

A Leak Case Based on Fear and Guesses

The U.S. government based its leak case against ex-CIA officer Jeffrey Sterling on little more than circumstantial evidence that he had spoken to reporter James Risen though it was unclear about what and lots of fear-mongering about Iran and nukes, writes John Hanrahan.

By John Hanrahan

To hear the prosecution side tell it in the ongoing trial of Jeffrey Sterling, the former CIA officer who is accused of a national security leak involving Iran, Sterling has potentially (emphasis on potentially): placed a CIA “asset” at risk; hurt recruitment of other defectors, informants and turncoats; scared other current “assets” into having second thoughts about remaining as assets; tipped off the Iranians and the Russians and other nations that the CIA carries out clandestine schemes to disrupt other countries’ nuclear weapons programs; and possibly caused the U.S. to modify its own nuclear weapons plans, and, well, you get the picture.

Sterling’s alleged actions, he is accused of providing New York Times reporter James Risen with classified information on a super-secret CIA scam, Operation Merlin, involving delivering flawed nuclear weapons plans to the Iranians in Vienna, Austria, also could “conceivably contribute to the deaths of millions of innocent victims.”

Or so said the CIA in talking points prepared for then-National Security Adviser and Hyperbolist-in-Chief Condoleezza Rice for a meeting with New York Times personnel in April 2003 in a successful effort to kill Risen’s story about Merlin. Risen subsequently reported the botched Iranian nuclear plan in his 2006 book *State of War*, much to the embarrassment of the CIA (and the New York Times editors who had killed his original piece).

All these dire warnings were delivered ominously by federal prosecutors in opening and closing arguments, by current and former CIA personnel, a former FBI counterintelligence officer and other national security officials. The case is now being deliberated by the jury.

There is only one thing wrong with the prosecution’s narrative about the dire consequences caused by James Risen’s book and Sterling’s alleged leaks, it is almost completely evidence-free.

Pressed by defense attorneys over the last two weeks, the various employees of the national security state could cite no one who had been killed or hurt as a

result of the disclosures in Risen's book, which came out nine years ago, more than enough time for the predicted cataclysm to occur.

No examples of prospective "assets" who had said no-thanks because of the Risen disclosures. No example of even one current asset who had quit over the disclosures. No alteration of U.S. nuclear weapons plans. And, no, Condi Rice, no one has yet been killed by non-existent Iranian nuclear weapons or in that scary mushroom cloud you falsely warned us about in the run-up to the 2003 invasion of WMD-free Iraq.

Typical this week was the testimony of former CIA official David Shedd, currently the acting director of the Defense Intelligence Agency, who pointed to many dire potential results of the Risen book's now-aging disclosures. He called the leak "a breach of security that potentially would affect similar operations," and warned that such a leak "could require modification" of U.S. nuclear plans, apparently because the bogus plans had good stuff in them that, warts and all, provided tips about the U.S. program.

Which only underscores the craziness: If there is good stuff in the flawed plans, why would you want to peddle them to Iran or any other country you consider an adversary?

For the government's case, of course, it is enough to talk of potential harm rather than actual harm to national security, something prosecutor Eric Olshan did so skillfully in his closing argument. Add to that the factor of a lot of intelligence community people telling the jury that we all should be more than a little frightened because a cockamamie, dangerous CIA plot was exposed.

That helps sweeten the pot, and could be enough to persuade some jurors despite the absence of facts. And have a Bush administration superstar like Condi Rice spin more tall tales about WMDs, this time in Iran. When you don't have evidence in a national security whistleblowing case, scare them.

And evidence, beyond the circumstantial and an impressive (if incomplete) chronology that shows Risen and Sterling contacting each other frequently in phone calls during key periods, was sorely lacking.

