

IS THE GOVERNMENT CONFIRMING THEY USED MERLIN WITH OTHER COUNTRIES?

Josh Gerstein notes a curious argument the government makes in its motion to deny bail to alleged leaker Jeffrey Sterling: that leaking is more dangerous than espionage.

The defendant's unauthorized disclosures, however, may be viewed as more pernicious than the typical espionage case where a spy sells classified information for money. Unlike the typical espionage case where a single foreign country or intelligence agency may be the beneficiary of the unauthorized disclosure of classified information, this defendant elected to disclose the classified information publicly through the mass media. Thus, every foreign adversary stood to benefit from the defendant's unauthorized disclosure of classified information, thus posing an even greater threat to society.

Now, Gerstein looks at what this likely means for Wikileaks.

The Justice Department's brief emphasizing the dangers of leaks could be seen as a preview of arguments the government will make against Wikileaks if authorities proceed with a prosecution of its founder, Julian Assange, or others who are part of the group. A prosecution of Wikileaks would open a significant new front in the Obama Administration's war on leaks, which has so far targeted only leakers for prosecution and not those who

receive the leaks.

But I'm interested in what they're asserting as it has to do with Sterling's case.

The government repeatedly claims that the big damage from Sterling's leak is that it put the life of his source—almost certainly the former Russian nuclear scientist who passed doctored nuke plans to Iran—at risk.

In making these illegal disclosures, the defendant put the life of at least one individual in great danger. This individual, identified as Human Asset No. 1 in the Indictment, see Indictment, ¶ 14, played a role in Classified Program No. 1. The defendant's illegal disclosures revealed certain identifying information about Human Asset No. 1 that placed Human Asset No. 1 in great danger. Id. at ¶ 42. The threat to Human Asset No. 1 was so great that certain United States government officials cited the danger to Human Asset No. 1 as one reason why Author A's employer should not publish a newspaper article about Classified Program No. 1 in late April 2003. Id. at ¶ 42.

That expressed concern is really rich, as Risen's book suggests that one of the concerns of the MERLIN case officer—presumably Sterling himself—is that the CIA had botched the process of doctoring the nuke plans so badly, the Russian immediately became aware of the flaw in the plans.

Within minutes of being handed the designs, [the Russian] had identified a flaw. "This isn't right," he told the CIA officers gathered around the hotel room. "There is something wrong." His comments prompted stony looks, but no straight answers from the CIA men in the room. No one in the San Francisco

meeting seemed surprised by the Russian's assertion that the blueprints didn't look quite right, but no one wanted to enlighten him further on the matter, either.

In fact, the CIA case officer who was the Russian's personal handler had been stunned by the Russian's statement. During a break, he took the senior CIA officer aside. "He wasn't supposed to know that," the CIA case officer told his superior. "He wasn't supposed to find a flaw."

"Don't worry," the senior CIA officer calmly replied. "It doesn't matter."

The CIA case officer couldn't believe the senior CIA officer's answer, but he still managed to keep his fears from the Russian, and he continued to train him for his mission.

It was a fear about the flaw in the blueprints that led the Russian to include a note hinting there was such a flaw.

There is, of course, the damage done to the Russian's ability to conduct any similar operations. It's worth noting, though, that at least as presented in Risen's book, this was the first time in the many years he had been in the CIA's defector resettlement program when the CIA asked him to conduct such an operation.

One secret CIA report said that the Russian "was a known handling problem due to his demanding and overbearing nature." Yet the same report stated that he was also a "sensitive agent" who could be used in a "high-priority covert-action operation."

So despite their disputes, the CIA had arranged for the Russian to become an American citizen and had kept him on the payroll, to the tune of \$5,000 a month.

It really did seem like easy money, with few strings attached. Life was good. He was happy to be on the CIA gravy train.

Until now. The CIA was placing him on the front lines of a plan that seemed to be completely at odds with the interests of the United States, and it had taken a lot of persuading by his CIA case officer to convince him to go through with what appeared to be a rogue operation.

But what really seems to be the government's complaint, if you take their filing in good faith, is the notion that "every foreign adversary stood to benefit from the defendant's unauthorized disclosure of classified information, thus posing an even greater threat to society."

Is that, then, a confirmation of something that James Risen's sources (plural) only suggested to him?

The Russian scientist's fears about the operation were well founded. He was the front man for what may have been one of the most reckless operations in the modern history of the CIA, one that may have helped put nuclear weapons in the hands of a charter of what George W. Bush has called the "axis of evil."

Operation MERLIN has been one of the most closely guarded secrets in the Clinton and Bush administrations. And it may not be over. Some officials have suggested that it might be repeated against other countries. [my emphasis]

After all, what advantage are countries like North Korea or Syria or Libya or Pakistan or Turkey or anyone else going to gain if they learn the US has been dealing doctored nuke plans to Iran? It might make Americans rightly concerned about the stupidity of the operations

being conducted in their name, or even of the loyalty of the operatives involved. It might make our allies more skeptical about American claims about the laptop of death (though you'd hope after the Iraq war fiasco they'd be a little more skeptical of our intelligence propaganda).

But the most obvious way our adversaries are going to get an advantage (so long as you assume the government doesn't now think of its own citizens as adversaries, which might be possible) is if the government did, in deed, use the MERLIN op with other countries.