

U.S. spy agencies sued for records on whether they warned Khashoggi of impending threat of harm

By **Ellen Nakashima**

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The Knight First Amendment Institute on Tuesday sued the U.S. government to learn whether agencies complied with what the institute asserted was a duty to warn journalist Jamal Khashoggi that he faced a threat of harm.

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Khashoggi, who lived in Northern Virginia, was killed Oct. 2 by a team of Saudi operatives soon after entering the Saudi Consulate in Istanbul to obtain documents for his impending marriage.

The Columbia University institute is seeking records that relate to any actions taken to warn Khashoggi, a Saudi citizen, under what is known as Directive 191, a government policy that requires agencies to warn individuals of “impending threats of intentional killing, serious bodily injury or kidnapping.”

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The lawsuit states that before Khashoggi’s killing, “U.S. intelligence agencies apparently intercepted communications in which Saudi officials discussed a plan to capture Khashoggi.”

The Washington Post last month reported that the crown prince of Saudi Arabia, Mohammed bin Salman, ordered an operation to lure Khashoggi back to Saudi Arabia from Virginia and then detain him, according to U.S. intelligence intercepts of Saudi officials discussing the plan.

It is not clear if the intelligence the agencies had at the time triggered the duty to warn. Some former officials said it would depend on whether the intelligence clearly indicated Khashoggi was in danger. A threat of detention alone would not have sufficed, one former official said. But others say that if agencies had knowledge of a potential plan to kidnap him — by luring and detaining him, then they had an obligation to warn him.

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Since Khashoggi's death, the CIA has concluded that the crown prince ordered the assassination, contradicting the Saudi government's claims that he was not involved.

On Tuesday, in an exclamation-mark-laden statement, President Trump declared firm support for Saudi Arabia and undercut the CIA's conclusion. He said: "Our intelligence agencies continue to assess all information, but it could very well be that the Crown Prince had knowledge of this tragic event — maybe he did and maybe he didn't!"

Last month, the Knight Institute filed a Freedom of Information Act request seeking records related to the murder of Khashoggi. It sent requests to the CIA, FBI, National Security Agency, State Department and the Office of the Director of National Intelligence.

The institute is seeking documents concerning any duty to warn actions taken with respect to Khashoggi and related to any issues among intelligence agencies regarding the determination to warn Khashoggi or waive the duty-to-warn requirement, or regarding the means for communicating threat information to him.

So far none of the agencies have released any records. So the institute filed suit in U.S. District Court for the District of Columbia to force them to comply.

“Our request for information about agencies’ compliance with the ‘duty to warn’ was urgent when we filed it, but it has become even more so in light of the White House’s shameful efforts to minimize the gravity and significance of this reporter’s murder, and to shield from responsibility the people who authorized it,” said Jameel Jaffer, executive director of the Knight Institute.

On Tuesday, the Committee to Protect Journalists filed its own FOIA request calling for the release of the same records sought by the Knight Institute.

“It’s absolutely essential that the U.S. government makes public what it knew about threats to Jamal Khashoggi before his murder,” CPJ executive director Joel Simon said.

