

VIPS: Extradition of Julian Assange Threatens Us All

Retaliation against Julian Assange over the past decade plus replicates a pattern of ruthless political retaliation against whistleblowers, in particular those who reveal truths hidden by illegal secrecy, VIPS says.

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MEMORANDUM FOR: The governments and people of the United Kingdom and the United States

FROM: Veteran Intelligence Professionals for Sanity (VIPS)

SUBJECT: Extradition of Julian Assange Threatens Us All

On April 11, London police forcibly removed *WikiLeaks* co-founder Julian Assange from the embassy of Ecuador after that country's president, Lenin Moreno, abruptly revoked his predecessor's grant of asylum. The United States government immediately requested Assange's extradition for prosecution under a charge of "conspiracy to commit computer intrusion" under the Computer Fraud and Abuse Act (CFAA).

Former U.S. Government officials promptly appeared in popular media offering soothing assurances that Assange's arrest threatens neither constitutional rights nor the practice of journalism, and major newspapers like *The New York Times* and *The Washington Post* fell into line.

Not So Fast

Others found reason for concern in the details of the indictment. Carie DeCel, a staff attorney for the Knight First Amendment Institute, noted that the indictment goes

beyond simply stating the computer intrusion charge and “includes many more allegations that reach more broadly into typical journalistic practices, including communication with a source, encouraging a source to share information, and protecting a source.”

In an analysis of the indictment’s implications, the Project on Government Oversight (POGO) observed that it includes an allegation that “Assange and Manning took measures to conceal Manning as the source of the disclosure...including by removing usernames from the disclosed information and deleting chat logs between Assange and Manning,” and that they “used a special folder on a cloud drop box of *WikiLeaks* to transmit classified records.”

“These are not only legitimate but professionally advised journalistic practices for source protection,” notes POGO. It is worth noting that Manning had Top Secret clearance and did not need Assange’s assistance to gain access to databases, but only to hide her identity.

The indictment’s implied threat thus reaches beyond Assange and even beyond journalists. The threat to journalists and others does not vanish if they subsequently avoid practices identified in the government’s indictment. The NSA’s big bag of past communications offers abundant material from which to spin an indictment years later, and even circumstantial evidence can produce a conviction. Moreover, the secret landscape—a recent and arbitrary development—continually expands, making ever more of government off limits to public view.

When politician and U.S. Secretary of State Mike Pompeo

labeled *WikiLeaks* a “non-state hostile intelligence service,” he was describing the oft-stated duty of newspapers, “to comfort the afflicted, and to afflict the comfortable.”

The Devil in the Big Picture

One can look so closely at the indictment details that one misses the big picture and with it vital truths. Standing back for a broader view, a long-running campaign of harassment by U.S. authorities and former officials focused on *WikiLeaks*’ publication of embarrassing secrets becomes visible. The Project on Government Oversight observes:

“Even if the motives for Assange’s indictment are entirely legitimate, the litany of high-ranking government officials who called for Assange to be prosecuted for publishing classified documents have likely already irreparably harmed the freedom of the press. It will be virtually impossible to fully disentangle the government’s desire to prosecute Assange for his publishing activities from the government’s current prosecution of him, and as a result there will to some degree be an unavoidable chilling effect stemming from his prosecution.”

Standing back still further, a crowd of similar cases comes into view: other truth tellers subjected to similar persecution. These are not journalists but another species of truth teller – national security whistleblowers– who have warned for years that this day would come.

A Pattern of Reprisal

Opinions of Julian Assange’s character and methods vary

wildly but what is relevant to First Amendment freedoms is how the U.S. government perceives him. The big picture reveals that Assange, a publisher of whistleblower disclosures, is viewed the same way as whistleblowers: unwelcome lights shining on official wrongdoing who must be dimmed, deflected and shut off. What government bodies are doing to Assange they routinely have done to whistleblowers—Thomas Drake, Jeffrey Sterling, John Kiriakou, Thomas Tamm, William Binney, Daniel Ellsberg, Chelsea Manning and others—who disclosed for public benefit information the government finds politically troublesome.

Once the government develops animus toward a truth teller, it fishes indefinitely until it finds some means to retaliate—some pretext to punish that individual. A pattern of retaliation against high-profile national security whistleblowers includes the following tactics:

1. relentless campaigns of character assassination and misinformation about facts of the case;
2. hostile, lengthy government investigations, often for minor, never proven or circumstantial offenses;
3. terrorization of the whistleblower and associates with threats (see here and here), solitary confinement and armed home invasions for non-violent, alleged offenses;
4. pre-trial declarations of guilt from influential officials, such as Barack Obama's declaration (as the military's Commander-in-Chief) that Army Private Bradley (now Chelsea) Manning "broke the law" – potentially influencing the Army court that heard her case.
5. a Balkanized judicial process that restricts most such

cases to onejudicial venue cherry-picked by prosecutors for speedy deference to government, a venue sealed off from public scrutiny and, some say, justice;

6. prosecution under the Espionage Act, a “vague” and “draconian” law, similar in those respects to the CFAA;
7. continuing persecution–isolation, marginalization, blacklisting, and more–after time has been served (see here and here) or after charges are dropped.

