



2016

BY EMAIL

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ROBERT B. REMAR
TREASURER

**Re: Response to Grand-Jury Subpoena Directed at Open
Whisper Systems [REDACTED]**

Dear Special Agent [REDACTED]

This letter responds to the [REDACTED] 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. [REDACTED] (2016 E.D. Va.). Undersigned counsel expects to communicate separately with the U.S. Attorney's Office about this issue.

Respectfully,



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cc: Special Agent [REDACTED] FBI Washington Field Office,
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Attachment A

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