



July 14, 2016

**BY EMAIL**

Special Agent Tracy J. Minnich  
Federal Bureau of Investigation,  
Northern Virginia Region  
9325 Discovery Blvd.  
Manassas, Virginia 20109  
Tracy.Minnich@ic.fbi.gov

**Re: Response to Grand-Jury Subpoena Directed at Open  
Whisper Systems (16-3 / A01-246 / 476 / 16-1090)**

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
NATIONAL OFFICE  
125 BROAD STREET, 18TH  
FL.  
NEW YORK, NY 10004-2400  
T/212.549.2500  
WWW.ACLU.ORG

OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

ROBERT B. REMAR  
TREASURER

Dear Special Agent Minnich,

This letter responds to the June 30, 2016 grand-jury subpoena directed at Open Whisper Systems (“OWS”) that seeks “subscriber account information” for two phone numbers. The American Civil Liberties Union represents OWS for purposes of responding to the subpoena. Please direct future correspondence about this matter to undersigned counsel.

Only one of the two listed phone numbers is associated with a Signal account: “+ [REDACTED]” Open Whisper Systems has no record of an account associated with the second listed phone number, “+ [REDACTED]” and therefore has no records to provide as to that number.

The only information responsive to the subpoena held by OWS is the time of account creation and the date of the last connection to Signal servers for account “+ [REDACTED]” Consistent with the Electronic Communications Privacy Act (“ECPA”), 18 U.S.C. § 2703(c)(2), OWS is providing this information in response to the subpoena. *See* Attachment A.

Although OWS does not have, and therefore cannot produce, other categories of information listed in the subpoena, OWS notes that not all of those types of information can be appropriately requested with a subpoena. Under ECPA, the government can use a subpoena to compel disclosure of information from an electronic communications service provider only if that information falls within the categories listed at 18 U.S.C. § 2703(c)(2). For other types of information, the government must obtain a court order or search warrant. OWS objects to use of the grand-jury subpoena to request information beyond what is authorized in Section 2703(c)(2).

OWS also has concerns about the scope of the nondisclosure order included with the subpoena. *See* Order, Case No. 15gj1141 (June 30, 2016 E.D. Va.). Undersigned counsel expects to communicate separately with the U.S. Attorney's Office about this issue.

Respectfully,



---

Brett Max Kaufman  
American Civil Liberties Union  
Foundation  
125 Broad Street—18th Floor  
New York, New York 10004  
T: 212.549.2603  
F: 212.549.2654  
bkaufman@aclu.org

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION

cc: Special Agent Kevin M. Gallagher, FBI Washington Field Office,  
kevin.gallagher@ic.fbi.gov

## Attachment A

<u>Account</u>	<u>Information</u>
+ [REDACTED]	N/A
+ [REDACTED]	Last connection date: 1454198400000 Unix millis Account created: 1453475222063 Unix millis