U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

February 8, 2021

Acting Attorney General Monty Wilkinson:

We, the undersigned press freedom, civil liberties, and international human rights advocacy organizations, write today to share our profound concern about the ongoing criminal and extradition proceedings relating to Julian Assange, the founder of Wikileaks, under the Espionage Act and the Computer Fraud and Abuse Act.<sup>1</sup>

While our organizations have different perspectives on Mr. Assange and his organization, we share the view that the government's indictment of him poses a grave threat to press freedom both in the United States and abroad. We urge you to drop the appeal of the decision by Judge Vanessa Baraitser of the Westminster Magistrates' Court to reject the Trump administration's extradition request.<sup>2</sup> We also urge you to dismiss the underlying indictment.

The indictment of Mr. Assange threatens press freedom because much of the conduct described in the indictment is conduct that journalists engage in routinely—and that they must engage in in order to do the work the public needs them to do. Journalists at major news publications regularly speak with sources, ask for clarification or more documentation, and receive and publish documents the government considers secret. In our view, such a precedent in this case could effectively criminalize these common journalistic practices.

In addition, some of the charges included in the indictment turn entirely on Mr. Assange's decision to publish classified information. News organizations frequently and necessarily publish classified information in order to inform the public of matters of profound public significance. We appreciate that the government has a legitimate interest in protecting bona fide national

<sup>&</sup>lt;sup>1</sup> "WikiLeaks Founder Julian Assange Charged in 18-Count Superseding Indictment." Department of Justice. May 3, 2019. <<u>https://www.justice.gov/opa/pr/wikileaks-founder-julian-assange-charged-18-count-superseding-indictment</u>> and "WikiLeaks Founder Charged in Superseding Indictment." Department of Justice. June 24, 2020. <<u>https://www.justice.gov/opa/pr/wikileaks-founder-charged-superseding-indictment</u>>

<sup>&</sup>lt;sup>2</sup> Order of District Judge (Magistrates' Court) Vanessa Baraitser In the Westminster Magistrates' Court, January 4, 2021. <a href="https://www.judiciary.uk/wp-content/uploads/2021/01/USA-v-Assange-judgment-040121.pdf">https://www.judiciary.uk/wp-content/uploads/2021/01/USA-v-Assange-judgment-040121.pdf</a>

security interests, but the proceedings against Mr. Assange jeopardize journalism that is crucial to democracy.

The Trump administration positioned itself as an antagonist to the institution of a free and unfettered press in numerous ways. Its abuse of its prosecutorial powers was among the most disturbing. We are deeply concerned about the way that a precedent created by prosecuting Assange could be leveraged—perhaps by a future administration—against publishers and journalists of all stripes. Major news organizations share this concern, which is why the announcement of charges against Assange in May 2019 was met with vociferous and nearly universal condemnation from virtually every major American news outlet,<sup>3</sup> even though many of those news outlets have criticized Mr. Assange in the past.

It is our understanding that senior officials in the Obama administration shared this concern as well. Former Department of Justice spokesperson Matthew Miller told the Washington Post in 2013, "The problem the department has always had in investigating Julian Assange is there is no way to prosecute him for publishing information without the same theory being applied to journalists."<sup>4</sup> It was reportedly the press freedom implications of any prosecution of Mr. Assange that led Attorney General Eric Holder's Justice Department to decide against indicting him after considering doing so.

It is unfortunately the case that press freedom is under threat globally. Now more than ever, it is crucial that we protect a robust and adversarial press—what Judge Murray Gurfein in the Pentagon Papers case memorably called a "cantankerous press, an obstinate press, an ubiquitous press"<sup>5</sup>—in the United States and abroad. With this end in mind, we respectfully urge you to forgo the appeal of Judge Baraitser's ruling, and to dismiss the indictment of Mr. Assange.

<sup>&</sup>lt;sup>3</sup> Fassett, Camille. "Press freedom advocates and news outlets strongly condemn new charges against Julian Assange." Freedom of the Press Foundation. May 24, 2019.

<sup>&</sup>lt;https://freedom.press/news/press-freedom-advocates-and-news-outlets-advocates-strongly-condemn-new-charges-a gainst-julian-assange/>

<sup>&</sup>lt;sup>4</sup> Horwitz, Sari, "Julian Assange unlikely to face U.S. charges over publishing classified documents." The Washington Post. November 25, 2013.

<sup>&</sup>lt;https://www.washingtonpost.com/world/national-security/julian-assange-unlikely-to-face-us-charges-over-publishing-classified-documents/2013/11/25/dd27decc-55f1-11e3-8304-caf30787c0a9\_story.html>

<sup>&</sup>lt;sup>5</sup> United States v. N.Y. Times Co., 328 F. Supp. 324, 331 (S.D.N.Y. 1971).

## Respectfully,

## (in alphabetical order)

Access Now

- American Civil Liberties Union
- Amnesty International USA
- Center for Constitutional Rights
- Committee to Protect Journalists
- Defending Rights and Dissent
- **Demand Progress**
- Electronic Frontier Foundation
- Fight for the Future
- First Amendment Coalition
- Free Press
- Freedom of the Press Foundation
- Human Rights Watch
- Index on Censorship
- Knight First Amendment Institute at Columbia University
- National Coalition Against Censorship
- Open The Government
- Partnership for Civil Justice Fund
- PEN America
- Project on Government Oversight
- Reporters Without Borders
- Roots Action
- The Press Freedom Defense Fund of First Look Institute
- Whistleblower & Source Protection Program (WHISPeR) at ExposeFacts