With defense attorney Edward MacMahon masterfully picking apart some of the key testimony of prosecution witnesses this week, these witnesses were forced to admit they have found no evidence that it was Sterling who gave Risen a document for his book; or that it was Sterling who gave Risen any information about anything in his book; or that anyone had ever seen Risen and Sterling together; or that Sterling took home or otherwise purloined documents relating to Operation Merlin.

And MacMahon and fellow defense attorney Barry Pollack have also demonstrated that there are multiple other possible sources for the leak of the Merlin materials but none was investigated. These include the Russian scientist who actually dropped off the flawed nuclear plans for pick-up by an Iranian official in Venice, other CIA officials, and various staffers of the Senate Select Intelligence Committee (to whom Sterling had legally gone in 2003 as a whistleblower to voice his concerns over Merlin).

Pollack, in closing arguments, demonstrated there were a significant number of people who could have been sources for Risen, including the 90 CIA employees that government testimony showed had access to the Merlin program

FBI special agent Ashley Hunt, who has led the FBI investigation of the Merlin leak for more than a decade, presented the strongest circumstantial evidence against Sterling, the aforementioned chronology. MacMahon got her to acknowledge that she did not pursue, or was blocked from pursuing, certain paths of inquiry that might have turned up other suspects as the source of the Merlin information that Risen received.

Hunt acknowledged under tough questioning that she had once earlier in the investigation written memoranda saying Sterling was probably not the leaker and that the likely source was someone from the Senate Select Intelligence Committee (SSIC). She also acknowledged writing a memo in early 2006 citing "unified opposition" to her investigation within the committee, which was supposed to be monitoring Merlin. She testified that then-committee chairman Sen. Pat Roberts (R-Kansas) told her he was not going to cooperate with the FBI, and the committee staff director, Republican William Duhnke, refused to talk to her at all.

Two former staffers from the SSIC who met with Sterling in March 2003, when he brought what they and other prosecution witnesses have described as a whistleblowing complaint about the Merlin scheme, did testify as prosecution witnesses at Sterling's trial. Under questioning, they provided testimony helpful to Sterling that showed that Risen, indeed, apparently had sources on the committee, a committee that was already familiar with Operation Merlin even before Sterling came to them with his concerns.

One former staffer, Donald Stone, even acknowledged in his testimony that he had taken a call from Risen sometime after that meeting with Sterling, but that he had told him he couldn't talk to the press. Stone said he had not provided Risen with any information on any subject ever.

The other former staffer, Vicki Divoll, was fired from the committee after providing non-classified information to a Judiciary Committee staffer on a

contentious intelligence authorization bill matter, only to see that information (which was embarrassing to the Republicans) trumpeted the next day in a front-page New York Times story written by, James Risen. She testified she had never spoken to Risen on any matter, but that others on the committee had dealt with Risen from time to time.

Divoll acknowledged telling the FBI at one point that Alfred Cumming, the committee's Democratic staff director, had spoken to Risen on occasion. She also testified she had heard during her committee tenure, but had no direct knowledge, that both the Democratic and Republican staff directors on the committee talked to reporters on various matters, and that both officials sometimes gave reporters information they wanted in a quid-pro-quo arrangement in which the reporter would also agree to write a story that the committee official wanted. She said this was very much "third-hand" information, maybe even "fifth-hand."

Defense attorneys hammered on the point through testimony from these prosecution witnesses that despite Risen's sources and potential sources in both the CIA and on Capitol Hill (including right on the SSCI), none had had their residences searched, their computer's contents analyzed, their telephone call logs examined, their bank and credit card records searched, as had been the case with Sterling.

As part of the defense's counter-narrative, Pollack said in his closing arguments: "They have a theory, I have a theory." But, he added, a jury should not convict or acquit someone on the basis of theories in such a serious case. Rather, he said, it was the government's responsibility to present evidence showing guilt beyond a reasonable doubt, and "they haven't done it."

For much of this trial, the courtroom has been awash in reasonable doubt. Of course, jurors could choose to infer from the prosecution's chronology of circumstantial evidence that Sterling was, in fact, one of Risen's sources. And some of them could be scared enough by the government's narrative to believe the *State of War* disclosures made us less safe.

