

Convicting the 'Invisible' Jeffrey Sterling

Some journalism groups support reporters who use anonymous sources but shun the people accused of acting as those sources, a double standard that left former CIA officer Jeffrey Sterling out in the cold almost alone facing government reprisals, as Norman Solomon describes.

By Norman Solomon

The mass media have suddenly discovered Jeffrey Sterling, after his conviction Monday afternoon as a CIA whistleblower. Sterling's indictment four years ago received fleeting news coverage that recited the government's charges. From the outset, the Justice Department portrayed him as bitter and vengeful, with the classic trash-the-whistleblower word "disgruntled" thrown in, all of which the mainline media dutifully recounted without any other perspective.

Year after year, Sterling's case dragged through appellate courts, tangled up with the honorable refusal of journalist James Risen to in any way identify sources for his 2006 book *State of War*. While news stories or pundits occasionally turned their lens on Risen, they scarcely mentioned Sterling, whose life had been turned upside down, fired by the CIA early in the Bush administration after filing a racial discrimination lawsuit, and much later by the 10-count indictment that included seven counts under the Espionage Act.

Sterling was one of the very few African American case officers in the CIA. He became a whistleblower by virtue of going through channels to the Senate Intelligence Committee in 2003 to inform staffers about the CIA's ill-conceived, poorly executed and dangerous Operation Merlin, which had given a flawed design for a nuclear weapons component to Iran back in 2000.

Long story short, by the start of 2011, Sterling was up against the legal wall. While press-freedom groups and some others gradually rallied around Risen's right to source confidentiality, Sterling remained the Invisible Man.

Like almost everyone, for a long time I knew close to nothing about Sterling or his legal battle. But as I began to realize how much was at stake in the government's ongoing threat to jail Risen for refusing to betray any source, Sterling started to come into my peripheral vision.

Last spring, I worked with colleagues at RootsAction.org to launch a petition drive titled We Support James Risen Because We Support a Free Press. As petitions go, it was a big success, for reasons well beyond the fact that it gained more than 100,000 signers with plenty of help from other initiating

groups (*The Nation*, FAIR, the Freedom of the Press Foundation, *The Progressive* and Center for Media and Democracy).

The Justice Department, which had been aggressively pursuing Risen for a half-dozen years at that point, was set back on its heels by the major favorable publicity that came out of our mid-August presentation of the Risen petition in tandem with a news conference at the National Press Club.

Quick media ripple effects included a strong column by Maureen Dowd in support of fellow *New York Times* journalist Risen (though she didn't mention the petition or the news conference, which she attended). In the fall, I teamed up with a colleague at ExposeFacts.org, the incisive investigative journalist Marcy Wheeler, to write what turned out to be a cover story in *The Nation*, "The Government War Against Reporter James Risen," providing the first in-depth account of the intertwined cases of Risen and Sterling.

But throughout the fall, for the mass media as well as all but a few progressive media outlets, Jeffrey Sterling remained the Invisible Man. The principle of supporting whistleblowers as strongly as journalists is crucial. Yet support for the principle is hit-and-miss among individuals and organizations that should be clear and forthright. This need is especially great when the government is invoking "national security" claims.

As the whistleblower advocate Jesselyn Radack of the Government Accountability Project has said: "When journalists become targets, they have a community and a lobby of powerful advocates to go to for support. Whistleblowers are in the wilderness. They're indicted under the most serious charge you can level against an American: being an enemy of the state."

We encountered this terrain when the same initiating groups launched a new petition, this one in support of Jeffrey Sterling, Blowing the Whistle on Government Recklessness Is a Public Service, Not a Crime.

Some groups that had been wonderfully supportive of the Risen petition, notably the Reporters Committee for Freedom of the Press and the Committee to Protect Journalists, opted not to have anything to do with the Sterling petition. In sharp contrast, quick endorsement of the Sterling petition came from Reporters Without Borders and the Government Accountability Project.

Two weeks ago, Jeffrey Sterling went to trial at last. He was at the defense table during seven days of proceedings that included very dubious testimony from 23 present and former CIA employees as well as the likes of former Secretary of State Condoleezza Rice.

When a court clerk read out the terrible verdict Monday afternoon, Sterling

continued to stand with the dignity that he had maintained throughout the trial. At age 47, Jeffrey Sterling is facing a very long prison sentence. As a whistleblower, he has done a lot for us. He should be invisible no more.

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Backdoor Scheme Against Net Neutrality

With public opinion solidly behind Net Neutrality and the Obama administration prepared to safeguard it the Republican Congress has come up with a scheme to sabotage those regulatory protections, as Michael Winship explains.

By Michael Winship

Over the last few months, things have been looking good for keeping the Internet open to everyone. A little too good, as far as Congress is concerned, which is why members and the corporate lobbyists who write them hefty checks have launched a last-ditch legislative effort to scuttle Net neutrality.

Both President Barack Obama and Federal Communications Commission Chair Tom Wheeler have stopped tiptoeing around Net neutrality and seem to finally embrace the idea of using Title II of the Telecommunications Act to reclassify Internet Service Providers (ISPs) and regulate them as common carriers, like the phone companies and other public utilities. No preferential treatment to those willing to shell out big corporate bucks for a fast lane.



In early January, Wheeler told a crowd at the Consumer Electronics Show in Las Vegas, "[There's a way to do Title II right.](#)" And in his State of the Union

address, Obama announced, "I intend to protect a free and open Internet, extend its reach to every classroom, and every community, and help folks build the fastest networks so that the next generation of digital innovators and entrepreneurs have the platform to keep reshaping our world."

