread use of torture and ill-treatment of detainees by Iraqi forces, and yet proceeded with the transfer of thousands of persons who had been detained by US forces to Iraqi custody between early 2009 and July 2010. The files also allegedly include information on many undisclosed instances in which US forces killed civilians at checkpoints and during operations.

<u>The US and Iraqi authorities should take necessary measures to investigate</u> all allegations made in these reports <u>and to bring to justice those responsible</u>... in line with <u>obligations under international human rights law</u>, including the International Covenant on Civil and Political Rights to which both the US and Iraq are parties.

140. During this time, the intelligence activities against me and WikiLeaks by the US and other governments made known to me increased. US National Security Agency (NSA) officials reportedly stated¹³⁶ that they had evidence that the Russian intelligence agency FSB was closely surveilling WikiLeaks and myself:

National-security officials say that the <u>National Security Agency</u>, the US government's eavesdropping agency, has already picked up tell-tale electronic evidence that **WikiLeaks is under close surveillance by the Russian FSB**

who, it was reported, was

capable of organizing "the right team" to target WikiLeaks and "shut it down forever."

¹³³ See footnotes 12, 35 and 144.

¹³⁴ See 'Obama: Iraq war will be over by year's end; troops coming home', CNN, 22 October 2011 http://edition.cnn.com/2011/10/21/world/meast/iraq-us-troops; and 'WikiLeaks cables and the Iraq War', Salon, 23 October 2011 http://www.salon.com/2011/10/23/wikileaks cables and the iraq war/ and 'Iraq refuses to extend US military diplomatic immunity after WikiLeaks exposed crimes', Bradley Manning Support Network http://www.bradleymanning.org/press/update-102511-iraq-refuses-to-extend-u-s-military-diplomatic-immunity-after-war-crimes-exposed-through-wikileaks-cable

¹³⁵ See http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10477

 $^{^{136} \} See \ \underline{\ http://www.thedailybeast.com/articles/2010/11/30/moscows-bid-to-blow-up-wikileaks-russians-play-by-different-rules.html}$

4 November 2010

141. I continued to give talks, believing publicity to be partly protective against the assassination and kidnapping threats levelled against me and my staff, and to travel, but I took increased precautions: I moved around with professional bodyguards. On 4 November 2010 I gave a talk in Geneva on the theme "The USA and Human Rights" at the United Nations Universal Periodic Review (UPR). I was invited to speak because the human rights record of the United States was being reviewed as part of the ninth session of the UPR, and because WikiLeaks was in the process of exposing human rights violations in different countries. ¹³⁷ United Nations and Swiss security officials, also concerned for my safety, supplemented my two bodyguards with another four (two Swiss, two working for the United Nations).

22 November 2010

142. On 22 November 2010, the WikiLeaks Twitter account announced that the coming publication would be seven times bigger than the *Iraq War Logs*.¹³⁸ The tweet was referring to the imminent publication of *Cablegate*.

28 November 2010

143. WikiLeaks commenced publishing *Cablegate*, 251,287 US diplomatic cables of the period 1966-2010.¹³⁹ The classified diplomatic dispatches related to every country in the world. In terms of content, it was the largest set of classified documents ever to be published.

29 November 2010

144. State Department spokesman P.J. Crowley stated that "we are investigating aggressively" into WikiLeaks and that a State Department "War Room", which is different from the Pentagon "War Room", had been set up. ¹⁴⁰

30 November 2010

145. On 30 November 2010, two days after WikiLeaks started publishing *Cablegate*, Interpol issued a Red Notice to 188 countries for my arrest in relation to the Swedish "preliminary investigation" (for which no charges or indictment existed). Interpol also

¹³⁷ See http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSessions.aspx

¹³⁸ See 'WikiLeaks Promises Release 7x the Size of Iraq War Logs Leak', PCMag, 22 November 2010 http://www.pcmag.com/article2/0,2817,2373147,00.asp

¹³⁹ See http://wikileaks.org/cablegate.html

¹⁴⁰ Daily Press Briefing, Washington DC, 29 November 2010 http://www.state.gov/r/pa/prs/dpb/2010/11/152085.htm

published a press release translated into five languages promoting the Red Notice.

