

Twitter must give user info in Wikileaks probe (Update)

March 11 2011, By MATTHEW BARAKAT , Associated Press

(AP) -- A federal magistrate ruled Friday that prosecutors can demand Twitter account information of certain users in their criminal probe into the disclosure of classified documents on WikiLeaks.

The prosecutors' reasons for seeking the records remain secret and it's unknown how important they are to the investigation of the largest leak ever of classified American documents.

The Twitter users argued that the government was on a fishing expedition that amounted to an unconstitutional violation of their freedoms of speech and association.

But in a ruling issued Friday, U.S. Magistrate Judge Theresa Carroll Buchanan said the government's request was reasonable and did nothing to hamper the Twitter users' free speech rights.

"The freedom of association does not shield members from cooperating with legitimate government investigations," Buchanan wrote in her 20-page opinion.

The efforts by the Twitter users marked the first legal skirmish in the Justice Department's criminal investigation of the WikiLeaks disclosures, but is unlikely to be the last. The Twitter users' lawyers, including the American Civil Liberties Union and the Electronic Frontier Foundation, have said they will appeal.

Cindy Cohn, the Electronic Frontier Foundation's legal director, said she was troubled by several aspects of Buchanan's ruling, including a technical ruling that the Twitter users lack legal standing to challenge the judge's order at all and a ruling that keeps much of the case under seal.

"What we don't know is who else they're trying to get information from," Cohn said.

Prosecutors have said little about their case, though Attorney General Eric Holder has said that the leaks jeopardized national security and promised to prosecute anyone who violated U.S. law.

Prosecutors submitted their rationale for seeking the Twitter accounts to Buchanan, but that submission remains secret. In her ruling Buchanan said only that she "remains convinced that the application stated 'specific and articulable' facts sufficient to issue" the order.

Steven Aftergood, who works on government secrecy policy for the Federation of American Scientists, said the government's aggressive pursuit of the Twitter accounts reflects one of two possibilities.

"Either the government is being extremely diligent in crossing every 't' and dotting every 'i'. Or the other possibility is that they have no case whatsoever and they're tallying up all conceivable leads," he said. "The information they're going to get from Twitter is indirect evidence at best."

A federal law - the Stored Communications Act - allows prosecutors to obtain certain electronic data without a search warrant or a demonstration of probable cause. Instead, the government must only show that it has a reasonable belief that the records it seeks are relevant to an ongoing criminal investigation.

Prosecutors said the law is used routinely in criminal investigations, and that the WikiLeaks investigation is no different from any other criminal probe.

The U.S. Attorney's Office for the Eastern District of Virginia, which is investigating the WikiLeaks case, declined comment after Friday's hearing.

Buchanan agreed with prosecutors, and said the Twitter users had no reason to expect that the information sought by prosecutors would be kept private. The order does not seek the content of the tweets themselves, which are already publicly disseminated. Instead, it seeks certain "non-content" information, like billing records and IP addresses associated with the accounts.

"The Twitter Order does not seek to control or direct the content of petitioners' speech or association," Buchanan wrote.

Lawyers for the Twitter users had argued that people would be less likely to speak freely if they knew that doing so could result in their being subjected to a government investigation.

Twitter issued a statement Friday saying its policy "is designed to allow users to defend their own rights. As such, Twitter will continue to let the judicial process run its course."

The original order issued by Buchanan in December 2010 at prosecutors' request sought account information from WikiLeaks founder Julian Assange and Pfc. Bradley Manning, who is being held at Quantico Marine Corps Base amid allegations that he leaked classified documents about the Iraq and Afghanistan wars to WikiLeaks.

Three other accounts belonging to American Jacob Appelbaum, Dutch

citizen Rop Gonggrijp and Birgitta Jonsdottir, a member of Iceland's parliament, were also targeted. Those three challenged the court order. Assange has contended that, as an Australian citizen, he is not subject to American law.

Buchanan also rejected a request that would have required the government to disclose whether it sought similar records from other social networking sites like Facebook.

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