In the government's rebuttal to Pollack's closing argument, prosecutor James Trump played the terrorism and treason cards, in case jurors had missed the message earlier. Sterling had "betrayed his country betrayed the CIA ", in contrast to CIA employees who "serve and we rest easier as a result."

Given the flimsiness of the case presented against Sterling, it would be a tragic miscarriage of justice if he were to be convicted and face a long prison sentence on the basis of nothing more than inferences, and the fears of nuclear nightmares the government says can ensue because of the Operation Merlin

disclosures.

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CIA Found No Magic in Operation Merlin

The espionage trial of former CIA officer Jeffrey Sterling has focused less on evidence that he leaked secrets about “Operation Merlin,” a CIA scheme to slip flawed nuclear designs to Iran, than on the merits of the unsuccessful covert op which never got a response from the Iranians, reports Gareth Porter.

By Gareth Porter

The jury is still out in the trial of former CIA officer Jeffrey Sterling for allegedly having leaked the story of “Operation Merlin” – the covert CIA effort to lure Iran into working on phony plans for a key component of a nuclear weapon – to New York Times reporter James Risen.

But “Operation Merlin” itself was also on trial. The CIA was hoping that testimony by prosecution witnesses and a series of declassified CIA cables introduced as evidence would show that Risen’s account was wrong in recounting that the CIA’s human asset “Merlin” had immediately spotted a flaw in the plans to be turned over to Iran that Iranian engineers might be able to spot as well.

The cables reporting the incident and “Merlin’s” testimony both indicate that what “Merlin” saw was not a flaw in the schematics of the device, but a discrepancy between the schematics and the parts list accompanying it that would cause the Iranians to doubt the asset’s cover story.

But the evidence also reveals a larger story of a half-baked operation dreamed up by weapons specialists and managers who were ignorant of the most basic facts about the Iranians and their nuclear program. They created a cover story or “legend” for the Russian émigré scientist “asset” now known as “Merlin” that was so questionable that he never believed the Iranians would fall for it.

The exercise was pointless, moreover. The CIA did not claim that Iran had a nuclear weapons program when the planning of the operation began in 1996, and continued to offer no firm conclusion about Iran's nuclear intentions through 1998.

Only in mid-1999, when the CIA needed to justify the operation to get White House approval for it, did it insert one reference to "Iran's nuclear weapons research and development program" into its regular half-yearly intelligence assessment of Iran's WMD policy for the first time.

The cables show that sometime in 1996, the CIA's Counter-Proliferation Division (CPD) came up with the idea of getting experts at a national laboratory to design a key part in a nuclear explosive device called a "fireset" or "firing set," among other terms, that was so seriously flawed that it could not be made to work. The device would then be dangled in front of Iran, in the belief that the Iranians would snap it up and expend huge amounts of time, money and manpower to try to get it work.

In September 1996, the CPD started looking for a Russian "migr" nuclear weapons specialist "asset" who knew about "fireset" technology. As a result CPD recruited a former senior Russian engineer identified in redacted CIA documents and testimony at the trial only as "Merlin."

During 1997 and 1998, while the false set of plans for the "fire set" was being created by experts at one of the national laboratories, "Merlin" was busy writing e-mails and letters to organizations and individuals in Iran who might have some interest in the subject. He was signing his own name and identifying himself accurately as having worked at the Soviet Arzamas 16 nuclear weapons laboratory.

That remarkable feature of the operation reveals the hypocrisy of the prosecution argument, presented by former national security adviser and Secretary of State Condoleezza Rice, among others, that the exposure of the operation endangered the life of the asset.

At a meeting in San Francisco in November 1998, Merlin was introduced to the schematics of the "fireset" and the parts list to accompany it for the first time. The secret hovering over the meeting was that Merlin's case officers were "steering him away from any notion that the design is flawed," as they were instructed to do, according to a May 28, 1997 CIA cable. Thus the CPD was seeking to deceive both the "target" and the "asset."