Reportedly, British and U.S. intelligence are interrogating Assange, possibly employing torture tactics, without access to legal counsel at a prison reserved for terrorists. U.S. officials apparently charged Assange as “a terrorist” in order to dodge the problem of the statute of limitations for conspiracy or computer intrusion by extending (via the Patriot Act and/or other terrorism laws) the normal statute of limitations from 5 to 8 years.

Not for Insiders

Even if charges against a whistleblower are later dropped, governments still win because the tactics used damage the truth teller professionally, financially, socially and psychologically, and foreseeably chill other whistleblowers.

Importantly, virtually all of the retaliatory actions described above are carried out or instigated by the elite political establishment–current and former political appointees and elected officials. Equally important is the fact that tactics used against whistleblowers are rarely if ever applied to political insiders who fail to protect classified information. Even actual spies who give or sell secrets directly to foreign governments have fared better

than some well-meaning whistleblowers. In contrast to whistleblowers, political insiders who mistreat government secrets are publicly praised by the establishment, face lesser charges (if any), are treated with dignity by investigators, receive presidential pardons and move on to prestigious and lucrative positions.

The Takeaway

Retaliation against Julian Assange over the past decade plus replicates a pattern of ruthless political retaliation against whistleblowers, in particular those who reveal truths hidden by illegal secrecy. U.S. law prohibits classifying information “in order to conceal inefficiency, violations of law, or administrative error; to prevent embarrassment to a person, organization, or agency.”

Whether U.S. authorities successfully prosecute Assange, accept a desperate plea deal or keep him tied up with endless litigation, they will succeed in sending the same chilling message to all journalists that they send to potential whistleblowers: Do not embarrass us or we’ll punish you—somehow, someday, however long it takes. In that respect, one could say damage to journalism already has been done but the battle is not over.

This extension of a whistleblower reprisal regime onto a publisher of disclosures poses an existential threat to all journalists and to the right of all people to speak and hear important truths. The U.S. indictment of Julian Assange tests our ability to perceive a direct threat to free speech, and tests our will to oppose that threat. Without freedom of press and the right and willingness to publish,

whistleblowers even disclosing issues of grave, life and death public safety, will be like a tree falling in the forest with no one to hear.

The great American writer Henry David Thoreau wrote, "It takes two to speak the truth—one to speak and one to hear." Today, it takes three to speak the truth—one to speak, one to hear, and one to defend the first two in court. If the U.S. Government has its way, there will be no defense, no truth.

For the Steering Groups of Veteran Intelligence Professionals for Sanity and Sam Adams Associates for Integrity in Intelligence:

William Binney, former Technical Director, World Geopolitical & Military Analysis, NSA; co-founder, SIGINT Automation Research Center (ret.)

Richard H. Black, Senator of Virginia, 13th District; Colonel US Army (ret.); Former Chief, Criminal Law Division, Office of the Judge Advocate General, the Pentagon (associate VIPS)

Marshall Carter-Tripp, Foreign Service Officer & former Division Director in the State Department Bureau of Intelligence and Research (ret.)

Thomas Drake, former Defense Intelligence Senior Executive Service and NSA whistleblower

Bogdan Dzakovic, former Team Leader of Federal Air Marshals and Red Team, FAA Security (ret.) (associate VIPS)

Philip Giraldi, CIA, Operations Officer (ret.)

Mike Gravel, former Adjutant, top secret control officer, Communications Intelligence Service; special agent of the Counter Intelligence Corps and former United States Senator

Katherine Gun, former linguist and Iraq War whistleblower in UK's GCHQ (affiliate VIPS)

Matthew Hoh, former Capt., USMC, Iraq; former Foreign Service Officer, Afghanistan (associate VIPS)

James George Jatras, former U.S. diplomat and former foreign policy adviser to Senate leadership (Associate VIPS)

Michael S. Kearns, Captain, USAF (ret.); ex-Master SERE Instructor for Strategic Reconnaissance Operations (NSA/DIA) and Special Mission Units (JSOC)

John Kiriakou, former CIA Counterterrorism Officer and former Senior Investigator, Senate Foreign Relations Committee

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