2 December 2010

- **146**. Sweden issued a European Arrest Warrant on 2 December 2010, which was certified by the UK Serious Organised Crimes Agency (SOCA).
- 147. Days later in early December 2010, the economic persecution against WikiLeaks and me personally started to commence. VISA, MasterCard, Bank of America, Western Union, PayPal and others implemented an arbitrary blockade against WikiLeaks' donations at the peak of the donations period. The blockade was imposed outside of any administrative or legal process. The blockade also affected my personal economic freedoms. I was placed into Thomson Reuters World-Check's database, which has prevented me from opening new bank accounts or registering new businesses. World Check is a confidential blacklisting service used by banks and accountancies to check for "Politically Exposed Persons" or PEPs. I was placed on World-Check's list without my knowledge, even though I do not fit the formal definition of a PEP. 142
- 148. The blockade against WikiLeaks is imposed without an underlying judicial or administrative order in the United States or anywhere else, although instances of political pressure on these companies have come to light. The effects of this persecution are global. Prominent politicians in the United States attempted to formalise the blockade in law. These attempts failed after the US Treasury found that there were no lawful
- 141 Paypal discontinued its service on 3 December 2010 and the next day blocked the German Foundation Wau Holland Stiftung's (WHS) access to its PayPal account, which received donations for other projects in addition to WikiLeaks. PayPal also attempted to freeze the remaining money in the account for 180 days. The money was released immediately after a WHS lawyer intervened. On 6 December, Swiss Post Finance froze my Legal Defence Fund account. The following day, VISA and MasterCard stopped processing donations to WikiLeaks (7 December). On 15 December, Germany's FA Kassel tax authority initiated an investigation into WHS's charitable status. The investigation, WHS representatives were privately told, was politically motivated. On 18 December, Bank of America discontinued "transactions of any type that we have reason to believe are intended for WikiLeaks". Three days later, Western Union added WikiLeaks to its 'Interdiction List'. See http://wikileaks.org/Banking-Blockade.html
- 142 "Politically Exposed Persons" (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.", World-Check, "Refining the PEP Definition" (Ed. II), 2008 http://www.world-check.com/media/d/content_whitepaper_reference/Refining_the_PEP_Definition_-_EditionII.pdf
- ¹⁴³ "MasterCard Incorporated had conversations with certain Congressional staff" (Congress Homeland Security Committee Chairman, Peter T. King). MasterCard's submission to the European Commission, 25 August 2011 http://wikileaks.org/IMG/pdf/EUPreliminaryDecision1.pdf
- 144 The Chairman of the US Congress Committee on Homeland Security, Peter T. King, called for WikiLeaks, and me personally, to be placed on the Specially Designated National and Blocked Persons List (SDN List), and stated "The US government should be making every effort to strangle the viability of Assange's organization." 'King Calls on Treasury Secretary Geithner to Act to Disrupt WikiLeaks', 12 January 2011 http://homeland.house.gov/press-release/king-calls-treasury-secretary-geithner-act-disrupt-wikileaks and 'Congressman wants WikiLeaks listed as terrorist group', CNet, 28 November 2010 http://news.cnet.com/8301-13578 3-20023941-38.html#ixzz16keYyAPb

grounds to blacklist the WikiLeaks organisation.¹⁴⁵ The blockade has been in force since December 2010, but has been weakened significantly after WikiLeaks won a Supreme Court case in Iceland against VISA subcontractor Valitor in April 2013.¹⁴⁶

7 December 2010

149. The day after UK authorities certified the Swedish arrest warrant, I appeared at the police station, having made a prior appointment. This is the first time I was informed of the accusations against me in Sweden. I was arrested and placed in solitary confinement in Wandsworth high security prison for ten days.

8 December 2010

150. One day after I was imprisoned, the UK newspaper *The Independent* reported that the US and Sweden had entered informal talks regarding my extradition from Sweden to the United States in connection with the US Grand Jury and FBI investigation against WikiLeaks.¹⁴⁷

151. The matter of whether the warrant issued by the Swedish prosecutor was valid would become the subject of three UK court cases over the next year and a half.¹⁴⁸

148 See http://www.supremecourt.gov.uk/news/379.html

¹⁴⁵ See Treasury: We 'don't have the evidence' to launch WikiLeaks embargo', The Hill, 14 January 2011 http://thehill.com/blogs/hillicon-valley/technology/137969-treasury-dept-we-dont-have-the-evidence-to-launch-wikileaks-embargo