The deception began to fall apart immediately. Merlin testified on video last week, hidden from journalists in the courtroom by a high screen, that when he

saw the schematics and the parts list for the fireset, he told the operation's manager and two control officers that the most important parts were missing from the schematics. In one of the three interviews Merlin had with the FBI, he was more emphatic.

"It's fake. It will not work. Some parts are missing," he recalled telling his CIA handlers, according to the FBI report read by defense counsel.

The "case officers" assured Merlin that the omission was "on purpose," in keeping with the "incompleteness" of the fire set plans, according to the CIA cable reporting the meeting. Merlin was told to acknowledge the omission and to explain it as part of what the Iranians would get once they paid for the package.

What they did not tell Merlin, however, was that they had not realized that such a discrepancy had existed until he spotted it, and that they found out upon further inquiry that the original Russian "migr" scientist who had worked on the falsified device did not even know how to make the missing parts.

Merlin was also disturbed to find that the parts list was in English – obviously an odd choice for a former senior Russian engineer whose collaborators were all supposed to be former Soviet engineers as well. "I told them I preferred to see the parts list in Russian," he testified.

Merlin continued to express concerns about the credibility of his "legend" and his own personal security. He complained about the resume he had cooked up, which claimed scientific experience at Arzanas 16 that the Iranians could easily learn was untrue if they checked. Sterling dismissed the danger, making the wholly unconvincing argument that once the Iranians realized that he was offering a business deal involving nuclear weapons, they would feel no need for an extensive investigation," according to a Feb. 4, 1999 cable.

But Merlin continued to fret about Iranian scrutiny. He began refusing to use his real name in letters and e-mails. In February 1999, he fretted that some of the e-mails he had gotten back from his many attempts to make contact with someone who might be connected with nuclear matters may have come from Iranian intelligence. Merlin informed his handlers that he had twice gotten error messages telling him that intrusions had been detected on his Hotmail account. He even raised the possibility that the Iranians could track him through his e-mails to his residence.

In January 2000, Merlin threatened to quit the project altogether, and walked out of a meeting in February to go over the details of the trip to Vienna he was to take shortly to deliver the plans to the Iranian mission to the International

Atomic Energy Agency. When his handlers suggested that he was afraid of having to meet the Iranians, he did not disagree.

Merlin's account of the operation after his trip to Vienna in early March makes it clear that he contrived to avoid any encounter with an Iranian official. He claimed he couldn't find the Iranian mission to the International Atomic Energy Agency, although he had the address and directions. He said that when he finally found the office the following day he didn't have the package with him, and that when he returned later that day and the following day, the office was closed. That was his explanation for simply dropping his package in the Iranian mission's mail slot instead of handing it over to an Iranian official as planned.

CPD's managers nevertheless declared the operation an initial success. In early May, CPD wrote in a cable with the title, "Iranians Take the Initial Bait," that the Iranian mission had couriered the package to Iran rather than tossing it in the trash, adding, "We are off to a good start."

Meanwhile, CPD officials were already thinking of using Merlin as bait for at least one other country, according to a CIA cable on April 5, 2000. They somehow managed to keep the operation running to 2003, according to testimony at the trial, despite the lack of any Iranian response.

The operation was bumbling and pointless, but the CPD believed that it was good for its business, expanding the range of its services and putting it on the front lines of central national security issues. "Operation Merlin" provides a dramatic illustration of how a bureaucracy serves its own institutional interests by pushing its pet program or operation in the name of national security.

Gareth Porter is an independent investigative journalist and historian writing on U.S. national security policy. His latest book, *Manufactured Crisis: The Untold Story of the Iran Nuclear Scare*, was published in February 2014. [This article originally appeared in Middle East Eye.]

