

JAMES RISEN'S MERLIN SOURCE ARRESTED

DOJ has announced the arrest of James Risen's source for the MERLIN story (though they don't admit Risen and MERLIN are the leaks in question).

Jeffrey Alexander Sterling, 43, of O'Fallon, Mo., was charged in a 10-count indictment returned by a federal grand jury in the Eastern District of Virginia on Dec. 22, 2010, and unsealed today. The indictment charges Sterling with six counts of unauthorized disclosure of national defense information, and one count each of unlawful retention of national defense information, mail fraud, unauthorized conveyance of government property and obstruction of justice. Sterling was arrested today in St. Louis and is expected to make his initial appearance this afternoon before U.S. Magistrate Judge Terry I. Adelman in U.S. District Court for the Eastern District of Missouri.

The arrest seems all the more futile given that everyone knows the story in question.

Which leaves the interesting bits of this press release, revealing Sterling's motive for the leak.

According to the indictment, Sterling was employed by the CIA from May 1993 to January 2002. From November 1998 through May 2000, he was assigned to a classified clandestine operational program designed to conduct intelligence activities related to the weapons capabilities of certain countries, including Country A. During that same time frame, he was also the operations officer assigned to handle a human asset associated with that program. According

to the indictment, Sterling was reassigned in May 2000, at which time he was no longer authorized to receive or possess classified documents concerning the program or the individual.

[snip]

Specifically, the indictment alleges that beginning in August 2000, Sterling pursued various administrative and civil actions against the CIA concerning alleged employment-related racial discrimination and decisions made by the CIA's Publications Review Board regarding Sterling's efforts to publish his memoirs. According to the indictment, on Feb. 12, 2003, the CIA rejected Sterling's third offer to settle his discrimination lawsuit, which was ultimately dismissed by the court.

The indictment alleges that beginning a few weeks later, in February and March 2003, Sterling made various telephone calls to the author's residence, and e-mailed the author a newspaper article about the weapons capabilities of Country A. According to the indictment, while the possible newspaper article containing the classified information Sterling allegedly provided ultimately was not published in 2003, Sterling and the author remained in touch from December 2003 through November 2005 via telephone and e-mail. The indictment alleges that in January 2006, the author published a book which contained classified information about the program and the human asset.

The indictment also alleges that Sterling obstructed justice when, between April and July 2006, he deleted the e-mail he had sent to the author concerning the weapons capabilities of Country A from his account. According to the indictment, Sterling was aware by

June 2003 of an FBI investigation into his disclosure of national defense information, and was aware of a grand jury investigation into the matter by June 2006, when he was served a grand jury subpoena for documents relating to the author's book.

Note the reference to several suits against the CIA. The first of these appears to have been at a minimum an employment discrimination suit filed in NY on August 2, 2000. On April 18, 2002, the CIA first invoked state secrets in his case. On March 7, 2003, the judge in NY granted the CIA's venue complaint and moved the case to Alexandria, VA—basically the CIA's very own district court. On March 3, 2004, the case was dismissed. And on September 28, 2005, the Appeals Court rejected Sterling's appeal.

Sterling's second suit was filed on March 4, 2003 (that is, the day after his employment discrimination suit was dismissed in VA). It charges that Sterling submitted his memoirs for pre-publication review in 2002. His second submission was held up, not least to give CIA's Office of General Counsel a review. Sterling claims that OGC got involved to give them an advantage in the NY employment discrimination suit. In December 2002, the CIA told him some of the information was classified (after having earlier said that similar information was not). Upon rejecting his submission on January 3, 2003, the CIA not only told him some of the information was classified, but they "informed Sterling that he should add information into the manuscript that was blatantly false."

So here's how this works out in a timeline:

November 1998: Sterling assigned to Iranian nukes

February 2000: As part of CIA op, Russian scientist gives nuclear blueprint to Iran, but tells them of its faults

April 2000: Sterling given 2-month deadline to recruit 3 new spies

May 2000: Sterling taken off Iranian nuke operation and compartmented out of the program

August 2, 2000: Sterling files employment discrimination suit in NY

January 2002: Sterling's employment with CIA ends

March 2, 2002: Risen writes story about Sterling's employment discrimination suit (including quotes from John Brennan, who was involved in the suit as a CIA manager)

April 2002: Sterling and his lawyer, Mark Zaid, attend first publication review board meeting, reach agreement on publication concerns

April 18, 2002: CIA invokes state secrets in employment discrimination suit

October 2002: Sterling submits second bunch of chapters to PRB

November 2002: PRB tells Sterling there will be a delay

December 2, 2002: PRB notifies Sterling of classified passages

January 3, 2003: CIA PRB refuses Sterling's manuscript, tells him to include false information

February 12, 2003: CIA rejects settlement on employment discrimination

February 2003-March 2003: Sterling first contacts Risen

March 7, 2003: Employment discrimination moved to Virginia

March 4, 2003: Sterling sues CIA in publication suit

June 2003: Sterling becomes aware of an FBI investigation into his alleged leak of classified information

December 2003: Sterling resumes contact with Risen

March 3, 2004: VA court dismisses suit

July 30, 2004: PRB suit dismissed

September 28, 2005: Appeals Court rejects Sterling's employment discrimination suit

I'll have more to say about this shortly, but for the moment, suffice it to say the two claims: CIA's invocation of state secrets in an employment discrimination suit, along with Sterling's claim he was asked to include false information in his manuscript, raise some interesting questions.

[I will continue updating this timeline as new information becomes available]