¹⁴⁶ The economic blockade remains in place, but it has been weakened as a result of WikiLeaks' ability to challenge the blockade before the courts in certain jurisdictions, Iceland in particular. On 24 April 2013, Iceland's Supreme Court ordered VISA subcontractor Valitor to reopen the gateway for WikiLeaks donations, one of the arms of the economic blockade (http://en.rsf.org/iceland-court-orders-visasubcontractor-to-26-04-2013,44440.html). The Supreme Court of Iceland confirmed the previous ruling that Valitor had breached its contract in discontinuing the processing of donations to WikiLeaks. Valitor complied with the Supreme Court order and reopened its payment gateway, but gave formal legal notice that it would terminate its contract and re-close the gateway on 1 July 2013, citing a unilateral termination clause in the contract. Valitor subsequently reversed its position after MasterCard notified Valitor that it has decided to put an end to its WikiLeaks blockade. The blockade of VISA and others is still in force (http://wikileaks.org/MasterCard-breaks-ranks-in.html; https://www.datacell.com/news/victory-over-creditcard-companies-wikileaks-donations-possible-again/). The European Parliament has similarly expressed that credit cards may not arbitrarily cease processing payments. The Parliament passed a resolution on 20 November 2012 'Towards an integrated European market for card, internet and mobile payments' (2012/2040 (INI)) remedy this (http://www.europarl.europa.eu/sides/getDoc.do? pubRef=-//EP//TEXT+TA+P7-TA-2012-0426+0+DOC+XML+V0//EN). A court claim for compensation is currently being prepared. Damages are estimated at \$72.7m USD.

¹⁴⁷ See 'Assange could face espionage trial in US', The Independent, 8 December 2010 http://www.independent.co.uk/news/uk/crime/assange-could-face-espionage-trial-in-us-2154107.html

7.1. Known US intelligence operations against WikiLeaks in Europe since 2011

152. I learnt through a Parliamentary Inquiry in Iceland in February this year details of illegal FBI operations in Iceland in connection with its investigation into WikiLeaks. WikiLeaks spokesman Kristinn Hrafnsson was present at the inquiry. On 24 August 2011, six FBI agents and two US Department of Justice prosecutors flew by private jet to Iceland. Over the next days the Interior Minister was made aware that the operations being carried out were different from those initially presented by the US authorities. The FBI purported to be investigating a breach of the Icelandic Parliament's computer system, while in reality it was carrying out interrogations relating to the FBI's WikiLeaks investigation. The Icelandic Interior Minister stated that the FBI operations were illegal and violated Icelandic sovereignty. The FBI and US prosecutors were then expelled from the country.

153. A recent article in Slate magazine about the incident interviewed the then-Interior Minister, Ögmundur Jónasson, who explained that:

Icelandic authorities initially believed the FBI agents had come to the country to continue their investigation into the impending LulzSec hacking attack on Icelandic government computers. But once it became clear that the FBI agents were in fact engaged in a broader swoop to gather intelligence on WikiLeaks... the agents were asked to immediately remove themselves from the country. 149

154. According to newspaper reports, the inquiry revealed that

The FBI agents interrogated the man, who is twenty years old, <u>for five days after</u> the <u>Ministry of the Interior declined to cooperate with the FBI</u>. The interrogations took place in hotels around Reykjavik but never at the US embassy. 150

155. The Icelandic government considered the FBI's unauthorised activities in Iceland illegal:

Mr. Ossur Skarphedinsson, the Minister of Foreign Affairs, said to a local newspaper today that the FBI's stay in Iceland was illegal.

Mr. Skarphedinsson added: "Therefore, we at the Ministry of Foreign Affairs thought that these conversations should be prevented, to protect this Icelandic

¹⁴⁹ Slate, 'WikiLeaks' Teenage Benedict Arnold', 9 August 2013 http://www.slate.com/articles/technology/future_tense/2013/08/sigurdur_thordarson_icelandic_wikileaks_volunteer_turned_fbi_informant.single.html

¹⁵⁰ News of Iceland, 'FBI told to leave Iceland – Took a boy with them', 5 February 2013 http://www.newsoficeland.com/home/politics/foreign-affairs/item/691-fbi-told-to-leave-iceland-took-a-boy-with-them

citizen, because <u>the conversations took place at very unusual places and without</u> authorization.¹⁵¹

156. The Icelandic Parliamentary inquiry into the incident, held in February 2013, revealed that the FBI was attempting to entrap me through Sigurdur Thordarson:¹⁵²

Minister of the Interior [of Iceland] Ögmundur Jónasson stated his opinion at Alþingi, the Icelandic parliament, that **the FBI had intended to use the young man they questioned**, known as Siggi 'the hacker', as **bait in their investigation of WikiLeaks**. 153

157. Then-Interior Minister Jónasson told Slate:

"I think it was a question of trying to frame Julian Assange... And they wanted Icelandic authorities to help them with that."