The Death of King Abdullah

The death of Saudi King Abdullah adds a new layer of uncertainty to the already chaotic Middle East, including whether his successor will continue pursuing a dÃ©tente with Israel and how the oil-rich kingdom will approach the dangerous issue of Sunni extremism, as ex-CIA analyst Paul R. Pillar explains.

By Paul R. Pillar

A leader does not have to be a truly great person to play a historically significant role if placed in a situation that is sufficiently fragile and weird to force such importance on the individual in charge. King Abdullah bin Abdul Aziz, who died overnight at age 90, was in such a situation by being in charge in Saudi Arabia, a family-run kingdom that is both weird and fragile, an anachronism in the Twenty-first Century.

Although the Saudi monarchy is still almost absolute, the individual king is not, since he has to contend with factionalism and ambitions within the royal family. But the family politics are just another of the complications that pose a challenge to the man at the top who has to hold the whole thing together, baling wire and all.

Abdullah occupied that role for 20 years, the first ten as crown prince and de facto regent when the disabled King Fahd was still alive, and the last ten as king himself. During this time he personally affected many things of importance to the Middle East and to U.S. interests there.

The people of Saudi Arabia are probably better off for having had Abdullah as king than would have been their lot with most other rulers. He recognized the need for the country's society to modernize and moved in that direction about as much as he could within the severe limits posed by tradition, the religious establishment, and the necessity for consensus.

This was particularly true regarding the role of women, however painfully slow progress in this area has been by the standards of those of us in the West who do not have to deal with those same limits. Probably the clearest manifestations of Abdullah's intentions in this regard are to be found at the mixed-gender university for science and technology that bears his name.

Abdullah governed in ways that were generally congenial to U.S. interests. This was in large part due not to any particular initiative or insight by the leader but rather because of natural convergence of some Saudi and U.S. interests. This has been true regarding oil prices insofar as a lower price is on balance good for the U.S. economy and Saudi Arabia, with its large oil reserves, does not want prices high enough to accelerate the move to alternative fuels.

It was during Abdullah's rule that the kingdom stopped trying to export its extremist problem and instead began dealing with it seriously and directly, and that change clearly was in U.S. interests. The change, however, owed less to conspicuously inspired leadership than to the hard knocks of terrorist attacks within the kingdom.

The feature of Saudi foreign policy that probably did owe the most to initiative by Abdullah was his proposal for linking resolution of the Israeli-Palestinian conflict to full recognition of, and making of peace with, Israel by all the Arab states. He persuaded those other Arab states of the wisdom of this concept, and the concept is known today as the Arab League peace plan. It is still out there, and reaffirmed just the other day by the Arab League, ready to be taken up by anyone who genuinely wants peace between Israel and all its Arab neighbors.

Saudi Arabia has a system of political succession that by its very nature cannot continue indefinitely. The kingdom's founder, King Abdul Aziz, made it thus when he determined that he should be succeeded by his many sons, one after the other, rather than using the usual vertical monarchical succession based on primogeniture.

The succession has not reached the end of that line of brothers and half-brothers yet, but with Abdullah's passing it is getting closer. The succession to the throne of 79-year-old Prince Salman is not reassuring; Salman already has shown signs of losing his faculties.

Abdullah did make a move a couple of years ago that lessens the political uncertainty; he effectively designated as next in the succession after Salman the 69-year-old Prince Muqrin, the youngest surviving son of Abdul Aziz. Muqrin, who now is the crown prince, seems to have a fair amount on the ball. If he becomes the principal decision-maker, with or without Salman alive, during the next few years that probably would be good for the kingdom.

Things in Saudi Arabia, still a strange place, could have been much worse than they have been under King Abdullah.

Paul R. Pillar, in his 28 years at the Central Intelligence Agency, rose to be one of the agency's top analysts. He is now a visiting professor at Georgetown University for security studies. (This article first appeared as [a blog post at The National Interest's Web site](#). Reprinted with author's permission.)

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Robert Parry

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