No doubt those more than four million public comments filed with the Federal Communications Commission in support of Net neutrality went a long way toward convincing Obama and Wheeler that the American people have made up their minds. Chairman Wheeler intends to circulate a new plan to fellow FCC commissioners on Feb. 5 with a vote scheduled for Feb. 26.

But all of this apparently sent chills though the new Republican Congress and key segments of a communications industry that as a whole pumps an average \$350 million-plus into lobbying every year and spent almost \$100 million on the midterm elections. (Comcast, Verizon, and AT&T are three of the nonpartisan Center for Responsive Politics' top 10 corporate lobbyists).

Together, the ISP companies and Congress have come up with a plan to legislatively derail Net neutrality that would bring a smile to the lips of Machiavelli.

As Hamza Shaban wrote recently at *The Verge*: "Simply put, the popularity of net neutrality poses a problem for Republicans. While the GOP maintains a general opposition to government rules in economic life, the principle of treating all web traffic equally enjoys wide, cross-partisan support. As it has become clearer that only new regulation can ensure net neutrality, Republicans risk not only appearing as obstructionists, but worse, obstructionists that side with the likes of Comcast."

So Sen. John Thune, R-South Dakota, chair of the Senate Commerce Committee, and Rep. Fred Upton, R-Michigan, chair of the House Committee on Energy and Commerce the two main committees charged with Internet oversight, have introduced legislation that on the surface seems to wholeheartedly embrace Net neutrality. But at the same time, it gives a big thumb's down to using Title II to reclassify ISPs and effectively neutralizes the ability of the FCC to regulate.

Shaban notes, "By avoiding a reclassification of broadband and working to render the FCC impotent, the new Republican Congress suggests it doesn't really want net neutrality. It just wants to look like it does."

According to Matt Wood, policy director of the media reform group Free Press: "The legislation fails at the very thing it claims to accomplish. It prohibits a few open Internet violations but opens the door to new industry abuses. It claims to give the FCC limited adjudication powers but removes the agency's

ability to adopt and adapt rules to fit the changing landscape for high-speed Internet access.

“What Thune and Upton are actually trying to do is declaw the one agency responsible for protecting the public interest in communications. Having lost their fight against Net Neutrality in the court of public opinion, companies like AT&T, Comcast and Verizon are trying to use fake Net Neutrality bills to end all effective oversight of their anti-competitive, anti-consumer practices.”

In addition, the legislation creates loopholes big enough for the ISPs to drive their service trucks through, allowing exceptions for so-called “special services” that easily could guide the way to a two-tiered system Net neutrality advocates fight to prevent.

One way you can judge this rather disingenuous legislation is by the company it keeps; backed, as The Wall Street Journal reported by “the top lobbyists for both the broadband and wireless industries.”

Former Republican FCC Chairman Michael Powell, now president of the National Cable and Telecommunications Association, long a foe of Net neutrality, endorses the idea of the legislation. So does former Republican FCC Commissioner Meredith Atwell Baker (the one who went to work for Comcast shortly after voting in favor of its purchase of NBCUniversal). She’s now the president of CTIA The Wireless Association, and calls the Thune-Upton proposal “an excellent start.”

Then there’s cyber-libertarian Larry Downes of the Georgetown Center for Business and Policy, who’s been attacking the Net neutrality movement for years. He describes the bill as “short and sweet,” listing eight reasons “passage of the bill would most benefit consumers.”

No wonder Sen. Ed Markey, D- Massachusetts, described it as “a legislative wolf in sheep’s clothing.” Free Press President and CEO Craig Aaron writes that the legislation is “a cynical effort by the cable lobby to prevent the FCC from enforcing the law to keep the Internet open. Why would we trust the fiercest opponents of Net Neutrality to protect our Internet freedom?”

The Senate Commerce Committee and the House Subcommittee on Communications and Technology held hearings on the same day last week. Subcommittee Chair Greg Walden, R-Oregon, described the purported FCC’s Net neutrality proposal as a “nuclear option,” but in discussing the Thune-Upton draft legislation, ranking member Rep. Anna Eshoo, D-California, said, “What is abundantly clear in the majority’s proposal is to purposely tie the hands of the FCC by prohibiting them from reclassifying broadband.”

Powell and Baker testified favorably but others, including online retailer

representatives Paul Misener, Amazon's vice president of global public policy; and Chad Dickerson, chief executive of Etsy, the online arts and crafts marketplace, expressed reservations. "We're concerned," Dickerson testified, "that the proposal does not ban all types of discrimination online."

Some, like Amy Schatz, policy reporter for the technology news website Re/code, believe that the hearings "did little more than confirm that the sides are nowhere close to agreeing on how to resolve the years-long debate. "

"Even if Congress were to pass this legislation, and it's nearly impossible to see how it might do that before the FCC acts next month, the bill would still likely face a veto threat from President Obama, who has been vocal about his thoughts on what the FCC should do."

No matter the outcome, extensive litigation seems unavoidable. This will wind up in the courts. As Michael Powell said at last week's hearings, "It's not a complete exaggeration to say that in ten years we could still be sitting here."

(You can continue to file your own comments on the Net neutrality debate at the FCC website. And the website BattlefortheNet.com will show you how to call the FCC and members of Congress.)

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