158. In a different article, Jónasson said that:

"We made clear to the American authorities that this was not well-seen by us". 154

159. After the FBI was expelled from Iceland, Thordarson was flown to Denmark. There he stayed at the Hilton hotel near Copenhagen airport, where the FBI interrogated him further. He was flown to Copenhagen for further FBI interrogations on 3 October 2013, and on 18 March 2012. I understand by my lawyers that if these interrogations were not approved by the state of Denmark then they would be unlawful. ¹⁵⁵

160. Thordarson was flown to Washington where he was interrogated for four more days. During this time he reportedly stayed at the Marriott hotel in Arlington, Virginia. ¹⁵⁶

¹⁵¹ News of Iceland, 'FBI told to leave Iceland – Took a boy with them', 5 February 2013 http://www.newsoficeland.com/home/politics/foreign-affairs/item/691-fbi-told-to-leave-iceland-took-a-boy-with-them

¹⁵² Iceland Review, 'Iceland Minister: FBI Used Hacker to Bait WikiLeaks', 14 February 2013 http://www.icelandreview.com/icelandreview/daily_news/Iceland_Minister_FBI_Used_Hacker_to_Bait_WikiLeaks_0_397837.news.aspx

¹⁵³ Iceland Review, 'Iceland Minister: FBI Used Hacker to Bait WikiLeaks', 14 February 2013 http://www.icelandreview.com/icelandreview/daily_news/Iceland_Minister_FBI_Used_Hacker_to_Bait_WikiLeaks_0_397837.news.aspx

Associated Press, 'Minister: Iceland refused to help FBI on WikiLeaks', 1 February 2013 http://bigstory.ap.org/article/minister-iceland-refused-fbi-aid-over-wikileaks

The Copenhagen Post, 'FBI met WikiLeaks informant in Copenhagen', 15 August 2013 http://cphpost.dk/international/fbi-met-wikileaks-informant-copenhagen

¹⁵⁶ Slate, 'WikiLeaks' Teenage Benedict Arnold', 9 August 2013 http://www.slate.com/articles/technology/future_tense/2013/08/sigurdur_thordarson_icelandic_wikileaks_v olunteer turned fbi informant.single.html

161. Further details about the FBI's dealings with Thordarson have recently emerged after Thordarson has agreed to give interviews about his FBI collaboration:¹⁵⁷

Thordarson says the agents also wanted information about WikiLeaks' technical and physical security and the locations of WikiLeaks' servers; they asked him, too, for names of individuals linked to WikiLeaks who might be open to becoming informants if approached by the FBI.

Once, he says, he told the agents that he was planning a visit to see Assange at Ellingham Hall. Eager to take advantage of the trip, they asked him to wear a recording device and make copies of data stored on laptops used by WikiLeaks staff.

Before his penultimate meeting with US authorities, in early February 2012, Thordarson says he was instructed to build relationships with people close to WikiLeaks in order to gather information for the feds. ¹⁵⁸

- 162. Thordarson's final meeting with the FBI took place in Aarhus in Denmark, where the FBI acquired data that had been stolen from staff, friends and associates of WikiLeaks. At least some of the material had been stolen at Ellingham Hall, the house where I was staying under house arrest in Norfolk. The material allegedly included information relating to publishing partnerships, chat communications and private information such as copies of passports, video footage taken in secret, and bills. The FBI allegedly obtained the material in exchange for two payments amounting to US\$5,000.
- **163**. Danish authorities have refused to comment on whether they were aware that the FBI repeatedly conducted interrogations with Thordarson in Denmark and whether they authorised the FBI's operation, which involved acquiring stolen property belonging to a publishing organisation. I understand by my lawyers that conducting such operations without the authorisation of the Danish authorities would be illegal.
- **164.** Danish media reports have speculated over whether the FBI's acquisition of the stolen material may have compromised the protections of Danish publications and journalists. Wikileaks entered into publishing partnerships and I had had dealings with several Danish journalists in relation to *Cablegate*. ¹⁶⁰

Thordarson has also tweeted about his collaboration: http://archive.is/S82eA. http://archive.is/582eA.

¹⁵⁸ Slate, 'WikiLeaks' Teenage Benedict Arnold', 9 August 2013 http://www.slate.com/articles/technology/future_tense/2013/08/sigurdur_thordarson_icelandic_wikileaks_v_olunteer_turned_fbi_informant.single.html

¹⁵⁹ See 'FBI spionerede mod Assange via Danmark' [FBI spied on Assange via Denmark], Journalisten.dk, 14 August 2013 http://journalisten.dk/search/node/assange%20fbi

See 'FBI met WikiLeaks informant in Copenhagen', The Copenhagen Post, 15 August 2013 http://cphpost.dk/international/fbi-met-wikileaks-informant-copenhagen

7.2. Known intelligence operations in the United Kingdom

June 2013 - present

165. On 24 August 2012 I gave a public speech from the Ecuadorian embassy. A high resolution camera operated by the British Press Association captured a police document (Appendix I). The document indicated that the Metropolitan Police's counter-terrorism protective security command (S020) and the unknown 'SS10' unit were involved in surveilling the embassy. In addition to the unexplained presence of the counter-terrorism unit and other police units deployed on this day, the document revealed that the police force was instructed to violate the Vienna Convention on Diplomatic Relations in order to arrest me:

"Action required Assange to be arrested under all circumstances" including if "He comes out with dip immune [diplomatic immunity] as dip bag in dip bag in dip vehicle."

166. UK reports speculated whether SS10 was in fact S010 – the Metropolitan Police's covert operations group, given that the leaked police document states:

"Discuss possibilities of distraction [in relation to arresting Assange] - SS10 to liaise."

167. These instructions to police units were revealed after a week of diplomatic tension between the UK and Ecuador. Ecuador's Foreign Minister disclosed on 15 August 2012 that an official communication from the UK Foreign Office had threatened to breach the embassy mission if Ecuador did not hand me over to the UK police. ¹⁶¹ Resolutions by ALBA, UNASUR and the OAS condemned the UK's communication. ¹⁶² The real intent to enter the embassy was confirmed by a former UK ambassador. ¹⁶³

168. The UK has reportedly spent more than £4 million on embassy police surveillance alone between June 2012 and June 2013, not including the constant covert surveillance of the mission. ¹⁶⁴ The mayor of London, Boris Johnson, commented in an ethics committee this year that the expenditure of surveillance on the embassy is

^{161 &#}x27;Ecuador ratifica su posición frente a amenaza del Reino Unido', 15 August 2012 http://cancilleria.gob.ec/es/ecuador-ratifica-su-posicion-frente-a-amenaza-del-reino-unido/; 'Canciller Patiño denuncia amenaza del Gobierno británico de arrestar a Julián Assange en la Embajada del Ecuador', 18 August 2012 http://cancilleria.gob.ec/es/canciller-patino-denuncia-amenaza-del-gobierno-britanico-de-arrestar-a-julian-assange-en-la-embajada-del-ecuador/

¹⁶² 'Declaracion del IX Consejo Político Extraordinario de la Alianza Bolivariana para los Pueblos de Nuestra América', 18 August 2012 http://cancilleria.gob.ec/es/declaracion-del-ix-consejo-politico-extraordinario-de-la-alianza-bolivariana-para-los-pueblos-de-nuestra-america/

¹⁶³ See http://www.craigmurray.org.uk/archives/2012/08/americas-vassal-acts-decisively-and-illegally/

¹⁶⁴ See 'Julian Assange police guard cost nears £3m', BBC, 15 February 2013 http://www.bbc.co.uk/news/uk-21480648

"absolutely ridiculous, that money should be spent on frontline policing... It's completely wasted." ¹⁶⁵

169. On 14 June this year a hidden microphone was discovered by Ecuadorian security staff inside the embassy where I live. 166 According to the information disclosed at a press conference in Quito, the device had GSM activation and was discovered in an electrical socket, where it had been active for two months. The UK private company Surveillance Group Ltd was said to be associated with the make of the bugging device. Ecuador initiated an investigation and sought the cooperation of the UK authorities to ascertain the origin of the device and the circumstances of the breach of the Vienna Convention in relation to the inviolability of diplomatic premises.

¹⁶⁵ caa

http://www.london24.com/news/politics/mayor_s_office_may_launch_ethics_committee_to_deal_with_pol_ice_complaints_1_2271509

^{166 &#}x27;UK security firm bugged our embassy: Ecuador', Sydney Morning Herald, 4 July 2013 http://www.smh.com.au/it-pro/security-it/uk-security-firm-bugged-our-embassy-ecuador-20130704-hv0pw.html

8. Concluding remarks

170. I am submitting this affidavit for the reasons set out in the opening section. My legal advisors have informed me that as well as the rights enjoyed by individuals, as a publisher and journalist, my work is protected by the corresponding laws that are binding upon Sweden and Germany and other European countries as well as the US. I have also been informed that in submitting this document, I am seeking to exercise my right to an effective remedy, which has so far been denied to me in relation to this matter. Icelandic authorities have confirmed that the FBI acted illegally in Iceland in relation to their intelligence activities against me and the WikiLeaks organisation in August 2011. The FBI also potentially acted unlawfully in Denmark during 2011 and 2012, where it interrogated Sigurdur Thordarson and obtained stolen material belonging WikiLeaks and other publishing organisations and private information belonging to third parties. Those who bugged the embassy in which I reside acted with evident illegality. There is a clear pattern of extraterritorial and extra-legal interference with my work. This contributes to a view that the US likely acted in an unlawful manner in its monitoring of me and Mr Zimmermann in Germany during December 2009 and that my and WikiLeaks' property was likely unlawfully seized on 27 September 2010

171. A White House press release announced on 15 August 2013 that US President Barack Obama will travel to Sweden on 4 and 5 September together with a US delegation, which is expected to contain numerous US officials from the White House and US State Department.¹⁶⁷ President Obama and other senior officials from the White House and the State Department have been directly involved in the US response to WikiLeaks' publications. Members of the delegation may have information relevant to an investigation of this matter.

172. I am informed by my legal advisors that this formal document may trigger an investigation and that independent judicial bodies may seek explanations of the responsible authorities as a result. I file this affidavit in the knowledge that there will likely be pressures for this matter not to be investigated, but in the knowledge that the law requires an investigation. I request that Swedish judicial authorities act swiftly to question and arrest if necessary those who are likely to have information about or bear criminal responsibility for the actions taken against WikiLeaks and my person as detailed in this affidavit.

Julian Paul Assange **AFFIRMED** this 2nd day of September 2013 at the Embassy of Ecuador in London

See 'Statement by the White House Press Secretary on the President's Travel to Sweden', 15 August http://www.swedenabroad.com/en-GB/Embassies/Washington/Current-affairs/News/President-Obama-to-Sweden-sys/

9. Appendices

- 9.1 Appendix A: Airline ticket Flight SK2679
- 9.2 Appendix B: Property Irregularity Report (Ref. TXLSK11342/27SEPT10/1742GMT)
- 9.3 Appendix C: Affidavit of Andy Muller-Maguhn
- 9.4 Appendix D: Affidavit of Kristinn Hrafnsson
- 9.5 Appendix E: Affidavit of Stefania Maurizi
- 9.6 Appendix F: Affidavit of Marcel Rosenbach and Holger Stark
- 9.7 Appendix G: Affidavit of Johannes Wahlstrom
- 9.8 Appendix H: Moneybookers correspondence relating to termination of services and indication of WikiLeaks appearing on a hidden watchlist and blacklist
- 9.9 Appendix I: Photo of police clipboard indicating intelligence operations directed at apprehending me in the Ecuadorian embassy
- 9.10 Appendix J: Articles by Stefania Maurizi containing references to our meeting in Berlin on 27 and 28 September 2010
- 9.11 Appendix K: Woman AA's tweet "I have not been raped" screenshot
- 9.12 Appendix L: Correspondence between Stefania Maurizi establishing meeting in Berlin on 27 and 28 September 2010
- 9.13 Appendix M: Washington Times article snapshot "Assassinate Assange" and illustration "Wanted Dead (or Alive)"
- 9.14 Appendix N: Relevant excerpts from Bradley Manning's trial transcript 10 and 11 June 2013